From: Jeffrey Delapena
To: "Heidi Pozzo"
Cc: Oliver Orjiako; Jose Alvarez
Subject: RE: 174th St Subdivision Appeal
Date: Thursday, September 3, 2026 8:51:00 AM

Good day, Heidi,

Thank you for your comments. These will be entered into the Comprehensive Plan Index of Record and forwarded to members of the Planning Commission.

Best,

Jeff Delapena
Program Assistant
COMMUNITY PLANNING

564.397.4558

NOTICE OF PUBLIC DISCLOSURE: This e-mail account is public domain. Any correspondence from or to this e-mail account may be a public record. Accordingly, this email, in whole or in part may be subject to disclosure pursuant to RCW 42.56, regardless of any claim of confidentiality or privilege asserted by an external party.

-----Original Message-----
From: Heidi Pozzo <hcpheidi@yahoo.com>
Sent: Thursday, September 3, 2026 8:45 AM
To: Jeffrey Delapena <Jeffrey.Delapena@clark.wa.gov>
Cc: Oliver Orjiako <Oliver.Orjiako@clark.wa.gov>; Jose Alvarez <Jose.Alvarez@clark.wa.gov>
Subject: 174th St Subdivision Appeal

EXTERNAL: This email originated from outside of Clark County. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Jeff,

Would you please include the appeal for the 174th St Subdivision to the Comp Plan index of record.

Thank you,

Heidi

June 4, 2026

VIA E-MAIL ONLY TO
melissa.curtis@clark.wa.gov
developmentcomments@clark.wa.gov

Joe Turner, Clark County Land Use Hearing Examiner
c/o Melissa Curtis, Staff Contact
Clark County Department of Community Development
1300 Franklin Street
Vancouver, WA 98660

Re: Response Comments on 174th Street Subdivision—PLD-2026-00002, WHR-2026-00012 & FPA-2026-00026

Dear Mr. Examiner and Ms. Curtis:

Pursuant to the schedule for post-hearing submissions set at the hearing in the above-referenced matter on April 23, 2025, please consider the following response comments submitted on behalf of Dean Hergesheimer on the proposed 174th Street Subdivision.

A. The proposed 174th Street Subdivision should be denied for failing to meet applicable concurrency standards.

At the hearing on April 23, 2025, the Examiner requested clarification from the parties regarding whether the findings in the Staff Report, Ex. 52, are consistent with level of service ("LOS") standards set forth in CCC 40.350.020.G.1.a, specifically regarding the code's volume-to-capacity ("v/c") ratio standards for transportation corridors affected by the proposed 174th Street Subdivision. The Examiner recognized the inconsistency in the County's analysis, in that the development proposal exceeds the maximum v/c ratio permitted under CCC 40.350.020.G.1.a, and yet the County nevertheless concluded that concurrency is satisfied. When asked at the hearing to explain how that conclusion could be reconciled with the express language of the code, the County's staff engineer was unable to provide a direct answer and requested more time to discuss the issue with the County's transportation manager during the open record period.

Neither the County nor the applicant have resolved the inconsistency identified by the Examiner or otherwise met their burden of showing that anything other than the plain-language reading of CCC 40.350.020.G.1.a controls the concurrency determination. At the hearing, the applicant's attorney urged the Examiner to disregard the plain language of the code, asserting that enforcing the adopted v/c ratio standard "would be throwing a significant chunk of the County into moratorium." *See* Video Recording of April 23, 2025, Hearing (timestamp 1:54:25).[1] Mr. Morasch further argued that the County has a "long standing practice" of interpreting the code in a manner that permits v/c ratio exceedances so long as the corresponding intersections satisfy the applicable

[1] https://www.cvtv.org/video/clark-county-land-use-hearings-04-23-26-2026041019/

LOS standard. *See id.* (timestamp 1:54:56). The applicant did not, however, submit any further substantive response during the open record period to support that assertion.

In contrast, the County submitted letters from its traffic engineering section manager and transportation division manager asserting that industry practice and past County interpretation are more determinative of LOS performance than the plain language of the code. *See* Ex. 135 (May 21, 2026, letter from Steve Gallup) (recommending a methodology established in the Highway Capacity manual that is nowhere mentioned in the Clark County Code); Ex. 136 (May 21, 2026, letter from David Jardin) (recommending an "evaluation method that has been applied and practiced since 2010," but is not mentioned in the Clark County Code); Ex. 141 (May 21, 2026 county response letter) (asking the Examiner to consider the standards and methodologies recommended by Mr. Gallup and Mr. Jardin). Notwithstanding these letters, the County has not identified any language in the Clark County Code to support its argument that historical practices can override the code's express (and mandatory) v/c ratio LOS standard.

Principally, the County's post-hearing submittals rely on CCC 40.350.020.F.9 for its assertion that that v/c ratio is "not [] an absolute" and that concurrency staff can "consider other factors that the Public Works Director has determined could have an impact on the operating level of transportation corridors and intersections" in its concurrency analysis. Ex. 136 at 2. The County's interpretation effectively treats subsection F.9 as overriding the clear, unambiguous LOS standards codified in subsection G. *See* CCC 40.350.020.G.1.a (establishing a v/c ratio standard of 0.9 for affected transportation corridors). But that is not at all the purpose of subsection F.9. Subsection G establishes the County's mandatory LOS standards, both for corridors and intersections. Subsection F merely specifies the factors that the County must consider in determining if those LOS standards will be met. Subsection F certainly does not—as the County argues—allow the County to ignore the clear, unambiguous LOS standards in subsection G.

In subsection G, the County has established three principal LOS standards—one for transportation corridors (CCC 40.350.020.G.1.a), one for signalized intersections (CCC 40.350.020.G.1.b), and one for unsignalized intersections (CCC 40.350.020.G.1.c). The LOS standard for corridors at G.1.a is volumetric, meaning compliance is measured by comparing the projected traffic volume ("v") of the roadway against the road's capacity ("c"), with a fixed "c-value" defined in the table at G.1.a depending on the road type. By contrast, the standards for signalized and unsignalized intersections are temporal. Rather than measuring traffic volumes against roadway capacity, they evaluate performance based on delay and wait-time thresholds—*i.e.,* the amount of time it would take a car to move through the intersection during the peak hour of traffic. CCC 40.350.020.G.1.b–c.

This distinction is critical to understanding the purpose and limits of subsection F. When the County conducts a concurrency analysis, the different types of LOS standards at CCC 40.350.020.G necessarily require consideration of different types of information. The factors listed in subsection F reflect that reality. Some factors are specifically directed toward determining traffic levels, i.e., the "v" component of the corridor v/c LOS calculation—including existing traffic levels, potential traffic from proposed and approved developments, background traffic growth, and reserve capacity. *See* CCC 40.350.020.F.1, .4, .5, .7 & .8. Other factors relate to the present (and

future) physical parameters of the road system and are more relevant to intersection performance and a temporal standard, such as mitigation measures imposed on approved developments, any reasonably funded future road improvements, and physical modifications to the road that could affect temporal wait times. *See* CCC 40.350.020.F. .2, .3, .6. Subsection F.9 then serves as a catchall, directing the Public Works Director to consider any additional factors that may affect the operating level of transportation corridors or intersections but that are not otherwise captured in the preceding provisions. *See* CCC 40.350.020.F.9 (directing the County to consider "[a]ny other factors that the Public Works Director has determined could have an impact on the operating level of the transportation corridors or intersections.").

In essence, subsection F tells the County all the "inputs" it must consider when it evaluates whether LOS standards will be met. Subsection G codifies the LOS standards themselves. Nothing in subsection F says that the LOS standards in subsection G can simply be ignored, or that one of those LOS standards can replace another. In this regard, the County's interpretation is particularly flawed because subsection G states each LOS standard in mandatory terms. *See* CCC 40.350.020.G.1.a ("LOS standards ***shall*** be as follows: The maximum volume to capacity ratio for each roadway segment ***shall not exceed*** nine-tenths (0.9)") (emphasis added); CCC 40.350.020.G.1.b ("Individual movements at each signalized intersection of regional significance in the unincorporated county ***shall not exceed***…") (emphasis added); CCC 40.350.020.G.1.c ("All unsignalized intersections of regional significance in the unincorporated county ***shall achieve*** LOS E standards or better…") (emphasis added). Each of these LOS standards is binding and mandatory. None of them can be ignored.

Thus, properly understood, subsection F.9—the sole code section cited by the County for its reading of the LOS concurrency standards—functions as a catchall for additional considerations that may affect the concurrency analysis. It permits staff to account for factors that influence transportation performance but are not expressly identified elsewhere in subsection F. It does not authorize staff to replace the adopted LOS standards with different standards. Nor does it permit compliance to be determined based on considerations other than those standards themselves.

In sum, CCC 40.350.020.G.1.a establishes mandatory maximum v/c ratio of 0.9 for transportation corridors. That ratio is the threshold against which compliance is measured. Subsection F identifies the factors that inform the analysis used to determine whether that threshold is met. Nothing in subsection F purports to authorize County staff to alter, waive, or disregard that mandatory standard.

This reading is reinforced by subsection CCC 40.350.020.E.3, which directs the Public Works Director to issue a concurrency approval only when the proposal complies with the adopted level-of-service standards set forth in subsection G. *See* CCC 40.350.020.E.3 ("The Public Works Director shall issue a concurrency approval where the Public Works Director determines that the proposed development's impacts upon all affected transportation corridors and intersections of regional significance *do not result in the operating levels for the transportation corridors, signalized intersections, and unsignalized intersections falling below the adopted level of service standards established in Section 40.350.020.G*") (emphasis added). A roadway operating above the maximum v/c ratio established in CCC 40.350.020.G.1.a does not satisfy those standards. The

County's interpretation would therefore render the v/c ratio standard meaningless and would violate the plain language of the code.

B. The Hearing Examiner does not have authority to grant ad hoc exemptions to the County's adopted LOS standards, or to allow County Staff to deviate from those standards in their concurrency analysis. The Examiner's role is to enforce the code as written.

In their response letters, Mr. Gallup and Mr. Jardin effectively ask the Hearing Examiner to look beyond the plain language code requirements and to award an equitable remedy—namely, to approve new, non-code-compliant concurrency standard that, in the County's opinion, provides "a clearer and more realistic understanding of current operations." Ex. 13 at 2. But it is not for the Examiner to decide which standard is preferred by County administrative staff, but to enforce the standard adopted by the Clark County Council and codified in the Clark County Code.

Washington courts have long held that hearing examiners may not apply equitable doctrines that may otherwise be common in the Washington court system. *See Chaussee v. Snohomish Cnty. Council,* 38 Wn. App. 630, 636 (1984). The courts' basis for that holding is that administrative bodies (including hearing examiners) "are creatures of the legislature without inherent or common-law powers conferred either expressly or necessarily by implication." *Chaussee*, 38 Wn. App. at 636 (emphasis added; quoting *Messer v. Bd. of Adjustment*, 19 Wn. App. 630, 639 (1984)). Similarly, in *Durland v. San Juan county*, the Court of Appeals held that "[a] hearing examiner's authority [] is *limited* to that granted by the creating body." *Durland v. San Juan County*, 174 Wn. App. 1, 11 n.6 (2012) (emphasis added). In *Lejeune v. Clallam County*, the Court of Appeals again held that "[a]dministrative tribunals are creatures of the legislative body that creates them, . . . *and their power is limited to that which the creating body grants*." 64 Wn. App. 257, 270 (1992) (emphasis added). The common theme of all these cases is that administrative tribunals, including hearing examiners, have no inherent common-law powers. They can apply the code as written. They cannot override or grant deviations from the code when the code itself does not allow for that.[2]

Here, the County has cited no provision of the Clark County Code that would allow the Examiner to ignore or deviate from any of the mandatory LOS standards at CCC 40.350.020.G. The County

[2] On this point, we also note that CCC 40.350.020.N specifically requires the Public Works Director to publish (and to regularly update) an official manual describing the County's methodologies and criteria for determining concurrency under Section 40.250.020 of the Clark County Code. *See* CCC 40.350.020.N.3. To our knowledge, such a manual has not been published. But even if such a manual had been published, and even if it had been updated to include the novel approach to concurrency that the County now advances, the code clearly specifies that the LOS standards codified at CCC 40.350.040.G control over any contrary interpretation advanced by County administrative staff. *See* CCC 40.350.040.N.5 ("The provisions of the administrative manual shall be consistent with and implement the provisions of this section. *To the extent the provisions of the manual are inconsistent with the provisions of this section, the provisions of this section shall control*.") (emphasis added). For this reason, too, the Examiner has no authority to deviate from the clear LOS standards codified at CCC 40.350.040.G, including the mandatory v/c corridor standard at CCC 40.350.040.G.1.a.

Council could easily have adopted different standards or amended the code if it wanted to, but has not chosen to do so. If the County believes the adopted concurrency standards no longer reflect its preferred methodology, the remedy is to amend the code through the County's legislative process, not to ask the Examiner to ignore the code as written.

Ultimately the Hearing Examiner's duty is to determine if the subdivision approval criteria have been met. Among those criteria is the requirement that "[t]he proposal complies with ***all applicable standards*** in this code." *See* CCC 40.350.040.D.3.c (emphasis added). Here, the LOS standards at CCC 40.350.020.G are among the applicable standards in the code that the 174th Street proposal must meet, and they are mandatory, without exception. The updated Staff Report itself confirms that the proposal exceeds the designated v/c ratio standard, thereby failing to comply with the County's own concurrency requirements. *See* Ex. 52 at 4 (April 21, 2026, Concurrency Staff Report) ("The traffic study indicates that the above corridors will have a volume to capacity (v/c) ratio of greater than 0.9 in the 2028 buildout horizon."); *see also* Ex. 140 at 5 (May 21, 2026, Concurrency Staff Report) (same). Because the corridor LOS standard at CCC 40.350.020.G.1.a will not be met, the subdivision must be denied.

Thank you for your consideration of this comment letter.

Very truly yours,

TELEGIN LAW PLLC



Bryan Telegin

Counsel for Dean Hergesheimer

cc: Client

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR COWLITZ COUNTY

HEIDI POZZO; DEAN HERGESHEIMER; and JASON JOB, Petitioners, v. CLARK COUNTY; SILVER BUCKLE HOMES, LLC; ROBERT ROOT; ANNETTE ROOT; SHAWN ROOT; YVETTE ROOT; TOBIN BOSLAUGH; KATARZYAN BOSLAUGH; SCOTT EVERSAUL; and ANGELA EVERSAUL Respondents.	No. **LAND USE PETITION**

1. Parties

1.1 The names and mailing addresses of the Petitioners are:

Heidi Pozzo
17312 NE 27th Court
Ridgefield, WA 98642

Dean Hergesheimer
4404 NE 174th Street
Vancouver, WA 98686

Telegin Law PLLC
216 6th St.
Bremerton, WA 98337
Tel. (206) 453-2884

Jason Job
3613 NE 168th Street
Vancouver, WA 98686

1.2 The name and mailing addresses of the petitioners' attorney are:

Bryan Telegin, WSBA No. 46686
Telegin Law PLLC
216 6th St.
Bremerton, WA 98337

1.3 The name and mailing address of the local jurisdiction whose land use decision is at issue are:

Clark County
c/o Clark County Auditor
1300 Franklin St., #575
Vancouver, WA 98660

1.4 Pursuant to RCW 36.70C.040(2)(b)-(d), Petitioners add the following parties as additional respondents:

Silver Buckle Homes, LLC
c/o: Rob & Annette Root
2210 W Main Street
#107-391
Battle Ground, WA 98604

Robert & Annette K. Root
16915 NE 40th Avenue
Vancouver, WA 98686

Robert & Annette K. Root
18915 NE 40th Avenue
Vancouver, WA 98686

Shawn & Yvette Root
17101 NE 40th Avenue
Vancouver, WA 98686

Tobin & Katarzyan (or Katarzyna) Boslaugh
18501 NE 101st Avenue
Battle Ground, WA 98604

Telegin Law PLLC
216 6th St.
Bremerton, WA 98337
Tel. (206) 453-2884

Scott & Angela Eversaul
13311 NE 4th Court
Vancouver, WA 98685

2. Identification of the decision-making body or officer and decision.

2.1 This Land Use Petition challenges the Clark County Land Use Hearing Examiner's July 9, 2026, Final Order in PLD-2026-00002 (Attachment A hereto), also known as the 174th Street Subdivision application.

3. Facts Demonstrating That Petitioners Have Standing to Seek Judicial Review

3.1 Petitioners Heidi Pozzo, Dean Hergesheimer, and Jason Job reside in the area that would be impacted by traffic from the proposed development. Some of the Petitioners, such as Mr. Hergesheimer, live immediately adjacent to the proposed subdivision, while others, such as Ms. Pozzo, live in the broader neighborhood and will be harmed by overburdened roads as excess traffic volumes will naturally spill over into successive roadways when capacities are exceeded, violating the requirements of the Clark County Code ("CCC").

3.2 The Examiner's decision has prejudiced and are likely to prejudice Petitioners through increased vehicular traffic on NE 174th Street, which has not been designed or constructed to safely accommodate the anticipated traffic levels projected to come with the proposed development, in addition to the other in-progress and proposed developments in the area. Current traffic levels in the area already pose significant hazards to pedestrians and other users, including Petitioners. The increased traffic levels likely to be brought by the proposed development will only increase the danger.

3.3 Petitioners' asserted interests are among those that the Examiner was required to consider when issuing the challenged decision. Petitioners actively participated in the hearing on

Telegin Law PLLC
216 6th St.
Bremerton, WA 98337
Tel. (206) 453-2884

April 23, 2026, during the open-record period following the hearing, and expressed the concerns raised in this Land Use Petition all of which are directly relevant under the Clark County Code.

3.4 A decision in favor of Petitioners on the issues raised herein would substantially eliminate or redress Petitioners' injuries because such a decision would require reversal of the challenged decisions and denial of the 174th Street Subdivision application.

4. A Separate and Concise Statement of Each Error Alleged to Have Been Committed and the Facts Upon Which the Petitioners Rely to Sustain the Statements of Error.

4.1 Clark County Code 40.350.020(G)(1)(a)—a provision of the County's Concurrency Management System under the Growth Management Act—limits vehicular traffic generated by a development project by specifying that that "[t]he maximum volume to capacity ratio for each roadway segment *shall not* exceed nine-tenths (0.9)." The proposed 174th Street Subdivision will exceed that limit and the Examiner erred in approving the project. The Examiner erroneously and impermissibly interpreted this code section to be merely advisory, ignoring the mandatory limit.

4.2 The Examiner failed to consider or evaluate Ms. Pozzo's contention that excluding several unsignalized intersections of regional significance violates the County's Concurrency Management System. Failure to include all relevant intersections violates the code, including CCC 40.350.020(G)(1)(c). Intersections improperly excluded from the analysis include NE 199th Street at NE 29th Avenue, NE 199th Street at NE 50th Avenue, NE 194th Street at NE 10th Avenue, NE 194th Street at NE 29th Avenue, NE 189th Street at NE 10th Avenue, NE 189th Street at NE 29th Avenue, NE 179th Street at NE Delfel Road, NE 164th Street at NE 10th Avenue, NE 149th Street at NE 10th Avenue, NE 156th Street at NE Union Road, NE 159th Street at NE 29th Avenue, NE Salmon Creek Street at NE 50th Avenue, NE 139th Street at NE 50th Avenue, NE 139th Street at NE 20th Avenue, NE 139th Street at NE 23rd Avenue, NE 139th Street at NE 29th Avenue, NE

Telegin Law PLLC
216 6th St.
Bremerton, WA 98337
Tel. (206) 453-2884

179th Street at NE 47th Avenue, NE 159th Street at NE 64th Avenue, and NE 139th Street at NE 72nd Avenue.

4.3 The Examiner acknowledged that the Traffic Impact Study ("TIS") provided by the applicant did not consider traffic impacts from Kozy Manner Estate, Four Creeks North, or Three Creeks East, despite that these projects are also acknowledged by the Examiner to be in-process developments impacting the very same traffic corridors as the proposed development. This is impermissible under CCC 40.350.020(E)(2), which requires that "multiple development applications impacting the same transportation corridors or intersections *shall* be tested chronologically in accordance with the respective applications' fully complete dates" (emphasis added). County staff further acknowledged that information regarding these in-process developments and their applications was not provided to the applicant's traffic engineer, and so it could not be included in the TIS. While the applicant is responsible for conducting and providing a TIS, it is nonetheless the County's responsibility to ensure compliance with CCC 40.350.020(E)(2), which did not occur here. By approving the 174th Street Subivsion despite these failures, the Examiner violated CCC 40.350.020(E)(2) and the Clark County's Transportation Concurrency Management System at CCC 40.350.020.

4.4 The Examiner further erred in his interpretation of CCC 40.350.020(G)(1)(a) insofar as he relied on the applicant's and County staff's interpretation of CCC 40.350.020(F)(9) to essentially give the County *carte blanche* in determining how to determine safe operating levels, subsuming (G)(1)(a) under (F)(9) as simply a single factor among many. By its plain language, CCC 40.350.020(F)(9) does not allow the County to approve a project when it would otherwise violate the v/c ratio limit at CCC 40.350.020(G)(1)(a).

Telegin Law PLLC
216 6th St.
Bremerton, WA 98337
Tel. (206) 453-2884

4.5 The Examiner erred in relying on the applicant's and county staff's concurrency analysis which relied, in turn, on county road improvement projects the funding for which is not reasonably secured and are not likely to be constructed prior to build-out of the proposed 174th Street Subdivision. The Examiner also erred in relying on projects outside the County's road improvement plan.

4.6 The Examiner erred in relying on an assigned road capacity for NE 179th Street that does not match the capacity of the existing road, but rather reflects the future capacity of that road under future, uncertain build-out conditions. The same is true for NE 10th Avenue, NE 199th Street, NE 29th Avenue, and NE 72nd Avenue.

4.7 The Examiner erred in accepting the applicant's concurrency analysis despite the LOS failure of several affected intersections, including the intersection of NE 179th Street and NE 50th Avenue, the intersection of NE 174th Street and NE 50th Avenue, and the intersection of NE 159th Street and NE 72nd Avenue.

4.8 The Examiner erred in applying signalized intersection LOS standards to non-signalized intersections, including area roundabouts.

4.9 In all of the ways above, the Examiner's approval of the 174th Street Subdivison represents an erroneous interpretation of the law, a clearly erroneous application of the law to the facts, does not follow prescribed procedure, and is not supported by substantial evidence.

5. Request for Relief

Petitioners respectfully request that the Court issue an order that:

A. Sets aside, reverses, and modifies the challenged decision on the grounds identified above.

Telegin Law PLLC
216 6th St.
Bremerton, WA 98337
Tel. (206) 453-2884

B. Remands this matter for correction of the errors identified above, including denial of the proposed NE 174th Street Subdivision; and

C. Grants such further relief as the Court finds appropriate under the circumstances.

Dated this 29th day of July, 2026.

Respectfully submitted,

TELEGIN LAW PLLC

By: _____

Bryan Telegin, WSBA No. 46686
216 6th Street
Bremerton, WA 98337
Tel: 1.206.453.2884, ext. 101
E-mail: bryan@teleginlaw.com
Counsel for Petitioners Heidi Pozzo, Dean Hergesheimer, and Jason Job

Telegin Law PLLC
216 6th St.
Bremerton, WA 98337
Tel. (206) 453-2884

ATTACHMENT A

BEFORE THE LAND USE HEARINGS EXAMINER
OF CLARK COUNTY, WASHINGTON

Regarding an application by Silver Buckle Homes, LLC for approval of a zone change from R1-20 to R1-10 and preliminary plat approval to divide 24.97-acres into 100 lots at 17101 and 16915 NE 40th Avenue in unincorporated Clark County, Washington	))))	**F I N A L O R D E R** **PLD-2026-00002** **(174th Street Subdivision)**

A. SUMMARY

1. The applicant, Silver Buckle Homes, LLC, requests approval of a zone change from R1-20 (Single-Family Residential, 20,00 square foot minimum lot size) to R1-10 (Single-Family Residential, 10,00 square foot minimum lot size) for the western portion of a 24.97-acre parcel located at 17101 and 16915 NE 40th Avenue; also known as tax assessor Parcels 181731000, 181721000, 181711000, 181696000, 181764000, 181765000, and 181766000 (the "site"). The western roughly one-third of the site and properties to the west are zoned R1-10. The remainder of the site and properties to the east and south are zoned R1-20. Properties to the north, across NE 174th Street, are zoned R1-7.5 (Single-Family Residential, 7,500 square foot minimum lot size). The site and all surrounding properties are also subject to the Mill Creek Overlay zone.

2. The applicant also requests approval to divide the site into 100 lots for single-family detached homes and tracts for open space and stormwater facilities, subject to approval of the zone change.

a. The site is relatively flat with moderate slopes on the southwest and eastern portion of the site. A Type Ns (seasonal) stream bisects the southwest corner of the site. There is a wetland near the southwest corner of the site and an offsite wetland abutting the west boundary, the buffer of which extends onto the site. The applicant proposed to retain the majority of the stream and associated buffer in an open space tract, proposed Tract A. Required improvements to NE 169th Street will impact the stream. The applicant proposed to fill the on-site wetlands and buffer. The applicant will mitigate the stream and wetland impacts by enhancing the remaining riparian habitat area on the site and through the purchase of mitigation bank credits.

b. The site contains two existing homes and associated accessory structures. The applicant proposed to remove all of the accessory structures and retain the existing homes on proposed Lots 16 and 95. The applicant will construct a new single-family detached residence on each of the remaining proposed lots. All proposed lots will comply with the minimum dimensional standards for the R1-10 zone.

c. The applicant will collect, treat, and detain stormwater runoff from impervious surfaces throughout the site. The applicant will release treated stormwater to the existing storm sewer system within the Viers subdivision south of the site at less than predevelopment rates. Clark Public Utilities and Clark Regional Wastewater District will supply domestic water and sanitary sewer service respectively to the site.

d. The applicant will construct new streets within the site to provide access to the proposed lots, extend proposed NE 43rd and 44th Ways and NE 171st Street and NE 170th and 173rd Streets within the proposed Viers development to the east into the site, and construct additional roadways within the site to provide access to the proposed lots.

3. Clark County Hearing Examiner Joe Turner (the "examiner") conducted an online public hearing about the application. County staff recommended the examiner approve the application subject to conditions. See the Type III Land Division and Environmental Review Staff Report and Recommendation to the Hearing Examiner dated April 8, 2026, (the "Staff Report") as amended by Exhibit 140. The applicant accepted those findings and conditions, as amended, without objections. Three persons testified orally and in writing with questions and concerns about the development and other persons testified in writing. Disputed issues or concerns in the case include the following:

a. Whether the proposed zone change complies with the criteria in CCC 40.560.020;

b. Whether NE 174th Street, a collector roadway, is subject to the maximum 100-lot limitation of CCC 40.350.030(B)(4)(b)(4)(a);[1]

c. Whether NE 40th Avenue can serve as a secondary access for this development required by CCC 40.350.030(B)(4)(b)(4)(a), given turning movement restrictions for large vehicles at this intersection;

d. Whether traffic from this development will exceed the capacity of NE 174th Street or otherwise create a hazard;

e. Whether traffic from this development will exceed the capacity of NE 40th Avenue;

f. Whether the examiner must consider submittals prepared with the assistance of generative AI software;

g. Whether the examiner can correct alleged errors, consider unintended consequences, and other policy arguments in determining the requirements of the Code;

h. Whether the County's concurrency analysis considered traffic from all in-process developments;

[1] Although the Code is formatted using the outline structure CCC 40.350.030.B.4.b(4)(a) all internal citations use a different outline structure, CCC 40.350.030(B)(4)(b)(4)(a). The examiner uses the second structure in order to be consistent with the Code, although the former structure seems more understandable and consistent with the actual format of the Code.

i. Whether the applicant's traffic study reviewed all intersections of regional significance located within a two-mile radius of the site that are impacted by traffic from this development;

j. Whether the applicant is required to improve the NE 179th Street/NE 50th Avenue intersection to meet minimum LOS requirements;

k. Whether traffic from this development will exceed the limitations of CCC 40.350.020(G)(1)(c) at the NE 179th Street/NE 50th Avenue intersection;

l. Whether roundabout controlled intersections are subject to review as signalized or unsignalized intersections;

m. Whether planned roundabouts at the I-5/179th Street interchange are funded and scheduled for completion within six years from the date of this Final Order;

n. Whether CCC 40.350.020(F)(9) authorizes the County to consider factors other than the 0.9 v/c ratio set out in CCC 40.350.020(G)(1)(a) in its evaluation of concurrency corridors;

o. Whether the County reviewed the capacity of the NE 179th Street corridor segment between NE 29th and NE 50th Avenues based on the existing roadway condition, rather than the planned but unfunded Pr-4cb roadway condition;

p. Whether the examiner can consider SEPA issues absent a SEPA appeal; and

q. Whether the County's initial recommendation of denial impacted Ms. Pozzo's ability to file a SEPA appeal,

4. Based on the findings provided or incorporated herein, the examiner approves PLD-2026-00002 (174th Street Subdivision) subject to the conditions at the end of this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. The examiner received testimony at a public hearing about this application on April 23, 2026. That testimony and evidence, including a video recording of the public hearing and the casefile maintained by the Department of Community Development ("DCD"), are included herein as exhibits, and they are filed at DCD. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. County planner Richard Daviau summarized the Staff Report and his PowerPoint presentation.

a. He noted that the western roughly 1/3rd of the site is currently zoned R1-10 and the remainder is zoned R1-20. The applicant is requesting to rezone the entire site to R1-10. The site is also subject to the Mill Creek Overlay zone. The applicant is also requesting a ten-percent variance to the lot width standard.

b. The applicant proposed to subdivide the 24.97 acre site into 100 lots for single-family detached homes.

3. County senior deputy prosecuting attorney Steve Archer noted that opponents of the application argued that the application does not comply with CCC 40.350.030(B)(4)(b)(4)(a), which prohibits a single road serving more than 100 lots. He noted that the examiner has address this issue in the past and determined that it does not apply to NE 174th Street, which is classified as an "Urban Collector" and that decision was affirmed by the Superior Court.

4. County concurrency engineer Craig Kathol noted that the County recommended denial of the application due to the need for a dedicated northbound left-turn lane at the NE 50th Avenue/NE 179th Street intersection. However, the applicant subsequently volunteered mitigation at this intersection (widening NE 50th Avenue and striping a turn lane) that will ensure that post-development intersection operations meet or exceed predevelopment conditions. Therefore, he recommended the examiner approve the application subject to conditions.

a. He testified that the volume to capacity ("v/c") ratio is a tool to understand the traffic volumes in a particular regionally significant road corridor. When the v/c ratio exceeds 0.9 concurrency staff review the Level Of Service ("LOS") of the intersections at either end of the corridor to determine if the corridor is actually operating at acceptable levels. In this case all of the affected intersections are projected to operate at acceptable LOS with the additional traffic from this development, with the exception of the NE 50th Avenue/NE 179th Street intersection and the NE 159th Street/72nd Avenue intersection. The applicant proposed to mitigate the NE 50th Avenue/NE 179th Street intersection. CCC 40.350.020(G)(1)(c) does not require mitigation for the NE 50th Avenue/NE 179th Street intersection, as this development will not generate five or more peak period trips through the failing intersection approach.

5. County biologist Ariel Whitacre noted that the Washington Department of Fish and Wildlife ("WDFW") confirmed that a Hydraulic Project Review ("HPA") approval is not required for this development. (Exhibit 10). The statement on page 3 of the Staff Report that an HPA is required is incorrect.

6. Attorney Steve Morasch appeared on behalf of the applicant. He accepted the findings and conditions in the Staff Report without objections.

a. He argued that the County has always interpreted CCC 40.350.020(G)(1)(a) to require additional intersection analysis when the v/c ratio exceeds 0.9, rather than viewing the 0.9 standard as an absolute limit. Reading 0.9 ratio as an

absolute limit would result in a moratorium on all developments that add traffic to NE 179th Street as well as in many other areas of the County. The applicant and other developers in the area of NE 179th Street prepaid Traffic Impact Fees ("TIFs") as well as an additional transportation surcharge in order to fund improvements to the NE 179th Street corridor, lift the development moratorium for this area, and allow development to occur on this corridor. It is not possible to solve concurrency issues based solely on v/c ratios, as it is impossible to create more capacity. CCC Table 40.350.020-1 defines capacity based on the functional classification of the roadway, regardless of the actual roadway operation. In this case NE 179th Street is classified as a principle arterial with a capacity of 1,800 vehicles per hour in a single direction. Therefore, it is impossible to increase the capacity without changing the classification of the roadway. That results in a nonsensical interpretation of the Code.

b. The SEPA appeal period for this application expired and a SEPA appeal was not filed. Therefore, the examiner has no jurisdiction to consider SEPA issues. Concurrency is a Code issue, not SEPA, and therefore is subject to review without a SEPA appeal.

c. He noted that the arguments in Exhibit 16 appear to be written by AI, as the case citations are not accurate. For example, *Achen et al. v. Clark County* is cited as a decision of the Central Puget Sound Growth Management Hearings Board ("CPSGMHB"). But this Clark County decision was actually issued by the Western Washington Growth Management Hearings Board ("WWGMHB"). In addition, the Growth Management Hearings Boards (GMHB) review comprehensive plan changes, not development proposals, so GMHB decisions are less relevant to this type of development application.

d. Regarding the zone change and the "substantial change" requirement, that same issue was addressed in the examiner's decision regarding the 90th Street Site Plan (PSR-2022-00049 and WHR-2022-00106, Exhibit 48), where another hearings officer approved a zone change to higher density based on the Clark County Housing Options Study and Action Plan (Exhibit 76).

e. Regarding CCC 40.350.020(G)(1)(a), the examiner previously determined that the 100 lot limit does not apply to NE 174th Street as it is a collector roadway and that decision has been affirmed by the Superior Court on three prior occasions. With regard to NE 40th Avenue, this development complies with CCC 40.350.020(G)(1)(a), as the development will provide two accesses: one directly to NE 174th Street and a second access to NE 40th Avenue which will function as a local access road or better.

f. Traffic from this development will not exceed the design capacity of NE 40th Avenue. Mr. Hergesheimer questions whether NE 40th Avenue is a local access street or a neighborhood circulator, which is another type of local access street with higher capacity. The County typically determines the design classification through its project review process, deciding whether to require the road to meet the higher neighbor

circulator standard based on the number of trips being generated in the area. The applicant's engineer estimated that this development and all existing and previously approved developments will generate 1,300 Average Daily Trips ("ADT") on NE 40th Avenue, which is less than the design volume for a local access street.

g. He requested the examiner hold the record open to allow all parties an opportunity to submit new testimony and evidence.

h. He noted that concurrency requires that necessary improvements must be funded and scheduled for completion within six years from the date of the final decision. It does not require completion prior to occupancy of the proposed homes.

7. Area resident Heidi Pozzo argued that concurrency review is intended to ensure that adequate roadway capacity is actually available at the time homes on the site are occupied. She argued that intersection LOS analysis is inconsistent with the plain language of CCC 40.350.020(G)(1)(a); the 0.9 v/c ratio is an absolute limit and does not allow for further analysis based intersection LOS. In addition, signalized intersections function differently than roundabouts; intersection backups from a red light clear when the signal turns green, whereas roundabouts allow for continuous traffic flow through the intersection, so there is no "clearing" of congestion from the road segment. In this case, the applicant's traffic study demonstrates that the pace of development has exceeded the capacity of the roadway system. Therefore, this application must be denied.

a. She expressed concern with the SEPA review process, as the County Staff Report failed to address the concerns she raised in her written testimony. She chose not to file a SEPA appeal because the County was recommending denial of the application. The County changed its recommendation based on new information provided by the applicant on the last day to file a SEPA appeal, creating a process issue.

8. Jason Job argued that the examiner should deny the application based on concurrency, safety, and neighbors' opposition. Development in this area should be paused until the infrastructure is improved to accommodate the increased traffic. In addition, NE 174th Street will provide the only access route for more than 300 homes, creating a significant hazard in the event of a fire or similar emergency requiring evacuation of the area. Existing NE 174th Street is not improved as a collector street, the existing pavement is only 20 feet wide.

9. Steve Thalberg agreed with Ms. Pozzo regarding the traffic signal/roundabout issue. CCC 40.350.020(G)(1)(a) requires corridors to have a minimum v/c ratio of 0.9. The plain text of the Code does not allow staff to vary from this requirement based on consideration of intersection LOS. In addition, CCC 40.350.020(F)(6) requires that concurrency improvements must be currently funded and scheduled for completion within six years. Existing NE 174th Street is not improved to the PR4cb standard for an Urban Principal Arterial a collector street, with four lanes, two bike lanes. The existing roadway has two lanes and no bike lanes. Therefore, concurrency is not met as it currently does not have sufficient capacity and further improvements to this roadway are

not funded or scheduled for completion within six years. Improvements to the 179th Street/I-5 intersection are not scheduled to occur until 2031 or later, beyond the six-year time frame. The applicant proposed mitigation to match existing pre-development conditions at the 50th Avenue/179th Street intersection, but that intersection is already failing and will continue to fail with the proposed improvement.

10. Attorney Bryan Telegin appeared on behalf of area resident Dean Hergesheimer and requested the examiner allow a longer open record period in this case.

11. At the conclusion of the hearing the examiner held the record open for seven weeks, subject to the following schedule:

a. For four weeks, until May 21, 2026, for anyone to submit additional written testimony and evidence in this matter; and

b. For an additional two weeks, until June 4, 2026, for anyone to respond to whatever was submitted during the first open record period; and

c. For a final week, until June 11, 2026, for the applicant to submit a written final argument, without any new evidence.

12. Exhibits 78-155 were submitted during the open record period:

C. FINDINGS:

Only issues and approval criteria raised during the application review, at the hearing, or 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 regarding 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 following issues relate to the mandatory applicable approval criteria for this proposal and were addressed by county staff in their reports, by agency comments, by the applicant and others. The examiner adopts the following findings regarding each:

Land Use

Finding 1 - Uses

The low-density residential districts are intended to provide for a mix of single-family and middle housing types in a low-density context at a neighborhood scale. The applicant is applying for a concurrent rezone of the R1-20 portion of the site to R1-10; therefore, only standards for the R1-10 zone are addressed below.

According to Table 40.220.010-1 single-family residential dwellings are permitted outright in the R1-20 and R1-10 zones.

Finding 2 - Lot Standards

The R1-10 zone requires an average minimum lot size of 8,500 square feet and an average maximum lot size of 15,000 square feet. This zone also requires an average lot width of 70 feet and an average lot depth of 90 feet.

Table 40.220.010-2 prescribes a minimum lot area, lot width and depth.

Development standards for developments in the R1-10 are as follows:

Standard	Required	Proposed
Min. average lot area	8,500 square feet	8,530 square feet – average lot size
Max. average lot area	15,000 square feet	8,530 square feet – average lot size
Average min. lot width	70 feet	63 feet with 10% variance
Average min. lot depth	90 feet	115 feet

The following table provides the areas dedicated to each use within the project

Gross Site Area	26.57 Acres
Public ROW Dedication	3.23 Acres
Private Street Area	2.49 acres
Total Lot Area	19.58 Acres (853,091 square feet)
Critical Area Tract	0.76 Acres
Stormwater Facility Tract	0.52 Acres

Average lot width and depth minimums are also put forth in Table 40.220.010-2 and are established for each individual lot at 80 feet and 90 feet respectively. Please see Finding 4 below for variances to lot width requirements.

Finding 3 - Setbacks

The following minimum setbacks apply to the proposed lots (see CCC 40.220.010):

Standard	Required	Proposed
Setbacks:		
Front/garage	10'/18'	10'/18'
Side	5'	5'
Street Side	10'	10'
Rear	10'	10'
Max. lot coverage	50%	50%
Max. height	35'	35'

Building envelopes are not required for final plat.

Any future construction on the newly created lots shall meet setback standards prescribed for the R1-10 zone. (See Condition E-1.a)

Finding 4 - Variance 40.550.020

A. Type I and II (Administrative) Variances.

1. *The responsible official may grant a variance to numerical standards including but not limited to: setbacks, buffers, building height, landscaping, width, lot area, lot coverage, lot dimensions and parking standards but not including qualifying standards for programs such as density transfer as provided in this title. Variances for lot area will occur only on parcels within urban growth boundaries.*

2. *An application for a variance(s) shall be subject to Type I review if the variance(s) is for up to and including ten percent (10%) of the numerical standard(s) in question, except as provided in Section 40.550.020(A)(5). A variance for lot area by ten percent (10%) or less for one (1) lot shall be automatically granted, and no application shall be required.*

3. *An application for a variance(s) shall be subject to Type II review if the variance(s) is for:*

   a. *More than ten percent (10%) up to and including twenty-five percent (25%) of the numerical standard(s) in question for any lot/proposed lot, except as provided in Section 40.550.020(A)(5); or*

   b. *Up to ten percent (10%) on more than one lot.*

   The responsible official may not approve an administrative variance of more than twenty-five percent (25%) of any numerical standard.

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

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

   ...

Applicants Request:

The applicant is requesting a 10% lot width variance across multiple lots (63' wide minimum lot width) to facilitate the proposed plan. This variance

is requested to allow for the efficient development of the site given the site constraints. The lot width reduction will allow for the site to be developed close to the minimum allowed average lot area, with a deeper lot depth than is required. The deeper lots (approximately 115') is needed to resolve the grade between lots. Fifty-two lots are proposed to have a reduced lot width.

Without the proposed variances the development could be redesigned to have wider lots that are less deep. Due to the grading across the site, the usable area of many of the lots would be impacted. Some lots on the south and west ends of the site will have up to 12 feet of grade change at the back of the lots which would make the back 25 feet of the lot unusable. This can be reasonably accommodated in the proposed 115-foot-deep lots but would cause issues for shallower lots. The preference is to have a functional rear yard for all the proposed lots.

The requested variances are small and will not be visually noticeable. The narrower lot will necessitate a deeper lot to maintain the minimum average lot sizes. This will create greater building separation from adjacent uses.

The examiner agrees with the applicant's analysis and finds that the application complies with CCC 40.550.020(A)(4)(a).

   b. *If variances to more than one (1) regulation are being requested, the cumulative effect of the variances shall be consistent with the purpose of the zone in which the site is situated; and*

Only one variance is being requested. Therefore, CCC 40.550.020(A)(4)(b) is inapplicable.

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

Applicants Response: "*There are no adverse impacts that will arise from the proposed variances. As stated earlier, the narrower lots will necessitate a deeper lot to maintain the minimum average lot sizes. This will create greater building separation from adjacent uses."*

The examiner agrees with the applicant's analysis and finds that the application complies with CCC 40.550.020(A)(4)(c).

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

Applicants Response: "*The proposed variances do not affect the safety of access for pedestrians or vehicles in any way."*

The examiner agrees with the applicant's analysis and finds that the application complies with CCC 40.550.020(A)(4)(d).

Finding 5 - 40.250.060(C) Mill Creek Overlay District

C. The following additional standards apply in the overlay district:

1. *New lots created adjacent to urban subdivision lots existing at the time of the adoption of the Mill Creek Overlay District shall meet or exceed the average lot size of the abutting subdivision lots unless there are at least two hundred (200) feet of open space between the existing and proposed lots.*

The site is not located adjacent to any urban subdivision lots existing at the time of the adoption of the Mill Creek Overlay District, so this criterion does not apply.

2. *Prior to approval of any development that would add traffic to NE 37th Avenue, additional access via a public road connection to NE 40th Avenue or NE 174th Street must be assured.*

This development will not add any traffic to NE 37th Avenue, therefore, this does criterion not apply to the proposed development.

3. *A minimum lot size of nine thousand (9,000) square feet is required for all land divisions in the R1-10 and R1-20 districts proposing to develop under the density transfer provisions of Section 40.220.010(C)(5), or the planned unit development provisions of Section 40.520.080. The exceptions to lot sizes in Section 40.200.050 shall still apply.*

The applicant is not proposing to develop the site under density transfer or planned unit development provisions. Therefore, this criterion does not apply to the proposed development.

Finding 6 - 40.560.020 Changes to Zoning District and Code Amendments
Roughly one-third of the site is zoned R1-10 and two-thirds of the site is zoned R1-20. The applicant proposes to rezone the R1-20 portion of the site to R1-10.

F. Approval Criteria.
Zone changes may be approved only when all of the following are met:

1. *Requested zone change is consistent with the comprehensive plan map designation.*

Applicants Response:

The proposed zone change is consistent with the existing comprehensive plan map designation. The existing zone (R1-20) and the proposed zone (R1-10) fall withing the same comprehensive plan map designation of Urban Low Density Residential (UL).

Page 33 of the Comprehensive Plan states that the UL designation "provides for predominantly single-family residential development with densities of between five and ten units per gross acre." With a rezone to R1-10 the proposed density will be 3.76 units per acres which is still less than the what the comprehensive plan expects. The density would be even less if developed under the existing zoning.

The examiner agrees with the applicant's analysis and finds that this criteria is me.

2. *The requested zone change is consistent with the plan policies and locational criteria and the purpose statement of the zoning district.*

Applicants Response:

Page 33 of the Comprehensive Plan discusses the locational criteria of the urban low-density designation:

> *The base zones which implement this 20-Year Plan designation are the R1-20, R1-10, R1-7.5, R1-6 and R1-5 zones. The zones may be applied in a manner that provides for densities slightly higher than existing urban development, but the density increase should continue to protect the character of the existing area.*

The R1-20 portion of the subject site has already been identified as part of the County's comprehensive plan update process to be rezoned to R1-7.5 in both alternative plans. A snip of the plan is included below with the site highlighted in red. The property to the north is already zoned R1-7.5 and the site to the east has an approved development with lot sizes generally between 10,000 square feet and 9,000 square feet (Viers PUD). The proposed zoning will allow for an average lot area of 8,500 square feet across the site and will be compatible with the existing and future zoning designations around the site. It will also be compatible with the proposed density (Viers PUD) to the east and south of the site.

Mr. Gilroy argued that "[t]he most current County Council Preferred Map shows NO CHANGE to the Zoning of the Mill Creek Overlay District." (Exhibit 138, emphasis in

original). However, the attached map (Exhibit 139) does not include any information about the source of the map or where/when it was considered by the County Council. If the map actually reflects the County Council's current zoning concept for this area, the proposed zone change conflicts with the County Council's plan.

Given the conflicting evidence in the record regarding the County Council's planning for this area, the examiner gives no weight to either the applicant's or Mr. Gilroy's assertions regarding potential zoning changes by the County Council and merely applies the standards of the Code.

The examiner finds that the following comprehensive plan policies are most relevant to the proposed zone change application:

> *1.1.3 Urban growth shall be located primarily in areas already characterized by urban growth that have existing public facility and service capacities to adequately serve such development and second in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services that are provided by either public or private sources. Urban governmental services shall be provided in urban areas. These services may also be provided in rural areas, but only at levels appropriate to serve rural development. Urban governmental services include those services historically and typically delivered by cities or special districts and include storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection, public transit services and other public utilities not normally associated with non-urban areas.*
>
> *1.3.1 Urban densities and uses may occur throughout the urban growth area if it is provided with adequate services. Development and redevelopment in the UGA should be strongly encouraged to occur in greater intensity in major centers, transit routes and other areas characterized by both existing higher density urban development and existing urban services. Development and redevelopment should be encouraged to occur with less intensity in areas where urban development is of lower density or has not yet occurred, or in areas where urban services do not yet exist.*

The examiner was unable to find specific locational criteria that are relevant to this zone change; the residential locational criteria of the comprehensive plan are generally focused on the broader zoning categories, low, medium, and high density. As noted above, both the existing R1-20 and proposed R1-10 zones implement the Urban Low Density Residential (UL) comprehensive plan map designation.

CCC 40.220.010(A) sets out the following purpose statement for the Low-Density Residential Districts:

> *A. Purpose.*
> *1. The R1-20, R1-10, R1-7.5, R1-6 and R1-5 districts are intended to:*
> *a. Provide for a mix of single-family and middle housing types in a low-density context at a neighborhood scale.*
> *b. Establish higher densities where a full range of community services and facilities are present or will be present at the time of development.*
> *c. Provide for additional related uses such as schools, parks and utility uses necessary to serve immediate residential areas.*

Both the comprehensive plan policies and the Low-Density Residential District purpose statement encourage higher density where adequate public facility and service capacities are or will be available to serve development at a particular density. The examiner finds that this standard is met based on the concurrency findings below.

Mr. Gilroy argues that the proposed zone change is inconsistent with the purpose of the Mill Creek Overlay zone as "The practical purpose of the Mill Creek Overlay – one that is implemented by two of the three overlay-specific development standards – is preserving the character and density of the surrounding land." (Exhibit 57 at 1). However, this assertion is not supported by the plain text of CCC 40.250.060(A), which provides "The Mill Creek overlay district (MC) is intended to implement the Mill Creek Sub-Area Plan. It provides for special provisions to be applied to developments within the overlay district boundary." Development on this site remains subject to the criteria in CCC 40.250.060(C), which are discussed in Land Use Finding 5 above.

> *3. The zone change either:*
> *a. Responds to a substantial change in conditions applicable to the area within which the subject property lies;*
> *b. Better implements applicable comprehensive plan policies than the current map designation; or*
> *c. Corrects an obvious mapping error.*

Applicant Response:

> *The proposed zone change is in response to the current housing shortage and affordability crisis that is currently occurring in SW Washington. This shortage of housing within the area that the subject property lies represents a substantial change in conditions within the urban Clark County region. The proposed zone change will result in additional lots that will increase the housing supply in the area and contribute to improving housing affordability.*
>
> *The proposal also better implements the current comprehensive plan. The R1-20 zone results in inefficient land development in urban areas and does not come close to meeting the density goals stated in the comprehensive plan. As stated previously the purpose of the low-density residential designation is to provide densities in the range of 5-10 units*

> *per gross acre of land. Development under the R1-20 zone does not implement the comprehensive plan policies efficiently. In the county's proposed comprehensive plan update, most if not all of the developable land zoned R1-20 is proposed to be up-zoned to facilitate higher density. This includes the R1-20 portion of the subject site."*

Mr. Gilroy argues that the housing shortage and affordability crisis, cited by the applicant as a substantial change in circumstances, is irrelevant as this development will not "contribute to improving housing affordability." (Exhibit 57 at 1). The examiner disagrees. Although the new homes that will be created by the proposed development are unlikely to be "affordable" as low income or starter homes, the development will add to the overall housing stock in the County, thereby helping to alleviate the current shortage to some extent. In addition, it is an accepted principle of economics that increasing the supply of a product, in this case housing, generally results in reduced prices for that product. This development will increase the overall supply of housing in the County, thereby reducing, or limiting increases in, the overall price of housing. Therefore, the examiner finds that this criterion is met.

The examiner agrees with Mr. Gilroy that the County Council's potential adoption of new zoning for this area is irrelevant, as there is no certainty that the Council has or will adopt the proposed changes. However, the examiner finds that the proposed R1-10 zoning better implements the current comprehensive plan by furthering the County's density goals.

Members of the public testified that the City should deny the application to "respect the wishes of the community." (Job testimony and Exhibit 138). Such testimony misunderstands the law. The best way to protect all of the public is to enforce the laws consistently. To give special consideration to a limited class of people violates the due process rights of all. The applicants are entitled to equal protection of the law. The examiner is obligated to apply the plain meaning of the law when it is not ambiguous. Citizen input is relevant and important in determining whether and how the application complies with the applicable approval criteria. Existing residents often have unique knowledge due to their experience living in the area. However the Code does not require community approval of the application. This is not a popularity contest. The examiner must approve the application if it does or can comply with the law. Community displeasure cannot be the basis for project denial. *Maranatha Mining v. Pierce County,* 59 Wash. App. 795, 805, 801 P.2d 985, 992 (1990).

> *4. There are adequate public facilities and services to serve the requested zone change.*

Applicants Response: "*The narrative and plans for this application demonstrate that there are adequate public facilities and services to support the proposed development. The proposed rezone will allow for a more efficient use of urban facilities and help reduce urban sprawl."*

Based the concurrency findings below, adequate public facilities, including planned transportation facilities, are adequate to serve the proposed development. This criterion is met.

Finding 7 - Phasing
40.540.040(D)(4) provides:

> *If a phasing plan is proposed, then the applicant also shall show:*
> *a. The phasing plan includes all land within the preliminary plat;*
> *b. Each phase is an independent planning unit with safe and convenient circulation and with facilities and utilities coordinated with requirements established for the entire subdivision; and*
> *c. All road improvement requirements are assured.*

The applicant proposed to develop the site in two phases. These criteria can be met based on the applicant's proposed phasing plan, Exhibit 34. Phase 1 includes lots 53-100 (south) and Phase 2 includes lots 1-52 (north). Conditions A-1.a and D-1.a should be modified to require the applicant demonstrate actual compliance with these criteria prior to approval of each phase, rather than merely reiterating the criteria.

Finding 8 - Existing Residential Structures
There are two existing single-family residences on the site with several accessory structures. The applicant proposed to remove all of the accessory structures and retain the existing homes on proposed lots 16 and 95. The accessory structures on the site shall be removed prior to construction plan approval complying with Clark County Building Division, state/federal requirements. (See Condition B-1.a)

Finding 9 - School District Letter (58.17.110)
The subject site is located within the boundaries of the Battle Ground School District, and specifically within the boundaries of Pleasant Valley Elementary School, Pleasant Valley Middle School, and Prairie High School.

The applicant provided a letter from the Battle Ground School district. (Exhibit 1 Tab 20) indicating all students will be bused to school, meeting this criterion.

Finding 10 - County/State Platting Standards
With conditions of approval, the examiner finds the proposed subdivision will make appropriate provisions for the public health, safety and general welfare of the community. As discussed in the concurrency findings below, transportation improvements necessary to accommodate projected traffic volumes are planned, funded, and scheduled for completion within six-years from the date of this Final Order. Connection to public water and sewer facilities, as well as treatment of any future stormwater runoff will be provided to protect groundwater supply and integrity. Impact fees will also be required to ensure that the development will contribute a proportionate share toward the costs of school, park and transportation facilities, maintenance and services.

Conclusion: Based on the above findings, the examiner concludes that the proposed preliminary plan does not meet all of the applicable land use requirements of the Clark County Code.

Archaeology
Finding 1 - Submittal
The applicant has submitted an archaeological pre-determination to the Washington State Department of Archaeology and Historic Preservation (DAHP) prior to submittal of the application. (Exhibit 21)

Finding 2 - Confirmation
DAHP has not yet confirmed the results of the applicant's archaeological predetermination. In addition, a note on the final construction plans and final plat plan will require that if resources are discovered during construction, work shall stop and DAHP and the county will be contacted. (See Conditions A-2.a and D-10.i)

Conclusion
The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets archaeology requirements of the Clark County Code.

Transportation
Finding 1 – Pedestrian/Bicycle Circulation Plan
Pedestrian circulation facilities in compliance with the Americans with Disabilities Act (ADA) and CCC 40.350.015 are required for this development. The applicant is proposing sidewalks on all public roads in accordance with the standards. All proposed pedestrian facilities shall be constructed to comply with ADA standards. The applicant shall show the construction of end of sidewalk ramps where pedestrian facilities temporarily terminate at the plat boundary. (See Conditions A-7.a and A-7.b)

Per the WSDOT design manual as adopted under CCC 40.350.030(C)(1)(b)(1) new construction projects shall provide curb ramps oriented in each direction of pedestrian travel within the width of the crosswalk it serves, and if receiving ramps do not exist, they shall be constructed as part of the new development. The applicant will need to show on the final construction plans that pedestrian ramps will comply with the WSDOT Design Manual. (See Condition A-7.c)

Finding 2 – Road Circulation Plan
Cross-circulation is required by CCC 40.350.030(B)(2). The site is proposing an on-site public road network that will allow subsequent developments to meet cross-circulation standards, including 800-foot block length and 3,200-foot block perimeter. [See Transportation Finding 3]

Finding 3 – Roads/Frontage Improvements
Road improvements and design are required to comply with CCC 40.350.010(B)(5), CCC Table 40.350.030-2, and CCC Table 40.350.030-3.

NE 174th Street is classified as an Urban Collector, C-2b. The minimum half-width requirements include 30-feet of right-of-way, 17-feet of paved roadway width, curb/gutter, and a 5-foot detached sidewalk per Clark County Standard Detail Drawing 7. Partial width roads shall have a minimum pavement width of 20 feet; additional right-of-way dedication will be required to accommodate the minimum pavement width. The applicant is proposing to construct frontage improvements in compliance with the standard details. (See Conditions A-7.d, A-7.e and D-7.a)

As noted in Exhibits 50 and 101, NE 40th Avenue is currently classified as an Urban Local Access Road. However, the applicant proposed to construct the road as an Urban Neighborhood Circulator, Nbr. The minimum half -width requirements for a Urban Neighborhood Circulator include 27-feet of right-of-way, 18-feet of paved roadway width, curb/gutter, and a 5-foot sidewalk per Clark County Standard Detail Drawing 12. Partial width roads shall have a minimum pavement width of 20 feet, additional right-of-way dedication will be required to accommodate the minimum pavement width. The applicant is proposing to construct frontage improvements in compliance with the standard details for a Urban Neighborhood Circulator classification. (See Conditions A-7.f and D-7.b)

NE 173rd Street, NE 171st Street, NE 170th Street, NE 42nd Way, NE 43rd Way, NE 44th Way and NE 45th Avenue are proposed as Urban Local Residential Access. The minimum full-width requirements include 46-feet of right-of-way, 28-feet of paved roadway width, curb/gutter, and a 5-foot sidewalk per Clark County Standard Detail Drawing 13. The applicant is proposing to construct frontage improvements in compliance with the standard details. (See Conditions A-7.g, and D-7.c)

NE 169th Street is proposed as an Urban Local Residential Access. The minimum half-width requirements include 23-feet of right-of-way, 14-feet of paved roadway width, curb/gutter, and a 5-foot sidewalk per Clark County Standard Detail Drawing 13. The applicant is proposing to construct frontage improvements in compliance with the standard details. (See Conditions A-7.h, and D-7.d)

NE 43rd Loop and NE 44th Loop are proposed as Urban Private Roads. The minimum full-width requirements include 26-feet of easement, 20-feet of paved roadway width, curb/gutter, and a 5-foot sidewalk (on one side) per Clark County Standard Detail Drawing 15. The applicant is proposing to construct frontage improvements in compliance with the standard details. (See Conditions A-7.i, and D-7.e)

Roads shall be tapered according to accepted engineering practices and supplemental standards in Section 40.350.030(C)(1)(b). (See Condition A-7.j)

Where frontage improvements are required, the county will perform pavement deflection testing to determine the adequacy of the existing pavement. Where remaining life of the pavement is less than 5 years, the developer shall construct the roadway to current standards to the centerline or 22 feet, whichever is less. If remaining life is greater than 5 years, the road shall be cut back to a location where the structure is sound and the

widening constructed. However, in no case shall the reconstruction be less than 4 feet in width from the existing edge of pavement to the new edge of pavement or face of curb. The county may require reconstruction to the centerline or 22 feet, whichever is less, if the review authority determines the geometrics or other existing features are inadequate. (See Condition A-7.k)

Parking is prohibited on any road less than 24 feet wide. Signing and Striping plans shall include appropriate measures on partial width roads. The applicant shall propose "No Parking" signs along any partial-width roads less than 24 feet in width. (See Condition A-7.l)

Finding 4 – Access Management
Per CCC 40.350.030(B)(4)(b)(1)(a), excepting the bulbs of cul-de-sacs, driveways serving single-family residential lots shall be located a minimum of 5 feet from an interior side property line or zero feet as a shared driveway approach. The applicant's proposal includes shared driveways serving lots, 33-34, 39-40, 57-58, 68-69 and 74-75. Shared driveways can serve no more than 4 lots and must be a minimum of 12-feet wide and placed in a minimum of 20-foot wide easement. Individual lot driveways are proposed throughout the remainder of the development. These driveways shall be 5 feet from an interior property line. (See Conditions A-7.m, A-7.n, D-7.f and Plat Note D-10.e)

The applicant shall show on the final construction plans that all driveway approaches comply with Clark County Standard Detail F14/F15, or approved equivalent. (See Condition A-7.o)

Per CCC 40.350.030(B)(4)(b)(1)(b), corner lot driveways (on local access roads) shall be a minimum of 40 feet from the projected curb line or edge of pavement, as measured to the nearest edge of the driveway, or in cases where lots less than 40 feet wide are allowed driveways shall be limited to 20 feet in width and located 5 feet from the property line farthest from the intersection or as a 25 foot wide shared driveway at this property line. (See Condition A-7.p)

Per 40.350.030(B)(4)(b)(4)(b), no road may serve more than one hundred (100) lots or dwelling units unless that road is connected by a second vehicle access road to the same "feeder" road at a different location, or to another "feeder" road that functions at a level equal to at least an urban local residential access road or a rural local access road. The second vehicle access road may be a county emergency-only access road, if it serves less than two hundred (200) lots or dwelling units.

As the examiner has determined in prior decisions that have been affirmed by the superior court (See Exhibit 54), NE 174th Street is a collector roadway that is not subject to CCC 40.350.030(B)(4)(b)(4)(a).

By its terms, CCC 40.350.030(B)(4)(b) regulates "Access to Local Access Roads." CCC 40.350.030(B)(4)(c) regulates "Access to Collectors." NE 174th Street is classified as a collector roadway. Therefore, it is not subject to any of the provisions of CCC

40.350.030(B)(4)(b), including the maximum dwelling unit limits of CCC 40.350.030(B)(4)(b)(4)(a).

CCC 40.350.030(B)(4)(b)(4)(a) provides, "No road may serve more than one hundred (100) lots or dwelling units…" (emphasis added) and CCC 40.100.070 provides "'Road' or 'street' means all roads, streets, highways, freeways, private street easements, private street tracts, and public rights-of-way used for or designed for vehicular access or use." However, CCC 40.100.070 further provides, "'Access roads' means any of the urban or rural access roads as defined in Tables 40.350.030-2 and 40.350.030-3. This term is used to differentiate access roads from arterials, collectors, and commercial/industrial roads." (Emphasis added).

The examiner finds that the Code, by its plain terms, expressly distinguishes between access to "local access" roads, which are subject to CCC 40.350.030(B)(4)(b), and "collector" roads, which are subject to CCC 40.350.030(B)(4)(c). As a collector roadway, NE 174th Street is not subject to the access requirements of CCC 40.350.030(B)(4)(b)(4)(a).

As Mr. Hergesheimer notes, in Exhibit 146, NE 40th Avenue will exceed the 100 lot or dwelling unit threshold, as this roadway will serve 143 dwelling units, citing Exhibit 56. However, NE 40th Avenue complies with this standard as this development will provide a second access to NE 40th Avenue, proposed NE 169th Street, which will allow residents of NE 40th Avenue to access NE 174th Street via proposed NE 45th Avenue as well as via proposed NE 170th Street, which will connect to streets within the Viers subdivision to the east that also connect to NE 174th Street.

The Three Creeks East development cited by Mr. Job (Exhibit 130) involved a different scenario. In that case, proposed NE 18th Avenue, a Neighborhood Circulator roadway, provided the only access to NE 179th Street, a Principal Arterial. Therefore, the applicant in that case was required to provide a second access as proposed NE 18th Avenue would serve more than 100 lots. In this case, no "access road" will serve more than 100 lots without providing a second access to the same "feeder" road.

Condition A-6.q in the Staff Report should be modified to only apply to "Local Access Roads", consistent with this finding.

Mr. Job argued that NE 40th Avenue cannot serve as secondary access because emergency vehicles cannot turn onto NE 40th Avenue from eastbound NE 174th Street without entering the northbound lane of NE 40th Avenue. (Exhibits 130 and 131). However, as Mr. Job's video shows, it is feasible for larger vehicles to turn left onto NE 40th Avenue from eastbound NE 174th Street by entering the northbound lane on NE 40th Avenue. Reasonable drivers will move their vehicles to allow this maneuver for emergency vehicles operating with lights and sirens responding to an emergency. The Fire Marshal reviewed this application and determined that adequate fire apparatus access is available. (See Fire Protection Finding 5).

Finding 5 – Sight Distance
The approval criteria for sight distances are found in CCC 40.350.030(B)(8). This section establishes minimum sight distances at intersections and driveways. Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. The final engineering plans shall show sight distance triangles for driveways that are proposed to remain. 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 has submitted a *Sight Distance Certification,* prepared by PLS Engineering, dated January 5, 2026, [Exhibit 36]. This document states that the minimum required stopping and intersection sight distance of 155 and 250 feet, respectively, for a 25 MPH speed limit is currently available along NE 40th Avenue, both north and south of the proposed intersection. This document further states that the minimum required stopping and intersection sight distance of 250 and 350 feet, respectively, for a 35 MPH speed limit, is currently available along NE 174th Street, both east and west of the proposed intersection.

The applicant will need to submit final construction drawings for review and approval. These plans will need to show sight distance triangles at all intersections. The plans will also need to show objects that are within the sight distance triangle. Notes on the plans shall indicate the vegetation within the sight distance triangle that needs to be maintained, trimmed, or removed. Sight distance shall be verified once construction is complete. (See Conditions A-7.r, A-7.s, C-1 and D-8)

Finding 6 – Transportation Phasing
The applicant has proposed to develop the site in two phases. The applicant is responsible for providing all necessary transportation improvements and site circulation required with each individual phase. The required transportation improvements for each proposed phase will be determined during final engineering review. Additionally, staff considers completion of the Viers Subdivision (PLD-2022-00067), as currently approved (appeal pending), to be a requirement of supporting this application as it is proposed. If this project proceeds before Viers Subdivision is completed or if changes to the Viers Subdivision affect the proposed design, then revised plans and a Post Decision Review shall be required. (See Conditions A-7.t and A-7.u) [See Stormwater Finding 9]

Finding 7 – Road Safety and Capacity
Opponents argued that traffic from this development will exceed the capacity of NE 174th Street and the road will be "unsafe" because it does not include sidewalks for pedestrians. However, "safety" is subjective term. Some people may be comfortable walking or bicycling on narrow roads without sidewalks or shoulders and some people are not. As traffic volumes and speeds increase fewer people will be comfortable walking or cycling on such roads. However, this does not make the road unsafe.

The Code establishes objective standards for what the County Council has determined is "safe." The Code acknowledges that some existing roads are not improved to current

standards. CCC 40.350.030(B)(3) sets out requirements for roads within and abutting a development, requiring that such roadways be improved to current standards as set out in CCC Tables 40.350.030-2 and 3. The Code establishes different standards for offsite roads, CCC 40.350.030(B)(6). The capacity of such underimproved roads is determined based on the existing lane width. CCC 40.350.020(G)(1)(a) defines roadway capacity based on the highest peak hour traffic volume, not Average Daily Trips ("ADT"), which measures total traffic over a 24-hour period. Traffic volumes during non-peak hours are lower and may be near zero during overnight hours.

Per CCC 40.350.020(G)(1)(a), NE 174th Street with vehicle lane widths less than 11 feet has capacity of 600 vehicles per hour. NE 174th Street is projected to carry 342 vehicle trips during the PM peak hour (Exhibit 1, Attachment 14 at 23), well below the capacity of this existing off-site street as defined by CCC 40.350.020(G)(1)(a). Therefore, the examiner finds that the additional traffic generated by this development will not exceed the capacity of this off-site road.

NE 40th Avenue also has sufficient capacity to accommodate traffic from this development, existing developments, and other previously approved developments. As discussed in Transportation Finding 3 above, NE 40th Avenue is currently classified as an Urban Local Access Road. The applicant proposed to construct the road as an Urban Neighborhood Circulator, Nbr. As set out in CCC Table NE 40.350.030-3, a Neighborhood Circulator has design volume of 3,000 ADT while an Urban Local Access Road has a design volume of 1,500 ADT. Upon completion of the proposed development, 143 single-family detached houses are expected to utilize NE 40th Avenue on a typical basis to access the greater transportation system. Those 143 homes will generate 1,300 ADT, within the design capacity of either road classification. (Exhibit 101 at 13-14).

The existing off-site sections of NE 40th Avenue will remain in their existing condition, with a 20-foot paved width. (Exhibit 50 at 2). This 20-foot paved width provides two ten-foot wide travel lanes, which have a lane capacity of 600 vehicles per hour per CCC 40.350.020(G)(1)(a). As noted in the applicant's traffic study, single-family detached homes generate an average of 0.94 vehicle trips during the p.m. peak hour. (Exhibit 1, Attachment 14 at 11, citing the ITE Trip Generation Manual, 11th Edition, land use code 210, Single-Family Detached Housing). Therefore, the 143 single-family detached houses expected to utilize NE 40th Avenue on a typical basis will generate 134 vehicle trips during the p.m. peak hour,[2] well below the 600 vehicle trips per hour capacity of the existing roadway.

The Viers development cited by Mr. Telegin in Exhibit 50 is unlikely to generate more than a *de minimis* amount of traffic on NE 40th Avenue, as that development is located east of the site and has its own direct access to NE 179th Street. NE 40th Avenue would not provide residents of the Viers development with access to any destinations other than visiting neighbors on lots served by that roadway.

[2] 134 homes x 0.94 p.m. peak hour vehicle trips/home = 134 p.m. peak hour vehicle trips.

Conclusion (Transportation & Circulation):
The examiner concludes that the proposed preliminary plan, subject to the conditions above, meets the transportation requirements of the Clark County code.

Stormwater and Erosion Control
Finding 7 - Stormwater Applicability
The provisions of Clark County Code Chapter 40.386, as amended by Ordinance No. 2021-06-02, shall apply to all new development, redevelopment, land disturbing activities and drainage projects consistent with the Clark County's NPDES Phase I Municipal Stormwater Permit and Clark County Stormwater Manual (2021). The project adds more than 5,000 square feet of new hard surface; therefore, the applicant shall comply with Minimum Requirements #1 through 9. (See Condition A-8.a)

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. (See Condition A-8.b)

Finding 8 – Stormwater Proposal
The applicant provided a revised *Preliminary Stormwater Technical Information Report* prepared by PLS Engineering, dated January 6, 2026, [Exhibit 29]. The proposal is for a 102-lot (including tracts) subdivision that includes new public roads, associated parking and utilities. This will result in approximately 17.38 acres of new hard surface.

On-Site Stormwater Management (MR#5) was evaluated for all hard surfaces using List #2. The applicant deemed most BMPs provided in Table 2.2 of Book 1 to be infeasible primarily due to low infiltration rates. Therefore, the applicant has elected to use BMP D6.10, Detention Pond. Lawn and landscaped areas will utilize BMP T5.13, Post-Construction Soil Quality and Depth. (See Condition A-8.c)

Runoff Treatment (MR#6) is triggered due to more than 5,000 square feet of pollution generating hard surfaces. Proprietary treatment BMP T12.10, StormFilter catch basins are proposed for treatment of the frontage improvements (both public and private) and the proposed driveways. (See Conditions A-8.d and A-8.e)

Flow Control (MR#7) will be addressed with BMP D6.10, Detention Pond, sized to detain and release stormwater to comply with the Standard Flow Control Requirement. (See Condition A-8.f)

Wetlands Protection (MR#8) is triggered due to on-site wetlands. Wetland Z is a Category III with a habitat score of 6. According to Figure 1.3, Wetland Hydroperiod Method 2 is required. Wetland E is also a Category III with a habitat score of 5. According to Figure 1.3, General Protection and Protection from Pollutants is required. The applicant is proposing to fill the wetlands and purchase wetland mitigation bank credits. (See Condition A-8.g)

Stormwater facilities located within the public right-of-way and public tracts shall be owned and maintained by the county. Stormwater facilities located on private tracts and individual lots shall be owned and maintained by the property owner. The applicant shall identify on the final construction plans ownership and maintenance responsibilities for each of the proposed stormwater facilities. (See Conditions A-8.h, A-8.i and D-9.d)

The applicant shall show on the final construction plans that all stormwater facility setbacks are met unless a Geotechnical Engineer recommends that setbacks can be reduced. (See Condition A-8.j)

The applicant shall submit an offsite analysis with the Final TIR prepared in accordance with Book 1, Chapter 5 of the CCSM 2021 for all outfall locations from the site. (See Condition A-8.k)

Mr. Gilroy disputes the feasibility of the applicant's stormwater plan, based on allegations that the Salmon Creek Ridge development failed to comply with its approved stormwater plan, specifically "BMP T5.13, Post Construction Soil Quality and Depth." (Exhibit 57 at 2). However, the examiner cannot deny an application based on concerns that the applicant will not comply with the adopted conditions of approval. County inspection staff will review the site as development proceeds to ensure compliance with all applicable requirements. In addition, the County's Code Enforcement section exists for the purpose of identifying, responding to, and remedying alleged violations of County land use decisions and codes. Neighboring residents can assist in the enforcement process by reporting any violations they observe.

The fact that neighbors can assist in monitoring the use does not shift the responsibility to them to do so. The County continues to bear the responsibility for enforcing its laws. However neighbors may be in a better position to monitor the use on a continuing basis because of their proximity, and it may be in their interests to do so given the complaint-driven nature of the enforcement process.

Finding 9 – Stormwater Phasing
The applicant has proposed to develop the site in two phases. The applicant is responsible for providing all necessary stormwater mitigation improvements required for each individual phase. The required stormwater mitigation improvements for each proposed phase will be reviewed during final engineering review. Additionally, staff considers completion of the Viers Subdivision (PLD-2022-00067), as currently approved (appeal pending), to be a requirement of supporting this application as it is proposed. If this project proceeds before Viers Subdivision is completed or if changes to the Viers Subdivision affect the proposed design, then revised plans and a Post Decision Review shall be required. (See Condition A-9.l) [See Transportation Finding 6]

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

Transportation Concurrency

Preliminary Issues

Ms. Pozzo's written submittals were prepared with generative AI software assistance. (Exhibits 101 and 137). However, the use of AI does not negate the arguments set out in those exhibits. While the use of AI requires more intensive review by all other parties to ensure the accuracy of the arguments, absent evidence of error, the examiner cannot dismiss those arguments merely because they were AI generated.[3]

The use of AI generated arguments also results in a more complex record due to the number of issues raised, as well as duplication of prior arguments in subsequent submittals. The examiner has reviewed the entire record in detail prior to drafting this Final Order and has endeavored to address all of the relevant issues raised by all parties. However, to the extent any issues are not specifically addressed, the examiner adopts and incorporates as his own the supportive evidence and arguments in the record provided by County staff and the applicant to find that all of the applicable approval criteria are met.

There is much discussion about the language of the Code and whether it is appropriate policy to approve or deny development based on the current Code language. For example:

> Ms. Pozzo argues that it is in appropriate to exclude from review unsignalized intersections of regional significance with failing movements where the proposed development will contribute less than five peak hour trips to the failing intersection, as allowed by CCC 40.350.020(G)(1)(c).
>
> The applicant argues that there is a "glitch" in the Code and strict compliance with the 0.9 v/c standard of CCC 40.350.020(G)(1)(a) will result in a *de facto* moratorium, reduce the County's buildable land supply, and result in other significant unintended consequences.

The examiner understands these concerns. However, the examiner has no authority to "fix" alleged errors in the Code in order to avoid unforeseen consequences. The examiner must apply the Code as written, based on the rules of interpretation set out by the Courts

[3] There are at least two examples of AI error in the record. Ms. Pozzo cites to "*Achen et al. v. Clark County*, CPSGMHB Case No. 95-2-0002 (1995)." (Exhibit 16 at 4 and Exhibit 49 at 2) and *Achen v. Clark County*, CPSGMHB Case No. 95-3-0008 (Exhibit 16 at 15, 20, and 25). However, as Mr. Morasch noted at the hearing, "CPSGMHB" refers to the Central Puget Sound Growth Management Hearings Board, whereas cases involving Clark County are heard by the Western Washington Growth Management Hearings Board. In addition, the examiner was unable to find any Growth Management Hearings Board case with the citation "95-2-0002" and Growth Management Hearings Board case "No. 95-3-0008" actually refers to *Vashon-Maury v. King County*, a decision by the Central Puget Sound Growth Management Hearings Board. There is a Western Washington Growth Management Hearings Board decision titled "*Achen et al. v. Clark County"*, GMHB No. 95-2-0067, which addresses the County's adoption of a comprehensive plan.

as summarized in the Washington Court of Appeals decision in *State v. Restvedt*, 26 Wn. App. 2d 102, 527 P.3d 171 (2023).

> The purpose of statutory interpretation is to give effect to the legislature's intent. We derive legislative intent from the plain language of the statute, considering the text of the provision in question, the context of the statute in which the provision is found, related provisions, and the statutory scheme as a whole.
>
> We may use dictionary definitions to discern the plain meaning of terms undefined by statute. When construing a statute, we must give effect to every word[;] Individual words should not be interpreted in isolation. A court should be 'reluctant to accept literal readings with strained consequences, especially when they do not align with the statute's purpose and plain meaning of its text. If the text and context of a statute is clear, the analysis stops. However, if there is more than one reasonable interpretation of the plain language, then a statute is ambiguous. Courts may then turn to statutory construction, relevant case law, and legislative history to discern legislative intent.

Restvedt, 26 Wn. App. 2d at 117-118 (internal quotations and citations omitted).

The examiner followed these rules of interpretation when construing applicable Code provisions in findings throughout this Final Order.

Mr. Morasch notes that the County Council is considering amendments to the Concurrency Code "that may be voted on as early as June 16, 2026", and, in the event such provisions are adopted, he proposed to waive vesting and allow this application to be reviewed under the amended Code language. (Exhibit 155 at 1). However, there is no evidence in the record that the County Council has adopted the proposed amendments. Therefore, the examiner will not consider Mr. Morasch's proposal to waive vesting and will review this application based on the Code in effect when this application originally vested.

Finding 1: Trip Generation

County concurrency staff has reviewed the proposed 174th Street Subdivision Traffic Impact Study dated December 24, 2025, prepared by Lancaster Mobley (Exhibit 1, Attachment 14). The traffic study submitted indicates that the proposed development will divide 27.06 acres into 100 single- family detached houses. The applicant's traffic study has estimated the net new a.m. peak hour trip generation at 69, p.m. peak-hour trip generation at 92 trips, and an average daily trip generation (ADT) of 926 trips. The trip generation was estimated using the nationally accepted data published by the *Institute of Transportation Engineers 11th Edition*. The proposed development site is located on parcels 181696000, 181711000, 181721000, 181731000, 181764000, 181765000, and 181766000 in unincorporated Clark County.

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

Ms. Pozzo notes that the applicant's traffic study did not consider traffic from three in-process developments (Kozy Manor Estate, Four Creeks North, and Three Creeks East) that will impact the same corridors as the current application. (Exhibit 137). County staff acknowledge that these applications were not included in the in-process information provided to the applicant's traffic engineer due to the timing of these submittals. However, concurrency staff did consider traffic from these developments in their review of this application, as required by CCC 40.350.020(E)(2). (Exhibit 141 at 4). There is no evidence to the contrary.

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 a LOS A condition would expect little delay. A driver who experiences a LOS E condition would expect significant delay, but the traffic facility would be just within its capacity to serve the needs of the driver. A driver who experiences a LOS F condition would expect significant delay with traffic demand exceeding the capacity of the facility with the result being growing queues of traffic.

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

The applicant's plan shows that NE 174th Street, a public Urban Collector road, will be the primary ingress and egress for the entire site from NE 50th Avenue. NE 174th Street will intersect with NE 44th Way to the west of NE 50th Avenue and branch out into an interior road network.

The applicant's plan shows that an interior public local residential access road network will be constructed to serve as the primary public road access for the proposed lots within the development. These public local residential roads will be comprised of NE 173rd Street, NE 42nd Way, NE 43rd Way, NE 169th Street, NE 170th Street and NE 45th Avenue.

The applicant's plan also shows an interior private loop road on the north and south sides of the proposed development. These private loop roads will be comprised of NE 43rd Loop in the south and NE 44th Loop in the north.

The applicant's study evaluated the level of service and found that the proposed site access at NE 174th Street will operate at an estimated LOS A in the 2028 build-out horizon. The study also shows that the LOS was evaluated during the a.m. and p.m. peak hour traffic conditions. County Staff concurs with the traffic study findings.

Finding 3: Clark County Concurrency

The proposed development is required to meet the standards established in CCC 40.350.020(G) for corridors and intersections of regional significance within 2 miles of the proposed development.

Opponents cited several intersections of regional significance located within a two-mile radius of the site that were not evaluated in the applicant's traffic study. However, as discussed in Exhibit 101, the Public Works Director waived analysis of these intersections as authorized by CCC 40.350.020(D)(8), because traffic from this development will not impact these intersections in excess of the limitations of CCC 40.350.020(G)(1)(c): the proposed development will add less than five (5) peak period trips to a failing intersection approach and/or traffic from this development will not worsen the worst movement on the failing approach. Therefore, the applicant was not required to review these intersections.

Signalized Intersections

Staff evaluated the operating levels and delay times for the regionally significant signalized intersections under Clark County jurisdiction. This analysis showed that individual movements during peak hour traffic conditions had approach delays that did not exceed the maximum 240 seconds, or 2 cycles, of delay in the build-out year. Therefore, County Staff has determined that this development will comply with adopted Concurrency standards for signalized intersections.

Unsignalized Intersections

Staff evaluated the operating levels and delay times for the regionally significant unsignalized intersections under Clark County jurisdiction. This analysis showed operating levels and standard delay times with a LOS better than the minimum allowable LOS E except for intersections of NE 179th Street/NE 50th Avenue and NE 159th Street/NE 72nd Avenue in the PM peak hour.

NE 179th Street/NE 50th Avenue

The applicant's traffic study has analyzed the impacts of the proposed development on the intersection approaches, at NE 179th Street/NE 50th Avenue. Staff used this information to determine if mitigation requirements would be warranted per CCC 40.350.020(G)(1)(c), which states:

> All unsignalized intersections of regional significance in the unincorporated county shall achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized intersections of regional significance shall achieve LOS D standards or better. Intersection control or mitigation of unsignalized intersections shall be at the discretion of the Public Works Director and shall not obligate the county to meet this LOS standard. However, proposed developments shall not be required to mitigate their impacts in order to obtain a concurrency approval unless:

(1) The proposed development adds at least five (5) peak period trips to a failing intersection approach; and

(2) The worst movement on the failing approach is worsened by the proposed development. In determining whether the movement is worsened, the Public Works Director shall consider trip volume, delay, and any other relevant factors.

Staff compared the anticipated impacts against the criteria in the code section listed above and found that both of the criteria were met. Therefore, mitigation is required. The applicant's traffic study suggests that coordination with a previously approved development would be conducted to install a northbound dedicated left-turn lane in-lieu of a northbound right turn lane. The applicant has submitted a volunteer letter which volunteers the following mitigation at the NE 179th Street/NE 50th Avenue intersection:

- Widen the south leg of the intersection to accommodate one dedicated northbound left-turn lane, one shared northbound through/right-turn lane, and one southbound receiving lane.
- Stripe approximately 90 feet of northbound left-turn queue storage, consistent with the design of the dedicated left-turn lanes installed on the eastbound and westbound approaches at the intersection.

Because the applicant's traffic study showed that this off-site, regionally significant intersection does not comply with the required minimum level-of-service, and the applicant has shown compliance with CCC 40.350.030(B)(6)(a), which states that the applicant may volunteer mitigation, the examiner finds that the applicant has shown that the proposed development can comply with concurrency requirements. (See Concurrency Conditions A-11.b and D-11.b)

As noted in Exhibit 54 at 6 (and other exhibits submitted by Ms. Pozzo), the proposed left turn lane will not alleviate the existing failure (LOS F) at this intersection. However, the Code does not require applicants to remedy all existing and perceived failures in the area. The Code only prohibits developments from making existing conditions worse, specifically CCC 40.350.020(E)(5) only requires that applicants volunteer mitigation necessary to ensure that "the operating levels will not further deteriorate because of the additional traffic generated by the proposed development." This standard is met as discussed in Exhibit 141; the proposed left-turn lane improvements will reduce PM peak hour delays at this intersection from 78 seconds to 61 seconds, improving the existing operating levels at this intersection.

NE 159th Street/NE 72nd Avenue

The applicant's traffic study has analyzed the impacts of the proposed development on the intersection approaches, at NE 159th Street/NE 72nd Avenue. Staff used this information to determine if mitigation requirements would be warranted per CCC 40.350.020(G)(1)(c), which states:

All unsignalized intersections of regional significance in the unincorporated county shall achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized intersections of regional significance shall achieve LOS D standards or better. Intersection control or mitigation of unsignalized intersections shall be at the discretion of the Public Works Director and shall not obligate the county to meet this LOS standard. However, proposed developments shall not be required to mitigate their impacts in order to obtain a concurrency approval unless:

(1) The proposed development adds at least five (5) peak period trips to a failing intersection approach; and

(2) The worst movement on the failing approach is worsened by the proposed development. In determining whether the movement is worsened, the Public Works Director shall consider trip volume, delay, and any other relevant factors.

Staff compared the anticipated impacts against the criteria in the code section listed above and found that none of the criterion was met. Therefore, mitigation is not warranted at this intersection.

As Ms. Pozzo notes (Exhibit 16 at 7 and elsewhere), this intersection will continue to operate at LOS F. However, as noted above, the Code only prohibits developments from making existing conditions worse. By adopting CCC 40.350.020(G)(1)(c) the County Council determined that developments that meet the above standards will have a *de minimis* impact on intersection operations and applicants are not required to improve such intersections.

Other cited intersections of regional significance with failing approaches

Ms. Pozzo notes that other intersections were excluded from review because this development will add fewer than five peak-hour trips to the failing intersection approach. (Exhibit 16 at 9). However, those intersections meet the standard in CCC 40.350.020(G)(1)(c). Therefore, they are exempt. The examiner cannot ignore the plain language of the Code as adopted by the County Council based on the policy arguments asserted by Ms. Pozzo.

LOS for Roundabouts

As noted in Exhibit 141, the current Code does not include a concurrency level-of-service standard for roundabouts. The Code provides LOS standards for two types of intersections, signalized and unsignalized. The Code does not define these terms. Therefore, the examiner must refer to the dictionary definition of these terms, as authorized by *Restvedt*.

The Merriam-Webster online dictionary does not define the word "unsignalized", but it does provide the following relevant definitions: "Signalize" means "to place traffic signals at or on."("Signalize." Merriam-Webster.com Dictionary, Merriam-Webster,

https://www.merriam-webster.com/dictionary/signalize. Accessed 5 Jul. 2026). "Un", when used as a prefix means "not." ("UN." Merriam-Webster.com Dictionary, Merriam-Webster, https://www.merriam-webster.com/dictionary/UN. Accessed 5 Jul. 2026).

Based on these definitions, the examiner finds that the term "unsignalized intersection" as used in CCC 40.3350.020 means intersections without a traffic signal. Roundabouts are intersections and do not have traffic signals. Therefore, intersections with roundabouts must be subject to the LOS standard for unsignalized intersection in CCC 40.3350.020(G)(1)(c). This standard requires that unsignalized intersections of regional significance meet the applicable standard based on the overall intersection operation, not individual movements; CCC 40.3350.020(G)(1)(b) requires that *individual movements* at signalized intersections meet the adopted LOS standard, CCC 40.3350.020(G)(1)(c) does not contain the same or similar language. Therefore, given the different language used in each section, the examiner must assume that the Council intended require that unsignalized intersections meet the LOS standard based on the overall intersection operation, rather than for each individual movement as it required for signalized intersections. The applicant's traffic analysis demonstrates that all relevant roundabout intersections meet the applicable LOS standard based on the overall intersection operation.

In addition, County concurrency staff determined that these roundabout controlled intersections exceed County standards for both signalized and unsignalized intersections. (Exhibit 141 at 2). Therefore, these intersections meet concurrency requirements under either standard.

WSDOT Roundabouts

The parties appear to agree that these roundabouts are currently funded and scheduled for completion by 2031. (Exhibit 1, attachment 14 at 19, Exhibit 49 at 2, Exhibit 101 at 3, Exhibit 137 at 4, Exhibit 145 at 4, and 1 Exhibit 52 at 3). Therefore, the examiner finds that these improvements are reasonably funded and scheduled for completion of construction within six (6) years of the final date of this Final Order. The fact that the County has no control over the funding and/or timing of construction of these state facilities does not change that fact. The current funding and construction schedules could change, but that is true for any publicly funded infrastructure project, whether the finding is provided by the County, the State, or another source. But these improvements are currently funded and scheduled for completion and therefore meet Code requirements. Contrary to Ms. Pozzo's testimony at the hearing, the Code does not require that infrastructure be in place prior to occupancy of the proposed homes. (Exhibit 78 at 11).

As noted in Exhibit 155, the applicant's traffic engineer demonstrated that "These WSDOT facilities meet concurrency as stated in Table 6 Intersection Capacity Analysis Summary and Sidra calculation spreadsheets in the traffic report appendix. Exhibit 1, Item 14- Traffic Report, pdf pages 31, and 237-246." There is no evidence to the contrary.

Concurrency Corridors

Evaluation of the concurrency corridor capacity levels represented in the County Code yielded capacity at acceptable levels in the buildout year except for:

The NE 179th Street road segments between NE Delfel Road and Interstate 5 and between Interstate 5 and NE 15th Avenue,

The NE 10th Avenue road segments between NE 189th Street and NE 179th Street and between NE 199th Street to NE 194th Street; and

The NE 15th Avenue road segment between NE 179th Street and NE 174th Street.

The traffic study indicates that the above corridors will have a volume to capacity (v/c) ratio of greater than 0.9 in the 2028 buildout horizon.

However, CCC 40.350.020(F) provides:

> The operating level for a transportation corridor, signalized intersection, and/or unsignalized intersection shall be defined as the traffic characteristics of those roadways and intersections with consideration of the following factors:…(9) Any other factors that the Public Works Director has determined could have an impact on the operating level of the transportation corridors or intersections.

CCC 40.350.020(G)(1)(a) does not expressly provide for exceptions to the 0.9 v/c standard. But this provision must be interpreted in light of the entire Concurrency Ordinance, which is part of the context of CCC 40.350.020(G)(1)(a). Ms. Pozzo's argument that County staff cannot consider anything other than the 0.9 v/c standard would render all of CCC 40.350.020(F) irrelevant and without effect. However, ordinances "[m]ust interpreted and construed to give effect the language used in the statute with no portion rendered to or superfluous." *State v. Gonce*, 200 Wn. App. 847, 403 P.3d 918 (2017). Therefore, the examiner finds, based on the plain meaning of the words in the Code, that CCC 40.350.020(F)(9) authorizes the Public Works Director to consider "any other factors that… [they have] determined could have an impact on the operating level of the transportation corridors or intersections."

The text and context of the concurrency ordinance is clear. Therefore, the analysis must stop and reference to legislative history is not allowed. *Restvedt*, 26 Wn. App. 2d at 117.

As discussed in Exhibits 135 and 136:

> [C]orridor v/c ratio thresholds may appear to be exceeded even when intersection operations remain within acceptable limits. In such cases, higher corridor volumes indicate that intersections are operating efficiently enough to allow more vehicles to pass through with minimal delay, thereby increasing the overall throughput of the corridor.

In addition to intersection performance and as a part of a broader more detailed evaluation of corridor operations, it was determined the existing roadway influences that may also affect roadway capacity include, but are not limited to:

- Lane width
- Presence or absence of shoulders
- Heavy vehicle volumes
- Roadway grades
- Number and spacing of intersections and/or driveway accesses

These existing roadway influences are found in the Highway Capacity Manual (HCM), a nationally accepted comprehensive engineering reference for capacity analysis. The HCM also provides adjustment factors for these roadway influences and supports their application in operational analyses.

Therefore, the Transportation Division Manager and Public Works Director, acting pursuant to CCC 40.350.020(F)(9), "[d]irected concurrency staff to use intersection performance, such as intersection level-of-service and queuing bounding the study corridor, in the evaluation of v/c ratio compliance." The County traffic engineer investigated the operations of the above listed corridors based on this direction from the Public Works Director. (Exhibit 135). Ms. Pozzo disputes the County's analysis, based on Mr. Gallup's failure to include calculations in support of his analysis. (Exhibit 149 at 5). However, the examiner finds that, absent some evidence to the contrary, Mr. Gallup's testimony as a professional engineer is sufficient to support his findings and conclusions.

Ms. Pozzo's statement that "At the April 23, 2026 hearing, the examiner stated on the record that using intersection LOS to override corridor V/C has no basis in CCC 40.350.020(G)(1)(a)" is incorrect. The examiner merely asked County staff to identify a Code provision that allowed such an "override". County staff provided the requested Code citations, discussed above, during the open record period.

Staff reviewed the LOS and volumes reported at the NE 179th Street intersections used in the corridor evaluation and found that, in the 2028 buildout horizon, the signalized intersections at the Interstate 5 Northbound and Southbound ramps had approach delays that did not exceed the maximum delay. Staff also evaluated the signalized intersections at NE 179th Street/NE 15th Avenue and found the approach delays did not exceed the maximum delay in the AM or PM peak hours. Staff has determined, during the concurrency evaluation, that these intersections will comply with the adopted Concurrency standards for signalized intersections.

Since the signalized and unsignalized intersections bounding the corridor segments analyzed are anticipated to operate at levels that meet or exceed concurrency standards in the buildout horizon, staff believes that the reported v/c ratio over the NE 179th Street, NE 10th Avenue, and NE 15th Avenue corridors does not represent roadway deficiencies, rather corridor mobility facilitated with good intersection LOS. Therefore, the examiner

concludes, based on the expert testimony from County transportation staff, that no further analysis or mitigation is required with this development.

It should be noted that the reported v/c in the applicant's traffic study should be used as an indicator that these roadway segments should be subjected to site-specific study with a more detailed operational analysis before any major design, reconstruction, or investment decisions are made.

The examiner understands opponents' assertions that roundabouts may have different impacts on intersection capacity than traffic signals. But the examiner finds that such concerns are not sufficient to overcome the expert testimony from engineers for the County and the applicant that the analysis is accurate and all affected corridors will meet concurrency requirements.

Opponents are correct that the applicant's traffic study evaluated v/c using the buildout volume for the roadway corridor segment of NE 179th Street between NE 29th and NE 50th Avenues, analyzing this segment based on the capacity of the planned Pr-4cb roadway, even though improvement of this road roadway corridor is not included in the County's current six year Transportation Improvement Plan ("TIP"). However concurrency staff evaluated this roadway segment based on the capacity of the existing road and concluded that this corridor meets concurrency requirements. (Exhibit 141 at 3). There is no evidence to the contrary.

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

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

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

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

Finding 4: Turn Lane Warrants
Turn lane warrants are evaluated at unsignalized intersections to determine if turn lanes are needed on the uncontrolled roadway. The applicant's traffic study evaluated the need for turn lanes based on the Washington State Department of Transportation (WSDOT) Design Manual. The applicant's engineer concluded that left-turn lane warrants are not projected to be met at the proposed site access location. However, the previously approved PLD-2022-00121 Viers PUD Subdivision was conditioned to construct a dedicated northbound left turn lane with a minimum of 100 feet of vehicle storage shall be constructed on NE 50th Avenue at NE 174th Street. Because the proposed 174th Street subdivision will add to the vehicle volume that triggered the northbound left turn lane warrant under PLD-2022-00121, the applicant will be required to ensure that this dedicated northbound left turn lane on NE 50th Avenue at NE 174th Street is constructed and operational prior to final plat approval. This determination has been made based on CCC 40.350.020(E)(2) that states "The concurrency determination for multiple development applications impacting the same transportation corridors or intersections shall be tested chronologically…"

Therefore, the applicant shall ensure construction drawings are submitted for review and approval. The construction drawings shall provide a signing and striping plan that shows a dedicated northbound left turn lane with associated turn lane tapers on NE 50th Avenue at NE 174th Street. The dedicated northbound left turn lane shall have a minimum of 100 feet of vehicle storage. The north and southbound lane widths on NE 50th Avenue shall also be maintained along with the associated shoulders. The construction drawings shall also address roadside safety and clear zone requirements. These improvements may require additional right-of-way on NE 50th Avenue. (See Transportation Concurrency conditions A-11.c and D-11.a)

Finding 5: Historical Accident Situation
The Institute of Transportation Engineers (ITE) *Traffic Access and Impact Studies for Site Development – A Recommended Practice* states that "Accident rates vary, but any intersection will more than one accident per million entering vehicles is worth of additional analysis." This ITE recommended practice has been used by county staff to determine the scope, or level of analysis required regarding crash history. Because of this, a crash rate of one crash per million entering vehicles has become the threshold to determine if further crash history evaluation is warranted. This is provided that staff has not identified a crash trend that would be exacerbated by the development regardless of the threshold.

The applicant's traffic study analyzed the crash history as obtained from the Washington State Department of Transportation (WSDOT) for the period between January 2020 through December 2024.

The intersection crash rates for the study intersections did not exceed one crash per million entering vehicles warranting additional analysis.

The applicant's study did not recommend any safety mitigations as a part of this development. Staff concurs with the applicant's finding.

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

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

The applicant shall consider the WSDOT Design Manual – Roadside Safety Mitigation Guidance (Section 1600) in the final engineering design of all proposed roadways and frontage improvements. (See Transportation Concurrency condition A-1.d)

Finding 7: Vehicle Turning Movements
It shall be noted that, the road and driveway approach standards listed in the Clark County Code are minimum criteria and are intended for normal conditions, per CCC 40.350.030(C)(3). CCC 40.350.030(C)(3) also states, "The responsible official may require higher standards for unusual site conditions."

The applicant will need to submit construction plans that show the design of the intersection geometry will accommodate all applicable design vehicles for review and approval. The plans will also need to show that all applicable design vehicles can enter and exit the development minimizing impact to opposing travel lanes. This may result in no on-street parking areas on local residential access roads, at/near public road intersections. (See Transportation Concurrency condition A-11.e)

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

Wetland and Habitat

Finding 1 – General Habitat

The site is subject to a previous Habitat Determination (WHR-2025-00245) issued on September 11, 2025. The site contains riparian priority habitat associated with an onsite Type Ns (seasonal) stream located in the southwestern portion of the project site. According to CCC 40.445.020(C)(1)(b), riparian priority habitat (RPH) is designated based on the estimated average two hundred (200) year site potential tree height, extending outward on each side of the stream from the ordinary high-water mark (OHWM) to the distances in Table 40.445.020-1 for each site class by water type. In this case, the Ns stream is afforded a 100-foot RPH setback on either side of the stream's OHWM.

During the prior habitat predetermination review, several priority snags were also identified within the project site. Priority snags are defined as dead or dying trees that exhibit sufficient decay characteristics to enable cavity excavation/use by wildlife. Priority snags have a diameter at breast height of more than 51 cm (20 in) and are more than 2 m (6.5 ft) in height in Western Washington. A total of 24 snags have been identified on the site.

Finding 2 – Priority Snags

Based on the provided plans and the Revised Mitigation Plan dated March 29, 2026, (Exhibit 42) the proposed development will result in removal of 14 Priority Snags, 8,730 square feet (0.200 acres) of impacts to the Riparian Priority Habitat area and 60 square feet of direct impacts to the Type Ns stream. Complete avoidance of habitat impacts was not possible due to the distribution of snags onsite and due to the requirement to construct NE 169th Street. As a result, the proposed development necessitates additional stream and buffer impacts that could not be avoided while maintaining required access and roadway standards.

Finding 3 - Snags

Because there are limited opportunities for snag creation onsite, in-kind mitigation for snag impacts is not feasible. Instead, the applicant proposes mitigating for impacts to the priority snags by enhancing 17,729 square feet (0.407 acres) of the remaining onsite riparian habitat area. Staff concur that there are limited onsite opportunities for snag replacement and since the remaining riparian habitat area already contains serval snags, staff can accept the proposed riparian enhancement as out-of-kind mitigation. Staff have additionally requested that at least two of the impacted snags be retained onsite as large priority habitat logs and placed within the remaining riparian habitat area.

Riparian habitat impacts will be partially mitigated onsite by enhancing an additional 3,915 square feet (0.090 acres) of the riparian habitat area. The remaining riparian habitat impacts will be mitigated through purchase of Mitigation Bank Credits from a Wetland Mitigation Bank within Clark County; however, the site is not within the service area of any wetland mitigation banks. Therefore, an Out of Service Area Request (OOSAR) has been submitted to the Interagency Review Team (IRT) of the Terrace Wetland Bank for approval. The IRT has indicated that they are waiting to evaluate the OOSAR until the

Army Corps of Engineers' project manager and the Department of Ecology's regional wetland specialist have completed their review of permitting materials and determined if an OOSA credit purchase may provide appropriate compensation.

In anticipation of application of an OOSAR multiplier as typically required by the IRT, the applicant has included a 1.25 multiplier to the proposed bank credit amounts; however, typically the IRT applies a 1.5 OOSAR multiplier for projects that are not within the Bank's Mitigation Service Area. Therefore, at a minimum, the applicant shall purchase 0.122 mitigation bank credits to compensate for the remaining riparian habitat impacts. The required bank credit amount may be increased as modified by IRT approval. A final habitat permit will be required unless IRT approval is granted prior to Final Engineering approval and there are no additional habitat impacts proposed. (See Condition A-3.a)

Finding 4 - General Wetland

The site is subject to a previous Wetland Determination (WHR-2025-00245) issued on September 11, 2025. The site contains two wetlands as follows:

- Wetland Z, located partially on parcel # 181766000 and offsite to the East, is a Category III Depressional wetland with a habitat score of 6 points.

- Wetland E, located partially on parcel # 181764000 and offsite to the East, is a Category III Slope wetland with a habitat score of 5 points.

The offsite wetland boundaries were previously verified by the County in 2022-2023 during review of the approved Viers Subdivision (PLD-2022-00121).

Under CCC 40.445.020(B)(5), wetland buffers are established by comparing the wetland rating category, the wetland rating habitat score, and the intensity of land uses proposed on development sites per Tables 40.445.020-1, 40.445.020-2 and 40.445.020-3. Based on the wetland habitat scores and the proposed land use of the property, Wetland E is afforded an 80-foot-high land use intensity buffer and Wetland Z is afforded a 150-foot-high land use intensity buffer.

Finding 5 - Avoidance

Due to residential lot configuration and stormwater requirements, avoidance of wetland impacts was not feasible or was not practical. Based on the provided plans and the Revised Mitigation Plan dated March 29, 2026, (Exhibit 42) the proposed development will result in 297 square feet (.007 acres) of impacts to Wetland E and 2,609 square feet (0.060 acres) of impacts to Wetland Z. Indirect wetland impacts are not anticipated due to prior approval to fill the offsite portions of Wetlands E and Z under the adjacent Viers Subdivision approval (PLD-2022-00121). However, in the event the 174th Street Subdivision is developed first, the applicant has included additional contingency mitigation measures to account for indirect wetland impacts to Wetlands E and Z which would amount to an additional 0.026 acres of indirect wetland impacts.

Finding 6 – Wetland Impacts

Since onsite wetland mitigation is not feasible, the applicant proposes mitigating for wetland impacts by purchasing wetland mitigation bank credits; however, the site is not within the Mitigation Bank Service Area of any wetland banks. Therefore, an Out of Service Area Request (OOSAR) has been submitted to the Interagency Review Team (IRT) of the Terrace Wetland Bank for approval; however, the IRT has indicated that they are waiting to evaluate the OOSAR until the Army Corps of Engineers' project manager and the Department of Ecology's regional wetland specialist have completed their review of permitting materials and determined if an OOSA credit purchase may provide appropriate compensation.

In anticipation of application of an OOSAR multiplier as typically required by the IRT, the applicant has included a 1.25 multiplier to the proposed bank credit amounts; however, typically the IRT applies a 1.5 OOSAR multiplier for projects that are not within the Bank's Mitigation Service Area. Therefore, at a minimum the applicant shall purchase .084 mitigation bank credits to compensate for the proposed impacts to Wetlands E and Z. The required bank credit amount may be increased as modified by IRT approval. In the event that the offsite portions of Wetlands E and Z have not been filled as previously approved for the adjacent Vier's Subdivision, then additional credits will be required to compensate for indirect wetland impacts. A final wetland permit will be required unless IRT approval is granted prior to Final Engineering approval and there are no additional wetland impacts proposed. (See Condition A-3.b)

Finding 7 - Installation

After installation of the mitigation, maintenance and monitoring are required in order to ensure long term performance of the mitigation. Routine maintenance of the site is necessary to ensure the integrity and success of the installed plants which includes, but is not limited to, removing invasive species and weeds, irrigation (if required), and plant replacement to meet the performance standards. Annual monitoring reports are required for a period of five growing seasons following approval of the as-built report. Adaptive management and alternate species may be considered if plantings appear to have massive failures; any changes shall be coordinated with Habitat/Wetland Review staff. (See Condition H-2.a)

Finding 8 – As Built

A Mitigation As-Built report must be submitted to the County within 30 days of completion of construction and planting in the approved mitigation plan. The As-Built needs to include documentation of any revisions to or deviations from the approved plan, demonstrating that any changes meet the requirements of CCC 40.445. (See Condition A-3.c)

Finding 9 – Revised Mitigation Plan

Staff concludes that the proposed preliminary mitigation plan (Exhibit 42) is feasible, however, pursuant to findings above, a revised mitigation plan may be required prior to authorization to start construction unless IRT approval is granted prior to Final

Engineering approval and there are no additional wetland and/or habitat impacts proposed. (See Condition A-3.d)

Finding 10 – Offsite Wetland Impacts

As discussed in Exhibit 93, in the event the adjacent Viers Subdivision (PLD-2022-00121) does not proceed with constructing required turn lane improvements along NE 50th Avenue at 174th Street prior to development of the NE 174th Street Subdivision, then the responsibility of those road improvements will fall to the applicant of the NE 174th Street Subdivision (See Transportation Finding 6). The section of NE 50th Avenue where turn lane improvements are required is adjacent to a shoreline management area and priority riparian habitat associated with Mill Creek and any required widening may result in shoreline and habitat impacts. (See the Condition in Exhibit 93)

Forest Practice

Finding 1 – Current Use

The subject property is presently enrolled in a Current Use program. CCC 40.260.080(B)(2)(a)(4) requires that land proposed to be converted to a nonforestry use be withdrawn from current use designation under Chapters 84.33 and 84.34 RCW or Chapter 3.08 prior to issuance of county land use approvals for nonforestry uses. (See Condition D-3.a)

Conclusion

The examiner concludes that the proposed preliminary plan, subject to conditions above, meets the Wetland requirements of the Clark County Code.

Finding 2 -Forest Practice

The site is also subject to an approved Forest Practices Application (FPA-2026-00026). Forest practice activities associated with this proposal are regulated under CCC 40.260.080. Class IV-General forest practice permits must comply with the conditions of approval established through the associated development permit, forest practice permit, or approved COHP, and all approvals remain subject to the conditions stated on the approved application. Accordingly, the applicable forest practice conditions for this proposal are contained in the approved FPA and are not repeated in this decision. (See Condition G-5.a)

Conclusion

The examiner concludes that the proposed preliminary plan, subject to conditions above, meets the Forest Practice requirements of the Clark County Code.

Fire Protection

Finding 1 - Fire Marshal Review

This application was reviewed by Jason Knoble in the Fire Marshal's Office. Jason can be reached at (564) 397-3318 or e-mail at Jason.knoble@clark.wa.gov. Where there are difficulties in meeting these conditions or if additional information is required, contact Jason in the Fire Marshal's office immediately.

Finding 2 - Building Construction
Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process. (See Condition E-2.a)

Finding 3 - Fire Flow
Fire flow in the amount of 1,000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Prior to final approval submit proof from the water purveyor indicating that the required fire flow is available at the site. A letter dated November 18, 2025, states there is 2,401GPM available in the area. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. (See Conditions A-4.a, B-2.b and D-4.a)

Finding 4 - Fire Hydrants
Fire hydrants are required for this application. Either the indicated number or the spacing of the fire hydrants is inadequate. Provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads. (See Condition A-4.b)

The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact Clark Cowlitz Fire & Rescue at 360-887-4609 to arrange for location approval. Unless waived by the fire district chief fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. Provide and maintain a three-foot clear space around the entirety of every fire hydrant. (See Conditions A-4.c, F-1.a, and H-1.a)

Finding 5 - Fire Apparatus Access
Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application adequately provide required fire apparatus access. Provide fire apparatus access roads with an unobstructed width of not less than 20 feet, an unobstructed vertical clearance of not less than 13.5 feet, with an all-weather driving surface and capable of supporting the imposed loads of fire apparatus. (See Condition A-4.d)

Finding 6 - Fire Apparatus Turnarounds
Approved fire apparatus turnarounds are required for this project. The indicated provisions for turning around fire apparatus are adequate. (See Condition A-4.e)

Finding 7 - Fire Sprinklers
Homes exceeding 3,600 square feet including attached garages will require additional fire protection features up to and including a residential fire sprinkler system when adequate public water and a hydrant is not within required distances. (See Condition E-2.b)

Finding 8 - Gates

No gate may be installed across a required fire department access road or driveway without first obtaining a permit from the fire marshal's office. Inspection and testing of the gate will be required. Split gates with a divided entry and exit side will need 15 feet on either side for a total gate width of 30 feet. (See Condition E-2.c)

Finding 9 - Parking
Parking is prohibited on access roads that are less than twenty-four (24) feet wide. Roads that are less than twenty-four (24) feet wide shall be posted "NO PARKING-FIRE LANE". (See Condition H-1.b)

Conclusion
The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the fire protection requirements of the Clark County Code.

Water and Sewer Service
Finding 1 - Services
The site will be served by the Clark Public Utilities water district (Exhibit 1 Tab 17) and Clark Regional Wastewater sewer district (Exhibit 1 Tab 16). Letters from the above districts confirm that services are available to the site.

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 A-5)

Finding 3 - On-Site Sewage Systems (CCC 24.17, WAC 246-272A, CCC 40.370, RCW 58.17)
Existing individual on-site sewage systems (OSS) are listed on the application and there are county records indicating two on-site sewage systems are at the site. A site visit on June 26, 2025, verified evidence of an on-site sewage system known as ON0014336 on Parcel 181711000 - the pump basin riser lid was observed east of the house. ON0042884 on Parcel 181731000 was not observed in the dense landscaping - the owner believes the OSS to be located east of the southern end of the house. These OSS will be required to be abandoned prior to final plat (Mylar) approval. (See Condition D-5.a)

The other five parcels were not observed to have an OSS but it is possible that components of an OSS are on them. Any other on-site sewage system discovered during

development must be properly abandoned with written notice provided to Clark County Public Health and the locations marked on the final plat (Mylar). (See Condition D-5.b)

Finding 4 - Abandonment
The applicant shall provide written notification describing the actions taken to legally abandon the system with pumper's receipt attached. Proper system abandonment requires tank pumping by a licensed pumper, removing the tank or breaking in the tank lids, punching a hole in the bottom, and filling the cavities with rock, sand or compacted soil. Cesspools, drywells, or pump chambers discovered during development must also be abandoned in this manner. The following link connects to the free Clark County OSS Abandonment Form: https://clark.wa.gov/sites/default/files/media/document/2023-03/CCPH%20OSS%20Abandonment%20Notification.pdf. (See Condition B-2.a)

Finding 5 - Sewer Connection
The proposed development must connect to an approved public sewer system. (See Condition D-5.c)

The remaining existing houses must demonstrate a connection to the public sewer prior to final plat (Mylar) approval. A copy of the final acceptance letter from the sanitary sewer purveyor or the equivalent must be submitted along with the final plat (Mylar). (See Condition D-5.d)

Finding 6 - Water Systems (WAC 173-160, WAC 246-290, CCC 40.370, RCW 58.17):
Existing individual wells are indicated on the application. There were no county records documenting wells at the site but a site visit on June 26, 2025, discovered evidence of wells in concrete rings near each of the two houses. On Parcel 181711000, the well was observed west of the house, past the woodpile. On Parcel 181731000, the well was observed east of the northern end of the house. To track the status of the wells, WP0014336 was created for Parcel 181711000 and WP0014337 was created for Parcel 181731000. Any well identified during development must be properly decommissioned per WAC 173-160-381 by a Washington licensed well driller with written notice provided to Clark County Public Health (See Condition D-5.e) and the well locations marked on the final plat (Mylar). (See Condition D-5.f)

Finding 7 - Water Connection
The proposed development must connect to an approved public water system. A copy of the final acceptance letter from the purveyor or the equivalent must be submitted along with the final plat (Mylar). (See Condition D-5.g)

Finding 8 - Approval
Final Health Department approval is required. (See Condition D-5.h)

Conclusion
The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the Water and Sewer service requirements of the Clark County Code.

Impact Fees
Finding 1 - Impact Fees
In 1990, the state legislature authorized counties and cities planning under the Growth Management Act to impose impact fees on development activity to provide partial funding for public system improvements (e.g., roads, schools, parks) which serve new development. Impact fees are due at the time of issuance of building permits and are not a lien placed against the property at the time of final approval. A note reflecting the fee shall be placed on the face of the plan or plat. If you have any questions regarding the Traffic Impact Fee (TIF), please contact Public Works at 564.397.6118. Impact fees include the following:

Traffic Impact Fee (Mt. Vista)	$8,520.22
Park Impact Fee (District #10)	$3,852.00
School Impact Fee (Battle Ground)	$ 10,760.00

Note: The amounts listed above are an estimate using the current impact fee rates and are subject to change. As found in CCC 40.610.040, impact fees are calculated using the rates in effect at the time of building permit issuance. (See Condition E-3)

Conclusion
The examiner finds that the proposed preliminary plan, subject to conditions identified above, meets the Impact Fee requirements of the Clark County Code.

SEPA Determination
The county determined, based on the application materials and public and agency comments, that there are no probable significant adverse environmental impacts associated with this proposal that cannot be avoided or mitigated through the conditions of approval. Therefore, the county, as the lead agency, determined that an environmental impact statement was not needed and issued a Determination of Non-Significance (DNS) for this project.

That determination was not appealed and is now final. Therefore, the examiner has no jurisdiction to address the SEPA concerns raised by Ms. Pozzo except to the extent those concerns relate to the Code, i.e., the concurrency issues raised by Ms. Pozzo and addressed above. The fact that the County initially recommended denial of this application is irrelevant, as it did not preclude the filing of an appeal. Nothing in the Code precludes the applicant from submitting additional evidence or modifying an application to address issues raised in the Staff Report and staff may change their recommendation based on that new evidence.

D. CONCLUSION

Based on the above findings and discussion, the examiner concludes that PLD-2026-00002 (174th Street Subdivision) should be approved, because it does or can comply with the applicable standards of the Clark County Code and the Revised Code of the State of

Washington, subject to conditions of approval necessary to ensure the final plat and resulting development will comply with the Code.

E. DECISION

Based on the foregoing findings and except as conditioned below, the examiner hereby approves PLD-2026-00002 (174th Street Subdivision) in general conformance with the applicant's preliminary plat and the related plans, reports, and proposal. The approval is granted subject to the requirements that the applicant, owner, or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

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 Land Use

a. The applicant shall demonstrate that each proposed phase complies with the requirements of CCC 40.540.040(D)(4). (See Land Use Finding 7)

A-2 Final Construction Plan - The applicant shall submit and obtain county approval of a final construction plan with the following:

a. Archaeology

1) A note shall be placed on the face of the final construction plans as follows:

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

A-3 Wetland and Habitat Review

a. The applicant shall enhance a total of .497 acres of the riparian habitat area as shown in the March 29, 2026, Revised Mitigation Plan prepared by Ecological Land Services. Two of the impacted priority snags shall be retained onsite within the riparian habitat area as priority logs. The applicant shall additionally purchase a minimum of .122 bank credits from a wetland mitigation bank within Clark County. The required bank credit amount may be increased as modified by IRT approval. (See Wetland and Habitat Finding 3)

b. Since onsite wetland mitigation is not feasible, the applicant proposes mitigating for wetland impacts by purchasing wetland mitigation bank credits; however, the site is not within the Mitigation Bank Service Area of any wetland banks. Therefore, an Out of Service Area Request (OOSAR) has been submitted to the Interagency Review Team (IRT) of the Terrace Wetland Bank for approval; however, the IRT has indicated that they are waiting to evaluate the OOSAR until the Army Corps of Engineers' project manager and the Department of Ecology's regional wetland specialist have completed their review of permitting materials and determined if an OOSA credit purchase may provide appropriate compensation.

In anticipation of application of an OOSAR multiplier as typically required by the IRT, the applicant has included a 1.25 multiplier to the proposed bank credit amounts; however, typically the IRT applies a 1.5 OOSAR multiplier for projects that are not within the Bank's Mitigation Service Area. Therefore, at a minimum the applicant shall purchase .084 mitigation bank credits to compensate for the proposed impacts to Wetlands E and Z. The required bank credit amount may be increased as modified by IRT approval. In the event that the offsite portions of Wetlands E and Z have not been filled as previously approved for the adjacent Vier's Subdivision, then additional credits will be required to compensate for indirect wetland impacts. A final wetland permit will be required unless IRT approval is granted prior to Final Engineering approval and there are no additional wetland impacts proposed. (See Wetland and Habitat Finding 6)

c. The applicant shall submit a Mitigation As-Built report to the County within 30 days of completion of the construction and planting in the approved mitigation plan. (See Wetland and Habitat Finding 8)

d. A final habitat permit will be required unless IRT approval is granted prior to Final Engineering approval and there are no additional habitat impacts proposed. The application shall include a revised mitigation plan that meets the Conditions of Approval above. (See Wetland and Habitat Finding 9)

e. Unless the proposed mitigation is constructed and an as-built is approved, a performance assurance for the mitigation is required.

A-4 Fire Marshal Requirements

a. Fire flow in the amount of 1,000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Prior to final approval submit proof from the water purveyor indicating that the required fire flow is available at the site. A letter dated November 18, 2025, states there is 2,401GPM available in the area. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. (See Fire Protection Finding 3)

b. Fire hydrants are required for this application. Either the indicated number or the spacing of the fire hydrants is inadequate. Provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and such that no lot or parcel is in excess of 500 feet from a fire hydrant as measured along approved fire apparatus access roads. (See Fire Protection Finding 4)

c. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact Clark Cowlitz Fire & Rescue at 360-887-4609 to arrange for location approval. Unless waived by the fire district chief fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. Provide and maintain a three-foot clear space around the entirety of every fire hydrant. (See Fire Protection Finding 4)

d. Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application adequately provide required fire apparatus access. Provide fire apparatus access roads with an unobstructed width of not less than 20 feet, an unobstructed vertical clearance of not less than 13.5 feet, with an all-weather driving surface and capable of supporting the imposed loads of fire apparatus. See Fire Protection Finding 5)

e. Approved fire apparatus turnarounds are required for this project. The indicated provisions for turning around fire apparatus are adequate. (See Fire Protection Finding 6)

A-5 Public Health Review - Submittal of a *Public Health Evaluation Letter* is required as part of the Final Construction Plan Review or early grading application. If the evaluation letter specifies that certain actions are required, the evaluation letter will specify the timing of when those activities must be completed, such as prior to Final Construction Plan Review, construction, Provisional Acceptance, Final Plat Review, building permit issuance, or occupancy, and approved by Public Health.

A-6 Final Transportation Plan/On-Site - The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

a. The applicant shall show on the final construction plans that all proposed pedestrian facilities will be constructed to comply with ADA standards. (See Transportation Finding 1)

b. The applicant shall show the construction of end of sidewalk ramps where pedestrian facilities temporarily terminate at the plat boundary. (See Transportation Finding 1)

c. The applicant shall show all curb ramps will be constructed in compliance with the WSDOT Design Manual. (See Transportation Finding 1)

d. NE 174th Street is classified as an "Urban Collector", C-2b, half-width improvements are required consisting of 30 feet of right-of-way dedication, 17-feet of roadway width, curb/gutter, and a 5-foot detached sidewalk. (See Transportation Finding 3)

e. All roads shall have a minimum pavement width of 20 feet. (See Transportation Finding 3)

f. NE 40th Avenue is classified as an "Urban Neighborhood Circulator" half-width improvements are required consisting of 27 feet of right-of-way dedication, 18-feet of roadway width, curb/gutter, and a 5-foot sidewalk. (See Transportation Finding 3)

g. NE 173rd Street, NE 171st Street, NE 170th Street, NE 42nd Way, NE 43rd Way, NE 44th Way and NE 45th Avenue are classified as "Urban Local Residential Access" full-width improvements are required consisting of 46 feet of right-of-way dedication, 28-feet of roadway width, curb/gutter, and a 5-foot sidewalk. (See Transportation Finding 3)

h. NE 169th Street is classified as an "Urban Local Residential Access" half-width improvements are required consisting of 23 feet of right-of-way dedication, 14-feet of roadway width, curb/gutter, and a 5-foot sidewalk. (See Transportation Finding 3)

i. NE 43rd Loop and NE 44th Loop are proposed as "Urban Private Roads", full-width improvements are required consisting of 26 feet of easement, 20-feet of roadway width, curb/gutter, and a 5-foot sidewalk (on one side). (See Transportation Finding 3)

j. The applicant shall show on the final construction plans that roadways are tapered according to accepted engineering practices and supplemental standards in Section 40.350.030(C)(1)(b). (See Transportation Finding 3)

k. The applicant shall show on the final construction plans a pavement section that is in compliance with the results of pavement deflection testing as prescribed by CCC 40.350.030(B)(5)(a)(6). (See Transportation Finding 3)

l. All partial width roads less than 24 feet in width shall be marked with "No Parking" signs or similar control measures. (See Transportation Finding 3)

m. The applicant shall show on the final construction plans that all shared driveway approaches are placed within a minimum of 20-foot-wide easement. (See Transportation Finding 4)

n. The applicant shall show on the final construction plans that all driveway approaches are spaced 5 feet from any property line. (See Transportation Finding 4)

o. The applicant shall show on the final construction plans that all driveway approaches comply with Clark County Standard Detail F14/F15, or approved equivalent. (See Transportation Finding 4)

p. The applicant shall show on the final construction plans that all corner lot driveways will comply with CCC 40.350.030(B)(4(b)(1)(b). (See Transportation Finding 4)

q. The applicant shall show on the final construction plans that access per CCC 40.350.030(B)(4)(b)(4)(a) is met for any local access road that will exceed the threshold(s). (See Transportation Finding 4)

r. The applicant shall show the sight distance triangles at all intersections on the final construction plans. (See Transportation Finding 5)

s. The applicant shall remove vegetation within the right-of-way to maximize sight distance for the proposed intersections. (See Transportation Finding 5)

t. The applicant is responsible for providing all necessary transportation improvements required for each individual phase. (See Transportation Finding 6)

u. If this project proceeds before Viers Subdivision (PLD-2022-00067) is completed or if changes to the Viers Subdivision affect the proposed design, then revised plans and a Post Decision Review shall be required. (See Transportation Finding 6)

A-7 **Transportation:**

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

A-8 **Final Stormwater Plan** – The applicant shall obtain county approval of a drainage plan designed in conformance to CCC 40.386, as amended by Ordinance No. 2021-06-02, and the following conditions of approval:

a. The applicant shall submit final construction plans and a final Technical Information Report (TIR) that addresses Stormwater Minimum Requirements #1 though #9. (See Stormwater Finding 7)

b. The applicant shall demonstrate that the development will not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. (See Stormwater Finding 7)

c. The applicant shall provide a final Technical Information Report that evaluates List #2 for all hard surfaces. (See Stormwater Finding 8)

d. The applicant shall provide a final Technical Information Report that demonstrates compliance with the Basic Treatment requirement. (See Stormwater Finding 8)

e. The applicant shall submit documentation from the stormwater treatment system manufacturer indicating that any proprietary stormwater treatment devices were sited and sized appropriately. (See Stormwater Finding 8)

f. The applicant shall provide a final technical information Report that demonstrates compliance with the Standard Flow Control requirement. (See Stormwater Finding 8)

g. The applicant shall provide final construction plans and a final Technical Information Report that addresses the following levels of wetland protection: Hydroperiod Protection (Method 2) and General Protection & Protection from Pollutants (as applicable to each wetland), if the applicant proposes any changes to the wetlands and/or mitigation plans. (See Stormwater Finding 8)

h. The applicant shall identify on the final construction plans ownership and maintenance responsibilities for each of the proposed stormwater facilities. (See Stormwater Finding 8)

i. A stormwater easement shall be shown on all private/joint stormwater facilities not in the public right-of-way or in a tract. (See Stormwater Finding 8)

j. Stormwater facility setbacks shall be met and shown on the final construction plans, unless a reduced setback is recommended by a geotechnical engineer. (See Stormwater Finding 8)

k. The applicant shall submit an offsite analysis with the Final TIR prepared in accordance with Book 1, Chapter 5 of the CCSM 2021 for all outfall locations from the site. (See Stormwater Finding 8)

l. The applicant is responsible for providing all necessary stormwater mitigation improvements required for each individual phase. (See Stormwater Finding 9)

A-9 **Erosion Control Plan** - The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.386, as amended by Ordinance No. 2021-06-02.

A-10 **Excavation and Grading** - Excavation/grading shall be performed in compliance with CCC14.07.

A-11 **Final Transportation Plan/Off Site (Concurrency) –** The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

a. The applicant shall 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 applicant shall obtain a work order with Clark County to reimburse the County for required signing and striping.

b. The applicant shall ensure construction plans are submitted for review and approval. The construction plans shall provide a signing and striping plan that shows a dedicated northbound left turn lane and shared northbound through/right lane with associated turn lane tapers on NE 179th Street/NE 50th Avenue. The plans shall also show one southbound receiving lane. The plans shall show that the dedicated northbound left turn lane and shared through/right lane will have approximately 90 feet of storage, consistent with the design of the dedicated left-turn lanes installed on the eastbound and westbound approaches at the intersection. The north and southbound lane widths on NE 50th Avenue shall also be maintained along with the associated shoulders. The plans shall show all necessary pavement widening and associated tapers to facilitate the required turn lane. Tapers and signage shall comply with the Clark County Standard Details (T-11.0 through T-11.3), the Washington State Department of Transportation (WSDOT) Design Manual, and Manual on Uniform Traffic Control Devices (MUTCD) as applicable. The construction drawings shall also address roadside safety and clear zone requirements. (See Concurrency Finding 3)

c. The applicant shall ensure construction plans are submitted for review and approval. The construction plans shall provide a signing and striping plan that shows a dedicated northbound left turn lane with associated turn lane tapers on NE 50th Avenue at NE 174th Street. The plans shall show that the dedicated northbound left turn lane will have a minimum of 100 feet of vehicle storage. The north and southbound lane widths on NE 50th Avenue shall also be maintained along with the associated shoulders. The plans shall show all necessary pavement widening and associated tapers to facilitate the required turn lane. Tapers and signage shall comply with the Clark County Standard Details (T-11.0 through T-

11.3), the Washington State Department of Transportation (WSDOT) Design Manual, and Manual on Uniform Traffic Control Devices (MUTCD) as applicable. The construction drawings shall also address roadside safety and clear zone requirements. (See Concurrency Finding 4)

d. The applicant shall consider the WSDOT Design Manual – Roadside Safety Mitigation Guidance (Section 1600.04) in the final engineering design of all proposed roadways and frontage improvements. (See Concurrency Finding 6)

e. The applicant shall submit construction plans that show the design of the intersection geometry will accommodate all applicable design vehicles for review and approval, unless modified by the County Engineer. The plans will also need to show that all applicable design vehicles can enter and exit the development minimizing impact to opposing travel lanes. This may result in no parking and/or maneuvering areas near public road intersections. Please note that applicable design vehicles include but are not limited to passenger vehicles and waste management vehicles. (See Concurrency Finding 7).

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

Prior to construction, the following conditions shall be met:

B-1 **Land Use:**

a. Prior to site construction, structures slated for demolition shall be demolished in accordance with the procedures of the Southwest Clean Air Agency and the Clark County demolition permit. (See Land Use Finding 7)

B-2 **Pre-Construction Conference -** Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the county; and,

a. Prior to site construction, abandonment of septic systems, water wells and underground tanks shall be decommissioned in accordance with the procedures of the Clark County Public Health. (See Water and Sewer Services Finding 4)

b. Fire flow in the amount of 1,000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Prior to final approval submit proof from the water purveyor indicating that the required fire flow is available at the site. A letter dated November 18, 2025, states there is 2,401GPM available in the area. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. (See Fire Protection Finding 3)

B-3 **Traffic Control Plan** – Prior to impacting the public roadway for the development site, the applicant shall obtain written approval from Clark County

Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

B-4 **Pre-Construction Conference** - Prior to construction or any land disturbance, a pre-construction conference shall be held with the county.

B-5 **Erosion Control** - Prior to construction or any land disturbance, erosion/sediment controls shall be in place per the approved erosion control plan. 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. Erosion control facilities shall not be removed without county approval.

B-6 **Road Closures** - Any request by the developer or developer's contractor to close a road will be reviewed by county staff. The developer shall provide a memorandum to the County Engineer justifying the reasons for needing the road closure, specifically including explanation as to why the closure is necessary and construction cannot occur under traffic, such as flagger-controlled alternating one way traffic next to the construction. The memorandum shall include the ENG number and title of the project, location of the requested road closure, anticipated date of start of closure, requested closure time length, explanation of the public outreach that the contractor will perform, full detour mapping, and other information as appropriate. Road Closures are approved specifically by the County Council by resolution, as described in WAC 308-330-270(7). The process for county takes at least 6 weeks for writing the staff report, resolution and internal review. Depending on the complexity of the request from the developer and the council's time availability, this can take over 12 weeks to process from start to finish. It is the developer's responsibility to ensure that the process is completed prior to needing the road closure enacted. The contractor shall be responsible for all costs associated with county staff time to process the request via reimbursable work order and all notifications required by law in local newspapers as required by RCW 47.48 Notice of Closure or Restriction. Requesting a road closure is no guarantee that a road closure will be approved by the county.

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

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

C-1 **Sight Distance -** The applicant shall submit a sight distance certification letter signed and stamped by an engineer, licensed in the state of Washington, indicating the sight distance at all proposed intersections, once constructed, complies with the county code. (See Transportation Finding 5)

D	**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 **Land Use**

a. The applicant shall demonstrate that each proposed phase complies with the requirements of CCC 40.540.040(D)(4). (See Land Use Finding 7)

D-2 **Wetland and Habitat Review**

a. Pursuant to CCC 40.445.030(B)(2)(d), a conservation covenant shall be recorded in a form approved by the Prosecuting Attorney as adequate to incorporate the other restrictions of this section and to give notice of the requirement to obtain a habitat permit prior to engaging in regulated activities within a designated habitat area.

b. Pursuant to CCC 40.445.030(B)(2)(d), the Final Plat shall clearly show all priority habitat boundaries with a note referencing any required conservation covenant(s).

c. Pursuant to CCC 40.450.030(F), a permanent physical demarcation along the upland boundary of the riparian 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.

d. Pursuant to CCC 40.450.030(F), small signs shall be posted at an interval of one (1) per lot or every one hundred (100) feet, whichever is less, and perpetually maintained at locations along the outer perimeter of the riparian habitat area approved by the responsible official worded substantially as follows:

Habitat Area -
Please retain in a natural state

D-3 **Forest Practice**

a. Prior to issuance of county land use approvals for nonforestry uses associated with this proposal, the applicant/property owner shall obtain withdrawal of the area to be converted from any applicable current use designation and provide documentation of that withdrawal to Clark County. The applicant/property owner shall be responsible for any compensating tax, additional tax, fees, or other obligations associated with removal from the current use program. (See Forest Practice Finding 1)

D-4 **Fire Marshal Requirements**

a. Water mains supplying fire flow and fire hydrants shall be installed, approved and operational prior to final plat approval. (See Fire Protection Finding 3)

D-5 **Water and Sewer Services:**

a. OSS will be required to be abandoned prior to final plat (Mylar) approval. (See Water and Sewer Services Condition 3)

b. Any other on-site sewage system discovered during development must be properly abandoned with written notice provided to Clark County Public Health and the locations marked on the final plat (Mylar). (See Water and Sewer Services Condition 3)

c. The proposed development must connect to an approved public sewer system. (See Water and Sewer Services Finding 6)

d. The remaining existing houses must demonstrate a connection to the public sewer prior to final plat (Mylar) approval. A copy of the final acceptance letter from the sanitary sewer purveyor or the equivalent must be submitted along with the final plat (Mylar). (See Water and Sewer Services Finding 6)

e. Any well identified during development must be properly decommissioned per WAC 173-160-381 by a Washington licensed well driller with written notice provided to Clark County Public Health. (See Water and Sewer Services Finding 6)

f. Well locations marked on the final plat (Mylar). (See Water and Sewer Services Finding 6)

g. Abandonment of On-Site Water Wells and Sewage Systems - The location of abandoned septic tanks and decommissioned wells shall be shown on the face of the final plat. (See Water and Sewer Services Finding 7)

h. Final Health Department approval required. (See Water and Sewer Services Finding 8)

D-6 **Addressing -** At the time of final plat, existing residence(s) that will remain may be subject to an address change. Addressing will be determined based on point of access**.**

D-7 **Rights-of-way / Easements –**

a. Right-of-way along the frontage of NE 174th Street to achieve a 30-foot half-width shall be conveyed to the county with the final plat, if necessary. This 30-foot right-of-way shall be from the historic centerline. (See Transportation Finding 3)

b. Right-of-way along NE 40th Avenue to achieve a 30-foot partial-width, shall be conveyed to the county with the final plat. (See Transportation Finding 3)

c. Right-of-way along NE 173rd Street, NE 171st Street, NE 170th Street, NE 42nd Way, NE 43rd Way, NE 44th Way and NE 45th Avenue to achieve a 46-foot full-width, shall be conveyed to the county with the final plat. (See Transportation Finding 3)

d. Right-of-way along the frontage of NE 169th Street to achieve a 23-foot half-width, shall be conveyed to the county with the final plat. (See Transportation Finding 3)

e. A private road easement for NE 43rd Loop and NE 44th Loop shall be delineated on the final plat. (See Transportation Finding 3)

f. The joint driveway access easements for Lots 33-34, 39-40, 57-58, 68-69 and 74-75 shall be delineated on the final plat. A minimum 20-foot easement width is required. The lot numbers who have access to the joint driveway easements shall also be labeled. (See Transportation Finding 4)

D-8 **Sight Distance** – Sight distance triangles shall be delineated on the final plat, if within the lot area. (See Transportation Finding 5)

D-9 **Developer Covenant** – A "Developer Covenant to Clark County" shall be submitted for recording to include the following:

a. Joint Driveway Maintenance Covenant - A joint road maintenance covenant shall be submitted to the responsible official for approval and recorded with the County Auditor. The covenant shall set out the terms and conditions of responsibility for maintenance, maintenance methods, standards, distribution of expenses, remedies for noncompliance with the terms of the agreement, right of use easements, and other considerations, as required under 40.350.030(C)(4)(g),

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

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

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

e. Impact Fees: "In accordance with CCC 40.610, impact fees for each dwelling in this subdivision shall be assessed for impacts on schools, parks and transportation facilities based for the following districts: Battle Ground School District (SIF), Park District 10 (PIF) and Mt. Vista 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-10 Plat Notes - The following notes shall be placed on the final plat:

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

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

c. Sight Distance: "Sight distance easement triangles shall be maintained and kept clear as required under CCC 40.350.030(B)(8)."

d. Driveways: "No direct access is allowed onto the following streets: NE 174th Street"

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

f. Access: "The lot(s) (__) has legal permission to enter and exit via a (public way, shared driveway easement, or private road)."

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

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

i. Archaeological (all plats): "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."

j. Impact Fees**:** "In accordance with CCC 40.610, impact fees for each dwelling in this subdivision shall be assessed for impacts on schools, parks and transportation facilities based for the following districts: Battle Ground School District (SIF), Park District 10 (PIF) and Mt. Vista Sub-area (TIF). As found in CCC40.610.040, impact fees are calculated using the rates in effect at the time of building permit issuance."

D-11 Concurrency -

a. Prior to the approval of the final plat, a dedicated northbound left turn lane with a minimum of 100 feet of vehicle storage shall be constructed and operational on NE 50th Avenue at NE 174th Street. (See Concurrency Finding 4)

b. Prior to the approval of the final plat, a dedicated northbound left turn lane and shared through/right lane with a minimum of 90 feet of vehicle storage shall be constructed and operational on NE 50th Avenue at NE 179th Street. (See Concurrency Finding 3)

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

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

E-1 Land Use:

a. Any future construction on the newly created lots shall meet setback standards prescribed for the R1-10 zone. (See Land Use Finding 3)

E-2 Fire Marshal Requirements:

a. Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. (See Fire Protection Finding 2)

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

c. No gate may be installed across a required fire department access road or driveway without first obtaining a permit from the fire marshal's office. (See Fire Protection Finding 8)

E-3 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), Park District 10 (PIF) and Mt. Vista 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."(See Impact Finding 1)

E-4 Engineering requirements:

a. Excavation and Grading: Excavation/grading shall be performed in compliance with CCC 14.07.

b. Roof and Crawl Space Drains: Roof and crawl space drains shall be installed in accordance with the approved As-Built plans, unless a revised plan is approved by the county. These stormwater systems will be owned and maintained by the property owner on whose lot the stormwater system is located. (See Stormwater Finding 8)

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

Prior to issuance of an occupancy permit, the following conditions shall be met:

F-1 Fire Marshal Requirements:

a. Provide and maintain a three-foot clear space around the entirety of every fire hydrant. (See Fire Protection Finding 4)

G	**Development Review Timelines & Advisory Information** **Review and Approval Authority: None - Advisory to Applicant**

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

G-2 Department of Ecology Permit for Construction Stormwater - A permit from the Department of Ecology (ECY) is required if:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**

- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

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

G-3 Building and Fire Safety

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

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

G-5 Forest Practice

a. All forest practice activity associated with this approval shall be conducted in compliance with the approved Forest Practices Application, FPA-2026-00026, and all conditions contained therein. The approved FPA and its conditions are incorporated into this approval by reference. This PLD does not modify, waive, or replace any requirement of the approved FPA. Any timber harvest, clearing, or related forest practice activity inconsistent with the approved FPA is prohibited. (See Forest Practice Finding 2)

H	**Post Development Requirements** **Review and Approval Authority: As specified below**

H-1 Fire Protection:

a. Provide and maintain a three-foot clear space around the entirety of every fire hydrant. (See Fire Protection Finding 4)

b. Parking is prohibited on access roads that are less than twenty-four (24) feet wide. Roads that are less than twenty-four (24) feet wide shall be posted "NO PARKING-FIRE LANE". (See Fire Protection Finding 9)

H-2 Wetland and Habitat Review

a. The applicant (or successor in ownership) shall implement the approved mitigation maintenance and monitoring plan and submit performance reports to the County

for periodic inspection and approval as specified. (See Wetland and Habitat Finding 7)

DATED this 9th day of July 2026.

Joe Turner, AICP, Hearings Examiner

174TH STREET SUBDIVISION

PLD-2026-00002;
WHR-2026-00012; FPA-2026-00026

PARTIES OF RECORD

Role	Company Name	Name	Address 1	Address 2	City	State	Zip Code	Email Address
Planner	Clark County							
Applicant/Owner	Silver Buckle Homes, LLC	Rob & Annette Root	2210 W Main St	#107-391	Battle Ground	WA	98604	rob@timbercresthomes.com
Owner		Shawn & Yvette Root	17101 NE 40th Ave		Vancouver	WA	98686	shawn@timbercresthomes.com
Owner		Tobin & Katarayan Bosbaugh	18501 NE 101st Ave		Battle Ground	WA	98604	tobin@pridonline
Owner		Scott & Angela Eversaul	13311 NE 4th Ct		Vancouver	WA	98685	scott@cre-pac.com
Owner			604 W Evergreen Blvd		Vancouver	WA	98660	jon@sloanlaw.com
Contact Person	PLS Engineering							
NWI Association	Fort Cascade NWI Assoc							
	Clark County	Desiree de Moeye						desiree.demoeye@clark.wa.gov
Type II & III Decisions ONLY	Clark County	Susan Ellinger						susan.ellinger@clark.wa.gov
	Vancouver School District	Gary Yarne						gary.yarne@vansd.org
		Jeff Roberts						jeff@crandallgroup.com
		Heidi Pozzo	17312 NE 27th Ct		Ridgefield	WA	98642	hpozzo@pacificcrest.com
		Jason Carrol						Jason_Carrol@comcast.com
		David Gilroy	3801 NE 165th Cir		Vancouver	WA	98686	dagedigilroy@gmail.com
		Dean Hergesheimer, PE, ret.	4404 NE 174th St		Vancouver	WA	98686	dlhe@msn.com
		Patti Lundgren	4113 NE 174th St		Vancouver	WA	98686	mjslcocosessions1@gmail.com
		Deborah Burnett	17012 NE 38th Avenue		Vancouver	WA	98686	burnettflowers@gmail.com
		Erikson & Associates PLLC	110 West 13th Street		Vancouver	WA	98660	kr@erikson-law.com
		Erikson & Associates PLLC	110 West 13th Street		Vancouver	WA	98660	mark@erikson-law.com
		Jason Rob	3613 NE 158th St		Vancouver	WA	98686	jasonrobpdx@gmail.com
		Bryan Telegin	215 6th Street		Bremerton	WA	98337	bryan@cascadiadesign.com
		Steve Pfeiffer	2216 NW 17th Ct		Ridgefield	WA	98642	steve@pacificcrest.com
		Lawrence L. Moore	18514 NE 23rd St		Vancouver	WA	98684	lawrencemoore@comcast.net
	Staff	Ariel Whitacre						Ariel.whitacre@clark.wa.gov
		Craig Kathol						Craig.kathol@clark.wa.gov
		Allister Dawson						Allister.dawson@clark.wa.gov
		Jason Knoble						Jason.knoble@clark.wa.gov
		Hunter Decker						hunter.decker@clark.wa.gov
		Dan Kaler						Dan.kaler@clark.wa.gov