Type III Land Division and Environmental Review
Staff Report and Recommendation

Project Name: NE 99TH SUBDIVISION

Case Numbers: PLD2018-00044; PSR2018-00046; SEP2018-00061;
GEO2018-00063; WET2018-00089; VAR-2019-00007; EVR-
2019-00013

Request: The applicant is requesting subdivision and site plan review
approval to construct a 46 lot subdivision, proposing
standard single-family development in the R1-6 zoned area,
and attached and zero lot line single family development in
the R-18 (multifamily) zoned area. The subdivision is also
subject to narrow lot and special Highway 99 Overlay
district standards. Variances to lot width are requested for
2 of the lots.

Address: 2915 NE 99th Street

Parcel number(s): 97740-000

Applicant: MLR Investments LLC
931 SW King Avenue
Portland, OR 97205
503.913.0226
lucas@MLRVentures.com

Owner: Same as applicant

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Revised 6/12/2019

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**Comp Plan Designation:** UL & UM

**Parcel Number:** 97740-000

### Applicable Laws

Clark County Code Sections: 40.200 (General Provisions); 40.220.010 (Single-Family Residential Districts, R1-6); 40.220.020 (Residential and Office Residential Districts, R-18); 40.260.155 (Narrow Lot Development Standards); 40.260.260 Zero Lot Line Standards; 40.320.010 (Landscaping and Screening); 40.350.010 (Pedestrian/Bicycle Circulation); 40.350.020 (Transportation Concurrency); 40.350.030 (Street and Road Standards); 40.370.010 (Sewer); 40.370.020 (Water Supply); 40.386 (Stormwater and Erosion Control); 40.430 (Geologic Hazard); 40.440 (Habitat Conservation); 40.450 (Wetland Protection); 40.500.010 ( Procedures); 40.510.030 (Type III Process); 40.520.010 (Legal Lot Determination); 40.540.040 (Subdivisions); 40.550.010 (Road Modifications); 40.570 (SEPA);
40.570.080 (Archeological); 40.610 & 40.620 (Impact Fees); Title 40 Appendix F Highway 99 Overlay District Standards; Title 15 (Fire Protection); Title 24 (Public Health) and RCW 58.17 (State Platting Laws).

Neighborhood Association and Contact
NE Hazel Dell Neighborhood Association
Doug Ballou, President
Email: dougbalou@comcast.net

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 on this matter was held on December 21, 2017. The pre-application was determined not contingently vested.

The fully complete application was submitted on January 22, 2019, and determined to be fully complete on January 22, 2019. Given these facts, the application is vested on January 22, 2019. Vesting does not apply to stormwater or concurrency standards.

There are no disputes regarding vesting.

Time Limits
The application was determined to be fully complete on January 22, 2019. The applicant was asked to submit additional information which extended the deadline by 74 days. Therefore, the code requirement for issuing a decision within 92 days lapses on July 7, 2019. The state requirement for issuing a decision within 120 calendar days, lapses on August 4, 2019.

Public Notice
Notice of application and public hearing was mailed to the applicant, The NE Hazel Dell Neighborhood Association and property owners within 300 feet of the site on May 24, 2019. One sign was posted on the subject property on May 24, 2019.

Public Comments
Alan Goerdt, Waterford Creek Estates HOA President, June 8, 2019 email (Exhibit 22). The comment letter includes a number of concerns and questions from the other members of the HOA, including:
  • Will the retaining wall limit the intrusion of NE 96th Street into the wetland?

Staff response: Impacts to the wetland buffer have been evaluated by the County and mitigations are required, see wetland findings below for additional information.
• Do the “star shapes” on the notice plan indicate trees? Will some trees be saved? Owls appear to use the site.

_Staff response_: Star shapes on the plans do indicate existing trees. Trees in the wetland and wetland buffers will be retained, and the other on-site trees are expected to be removed, according to the site development plan. If on-site trees along the property lines are removed, new landscaping will be required. _See Land Use Findings 16 and 27 and condition A-13.a._

As for any owls that may use the site, there are no County-regulated habitat areas on the site, and the County received no comment from the state Department of Fish and Wildlife regarding whether there may be any state-regulated habitats.

• Is an existing cyclone fence along the west side of the property the applicant’s, and will it remain? How would a new fence work with the existing? Who would maintain fencing, and can a block fence be requested instead of a wooden fence?

_Staff Response_: The survey shows the cyclone fence on the property line, so staff does not know whose fence it is. The Highway 99 standards do not require a fence, and the proposed landscape plan shows only the existing fence.

• Why is a trash collection station necessary instead of regular curbside collection?

_Staff response_: _See Land Use Finding 12 and condition A-12.a._

**Project Overview**
The vacant 7.7 acre site lies between NE 99th Street to the north and NE 94th Way to the south.

The property is a mix of open grasslands and small swaths of urban forestland. The topography of the site consists of a ridge on the north central portion of the parcel and a low spot where the wetland is located on the southern end of the parcel. The northern portion of the site drains to the north towards 99th Street, while the southern portion drains towards the wetland. The topography from the ridge is a steady rolling hill with the steepest slopes located in the central portion of the site.

The southern half of the site is zoned R1-6, a single family residential zone; the north half is zoned R-18, a multifamily zone. The entire site is located within the Highway 99 subarea plan.

The site is located in the following districts:
Vancouver Schools
Park District 8
Fire District 6
Clark Regional Wastewater
Clark Public Utilities Water

The proposal includes a mix of housing types. Townhomes are proposed along NE 99th Street, and single family detached zero lot line homes on narrow lots are proposed in the remainder of the R-18 zoned northern half of the property. Single family lots designed to meet the standard R1-6 regulations are proposed on the southern half of the site.
Applications needed for the project include:
- Subdivision application
- SEPA review
- Geohazard review
- Road modification requests
- Wetland permits
- Variance to lot width for Lots 43 and 44.

In addition, this project was reviewed for compliance with Appendix F, the Highway 99 Sub-Area provisions, as well the narrow lot standards of Section 40.260.155 since 37 of the lots are less than 40 feet wide.

Engineering staff reviewed and recommended for approval of the four road modifications.

**Comprehensive Plan, Zoning and Current Land Use**

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<th>Zoning</th>
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<td>R1-6 &amp; R-18</td>
<td>Single family subdivision lots (south half) &amp; townhomes (north half)</td>
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**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**
The north half of the site is zoned R-18 with a Highway 99 subarea plan overlay designation of Mixed Residential. Townhomes and single family detached homes are allowed under Table 40.220.020-1 as well as under Table 4.4 of Section 4.5 of the Highway 99 standards. Zero lot line developments are allowed under Section 7.8.3 of the Highway 99 standards and 40.260.260.

The south half of the site is zoned R1-6 with a Highway 99 subarea plan overlay designation of Single Family Residential which also allows single family detached dwellings.

**Finding 2 – R-18 single family detached lot standards**
Lot standards for detached single family residences in the R-18 zone are found in Table 40.220.020-5. Minimum lot area is 1,800 square feet; minimum lot width and depth is 25 and 50 feet respectively. All lots meet the standards, and are also subject to the narrow lot standards in Section 40.250.155. Also see narrow lot land use findings.

**Finding 3 – R-18 Townhouse lot standards**
Lot standards for townhouses in the R-18 zone are found in Table 40.220.020-4. Minimum lot area is 1,800 square feet; minimum lot width and depth is 18 and 50 feet respectively. Additional width requirements apply to corner lots. All townhouse lots (Lots 19-26) meet the standards. See condition D-6 and Land Use Finding 10.

**Finding 4 – R1-6 lot standards**
Table 40.220.010-2 prescribes lot requirements for the R1-6 zone. Lots in the R1-6 zone must average between 6,000 and 8,500 square feet. This application proposes an overall average lot size of 7,611 square feet for the 6 lots in the R1-6 zone, which meets lot area standards. Originally, seven R1-6 lots were proposed, however one of the southern lots was removed per Exhibit 12.

Average minimum lot width and depth standards are established at 50 and 90 feet respectively. Except for Lots 43 and 44, the lots meet the minimum width and depth standards. A variance is requested for those lots. See Land Use Finding 5 and condition D-6.

**Finding 5 – Variance to Lot width for Lots 43 and 44**
The applicant proposes Lots 43 and 44 to be 44 feet wide, a 12% variance to the standard of 50 feet.
According to Section 40.550.020.A.4:

4. **The responsible official shall approve an administrative variance(s) if, based on substantial evidence in the record, the applicant has sustained the burden of proving the variance(s) complies with all of the following:**

   a. **Granting the variance(s) will not substantially detract from the livability or appearance of a residential area or from the desired character of a nonresidential area, or the variance(s) will substantially enhance the livability or appearance of a residential area or the desired character of a nonresidential area, such as by preserving or protecting significant natural, scenic, historic, cultural, open space or energy resources; and**

In the revised variance narrative (Tab 10 of Exhibit 6), the applicant opines that the 12% variance will not detract from the livability or appearance of the residential area since narrower lots will be allowed per the R-18 zoning to the north, and that the lots are providing an increased rear yard setback (30 feet instead of the required 10 feet).

   b. **If variances to more than one (1) 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**

The application originally included another variance to lot depth for Lots 46 and 47 in the south portion of the site. That variance request has been withdrawn, thus there is no cumulative effect.

   c. **Adverse impacts resulting from the variance(s) are mitigated to the extent practical; and**

The applicant opines that no adverse impact will result, thus mitigation is not necessary.

   d. **The variance(s) 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 applicant asserts that the variance will not impact pedestrian or vehicle access, as the proposed 30th Avenue will be constructed to transportation standards.

In summary, staff concurs with the applicant’s findings, and recommends approval of the variance to lot width. See condition D-6.

Lots 46 and 47 as shown on the original and revised plan required a Type III variance to lot depth that staff was unable to support. The applicant provided a revised layout for the southern portion of the site (see Exhibit 12) which eliminated one of the lots and the need for a variance to lot depth.

**Finding 6 – R-18 Density calculations**
Per Table 40.220.020-4, the density of the R-18 portion of the development must be between 12 and 18 units per acre. As determined by Section 40.200.040.B.1.a, minimum calculations are based on the site area minus right of way and required landscaped area. Staff calculates the net area of the R-18 area as approximately 2.9 acres, assuming a 10 foot wide required landscape buffer along the west and east property lines. The applicant’s calculations result in a net of 2.33 acres, which appears to deduct a 30 foot wide landscape strip abutting the single family residences on both the east and west. Using staff’s more conservative total of 2.9 acres, a minimum of 35 units are required, whereas 40 are provided in the R-18 area.

Maximum density is determined by Section 40.200.040.B.1.b, which is based on the gross area of the site minus right of way. The applicant’s calculations show a net of 3.14 acres multiplied by 18 units, for a maximum of 56 units.

Staff finds that both the minimum and maximum densities are met.

**Finding 7 - Phasing**
Phasing is not proposed.

**Finding 8 - Retaining walls**
The perimeter of the site that abuts single and multifamily zoned property will be subject to the height and setback limitations for retaining walls and fences found in Section 40.320.010.F.

Outward facing retaining walls taller than 4 feet are subject to setbacks. The grading plan sheet indicates a retaining wall in the vicinity of Lot 19, however the height of the wall along the west property line is not indicated. If an outward facing wall created to contain built-up fill is constructed taller than 4 feet, it will need to meet the perimeter setback of 10 feet unless a permission letter is obtained from the owner. See conditions A-7 and E-6.

**Finding 9 - Safe walking conditions**
According to the school bus letter, students will be bused to Sara J. Anderson elementary and to Skyview High School. Students will walk to Gaiser Middle School which is across 99th Street from the project site. Continuous sidewalk exists along NE 99th Street with a crosswalk at NE 32nd Avenue. Staff finds the state requirement is met for safe walking conditions for students who only walk to school.

**Finding 10 - Narrow Lot Development Standards**
Thirty seven of the 46 lots are less than 40 feet wide, thus the Narrow Lot Development Standards of Section 40.260.155 apply to this project, as reviewed in Findings 11-13 below.

**Finding 11 - Street Trees Along NE 30th Avenue**
Section 40.2560.155 (C)(4)(a) requires one (1) tree shall be provided along the street frontage of each narrow lot, provided that sight distance triangles are not obstructed. The landscape plan shows compliance with this requirement for NE 30th Avenue, except that shrubs required by Type C landscaping of the Highway 99 standards are not shown. Because the trees may be damaged with the construction of driveways along NE 30th Avenue, installation of the trees and shrubs can be delayed until prior to final occupancy. See conditions A-13.b and F-1.
Trees shall not be located in the sight distance triangles of the NE 30th/NE 99th Street intersection. Sight distance triangles shall be shown on the landscape plan. See conditions A-1.i, A-13, and F-1.

Finding 12 - Solid Waste and Recycling Collection
The applicant proposes to provide solid waste recycling collection areas at the ends of the two private roads that serve Lots 19-26. Section 40.260.155.C.5. requires that where collection is not feasible on each lot, such as when lots are accessed by a shared driveway with no turnaround, a designated collection area shall be provided. The proposed location of the collection areas at the ends of the roads will require collection vehicles to back up, negating the intent of this code section. Further, the location at the ends of the private roads will make it difficult for vehicles leaving Lots 19 and 26 when the solid waste containers are placed there, and containers at the end of the road are more apt to stay there as they will be “out of sight, out of mind”. The designated collection area shall be relocated as to be accessible from NE 30th Avenue, and shall not obstruct sidewalks, bike lanes, or vision clearance triangles. See condition A-12.a.

Finding 13 - Parking
Section 40.260.155(C)(3) provides that two and one-half (2.5) parking spaces shall be provided per unit, to be applied to Lots 3 through 43. Lots 19-22 will provide one on-site space in the garage; the rest of Lots 3 through 43 will provide one space in the garage, and one in the driveway. To make up the shortfall of 2.5 spaces per lot, 19 parking spaces are shown along NE 30th Avenue as allowed under Section 40.260.155.C.3.a.

Staff finds the Narrow Lot Parking standards are met. The 19 spaces shall be identified on the final site plan. See condition A-12.b.

The site is subject to the Highway 99 standards. Where a conflict or duplication exists, the Highway 99 Overlay District Standards supersede other development standards in Title 40.

Finding 15 – Highway 99 Overlay Setbacks
Lots 3-43 are located in the Mixed Residential overlay of the Highway 99 standards. Per Section 4.5, side setbacks in the Mixed Residential overlay are 10’ for buildings less than 25 feet tall. Per the submitted elevations, all narrow lot Mixed Residential overlay buildings are less than 25 feet tall as measured at the mid-point of the roof.

Per Table 3-8, front setback requirements for a Common Yard frontage in the Mixed Residential overlay is between 10 and 30 feet.

For the single family detached lots in the R-18 zone, the applicant proposes to use zero lot line provisions of Section 7.8.3 which requires a 10 foot side yard/separation between buildings. Per Section 7.8.3 a minimum usable open space area of 15 feet square is required; this requirement is exceeded by the proposed 30 foot rear setbacks. The plans show compliance with these setback requirements.
Zero lot line developments do not allow façade openings along the zero setback line. The building elevations show no window openings, although the open sides of the porches along the zero lot line may need to be enclosed along that line. See condition E-4.

In order for maintenance to occur along the zero setback line, maintenance easements will be needed on the lots that abut the zero lot line. See condition D-8.

Rear setbacks for the R-18 lots are 20 feet for those lots that abut the R-18 zoned property to the west, and 25 feet for those lots that abut the single family zoned property to the east. The applicant has proposed 30 foot rear setbacks to all lots.

Per Table 3-8 of the Highway 99 overlay standards, front setback requirements for a Common Yard frontage in the Single Family Residential overlay, can range between 10 and 30 feet. Lots 1, 2, 44, and 45 show 10 foot living space setbacks, and 25 foot garage setbacks. Lot 46 as shown on Exhibit 12 shows 10 foot living space setbacks, and 18 foot garage setbacks.

Any changes to lot area, width or depth may require additional review. See Condition D-6.

Finding 16 – Design Options for Side and Rear Yards (Section 5.1)
Section 5.1 provides design options for side and rear yards. The stated intent of this section is stated as follows:
To provide side and rear yard design options that enhance the area’s pedestrian environment and the setting for development.
• To provide flexible standards that allow property owners to maximize on-site development opportunities while meeting community design goals.
• To provide compatibility between conflicting uses.

Section 5.1.1 (Side and Rear Yard Checklist) provides a number of options below to meet this section:

Project applicants shall incorporate one or more of the following design options into the site’s design:
• Provide an internal roadway or public street along the property line (See Section 5.4.1 Vehicular Circulation Network). Where the roadway is constructed entirely within the subject property, at least 5 feet landscaping shall be provided between the road and the property line. (a)
• Provide a trail or other internal walkway along the property line. This may be required in some areas to implement the Trails Plan set forth in Section 9.3. Trails that span the property line require construction of a document that will appear in the deed records to advise future purchasers of both properties of the agreement. Other trails require at least 5 feet of landscaping between the trail and the property line. (b)

• Provide a zero-lot line fire wall for commercial or mixed-use developments within Activity Centers or Transitional Areas. This configuration provides for the maximum use of property. Developments are encouraged to consider the design implications to the adjacent property. (c)
- Retain existing native or desirable mature vegetation along the side or back property line. (d)

- Provide Type A landscaping at least 10 feet deep along the side and/or back property lines. A fence may be included with the landscaping. This option may be used only where options (a), (b), (c), or (d) above are not viable as determined by the Responsible Official. (e)

- A rain garden or other low-impact development measure may be incorporated as part of the treatments above. (f)

- Shared parking measure may be incorporated as part of the treatments above. (g)

The applicant’s narrative does not address this section. It appears that the available options include either (d) (to retain native or desirable mature vegetation) or (e) (provide Type A landscaping at least 10 feet deep).

A revised landscape plan will be required to demonstrate one of the above. If existing on-site vegetation is to be maintained, the landscape plan shall show the location and species of the vegetation for staff review and approval to determine if it meets the requirements of a 10 foot wide Type A standard, namely:
(a) At least one row of evergreen trees, minimum 6 feet in height at time of planting and 15 feet maximum separation, or as per recommendations by a Washington licensed landscape architect or Washington-certified Professional Horticulturist (CPH).
(b) Permitted evergreen tree species are those with the ability to develop a minimum branching width of 8 feet within 5 years.
(c) Shrubs at a minimum rate of one shrub per 20 square feet of landscaped area.
(d) Ground cover.

New landscaping meeting the Type A standards above will be needed in any area of existing vegetation not meeting the Type A standards. Landscaping in the rear yards of the detached single family dwellings shall be installed prior to final plat. Landscaping in the side yards of the townhouse lots can be delayed until final occupancy since it will likely be harmed during construction of the townhouse units. See conditions A-13, D-10 and F-1.b.

Finding 17 - Side and Rear Yards Along Natural Areas Section 5.1.4
Lot 1’s south property line abuts the open space Tract A which contains Tenny Creek. The applicant proposes a soft surface path to meet this section. Also see Land Use Finding 28.

Finding 18 - Pedestrian Access and Connectivity Section 5.3.1
Applicants shall successfully demonstrate how the proposal includes an integrated pedestrian circulation system that connects buildings, open space, and parking areas with the adjacent street sidewalk system and adjacent properties.

Staff finds that that the development meets the intent of this section by provision of street sidewalks and the trail section as discussed in Land Use Finding 28.

Finding 19 - Internal Vehicular Access Section 5.4.1
This section’s intent is to generally provide vehicle circulation, mitigate traffic impacts, enhance the visual character of interior access roads and minimize conflicts with pedestrian circulation and activity. Section 5.4.1 requires that “developments shall provide a safe and convenient network of vehicular circulation that connects to the surrounding road/access network and provides the opportunity for future connections to adjacent parcels where applicable.”

The applicant has proposed a cross circulation road to connect to the parcel to the east; therefore, staff finds that this Highway 99 code section is met. Also see transportation and transportation concurrency findings below.

Finding 20 – Maximum Façade Width, Section 6.1.6
This section requires facades wider than 120 feet to have features to break up the massing of buildings. The townhomes are approximately 80 feet wide, and are not subject to this section.

Finding 21 – Building Materials Section 6.3
This Highway 99 Section applies to allowable uses of building materials, including metal, concrete block and stucco standards. The buildings do not make substantial use of these materials.

Finding 22 – Townhouses Intent
The intent of the townhouses Section 7.5 is to ensure that townhouse developments enhance the character of the street, to provide adequate private and common open space, reduce the impact of garages and driveways and to promote architectural variety that adds visual interest to the neighborhood. Findings are provided below for applicable sections.

Finding 23 – Townhouse Configuration and Orientation (Section 7.5.2)
1) Code Applicability: Townhouses shall be exempt from development criteria set forth in Table 40.220.020-4, except for minimum density.

2) Building Size: Maximum number of units in one building is 6 units. The applicant proposes two 4-unit buildings, less than the maximum of 6 units.

3) Entries: Townhouse buildings within 50 feet of a street must all have individual ground-related entries accessible from the street. The applicant proposes individual ground-related entries accessible from NE 99th Street. See Exhibit 15.

4) Driveways: Private individual driveways off of a street are prohibited. Vehicular access shall be from an alley or private internal drive.

The units and individual driveways are located off the main public streets on private street tracts that serve as “private internal drives”.

Finding 24 – 7.5.3 Townhouse Open Space
Townhouses must provide a minimum of 200 square feet of private opens space that is attached and accessible from each unit. This may include landscaped front and/or rear yards, porches, patios, and balconies. Driveways and minimum required landscape buffers may not be included in the calculations. Up to 50 percent of the required private open space can be
provided as additional common open space designed to meet the standards set forth in Section 5.2.2.

It appears that approximately 250 square feet of private open space is provided for units 19-21, and units 22-26 exceed that amount, therefore this requirement is satisfied.

**Finding 25 – Townhouse Internal Drive Aisles (Section 7.5.4)**
Staff finds that the site plan meets the internal drive aisle standards in Section 7.5.4 other than Section 7.5.4(4)(c.), which limits individual driveway depths to 10 feet to encourage residents to park in their garages, ostensibly to reduce the visual impacts of vehicles parked in front of units. The applicant has requested a departure (Exhibit 6 tab) to this requirement noting that the townhouse driveways are located such that visual impacts from the public right of way will be minimal, and that the parking spaces provided for Lots 23-26 will help fulfill the parking requirements for the narrow lot standards. The narrative also notes that landscaping will screen these areas, however the provided landscape plan does not show landscape screening details as to how this would be provided. See additional land use finding 16 for a discussion on needed landscaping. With conditions of approval to require additional landscaping to help screen the driveways, staff recommends approval of this departure.

**Finding 26 - Townhouse Building Design (Section 7.5.5)**
1) **Emphasis of pedestrian entries:** New developments must give greater emphasis to individual pedestrian entrances rather than private garages. All dwellings units shall provide a porch or covered entry of a width of at least 3 feet. For units where the primary pedestrian entrance is along the same façade as the garage a decorative trellis or other similar architectural feature used to highlight the pedestrian entrance.

The applicant has provided building plans (Exhibit 15) that show covered entries on both the front and rear of the units that are more than 3 feet deep.

2) **Repetition with variety:** Townhouse development shall employ one or more of the following “repetition with variety” design options:
   (a) Reversing the elevation of two out of four dwellings
   (b) Providing different building elevations for external townhouse units (versus internal units) by changing the roofline, articulation, windows and/or building modulation patterns
   (c) Adding a different dwelling design or different scale of the same design, where a one-story version of the basic dwelling design where two stories are typical (or a two story design where three stories are typical).
   (d) While the variable use of color on buildings can be effective in reducing the perceived scale of the building and adding visual interest, color changes alone are not sufficient to meet the intent of the standards.

The applicant states that repetition is addressed by alternating the roof lines above the garages. Staff notes that the elevations also show that the roof lines of the front elevations along NE 99th Street are similarly alternated.

Staff finds that the revised proposed elevations meet the minimum code requirement as it appears that only one element is needed. Staff encourages the applicant to provide additional variation in articulation, window design, as well as providing better level of trim detail along
NE 99th Street to truly meet the intent of this section. Building plans submitted for building permits shall be in substantial compliance with Exhibit 15. See condition E-3.

Finding 27 - Highway 99 Landscape standards Section 8.3
The Highway 99 landscaping standards generally take precedence over Section 40.320.010. Type A landscaping is used where a visual separation of uses is warranted, and as an option under the side and rear checklist Section 5.1.1.

Staff interprets that Section 5.1.1 applies to the site's perimeter side property lines, but not each individual lot's side and rear property lines. Also see Land Use Finding 16.

Type A requirements include a row of evergreen trees planted at 15 foot centers and shrubs provided at a rate of one per 20 square feet.

Type C requirements apply along roadways. This requires trees at 20 foot centers and shrubs at a rate of one per 20 square feet.

The applicant's landscape plan shows the trees required by the narrow lot standards but does not show the shrubs required under the Type C standard of Section 8.3.3. Staff finds that provision of trees at 20 foot centers would be difficult to implement along NE 30th Avenue due to the large number of driveways on 30 foot wide lots, and finds that an approximate rate of one per lot is acceptable, however the shrubs need to be provided. See conditions A-13 and F-1.

Landscaping on this site and abutting rights-of-way shall be continually maintained in accordance with the requirements of Section 8.3.5(4) of the Highway 99 Overlay Standards. See Condition H-1.

Finding 28 - Trails
Per Trails Map B in Section 9.3, a trail is required across the midsection of the site as part of the Tenny Creek East Trail system. The classification of the path can be either a C2 (Walking Path, hard surfaced, 4-10' wide) or A3 standard (Primitive Trail) depending on site, use, and project design as determined by the Responsible Official.

A trail is proposed through the wetland Tract A to link up to proposed NE 30th Avenue, which will then connect to the sidewalk on the existing section of NE 96th Street. Since the trail is within a wetland buffer, a 5 foot wide wood chip trail surface is proposed to reduce impacts to the wetland.

The applicant does not have control of the rest of the route from the project site's west boundary to its ultimate connection to NE 99th Street in the vicinity of NE 27th Court as shown on Map B; therefore, the trail easement shall be written that the County will not maintain the trail section on the project site until such time that a continuous route is provided. See conditions D-1, D-5.i, and D-11.

Finding 29 – Street Design Special Provisions
Per Section 9.1.2(2)(b) 6 foot wide detached sidewalks with street trees are required along 99th street, as well as all other streets in the Multifamily overlay. According to Section 9.1.2(2), departures from this requirement are allowed only "under extraordinary circumstances".
In this case, the existing sidewalk along NE 99th Street is 5.5 feet wide and attached to the curb. The applicant has requested a departure (Exhibit 13) and road modification (Exhibit 20) to retain the existing sidewalk, citing primarily that the County reconstructed this road in the recent past. The applicant then cites departure criterion “b” of Section 9.1.1 as follows:

“Recent street/alley improvements were made and the difference between the recent improvements and required standards are not significant enough to warrant the cost of reconstruction.”

The applicant further opines that detaching the sidewalk at this location would be an anomaly because the rest of the sidewalk between I-5 and the eastern edge of the Highway 99 overlay area is attached.

As noted in Transportation Finding 8, Development Engineering believes the applicant’s road modification request meets the criterion of Section 40.550.010(C)(2)(e), however, the “extraordinary circumstances” required of the Highway 99 Overlay raises the bar of the approval criteria.

Staff notes that over 1/3 of the site’s road frontage consists of an abandoned bus stop and the sidewalk follows the bus stop bump-out so that the sidewalk is further from the main traffic lane than is normal in this area. Thus, the section of sidewalk that lies east of the proposed NE 30th Avenue essentially functions as a detached sidewalk, and only the western 100 feet of sidewalk would need to be detached or widened to meet the intent of Section 9.1.2(2). Staff therefore recommends that the western section of sidewalk be either detached or widened to 10 feet if the existing sidewalk is kept in place. Street trees can be placed in cutouts in the existing sidewalk. Because the trees may be damaged with the construction of the sidewalks to the townhouse units on Lots 19-26, installation of the trees can be delayed until prior to final occupancy. See conditions A-1.i, A-13.c, and F-1.

**Finding 30 – Tree Removal**

Commercial harvest of over 5,000 board feet will require a Forest Practice Permit. Contact the County Forester Hunter Decker at 564.397-4852. See condition A-15.

**Conclusion (Land Use)**

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

**Archaeology**

The development site is located within a high-moderate probability area for the discovery of archaeological resources, as designated on the Archaeological Predictive Model Map of Clark County. Therefore, an Archaeological Predetermination is required.

The applicant submitted an archaeological pre-determination to the Washington State Department of Archaeology and Historic Preservation (DAHP) prior to submittal of the application, and provided documentation that DAHP received the pre-determination.
DAHP did not provide a written response by the SEPA comment deadline of June 8, 2019. Therefore, per DAHP procedure, no further work is required. See Conditions A-7 and D-5.h.

**Conclusion (Archaeology)**
Staff finds that the proposed preliminary plan, subject to conditions identified above, meets archaeology requirements of the Clark County Code.

**Wetlands**

**Finding 1** - County GIS and the Washington Department of Natural Resources indicate a Type F (fish bearing) stream on the southern end of the parcel, continuing offsite to the northwest. In reviewing historic aerial imagery it appeared there may be a channel present.

**Finding 2** - County Wetland/Habitat Review staff conducted a site visit in a previous determination on parcels to the west (WET2018-00045; WET2019-00001) which established that there was not a Type F stream present after consultation with the Washington Department of Fish and Wildlife. These determinations are still considered to be valid. The stream in question is the same stream which is mapped on the subject parcel. Due to a lack of a regulated stream, there would consequently be no priority riparian habitat onsite. Therefore, no further habitat review is required.

**Finding 3** - Clark County GIS indicates a permitted Category IV wetland offsite to the west which was reviewed under WET2018-00045 and WET2019-00001 which has a wetland unit which continues onto the subject parcel. In reviewing historic aerial imagery, there were wetland signatures on the parcel as well.

**Finding 4** - The applicant provided a preliminary Wetland Mitigation Plan prepared by PBS Engineering dated October 28, 2018 which included a wetland delineation report prepared by Cascadia Ecological Services dated November 10, 2017. This report indicated the presence of a Category III wetland on the southern end of the parcel which extends offsite to the west.

**Finding 5** - County Wetland/Habitat Review staff conducted a site visit and confirmed the presence of a Category IV slope wetland on the subject parcel as shown on the provided map. The wetland begins in the south/central portion of parcel 97740000 and continues offsite to the west within a localized low topographical feature. The vegetation onsite is emergent, minus a few scattered Oregon ash saplings, however changes to forested offsite to the west. The wetland had a moderate Water Quality and Hydrology function scores (6 and 5 points, respectively) and a Low habitat score of 4.

**Finding 6** - Per the Wetland Protection Ordinance (Table 40.450.030-5) residential development with a density higher than between 1 unit per acre is considered a High Intensity Use; a public road is also considered a High Intensity Use. The proposed stormwater facilities would be considered a Low Intensity Use.

**Finding 7** - Per the Wetland Protection Ordinance (Table 40.450.030-2), a Category IV wetland with a Habitat Score of 4 is afforded the protection of a Low Intensity Use wetland buffer of 25 feet in order to protect water quality and habitat.
functions (red line on the provided map). The Moderate Intensity Use buffer is 40 feet and is shown in orange on the provided map. The High Intensity Use buffer is 50 feet and is shown in yellow on the provided map. The minimum buffer width at its narrowest point shall not be less than the low intensity use water quality buffer width contained in Table 40.450.030-2; 25 feet for a Category IV wetland (red line on the provided map).

Finding 8 - The Wetland Protection Ordinance follows a hierarchy of impacts with the first being avoidance of all impacts within a wetland or wetland buffer, if possible. In the event that avoidance is not possible, County staff shall determine if the proposed development meets the Reasonable Use Exception (CCC 40.450.010.B.4). The applicant shall provide documentation that the any impacts have been minimized. Impacts to the wetland buffer are preferred to direct wetland impacts; impacts to the outer portion of the buffer are preferred to impacts in the inner portion of the buffer. Any unavoidable adverse wetland or wetland buffer impacts shall require a wetland permit and fees with applicable mitigation. Impacts within the water quality buffer or those wetland buffer impacts which cannot be mitigated on site may be considered indirect wetland impacts (CCC 40.450.040.D.5) and would be mitigated at the appropriate wetland mitigation ratios (Table 40.450.040-3). The responsible official may waive the requirements of Sections 40.450.030 (D) and (F) in certain cases where it is determined that all development is clearly separated from the wetlands and wetland buffers.

a. Development envelopes shall be required for a fully complete preliminary application:

b. Development envelopes shall be shown on the final site plan; and

c. A note referencing the development envelopes shall be placed on the final site plan.

Finding 9 - The initial plans indicated a stormwater facility and outfalls within the 25 foot water quality buffer, as well as impacts to the High Intensity Use buffer related to the proposed NE 96th Street, Lot 46 creation, and trails. The applicant has provided a revised street plan and stormwater plan dated May 2019 which indicates a stormwater facility, outfalls, NE 96th Street, Lot 46, and a trail just outside of the 25 foot Low Intensity Use buffer. The new impacts are still within the High Intensity Use buffer and would require a Type I wetland permit. The applicant has applied for the subject permit in order to address these wetland buffer impacts.

Finding 10 - The applicant has provided a Final Wetland Mitigation Plan prepared by PBS and dated March 29, 2019 which proposed wetland buffer averaging as well as enhancement for the initial impacts. The applicant also provided a memo dated May 29, 2019 from Brian Bieger at PBS regarding an amendment to the original wetland mitigation plan. This memo notes that the shape of the stormwater pond and outfalls were reconfigured to be outside of the 25 foot Low Intensity Use buffer. A map is provided which states that the new wetland buffer impacts would be 5,048 square feet related to construction of NE 96th Street, the stormwater facility and outfalls, and a portion of Lot 46. The memo proposes to use wetland buffer averaging to reduce a portion of the High Intensity Use buffer down to a Low Intensity Use buffer as allowed in the Wetland Protection Ordinance (CCC
40.450.040.C.3). The map shows the buffer reduced by 5,048 square feet and a buffer replacement of 6,994 square feet.

Finding 11 - Per the Wetland Protection Ordinance (CCC 40.450.040.C.3), the boundary of the buffer zone may be modified by averaging buffer widths. If buffer averaging is used the following conditions must be met:

a. A maximum of twenty-five percent (25%) of the total required buffer area on the site may be averaged. The area to be averaged is less than 25% of the total buffer so this condition is met.

b. The total area contained in the buffer, after averaging, shall be at least functionally equivalent and equal in size to the area contained within the buffer prior to averaging. The area to be averaged out is primarily unmaintained field and some minor forest/scrub-shrub. The area to be averaged in is a mixture of forest, scrub-shrub, and field. The areas are found to be functionally equivalent and at least equal in size; in this case the area averaged in is slightly bigger so this condition is met.

c. The proposed wetland buffer averaging meets the requirements of the Wetland Protection Ordinance.

Finding 12 - The wetland is proposed to be utilized for holding stormwater discharge. The stormwater facility and outfalls have been moved outside of the 25 foot Low Intensity Use/Water Quality Buffer. Stormwater for Lots 46 as well as access to the lot will be treated in catch basin with a filter and then discharged to the wetland buffer. Stormwater for the southern portion of the subdivision will be collected in the stormwater facility shown which appears to be a pond of some type and then discharged into the wetland buffer. Per the Wetland Protection Ordinance (CCC 40.450.040.D.8) stormwater facilities are allowed in wetlands with habitat scores of less than five points on the rating form, in compliance with the following requirements:

a. Stormwater detention/retention necessary to maintain wetland hydrology is authorized provided that the responsible official determines that wetland functions will not be degraded. The Final Wetland Mitigation Plan dated March 29, 2019 includes an analysis to determine the net change in wetland hydrology per this additional discharge. The applicant provided evidence that the hydrology would increase by 0.10 feet (1.25 inches) for a period of approximately 12 hours before pre-development water levels are achieved. The vegetation in the saturated/ inundated portions of the wetland are dominated by slough sedge and soft rush, both of which are facultative wet species and can tolerate seasonal inundation. The applicant notes that the minor changes to the existing wetland hydrology patterns will not alter the wetland vegetation or function in any measurable way. This condition is met per the preliminary analysis provided.

b. Stormwater runoff is treated for water quality in accordance with the requirements of Chapter 40.386 prior to discharge to the wetland. Per the revised stormwater plans provided this condition appears to be met.

c. The revised plans and May 29th wetland mitigation plan addendum memo indicate a trail just to the north of the wetland, coming off of the southern end of NE 30th Avenue and continuing west to the south of the proposed Lot 1 to the edge of the parcel. The narrative notes that it will be a primitive trail consisting of wood chips
and will be 5 feet wide. A natural trail would be considered a Low Intensity Use. A majority of the trail is outside of the 25 foot Low Intensity Use buffer, except on the far western end of the parcel where it appears there may be some additional impact in the Low Intensity Use buffer. Per the Wetland Protection Ordinance (CCC 40.450.010.C.1.m), clearing, as minimally necessary for creating a four foot or narrower path using natural, wood-based, or vegetated pervious surface in wetlands and wetland buffers is exempt. If this portion of the trail could be reduced to 4 feet then it could meet the exemption.

Finding 13 - Temporary impacts may occur within the wetland buffer related to construction of the subject project. Temporary impacts shall be addressed as follows:

a. After construction, the temporarily impacted areas shall be returned to a pre-disturbance grade

b. After construction, the temporarily impacted areas shall be reseeded with a native grass seed mixture appropriate for the hydrology of the site.

c. The applicant shall maintain the performance standard of 100% herbaceous cover in the temporarily disturbed areas.

d. The applicant shall maintain and monitor the temporarily disturbed area for 1 year to ensure the performance standard for herbaceous cover is met. Any areas not meeting this standard shall be replanted, with maintenance and monitoring continuing until the standard has been met.

Finding 14 - The wetland and wetland buffer shall be maintained in a natural state. The applicant shall retain all native vegetation on site that is outside of the indicated development area within the wetland and wetland buffer. Any changes to the development layout causing greater impacts to the wetland or wetland buffer than what is approved herein shall be subject to additional habitat and/or wetland review by County Wetland/Habitat Review staff and may include additional permits and/or mitigation requirements.

Finding 15 - The applicant shall utilize best management practices to control erosion and prevent sediment from entering adjacent wetlands and wetland buffers.

Finding 16 - Any unforeseen disturbance to the indicated wetland, or wetland buffer not mentioned as a part of this permit shall be replanted with native vegetation of like kind.

Finding 17 - Excluding non-native vegetation removal, clearing of native vegetation shall be limited to what is minimally necessary to construct this project. No additional native trees or shrubs shall be removed outside of the areas indicated which occur within a wetland or wetland buffer. Invasive species may be removed provided that ground disturbing heavy machinery (scraping, ripping, etc.) is not used. Cutting, mowing, and ground disturbance with hand tools is allowed; efforts shall be made to prevent injury to neighboring native vegetation.

Finding 18 - The applicant shall delineate the wetlands, wetland buffers, and mitigated buffer areas per the map provided in the May 29, 2019 Wetland Mitigation Plan Amendment memo on future construction plans and the final plat.

Finding 19 - Any changes to the development layout causing greater impacts to the wetland or wetland buffer than what is approved with this review shall be subject to
additional wetland review by County Wetland/Habitat Review staff and may include additional permits and/or mitigation requirements.

**Conclusion (Wetlands)**
Environmental Services concludes that the proposed preliminary plan, subject to conditions identified in their attached report, meets wetland requirements of the Clark County Code.

**Transportation**

**Finding 1 – Pedestrian/Bicycle Circulation**
Pedestrian circulation facilities in compliance with the Americans with Disabilities Act (ADA) are required for this development. Bike lanes are also required along NE 99th Street as well as an off-street trail as identified by the Clark County Highway 99 Sub-Area Plan.

The proposed plan indicates that 5-foot sidewalks will be constructed along NE 30th Avenue and an existing 5-foot sidewalk and dedicated 5-foot bike lane exist along NE 99th Street. The applicant will also construct a 6-foot wide off-street trail along the north side of the wetland buffer from the west property boundary to connect with NE 30th Avenue near NE 96th Street. Staff finds that the proposed pedestrian/bicycle circulation plan complies with the provisions of CCC 40.350.010. The applicant will be required to show that all proposed pedestrian facilities (except for the off-street trail) will be constructed to comply with ADA standards on the final construction plans. Additionally, the off-street trail shall be located within a minimum 10-foot wide public access easement. See conditions A-1.a and D-1.

**Finding 2 – Circulation Plan/Street Extensions**
The proposed development is bordered by NE 99th Street to the north, the Waterford Creek Townhome subdivision to the west, the Meadows Manor and Meadow Creek subdivisions to the southwest, Adrianna’s Place subdivision to the south and the Maplegate subdivision to the east. There is also a stream and associated wetlands that run southeast to northwest through the middle of the parcel. The applicant proposes to extend NE 96th Street/NE 30th Avenue from the east though the development to connect with NE 99th Street to the north. Further public street connections to the west and south are precluded by existing development and sensitive areas. This includes the extension of NE 94th Street.

**Finding 3 – Roads/ Frontage Improvements**
NE 99th Street is classified as an Urban Minor Arterial (M-2cb). The existing roadway is improved with a half-width right-of-way between 30 to 42 feet, a paved roadway half-width of 23 to 36 feet, curb and gutter, and 5-foot attached sidewalk. Code requires a minimum half-width right-of-way of 36 feet, a half-width paved roadway of 24 feet, curb and gutter, and a 5-foot detached sidewalk per Clark County Standard Drawing 4. The applicant is proposing to dedicate additional right-of-way, but has submitted road modification requests to address the substandard pavement width and sidewalk location. See Finding 8 – Road Modifications EVR-2019-00013.

NE 96th Street and NE 30th Avenue are classified as Urban Local Residential Access roads. Code requires a minimum full-width right-of-way of 46 feet, a full-width paved roadway of 28 feet, curbs and 5-foot sidewalks on both sides of the roadway per Clark County Standard Drawing 13. The applicant is complying with the minimum standards.
The proposed NE 30th Avenue is 28 feet in width. Per CCC 40.350.030(B)(4)(d), in those cases in which an urban access street is less than 36 feet wide, such street shall have a minimum width of 36 feet at the intersection with the arterial and shall be tapered according to accepted engineering practices and supplemental standards in Section 40.350.030(C)(1)(b) as determined by the Public Works Director. See condition A-1.b.

The right-of-way dedication for these roadways must be conveyed to the county with the final plat. See condition D-2.

Finding 4 – Access Management
Two separate, 20-foot wide joint driveways within 20-foot wide access easements will serve the two townhouse buildings (Lots 19-22 and Lots 23-26). A developer's covenant that establishes maintenance responsibility for the joint driveways will be required. See conditions A-1.c & D-4.a.

Per CCC 40.350.030 (B)(4)(b)(1)(b), corner lot driveways shall be a minimum of 40 feet from the projected curb line or edge of pavement, as measured to the nearest edge of the driveway, as long as the parked cars in the driveway are outside of the sight distance triangle. In the R1-5 zone, where this may be impractical, the driveway may be limited to 20 feet in width and located 5 feet from the property line away from the intersection or as a 25-foot wide shared driveway at this property line. This provision applies to Lot 45. The applicant shall show that this driveway complies with the applicable corner lot driveway standards on the final engineering plans. See condition A-1.d.

Finding 5 – 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. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance requirements at all proposed driveway approaches and intersections. Per Table 40.350.030-8, the applicant is required to have 350 feet of sight distance at the intersection of NE 30th Avenue with NE 99th Street per the 35 MPH posted speed limit along NE 99th Street.

The applicant's engineer, Kelly Engineering, analyzed the sight distance at this in their Transportation Impact Study dated February 7, 2018. They acknowledged that the required sight distance is achieved looking both to the east and west along NE 99th Street. The applicant will be required to show the sight distance triangles on the final construction plans for the proposed intersection of NE 30th Avenue and NE 99th Street. See condition A-1.e.

Finding 6 – Intersection Design
The intersection spacing between proposed NE 30th Avenue and NE 28th Place to the west along NE 99th Street is only 275 feet. Table CCC 40.350.030-3 requires a minimum intersection spacing on arterials of 500 feet. The applicant has submitted a road modification request to address the substandard intersection spacing. See Finding 8 – Road Modifications EVR-2019-00013.

Per CCC 40.350.030(B)(7)(b), on arterials, the dedication of right-of-way on corners shall include the chord of the radius. This additional 25-foot minimum right-of-way radius chord
dedication on the corners of NE 30th Avenue at its intersection with NE 99th Street shall be conveyed to the county with the final plat. See condition D-3.

Finding 7 – Turnarounds
NE 94th Way provides access to Lot 46. This public road is approximately 560 feet long, from its intersection with NE 32nd Avenue to its stub at the development’s east boundary line. The road currently serves 6 homes and a turnaround does not exist at the stub. The ability to extend this road further to the west is precluded by the lack of a street stub connection from the Meadows Creek subdivision. The applicant has proposed a private dead-end hammerhead to meet the turnaround requirements for the lot access. Since the hammerhead alignment is proposed in a “sideways” configuration, the applicant has submitted a road modification request to address the use of this alternative turnaround design. See Finding 8 – Road Modifications EVR-2019-00013.

Finding 8 – Technical Road Modification (EVR-2019-00013)
The applicant has submitted 4 road modification requests:

1. Relief from frontage improvement requirements along NE 99th Street to allow the substandard existing 5-foot wide attached sidewalk to remain in place.
2. Relief from frontage improvement requirements along NE 99th Street to allow the substandard existing 23-foot half-width pavement to remain in place.
3. Relief from the 500-foot intersection spacing standard between NE 30th Avenue and NE 28th Place.
4. Use of an alternative turnaround design at the west end of NE 94th Way.

Approval Criteria:
Modifications to the standards contained in Chapter 40.350 may be granted when the applicant demonstrates at least one (1) of the following:

a. Topography, right-of-way, existing construction or physical conditions, or other geographic conditions make compliance with standards clearly impractical for the circumstances;

b. A minor change to a specification or standard is required to address a specific design or construction problem which, if not enacted, will result in an unusual hardship;

c. An alternative design is proposed which will provide a plan that is functionally equivalent or superior to the standards;

d. Application of the standards of Chapter 40.350 to the development would be grossly disproportional to the impacts created;

e. A change to a specification or standard is required to ensure consistency with existing features adjacent to or affected by the site where those existing features are not expected to change over time.
Applicant’s Discussion:
The applicant has submitted two road modification narratives prepared by PBS Engineering and Environmental, Inc. dated April 4, 2019 providing justification for the 4 requests.

Staff’s Evaluation:

Road Modifications # 1 & 2
Per CCC 40.350.030(B)(5)(a), a partial-width road shall be established and constructed to the applicable right-of-way or easement and improvement standards set out in Section 40.350.030 to that portion of a frontage public or private road which abuts a parcel being developed as a condition of development approval.

NE 99th Street is classified as an Urban Minor Arterial (M-2cb) and per Table 40.350.030-2, requires a paved roadway half-width of 24 feet and a detached 5-foot sidewalk. Currently, both the pavement and sidewalk width and sidewalk location are substandard along the majority of the frontage. Staff finds that roadway and sidewalk along NE 99th Street are not expected to change over time; therefore, staff can support the applicant’s proposal to retain the existing pavement and sidewalk along NE 99th Street to ensure consistency with adjacent existing features. Staff believes the applicant’s request meets criterion CCC 40.550.010(C)(2)(e).

Road Modification # 3
Per CCC 40.350.030(B)(7)(a), opposing roads accessing an intersection shall either be aligned or will be separated by a minimum intersection spacing, as specified in Table 40.350.030-3. Per the table, the intersection spacing between two roadways on a minor arterial is 500 feet. The distance between the proposed NE 30th Avenue and existing NE 28th Place along NE 99th Street is only 275 feet. Due to the property’s frontage length on NE 99th Street, there is no ability for the applicant to place NE 30th Avenue in a location that would meet the 500-foot intersection spacing standard. Alternatively, the applicant has proposed a raised median channelization on NE 30th Avenue which will limit access to right-in/right-out onto NE 99th Street from the development. Staff is supportive of this limited access, believing that the applicant’s request meets criterion CCC 40.550.010(C)(2)(a) & (c), in that existing construction makes compliance clearly impracticable for the circumstance and that an alternative designed is proposed which provides a plan that is functionally equivalent to the standards. There are concerns with outbound travelers preforming a U-turn movement just beyond the right-in/right-out access location as shown on the proposed plan. To prevent this, the applicant shall construct the right-out channelization to allow right turners from NE 30th Avenue to enter the NE 99th Street eastbound lanes at approximately the existing vegetated median on NE 99th Street. See condition A-1.f.

Road Modification # 4
Per CCC 40.350.030(B)(12)(b)(1) & (2), when 4 or more lots are served on a private road greater than 150 feet in length, an approved turnaround shall be provided at the end of the private road. Easements may be required to be expanded to accommodate turnaround requirements. Approved turnarounds may include cul-de-sacs with an approved diameter in accordance with the Standard Details Manual (which may include the width of the roadway), or hammerheads, intersecting public or private roads or any alternative design approved through the road modification process. Dimensional requirements for all transportation related features in this subsection are as drawn in the Standard Details Manual.
The applicant is proposing to utilize an alternative hammerhead turnaround design whose dimensions are mostly consistent with Clark County’s Standard Drawing 28; however, the hammerhead’s alignment is “sideways” and only has a 10-foot radius on one side of the turnaround leg. Staff finds that a 20-foot standard radius can be accommodated on-site or within the right-of-way of NE 94th Way on both sides of the turnaround leg; thus, the applicant will be required to construct the turnaround to meet all dimensional standards of Drawing 28 and place the turnaround with a public access easement. Staff believes the applicant’s request meets criterion CCC 40.550.010(C)(2)(c). The Fire Marshall’s Office is also supportive of this request. See conditions A-1.g & A-1.h.

**Recommendation:**
Staff recommends Approval of the four road modification requests, subject to the conditions identified above. The Development Engineering Division Manager concurs with staff. See Exhibit 20.

**Conclusion (Transportation)**
Staff concludes that the proposed preliminary transportation plan, subject to the conditions identified above, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

**Transportation Concurrency**
**Finding 1 - Trip Generation**
County concurrency staff has reviewed the proposed NE 99th Street Subdivision. The traffic study submitted indicates that the proposed development will divide 7.7 acres into 47 single family residential lots. The applicant’s traffic study has estimated the a.m. peak hour trip generation at 33, the p.m. peak-hour trip generation at 47 trips and an average daily trip generation (ADT) of 417 trips. The trip generation was estimated using the nationally accepted data published by the *Institute of Transportation Engineers Tenth Edition*. The proposed development site is located on parcel number 977400-000 in Vancouver.

The applicant has submitted a traffic study under the provisions of Clark County Code section 40.350.020 (D)(1).

**Finding 2 - Site Access**
Traffic conditions are usually expressed using a scale that quantifies the ability of a facility to meet the needs and expectations of the driver. This scale is graded from A to F and is referred to as level-of-service (LOS). A driver who experiences an LOS A condition would expect little delay. A driver who experiences an LOS E condition would expect significant delay, but the traffic facility would be just within its capacity to serve the needs of the driver. A driver who experiences an LOS F condition would expect significant delay with traffic demand exceeding the capacity of the facility with the result being growing queues of traffic.

Congestion, or concurrency, level of service (LOS) standards are not applicable to accesses that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur in the vicinity of the site.

The traffic study indicates that the proposed subdivision will extend NE 96th Street into the
proposed subdivision. NE 96th Street will turn north, as NE 30th Avenue, and has been
proposed to connect to NE 99th Street as a right-in/right-out access location. NE 96th Street
and NE 30th Avenue are proposed as Urban Local Access Roads. The extension of NE 96th
Street and NE 30th Avenue will serve as individual lot access for the proposed subdivision.

The applicant’s study evaluated the level of service and found that the site access intersections
analyzed will have an estimated LOS B or better, in the 2021 build-out horizon. The study also
shows that the LOS was evaluated during the a.m. and p.m. peak hour traffic conditions in
existing and build-out scenarios. County Staff concurs with the traffic study findings.

Finding 3 - Clark County Concurrency
The proposed development is required to meet the standards established in CCC 40.350.020(G)
for corridors and intersections of regional significance within 1 mile of the proposed development.

Signalized Intersections
The County’s model evaluated the operating levels, travel speeds and delay times for the
regionally significant signalized intersections. This analysis showed that individual
movements during peak hour traffic conditions had approach delays that did not exceed the
maximum 240 seconds, or 2 cycles, of delay in the build-out year.

Therefore, County Staff has determined that this development will comply with adopted
Concurrency standards for signalized intersections.

Unsignalized Intersections
County Staff has evaluated the operating levels and standard delays represented in the County’s
model. The County’s model yielded operating levels and standard delay times with a LOS better
than the minimum allowable LOS E for unsignalized intersections in the 2021 buildout
horizon.

The County has determined that this development can comply with adopted Concurrency
Standards for unsignalized intersections.

Concurrent Corridors
Evaluation of the concurrency corridor capacity levels against those represented in the County
Code showed that the corridors were operating at acceptable levels.

Therefore, staff has determined that this development can comply with adopted
volume/capacity (v/c) standards for regionally significant corridors.

Summary
The County has determined that this development can comply with adopted Concurrency
Standards for corridors, signalized and unsignalized intersections under County jurisdiction.

Summary
The County has determined that this development can comply with adopted Concurrency
Standards for corridors, signalized and unsignalized intersections under County jurisdiction.

SAFETY:
Where applicable, a traffic study shall address the following safety issues:

- traffic signal warrant analysis,
- turn lane warrant analysis,
- crash history analysis,
- roadside safety (clear zone) evaluation,
- vehicle turning movements, and
- any other issues associated with highway safety.

Mitigation for off-site safety deficiencies may only be a condition of approval on development in accordance with CCC 40.350.030(B)(6). The code states that “nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020 or a significant traffic or safety hazard would be caused or materially aggravated by the proposed development; provided, that the applicant may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020.”

Finding 4 - Turn Lane Warrants
Turn lane warrants are evaluated at unsignalized intersections to determine if a separate left or right turn lane is needed on the uncontrolled roadway.

The applicant’s engineer evaluated the need for turn lanes based on the Washington State Design Manual and concluded that turn lanes would not be warranted. Staff concurs with the applicant’s findings.

Finding 5 - Historical Accident Situation
The applicant’s traffic study analyzed the crash history as obtained from Clark County for the period January 1, 2015 through January 1, 2018.

The intersection crash rates, for the study intersections do not exceed thresholds that would warrant additional analysis. Staff concurs with the applicant’s finding.

Finding 6 - Roadside Safety (Clear Zone) Evaluation
The Institute of Transportation Engineers (ITE) Traffic Engineering Handbook 6th Edition, states that “The clear roadside concept...is applied to improve safety by providing an unencumbered roadside recovery area that is as wide as practical...”. Further, this concept “allows for errant vehicles leaving the roadway for whatever reason and supports a roadside designed to minimize the serious consequences of roadway departures.”

Further, as adopted by Clark County Code (CCC) 40.350.030(C)(1)(b), the Washington State Department of Transportation (WSDOT) Design Manual, Chapter 1600 states that “A clear roadside border area is a primary consideration when analyzing potential roadside and median features. The intent is to provide as much clear, traversable area for a vehicle to recover as practicable given the function of the roadway and the potential tradeoffs. The Design Clear Zone is used to evaluate the adequacy of the existing clear area and proposed modifications of the roadside. When considering the placement of new objects along the roadside or median, evaluate the potential for impacts and try to select locations with the least likelihood of an impact by an errant vehicle.”
“For managed access state highways within an urban area, it might not be practicable to provide the Design Clear Zone distances shown in Exhibit 1600-2. Roadways within an urban area generally have curbs and sidewalks and might have objects such as trees, poles, benches, trash cans, landscaping and transit shelters along the roadside.”

The applicant shall consider the WSDOT Design Manual – Roadside Safety Mitigation Guidance (Section 1600.04) in the final engineering design of all proposed roadways and frontage improvements. See condition A-9.

Finding 7 - Vehicle Turning Movements
It shall be noted that, the curb return radii listed above are minimum criteria and are intended for normal conditions, per CCC 40.350.030 (C)(3). CCC 40.350.030 (C)(3) also states, “The responsible official may require higher standards for unusual site conditions.”

The applicant will need to submit construction plans that show the design of the intersection geometry will accommodate all applicable design vehicles for review and approval. The plans will also need to show that all applicable design vehicles have the ability to enter and exit the development while minimizing the impact on adjacent and/or opposing travel lanes. This may result in no on-street parking areas on local residential access roads, at/near the proposed intersection of NE 99th Street/NE 30th Avenue. See condition A-10.

Finding 8 - Sight Distance
Sight distance issues are addressed by other Development Engineering Staff; therefore, this issue will not be addressed here.

Conclusion (Transportation Concurrency)
In summary, Concurrency Staff recommends approval of the development application with the following conditions.

Stormwater

Finding 1 - 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 Stormwater Management Manual for Western Washington (SMMWW) and 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-3.a.

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-3.b.

The applicant shall note that per CCC 40.386.030, if a final stormwater plan differs from the approved preliminary stormwater plan in a manner that, in the opinion of the responsible official, raises significant water quantity or quantity control issues, it shall require another SEPA determination and a post-decision review, in accordance with Section 40.520.060. See Condition A-3.c.
Finding 2 – Stormwater Proposal
The 7.77-acre parcel is currently vacant. The site is vegetated mostly with grass and some trees. The existing topography consists of a high point in the middle north part of the site and the runoff drains to the north towards NE 99th Street and south towards an existing wetland. The existing wetland is located on the southern part of the site, spanning across the site from east to west property line. On-site soils are classified as Hillsboro Silt Loam (HoB, HoC, HoE), which has a hydrologic soil group classification of “B” and a Clark County WWHM soil group classification of “SG 3”.

The applicant provided a Preliminary Technical Information Report (TIR) prepared by PBS Engineering and Environmental, Inc. dated November 2018. Proposed site improvements include the construction of public road improvements, private joint driveways, 38 detached homes, two, 4-plexus and 46 individual lot driveways for a total of approximately 4.02 acres of new/replaced hard surface.

There are two catchment areas for this project. Catchment 1 consists of Basin 1A, located at the north end of the site and is approximately 1.94 acre is size. Stormwater from catchment area 1 is infiltrated into the ground. Catchment area 2 consists of Basins 1B and 2, located in the middle and south ends of the site and is approximately 3.47 acre is size. Stormwater from catchment area 2 is discharged to the existing wetland.

On-site Stormwater Management (MR #5) and Flow Control (MR #7)

**Basin 1A**
This basin will utilize an infiltration vault to manage the stormwater runoff from the public road improvements and driveways. Individual lot infiltration trenches will be used to manage the roof runoff from each single family home (Lots 13-18 and Lots 27-32), and shared infiltration trenches will be used to manage the roof runoff from each of the 2 4-plexus (Lots 19-22 & Lots 23 -26).

While the infiltration vault and trenches were sized to meet the flow control standard, there are overflow risers sized in the WWHM calculations, but a discharge location is not identified on the plans. The applicant shall identify an overflow discharge location for the infiltration vault and trenches or resize the vault and trenches to provide 100% infiltration of the 100-year total runoff volume. See Condition A-3.d.

**Basin 1B & Basin 2**
These basins will utilize the existing wetland to manage the stormwater runoff as allowed by Guide Sheet 1 & 2, Appendix 1-H of the 2015 CCSM. The engineer provided a HEC-RAS analysis of the wetland that resulted in a net increase in wetland surface water elevations of approximately 2-inches. The engineer notes that flows to the wetland from the development have been minimized to the maximum extent practicable without providing a detention facility by capturing and infiltrating a significant area of improvements. This is accomplished by utilizing individual lot infiltration trenches to manage the roof runoff from each single family home (Lots 1-12 and Lots 33-45) and a bioretention area that allows for some infiltration through the subgrade.
Basic Runoff Treatment (MR#6)

Basin 1A & Basin 2
All of the pollution generating surfaces will be treated with a Contech StormFilter® media filter cartridge located in catch basin. Runoff will then be discharge to the infiltration vault or wetland. The applicant will be required to submit documentation from the stormwater treatment system manufacturer indicating that the stormwater treatment devices were sited and sized appropriately. See Condition A-3.e.

Basin 1B
All of the pollution generating surfaces in this basin will be treated with a bioretention area located on the south side on NE 96th Street. The WWHM calculations show that at least 91% of the total runoff volume will filter through the bioretention soil media (BSM); however, it is unclear what kSat (maximum saturated hydraulic conductivity) safety factor was used to size the facility. Considering the size of the drainage basin, a kSat value of 4 should be used. The applicant shall submit documentation with the Final TIR that shows an appropriate safety factor was applied to the BSM when sizing the bioretention area. Additionally, the applicant shall ensure that the bioretention area meets all of the design criteria outlined in Chapter 2, Book 2 of the 2015 CSSSM. This includes a minimum setback of 20 feet for any property line. See Conditions A-3.f & A-3.g.

The stormwater facilities located within the public right of way will be owned and maintained by the County. Stormwater facilities located on individual lots or tracts will be owned and maintained by the homeowners. See Conditions A-3.h, D-4.d, D-5.f, D-5.g and E-2.

Finding 3 – Infiltration and Groundwater
Soil and Water Technologies, Inc. (STW) preformed infiltration testing in May 2015 in three test pits located on the northern half of the parcel (Basin 1A). The tested rate of infiltration was recorded as 3 to 25 inches per hour at a depth of 2.0 to 9.5 feet below grade. The engineer has applied a factor of safety of 6 for a design infiltration rate of 0.5 inches per hour when sizing the proposed infiltration vault and trenches. STW preformed additional testing in September/October 2018 on the southern half of the parcel (Basins 1A & B). The tested rate of infiltration was recorded as 1.5 to 8.5 inches per hour at a depth of 3.0 to 4.0 feet below grade. The engineer has applied a factor of safety of 4 for a design infiltration rate of 0.375 inches per hour when sizing the proposed bioretention area. The applicant will be required to demonstrate that the tested infiltration rate determined at the time of construction of the infiltration vault and bioretention area is at least 95 percent of the uncorrected tested infiltration rate used to determine the design rate. See Conditions A-3.i and C-1.

One piezometer was installed at the site in May 2015 in the northern portion of the site (Basin 1). Groundwater depths were recorded from May 2015 to April 2016, with the minimum depth to groundwater recorded as 18.5 feet. With the additional infiltration testing conducted in September/October 2018, a groundwater elevation in the vicinity of Basin 2 was recorded as high as 6 feet below ground. Infiltration facilities are not proposed in Basin 2. Additionally, groundwater levels in the vicinity of Basin 1B were identified as greater than 15 feet. Considering the location and depth of the proposed infiltration vault, infiltration trenches and bioretention area, the design appears to achieve the 5-foot, 1-foot and 3-foot required separations from the seasonal high groundwater level, respectively. The applicant will be
required to demonstrate that the separations have been achieved during construction. See Conditions A-3.i and C-2.

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

**Geologic Hazard Areas:**

**Finding 1 – Geologic Hazard Areas Applicability & Assessment**
Clark County GIS indicates that portions of the site are located in a regulated geologic hazard area. All development activities in or adjacent (within 100 feet) to geologic hazard areas shall comply with the provisions of CCC 40.430. The applicant’s geotechnical engineer, Soil and Water Technologies, Inc., provided a geologic hazard review in their *Geotechnical Engineering Study*, dated July 2015 for the proposed development. They identified a steep slope located at the central west side of the site that exceeds 25% gradient and is 35 feet in height. Per the *Geotechnical Engineering Study*, the site reconnaissance revealed that no surface slumping or tension cracks were observed along the slope and the proposed activities will not adversely affect the stability of the slope. Their test pits and borings indicate that the on-site soil consists predominantly of native, firm to stiff silt and silty sand. Their findings concluded that the high strength characteristics of the near surface soils, moderate permeability and the absence of a near surface groundwater table indicate that on-site soils have a low potential for susceptibility to slide activity and erosion. They do note that slope failure could occur as a result of poor surface water drainage and disturbance of established vegetation. The applicant shall adhere to the design and construction recommendations in the *Geotechnical Engineering Study*. See Condition A-6.

The topography of the site relies on the construction of retaining walls to accommodate the steep slopes on the site. A building permit is required for retaining walls greater than 4 feet tall or when the wall is surcharged. All retaining walls shall be shown in sufficient detail on the engineering plans for staff to assess their impact on adjacent roads, structures, and public and private utilities. See Condition A-7.

**Conclusion (Geologic Hazard Area)**
Staff finds that the applicant has shown compliance with CCC 40.430 by submitting the *Geotechnical Engineering Study*. Therefore, the requirements of the preliminary plan review criteria are satisfied.

**Building Safety**

**Finding 1 – Retaining Wall Permits**
Separate building permits may be required for the retaining walls before applying for building permits on new lots. See conditions A-7 and E-6.

**Finding 2 – Building Projections**
According to the building code, eaves may not project over the property line. Roof gutters only are allowed to project over a property line. See condition E-4.
Fire Protection

Finding 1 - Building Construction
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. See Condition G-3.

Finding 2 - Fire Flow
Fire flow in the amount of 1000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Prior to final approval submit proof from the water purveyor indicating that the required fire flow is available at the site. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. See Conditions A-14.a, A-141.b, and D-12.a

Finding 3 - Fire Hydrants
Fire hydrants are required for this application. Either the indicated number or the spacing of the fire hydrants is inadequate. Lot 46 does not appear to have a hydrant within 500 feet. 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 Condition A-14.c.

Unless waived by the fire district chief fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. See Condition D-12.b.

The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact Fire District 6 to arrange for location approval. See Condition A-14.d.

Provide and maintain a three -foot clear space around the entirety of each fire hydrant. See Conditions A-14.e and H-2.a)

Finding 4 - Fire Sprinklers
Homes exceeding 3,600 square feet including attached garages will require additional fire protection features up to and including a residential fire sprinkler system when adequate public water and a hydrant is not within required distances. See Condition E-7.

Finding 5 - Fire Apparatus Access
Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application adequately provide required fire apparatus access. 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. See Conditions A-14.f and H-1.b.

Finding 6 - Fire Apparatus Turnarounds
Approved fire apparatus turnarounds are required for this project. The indicated provisions for turning around fire apparatus are not adequate. However, a sideways hammerhead turnaround is proposed near Lot 46 at the end of NE 94th Street. This will be allowed as an
alternative turnaround provided that a residential sprinkler system is installed regardless of the size of the house. See conditions D-5.1, E-8, and H-2.c..

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

**Water and Sewer Service**

**Finding 1 – Providers**
The site will be served by the Clark Public Utilities water district and Clark Regional Wastewater sewer district. Letters from the above districts confirm that services are available to the site.

**Finding 2 – Existing On-site Sewer**
A municipal sewage system is proposed for this development and no existing on-site sewage system (OSS) is noted in the proposal. However, County records currently document an existing operational on-site sewage system at this site (ON37492).

All on-site sewage systems located during development of this plat must be properly abandoned with documentation submitted to CCPH prior to final plat approval. Proper abandonment of the systems requires tank pumping by a licensed pumper, breaking in the tank lids, and filling the cavities with compacted soil. Any cesspools, drywells, or pump chambers discovered on the site must also be abandoned in this manner. See condition D-13.a

**Finding 3 – Sewer Connection Required**
The proposed development must connect to an approved public sewer system. A copy of the final acceptance letter from the sanitary sewer purveyor or the equivalent must be submitted with the Mylar (final plat). See condition D-13.b

**Finding 4 – Water Connection Required**
A municipal water supply is proposed for this development. No existing water well is noted in the proposal nor observed in the field by CCPH. However, based on site history, water wells may exist.

All wells located during development of this plat must be properly decommissioned by a licensed well driller with documentation submitted to CCPH prior to final plat approval. All decommissioned wells must be shown on the final plat.

The proposed development must connect to an approved public water system. A copy of the final acceptance letter from the purveyor or the equivalent must be submitted with the Mylar (final plat). See conditions D-13.b, D-13.c and D-13.d.

**Conclusion (Water and Sewer)**
Staff finds that the proposed preliminary plan, subject to conditions identified above, meets water and sewer service requirements of the Clark County Code.

**Impact Fees**
Finding 1 – Impact Fees
The additional residential lots created by this plat will produce impacts on schools, parks, and traffic, and are subject to School (SIF), Park (PIF), and Traffic Impact Fees (TIF) in accordance with CCC 40.610.

- Hazel Dell sub-area with a TIF of $3,107.38 per dwelling
- Vancouver School District, with a SIF of $2,880.75 per dwelling
- Park District #8, with a PIF of $3,959 per dwelling

The amounts listed above are an estimate using the current impact fee rates and are subject to change. As found in CCC 40.610.040, impact fees are calculated using the rates in effect at the time of building permit issuance. See conditions D-4.e, D-5.k, and E-5.

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 May 24, 2019 is hereby 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: Jan Bazala, Planner II, 564.397.4499

Responsible Official: Mitch Nickolds, Community Development Director

Recommendation
Based upon the proposed plan known as Exhibit 6, and the findings and conclusions stated above, staff recommends the Hearing Examiner APPROVES this request, subject to the understanding that the application is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval.

Conditions of Approval

### General Conditions

| AA | Review and Approval Authority: Wetland Staff |

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.

**AA-1** The wetlands and wetland buffers shall be maintained in a natural state. The applicant shall retain all native vegetation on site that is outside of the indicated development area
within the wetlands and wetland buffers. 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 wetland or wetland buffer than what is approved herein shall be subject to additional wetland review by County Wetland/Habitat Review staff and may include additional permits and/or mitigation requirements.

AA-2 The applicant shall utilize best management practices to control erosion and prevent sediment from entering adjacent wetlands and wetland buffers.

AA-3 Any unforeseen disturbance to the indicated wetland or wetland buffer not mentioned as a part of this permit shall be replanted with native vegetation of like kind.

AA-4 Temporary impacts may occur to the wetland buffer during construction of the proposed project. Temporary impacts shall be addressed as follows:
   a. After construction, the temporarily impacted areas shall be returned to a pre-disturbance grade
   
   b. After construction, the temporarily impacted areas shall be reseeded with a native grass seed mixture appropriate for the hydrology of the site.

   c. The applicant shall maintain the performance standard of 100% herbaceous cover in the temporarily disturbed areas.

   d. The applicant shall maintain and monitor the temporarily disturbed area for 1 year to ensure the performance standard is met. Any areas not meeting this standard shall be replanted, with maintenance and monitoring continuing until the standard has been met.

AA-5 Excluding non-native vegetation removal, clearing of native vegetation shall be limited to what is minimally necessary to construct this project. No additional native trees or shrubs shall be removed outside of the areas indicated. Invasive species may be removed provided that ground disturbing heavy machinery (scraping, ripping, etc.) is not used. Cutting, mowing, and ground disturbance with hand tools is allowed; efforts shall be made to prevent injury to neighboring native vegetation.

| 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 with the exception of the off-street trail, all proposed pedestrian facilities will be constructed to comply with ADA standards. (See Transportation Finding 1)
b. NE 30th Avenue shall have a minimum width of 36 feet at the intersection with NE 99th Street and shall be tapered at a rate approved by Clark County. (See Transportation Finding 3)

c. The applicant shall show on the final construction plans that all joint driveways will comply with CCC 40.350.030 (B)(4)(b)(2). (See Transportation Finding 4)

d. The applicant shall show on the final construction plans that the driveway for Lot 45 complies with CCC 40.350.030 (B)(4)(b)(1)(b). (See Transportation Finding 4)

e. The applicant shall show the sight distance triangles for the proposed intersection of NE 30th Avenue and NE 99th Street. On the final construction plans. (See Transportation Finding 5)

f. Right-out channelization shall be constructed to allow northbound to eastbound right turners from NE 30th Avenue to enter the NE 99th Street eastbound lanes at approximately the existing vegetated median on NE 99th Street east of the proposed right-in/right-out access. (See Transportation Finding 8)

g. The applicant shall show on the construction plans that the alternative hammerhead will be constructed to meet all dimensional standards, including the 20-foot radii, of Clark County Standard Drawing 28. (See Transportation Finding 8)

h. The applicant shall show on the construction drawings that the entirety of the turnaround is placed within a public access easement. (See Transportation Finding 8)

i. The western portion of sidewalk along NE 99th Street shall be either a detached 6 foot wide sidewalk separated from the curb by a 4 foot wide planter strip with street trees per the Standard Details Manual, or, if the existing attached sidewalk is retained, the sidewalk shall be widened to 10 feet, with street trees installed in cutouts of the existing sidewalk. Street trees shall not be within required sight distance triangles. (See Land Use Finding 29)

A-2 Transportation:

a. Signing and Striping Plan: The applicant shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat or final site plan approval.

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:
a. The applicant shall submit final construction plans and a final Technical Information Report that addresses Minimum Requirements #1 though #9. (See Stormwater Finding 1)

b. The applicant shall demonstrate that the development will not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. (See Stormwater Finding 1)

c. The applicant shall provide documentation of any differences between the approved preliminary stormwater plan and the final stormwater plan. Any changes that raise significant water quality or quantity control issues shall require another SEPA determination and a post decision review. (See Stormwater Finding 1)

d. The applicant shall identify on the final construction plans an overflow discharge location for the infiltration vault and trenches or resize the vault and trenches to provide 100% infiltration of the 100-year total runoff volume. (See Stormwater Finding 2)

e. The applicant shall submit documentation from the stormwater treatment system manufacturer indicating that the any stormwater treatment devices were sited and sized appropriately. (See Stormwater Finding 2)

f. The applicant shall submit documentation with the Final TIR than shows an appropriate safety factor (kSat) was applied to the BSM when sizing the bioretention area. (See Stormwater Finding 2)

g. The applicant shall show on the final construction plans that the bioretention areas comply with the design criteria set forth in the Chapter 2, Book 2 of the CCSM 2015, including but not limited to the 20-foot minimum setback requirement to all property lines. (See Stormwater Finding 2)

h. A note stating that the on-site stormwater systems shall be privately owned and maintained shall be added to the stormwater construction plans. (See Stormwater Finding 2)

i. Tested and design infiltration rates in addition to the minimum separation from the bottom of an infiltration facility to the seasonal high-groundwater elevation shall be identified on the final construction plans. (See Stormwater Finding 3)

j. The applicant shall submit documentation showing compliance with sight distance and driveway spacing

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 **Geologic Hazard Areas** - The applicant shall adhere to the recommendations set forth by the Geotechnical Engineering Study prepared by Soil and Water Technologies, Inc., dated July 2015 unless further studies present new or different facts. (See Geohazard Finding 1)

A-7 **Retaining Walls** - A building permit is required for all retaining walls taller than 4 feet and for walls supporting a surcharge. The applicant shall show on the final construction plans all retaining walls in sufficient detail for staff to assess their impact on adjacent roads, structures, and public and private utilities. Retaining walls and fences are subject to the height and setback limitations of Section 40.320.010.F, and building permits may be required. (See Geohazard Finding 1 and Land Use Finding 8))

A-8 **Final Transportation Plan/Off Site (Concurrence)** – The applicant shall submit a signing and striping plan for review and approval. This plan shall show signing and striping and all related features for required frontage improvements and any off-site improvements to also include interim and permanent traffic control, if necessary. The applicant shall obtain a work order with Clark County to reimburse the County for required signing and striping.

A-9 **Final Transportation Plan/Off Site (Concurrence)** – The applicant shall consider the WSDOT Design Manual – Roadside Safety Mitigation Guidance (Section 1600.04) in the final engineering design of all proposed roadways and frontage improvements. (See Concurrency Finding 6)

A-10 **Final Transportation Plan/Off Site (Concurrence)** – The applicant shall submit construction plans that show the design of the intersection geometry will accommodate all applicable design vehicles for review and approval, unless modified by the County Engineer. The plans will also need to show that all applicable design vehicles have the ability to enter and exit the development while minimizing the impact on adjacent and/or opposing travel lanes. This may result in no on-street parking areas on local residential access roads, at/near the proposed intersection of NE 99th Street/NE 30th Avenue. (See Concurrency Finding 7).

A-11 **Final Construction Plan** - The applicant shall submit and obtain county approval of a final construction plan with the following:

a. **Archaeology**

A note shall be placed on the face of the final construction plans as follows: "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 shall be notified. Failure to comply with these state requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

b. **Wetland Plan**

1) The applicant shall delineate the wetland and mitigated wetland buffers on the final construction plan as shown in the mapping included in the May 29, 2019 Wetland Mitigation Plan Amendment memo prepared by Brian Bieger.
2) The Final Construction plan shall show location of the outer extent of the mitigated wetland buffer for marking in the field. Markings shall be installed prior to construction and maintained throughout the duration of construction.

A-12 A final site plan consistent with Exhibit 6 shall be submitted with the following conditions of approval:

a. The solid waste collection location shall be located as to be accessible from NE 30th Avenue, and shall not obstruct sidewalks, bike lanes, or vision clearance triangles. (See Land Use Finding 12)

b. A minimum of 19 on-street parking spaces meeting the requirements of Section 40.260.155.C.3.a. shall be provided. (See Land Use Finding 13)

A-13 Final Landscape Plan - The applicant shall submit and obtain county approval of final landscape plan consistent with the approved preliminary landscape plan and conditions listed below (CCC 40.320). The landscape plan shall include landscaping within the public right-of-ways and on-site.

a. Landscaping meeting Type A standards along the site's east and west property lines as noted in Land Use Finding 16 shall be required. Said landscaping may incorporate existing on-site mature vegetation provided it is identified by species and location on the landscape plan. (See Land Use Finding 16)

b. Type C landscaping shall be shown along NE 30th Avenue. (See Land Use Finding 27)

c. Street trees along the eastern portion of the NE 99th Street sidewalk shall be installed within the right of way fronting Lot 26 where space is allowed. For the portion of NE 99th Street that lies west of the proposed NE 30th Avenue intersection, street trees can be placed in cutouts in the existing sidewalk or in the planter strip. (See Land Use Finding 29)

A-14 Fire Marshal Requirements

a. The applicant shall submit plans showing location of water lines for review and approval. (See Fire Protection Finding 2)

b. Fire flow in the amount of 1000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. The applicant shall submit a current utility review letter from the water purveyor indicating required fire flow is available at the site. (See Fire Protection Finding 2)

c. Plans shall be submitted for review and approval showing fire hydrants such that maximum spacing between hydrants does not exceed 700 feet and such that no portion of the building exterior is in excess of 500 feet from a fire hydrant as
measured along approved fire apparatus access roads. (See Fire Protection Finding 3)

d. The fire district chief shall sign the engineering construction mylar indicating fire hydrant location has been reviewed and approved. (See Fire Protection Finding 3)

e. Plans showing a three-foot clear space around the entirety of all fire hydrants shall be submitted for review and approval. (See Fire Protection Finding 3)

f. Plans showing roadways and maneuvering areas that are consistent with the preliminary plan shall be submitted for review and approval. (See Fire Protection Finding 5)

g. Plans showing fire apparatus turnarounds that are consistent with the preliminary plan shall be submitted for review and approval. (See Fire Protection Finding 6)

A-15 A Forest Practices permit will be required for the commercial harvest of over 5,000 board feet.

B Prior to Construction of Development
Review and Approval Authority: Development Inspection

Prior to construction, the following conditions shall be met:

B-1 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-2 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-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.

C Provisional Acceptance of Development
Review and Approval Authority: Development Inspection

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:
Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/site plan and the following conditions of approval:

C-1 **Stormwater:**
In accordance with Section 5.1.2, Book 2 of the Clark County Stormwater Manual 2015, if the tested coefficient of permeability determined at the time of construction is at least 95 percent of the uncorrected coefficient of permeability used to determine the design rate, construction may proceed. If the tested rate does not meet this requirement, the applicant shall submit a plan to Clark County that follows the requirements in Section 1.8.5., Book 1. This plan shall address steps to correct the problem, including additional testing and/or resizing of the facility to ensure that the system will meet the minimum requirements of this manual. (See Stormwater Finding 3)

C-2 **Stormwater:**
During installation of the infiltration facilities, the applicant shall demonstrate that the groundwater table is at 5 feet below the designed elevation of the bottom of the proposed infiltration vault and 3 feet below the designed elevation of the bottom of the bioretention area. These systems shall be redesigned if the required separation is not achieved. (See Stormwater Finding 3)

C-3 Permanent physical demarcation along the upland boundary of the wetland buffer area shall be installed and thereafter maintained. Such demarcation may consist of logs, a tree or hedge row, fencing, or other prominent physical marking approved by the responsible official. In addition, small signs shall be posted at an interval approved by the Resource Permitting and Enhancement Manager, and perpetually maintained at locations along the outer perimeter of the wetland buffer approved by the responsible official worded substantially as follows:

*Wetland and Buffer –
Please retain in a natural state*

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<th>Final Plat Review &amp; Recording</th>
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<td>Review and Approval Authority: Development Engineering</td>
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Prior to final plat approval and recording, the following conditions shall be met:

D-1 **Easement** – A 10-foot wide public pedestrian access easement over for the trail shall be delineated on the final plat. (See Transportation Finding 1 and Land Use Finding 28)

D-2 **Right-of-way Dedication** - The required right-of-way along NE 99th Street, NE 96th Street, and NE 30th Avenue must be conveyed to the county with the final plat. (See Transportation Finding 3)

D-3 **Right-of-way Dedication** - The required right-of-way for the chords of the radius on the corners of NE 30th Avenue at its intersection with NE 99th Street must be conveyed to the county with the final plat. (See Transportation Finding 6)

D-4 **Developer Covenant** – A “Developer Covenant to Clark County” shall be submitted for recording to include the following:
a. **Joint Driveway Maintenance Covenant** - A private joint driveway maintenance covenant shall be submitted to the responsible official for approval and recorded with the County Auditor. The covenant shall set out the terms and conditions of responsibility for maintenance, maintenance methods, standards, distribution of expenses, remedies for noncompliance with the terms of the agreement, right of use easements, and other considerations, as required under 40.350.030(C)(4)(g).

b. **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."

c. **Erosion Control** - "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."

d. **Responsibility for Stormwater Facilities 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. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for the 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.

e. **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: Vancouver School District (SIF), Park District 8 (PIF) and Hazel Dell 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-5 **Plat Notes** - The following notes shall be placed on the final plat:

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

b. **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."

c. **Driveways:** "No direct driveway access is allowed onto NE 99th Street."

d. **Driveways:** "All residential driveway approaches entering public roads are required to comply with CCC 40.350."

e. **Sight Distance:** "All sight distance triangles shall be maintained."

f. **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 on whose lot the stormwater system is located."

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

h. "Clark County Wetland Protection Ordinance (Clark County Code Chapter 40.450) require wetlands and wetland buffers to be maintained in a natural state. Refer to the Conservation Covenant recorded in conjunction with this plat for limitations on the maintenance and use of the wetland and wetland buffer areas identified on this plat."

i. "The trail in Tract A shall be privately maintained until such time that a continuous trail is established between NE 99th Street and NE 94th Street, at which time Clark County Parks shall assume maintenance."

j. **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."

k. **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: Vancouver School District (SIF), Park District 8 (PIF) and Hazel Dell 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."

l. "Any residence on Lot 46 requires a residential fire sprinkler system as a condition of approval of the sideways hammerhead turnaround."

**D-6** Lots shall conform to the area and dimensional standards as noted in the land use findings. Deviation from the noted standards will require additional land use approval. (See Land Use Findings 2-5)
D-7 **Setbacks and Building Envelopes** - Setbacks and building envelopes for detached single-family units within the R-18 zone shall be identified for each lot on the face of the plat. Envelopes shall reflect the maximum allowable exceptions to setback requirements, such as eave overhangs, where allowed by Section 40.200.070.A.

D-8 Minimum 5 foot wide maintenance easements shall be provided and identified on the plat for those lots utilizing zero lot line provisions. (See Land Use Finding 15)

D-9 **Wetlands:**

a. The wetland and buffer boundaries shall be delineated on the Final Plat as shown in the May 29, 2019 Wetland Mitigation Plan Amendment memo prepared by Brian Bieger.

b. The applicant shall record a conservation covenant with the County Auditor that runs with the land and requires that the wetlands, buffers, mitigation areas, and priority habitat remain in natural state.

D-10 **Verification of Landscape Installation** - The applicant shall provide verification that the required landscape in the rear yards of the single family detached lots has been installed in accordance with the approved landscape plan.

D-11 The 5 foot wide trail section north of the wetland shall be constructed as shown on the preliminary plan, and an easement recorded that states the owner of Tract A shall maintain the trail until a continuous trail is established between NE 99th Street and NE 94th Street, at which time Clark County Parks shall assume maintenance.

D-12 **Fire Marshal Requirements**

a. The applicant shall demonstrate that water mains supplying fire flow have been installed, approved and operational prior to the commencement of combustible building construction. (See Fire Protection Finding 2)

b. Fire Hydrants shall be provided with appropriate ‘storz’ adapters for the pumper connection prior to above-ground combustible construction. (See Fire Protection Finding 3)

D-13 **Water and Sewer**

a. Documentation of proper abandonment of any on-site sewage systems must be submitted to Clark County Public Health prior to final plat approval.

b. A copy of the final acceptance letter from the purveyor (sewer & water) or the equivalent must be submitted to Clark County Community Development.

c. Any wells discovered must be property decommissioned by a licensed well driller per WAC 173-160-381 and reported to Clark County Public Health.
The location of any decommissioned well must be shown on the final plat.

**E Building Permits**
**Review and Approval Authority: Permit Services**

Prior to issuance of a building permit, the following conditions shall be met:

**E-1 Excavation and Grading** - Excavation/grading shall be performed in compliance with CCC 14.07.

**E-2 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 on whose lot the stormwater system is located (See Stormwater Finding 10)

**E-3** Townhouse building designs shall be in substantial compliance with the building elevations as approved in Exhibit 15. Substantial revisions other than those requested in Land Use Finding 26 may require post decision review for compliance with Highway 99 building standards. (See Land Use Finding 26)

**E-4** Residences utilizing the zero lot line provisions will be subject to Clark County building code requirements regarding openings and allowable projections over property lines. (See Land Use Finding 15)

**E-5 Impact fees**: Impact fees for each dwelling in this subdivision shall be assessed for impacts on schools, parks and transportation facilities based for the following districts: Vancouver School District (SIF), Park District 8 (PIF) and Hazel Dell 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.

**E-6** A building permit is required for all retaining walls taller than 4 feet and for walls supporting a surcharge. If an outward facing wall created to contain built-up fill is constructed taller than 4 feet, it will need to meet the subdivision site perimeter setback of 10 feet unless a permission letter is obtained from the affected owner. (See Land Use Finding 8)

**E-7 Fire Marshal Requirements** - Homes exceeding 3,600 square feet including attached garages will require additional fire protection features up to and including a residential fire sprinkler system when adequate public water and a hydrant is not within required distances. (See Fire Protection Finding 4)

**E-8** Any residence on Lot 46 requires a residential fire sprinkler system as a condition of approval of the sideways hammerhead turnaround. (See Fire Protection Finding 6)

**F Occupancy Permits**
**Review and Approval Authority: Building**

Prior to issuance of an occupancy permit, the following conditions shall be met:
F-1  **Land Use and Critical Areas**  
  a. **Verification of the Installation of Required Individual Street Trees:**  
  Where street trees are required on individual residential lots, the applicant shall  
  provide a separate verification for each lot in accordance with CCC 40.320.030(B),  
  demonstrating that the required landscape has been installed in accordance with the  
  approved landscape plan.  
  
b. The applicant shall provide a separate verification for each lot demonstrating that the  
  required landscaping in the side yards of Lots 19 and 26 has been installed in  
  accordance with the approved landscape plan. (See Land Use Finding 16)

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G-1  **Land Division** - Within seven (7) years of preliminary plan approval, a Fully Complete  
application for Final Plat review shall be submitted.

G-2  **Department of Ecology Permit for Construction Stormwater** - A **permit** from  
the Department of Ecology (ECY) 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 ECY for further information.**

G-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.

G-4  **Building Elevation Approvals** – Approval of building elevations submitted for  
preliminary plan review does not ensure compliance with other requirements (such as  
building setbacks) under other construction codes. Compliance with other construction  
codes is the responsibility of the applicant at the time of building permit issuance.

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<td><strong>Review and Approval Authority:</strong> As specified below</td>
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H-1  Landscaping on this site and abutting rights-of-way shall be continually maintained in accordance with the requirements of Section 8.3.5(4) of the Highway 99 Overlay Standards.

H-2  Fire Marshal Requirements

a. A three foot clear space shall be maintained around the entirety of all fire hydrants. (See Fire Protection Finding 3)

b. Access roads shall maintain an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13.5 feet with an all-weather driving surface capable of supporting the imposed loads of fire apparatus to within 150 feet of all portions of the building exterior. (See Fire Protection Finding 5)

c. Approved fire apparatus turnarounds shall be maintained and unobstructed. (See Fire Protection Finding 6)

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