

## Notice to Parties of Record

**Project Name: Dani Downs Subdivision**

**Case Number: PLD2015-00027**

The attached decision of the Land Use Hearing Examiner is final unless a motion for reconsideration is filed or an appeal is filed with Superior Court.

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

### **Motion for Reconsideration:**

Any party of record to the proceeding before the hearings 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 the rights of the moving party:

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

Mailed on: December 4, 2015

DS1333

Revised 7/15/13



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



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

**BEFORE THE LAND USE HEARINGS EXAMINER  
FOR CLARK COUNTY, WASHINGTON**

**CORRECTED FINAL ORDER**

In the matter of a Type III application for an 83-lot single-family residential subdivision on 19.55 acres split zoned R1-6 and R1-7.5 in unincorporated Clark County, Washington.

**Dani Downs Subdivision  
PLD2015-00027 & SEP2015-00042**

**I. Summary:**

This Order is the decision of the Clark County Land Use Hearings Examiner approving with conditions this application for an 83-lot single-family residential subdivision and related approvals (PLD2015-00027 & SEP2015-00042) on approximately 19.55 acres split zoned R1-6 and R1-7.5.

**II. Introduction to the Property and Application:**

**Applicant** ..... Krippner Homes, LLC.  
Attn: Mason Wolfe  
6715 NE 63<sup>rd</sup> Street, Suite 166  
Vancouver, WA 98661

**Owners**..... Myron & Debra Smokey                      Jesse & Linda Hurley  
16702 NE 78<sup>th</sup> Street                                      16906 NW 78<sup>th</sup> Street  
Vancouver, WA 98682                                      Vancouver, WA 98682

Thousand Hills Management  
6012 NW 169<sup>th</sup> Street  
Ridgefield, WA 98682

**Property**..... Legal Description: Parcel Numbers 153933-000, 104180-000 & 104182-000 located in the SE ¼ quarter of Section 1, Township 2 North, Range 2 East of the Willamette Meridian.

**Applicable Laws**..... Clark County Code (CCC) Title 15 (Fire Prevention), Section 40.220.010 (Single-Family Residential District), Section 40.350, (Transportation), Section 40.350.020 (Transportation Concurrency), Chapter 40.385 (Storm Water Drainage and Erosion Control), Sections 40.500 and 40.510 (Procedures), Section 40.540 (Land Division Ordinance), Section 40.570 (SEPA), Section 40.570 (SEPA Archaeological), Section 40.610 (Impact Fees), Title 24 (Public Health), RCW 58.17, and the Clark County Comprehensive Plan.

The subject site consists of three parcels (Parcel Numbers 153933-000, 104180-000 & 104182-000) totaling 19.55 acres. The main axis of the property is oriented east-west, with NE 78<sup>th</sup> Street and the city limits of Vancouver on its south boundary. The

western-most  $\frac{1}{4}$  is zoned R1-6 and the remaining  $\frac{3}{4}$  is zoned R1-7.5. This proposal was considered by county and city staff at the same time as the Fifth Plain Subdivision (PLD2015-00026), located east of this site on the other side of NE 171<sup>st</sup> Avenue. This application proposes to create 83 lots for standard single-family detached homes, along with internal streets and associated public facilities and infrastructure to serve the lots. Access to the surrounding public street network will be via one access point to the south onto NE 78<sup>th</sup> Street, one to the east onto NE 171<sup>st</sup> Avenue and two to the north to a new extension of NE 80<sup>th</sup> Street. No road modifications are requested, but the developer will have to address street standards and related improvements required by the City of Vancouver for NE 78<sup>th</sup> Street.

The property is within Vancouver's UGA, Park Improvement District 5, Fire District 5, the Evergreen Transportation Impact Fee Subarea, the Hockinson School District, and the territory of the Heritage Neighborhood Association. The City of Vancouver provides both sewer and water service to the area.

The application consists of a binder (Ex. 1) that includes set of full-sized plans (tab 10) a report on the June 11, 2015 pre-application conference (tab 4), a developer's GIS Packet (tab 5), project narrative (tab 6), Legal Lot Information (tab 7), a preliminary boundary survey (tab 9), a Soil Report and preliminary stormwater technical information report and preliminary stormwater plan (tabs 11, 12 & 13), a Traffic Study, sight distance report and circulation plan (tabs 15, 24 & 26), a SEPA checklist (tab 16), an Archaeological Pre-Determination (tab 17), Sewer & Water Utility Review letters (tabs 18 & 19), Health Department Review letter (tab 20), a letter from the Hockinson School District (tab 23), a memorandum regarding NE 78<sup>th</sup> Street improvements (tab 25).

### **III. Summary of the Local Proceeding and the Record:**

A preapplication conference for this subdivision was requested on May 22, 2015 and held June 18, 2014 (Ex. 1, tab 4). A fully complete application was submitted July 31, 2015 (Ex. 1), which was deemed fully complete on August 21, 2015. From this sequence, this development is deemed vested as of May 22, 2015. Notice of the Type III application and a November 12, 2015 public hearing on the application was mailed to property owners within 300 feet and to the Heritage Neighborhood Association on September 1, 2015 (Exs. 2 & 3). Notices of the application and hearing were posted on the site by the applicant on September 3<sup>rd</sup>. The County received one comment on the SEPA checklist issued on this project from the Washington Department of Ecology (Ex 4) by the end of the September 17<sup>th</sup> comment and appeal period.

Because NE 78<sup>th</sup> Street is a City facility, the City of Vancouver provided an analysis and comprehensive staff report on concurrency and transportation issues (Ex. 8). DAHP provided comments and suggested certain archaeology conditions (Ex. 5). County Staff issued a comprehensive report on the project dated October 28, 2015 (Ex. 12) recommending conditional approval. At the commencement of the November 12<sup>th</sup> hearing, the Examiner explained the procedure and disclaimed any ex parte contacts, bias, or conflicts of interest. No one objected to the proceeding, notice or procedure. No one raised any procedural objections or challenged the Examiner's jurisdiction or his ability to decide the matter impartially.

Present at the hearing were Jan Bazala, County Planning staff, and Jennifer Reynolds County Engineer on the project, who provided verbal summaries of the project,

the staff report and the various agency and public comments already in the record. Ryan Lopossa, transportation engineer with the City of Vancouver, explained the city's comments and conditions of approval (Ex. 8). The applicant's team, consisting of attorney LeAnne Bremer and project manager Mason Wolfe, was present to describe the project, explain details, respond to questions, and generally advocate for approval of the proposed development. Mr. Wolfe expressed the applicant's general agreement with the proposed findings and conditions in the October 28<sup>th</sup> staff report (Ex. 12), but provided several revisions to specific conditions and findings, which were documented in a memorandum from Ms Bremer with numerous exhibits that generally challenged the level and extent of street improvements that the city appeared to be requiring for NE 78<sup>th</sup> Street (Ex. 14). There was no other public testimony on this proposal and no requests for a continuance or that the record be kept open. The Examiner closed the record and took the matter under consideration at the conclusion of the November 12<sup>th</sup> hearing.

#### IV. Findings:

Only issues and approval criteria raised in the course of the application, during the hearing and before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The Examiner adopts the following findings in response to the approval criteria addressed in the staff report:

##### Land Use

Finding 1 - R1-6 or R1-7.5 Lot Standards: The western quarter of the site is zoned R1-6; the eastern three quarters is zoned R1-7.5. The minimum lot width for both districts is 50 feet; minimum lot depth for both districts is 90 feet. All lots as proposed meet minimum lot width and depth requirements. Lots in the R1-6 must average between 6,000 sf and 7,500 sf. Lots in the R1-7.5 zone must be a minimum of 7,500 sf and must average no more than 10,500 sf. Lots 20, 22, 55, 72, and 75 straddle the zoning boundary, which is not prohibited. These lots meet the minimum lot width, depth and area requirements of the R1-7.5 zone. The setbacks for both zoning districts are the same, so the dual zoning on these lots will not result in conflicting land use requirements. Several of the lot dimensions don't calculate out to the lot areas shown on the table. These errors appear to be inconsequential. The indicated and scaled dimensions show that all the lots except Lot 28 will meet the lot area requirements, and it appears that Lot 28 can be adjusted to meet the dimensional requirements. In any event, all lots in this plat, and development thereon, shall comply with the dimensional and development standards applicable to the underlying zoning, *i.e.*, either R1-6 or R1-7.5, which shall be verified for each lot at final plat. See Condition D-1.

Finding 2 – Apparent fence encroachment: The record of survey shows a woven wire fence 1.5 feet south of the surveyed property line abutting Parcel No. 154006-000; however, the other affected property owner of this strip of land has not appeared or asserted ownership. While RCW 58.17.165 and 58.17.170 collectively require the consent of all owners of property needed for street dedications, that requirement comes into play at final plat. *See Halverson v. City of Bellevue*, 41 Wn.App. 444, 460, 704 P2d 1232 (1985). Because the strip for which ownership apparently is in question is situated in the middle of right-of-way of for the proposed

NE 80<sup>th</sup> Street, clear ownership of the area between the fence and the surveyed line will need to be resolved prior to final plat. See Condition D-9.

Finding 3 – Setbacks: The following setbacks apply to all lots in both zones:

- Front: ..... 10 feet or 18 feet to garage entrance
- Street Side: ..... 10 feet
- Side: ..... 5 feet
- Rear: ..... 10 feet

These setbacks and will apply to the lots created by this plat, including Lot 39 where the existing house will remain. Lots 17-29 have frontage on both NE 78<sup>th</sup> Street and NE 78<sup>th</sup> Way. The definition of “Lot line, front” in CCC 40.100.070 includes the following: “For through lots, all lot lines abutting a street or approved private road or easement, except for alleys, shall be front lot lines unless vehicular access is prohibited, in which case they shall be considered rear lot lines.” Unless access to NE 78<sup>th</sup> Street is prohibited, Lots 17-29 will have a front setback on both NE 78<sup>th</sup> Street and NE 78<sup>th</sup> Way and qualify as through lots. See Conditions D-2 & F-4.

Finding 4 – Existing Structures: The existing dwelling on Parcel No. 153933-000 is proposed to remain, and as shown on the preliminary plat meets the required setbacks set forth in Land Use Finding 2. The new access for the existing home will require an address change. See Condition D-8. All other structures will be removed, and will require a Clark County demolition permit. See Condition B-4.

Finding 5 – Phasing: No phasing is proposed. If phasing is subsequent requested, a post decision review will be required. Phases are required to “stand alone” with regard to all applicable development regulations. See Condition A-6.

Finding 6 – Manufactured Homes: The applicant indicated that manufactured homes will not be placed on the lots in the proposed plat. Therefore, pursuant to CCC 40.260.130, manufactured homes are prohibited on all lots in this plat. See Condition D-5g.

Finding 7 – State Platting Standards (RCW 58.17): With conditions of approval, the Examiner 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 paid as a proportionate share toward the costs of increasing school, park and transportation facility capacity. The site is located in the Hockinson School District even though the Evergreen School District’s Frontier Middle School and Pioneer Elementary Schools are both directly across NE 78<sup>th</sup> Street from the site. The applicant provided a letter (Ex. 1 tab 23) from the district indicating that students will be bused to Hockinson schools. The Examiner finds that the neighborhood residents will likely use the school playgrounds and track just across NE 78<sup>th</sup> Street for recreation even if the students residing in this development do not attend school there. Accordingly, a striped pedestrian crossing shall be provided across NE 78<sup>th</sup> Street at NE 167<sup>th</sup> Avenue, 169<sup>th</sup> Place and 171<sup>st</sup> Avenue. The applicant shall coordinate with the Evergreen school district and the City of Vancouver for details for the crossing. See Conditions A-2b & A-2c.

Finding 8- Landscaping: The site and all surrounding properties are zoned R1. Per Table 40.320.010-1 no on-site landscaped buffers are required; however, if street trees are required by the City of Vancouver for NE 78<sup>th</sup> Street, the applicant will need to comply with the city's standards.

Finding 9 – Urban Holding: Urban Holding was lifted from this area under ORD2013-12-20 (Ex. 9). The Developer Agreement associated with the ordinance (Exhibit 5 and 5.a to that ordinance) requires an additional \$500 per lot Park Impact Fee. See Conditions D-5f & E-4. The agreement also requires that future owners of the property will not oppose annexation into a city. See Condition D-7. The agreement also includes language in Section 5 providing for the transfer of Traffic Impact Fee authority for certain areas upon annexation to the City of Vancouver and the conversion of County TIF subareas to City TIF subareas, including the Fifth Plain Creek area. When staff issued its report (Ex. 12), it was not clear what amendments to any city/county inter-local agreements were needed to allow the County to collect and utilize TIFs from the Fifth Plain Creek area. At the November 12<sup>th</sup> hearing, however, the city and county representatives clarified the TIF subarea conversion question (Ex. 14).

Finding 10 - Forest Practice Permits: A number of trees exist on the middle lot. The applicant will need to confirm with Environmental Services staff as to whether a Forest Practices permit is needed prior to removal of the trees. If a permit is needed, the applicant shall acquire it prior to removal of trees on the site. See Condition A-7b.

### **Archaeology**

Finding 1: The applicant submitted an archaeological pre-determination to the Washington State Department of Archaeology and Historic Preservation (DAHP) (Ex. 1, tab 17). A subsequently issued letter from DAHP (Ex. 5) notes that sites were discovered that warrant further work; therefore, a permit for additional survey work from DAHP is required by RCW chapter 27.53. Prior to the issuance of final construction permits by the county, the applicant shall provide confirmation from DAHP that either confirms that no further archaeological work is necessary, or that the applicant has received and has met, or will meet, the conditions stipulated by the pending DAHP permit. See Condition A-7a. Also, a note shall be placed on the final construction plans requiring that if resources are discovered during construction, work shall stop and DAHP and the county will be contacted. See Conditions A-2f & D-5h.

### **Transportation**

Finding 1 – Pedestrian/Bicycle Circulation: CCC 40.350.010 requires pedestrian circulation facilities that comply with the Americans with Disabilities Act. Bike lanes are not required on the streets that are part of this proposed development under Clark County jurisdiction. The applicant shall comply with City of Vancouver requirements for pedestrian and bicycle circulation along NE 78<sup>th</sup> Street, in particular, by providing striped pedestrian crossings at NE 167<sup>th</sup> Avenue, 169<sup>th</sup> Place and 171<sup>st</sup> Avenue. The applicant shall coordinate with the Evergreen school district and the City of Vancouver about the design details for the crossing. See Conditions A-2a, A-2b & A-2c.

Finding 2 – Circulation Plan: NE 78<sup>th</sup> Street is a primary east-west road in the area. NE 167<sup>th</sup> Avenue, abutting the development on the west, and NE 171<sup>st</sup> Avenue, abutting the development on the east will provide north-south cross-circulation in the vicinity of the site. The Examiner finds that required improvements along NE 78<sup>th</sup> Street (subject to City of Vancouver requirements), NE 167<sup>th</sup> Avenue and NE 171<sup>st</sup> Avenue will provide adequate cross-circulation to serve the proposed development and will allow future developments to meet the cross-circulation standards in compliance with CCC 40.350.030(B)(2).

Finding 3 – Roads: NE 78<sup>th</sup> Street is classified as a Neighborhood Circulator along the entire length of the property's southern boundary and is under the City of Vancouver jurisdiction between NE 166<sup>th</sup> Avenue and NE 171<sup>st</sup> Avenue. The applicant must comply with City of Vancouver frontage improvement requirements along NE 78<sup>th</sup> Street. However, those appear to be half-street improvements, except for the three pedestrian crossings to which the applicant has agreed. See VMC 11.80.080B and Standard Plan T10-14. The applicant disagrees with the extent of street improvements along NE 78<sup>th</sup> Street and challenges the city's interpretation of its street standards and code authority (Ex. 14). The County Hearing Examiner is not the final interpreter of City street standards, and he declines to specify the precise level and type of street improvements that the City will require of this developer along NE 78<sup>th</sup> Street, except to observe that any such improvements may require an individualized justification based upon the impact of this development and considerations of nexus and rough proportionality under *Nollan*,<sup>1</sup> *Dolan*<sup>2</sup> and RCW 82.02.020. The city's imposition of a legislatively adopted set of street improvement requirements irrespective of these considerations may not be legally sufficient. In any event, the applicant shall submit to the County evidence of permitting from the City of Vancouver for the extension of NE 78<sup>th</sup> Street through right-of-way under city jurisdiction. See Condition A-2b. To meet the county circulation and access requirements, the paved width of the roadway shall be a minimum of 20 feet. NE 78<sup>th</sup> Street is under Clark County jurisdiction to the east and west of the proposed development and is classified as an Urban Collector, which requires different standards than a Neighborhood Circulator. The county will defer to the City of Vancouver's roadway classification for the portion of the road that is within the City of Vancouver, when applying CCC 40.350.030.

NE 167<sup>th</sup> Avenue and NE 171<sup>st</sup> Avenue are proposed as Urban Neighborhood Circulators which requires a 54-foot right-of-way width and 36 feet of paved surface. NE 80<sup>th</sup> Street is proposed as an Urban Local Access street, which requires a 46-foot right-of-way and 28 feet of paved surface. The applicant shall construct half-width frontage improvements along these roadways for all parcels being developed. The improvement plan shows the proposed construction of 20 feet of paved road, curb and gutter, a 5-foot attached sidewalk, and a 3.5-foot clear space within the partial width right-of-way. The minimum standards are proposed and shall be constructed.

NE 78<sup>th</sup> Way, NE 79<sup>th</sup> Way, NE 79<sup>th</sup> Street, NE 168<sup>th</sup> Avenue, NE 169<sup>th</sup> Place, and NE 170<sup>th</sup> Avenue are proposed to be Urban Local Access streets, which requires a 46-foot right-of-way, 28 feet of paved width, curb and gutter, 5-foot sidewalks, and a 3.5-

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<sup>1</sup> *Nollan v. California Coastal Comm'n*, 483 U.S. 825, 107 S. Ct. 3141, 97 L. Ed. 2d 677 (1987).

<sup>2</sup> *Dolan v. City of Tigard*, 512 U.S. 374, 114 S. Ct. 2309, 129 L. Ed. 2d 304 (1994).

foot clear space. The applicant shall construct full-width frontage improvements for these roadways. The minimum standards are proposed and shall be constructed.

Finding 4 – Turnarounds: If a new road is more than 150 feet long and temporarily terminates at a property boundary, a temporary turnaround cul-de-sac buib shall be constructed at the plat boundary. See Standard Drawing 26. The proposed improvement plan shows NE 171<sup>st</sup> Street terminating at the northern property line without a turnaround. See Condition A-2c.

Finding 5 – Sight Distance: This development is required to achieve the minimum sight distance standards for intersections and driveways in CCC 40.350.030.B.8. The final engineering plans shall show sight distance triangles for all intersections. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance requirements at any of the proposed driveway approaches and intersections. Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. The sight distance triangles shall be delineated to scale on the final construction plans and the final plat. Notes on the construction plans shall indicate the vegetation within the sight distance triangle that needs to be maintained, trimmed or removed. See Condition A-2d. The applicant submitted Sight Distance Compliance Letter (Ex. 1, tab 24) stating that there should be no difficulty complying with the required sight distances at each of the proposed street intersection. See Condition C-3.

Finding 6 – Driveways: Except for corner lots, the proposed plan does not show the locations of the driveways; however, it appears that a joint driveway will serve Lots 28 and 29. See Conditions A-2f & D-5c.

### **Transportation Concurrency**

Finding 1 - Trip Generation: The applicant's traffic study (Ex. 1, tab 15) estimates the a.m. and p.m. peak-hour trip generation at 60 and 81 trips respectively, and an average daily trip generation (ADT) of 770 trips. The trip generation was estimated using the nationally accepted data published by the *Institute of Transportation Engineers 9<sup>th</sup> Ed.* The applicant submitted its traffic study in partial fulfillment of the requirements of CCC 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 delays, 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 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 applicant's traffic study indicates that the development will extend NE 78<sup>th</sup> Street, through the City of Vancouver right-of-way, from the west, along the length of the site's southern frontage. The City of Vancouver classifies this portion of NE 78<sup>th</sup> Street as a Neighborhood Circulator, with a planned 60-foot right-of-way width and a 28-foot paved half-width (Ex. 8). The applicant's plan shows that the NE 78<sup>th</sup> Street frontage

improvements will include curb, gutter, sidewalk, a planter strip and 20 feet of paved surface, which appears to comply with the County's requirements, but not the City's (Ex. 14). The County Hearing Examiner is not the final interpreter of City street standards, and he declines to specify the precise level and type of street improvements that the City will require of this developer along NE 78<sup>th</sup> Street, except to observe that any such improvements may require an individualized justification based upon the impact of this development and considerations of nexus and rough proportionality under *Nollan*,<sup>3</sup> *Dolan*<sup>4</sup> and RCW 82.02.020. The city's imposition of a legislatively adopted set of street improvement requirements irrespective of these considerations may not be legally sufficient. The applicant shall provide to the County proof of city permitting for the NE 78<sup>th</sup> Street improvements. See Condition A-2b.

The applicant's plans also show the construction of an interior public road network to serve as access for the proposed subdivision. This interior public road network also includes frontage improvements along the east and west property lines. These north/south roadways (NE 167<sup>th</sup> Avenue and NE 171<sup>st</sup> Avenue) are proposed as Neighborhood Circulators. The applicant's study evaluated the level of service and found that the intersections analyzed will have an estimated LOS C or better, in the 2018 build-out horizon. The study also shows that the LOS was evaluated during a.m. and p.m. peak hour traffic conditions in existing and build-out scenarios. County Staff concurred with the traffic study findings, and with that favorable recommendation, so too does the Examiner.

Finding 3 - Clark County Concurrency: This development is required to meet the standards in CCC 40.350.020.G for corridors and intersections of regional significance within 2 miles of the development site. Typically, the County's transportation model is used to determine what urban area developments are currently being reviewed, approved or under construction in the vicinity of the proposed development. The traffic these developments will generate is referred to as "in-process traffic" and ultimately will contribute to the same roadway facilities as the proposed development. This "in-process traffic" is used to evaluate and anticipate area growth and its impact on intersection and roadway operating levels with and without the proposed development, helping to determine if roadway mitigation necessary to reduce transportation impacts.

*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. From this, County staff determined that the development would or could comply with adopted Concurrency standards for signalized intersections under County jurisdiction. On this basis, the Examiner agrees.

*Unsignalized Intersections.* County staff evaluated the operating levels and standard delays represented in the County's model. The County's model yielded

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<sup>3</sup> *Nollan v. California Coastal Comm'n*, 483 U.S. 825, 107 S. Ct. 3141, 97 L. Ed. 2d 677 (1987).

<sup>4</sup> *Dolan v. City of Tigard*, 512 U.S. 374, 114 S. Ct. 2309, 129 L. Ed. 2d 304 (1994).

operating levels and standard delay times with an LOS better than the minimum allowable LOS E for unsignalized intersections. From this, County staff determined that the development would or could comply with adopted Concurrency standards for signalized intersections under County jurisdiction. On this basis, the Examiner agrees..

*Concurrency Corridors.* Staff reported that an evaluation of the concurrency corridor operating levels and travel speeds in the County's model yielded operating levels and travel speeds within acceptable levels of service. No further analysis or mitigation is needed on this issue.

*Safety.* Where applicable, a traffic study shall address the following safety issues:

- traffic signal warrant analysis,
- turn lane warrant analysis,
- accident analysis, and
- any other issues associated with highway safety.

Mitigation for off-site safety deficiencies may only be a condition of development approval pursuant to CCC 40.350.030.B.6, which provides 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 - City of Vancouver Concurrency: The City of Vancouver submitted findings and conditions for this subdivision, and the city incurred costs to analyze the proposed development's impacts. This applicant shall reimburse the city for costs incurred in running its concurrency model in the amount of \$1,500, and the applicant shall provide proof of payment to the county prior to final construction plan approval. See Condition A-8. Moreover, the city incurs costs for performing a review and preparing a staff report on the project's traffic impacts to the city's transportation system, which the applicant is required to reimburse. For this, the applicant shall reimburse the city \$315 as the cost of its normal traffic review. The applicant shall provide proof of payment to the county prior to final construction plan approval. See Condition A-9. Finally, the city incurs costs for performing a review and preparing a staff report for the project's public transportation improvements, which the applicant obligated to reimburse. For this, the applicant shall reimburse the city \$3,221 and provide proof of payment to the county prior to final construction plan approval. See Condition A-10.

Finding 5 - 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. Review of the traffic study found that with the low right and left turning traffic volumes, turn lanes would not be warranted. County Staff concurred with the traffic study findings, and with that favorable recommendation, so too does the Examiner.

Finding 6: Historical Accident Situation: The applicant's traffic study (Ex. 1, Tab 10) analyzed the crash history from data from Clark County for the period January 1, 2010

to December 31, 2014 at the following intersections affected by this development – all within a 2-mile radius of the site:

- NE 76<sup>th</sup> Street/NE Ward Road
- NE 78<sup>th</sup> Street/NE Ward Road
- NE 78<sup>th</sup> Street/NE 162<sup>nd</sup> Avenue (SR 500)
- NE Ward Road/NE 162<sup>nd</sup> Avenue (SR 500)
- NE Ward Road/NE 162<sup>nd</sup> Avenue (North)
- NE Ward Road/NE 172<sup>nd</sup> Avenue
- NE Ward Road/NE Davis Road
- NE Ward Road/NE 182<sup>nd</sup> Avenue/NE 119<sup>th</sup> Street

The applicant's study did not recommend any safety mitigation as a part of this development. County Staff concurred with the traffic study findings, and with that favorable recommendation, so too does the Examiner.

Finding 7 - Roadside Safety (Clear Zone) Evaluation: The Institute of Transportation Engineers (ITE) Traffic Engineering Handbook 6<sup>th</sup> Ed, states that "[t]he clear roadside concept...is applied to improve safety by providing an un-encumbered roadside recovery area that is as wide as practical..." 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." Clark County has adopted these requirements in CCC 40.350.030(C)(1)(b) by incorporation of the Washington State Department of Transportation (WSDOT) Design Manual, Chapter 1600, which 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, trashcans, landscaping and transit shelters along the roadside."*

*"For projects on city streets as state highways that include work in those areas that are the City's responsibility and jurisdiction, design the project using the city's Development/Design Standards. The standards adopted by the city must meet the requirements set by the Design Standards Committee for all projects on arterial, bike projects, and all federal-aid projects."*

The applicant shall consider the WSDOT Design Manual – Roadside Safety Mitigation Guidance (Sec. 1600.04) in the final engineering design of all roadways and frontage improvements. See Condition A-13.

Finding 8 - Vehicle Turning Movements: The applicant's narrative does not indicate the types of vehicles that may serve the proposed development. The proposal

shows entry into the development from NE 78<sup>th</sup> Street at NE 167<sup>th</sup> Avenue, NE 169<sup>th</sup> Place and NE 171<sup>st</sup> Avenue and the curb return radii at these intersections must comply with City of Vancouver requirements. The applicant will need to submit evidence of permitting from the City of Vancouver for the extension of NE 78<sup>th</sup> Street along the southern property line. The curb return radii listed in CCC 40.350.030(C)(3) are the minimum criteria intended for normal conditions, and the responsible official may require higher standards for unusual site conditions. The applicant shall submit for county review and approval construction plans that show that the intersection geometry will accommodate all applicable design vehicles. The plans shall also show that all applicable design vehicles have the ability to enter and exit the development without swinging into opposing travel lanes, which may result in areas of no on-street parking on the local residential access roads, at and near the intersections of NE 78<sup>th</sup> Street/NE 167<sup>th</sup> Avenue and NE 169<sup>th</sup> Place/NE 171<sup>st</sup> Avenue with curb return radii that are not dimensioned. These curb return radii will need to comply with City of Vancouver requirements. The applicant objected (Ex. 14 & 15) to the unlimited scope of staff's recommended condition in the report (Ex. 12), and so the Examiner has tempered the condition somewhat. See Condition A-14.

Finding 9 - Sight Distance: This development is required to achieve the minimum sight distance standards for intersections and driveways in CCC 40.350.030.B.8. The final engineering plans shall show sight distance triangles for all intersections. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance requirements at any of the proposed driveway approaches and intersections. Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. The sight distance triangles shall be delineated to scale on the final construction plans and the final plat. See Condition C-3.

## **Stormwater**

Finding 1 - Stormwater Applicability: CCC chapter 40.385 applies to all new development, redevelopment, and drainage projects consistent with the Stormwater Management Manual for Western Washington (SMMWW) as modified by CCC chapter 40.385 and the county's stormwater manual. This project adds more than 5,000 sf of new impervious surface. Therefore, the applicant is subject to and shall comply with Minimum Requirements 1 through 10 in CCC 40.385.020.A.4. The applicant shall submit final construction plans and a final Technical Information Report for review and approval that demonstrates compliance with these requirements. See Condition A-4a. CCC 40.380.020(C)(1)(a) prohibits this project from materially increasing or concentrating stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. See Condition A-4d.

Finding 2 – Stormwater Proposal: The site is currently developed with three single-family homes and several outbuildings. The easternmost house will remain and all other structures will be removed. The site has slopes of 0.5% to 2.5% and is primarily pasture with areas of scattered trees. This development will create 9.62 acres of new impervious surface. The applicant provided a Preliminary Stormwater Technical Information Report prepared by The Wolfe Group, LLC dated July 2015 (Ex. 1, tab 12). Water quality requirements will be met with a series of Contech StormFilter® catch basins, manholes, vaults and biofiltration swales. Water quantity requirements are met with drywells and infiltration trenches. The report indicates that the site as well as the full and half-street improvements that surround the site will

use full infiltration as a method of stormwater quality control. On-site soil is classified as Lauren Loam (LgB) and has a hydrologic soil group classification of B. The infiltration systems have been preliminary design to infiltrate the 100-year storm event. See Conditions A-4a & A-4b. All stormwater runoff from the roofs of the homes to be constructed will be infiltrated on each lot with individual or shared drywell and/or perforated pipe systems. See Conditions D-5d & E-3. Columbia West Engineering, Inc. performed infiltration testing on July 2, 2015, which produced infiltration rates from 120 to 200+ inches per hour (Ex. 1, tab 11). A design infiltration rate of 200 inches per hour with a factor of safety 2 was used for infiltration facility sizing. Groundwater was encountered in test pits at depths ranging from 11 to 15.5 feet below ground surface. Clark County GIS indicates the depth to groundwater is approximately 10 feet below ground surface. The report specifies that all infiltration systems are proposed to be at least 5 feet above the seasonal high groundwater determination. Piezometer will be installed at the site to monitor the groundwater in order to establish a seasonal high groundwater elevation. See Conditions A-4c, C-1 & C-2. The applicant does not indicate ownership of any of the stormwater facilities. See Conditions D-4d & D-5e.

### **Fire Protection**

Finding 1 – Building Construction: Building construction occurring pursuant to this subdivision approval shall comply with the county's building and fire codes. Additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. One and two family homes over 3,600 sf (excluding attached garages) will have additional fire protection requirements. See Condition E-5.

Finding 2 – Fire Flow: Fire flow in the amount of 1,000 gallons per minute supplied for 1 hour duration is required for this application. Prior to final plat, the applicant shall submit proof from the water purveyor demonstrating 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. Fire flow is based on a 3,600 sf type V-B constructed building. See Conditions A-16a & D-6a.

Finding 3 – Fire Hydrants: Fire hydrants are required for this application, and either the indicated number or the spacing of the fire hydrants is inadequate. The applicant shall provide fire hydrants that are no farther apart than 700 feet and no lot or parcel is farther than 500 feet from a fire hydrant as measured along approved fire apparatus access roads. See Condition A-16. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local district fire chief shall review and approve the exact locations of fire hydrants. See Conditions A-16c & D-6b.

Finding 4 – Fire Apparatus Access: Fire apparatus access is required for this application. All roadways and maneuvering areas shall meet the requirements of the Clark County Road Standard and provide fire apparatus access. The development shall maintain 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. See Condition A-16e.

Finding 5 – Fire Apparatus Turnarounds: Dead end fire apparatus access roads in excess of 150 feet require an approved turnaround, and shall comply with the Clark County Road Standards. See Condition A-16a.

Finding 6 – Parking: Parallel parking is prohibited on streets that are less than 24 feet wide, which shall be posted “NO PARKING.” See Conditions A-16f & D-6c.

Finding 7- Gates: Gates that obstruct fire apparatus access roads require permits and approval by the Fire Marshal prior to their installation. See Conditions A-16g & D-6d.

### **Water and Sewer Service**

Finding 1 – Service Availability: The site will be served with sewer and water by the City of Vancouver, and the City has confirmed that both services are available to the site (Ex. 1, tabs 18 & 19).

Finding 2 - Public Health Evaluation Letter: Submittal of a *Public Health Evaluation Letter* is required as part of the Final Construction Plan Review application. If the evaluation letter specifies that an acceptable *Public Health Final Approval Letter* must be submitted, the evaluation letter will specify the timing of when the final approval letter must be submitted to the county such as at Final Construction Plan Review, Final Plat Review or prior to occupancy. The evaluation letter will serve as confirmation that Public Health staff conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The *Public Health Final Approval Letter* will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by Public Health staff, if applicable. See Condition D-10.

Finding 3 – Connection required: All lots in this plat, including the existing residence to remain on Lot 39, shall be connected to an approved public sewer and water system. A copy of the final acceptance letter from the sewer and water purveyor shall be submitted to the Health Department with the final plat mylar. The applicant shall comply with all requirements of the purveyor. See Condition D-3.

### **Impact Fees**

Finding 1 – Impact Fees: All new residential lots created by this plat will produce impacts on schools, parks, and traffic and related systems and facilities. Accordingly, the following School Impact Fees (SIF), Park Impact Fees (PIF), and Traffic Impact Fees (TIF) shall be assessed on all new dwellings constructed in this subdivision pursuant to CCC chapter 40.610 (83 new dwellings):

- \$3,611.72 TIF per house in the Evergreen Transportation Sub-area
- \$5,906 SIF per house in the Hockinson School District;
- \$2,299 PIF per house in Park District 5 (\$1,350 for acquisition, \$440 for development and \$500 as a condition of releasing the Urban Holding – see Ex. 9, Ord2013-12-20).

Impact fees shall be paid prior to issuance of a building permit for each new dwelling. If a building permit application is made more than three years following the date of preliminary plat approval, the impact fees shall be recalculated and assessed according to the then-current ordinance rate. See Conditions D-5f & E-4.

## SEPA DETERMINATION

Staff determined that there were no probable significant adverse environmental impacts associated with this proposal that could not be avoided or mitigated through the conditions of approval and issued a Determination of Non-Significance (DNS) on September 3, 2015 (Exs. 2 & 3). Only one responsive SEPA comment was received during the comment period (ending September 17, 2015), which was from the Washington Department of Ecology (Ex. 4). The Examiner concludes that the SEPA checklist is compliant with the applicable state and County requirements, and the substantive comment from the Department of Ecology does not warrant a separate response. No appeal of the County's DNS was filed, and therefore it is final.

### V. Decision and Conditions:

Based on the foregoing findings and except as conditioned below, this application is approved in general conformance with the preliminary plat and supporting application materials (Ex. 1). This development application is approved as proposed, subject to the requirements that the developer, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions of approval. The following conditions shall be interpreted and implemented consistently with the foregoing findings:

<b>A</b>	<b>Final Construction Review for Land Division Review and Approval Authority: Development Engineering</b>
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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** deleted - see Condition D-9.

**A-2 Final Transportation Plan/On-Site** - The developer shall submit and obtain County approval of a final transportation plan designed in conformance with CCC chapter 40.350 and the following additional requirements:

- a. The developer shall show on the final construction plans that all pedestrian facilities will be constructed to comply with ADA standards, including the pedestrian crossings across NE 78<sup>th</sup> Street at NE 167<sup>th</sup> Street, NE 169<sup>th</sup> Place and NE 171<sup>st</sup> Street. See Transportation Finding 1.
- b. The developer shall construct half-street improvements along NE 78<sup>th</sup> Street consistent with CCC 40.350.030(B)(5)(a) and subject to obtaining a City of Vancouver right-of-way permit, understanding that city requirements may differ from county requirements. The developer shall provide to the County proof of city permits for the NE 78<sup>th</sup> Street improvements. The developer shall coordinate with the Evergreen school district and the City for details on provisions for a pedestrian crossing across NE 78<sup>th</sup> Street. See Transportation Finding 3, Concurrency Finding 2 & Land Use Finding 7.

- c. The developer shall show on the final construction plans a temporary turnaround that complies with CCC 40.350.030(B)(12)(a)(2) at the north end of NE 171<sup>st</sup> Avenue. See Transportation Finding 4.
- d. The developer shall show the sight distance trianglies on the final construction plans. See Transportation Finding 5.
- e. The developer shall show on the final construction plans that a joint driveway for Lots 28 and 29 will comply with CCC 40.350.030 (B)(4)(b)(2). See Transportation Finding 6.
- f. The following note shall be placed on the face of the final construction plans:  
 "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."

**A-3 Transportation:**

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

**A-4 Final Stormwater Plan** - The developer shall submit and obtain County approval of a final stormwater plan designed in conformance with CCC chapter 40.385 and the following additional requirements:

- a. The developer shall submit final construction plans and a final Technical Information Report that addresses Minimum Requirements 1 though 10. See Stormwater Finding 2.
- b. The developer shall submit a letter or documentation from the stormwater treatment system manufacturer indicating the treatment devices were sited and sized appropriately. See Stormwater Finding 2.
- c. The developer shall perform groundwater monitoring for at least one wet weather season within 3 years prior to the date of final approval. See Stormwater Finding 2.
- d. Pursuant to CCC 40.380.020(C)(1)(a) this project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. See Stormwater Finding 1.

- A-5 Erosion Control Plan** - The developer shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC chapter 40.385.
- A-6 Future phasing** - If phasing is proposed at a future date, a post decision review will be required. See Land Use Finding 5.
- A-7** Prior to the issuance of final construction plans by the county, the developer shall provide the following:
- a. Confirmation from DAHP that either confirms that no further archaeological work is necessary, or that the developer has received and has met, or will meet, the conditions stipulated by the pending DAHP permit. See Archaeology Finding.
  - b. Confirmation from Clark County Environmental Services as to whether a Forest Practices permit is needed prior to removal of the trees. If a permit is needed, it shall be required prior to removal of trees on the site. See Land Use Finding 8.
- A-8 Final Transportation Plan (City of Vancouver Concurrency)** – The developer shall reimburse the City for costs incurred in running their concurrency model in the amount of \$1,500. This reimbursement shall be paid to the City with evidence of payment presented to Clark County. See Concurrency Finding 4.
- A-9 Final Transportation Plan (City of Vancouver Concurrency)** – The developer shall reimburse the City for the normal traffic review fee of \$315. This reimbursement shall be paid to the City with evidence of payment presented to Clark County. See Concurrency Finding 4.
- A-10 Final Transportation Plan (City of Vancouver Concurrency)** – The developer shall be required to reimburse the City for the transportation plan review in the amount of \$3,221. This reimbursement shall be paid to the City with evidence of payment presented to Clark County. See Concurrency Finding 4.
- A-11 Final Transportation Plan (City of Vancouver Concurrency)** – The developer shall submit evidence of permitting from the City of Vancouver for the extension of NE 78<sup>th</sup> Street along the southern property line. See Concurrency Finding 7.
- A-12 Final Transportation Plan (County Concurrency)** – The developer 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. The developer shall obtain a work order with Clark County to reimburse the County for required signing and striping.
- A-13 Final Transportation Plan (County Concurrency)** – The developer shall consider the WSDOT Design Manual – Roadside Safety Mitigation Guidance (Section 1600.04) in the final engineering design of all roadways and frontage improvements. See Concurrency Finding 7.
- A-14 Final Transportation Plan (County Concurrency)** – The developer shall submit construction plans for County review and approval that show an intersection geometry design for NE 78<sup>th</sup> Street that facilitates design vehicle ability to enter and exit the development without swinging into opposing travel lanes. The

intersection may result in no on-street parking areas on the local residential access road, at/near the NE 78<sup>th</sup> Street/NE 169<sup>th</sup> Place; NE 78<sup>th</sup> Street/NE 167<sup>th</sup> Avenue; NE 78<sup>th</sup> Street/NE 171<sup>st</sup> Avenue intersections. See Concurrency Finding 8.

**A-15** deleted – see Condition D-10.

**A-16 Fire Marshal Requirements** – The developer shall comply with or otherwise fulfill all of the conditions suggested by the Fire Marshall’s Office, including the following:

- a. Fire flow in the amount of 1,000 gallons per minute supplied for 1 hour duration is required for this application, based on a 3,600 sf type V-B constructed building. See Fire Protection Finding 2.
- b. Fire hydrants are required for this application, and the developer shall provide fire hydrants at least every 700 feet. No lot or parcel shall be farther than 500 feet from a fire hydrant as measured along approved fire apparatus access roads. See Fire Protection Finding 3.
- c. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local district fire chief shall review and approve the exact location of all fire hydrants. See Fire Protection Finding 3.
- d. Fire apparatus access is required for this application. All roadways and maneuvering areas shall meet the requirements of the Clark County Road Standards and provide fire apparatus access. All access roads shall be maintained 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. See Fire Protection Finding 4.
- e. Dead end fire apparatus access roads in excess of 150 feet require and approved turnaround, and shall comply with the Clark County Road Standards. See Fire Protection Finding 5.
- f. Parallel parking is prohibited on streets that are narrower than 24 feet wide. Streets that are narrower than 24 feet wide shall be posted “NO PARKING.” See Fire Protection Finding 6.
- g. Gates that obstruct fire apparatus access roads require permits and approval by the Fire Marshal prior to their installation. See Fire Protection Finding 7.

**A-17 Excavation and Grading** – All excavation and grading shall be performed in compliance with CCC Chapter 14.07.

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

- B-1 Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the county.
- B-2 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-3 Erosion Control** - Erosion control facilities shall not be removed without county approval.
- B-4** Structures slated for removal shall obtain necessary county permits and comply with conditions of the Southwest Clean Air Agency and Clark County demolition permit. See Land Use Finding 4.

<b>C</b>	<b>Provisional Acceptance of Development Review and Approval Authority: Development Inspection</b>
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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:

- C-1 Stormwater:** In accordance with CCC 40.385.020(C)(3)(i) and before acceptance of any infiltration facility by the county, the completed facility shall be tested and monitored to demonstrate that the facility performs as designed. If the tested coefficient of permeability determined at the time of construction is at least 95% of the uncorrected coefficient of permeability used to determine the design rate, construction shall be allowed to proceed. If the tested rate does not meet this requirement, the developer shall submit an additional testing plan to Clark County that follows the requirements in Chapter 2 of the Stormwater Manual. This plan shall include steps to correct the problem, including additional testing and/or resizing of the facility to ensure that the system complies with the provisions of this chapter. See Stormwater Finding 2.
- C-2 Stormwater:** During installation of the infiltration facility, the developer shall demonstrate that groundwater table is at least 5 feet below the designed elevation of the bottom of the proposed infiltration facility. The system shall be redesigned if the required separation is not achieved. See Stormwater Finding 2.
- C-3 Sight Distance:** The developer shall submit a sight distance certification letter after the completion of construction improvements in each Phase of development. See Transportation Finding 5.

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

- D-1** All lots in this plat shall meet the minimum lot dimensions and lot sizes and other development standards of the R1-6 and R1-7.5 zones as applicable. See Land Use Finding 1.

**D-2** The existing residence to remain shall be shown on the final plat. Location of the residence shall meet minimum setbacks of the R1-7.5 zone. See Land Use Findings 3 & 4.

**D-3 Public sewer and water** - All lots in the proposed plat shall be connected to approved public sewer and water systems. A copy of the final acceptance letter from the sewer and water purveyor shall be submitted to the Health Department with the final plat mylar. The developer shall comply with all requirements of the purveyor.

**D-4 Developer Covenant** – A Developer Covenant to Clark County shall be submitted for recording that includes 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 CCC 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 occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual adopted by CCC Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. Final plats shall specify the party(s) responsibility for long-term maintenance of stormwater facilities within the Developer's Covenants to Clark County. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with CCC 32.04.060. The covenant will not be required if the stormwater facilities are to be owned and maintained by Clark County.

**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 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 6 feet along the front boundary lines of all lots adjacent to public streets."
- c. Driveways: "All residential driveway approaches entering public roads are required to comply with CCC chapter 40.350."
- d. Roof and Crawl Space Drains: "Roof and crawl space drains are to discharge to individual private infiltration systems unless a revised plan is approved by the county. These stormwater systems will be owned and maintained by the property owner on whose lot the stormwater system is located."
- e. Privately Owned Stormwater Facilities: "The following party(s) is responsible for long-term maintenance of the privately owned stormwater facilities: \_\_\_\_\_." (This note may be deleted if the stormwater facilities are to be publically owned and maintained)
- f. Impact Fees: "In accordance with CCC chapter 40.610, the following School, Park and Traffic Impact Fees shall be paid for each new dwelling in this subdivision at or prior to the time of building permit issuance (83 new dwellings).
  - \$5,906 SIF per house in the Hockinson School District;
  - \$2,299 PIF per house in Park District 5 (\$1,350 for acquisition, \$440 for development and \$500 as a condition of releasing the Urban Holding – see Ord2013-12-20)
  - \$3,611.72 TIF per house in the Evergreen TIF Sub-area.
 These impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated December 4, 2015, and expiring on December 4, 2018. Impact fees for permits applied for after this expiration date shall be recalculated and assessed using the then-current regulations and fees schedule."
- g. Mobile Homes: "Manufactured homes are prohibited on all lots in this plat pursuant to CCC 40.260.130."
- h. Archaeology: "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."

**D-6 Fire Marshal Requirements:** The developer shall comply with or otherwise fulfill all of the requirements and conditions from the Fire Marshal's Office, including the following:

- a. Fire flow in the amount of 1,000 gallons per minute supplied for 1 hour duration is required for this application. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational. See Fire Protection Finding 2.
- b. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. See Fire Protection Finding 3.
- c. Parallel parking is prohibited on streets that are less than 24 feet wide, which shall be posted "NO PARKING". See Fire Protection Finding 6.
- d. Gates that obstruct fire apparatus access roads require permits and approval by the Fire Marshal prior to their installation. See Fire Protection Finding 7.

**D-7 Utility and Annexation Covenant** - The following covenants shall be submitted for recording:

- a. City of Vancouver required utility covenants, and
- b. Covenant indicating that the owner or any subsequent owner of the property shall support annexation to a city. See Land Use Finding 9.

**D-8 Addressing** - At the time of final plat, the existing residence that will remain may be subject to an address change. Addressing will be determined based on point of access.

**D-9 Fence Encroachment.** Prior to approval of final plat, the developer shall have resolved the potential property line dispute shown by the fence encroachment along the property's northern boundary (Parcel No. 154006-000) that interferes with the proposed NE 80<sup>th</sup> Street right-of-way dedication by obtaining the written consent of all parties that have any ownership interest through any one of the following methods (see Land Use Finding 2):

- A signed consent to the subdivision and dedication of its public streets
- A deed or easement transferring title or allowing use of the land
- Final judgment quieting title to the disputed land in the developer
- Final judgment resolving the title dispute (adverse possession) in favor of the developer
- Any other legally conclusive and enforceable means that either evidences the consent of all parties owning any interest in the land to be subdivided or resolves all claims of ownership in favor of the developer.

**D-10 Public Health Review** - The developer shall obtain a Health Department Evaluation Letter. If the Evaluation Letter specifies that an acceptable Health Department Final Approval Letter must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy). The Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or

septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer.

<b>E</b>	<b>Building Permits Review and Approval Authority: Permit Services</b>
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Prior to issuance of a building permit, the following conditions shall be met:

- E-1 deleted – see Conditions D-5f & E-4.
- E-2 **Excavation and Grading** – All excavation and grading shall be performed in compliance with CCC chapter 14.07.
- E-3 **Stormwater** - The owner of each lot is responsible for obtaining approval of a plan for roof and crawl space drains with the building permit and constructing the individual onsite drainage systems. See Stormwater Finding 2.
- E-4 **Impact Fees** – The developer shall pay the following impact fees for each dwelling constructed on the lots in this subdivision:
  - \$6,989 SIF per house in the Evergreen School District;
  - \$2,299 PIF per house in Park District 5 (\$1,350 for acquisition, \$440 for development and \$500 as a condition of releasing the Urban Holding – see Ord 2013-12-20)
  - \$3,611.72 TIF per house in the Evergreen TIF Sub-area.If a building permit application is made more than three years following the date of preliminary site plan approval, the impact fees shall be recalculated and assessed according to the then-current rate. See Impact Fee Finding 1.
- E-5 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. One and two family homes over 3,600 sf (excluding attached garages) shall comply with additional fire protection requirements.

<b>F</b>	<b>Development Review Timelines &amp; Advisory Information</b>
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- F-1 **Land Division:** Within 7 years after the effective date of this decision, the developer shall submit to the Planning Director a fully complete final plat consistent with CCC 40.540.070 and the requirements of this preliminary plat approval. Otherwise, this preliminary plat approval shall automatically expire and become null and void.
- F-2 **DOE Stormwater Permit:** A stormwater permit from the Department of Ecology (DOE) is required if both of the following conditions occur:
  - a. The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; AND

- b. 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 1-acre threshold. This applies even if the developer is responsible for only a small portion (less than one acre) of the larger project planned over time. The developer shall Contact the DOE for further information.

**F-3 Building and Fire Safety:** Building and Fire, Life, and Safety requirements shall 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 developer 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.

**F-4 Double frontage lots:** Lots 17 through 29 will be double frontage lots with two front setbacks unless a note is placed on the final plat prohibiting individual driveways from these lots onto NE 78<sup>th</sup> Street. See Land Use Finding 3.

**Date of Decision:** December 4, 2015.

By:   
Daniel Kearns,  
Land Use Hearings Examiner

**NOTE:** Only the Decision and Conditions of approval, if any, are binding on the applicant, owner or subsequent developer of the subject property as a result of this Order. Other parts of the final order are explanatory, illustrative or descriptive. There may be requirements of local, state or federal law or requirements which reflect the intent of the applicant, county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of this final order unless included as a condition of approval.

#### Motion for Reconsideration

Any party of record to the proceeding before the hearings examiner may file with the responsible County official a motion for reconsideration of the Examiner's decision within 14 calendar days of written notice of this decision. A party of record includes the applicant and those individuals who signed the sign-in sheet, presented oral testimony at the public hearing, or submitted written testimony prior to or at the Public Hearing on this matter. Any motion for reconsideration must be accompanied by the applicable fee and identify the specific authority in the 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 the rights of the moving party:

- a. Procedural irregularity or error, clarification, or scrivener's error, for which no fee will be charged;

- b. Newly discovered evidence, which the moving party could not with reasonable diligence have timely discovered and produced for consideration by the examiners;
- c. The decision is not supported by substantial evidence in the record; or,
- d. The decision is contrary to law.

Any party of record may file a written response to a Motion for Reconsideration if filed within 14 calendar days of the motion for reconsideration. In response to a timely Motion for Reconsideration, the Examiner will issue a decision on reconsideration within 28 calendar days of the date the motion was filed.

#### Notice of Appeal Rights

This is the County's final decision on this application. Anyone with standing may appeal any aspect of the Hearings Examiner's decision, except the SEPA determination, to Clark County Superior Court pursuant to the Washington Land Use Petition Act, RCW chapter 36.70C.

Role	Company Name	Name	Address 1	Address 2	City	State	Zip Code	Email Address
Planner	Clark County	Jan Bazala						
Applicant	Krippner Homes	Mason Wolfe	6715 NE 63rd St	Ste 166	Vancouver	WA	98661	mason@krippnerhomes.com
Owner		Myron & Debra Smokey	PO Box 820938		Vancouver	WA	98682	
Owner	Thousand Hills Management, LLC		6012 NW 169th St		Ridgefield	WA	98642	
Owner		Jesse & Linda Hurley	16906 NE 78th St		Vancouver	WA	98682	
N/H Association	Heritage Neighborhood Association	Christi BrownSilva	13504 NE 84th St	Ste 103-141	Vancouver	WA	98682	heritagenighborhood@gmail.com
Contact Person	Same as applicant							
Utility Contact								
	Clark County	Desiree DeMonye						Desiree.DeMonye@clark.wa.gov
	City of Vancouver	Kristin Lehto						Kristin.Lehto@cityofvancouver.us
		Jennifer Halleck						Jennifer.Halleck@vansd.org
		Jeff Roberts						jeff@crandallgroup.com
		Curtis Achziger						cbachziger45@centurylink.net
Dept of Ecology								smen461@ecy.wa.gov
DAHP								Gretchen.Kaehler@dahp.wa.gov
		Jeff Whitten	2401 W Main St	Ste 210	Battle Ground	WA	98604	jeff@wolfe-group.com
		Mason Wolfe	6715 NE 63rd St	Ste 166	Vancouver	WA	98661	mason@krippnerhomes.com
		LeAnn Bremer	500 Broadway	Ste	Vancouver	WA	98660	leanne.bremer@millernash.com
		Jan Harder	PO Box 696		Rancho Santa Fee	CA	98067	janharder@gmail.com





# EXHIBIT LIST

**Project Name: DANI DOWNS SUBDIVISION**

**Case Number: PLD2015-00027; SEP2015-00042**

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1	7/31/15	Applicant	Application package
2	9/3/15	CC Land Use	Notice of Type III Application, Optional SEPA
3	9/3/15	CC Land Use	Affidavit of Mailing Exhibit 2
4	9/17/15	Department of Ecology	SEPA comments
5	9/30/15	DAHP	Letter requiring permit
6	9/30/15	CC Land Use	Early issues email
7	10/7/15	Applicant	Affidavit of 4 X 8 sign posting
8	10/20/15	City of Vancouver	City of Vancouver engineering and concurrency report
9	10/25/15	CC Land Use	Relevant excerpts from ORD 2013-12-20 and developer agreement
10	10/25/15	CC Land Use	ORD 2014-11-03, amendment to capital facilities plan
11	10/8/15	DAHP	Suggested conditions of approval for archaeological
12	10/28/15	CC Land Use	Staff report and recommendation to Examiner
13	10/28/15	CC Land Use	Affidavit of Mailing – Exhibit 12
14	11/12/15	LeAnne Bremer	Memorandum regarding conditions
15	11/12/15	CC Transportation	Revised Condition A-14
16	11/12/15	LeAnne Bremer	City cross section for Neighborhood circulator
17	11/12/15	CC Land Use	Powerpoint slides

**Copies of these exhibits can be viewed at:  
 Department of Community Development  
 Development Services Division  
 1300 Franklin Street  
 Vancouver, WA 98666-9810**