Type III Land Division and Environmental Review
Staff Report and Recommendation

Project Name: Hiivala Short Plat
Case Numbers: PLD2018-00017; SEP2018-00024; FOR2018-00040
Location: 32510 NE 102nd Avenue, parcel 221883 in the Southwest Quarter of Sections 4, Township 4, Range 2 east of the Willamette Meridian
Request: Forest practice and short plat approval to divide roughly 38.5 acres into two rural single-family residential lots under the vested FR-20 zoning district standards
Applicant: Jolma Design, LLC
PO Box 1281
Battle Ground WA, 98604
Phone - (360) 703-1577
E-mail - bjolma@jolmadesign.com
Owner: Greg & April Hiivala
32510 NE 102nd Avenue
La Center WA 98629
E-mail - greg.h@gbmanchester.com

Recommendation
Approval, with Conditions
Land Use Review Manager’s Initials: Date issued: April 10, 2019
Public Hearing date: April 25, 2019

County Review Staff
Department/Program
Name                      Ext.         Email Address
Community Development
Land Use Manager          Susan Ellinger  5122   susan.ellinger@clark.wa.gov
Land Use Planner          Richard Daviau   4895   richard.daviau@clark.wa.gov
Fire Marshal’s Office     Donna Goddard    3323   donna.goddard@clark.wa.gov
Biologist                 Lance Watt       56013  lance.watt@clark.wa.gov

Revised 5/14/2019

Community Development
1300 Franklin Street, Vancouver, Washington
Phone: 564.397.2375 Fax: 564.397-2011
www.clark.wa.gov/development

For an alternate format, contact the Clark County ADA Compliance Office.
Phone: 564.397-2342
Relay: 711 or 800.833.6384
E-mail: ADA@clark.wa.gov
Comp Plan Designation: FR-2

Applicable Laws
Clark County Code: Title 15 (Fire), 40.100 (Definitions), 40.200 (General Provisions), 40.210.020 (Resource Districts), 40.260.080 (Forest Practices), 40.320 (Landscaping), 40.350 (Transportation), 40.350.020 (Transportation Concurrency), 40.386 (Storm Water & Erosion Control), 40.500 and 40.510 (Procedures), 40.440 (Habitat), 40.450 (Wetlands), CCC 40.540.030 (Short Plat), 40.570 (SEPA), 40.570.080 (SEPA Archaeological), 40.610 (Impact Fees), Title 24 (Public Health), RCW 58.17, and the Clark County Comprehensive Plan

Neighborhood Association and Contact
No mapping indicators

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.

The application was determined Fully Complete on April 26, 2018, and all fully complete application submittals items were received within one year from issuance of the Pre-Application Conference Report per Director Decision. Therefore, the vesting date is April 26, 2017 (application submittal date of the pre-application).

Time Limits
The application was determined to be fully complete on April 26, 2018, but was on hold until December 17, 2018 when the required fully complete copies were submitted. The application was also on-hold to allow the applicant to submit required wetland, archaeological, geotechnical information/fees as well as to process the required Type III Forest Practice Moratorium Waiver through a public hearing. Therefore, the code requirement for issuing a decision within 92 days lapses on June 27, 2019.

Public Notice
Notice of application, public hearing, and likely SEPA determination was mailed to the applicant and property owners within 300 feet of the site on January 15, 2019. The applicant posted one sign on the subject property on May 10, 2019.

Public Comments
The county has not received public comments about the proposed two-lot land division.
Project Overview
The subject site is located on the west side of NE 102\textsuperscript{nd} Avenue, is roughly 38.5 acres, and contains a single-family residence and accessory structures. The site is currently zoned FR-40, but is vested under the FR-20 zoning district standards. The existing single-family residence and accessory structures will remain on proposed Lot 1. Both proposed lots will take access from NE 102\textsuperscript{nd} Avenue via joint driveway.

The site contains wetland, habitat, and buffer areas; but the residence on the new lot will be located outside any of these buffer areas. The proposed development will be served by Clark County Fire District and Clark Public Utilities. The site is surrounded by like rural resource and residential zoned properties.

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

1. Earth
2. Air
3. Water
4. Plants
5. Animals
6. Energy and Natural Resources
7. Environmental Health
8. Land and Shoreline Use
9. Housing
10. Aesthetics
11. Light and Glare
12. Recreation
13. Historic and Cultural Preservation
14. Transportation
15. Public Services
16. Utilities

Staff then reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts could be mitigated by the requirements of the code.

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

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

Land Use
Finding 1 - Uses
Under Table 40.210.010-1 (FR-20), single-family detached residential uses are permitted outright in the FR-20 zone.

Finding 2 - Lot Standards
Staff notes that density calculations do not typically apply to standard rural short plats such as the one proposed, but lot standards will apply. The vested FR-20 standards require a minimum lot size of 20 acres and a minimum lot width of 660 feet. Currently, the submitted plat does not show compliance with these lot standards.
Proposed Lot 1 is 18.48 acres with a 630 foot lot width and Lot 2 is 19.99 acres with a 2,024 foot lot width. Under CCC 40.200.040 C, one lot within a short plat shall be considered in compliance with the minimum lot area requirements if it is within 10% of the required lot area for the zone. One of the proposed lots needs to be 20 acres and another needs to be at least 18 acres to meet the lot size requirements. Since there is adequate area within the subject site to comply with lot area using the provisions of CCC 40.200.040 C, the applicant has indicated that he will revise the site plan to meet this standard. Staff finds that a minor change to the lot line that is perpendicular to the joint driveway will correct the lot width deficiency for proposed Lot 1.

Staff recommends approval of the proposed plat if the applicant submits a revised plat prior to the public hearing that fixes the lot area and width deficiencies noted above.

Finding 3 - Setbacks
The following minimum setbacks apply to the proposed lots (see CCC 40.220.010):

- Fifty foot front setback
- Twenty five foot street side setback
- Fifty foot side setback
- Fifty foot rear setback

Finding 4 - Existing Residential Structures
There is an existing home and a few accessory structures on the site and the applicant proposes that these structures will remain on Lot 1. Currently, the existing home does not meet the 50 foot side setback from the south property line, but staff finds that all existing structures meet setback standards to newly created property lines with this proposed plat. Any new structures for proposed Lot 2 shall comply with the setback standards above (Finding 3).

Finding 5 - State Platting Standards (RCW 58.17)
With conditions of approval, staff finds the proposed subdivision will make appropriate provisions for public health, safety, and general welfare of the community. Proof of adequate water and sewer service, as well as treatment of any increase of stormwater runoff, will be provided, to protect groundwater supply and integrity. Impact Fees will also be required to contribute a proportionate share toward the costs of school and transportation provisions, maintenance and services. The site is located within the Battle Ground School District. Since all three schools are significantly over a mile from the site, students will be bussed to school.

Staff finds the applicant has made adequate provisions including for safe walking conditions for students who only walk to school.

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

Archaeology
Finding 6
The development site is located within a high probability area for archaeological resources and the applicant submitted archaeological related information to the Washington State Department of Archaeology and Historic Preservation (DAHP). DAHP has reviewed the
information submitted by the applicant and concludes that there is an archaeological site near the project area. These recommendations are not intended to prevent the proposed short plat, but if future development is planned for the western half of the subject site, further testing and potential archaeological permitting prior to any ground disturbance. (See Exhibit 9)

A note on the final plans will be required that in the event that archaeological or historic materials are discovered during project activities, work in the immediate vicinity must stop and the area secured. The concerned tribes cultural staff, cultural committee, and DAHP shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines. (See Conditions A-5 and D-8a)

**Wetlands/Habitat**

*Finding 7*
County GIS and the Washington Department of Natural Resources indicate three streams on the subject parcel. The first begins as a Type Np (non-fish bearing, perennial) stream offsite to the northeast of the parcel, entering the site from a culvert underneath NE 102nd Avenue and continuing to the south/southwest as a Type F (fish bearing) stream. There are also a pair of Type F streams which begin off site to the north and generally flow south; these streams have a confluence on the south/central portion of the parcel and a logging road bridge and continue offsite to the south as a Type F stream. The Washington Department of Fish and Wildlife indicate the parcel is covered with an overlay for non-riparian habitat identified as Biodiversity Area and Corridor in and around the two western streams.

County GIS indicates modeled National Wetland Inventory identified as Freshwater forested/shrub wetland along the westernmost Type F stream; there are no hydric soils mapped on the parcels. County Wetland/Habitat Review staff conducted a site visit in conjunction with habitat determination HAB2018-00010 and did not observe wetlands along the Type F stream, however two Category III slope wetlands and one Category III depressional wetland were observed on the western portion of the parcel as shown on the attached map. (See Exhibit 13 for more wetland and habitat details)

*Finding 8*
Staff received comment from the US Army Corp of Engineers about potential fill in the stream/wetlands on the site. County Wetland/Habitat Review staff conducted a follow up site visit on February 14, 2019 and could not find evidence of recent fill within the streams or wetlands. The stream level was higher due to recent rains and snow melt, however the banks of the stream were well vegetated and did not have extra fill present. There were portions of the riparian habitat conservation zone between the existing driveway and easternmost stream which look like it may have had Himalayan blackberry removed but this portion occurred on the parcel to the south where the logging road breaks from the driveway. The wetland areas also had some standing water, however did not show signs of having been filled.

**Conclusion (Wetlands)**
Based upon the development site characteristics and the proposed development plan, staff concludes that the proposed Development application complies with the requirements of Chapters 40.440 and 40.450; the Wetland Protection and Habitat Conservation standards addressed herein, PROVIDED that certain conditions are met. Therefore, the requirements of the preliminary plan review criteria are satisfied. See General Wetland Conditions 1 through 5, A-16, A-17, C-1, D-8g, D8h, D-9, and D-10)
Forest Practices
Finding 9 - Forest Practices
The site which is the subject of this request was approved for a timber harvest by the Washington State Department of Natural Resources (DNR) on July 15th 2014, under Permit No. FPA 2928694 which was executed by the applicant of this request. Pursuant to RCW 76.69 and WAC-222-030, all DNR approved forest practices in the rural residential zoning districts are subject to an automatic 6 year moratorium on development activities which would convert the land to a use which is incompatible with the growing of commercial timber. The existing conditions of the site consist of Douglas-fir reproduction (seedlings) and mixed species conifers and hardwoods in the riparian buffer.

Clark County received notice for an approved DNR Class III forest practice permit (FPA#2928694) dated 07/15/2014 and applied the moratorium to the harvest area indicated in the forest practice permit. Staff finds that the applicant meets the reforestation requirement of 190 trees per acre as set forth in CCC section 40.260.080(A)(5). See Exhibit 15 for more forest practice details.

Conclusion (Forest Practices)
Staff finds that the proposed preliminary plan can meet the Forest Practice Permit requirements subject to conditions. (See Forest Practice Condition)

Transportation
Finding 10 - Pedestrian/Bicycle Circulation Plan
Pedestrian circulation facilities in compliance with the Americans with Disabilities Act (ADA) are required within urban and rural center areas. When pedestrian circulation facilities are required they shall be in accordance with the provisions of Section CCC 40.350.010.

The applicant has proposed to divide 38.47 acres into 2 parcels. The proposed development is located at 32510 NE 102nd Avenue, identified as parcel number 221883-000 in La Center.

The applicant’s plan indicates that there are no proposed pedestrian improvements along the NE 102nd Avenue frontage. Because the proposed development is located in a rural area outside of urban and Rural Center areas, the pedestrian circulation requirement within the public rights-of-way do not apply. Therefore, the applicant’s proposal shows compliance with the County Code.

Finding 11 - Roads
Road Right-of-Way and Frontage Improvements - NE 102nd Avenue is classified as a “Rural Major Collector”, with a minimum total right-of-way of 60 feet. The applicant’s submitted plan and narrative indicate that there is an existing 60-foot right-of-way along the NE 102nd Avenue frontage. The applicant has not proposed any frontage improvements along NE 102nd Avenue. Frontage improvements are not required in rural areas outside of Rural Centers. Therefore, Staff finds that based on CCC 40.350.030 (B)(5)(b)(2) and table 40.350.030-2, the applicant’s plan has shown that the proposed development can comply with right-of-way requirements for NE 102nd Avenue along the development frontage. (See Condition D-1)

Driveways - The applicant’s plan and narrative states that there will be no direct driveway access on NE 102nd Avenue from the newly created lots. The submitted plan and narrative indicates that access for the 2 lots in this short plat will come from an existing joint driveway within the adjacent parcel (#221932-000) south of the subject site.
The applicant’s plan shows that the joint driveway will be a minimum 12-foot wide gravel driveway within a 30-foot wide shared access and utility easement (AF: 5505810). The joint driveway accessing lot 1, as shown on the preliminary plan, is approximately 400 feet long, but does not appear to have an approved turnaround at the driveway terminus. The joint driveway accessing lot 2 'splits' off of the driveway for lot 1 approximately 380 feet from the NE 102nd Avenue approach, and runs an additional 340 feet to the proposed driveway for lot 2. The plan does not show that there will be turnouts or a turnaround at the terminus of the joint driveway serving lot 2. The applicant shall submit a construction plan at the time of building permit application that shows turnouts and turnarounds to comply with CCC 40.350. (See Conditions E-1 and E-2)

Finding 12 - Sight Distance
The approval criteria for sight distances are found in CCC 40.350.030(B)(8). This section establishes minimum sight distances at intersections and driveways. Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance requirements at all proposed driveway approaches and intersections.

The applicant submitted a sight distance analysis dated February 20, 2019. The applicant’s engineer states that the required 500 feet of sight distance is met to the north and south, on NE 102nd Avenue. The engineer has also recommended that on-site landscaping and any above-ground utilities should be placed, and existing vegetation along the development frontage in the NE 102nd Avenue right-of-way should be managed to ensure that required sight distance is maintained. (See Condition D-2)

Conclusion (Transportation):
Staff concludes that the proposed preliminary plan, subject to conditions, meets the transportation requirements of the Clark County Code.

Stormwater
Finding 13 - Stormwater Applicability
The provisions of Clark County Code Chapter 40.386 shall apply to all new development, redevelopment, and drainage projects consistent with the Stormwater Management Manual for Western Washington (SMMWW) as modified by CCC 40.386 and the county’s stormwater manual. The applicant shall comply with Minimum Requirements 1 through 9 per Clark County Stormwater Manual 2016.

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

Finding 14 - Site Conditions and Stormwater Issues
The development site is 38.47 acres in total area that is sloped east to west and is located within a geologic or severe erosion hazard area, according to Clark County GIS. The applicant’s engineer has submitted an evaluation that indicates that a total of 2 test pits were dug. The applicant’s engineer identified the soils on site as Hesson clay loam using the USDA National Resource Conservation Service Web Soil Survey. This evaluation also indicates that groundwater was not encountered in the two test pit locations.
Finding 15 - Stormwater Proposal
The applicant provided a stormwater technical information report dated April 12, 2018. The project’s stormwater report proposes to utilize compost-amended vegetated filter strips (CAVFS) and dispersion methods to meet treatment and flow control requirements.

The applicant’s evaluation of the LID Performance Standard has shown that dispersion methods are feasible. The applicant will need to submit a final Technical Information Report that shows how the proposed dispersion and CAFVS systems will work together to treat and disperse the stormwater generated by the site in compliance with the Clark County Stormwater Manual. The construction plans will need to clearly indicate that the facilities outside of the right-of-way are proposed as privately owned and maintained facilities. (See Condition E-3)

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

Geologic Hazard
Finding 16 - Applicability
All development activities in or adjacent (within 100 feet) to geologic hazard areas shall comply with the provisions of CCC 40.430. It is the burden of the applicant to determine if the provisions of CCC 40.430 apply to this development and comply with CCC 40.430 if necessary.

Finding 17 - Geotechnical Assessment:
The applicant’s submitted plan shows a regulated geologic hazard area – steep slopes and landslide hazard area within the subject parcel. The applicant’s plan and narrative indicates that the proposed building envelopes will be outside of any steep slope or geological hazard area.

The applicant submitted a geotechnical assessment report prepared by Rapid Soil Solutions dated March 27, 2018. The geotechnical report does not discuss construction within 100-feet of the on-site steep slope/landslide area that may be possible given the building envelopes are shown on the plans. In order to be considered exempt from the requirements in this section, the applicant will need to modify the building envelope to show that it is greater than 100 feet from any regulated geologic hazard area. This building envelope shall be shown on the plat and certification letter in compliance with CCC 40.430.010 (B)(3)(f) will need to be provided. (See Condition D-3)

The geotechnical evaluation provided discusses subsurface conditions and provides the geotechnical recommendations for the construction of residential home sites, on the subject parcels. The applicant’s engineer concluded that site grading and/or earthwork as well as the excavation and preparation of the building foundations should be monitored and approved by the geotechnical engineer at the time of construction.

The geotechnical site assessment also provided design recommendations for the design and construction of the proposed Hiivala Short Plat infrastructure. Therefore, the proposed project shall implement the recommendations identified in the preliminary geotechnical report unless further studies present new or different facts. (See Condition E-4)
Conclusion (Geologic Hazard)
Based upon the development site characteristics, the proposed geotechnical plan, the requirements of the County's geologic hazard area ordinance, and the finding above, staff concludes that the proposed preliminary geotechnical engineering plan is feasible subject to conditions.

Fire Protection
Finding 18 - Review Process
This application was reviewed by Donna Goddard in the Fire Marshal's Office and Donna can be reached at (360) 397-2186 x3323, or e-mail at donna.goddard@clark.wa.gov. Where there are difficulties in meeting these conditions or if additional information is required, contact Donna in the Fire Marshal's office immediately.

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

Finding 19 - Fire Flow/Hydrants
Homes over 3,600 square feet (excluding attached garages) will have additional fire protection requirements. Fire flow in the amount of 500 gallons per minute supplied for 30 minute 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.

If fire flow is available within 1000 feet of the property line a fire hydrant may be required. Where fire flow is not provided in the full amount by a public water system, the side and rear setback shall be 30 feet. A class “A” or better rated roof and noncombustible siding shall be required.

Finding 20 - Fire Apparatus Access
Provide fire apparatus access roads with 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.

New private driveways in excess of 300 feet in length shall be provided with an approved turnaround at the terminus. Turnouts shall be provided at intervals of 500 feet such that no portion of the driveway is in excess of 300 feet from an approved turnout or turnaround. (See Condition E-7)

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

Water and Sewer Service
Finding 21 - Water and Sewer Service
The site will be served by the Clark Public Utilities water district and on-site septic facilities. A letter from the Clark Public Utility district confirms that potable water services are available to the site.
Therefore, prior to final plat approval, documentation shall be provided from the water purveyor that all water connections have been installed and approved. (See Condition D-4)

The applicant has submitted a Public Health Evaluation Letter as part of the fully complete review. The existing dwelling is served by an on-site sewage system with a current permit and the second lot has a current site evaluation. Clark County Public Health must review a copy of the final drainage plan. (See Tab 20 of the application packet). Where use of wells or septic systems are proposed, Public Health staff must sign the final plat prior to submittal to the county for final plat review and recording. (See Condition D-5)

**Impact Fees**

**Finding 22 - Impact Fees**

The new residential lot created by this plat will produce impacts on schools and traffic and are subject to School (SIF) and Traffic Impact Fees (TIF) in accordance with CCC 40.610. The proposed lot will pay the following impact fees:

- Rural sub-area with a TIF of $2,424.08 per dwelling
- Battle Ground School District, with a SIF of $6,397.00 per dwelling

The amounts listed above are an estimate using the current impact fee rates and are subject to change. As found in CCC40.610.040, impact fees are calculated using the rates in effect at the time of building permit issuance. (See Conditions D-4f & E-2)

**SEPA Determination**

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

- **DS = Determination of Significance** - The impacts cannot be mitigated through conditions of approval and, therefore, require the preparation of an Environmental Impact Statement (EIS);
- **MDNS = Mitigated Determination of Non-Significance** - The impacts can be addressed through conditions of approval; or,
- **DNS = Determination of Non-Significance** - The impacts can be addressed by applying the Clark County Code.

The likely SEPA Determination of Non-Significance (DNS) in the Notice of Development Review Application issued on January 15, 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:** Richard Daviau, (360) 397-2375, ext. 4895

**Responsible Official:** Mitch Nickolds, Community Development Director

**Recommendation**
Based upon the proposed plan and the findings and conclusions stated above, staff recommends the Hearing Examiner **APPROVES** 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**

<table>
<thead>
<tr>
<th>Forest Practice Permit Conditions</th>
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<tbody>
<tr>
<td>1. Development Waiver - (FPA#2928694 dated 07/15/2014) 6 YR MORATORIUM is hereby waived. Building and land use permits may now be applied for, and issued. Continuing Forestry Obligations under RCW 76.09.060, 070, &amp; 390 apply to this County Waiver. The development moratorium shall remain in effect for all other non-forestry uses of the site that are subject to county approval.</td>
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RCW 76.09.390 Applies to the FPA Waiver
Sale of land or timber rights with continuing obligations:

Prior to the sale or transfer of land or perpetual timber rights subject to continuing forestland obligations under the forest practices rules adopted under RCW 76.09.370, as specifically identified in the forests and fish report the seller shall notify the buyer of the existence and nature of such a continuing obligation and the buyer shall sign a notice of continuing forestland obligation indicating the buyer's knowledge thereof. The notice shall be on a form prepared by the department and shall be sent to the department by the seller at the time of sale or transfer of the land or perpetual timber rights and retained by the department. If the seller fails to notify the buyer about the continuing forestland obligation, the seller shall pay the buyer's costs related to such continuing forestland obligation, including all legal costs and reasonable attorneys' fees, incurred by the buyer in enforcing the continuing forestland obligation against the seller. Failure by the seller to send the required notice to the department at the time of sale shall be prima facie evidence, in an action by the buyer against the seller for costs related to the continuing forestland obligation, that the seller did not notify the buyer of the continuing forestland obligation prior to sale.

### General Wetlands Conditions

1. The priority riparian and non-riparian habitat areas (including snags and Biodiversity Area/Corridor), wetlands, and wetland buffers shall be maintained in a natural state. Snags which have fallen shall be preserved as large woody debris/log habitat. The applicant shall retain all native vegetation on site that is outside of the indicated development area within the priority habitat areas, 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 priority habitat mitigation area, 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.

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

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

4. Temporary impacts are not anticipated as a result of creating a new lot. In the unforeseen event that temporary impacts do occur, they 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.

e. If woody vegetation or snags are removed, the applicant shall consult with County Wetland/Habitat Review staff. Additional permitting and mitigation may be required.

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.

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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 Wetland/Habitat Permit - A habitat and/or wetland permit shall be required if the existing logging road is proposed to be converted for residential access to Lot 2. The extent of the logging road to be converted shall determine which permits are required. A habitat permit shall be required where the logging road crosses riparian and biodiversity area and corridor; a wetland permit would be required for where the logging road crosses the wetland buffer. A mitigation plan shall be required to offset the impacts.

A-2 Habitat Plan - All Priority Habitat areas shall be delineated on future construction/stormwater engineering plans (if required) as shown in the attached map. Future construction/engineering plans (if required) shall show the location of the outer extent of the priority habitat area for marking in the field. Markings shall be installed prior to construction and maintained throughout the duration of construction. The applicant shall show development within the building envelope on Lots 1 and 2 in future construction/engineering plans or additional mitigation and permitting may be required.

A-3 Wetland Plan - The wetland and wetland buffers shall be delineated on future construction/stormwater engineering plans (if required) as shown in the attached map. Future construction/engineering plans (if required) shall show the location of the outer extent of the wetland buffer for marking in the field. Markings shall be installed prior to construction and maintained throughout the duration of construction. The applicant shall show development within the development envelopes in future engineering plans on Lots 1 and 2 or else additional mitigation and permitting may be required. (See Finding 17)

A-4 Engineering Plan Notes - Building Envelopes: “No clearing or development shall occur outside of the building/development envelopes indicated in the plans. Any changes to the development layout causing greater impacts to the priority habitat, wetland or wetland buffer than what is approved with this review shall be subject to
additional wetland/habitat review by County Wetland/Habitat Review staff and may include additional permits and/or mitigation requirements."

Logging Road: "The existing logging road was permitted for forestry operations. Conversion of the logging road to residential use shall require additional review from County Wetland/Habitat Review staff including possible permitting and mitigation requirements.

A-5 **Archaeology** - The following note shall be placed on the construction plans “Should archaeological materials (e.g. bones, shell, stone tools, beads, ceramics, old bottles, hearths, etc.) be observed during project activities, all work in the immediate vicinity should stop and the State Department of Archaeology and Historic Preservation (360-586-3065), the County planning office, and the affected Tribe(s) should be contacted immediately. If any human remains are observed, all work should cease and the immediate area secured. Local law enforcement, the county medical examiner (360-397-8405), State Physical Anthropologist, Department of Archaeology and Historic Preservation (360-586-3534), the County planning office, and the affected Tribe(s) should be contacted immediately. Compliance with all applicable laws pertaining to archaeological resources (RCW 27.53, 27.44 and WAC 25-48) and human remains (RCW 68.50) is required. Failure to comply with this requirement could constitute a Class C Felony."

A-6 **Fire Protection Requirements**
Fire flow in the amount of 500 gallons per minute supplied for 30 minute 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. If fire flow is available within 1000 feet of the property line a fire hydrant may be required. (See Finding 19)

<table>
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<tr>
<th>B</th>
<th>Prior to Construction of Development Review and Approval Authority: Development Inspection</th>
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<td>None</td>
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<th>C</th>
<th>Provisional Acceptance of Development Review and Approval Authority: Development Inspection</th>
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<tr>
<td>Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction / land division plan and the following conditions of approval:</td>
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</table>

C-1 Permanent physical demarcation along the upland boundary of the wetland buffer and priority habitat 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 Wetland/Habitat Review Manager, and perpetually maintained at locations along the outer perimeter of the wetland buffer approved by the responsible official worded substantially as follows:

*Priority Riparian Habitat, Wetland and Buffer –
Please retain in a natural state*
Final Plat Review & Recording

Review and Approval Authority: Development Engineering

Prior to final plat approval and recording, the following conditions shall be met:

D-1 **Right-of-way Dedications** - The applicant shall ensure/dedicate additional right-of-way on the plat, along the NE 102nd Avenue frontage, to achieve the required minimum 30-foot half-width (see Finding 11).

D-2 **Sight Distance** - The roadside vegetation shall be removed and maintained within the NE 102nd Avenue right-of-way at and near the joint driveway onto NE 102nd Avenue to the extent practicable, to maximize available sight distance to the north and south (see Finding 12).

D-3 **Building Envelope** - The applicant shall show all building envelopes greater than 100 feet away from any regulated geologic hazard area on the final plat. These building envelopes shall be accompanied with a certification letter in compliance with CCC 40.430.010 (B)(3)(f). (See Finding 17)

D-4 **Water** - The applicant shall provide documentation from the water and sewer purveyor that all water and sewer connections have been installed and approved.

D-5 Due to the proposed on-site septic system, Public Health staff must review and sign the final plat prior to recording.

D-6 Water mains supplying fire flow and fire hydrants shall be installed, approved and operational (See Finding 19).

D-7 **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.

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 Safety and put in place prior to construction."
d. Impact Fees: "In accordance with CCC 40.610 impact fees for each dwelling in this subdivision shall be assessed for impacts on schools and transportation facilities based for the following districts: Battle Ground School School District (SIP) and the Rural 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-8 Plat Notes - The following notes shall be placed on the final plat:

a. Archaeological: "If future development is planned for the western half of the subject site, further testing and potential archaeological permitting prior to any ground disturbance. If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

b. 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. Driveway Public Road Approach: "At the time of building permit of either lot 1 or lot 2, the property owner shall be responsible for paving the joint driveway approach onto NE 102nd Avenue. The pave back shall be a minimum of 20 feet from the edge of NE 102nd Avenue."

d. Driveways: "Both lots within this short plat shall access NE 102nd Avenue via the approved joint driveway within the access and utility easement (AF-5505810). No additional driveways will be allowed onto NE 102nd Avenue."

e. Sight Distance: "The following party(s) is responsible for long-term maintenance of roadside vegetation along the NE 102nd Avenue at and near the joint driveway access facilitating best possible sight distance: __________."

f. Stormwater Systems: "At the time of building permit application, the property owner must submit a stormwater plan for review and obtain approval for the onsite stormwater control system. These drainage systems will be owned and maintained by the property owner on whose lot the drainage system is located."

g. Building/Development Envelopes: "No clearing or development shall occur outside of the building/development envelopes indicated on the face of the plat. Any changes to the development layout causing greater impacts to the priority habitat, wetland or wetland buffer than what is approved with this review shall be subject to additional wetland/habitat review by County Wetland/Habitat Review staff and may include additional permits and/or mitigation requirements."

h. Logging Road: "The existing logging road was permitted for forestry operations. Conversion of the logging road to residential use shall require additional review from
County Wetland/Habitat Review staff including possible permitting and mitigation requirements."

**D-9 Habitat** - All Priority Habitat areas shall be delineated on the final plat as shown in the attached map. The applicant shall establish a building envelope on Lots 1 and 2 which clearly avoid the priority habitat areas.

**D-10 Wetlands** - The applicant shall delineate the wetland and wetland buffers on the final plat as shown in the attached map. The applicant shall establish development envelopes on Lots 1 and 2 which clearly avoid the wetland and wetland buffers.

### Building Permits

#### Review and Approval Authority: Permit Services

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

**E-1 Paving an Intersecting Area** - At the time of building permit application, of either lot 1 or lot 2, the owner shall be responsible for paving the joint driveway approach onto NE 102nd Avenue. The pave back shall be a minimum of 20 feet from the edge of NE 102nd Avenue in compliance with Clark County Standard Drawing F20.

**E-2 Driveways** - At the time of building permit application, of either lot 1 or lot 2, the owner shall ensure that the off-site driveways have a minimum width of 12 feet of clear, unobstructed driving surface. The owner shall also ensure that on-site and/or off-site driveways longer than 300 feet shall be provided with an approved turnaround at the terminus. The owner shall ensure that turnouts are constructed such that the maximum distance from turnout to turnout or from turnout to turnarounds does not exceed 500 feet.

**E-3 Stormwater Systems** - At the time of building permit application, the property owner must submit a stormwater plan for review and obtain approval for the onsite stormwater control system. These drainage systems will be owned and maintained by the property owner on whose lot the drainage system is located.

**E-4 Geotechnical** - The proposed project shall implement the recommendations identified in the geotechnical assessment report prepared by Rapid Soil Solutions dated March 27, 2018 unless further studies present new or different facts. (See Finding 9)

**E-5 Excavation and Grading** - Excavation/grading shall be performed in compliance with CCC 14.07

**E-6 Impact Fees:** Impact fees shall be assessed for impacts on schools, parks and transportation facilities based for the following districts: Battle Ground School District (SIF) and the Rural 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-7 Fire** - New private driveways in excess of 300 feet in length shall be provided with an approved turnaround at the terminus. Turnouts shall be provided at intervals of 500 feet such that no portion of the driveway is in excess of 300 feet from an approved turnout or turnaround.
### Development Review Timelines & Advisory Information

#### Review and Approval Authority: Advisory to Applicant

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

**F-2 Department of Ecology Permit for Construction Stormwater** - A permit from the Department of Ecology (DOE) is required if:

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

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

**F-3 Building and Fire Safety**

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

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**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.

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### 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
- Wetland and Habitat Map