Type III Land Division and Environmental Review
Staff Report and Recommendation

Project Name: 5th Plain Creek Subdivision East


Location: 7608 NE 182nd Avenue, Parcel 169479000 located in the Northwest Quarter of Section 7, Township 2 North, Range 3 East of the Willamette Meridian

Request: Subdivision approval of roughly 5.2 acres into 17 single family lots for detached homes in the R1-10 zones using the density transfer standards

Applicant/Owner: Ryan and Rebecca Hurley
7700 NE 182nd Avenue
Vancouver, WA 98682
Email - ryan@hurleydev.com

Contact: PLS Engineering
Attn: Travis Johnson
604 W Evergreen Blvd
Vancouver, WA 98660
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Email - travis@plsengineering.com

Recommendation
Denial, unless the applicant can resolve concurrency issues

Land Use Review Manager’s Initials: Date issued: April 29, 2020
Public Hearing date: May 14, 2020

<table>
<thead>
<tr>
<th>County Review Staff Department/Program</th>
<th>Name</th>
<th>Ext.</th>
<th>Email Address</th>
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<tbody>
<tr>
<td>Community Development</td>
<td>Susan Ellinger</td>
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Revised 4/22/2020

For an alternate format, contact the Clark County ADA Compliance Office.
Phone: 564.397.2322 Relay: 711 or (800) 833-6384
E-mail: ADA@clark.wa.gov
Comp Plan Designation: UL

Applicable Law
Clark County Code Section: Clark County Code: Title 15 (Fire Prevention), 40.200 (General Provisions), 40.220.010 (Single-family), 40.350 (Transportation), 40.350.020 (Transportation Concurrency), 40.370 (Sewer & Water), 40.386 (Storm Water & Erosion Control), 40.440 (Habitat), 40.450 (Wetlands), 40.460 (Shorelines), 40.500 and 40.510 (Procedures), CCC 40.510.030 (Type III Process), CCC 40.540.040 (Subdivision), 40.550.010 (Road Modifications), 40.550.020 (Variances), 40.570 (SEPA), 40.570.080 (SEPA Archaeological), 40.610 (Impact Fees), Title 24 (Public Health), RCW 58.17, and the Clark County Comprehensive Plan

Neighborhood Association and Contact
Heritage, Contact - Christie BrownSilva
Phone - 360.326.4353, Email - heritageneighborhood@gmail.com

Vesting
An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application for preliminary approval is submitted. If a pre-application conference is required, the application shall earlier contingently vest on the date the fully complete pre-application is filed. Contingent vesting requires that a fully complete application for substantially the same proposal is filed within 180 calendar days of the date the county issues its pre-application conference report. Contingent vesting does not apply to stormwater or concurrency standards.

A pre-application conference (PAC) was held on this matter, the PAC was determined contingently vested, but a complete application was not submitted within the required 180 days from issuance of the PAC report. Therefore, the application is vested on the fully complete submittal date of November 19, 2019. The application is vested for transportation concurrency also on November 19, 2019. Vesting does not apply to stormwater standards. There are no known disputes regarding vesting.

Time Limits
The application was determined to be fully complete on December 3, 2019. The project was on hold and the applicant submitted a revised application on February 27, 2020. Therefore, the code requirement for issuing a decision within 92 days lapses on April 18, 2020.

Public Notice
Notice of application, public hearing, and likely SEPA determination was mailed to the applicant and property owners within 300 feet of the site, and SEPA Agencies on April 14, 2020. The applicant posted one sign on the subject property on January 8, 2020 revised on April 14, 2020.
Public Comments
The county has received several comments from nearby neighbors with concerns about lack of parking, traffic, tree protections, and protection of the habitat areas on site.

Staff notes there are restrictions to removing trees in the habitat or wetland areas of the site, but not outside these sensitive areas other than obtaining Forest Practice permit if required.

See Findings 4, 8, 9, and 10 for trees and habitat/shoreline protection. See Finding 17 for discussions on traffic and traffic safety.

Project Overview
The subject site is located on the south side of NE 78th Street and west side of NE 182nd Avenue and is zoned single-family R1-10. The site consists of one roughly 5.2 acre parcel and contains a single-family residence with accessory structures. 5th Plain Creek exists to the west of the southwest portion of the site, but both shoreline and habitat buffers extend onto the site. The proposed development will be served by Fire District #5, the City of Vancouver for public sewer and the Clark Public Utilities for public water.

The applicant proposes to divide the site into a maximum of 17 residential lots for single-family detached homes in one phase. All lots in the plat will access NE 75th Street and NE 181st Circle (the proposed internal on-site roads) which connect to NE 182nd Avenue (the frontage road along the east side of the plat).

The following is a land use table of the site and surrounding properties:

<table>
<thead>
<tr>
<th>Compass</th>
<th>Comp Plan</th>
<th>Zoning</th>
<th>Current Land Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site</td>
<td>UL</td>
<td>R1-10</td>
<td>Single-family residence</td>
</tr>
<tr>
<td>North</td>
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<td>R1-10</td>
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</tr>
<tr>
<td>West</td>
<td>UL</td>
<td>R1-10</td>
<td>Single-family residence</td>
</tr>
</tbody>
</table>

Staff Analysis
Staff first analyzed the proposal in light of the 16 topics from the Environmental Checklist (see list below). The purpose of this analysis was to identify any potential adverse environmental impacts that may occur without the benefit of protection found within existing ordinances.

1. Earth
2. Air
3. Water
4. Plants
5. Animals
6. Energy and Natural Resources
7. Environmental Health
8. Land and Shoreline Use
9. Housing
10. Aesthetics
11. Light and Glare
12. Recreation
13. Historic and Cultural Preservation
14. Transportation
15. Public Services
16. Utilities
Staff then reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts could be mitigated by the requirements of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

**Major Issues**
Only the major issues, errors in the development proposal, and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposal not discussed below comply with the applicable code requirements.

**Land Use**

**Finding 1 - Uses**
Under Table 40.220.010-1, single-family detached dwellings are permitted in the R1-10 zone subject to this review.

**Finding 2 - Senior Housing Use**
According to the revised plat, the proposed 5th Plain Creek East subdivision includes seven senior adult housing lots. These proposed senior adult housing detached lots are located within a standard non-age restricted subdivision in an R1-10 zone.

Staff finds that Clark County code only permits a few types of age restricted developments. In this case, the only type that appears applicable is a “Retirement Community”. Under the county code definition, a Retirement Community is an independent living housing development exclusively for adults (typically 55 and over). Only a small number of the lots are proposed as age restricted in the subdivision which does not meet the definition. In addition, the purpose for the age-restriction appears to be to reduce the number of trips associated with the proposed development for concurrency purposes. Please see transportation concurrency findings below. Based on this information, staff does not support the designation as senior adult housing lots. Staff recommends the use and ownership of the lots shall be unrestricted for all purposes including concurrency. (See Conditions A-6 and D-2)

**Finding 3 - Density Transfer Standards**
The applicant proposes to develop the site under the density transfer provisions of CCC 40.220.010 C5. The density for property developed in single-family zones, if encumbered by land identified as sensitive and set aside, may be transferred to the remaining unencumbered land areas on the same development site. Shoreline and habitat buffer areas exist on the site and the applicant proposes to preserve these sensitive areas. The maximum number of units that can be achieved is based on the density in Table 40.220.010-4, multiplied by the gross acreage of the entire site (both encumbered and unencumbered, without deducting for roads). The potential maximum number of lots will depend on site characteristics and the lot requirements of the same table.

a. The gross site area is roughly 5.2 acres, multiplied by the maximum density for the R1-10 zone in CCC Table 40.220.010-4 (3.5) equals 18 units. The applicant proposes 17 lots which is less than the maximum density allowed.

b. CCC 40.220.010 (C)(5)(b)(4) requires lots that abut single-family zoned property be at least 90% of the minimum lot area standard, have a lot depth of not less than 80% of the
minimum lot depth, and have a minimum lot width not less than 10 feet from the minimum lot width of the subject parcel. All lots in the proposed subdivision that abut single-family zoned property (Lots 6 through 11) are at least 90% of the minimum lot area standard (9,000 square feet).

These lots also have a lot depth of not less than 80% of the minimum lot depth and have a minimum lot width not less than 10 feet from the minimum lot width with one possible exception which complies with CCC 40.220.010 (C)(5)(b)(4).

c. CCC Table 40.220.010-4 also requires a minimum usable lot area of 4,000 square feet. The preliminary plat submitted by the applicant shows a more than required usable lot area per lot.

Staff finds that with conditions of approval, the project complies with the density transfer provisions. (See Condition D-3)

Finding 4 - Administrative Variance
In the project narrative, the applicant proposes two administrative variances for lots in the proposed subdivision. First is a 25% variance to the required 7 foot side setback in the R1-10 zone to 5.25 feet. Second is a 25% variance to the required 15 foot rear setback in the R1-10 zone to 11.25 feet. This variance is not being requested for the yards that abut adjacent properties outside of the proposed plat. The applicant requests at least one of setback variances (either side or rear) on all of the proposed lots and both of the setback variances on some of the proposed lots. For example, Lots 6 through 14 in Phase 1 would vary only the side setback requirement and not the rear, but lots 1 through 5 would vary both the side and rear setback requirement.

The responsible official shall approve an administrative variance if the applicant demonstrates it complies with all of the following (see CCC 40.550.020 A4):

a. Granting the variance will not substantially detract from the livability or appearance of a residential area, or the variance will substantially enhance the livability or appearance of a residential area; and

The proposed variance should not be clearly noticeable to properties outside the plat because the proposed variance lots are internal to the plat and do not abut outside properties. Staff finds that granting the variance will not detract from the livability or appearance of a residential area.

b. If variances to more than one regulation are being requested, the cumulative effect of the variances shall be consistent with the purpose of the zone in which the site is situated; and

There are two different variances proposed; a 25% variance to the side setback standard and a 25% variance to the rear setback standard. The applicant states that through the Density Transfer standards, the typical lot will be 7,000 square feet. If approved, the setbacks requested in the variance are more similar to the setbacks of the R1-7.5 zone. Staff agrees the requested setbacks are more similar to the R1-7.5 setbacks, but also notes that both variances will reduce distances between buildings within the plat creating a cumulative impact.

Staff can support the propose variances because they will not impact abutting exterior lots outside of this subdivision with mitigation (see below finding).
c. **Adverse impacts resulting from the variance are mitigated to the extent practical; and**

For the most part, staff finds that adverse impacts resulting from the variances should be small. However, since there will be a cumulative yard reducing impact to the lots, staff finds that planting one tree in the side or rear yard of all the variance lots, which is all lots in the proposed plat, will help reduce the visual impacts of the proposed variances and will mitigated the impact to the extent practical. Exact tree species and locations will be confirmed by staff during the final review, understanding that trees with smaller root systems may work better on some lots.

**d. The variance does not substantially impair or impede the availability or safety of access that would otherwise exist for vehicles or for pedestrians or alternative access is provided.**

The proposed variances do not impact access for vehicles or pedestrians.

Staff finds that with conditions the proposed variances comply with the administrative variance criteria of CCC 40.550.020 A4 (see Conditions A-7 and D-4).

**Finding 5 - Setbacks**

Except as varied by the proposed variances, the following minimum setbacks apply to the proposed lots (see CCC 40.220.010):

- Ten foot front setback
- Eighteen foot garage setback
- Ten foot street side setback
- Seven foot side setback
- Fifteen foot rear setback

**Finding 6 - State Platting Standards (RCW 58.17)**

With conditions of approval, staff finds the proposed subdivision will make appropriate provisions for public health, safety, and general welfare of the community. Proof of adequate water and sewer service, as well as treatment of any increase of stormwater runoff will be provided, to protect groundwater supply and integrity. Impact Fees will also be required to contribute a proportionate share toward the costs of school and transportation provisions, maintenance and services.

The site is located within the Evergreen School District. The applicant has provided a letter from the School District indicating that students will be bussed to all three schools from this development (see Tab 22 of the application packet). Staff finds this satisfies safe walking conditions for students who only walk to school (see RCW 58.17.050)

**Conclusion (Land Use)**

Staff concludes that the proposed preliminary plan, subject to conditions, meets land use requirements of the Clark County Code.

**Archaeology**

**Finding 7 - Archaeology**

The development site is located within a high probability area for archaeological resources, as designated on the Archaeological Predictive Model Map of the Clark County. The applicant submitted an archaeological pre-determination to the Washington State Department of Archaeology and Historic Preservation (DAHP) prior to submittal of the application that
indicates no further archaeological review or work is necessary at this time. DAHP received public notice and a copy of the SEPA checklist and has requested additional documents. They have not yet provided comments but will likely provide them prior to the public hearing.

A note on the final construction plans will be required that in the event that archaeological or historic materials are discovered during project activities, work in the immediate vicinity must stop and the area secured. The concerned tribes cultural staff, cultural committee, and DAHP shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines. (See Conditions A-8 and D-11a)

**Habitat/Shorelines**

**Finding 8 - Habitat**

County GIS and the Washington Department of Natural Resources indicates a Type S stream (Shoreline) offsite to the west of the subject parcel identified as Fifth Plain Creek. This portion of Fifth Plain Creek is incised within a deep channel maintained by the Drainage District.

The applicant had initially provided a combined Critical Areas Report for Fifth Plain Creek East and West prepared by Ecological Land Services (ELS) dated June 2019. On November 18, 2019 ELS prepared an addendum separating the mitigation into two separate projects (Fifth Plain Creek East and Fifth Plain Creek West). Revised critical areas reports for Fifth Plain Creek West were also submitted on January 23, 2020 and February 26, 2020, and April 17, 2020.

County Wetland/Habitat Review staff visited the site with Ecological Land Services on December 13, 2019 to verify conditions for the Fifth Plain Creek East project. During the site visit County Wetland/Habitat Review staff confirmed the Ordinary High Water Mark for Fifth Plain Creek as well as an individual 30 inch dbh Oregon white oak tree near an existing residence and NE 182nd Avenue as shown in the provided map.

**Finding 9 - Habitat**

Per the Habitat Protection Ordinance, streams are considered priority riparian habitat and are afforded a riparian conservation zone (HCZ) to protect ecological habitat and water quality values for the stream resource. The riparian HCZ for a Type S stream extends outward from the OHWM to the edge of the one hundred (100) year floodplain or to a distance of two hundred fifty (250) feet, whichever is greater. In this instance the 250 foot line is greater as indicated in light blue on the attached map. Per the mitigation plan and preliminary plat, no impacts are proposed for the Fifth Plain Creek East project within the riparian habitat conservation zone. If impacts are proposed in Final Engineering then a Final Habitat permit with applicable mitigation shall be required.

Per the Habitat Protection Ordinance, Oregon White Oak Woodlands are categorized as priority non-riparian habitat by The Washington Department of Fish and Wildlife (WDFW). Per the Habitat Conservation Ordinance, oak woodlands are considered priority non-riparian habitat and are afforded protection to the edge of the dripline of the oaks. Priority Oregon white oak woodlands are stands of pure oak or oak/conifer associations where canopy coverage of the oak component of the stand is 25%; or where total canopy coverage of the stand is <25%, but oak accounts for at least 50% of the canopy coverage present. (The latter is often referred to as an oak savanna). In non-urbanized areas west of the Cascades, priority oak habitat is stands.
0.4 ha (1 ac) in size. In urban or urbanizing areas, single oaks, or stands of oaks <0.4 ha (1 ac), may also be considered priority habitat when found to be particularly valuable to fish and wildlife (i.e., they contain many cavities, have a large diameter at breast height [dbh], are used by priority species, or have a large canopy). Given the size and location of the oak onsite, these features would be regulated. The applicant is responsible for the identification of Oregon White Oak and their associated canopies on the parcel.

Staff concurs with the alternatives analysis the applicant has provided in the mitigation plan. Subject to the Reasonable Use assurances (see below), the proposed development meets the avoidance and minimization standards in CCC 40.440.020.A.2. Due to the location of the oak in relation to the existing road prism unfortunately the oak could not be saved.

Finding 10 - Shoreline
A shoreline permit is required because a land division is proposed on a site containing shoreline regulated areas. Since residential construction on all lots proposed will comply with the 100 foot setback requirement of the Urban Conservancy Shoreline Designation, a shoreline exemption is required and has been submitted.

Based upon the proposed plan and the analysis above, staff recommends approval of this request, subject to the understanding that the applicant is required to adhere to all applicable codes/laws subject to conditions. Staff will issue that report separately.

Conclusion (Habitat/Shoreline)
Based upon the development site characteristics and the proposed development plan, staff concludes that the proposed development application can comply with the requirements of Chapters 40.440 (Habitat Conservation) and 40.460 (Shorelines) addressed herein, PROVIDED that certain conditions are met. Therefore, the requirements of the preliminary plan review criteria are satisfied. (See Conditions H-1 through H-7, A-9, A-10, B-5, D-5, and D-7)

Transportation
Finding 11 - Pedestrian/Bicycle Circulation
Pedestrian circulation facilities in compliance with the Americans with Disabilities Act (ADA) are required within urban areas. When pedestrian circulation facilities are required they shall be in accordance with the provisions of Section CCC 40.350.015.

The applicant has proposed to divide one parcel, totaling 5.21 acres, into a total of 10 single family residential lots and 7 senior housing lots. The proposed development is on parcel number 169479-000 located in Vancouver.

The applicant’s plan indicates that there will be pedestrian improvements constructed with all proposed interior streets within the development. The applicant will need to submit final construction drawings that show all pedestrian facilities will be constructed to comply with ADA standards. (See Condition A-1a)

The applicant’s proposal for the construction of public pedestrian facilities shows that the development can comply with the County Code.
Finding 12 - Circulation Plan
The applicant has submitted plans and a narrative that indicate the proposed development will be served by the construction of half-width frontage improvements on NE 78th Street, an Urban Collector (C-2b) and NE 182nd Avenue, also an Urban Collector (C-2b). The applicant has also proposed an interior road network that will consist of an urban local access road, NE 75th Street and NE 181st Circle, an urban private road. The applicant’s narrative suggests that the construction of these improvements, along with the spacing with existing infrastructure, will facilitate code compliant block lengths. The applicant’s plan also shows how the internal public street could be extended to serve future development of adjacent parcels.

Because the property south of the subject site is outside of the urban growth area, public road circulation is not required. Therefore, Staff believes that the internal street network and proposed frontage improvements can provide circulation for the abutting undeveloped property to the west.

The applicant’s proposed road network has shown feasibility for circulation and compliance with the County Code

Finding 13 - Roads
NE 78th Street is classified as an Urban Collector (C-2b) along the northern property line of the proposed project. This classification requires a total half-width right-of-way of 30 feet, a paved half-width of 17 feet, curb, gutter and sidewalk. The applicant will need to submit construction drawings that show the construction of half-width improvements, for NE 78th Street, in compliance with Clark County Standard Drawing 7. The applicant’s plan shows that the applicant will dedicate right-of-way along the NE 78th Street frontage for a right-of-way width totaling 60 feet. The applicant will need to provide a half-width right-of-way dedication to ensure a 30-foot half-width, along with frontage improvements to ensure a half-width paved surface of 17 feet, curb, gutter, planter strip and a detached sidewalk. (See Condition A-1b)

The applicant’s plan shows that NE 75th Street will be constructed as an Urban Local Access road. This classification requires a total of right-of-way of 46 feet, 28 feet of paved width, curb and gutter and sidewalks. The applicant is required to dedicate full-width right-of-way and construct full-width improvements for this roadway. The minimum standards are proposed. The applicant will need to submit final construction drawings that show the construction of the proposed local access road in compliance with Clark County Standard Drawing 13. (See Condition A-1c)

The applicant’s plan shows that NE 181st Circle will be constructed as an Urban Private road per Clark County Standard Drawing 15. This standard drawing requires a minimum 26-foot wide private road easement, 20 feet of paved width, curb and gutter on both sides and a sidewalk on one side. However, the submitted plan shows that NE 181st Circle will be constructed to include a 28-foot wide asphalt roadway, curb and gutter on both sides and a 5-foot wide attached sidewalk, on the east side only, within a 34-foot private road tract. The applicant will need to submit final construction drawings that show the construction of NE 181st Circle in compliance with the urban private road requirements. (See Condition A-1d)

The applicant’s plan shows that the urban private road, NE 181st Circle will terminate in a cul-de-sac. The applicant’s plan indicates that the cul-de-sac will be constructed in compliance
with Clark County Standard Drawing 23. The applicant’s plan suggests that the cul-de-sac will be constructed with rolled curb and thickened sidewalk. The applicant will need to submit final construction drawings that show the NE 181st Circle cul-de-sac will be constructed in compliance with Clark County Standard Drawing 23. (See Condition A-1e)

NE 182nd Avenue is classified as an Urban Collector (C-2b). This classification requires a total half-width right-of-way of 30 feet, a paved half-width of 17 feet, curb, gutter and sidewalk. The applicant’s plan shows an existing total right-of-way width of 60 feet and an existing 33-foot wide paved section. The applicant will need to submit construction drawings that show the construction of half-width improvements, for NE 182nd Avenue, in compliance with Clark County Standard Drawing 7. The applicant will also need to ensure that there is a total half-width of 30 feet of right-of-way along with frontage improvements to ensure a half-width paved surface of 17 feet, curb, gutter, planter strip and a detached sidewalk. (See Condition A-1f)

Finding 14 - Driveways
The applicant’s narrative indicates that all lots within the proposed development will access the interior public and private street network and then enter the larger public street network at the intersection of NE 75th Street/NE 182nd Avenue. The applicant’s plan shows driveways for lot in relation to the new intersections. These corner lots appear to meet the minimum requirements. The applicant will need to submit final construction drawings that show corner lot driveways will comply with CCC 40.350.030 (B)(4)(b)(1). (See Conditions A-1g and D-11d)

Finding 15 - Turnaround
The applicant’s plan shows that NE 75th Street will be constructed through the southern portion of the subdivision and terminate in a street stub at the southerly property line of parcel number 168641-000. The applicant has proposed a temporary cul-de-sac turnaround at approximately 400 feet west of the intersection of NE 75th Street/NE 182nd Avenue and approximately 100 feet north of the terminus of NE 75th Street. The applicant’s plan shows that the temporary cul-de-sac will be constructed within a temporary turn around easement. The applicant will need to submit construction drawings that show the construction of the temporary cul-de-sac will comply with CCC 40.350.030(B)(9)(b) and CCC 40.350.030(B)(12)(a)(2)(b). (See Condition A-1h)

Finding 16 - Sight Distance
The approval criteria for sight distances are found in CCC 40.350.030(B)(8). This section establishes minimum sight distances at intersections and driveways. Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance requirements at all proposed driveway approaches and intersections.

The applicant’s traffic engineer has performed a sight distance evaluation and determined that there is greater than 600 feet of sight distance available at the new intersection location of NE 75th Street/NE 182nd Avenue. The applicant will need to submit final construction drawings for review and approval. These plans will need to show sight distance triangles at the development intersections. The plans will also need to show objects that are within the sight distance triangle. Notes on the plans shall indicate the vegetation within the sight distance triangle that needs to be maintained, trimmed or removed. (See Condition A-1i)
Conclusion (Transportation & Circulation):
Staff concludes that the proposed preliminary plan, subject to conditions, meets the transportation requirements of the Clark County Code.

Transportation Concurrency

Finding 17
Staff review of the development proposal, the number of lots and the purpose of age restricted lots (AKA senior adult housing – detached) raised questions and concerns with the appropriateness of the subdivision proposal for the 5th Plain Creek East Subdivision. The following findings are the result of staff’s research and analysis.

According to the plans and narrative submitted for review, it appears that the proposed subdivision is proposing 7 senior adult housing – detached lots out of the proposed 17 lot subdivision. These senior adult housing – detached lots are located within a standard non-age restricted suburban subdivision in an R1-10 zoning area. The use of the senior adult housing – age restricted lots within the proposed subdivision is not a typical lot restriction that would be found in this type of subdivision.

The trip generation as reported in the applicant’s submitted traffic study is provided in the following table:

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<th>Housing Type</th>
<th>ITE Code</th>
<th>Size (Lots)</th>
<th>AM Peak</th>
<th>PM Peak</th>
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<td>(1)</td>
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<td><strong>Totals</strong></td>
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<td><strong>16</strong></td>
<td><strong>8</strong></td>
<td><strong>11</strong></td>
<td><strong>114</strong></td>
</tr>
</tbody>
</table>

Senior adult housing-detached, as defined in the Institute of Transportation Engineers (ITE) Trip Generation Manual 10th Edition Land Use: 251, "...consists of detached independent living developments, including retirement communities, age-restricted housing, and active adult communities. These developments may include amenities such as golf courses, swimming pools, 24-hour security, transportation, and common recreational facilities. ...Detached senior adult housing communities may or may not be gated. Residents in these communities are typically active (requiring little to no medical supervision). The percentage of retired residents varies by development. Senior Adult housing-attached (Land Use 252), congregate care facility (Land Use 253), assisted living (Land Use 254), and continuing care retirement community (Land Use 255) are related uses.” The submitted plans and narrative for the proposed subdivision does not provide any indication that the age-restricted lots would create the independent living developments, retirement communities, or active adult communities described above. Nor does the submitted information show that there would be the community amenities, or public transportation that would justify the reduction in trip generation.

Further, based on the statements on the submitted drawings it appears that the senior adult housing – detached lots were used in a near term effort to take advantage of a reduced trip generation and a maximized number of lots within each of the subdivisions without incurring Concurrency related mitigations at the intersections of NE 88th Street/NE Ward Road and NE 182nd Avenue/NE Fourth Plain Boulevard (SR 500). (The drawing statement is added below). These intersections have been identified as locations that operate at a level-of-service ‘F’ within
the traffic study submitted for the proposed 5th Plain Creek East Subdivision. The submitted plans also indicate that the long term goal is to remove the senior adult housing – detached lot designation when Concurrency related intersection mitigations have been constructed by others. The proposed transportation impacts of the 5th Plain Creek East Subdivision does not appear equitable or feasible with the senior adult housing lots having the same travel patterns as the single-family homes that exit the 5th Plain Creek area destined for work or recreational facilities outside of the area.

The submitted plan, Sheet 2/2 for the 5th Plain Creek East Subdivision, states “The applicant would like for the individual lot owners to have the ability to remove the senior adult housing restriction once the local transportation concurrency issues have been resolved.”

The ITE Trip Generation Manual 10th Edition does not list this kind of land use combination in the data collected. The development team has not provided any justification and/or analysis to show that it is appropriate to use age restricted lots within the proposed standard suburban subdivision to reduce the trip generation, when this type of lot integration is not in the definition of either ITE LUC 210: Single-Family Detached Housing or ITE LUC 251: Senior Adult Housing – Detached, nor are they considered related uses. Because the applicant has not provided any evidence and analysis that shows why these two incompatible land use types could be used together to determine trip generation and/or trip impacts on the adjacent public road network, staff believes that the applicant’s traffic impact analysis does not provide an appropriate assessment that is reflective of the transportation impacts on the surrounding road network.

Conclusion (Concurrency):
Therefore, Concurrency recommends denial of the 5th Plain Creek East Subdivision.

Stormwater
Finding 18 - Stormwater Applicability
The provisions of Clark County Code Chapter 40.386 shall apply to all new development, redevelopment, land disturbing activities, and drainage projects consistent with the Clark County Stormwater Manual (CCSM) 2015. The project adds more than 5,000 square feet of new hard surface; therefore, the applicant shall comply with Minimum Requirements (MR) 1 through 9 per Section 1.4, Book 1 of the CCSM 2015. (See Condition A-3a)

No new development shall be allowed to materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. (See Condition A-3b)

Finding 19 - Stormwater Proposal
The applicant’s stormwater narrative has indicated that the detention facility for the proposed development has been sized to accommodate future development on the neighboring parcel west of the subject site, identified as parcel number 168641-000.

The applicant has provided a stormwater design that indicates the detention facility was oversized, the oversizing of this system was not necessary to determine the feasibility of the proposed stormwater system for the 5th Plain Creek East Subdivision. Therefore, any future applicant seeking to use the detention facility within the 5th Plain Creek East Subdivision will need to prepare and provide a Stormwater Technical Information Report, along with all
supporting documents and plans. The Stormwater Technical Information Report will need to include site specific stormwater information and analysis that shows compliance with the applicable Clark County stormwater code at the time of development of offsite property. The stormwater analysis shall be submitted for review and approval. The applicant’s oversizing of the stormwater facility on-site will not be considered as acceptable to any development outside of this land use review. (See Condition A-3c)

The applicant is proposing to collect, convey, treat, detain and release at predevelopment flows the pollution generating stormwater within the development. A PerkFilter™ water quality vault will be placed prior to the detention pond to facilitate treatment of surface water. The applicant’s engineer identified the on-site soils as Hillsboro Silt Loam (HIA), Dollar Loam (DoB) and Hesson Clay Loam (HcB).

The geotechnical engineer submitted data collected while performing preliminary soils evaluation and infiltration testing. The information submitted indicates that there were a total of 10 test pits dug and 6 infiltration tests performed on two parcels. The two parcels are identified as parcel number 168479-000, the subject parcel – 5th Plain Creek East Subdivision, and parcel number 169641-000, an undeveloped neighboring parcel north and west of the subject site.

Test pits TP-6 through TP-8 and TP-10 occurred within the subject development, with TP-1 through TP-5 and TP-9 occurring off-site on parcel number 169641-000. The data collected off-site on parcel number 169641-000 is not relevant to the feasibility of the proposed subdivision so it will not be discussed in this staff report.

The 2 infiltration tests performed within the subject site yielded infiltration rates <0.1 inches per hour at a depth of 3 feet, TP-7, and 1-foot, TP-10, below ground surface. Groundwater was not encountered at a 13-foot depth in TP-7. In test pit TP-10 groundwater was encountered at 11 feet. (See Condition A-3d)

**Onsite Stormwater Management BMPs (MR #5)**

The applicant’s engineer has identified on-site source control stormwater management Best Management Practices (BMPs) that are applicable to the proposed development. These BMPs deal with:

- Post-Construction Soil Quality and Depth

Staff has reviewed the source control BMPs identified for applicability and concurs with the applicant’s findings. The applicant will need to submit final stormwater system construction plans for review and approval. (See Condition E-1)

**Runoff Treatment (MR#6)**

The applicant’s engineer has indicated that the runoff treatment will be met with the use of a PerkFilter™ vault that will be placed to treat pollution generating stormwater. This device will be placed prior to the detention facility. The applicant will need to submit documentation from the stormwater treatment system manufacturer indicating that the proprietary treatment device was sited and sized appropriately. (See Condition A-3e)
The proposed development is located within Lacamas Creek watershed. The Clark County Stormwater Manual requires phosphorus removal with this watershed. The preliminary stormwater report indicates that the media in PerkFilter™ is capable of phosphorus treatment. (See Condition A-3f)

The applicant has shown that Flow Control (MR#7) will be met by using the combination of a detention pond and a flow control structure prior to dispersing the stormwater overland toward 5th Plain Creek.

Conveyance Systems
The applicant’s engineer has shown that a combination of catch basins, a water quality vault, a detention pond, and a flow control device will work together to collect, treat and detain the stormwater generated by the proposed development.

The applicant shall submit final construction plans that identify which stormwater systems will be publicly or privately owned and maintained. (See Condition A-3g)

Conclusion (Stormwater):
Staff concludes that the proposed preliminary stormwater plan, subject to conditions, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

Fire Protection
Finding 20 - Review Process
Building construction occurring subsequent to this application shall be in accordance with the provisions of the county’s building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process.

Finding 21 - Fire Flow/Hydrants
Fire flow in the amount of 1000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval.

Fire hydrants are required for this application and either the indicated number or the spacing of the fire hydrants is inadequate. Provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads.

Unless waived by the fire district chief fire hydrants shall be provided with appropriate ‘storz’ adapters for the pumper connection. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact Fire District #5 at (360) 487-7260 to arrange for location approval. Provide and maintain a six-foot clear space completely around every fire hydrant. (See Conditions A-11a, A-11b, A-11c, and E-3)

Finding 22 - Fire Apparatus Access/Sprinklers
Provide fire apparatus access roads with an unobstructed width of not less than 20 feet, an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. Approved fire apparatus turnarounds are required for this project - the indicated provisions for turning around fire apparatus are adequate.
Homes exceeding 3,600 square feet (excluding attached garages) will require additional fire protection features possibly including fire sprinkler systems. No gate may be installed across a required fire department access road or driveway without first obtaining a permit from the fire marshal's office. Inspection and testing of the gate will be required. Split gates with a divided entry and exit side will need 15 feet on either side for a total gate width of 30 feet. (See Conditions A-11d and E-4)

**Conclusion (Fire Protection)**
Staff finds that the proposed preliminary plan, subject to conditions, meets the fire protection requirements of the Clark County Code.

**Water and Sewer Service**
**Finding 23 - Water and Sewer Service**
The site will be served by Clark Public Utilities for public water and the City of Vancouver for public sewer. Letters from both purveyors confirm that potable water and public sewer services are available to the site in NE 78th Street and NE 182nd Avenue. Therefore, prior to final plat approval, documentation shall be provided from the water and sewer purveyor that all water and sewer connections have been installed and approved. (See Condition D-8)

**Impact Fees**
**Finding 24 - Impact Fees**
All residential lots created by this plat will produce impacts on schools, parks, and traffic, and are subject to School (SIF), and Traffic Impact Fees (TIF) in accordance with CCC 40.610. The proposed unit lots will pay the following impact fees:

- Orchards sub-area with a TIF of $3,406.73 per dwelling
- Evergreen District, with a SIF of $6,432.00 per dwelling
- Park District 5, with a SIF of $4,353.00 per dwelling

The amounts listed above are an estimate using the current impact fee rates and are subject to change. As found in CCC40.610.040, impact fees are calculated using the rates in effect at the time of building permit issuance. (See Conditions D-10d & E-2)

**SEPA Determination**
As lead agency under the State Environmental Policy Act (SEPA) Rules [Chapter 197-11, Washington Administrative Code (WAC)], Clark County must determine if there are possible significant adverse environmental impacts associated with this proposal. The options include the following:

- **DS = Determination of Significance** - The impacts cannot be mitigated through conditions of approval and, therefore, require the preparation of an Environmental Impact Statement (EIS);

- **MDNS = Mitigated Determination of Non-Significance** - The impacts can be addressed through conditions of approval; or,

- **DNS = Determination of Non-Significance** - The impacts can be addressed by applying the Clark County Code.
The likely SEPA Determination of Non-Significance (DNS) in the Notice of Development Review Application issued on April 14, 2020 is now final.

SEPA Appeal Process
An appeal of this SEPA determination and any required mitigations, must be filed with the Department of Community Development within fourteen (14) calendar days from the date this notice. The hearing examiner shall hear appeals in a public hearing. Notice of the appeal hearing shall be mailed to parties of record, but shall not be posted or published.

A procedural SEPA appeal is an appeal of the determination (i.e., determination of significance, determination of non-significance, or mitigated determination of non-significance).

A substantive SEPA appeal is an appeal of the conditions required to mitigate for probable significant issues not adequately addressed by existing Clark County Code or other law. Issues of compliance with existing approval standards and criteria can still be addressed in the public hearing without an appeal of this SEPA determination.

A procedural or substantive appeal must be filed within fourteen (14) calendar days of this determination, together with the appeal fee. Such appeals will be considered at a scheduled public hearing and decided by the Hearing Examiner in a subsequent written decision.

Appeals must be in writing and should contain the following information:
- Case number designated by the county
- Name of the applicant
- Name of each petitioner
- Signature of each petitioner or his or her duly authorized representative
- A statement showing the following:
  - That each petitioner is entitled to file the appeal as an interested party in accordance with CCC 40.510.020(H) or 40.510.030(H)
  - The reasons why the SEPA determination is in error
- The appeal fee

Refer to the Appeals handout for more information and fees.

The decision of the Hearing Examiner is final unless:
- A motion for reconsideration is filed within fourteen (14) days of written notice of the decision, as provided under Clark County Code, Section 2.51.160; or,
- An appeal is filed with Clark County Superior Court.

Staff Contact Person: Richard Daviau, 564.397.4895

Responsible Official: Dan Young, Community Development Director

Recommendation
Based upon the proposed plan and the findings and conclusions stated above, staff recommends the Hearing Examiner Deny the request unless the applicant can resolve concurrency issues (See Finding 17). If the concurrency issues are resolved and the applicant
understands the requirement to adhere to all applicable codes and laws, the following are conditions of approval:

**Conditions of Approval**

**H General Habitat Conditions**

These are conditions that are not specifically tied to subsequent review and approval processes that may need to be met at a time specified in each condition or apply generally as described:

1. The mapped OHWM, required setbacks, vegetation conservation zone, and Shoreline Management Area shall be shown on any future plans or applications relying on this determination.

2. The applicant (or successor in ownership) shall implement the approved mitigation maintenance and monitoring plan and submit performance reports to the County for periodic inspection and approval as specified as follows:
   
a. The applicant shall have 100% survival at year 1, 90% survival at year 2, and 80% survival for the remained of the 10 year monitoring (Years 3, 5, and 10). Dead plants would be replaced if the performance standard was not met.

b. At year 15 and 20, monitoring reports shall be required which describe the overall success of the oak mitigation plantings. If massive failures have occurred between year 10 and years 15 or 20 then additional consultation with County Wetland/Habitat Review staff and the Washington Department of Fish and Wildlife staff shall be required to determine a course of action to correct the failed mitigation.

c. Invasive species, including Himalayan blackberry and reed canarygrass shall not be greater than 10% within the mitigation area.

d. Monitoring reports shall be required to be submitted to Wetland/Habitat Review staff by November 1 for each monitoring year; a monitoring fee shall be required.

e. A maintenance financial assurance shall be required for the maintenance/monitoring period which shall be done at the time the As-Built has been accepted.

3. The priority habitat area shall be maintained in a natural state. The applicant shall retain all native vegetation on site that is outside of the indicated development area but within a priority habitat area and/or mitigation area. The applicant shall only impact areas indicated in the conditions provided below during construction of this project. Any changes to the development layout causing greater impacts to the priority habitat or mitigation area than what is approved herein shall be subject to additional habitat review by County Wetland/Habitat Review staff and may include additional permits and/or mitigation requirements.

4. Incidental damage to surrounding native vegetation shall be mitigated by replanting with native vegetation of like kind.

5. The applicant shall utilize best management practices to control erosion and prevent sediment from entering adjacent wetlands and wetland buffers.

6. Any temporary impacts to the habitat or mitigation area buffer shall be minimized and all disturbed soils shall be reseeded with a native grass mix appropriate for the hydrology of the site upon completion of construction. The area shall have 100% grass coverage within 1
year of planting. If this condition is not met then the applicant shall continue re-seeding the site with monitoring continuing until the performance standard is met.

7. The applicant shall submit a Mitigation As-Built report to the County within 30 days of completion of the construction and planting in the approved mitigation plan. The As-Built shall include a report which indicates the numbers and types of species planted as well as mapping which shows the location of the plantings; a count should be included for the invasive species totals. The report should also include representative photographs of the mitigation area. The Monitoring period shall begin upon acceptance of an approved As-Built.

A Final Construction Review for Land Division Review and Approval Authority: Development Engineering

Prior to construction, a Final Construction Plan shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

A-1 Final Transportation Plan/On-Site - The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

a. The applicant shall show on the final construction plans that all pedestrian facilities will be constructed to comply with ADA standards (see Finding 11).

b. The applicant shall submit construction drawings for review and approval. They shall show a NE 78th Street half-width right-of-way dedication of 30-foot, along with frontage improvements of half-width paved surface of 17 feet, curb, gutter, planter strip and a detached sidewalk in compliance with Clark County Standard Drawing 7. (See Finding 13)

c. The applicant shall submit construction drawings for review and approval. The final construction drawings shall show the construction of the public local access road, NE 75th Street, in compliance with Clark County Standard Drawing 13. (See Finding 13)

d. The applicant shall submit final construction drawings that show the construction of NE 181st Circle in compliance with the urban private road requirements (See Finding 13).

e. The applicant will need to submit final construction drawings that show the NE 181st Circle cul-de-sac will be constructed in compliance with Clark County Standard Drawing 23 (See Finding 13).

f. The applicant shall submit construction drawings that show the construction of half-width improvements, for NE 182nd Avenue, in compliance with Clark County Standard Drawing 7. The applicant shall also ensure that there is a total half-width of 30 feet of right-of-way along with frontage improvements to ensure a half-width paved surface of 17 feet, curb, gutter, planter strip and a detached sidewalk can be constructed within the half-width right-of-way. (See Finding 13)
g. The applicant shall submit final construction drawings that show that corner lot driveways will comply with CCC 40.350.030 (B)(4)(b)(1) (See Finding 14).

h. The applicant shall submit construction drawings that show the construction of the temporary cul-de-sac will comply with CCC 40.350.030(B)(9)(b) and CCC 40.350.030(B)(12)(a)(2)(b) (See Finding 15).

i. The applicant shall show the sight distance triangles on the final construction plans (See Finding 16).

A-2 Final Transportation Plan/Off Site (Concurrence) - None at this time

A-3 Final Stormwater Plan - The applicant shall submit and obtain County approval of a final stormwater plan designed in conformance to CCC 40.386 and the following conditions of approval (See Findings 18 and 19):

a. The applicant shall submit final construction plans and a final Technical Information Report that addresses Minimum Requirements 1 through 9 for each development phase.

b. No new development or redevelopment shall be allowed to materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots.

c. Future applicants seeking to use the detention facility within the 5th Plain Creek East Subdivision will need to prepare and provide a Stormwater Technical Information Report, along with all supporting documents and plans. The Stormwater Technical Information Report will need to include site specific stormwater information and analysis that shows compliance with the applicable Clark County stormwater code at the time of development of the offsite property. The stormwater analysis shall be submitted for review and approval. This condition shall be placed as a note on the construction plans.

d. The final construction plans shall include groundwater information.

e. The applicant shall submit a letter, or documentation, from the stormwater treatment system manufacturer indicating the treatment devices were sited and sized appropriately.

f. The development lies within the Lacamas Basin and is subject to stormwater requirements for phosphorus treatment/removal.

g. The applicant shall submit final construction plans that identify which stormwater systems will be publicly or privately owned and maintained.

A-4 Erosion Control Plan - The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.386.
A-5 **Excavation and Grading** - Excavation/grading shall be performed in compliance with CCC14.07.

A-6 The applicant shall submit final engineering plans and a final plat for which the use and ownership of the lots is unrestricted for all purposes including concurrency (see Finding 2).

A-7 The applicant shall submit a landscape plan that shows one tree in the side or rear yard of all the variance lots, which is all lots in the proposed plat. Exact tree species and locations will be confirmed by staff during the final review with the understanding that trees with smaller root systems may work better on some lots. (See Finding 4)

A-8 **Archaeology** - The following note shall be placed on the construction plans “Should archaeological materials (e.g. bones, shell, stone tools, beads, ceramics, old bottles, hearths, etc.) be observed during project activities, all work in the immediate vicinity should stop and the State Department of Archaeology and Historic Preservation (360-586-3065), the County planning office, and the affected Tribe(s) should be contacted immediately. If any human remains are observed, all work should cease and the immediate area secured. Local law enforcement, the county medical examiner (360-397-8405), State Physical Anthropologist, Department of Archaeology and Historic Preservation (360-586-3534), the County planning office, and the affected Tribe(s) should be contacted immediately. Compliance with all applicable laws pertaining to archaeological resources (RCW 27.53, 27.44 and WAC 25-48) and human remains (RCW 68.50) is required. Failure to comply with this requirement could constitute a Class C Felony.”

A-9 Prior to removal of the oak, the applicant shall complete the oak enhancement as dictated in this permit. In the event that the mitigation has not been completed prior to Final Construction, the applicant shall secure the mitigation with a performance assurance for an amount and in a form approved by the County.

A-10 Prior to removal of the oak and final construction the following shall be completed:

   a. The applicant shall plant 15 2” caliber Oregon white oak trees (Quercus garryana) within the 8,800 square foot oak enhancement area shown in the attached map.

   b. The proposed oak to be removed will be retained within the mitigation area as large woody debris. Large woody pieces shall be as large as possible and retain branches to be most effect as large woody debris.

   c. The mitigation plan mentions the option to utilize the Terrace Oak Mitigation Bank as a contingency if the project needs change. County Wetland/Habitat Review staff find that utilizing the oak mitigation bank could be appropriate in this case, however a mitigation plan revision fee shall be required prior to removal of the oak to verify the number of credits.

   d. Final Habitat Permit approval shall be required if there are any changes from the preliminary plan which cause additional habitat impacts.
e. The location of the riparian habitat, shoreline setbacks, and mitigation area shall be indicated on the Construction Plans.

A-11 Fire Protection Requirements
a. Fire flow in the amount of 1,000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. (See Finding 21)

b. Fire hydrants are required for this application. Provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads. (See Finding 21)

c. Unless waived by the fire district chief fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact Fire District #5 at (360) 487-7260 to arrange for location approval. Provide and maintain a six-foot clear space completely around every fire hydrant. (See Finding 21)

d. Provide fire apparatus access roads with an unobstructed width of not less than 20 feet, an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. Homes exceeding 3,600 square feet (excluding attached garages) will require additional fire protection features possibly including fire sprinkler systems. (See Finding 22)

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<th>B</th>
<th>Prior to Construction of Development Review and Approval Authority: Development Inspection</th>
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Prior to construction, the following conditions shall be met:

B-1 Pre-Construction Conference - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.

B-2 Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

B-3 Erosion Control - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.

B-4 Erosion Control - Erosion control facilities shall not be removed without County approval.
B-5 **Habitat Buffer** - The location of the outer extent of the priority riparian habitat and oak enhancement area shall be marked in the field and such markings shall be maintained throughout construction.

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<th>Provisional Acceptance of Development Review and Approval Authority: Development Inspection</th>
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<tbody>
<tr>
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<td>Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction / land division plan and the following conditions of approval:</td>
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<td>None</td>
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<th>D</th>
<th>Final Plat Review &amp; Recording Review and Approval Authority: Development Engineering</th>
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<tr>
<td>D-1</td>
<td>The applicant shall dedicate the required right-of-way along all public roads with the plat (see Finding 14).</td>
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<td>D-2</td>
<td>The applicant shall submit final engineering plans and a final plat for which the use and ownership of the lots is unrestricted for all purposes including concurrency (see Finding 2).</td>
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<tr>
<td>D-3</td>
<td>All lots in the plat shall comply with CCC 40.220.010 (C)(5)(b)(4) and the average maximum lot standards of the R1-10 zone. (See Findings 3b)</td>
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<tr>
<td>D-4</td>
<td>The applicant shall plant one tree in the side or rear yard of all lots in the proposed plat (see Finding 4).</td>
</tr>
<tr>
<td>D-5</td>
<td>Prior to final plat a conservation covenant shall be recorded in a form approved by the Prosecuting Attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a habitat permit prior to engaging in regulated activities within a priority habitat area and and/or oak mitigation area.</td>
</tr>
<tr>
<td>D-6</td>
<td>Prior to Final Plat, small signs shall be posted at an interval of one (1) per lot or every one hundred (100) feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the priority riparian habitat conservation zone and oak mitigation area approved by the responsible official worded substantially as follows:</td>
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<td>Priority Habitat and Mitigation Area – Please retain in a natural state</td>
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<tr>
<td>D-7</td>
<td>The priority riparian habitat, ordinary high water mark, shoreline setbacks, and oak mitigation area shall be delineated on the Final Plat.</td>
</tr>
<tr>
<td>D-8</td>
<td><strong>Water and sewer</strong> - The applicant shall provide documentation from the water and sewer purveyor that all water and sewer connections have been installed and approved.</td>
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</table>
D-9 Water mains supplying fire flow and fire hydrants shall be installed, approved and operational (see Finding 21).

D-10 **Developer Covenant** - A *Developer Covenant to Clark County* shall be submitted for recording to include the following:

a. **Critical Aquifer Recharge Areas:** "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."

b. **Erosion Control:** "Building permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Safety and put in place prior to construction."

c. **Responsibility for Stormwater Facility Maintenance:** For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. Final plats shall specify the party(s) responsible for long-term maintenance of stormwater facilities within the Developer Covenants to Clark County. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060.

d. **Impact Fees:** "In accordance with CCC 40.610 impact fees for each dwelling in this subdivision shall be assessed for impacts on schools, parks and transportation facilities based for the following districts: Evergreen School District (SIF), Park District #5 (PIF), and Orchards Sub-area (TIF). As found in CCC40.610.040, impact fees are calculated using the rates in effect at the time of building permit issuance."

D-11 **Plat Notes** - The following notes shall be placed on the final plat:

a. **Archaeological:** "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

b. **Sidewalks:** "Prior to issuance of occupancy permits, sidewalks shall be constructed along all the respective lot frontages."

c. **Utilities:** "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing,
operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."

d. Driveways: "All residential driveway approaches entering public roads are required to comply with CCC 40.350. No direct driveway access onto NE 182nd Avenue or NE 78th Street will be permitted."

e. Roof and Crawl Space Drains: "Roof and crawl space drains for all lots of the development shall be installed in accordance with the approved As-Built plans, unless a revised plan is approved by the county. These stormwater systems will be owned and maintained by the property owner(s) on whose lot the stormwater system is located."

f. Privately Owned Stormwater Facilities: "The following party(s) is responsible for long-term maintenance of the privately owned stormwater facilities: _______."

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<th>E</th>
<th>Building Permits Review and Approval Authority: Permit Services</th>
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<td>Prior to issuance of a building permit, the following conditions shall be met:</td>
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E-1 Roof and Crawl Space Drains - Roof and crawl space drains shall be installed in accordance with the approved As-Built plans, unless a revised plan is approved by the county. These stormwater systems will be owned and maintained by the property owner on whose lot the stormwater system is located.

E-2 Impact Fees - Impact fees shall be assessed for impacts on schools, parks and transportation facilities based for the following districts: Evergreen School District (SIF), Park District #5 (PIF) and Orchards Sub-area (TIF) (see Finding 24). As found in CCC40.610.040, impact fees are calculated using the rates in effect at the time of building permit issuance."

E-3 Fire - Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection prior to combustible building construction. Homes exceeding 3,600 square feet (excluding attached garages) will require additional fire protection features possibly including fire sprinkler systems. (See Finding 21 and 22)

E-4 Fire - No gate may be installed across a required fire department access road or driveway without first obtaining a permit from the fire marshal's office. Inspection and testing of the gate will be required. Split gates with a divided entry and exit side will need 15 feet on either side for a total gate width of 30 feet. (See Finding 22)

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<th>F</th>
<th>Development Review Timelines &amp; Advisory Information Review and Approval Authority: Advisory to Applicant</th>
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<tbody>
<tr>
<td>F-1</td>
<td>Land Division - Within seven (7) years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.</td>
</tr>
</tbody>
</table>
F-2 **Department of Ecology Permit for Construction Stormwater** - A permit from the Department of Ecology (DOE) is required if:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one acre threshold. This applies even if the applicant is responsible for only a small portion (less than one acre) of the larger project planned over time. **The applicant shall contact DOE for further information.**

F-3 **Building and Fire Safety**

Building and fire, life, and safety requirements must be addressed through specific approvals and permits. This decision may reference general and specific items related to structures and fire, life, and safety conditions, but they are only for reference in regards to land use conditions. It is the responsibility of the owner, agent, tenant, or applicant to insure that Building Safety and Fire Marshal requirements are in compliance or brought into compliance. Land use decisions do not waive any building or fire code requirements.

**Note:** Any additional information submitted by the applicant within fourteen (14) calendar days prior to or after issuance of this report, may not be considered due to time constraints. In order for such additional information to be considered, the applicant may be required to request a “hearing extension” or “open record” and shall pay the associated fee.

**Hearing Examiner Decision and Appeal Process**

This report to the Hearing Examiner is a recommendation from the Land Use Review program of Clark County, Washington.

The examiner may adopt, modify or reject this recommendation. The examiner will render a decision within 14 calendar days of closing the public hearing. Clark County will mail a copy of the decision to the applicant and neighborhood association within 7 days of receipt from the Hearing Examiner. All parties of record will receive a notice of the final decision within 7 days of receipt from the Hearing Examiner.

**Motion for Reconsideration**

Any party of record to the proceeding before the Hearing Examiner may file with the responsible official a motion for reconsideration of an examiner’s decision within fourteen (14) calendar days of written notice of the decision. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The motion must be accompanied by the applicable fee and identify the specific authority within the Clark County Code or other applicable laws, and/or specific evidence, in support of
reconsideration. A motion may be granted for any one of the following causes that materially affects their rights of the moving party:

- Procedural irregularity or error, clarification, or scrivener's error, for which no fee will be charged;
- Newly discovered evidence, which the moving party could not with reasonable diligence have timely discovered and produced for consideration by the examiners;
- The decision is not supported by substantial evidence in the record; or,
- The decision is contrary to law.

Any party of record may file a written response to the motion if filed within fourteen (14) calendar days of filing a motion for reconsideration.

The examiner will issue a decision on the motion for reconsideration within twenty-eight (28) calendar days of filing of a motion for reconsideration.

**Appeal Rights**
Any party of record to the proceeding before the hearings examiner may appeal any aspect of the Hearing Examiner’s decision, except the SEPA determination (i.e., procedural issues), to the Superior Court.

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

**Attachments**

- Copy of Proposed Preliminary Plan