

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF CARNATION**

In the Matter of the Application of)	
)	NO. LP-21-0001/SSD-21-0001/
)	SUP-21-0001
)	
John Day Homes, Inc.)	Tolt Place Subdivision
)	
For a Preliminary Plat, a Shoreline)	FINDINGS, CONCLUSIONS,
Substantial Development Permit, and)	AND DECISIONS
<u>a Special Use Permit</u>)	

SUMMARY OF DECISIONS

The request for preliminary plat approval, a shoreline substantial development permit, and a special use permit to subdivide approximately 6.28 acres into 12 lots for single-family detached residential development with an approximately three-acre open space/critical areas tract on property currently addressed as 4304 336th Avenue NE, Carnation, Washington are **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

John Day Homes, Inc. (Applicant) requested approval of a preliminary plat, a shoreline substantial development permit, and a special use permit allowing subdivision of approximately 6.28 acres into 12 single-family detached residential lots and an open space/critical areas tract of approximately three acres with streets, utilities, and stormwater facilities. The subject property is currently addressed as 4304 336th Avenue NE, Carnation, Washington.

Hearing Date:

The Carnation Hearing Examiner conducted an open record hearing on the request on August 17, 2022. The record was held open through August 19, 2022 to allow any members of the public who encountered technology or access barriers to joining the virtual hearing to submit written comments, with time scheduled for written responses by the parties. No additional comment was received. The record closed on August 19, 2022. On the record, the Applicant granted a 10-business day extension of the decision issuance deadline. Additional delay in decision issuance unfortunately occurred.

Testimony:

At the hearing the following individuals presented testimony under oath:

- Millie Anne VanDevender, Project Planner
- Jean Linn, City of Carnation Planner
- Jorge Garcia, City Engineer
- John Day, Applicant

Jeremy Febus, PE, Applicant Representative/Engineer of record
Duana Koloushkova, Attorney, presented argument on behalf of the Applicant.

Exhibits:

At the open record hearing, the following exhibits were admitted in the record:

- A. City of Carnation Staff Report to the Hearing Examiner, dated August 6, 2022
 1. Master Land Use Application, received March 8, 2021
 2. Revised Preliminary Plat Drawings by KPFF Consulting Engineers, received June 8, 2022
 3. Revised Landscape Drawings by Lane & Associates, dated April 7, 2022
 4. Revised Tree Preservation Plan by Lane & Associates, dated April 7, 2022
 5. Arborist Report/Tree Plan by Layton Tree Consulting, LLC, dated February 22, 2021
 6. Revised Traffic Impact analysis by Transpo Group, dated February 10, 2022
 7. Revised Critical Area Report by Sewall Wetland Consulting, Inc., dated September 16, 2021
 8. Revised Stormwater Technical Information Report by KPFF Consulting Engineers, dated October 5, 2021
 9. Subsurface Exploration, Geologic Hazards, and Design Recommendations by South Fork Geosciences, PLLC, revised February 5, 2022.
 10. Design Infiltration Rate Report by South Fork Geosciences, PLLC, dated December 22, 2020
 11. Title Report
 12. Adjacent Property Owner List (within 300 feet)
 13. King County Assessor's Vicinity Map
 14. Plat Name Reservation Certificate effective November 23, 2020
 15. Certificate of Water Availability, issued November 20, 2020
 16. Certificate of Sewer Availability, issued November 20, 2020
 17. Revised SEPA Environmental Checklist, dated February 11, 2022, annotated by the City on March 15, 2022
 18. SEPA Mitigated Determination of Non-Significance, issued July 15, 2022
 19. Determination of Complete Application letter, issued April 5, 2021
 20. Notice of Application, issued April 16, 2021
 21. Affidavit of Sign Posting for Notice of Application, dated April 8, 2021
 22. Affidavit of Mailing for Notice of Application, dated April 15, 2021
 23. Snoqualmie Valley Record publication confirmation for Notice of Application, issued

April 23, 2021

24. SEPA Mitigated Determination of Non-Significance emailed to agencies and parties of record, dated July 15, 2022
25. Snoqualmie Valley Record publication for SEPA Mitigated Determination of Non-Significance, dated July 15, 2022
26. Notice of Hearing Examiner Public Hearing
27. Affidavit of Sign Posting for Notice of Hearing Examiner Public Hearing, dated July 27, 2022
28. Affidavit of Mailing for Notice of Hearing Examiner Public Hearing, dated July 28, 2022
29. Notice of Hearing Examiner Public Hearing sent to agencies and parties of record, dated July 29, 2022 and August 1, 2022
30. Snoqualmie Valley Record publication confirmation for Notice of Hearing Examiner Public Hearing, published July 29, 2022 and August 5, 2022
31. SMP Regulatory Channel Migration Zone Map and Shoreline Environment Designation Map (from the City of Carnation Shoreline Master Program)
32. Public comments received on the Notice of Application:
 - a. Adam Osbekoff, Snoqualmie Indian Tribe, dated March 15, 2022
 - b. Laura and Tracey Bailey, dated May 7, 2021 and May 17, 2021, and City's responses dated May 7, 2021 and May 10, 2021
 - c. Laura Bailey, dated February 4, 2022
 - d. Amy Koehnen, dated April 30, 2021
 - e. Jake Koehnen, dated April 30, 2021, and City's initial response dated August 10, 2021
 - f. Deary Panek, dated March 5, 2022
33. Public comments received on the SEPA Mitigated Determination of Non-significance:
 - a. Laura and Tracey Bailey, dated July 26, 2022
 - b. Matthew Baerwalde, Snoqualmie Indian Tribe, dated July 26, 2022
 - c. Kayla Eicholtz, Regional Floodplain Planner, Washington Department of Ecology, dated July 27, 2022
 - d. Kelli Sheldon, Washington Department of Ecology, dated July 29, 2022
34. Two alternate site plans, submitted by the Applicant August 16, 2022
 - a. Alternate 1 – 12 lots
 - b. Alternate 2 – 13 lots
35. Letter from Attorney for the Applicant, dated August 16, 2022

36. License Agreement re: Fence and Property Line, notarized upon signature on multiple dates in July 1997 (submitted by Applicant on August 16, 2022)
37. City Planning Staff PowerPoint presentation
38. King County iMap (critical areas), submitted on behalf of Applicant by Jeremy Febus
39. City of Carnation Transportation Improvement Plan 2021, Figure T-2, Street Classification Map

No in-person site visit was conducted, but the undersigned viewed the subject property and its environs on Google Maps.

After considering the testimony and exhibits admitted, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. John Day Homes, Inc. (Applicant) requested approval of a preliminary plat to subdivide approximately 6.28 acres into 10 to 12 single-family detached residential lots and an approximately three-acre open space/critical areas tract, with associated streets, utilities, and stormwater facilities. Because the southern portion of the subject property is within shoreline jurisdiction, a shoreline substantial development permit and a special use permit for shoreline use are also required. The subject property is currently configured as one parcel addressed as 4306 336th Avenue NE, Carnation, Washington.¹ *Exhibits 1 and 2.*
2. Annexed in 2019, the subject property is designated Medium Density Residential by the City of Carnation Comprehensive Plan land use map. It is zoned Residential 4 (R-4), which zoning district is designed primarily to accommodate single-family detached residential uses at a variety of densities in areas served by public utilities and services, and also to “secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts.” *Carnation Municipal Code (CMC) 15.36.010.A and .B; Exhibit 1.*
3. Located at the extreme eastern edge of the City, the subject property abuts 336th Avenue NE to the west and is across from the current eastern terminus of NE 42nd Street; both are classified as local access streets. Approximately 200 feet north of the site, NE 45th Street runs east-west; it is classified as an arterial. The parcels abutting the subject property to the north and east are developed with single-family residential uses in unincorporated King County within the City’s Urban Growth Boundary, although there appears to be some sort of vehicle-related use on the northern of the two parcels to the east. *See Exhibit 37, slides 3 and 5; Google Maps site view.* Parcels located across 336th Avenue NE to the west are within city limits and are also developed with single-family

¹ The legal description of the subject property is a portion of Section 15, Township 25 North, Range 7 East, W.M.; also known as Tax Parcel number 152507-9027. *Exhibits 1 and 2.*

residential uses; they are zoned R-2.5. South of the subject property lies an undeveloped parcel in unincorporated King County and outside the City's Urban Growth Boundary; it carries the King County land use designation *Rural Area, one dwelling unit per 10 acres* (RA-10). This property is used as a retreat/camp property owned by the Girl Scouts of Western Washington. The subject property is near proposed Rivers Edge Park, which once developed will be located at the southwest corner of 336th Avenue NE and NE 45th Street. Property abutting the southwest corner of the site is zoned PR, Parks and intended for future park development. *See Exhibit 37, slide 4.* The Tolt River abuts the undeveloped parcel further south and at its closest is located approximately 0.2 miles from the south edge of the proposed development envelope. *Exhibits 1, 9, 37, and 39; Google Maps site view; Jeremy Febus Testimony.*

4. The majority of the northern portion of the subject property, including the entire proposed development envelope, is relatively flat; there is around seven feet difference in elevation from the eastern lot line down to the western site boundary. Approximately the southern half of the subject property slopes down more significantly towards the Tolt River; this area is densely vegetated with trees, shrubs, and grasses. This portion of the property contains a Type S stream that is a tributary side channel of the Tolt River, the Tolt River's channel migration zone (CMZ), and associated critical area and shoreline buffers. There is an existing vacant single-family residence and several outbuildings in the northern part of the south half of the property, which would be removed. Portions of the southern half of the site include the mapped floodway and the AE floodplain (FIRM panel #0419H) of the Tolt River, bounded to the north by the stream and to the south by the property line. The majority of the property is located completely outside of the floodplain. *Exhibits 1, 7, and 37 (see Slide 10).*
5. Single-family residential uses are permitted in the R-4 district. *CMC Chapter 15.40 Table 1.* The R-4 zone requires a minimum lot area of 7,500 square feet and allows a maximum density of six units per acres for single-family detached development. Minimum required lot width is 50 feet. When built upon, maximum structure height is 25 feet, maximum impervious surface area per lot is 50%, and each lot must provide setbacks as follows: 15 feet front yard; 25 feet rear yard; minimum of five feet, with an average of 7.5 feet for interior side yard; and 10 feet for street-abutting side setback. *CMC Chapter 15.48 Table 1.*
6. As of the hearing date, Planning Staff and the Applicant were not in agreement regarding road layout and resulting number of lots within the plat. The 10-lot site plan presented in the staff analysis was a plat layout the Applicant agreed to seek approval for under protest. Planning Staff determined that the internal road needed to loop as shown in Exhibit 2; however, this layout requires the sacrifice of two or three lots, based on the alternate road configurations proposed by the Applicant in Exhibit 34. At hearing, Staff presented the 10-lot plat with a recommendation for approval and maintained a recommendation for denial of the 12 or 13 lot layouts. The Applicant requested the undersigned to determine whether one of the two alternate designs could satisfy the requirements for plat approval over the objection of City Staff. The Applicant preferred Alternate 2 (13 lots), but requested approval of Alternate 1 (12 lots) over the 10-lot

layout. *Exhibits 2, 34, and 35; Testimony of John Day and Jeremy Febus; Duana Kolouskova Argument.*

7. In the 10-lot plat recommended for approval by Staff, the 10 lots are organized around a looped road with two site entrances from 336th Avenue NE, one at the northwest corner of the site, and the other in the middle of the site's western boundary immediately across from the terminus of NE 42nd Street. Both the on-site NE 42nd Street extension and the road along the north plat boundary would be developed with half street improvements. The 10 lots range in area from 7,500 to 11,750 square feet, averaging 8,785 square feet. Lot widths range from 68 to 103 feet. All 10 lots front on the new internal road, and all 10 would be able to provide at least the minimum front, rear, and side yards required by code. In this 10-lot configuration, nearly all of 42nd Street NE on site, the southern part of proposed 337th Avenue NE, and portions of Lots 5, 6, 7, and 8 would be within 200 feet of the tributary to the Tolt River onsite and thus within the shoreline jurisdiction, subject to the requirements of the City's Shoreline Master Program. A narrow sliver of the NE 42nd Street right-of-way would be within the 100-foot shoreline buffer required to be provided from the edge of the tributary's channel migration zone; this sliver of dedicated right-of-way would be left in a native vegetated condition with additional plantings and not improved as road. *Exhibits 2 and 37; Millie Anne VanDevender Testimony.*
8. Instead of a road that loops within the site, the Applicant's proposed alternate 12-lot design (Alternate 1) would have one site entrance from 336th Avenue NE, aligned with the terminus of NE 42nd Street, and the internal extension of 42nd Street would stub to the north and east site boundaries to provide for future connectivity. Lots 3 through 12 would front on the new internal road, while lots 1 and 2 would front on 336th Avenue NE.² The 12 lots range in area from 7,221 to 15,011 square feet, averaging 9,378 square feet, and the narrowest lot would be 64 feet wide. Proposed Lots 2 and 11 would both be smaller than 7,500 square feet; however, adjoining Lots 1, 3, and 12 are all substantially over 7,500 square feet, and lot lines appear able to be adjusted to achieve a minimum area of 7,500 square feet for all lots. The Applicant indicated it would be possible to place residences on each proposed lot that could comply with required setbacks. Appearing to be 75 feet in width or greater, Lots 7, 8, 9, and 10 would have the bulk of their area, including their building envelopes, within the 200-foot shoreline jurisdiction, and two areas of the proposed internal extension of 42nd Street NE would be within shoreline jurisdiction. The 100-foot shoreline buffer from the edge of the onsite stream would encumber the southernmost approximately 15 feet of the rear yards of Lots 7 through 10. No building envelopes are shown within the shoreline buffer. *Exhibit 34.*
9. Finally, the Applicant's preferred alternative is a 13-lot layout (Alternate 2) that has one entrance from 336th Avenue NE, off-set from (not aligned with) 42nd Street NE. Lots 1 and 2 would front 336th Avenue NE, and the remaining 11 lots would front a proposed internal road shaped like a cul-de-sac (and ending in a bulb that would provide

² The undersigned notes that it may be possible for residences on Lots 1 and 2 to connect to the internal plat road via easement across Lot 3.

emergency vehicle turning radius) that touches the east edge of the property, meaning a road could extend to the east to provide future connectivity.³ The 13 lots range from 7,309 to 12,129 square feet, averaging 9,045 square feet in area, with the narrowest lot approximately 70 feet in width. As proposed, Lot 9 is under 7,500 square feet; however, adjacent Lots 8 and 10 are both substantially over the minimum, and lot lines appear able to be slightly adjusted to achieve a minimum 7,500 square foot lot area. Again, it would be possible to place residences on each lot that could comply with required setbacks. Lots 8 through 13 would be situated south of the single internal road, and each of these lots would be greater than 75 feet in width and would have the majority of their area – and their respective building envelopes – within the 200-foot shoreline jurisdiction associated with the tributary to the Tolt River. A small sliver of the southern edge of the cul-de-sac bulb would also be within the 200-foot shoreline jurisdiction. The 100-foot shoreline buffer would encumber the rear several feet of Lots 8 through 13, but again, no building envelopes are shown within the shoreline buffer on these lots. *Exhibit 34.*

10. In all three contemplated plat configurations, an open space tract comprising approximately the southern half of the site would be retained in its existing condition with the exception of the proposed removal of the existing residential structures and appurtenances and restoration of that area to a native planted condition. No new structures would be built within the floodway, the floodplain, or the required buffers. A 20-foot wide trail easement would be dedicated by the plat along the southern border of the developed area within Tract A. The open space tract would be owned and maintained by a homeowners association as a native vegetation tract in perpetuity. City Staff recommended that a note be placed on the face of the final plat to apprise future lot owners of the requirement to maintain Tract A in a native state in perpetuity. *Exhibits 1, 2, 34, and 37; John Febus Testimony; Jean Lin Testimony.*
11. Under City code, maximum residential density is based on “net acreage,” which excludes area that would not be factored into computing minimum lot size, including right-of-way and open space tracts. Under the proposed 10-lot configuration, there are approximately three net acres on the site (excluding road and critical area), resulting in a density of 3.33 units per net acre. While neither the total area assigned to Tract A nor the total area developed with roadway is called out on the alternative layouts provided, roadway would occupy approximately half as much site area on the 12-lot layout (and even less site area on the 13-lot layout), meaning the net acreage is likely greater under both alternatives. Thus, even though the number of lots is greater, the average lot size is larger under both alternative layouts, both of which would appear to satisfy the six unit per acre maximum density. Compliance with maximum density would be confirmed through the civil engineering process, as would compliance with maximum building height, maximum impervious surface coverage per lot, and minimum setbacks. Clearing and grading for the proposed development would require a clear and grade permit. *Exhibits 1, 2, and 34.*

³ The undersigned notes that it may be possible for Lots 1 and 2 to access the internal road from a driveway in an easement across the east edge of the two lots.

12. Frontage improvements would be required along 336th Avenue NE, including (but not limited to) curb, gutter, storm drain facilities, a six-foot wide sidewalk, streetlights, and a minimum 29-foot paved width measured from face of curb to face of curb. The internal street section(s) would also be required to be improved with curb, sidewalk, gutter, streetlights, and street trees. In order to ensure pedestrian connectivity, the Applicant would be required to provide a curb ramp at the northwest corner of the NE 42nd Street and 336th Avenue NE intersection consistent with current ADA requirements. The new internal streets would be improved to Local Access street standards, which may limit parking to one side of the new internal streets. Review of street lighting for conformance with applicable lighting standards would occur during civil engineering review. Pursuant to CMC 15.60.030, a right-of-way permit is required for work within the City right-of-way and an on-site pre-construction meeting would be required before commencing work within the right-of-way. *Exhibits 1 and 2.*

13. Pursuant to CMC 15.56.050, the length of block faces between intersecting streets should ideally be not more than four hundred feet, in order to enhance pedestrian connectivity. In the 10-lot layout, the length of the “block face” created by the two proposed access points on 336th Avenue NE would be approximately 250 feet. In the 12-lot layout, no “new” block face would be created, as entry would be provided at an existing intersection. In the 13-lot layout, the new entrance would divide the distance between existing intersections, making existing block faces shorter. *Exhibits 1, 2, and 34.*

14. To assess the ability of the street network to accommodate project traffic, the Applicant submitted a professionally prepared traffic impact analysis (TIA) dated February 10, 2022 analyzing the City’s preferred 10-lot layout. The TIA concluded that the 10-lot layout would generate 90 total daily trips, including seven AM peak and 10 PM peak hour trips. Of note, the TIA gave credit to the project for two existing residences on the property, which brought the total trip generation to a net number of 70 new trips daily, including six net new AM peak and eight new PM peak hour trips. The Applicant’s traffic consultant reviewed existing operations of the intersection of 336th Avenue NE and Tolt River Road and concluded that with the new trips, it is expected to operate at level of service (LOS) A without and with the project during future 2023 AM and PM peak hours. The City has adopted an LOS standard of D, meaning any development that causes studied intersections to drop below LOS D must provide traffic mitigation. Because the increase in intersection delay from the instant project is minimal, no mitigation was recommended. Additionally, the TIA determined that existing sidewalks would safely accommodate any non- motorized trips that the project would generate. *Exhibit 6.*

15. The record does not include trip generation data for the 12- and 13-lot configurations; however, at the rate per lot stated in the TIA of 9.44 trips per unit, the 12-lot proposal would generate 113 total daily trips, or 93 net new daily trips. The 13-lot proposal would generate 123 total daily trips, or 103 net new daily trips. Peak hour trips for the alternate proposals at the rates listed in the TIA would be:
 - AM peak 0.74 trips/unit 12 units = nine AM peak trips

- | | | |
|-----------|-----------------|-----------------------------|
| | | 13 units = 10 AM peak trips |
| • PM Peak | 0.99 trips/unit | 12 units = 12 PM peak trips |
| | | 13 units = 13 PM peak trips |

Exhibit 6, see page 2, Table 1. These peak hour calculations reflect total trips, and the proposal built is entitled to credits of one AM peak trip and two PMC peak trips.

16. Pursuant to CMC 15.72 Table VI, two off-street parking spaces per dwelling unit are required. In all three configurations, the proposed lots would provide sufficient area to accommodate the required parking spaces. Compliance with parking requirements would be confirmed through the building permit process. *Exhibits 1, 2, and 34.*

17. All proposed lots would connect to City of Carnation water and sewer utilities. Certificates of water and sewer availability dated November 10, 2020 were issued based on a previous 16-lot proposal, meaning capacity exists for the 10, 12, and 13 lot configurations. The Applicant would be required to extend the existing utilities through the plat and to each lot, and each new home would be subject to connection charges for both water and sewer. All existing septic system(s) and wells would be required to be properly decommissioned in accordance with King County Health Department standards. Puget Sound Energy provides gas and electricity to this area. All utility conduit (i.e., electric, phone, cable) must be extended underground to each lot in a 10-foot wide utility easement. An as-built utility plan would be required to be provided to each utility provider after construction. *Exhibits 1, 15, and 16.*

18. The landscaping plan in the record was revised to reflect the City’s preferred 10-lot layout. It shows street trees planted along the internal roads and along 336th Avenue NE. Planning Staff noted that there may not be sufficient space within the dedicated right-of-way for street trees, in which case the homeowners association would be required to maintain the trees in perpetuity on private property. The application materials included an arborist’s report, which assessed 63 total trees on site and found 29 of the healthy trees meet City definitions for significant trees; three significant trees were found to be unhealthy and recommended for removal. Eleven of the healthy significant trees were determined to be in locations where retention was possible. *Exhibits 1, 3, and 5.*

19. Based on 10-lot City preferred layout, the tree retention plan in the record states that three existing significant mature trees would be retained, and some smaller than significant trees along the southern portion of the site’s 336th Avenue NE frontage would also be retained. According to the tree retention standards in CMC Chapter 15.76, in the R-4 zone, one significant tree per 7,500 square feet of developed area must be retained or replaced. In the 10-lot layout analyzed in the staff report, the development envelope comprises 141,936 square feet, meaning 19 significant trees must either be retained or adequate new trees must be planted at a ratio of three new trees to each required significant tree removed. In the revised tree retention plan, the Applicant proposed to retain seven non-significant existing trees and to plant 41 new trees, to reach the required replacement ratio of 48. The replacement trees are proposed to be planted along the street frontages and along the north edge of Tract A and were integrated into the

landscape plans. *Exhibits 1 and 6*. Note, if one of the alternate plat layouts were built, it might be possible to retain additional significant trees, and it is possible that the development envelope would change in area such that the number of required retained/replaced trees might change slightly.

20. The City code requires new development to provide adequate stormwater management to ensure adequate to prevent uncontrolled stormwater runoff to adjacent properties or City rights-of-way. Stormwater from all new impervious surfaces must be managed to ensure that stormwater discharge from new development does not exceed the predeveloped condition rate of stormwater discharge. *CMC 15.64.190*. Pursuant to *CMC 15.64.190.C*, infiltration facilities designed to infiltrate 100% of the 50-year developed runoff event are required. Pursuant to *CMC 15.64.220*, design of stormwater facilities is required to incorporate best management practices for stormwater management, for source control of pollution, for runoff treatment, and for construction stormwater pollution prevention to prevent erosion. Based on information in the record, City Staff determined that stormwater would be able to be managed on-site in a manner that complies with code. Of note, pursuant to *CMC 15.64.190.F(3)*, the homeowners association would be responsible for maintenance of the project's stormwater facilities and would be required to record a drainage covenant against the title of the underlying property which is required to include (but not be limited to) operation and maintenance of stormwater facilities including stormwater related landscaping. The Applicant is required to submit a Technical Information Report that demonstrates compliance with the 2018 Ecology Stormwater Manual for Western Washington. An approved stormwater site plan and drainage permit are required pursuant to *CMC 15.64.230*. *Exhibit 1; Jorge Garcia Testimony*. The stormwater management concept under consideration at time of hearing was roadside bioretention systems. The final design would be determined during the civil engineering process and all required permits obtained prior to construction. *Jeremy Febus Testimony*.
21. A request for agency comment was forwarded to the Fire Marshal and the City Engineer, who reviewed the proposal for existing level of service, capacity of infrastructure, and community facilities. Neither City official submitted written comments in the record documenting concerns about the proposal's ability to comply with applicable standards. Of note, new fire hydrant spacing and locations would be required to be in accordance with the International Fire Code and as directed by the Fire Marshal, and each new fire hydrant would be fitted with a storz adapter. In the 10-lot layout, a new hydrant would be placed at the northeast corner of proposed Lot 4; presumably at least one new hydrant would be required within the plat in both alternate plat configurations. *Exhibit 1*.
22. The subject property is near to planned Rivers Edge Park (336th Avenue NE and NE 45th Street) and adjacent to Park-zoned property at its southwest corner. All three proposed plat designs call for a large natural open space tract occupying the southern half of the property. In the City-preferred 10-lot configuration, the southernmost Lots 5, 6, 7, and 8 would face south, looking into this tract and would provide views into the area of the Tolt River tributary. All three layouts include the 20-foot wide trail abutting the southern edge of the development envelope which would provide for future pedestrian or bicycle access to natural open spaces; the trail easement is intended to enable future connection

to create a complete trail system along the Tolt River. All three plat layouts include code-compliant sidewalks that would connect to 336th Avenue NE, which would connect to the future parks to the north and south of the property. Conditions of approval were recommended to ensure compliance with all relevant requirements of the Americans with Disabilities Act (ADA). *Exhibits 1, 2, and 34.*

23. The subject property is located in the service area of the Riverview School District. School aged children residing in the proposed homes would be served by Carnation Elementary, Tolt Middle, and Cedarcrest High Schools. The proposed new street improvements would include sidewalks that would connect to existing sidewalks in the City's street network, although the City is aware of an existing sidewalk gap along NE 45th Street. The high school is located in the City of Duvall, and the other schools are on Tolt Avenue approximately 1.5 miles (Tolt Middle) and 1.2 miles (Carnation Elementary) from the subject property, meaning all three would be outside of a standard one mile walk radius. *Testimony of Jean Lin and Jeremy Febus.*
24. The Applicant would be required to pay the City's adopted school (CMC Chapter 3.48), transportation (CMC Chapter 3.50), and park (CMC Chapter 3.70) impact fees to mitigate the impacts of each lot on the public facilities serving the plat. Impact fees are calculated at time of building permit and paid prior to certificate of occupancy issuance. *Jean Lin Testimony.*
25. The comprehensive plan land use designation of the project site is Medium Density Residential. The R4 zoning designation is associated with that land use designation, and the R4 zoning regulations were adopted to implement the goals and policies of the comprehensive plan and mandated under the Growth Management Act. The proposed subdivision would not result in land use inconsistent with the requirements of the R4 zone. Planning Staff submitted that on this basis the proposed plat would be consistent with the City of Carnation Comprehensive Plan. *Exhibit 1.*

Critical Areas and Shoreline Review

26. The subject property contains mapped Zone AE Floodway according to the FEMA FIRM panel number 53033C0419H. Pursuant to CMC 15.64.020.B(5), when development is proposed within a mapped floodplain or floodway, an assessment is required of the potential impacts of the proposed development on the critical habitat of the threatened and endangered salmon protected under the Endangered Species Act (ESA) per the 2008 Biological Opinion on the implementation of the NFIP in the Puget Sound region. All of the mapped Floodway within the subject property is proposed to be retained as is in Tract A, except that the existing buildings and septic system would be demolished and the area revegetated; no development is proposed within the floodplain, the floodway, or within 100 feet of the channel migration zone. The Applicant provided a professionally prepared critical area report that describes the characteristics of the site, including the previous development. The application materials also include a soil report by a qualified geosciences professional, which describes site soil and drainage conditions and indicates that flood hazards would be mitigated by avoidance. Given the information in these reports, Planning Staff concurred with Applicant consultants that the proposed

development would not result in impacts to the critical habitat the threatened or endangered salmon. *Exhibits 1, 7, and 9.*

27. King County iMap indicates that the Holberg Levee crosses the subject property just north of the Type S stream in the proposed Tract A; the levee is a bank protecting structure, built in 1940 and now categorized as a King County River Facility structure. The mapped Zone AE Floodway on-site is located south of the stream, with base flood elevations of 120 feet and 122 feet. The ordinary high water mark (OHWM) is shown on the preliminary plat map at approximately 116 feet elevation. The lowest elevation within the proposed 10-lot layout development envelope (which in that plan would be NE 42 Street right-of-way) is 126 feet. Site elevation continues to slope upward from there. The proposed development envelope is topographically at least 10 feet higher than the base flood elevations and is more than 100 feet horizontally from the flood zone. No structures are proposed within the floodplain, and in all three plat layouts discussed in these findings, all proposed public rights-of-way are outside of the floodplain and the 100-foot shoreline buffer, except for a small area of the NE 42nd Street right-of-way in the 10-lot layout. The City recommended that the 10-lot layout be required to be built and that the portion of NE 42nd Street right-of-way that falls within the 100-foot shoreline buffer be designated as right-of-way but not be developed with any elements other than native plants and trees in perpetuity. Sewer and water utilities are outside the 100-foot shoreline buffer in all three layouts. *Exhibits 1, 2, 7, and 34.*
28. The application materials included a geotechnical report that reviewed site soils. The report determined that the site is underlain by well drained native soils that are capable of supporting the proposed development. The geotechnical consultant encountered no evidence of groundwater, or of seismic, erosion, or other geologic hazards, in the proposed development envelope. Finally, the geotechnical report determined that stormwater infiltration facilities placed in the coarser gravels on site should be designed based on a design infiltration rate of 20 inches per hour. *Exhibit 9.*
29. As noted previously, the City of Carnation Shoreline Master Program (SMP) establishes shoreline jurisdiction over all lands and waters that lie within 200 feet of the ordinary high water mark of the Tolt River, floodways and contiguous floodplains within 200 feet of such floodways, and the wetlands and river deltas associated with the river. Specific dimension and performance standards apply only to those portions of proposed development that are located within shoreline jurisdiction. Because the proposed subdivision would create lots and possibly roads within 200 feet of the side channel of the Tolt River, it is not exempt from compliance with the SMP, and shoreline substantial development permit (SSDP) review is required for the proposal; such review requires issuance of a special use permit (SUP) established at CMC Chapter 15.18. The City's SMP designates the City Planner as the official with authority to conduct SSDP review. However, the instant shoreline SUP and preliminary plat are consolidated for review in these proceedings. *Exhibits 1 and 7; CMC 15.09.040; CMC 15.92.020; CMC 15.92.070.*
30. The City's SMP mapping shows shoreline jurisdiction located on the site where the floodway and contiguous floodplain are located south of the on-site stream; it does not

show shoreline jurisdiction north of the stream. *Exhibits 1 and 31*. However, the Applicant's critical areas report indicates that the on-site stream is a hydrologically connected side channel of the Tolt River and is therefore considered part of the Tolt River. Thus, the area of shoreline jurisdiction extends 200 feet from the surveyed ordinary highwater mark of this stream. Pursuant to SMP Section IV.I, R129, any unmapped area of shoreline jurisdiction is assigned an Urban Conservancy designation. Because the Tolt River is a Shoreline of the State and a Class 1 watercourse, SMA Appendix A 1.200 requires a no-disturb buffer extending 100 feet from the edges of its channel migration zone (CMZ); however, the on-site tributary stream is considered to be a "part" of the river, and its CMZ has been field identified, which means the 100-foot wide shoreline buffer must extend from the edge of the stream's CMZ. *Exhibit 1; SMA Appendix A 1.200*.

31. In addition to the floodway and channel migration zone, the Applicant's critical areas report considered other potential critical areas on or adjacent to the site and reached the following conclusions. The report concluded that the subject property contains no wetlands, and the nearest off-site wetlands are associated with the Tolt River well south of the site. All of the City, and most of the surrounding valley, are underlain by the East King County Ground Water Management Area and designated as a Category 2 critical aquifer recharge area, which has stormwater management implications and requires compliance with CMC 15.88.400 and SMP 1.400. There are no frequently flooded areas within the proposed development envelope, and according to the geotechnical report, no regulated geologically hazardous areas within the proposed development envelope. With regard to potentially regulated fish and wildlife habitat conservation areas onsite, the Applicant's critical areas report indicated that the majority of the site is already disturbed and current buffer functions are of low quality. The only activity proposed within 100 feet of the ordinary high water mark of the on-site stream is removal of the existing residence and appurtenances and restoration with native plantings, which would be selected to enhance and improve the quality of the habitat in the stream buffer. The Applicant's geotechnical consultant opined that the 100-foot structure setback from the Tolt River would provide adequate mitigation for potential channel migration and that no geologic hazards are presented by the proposed development. Planning Staff submitted that the proposal was designed to minimize impacts to critical areas and buffers to the extent feasible, and that compliance with landscaping and mitigation planting standards would be adequate to satisfy the critical area protection requirements of the SMP, as described below. *Exhibits 1, 7, and 9*.
32. As noted previously, the area of shoreline jurisdiction on-site would be primarily contained within proposed Tract A, except for its northmost extent, which extends into the development envelope in all three plat layouts. In the City-preferred 10-lot layout, the area of shoreline jurisdiction would include portions of two roads and portions of the development envelopes depicted on Lots 5, 6, 7, and 8; in this plan, a small area of dedicated but unimproved road right-of-way extends into the 100-foot shoreline buffer. In the 12-lot payout, the 200-foot shoreline jurisdiction includes two portions of NE 42nd Street and the majority of the development envelopes of Lots 7, 8, 9, and 10; in this layout, the 100-foot shoreline buffer includes a narrow (maybe 20-foot wide) portion of

the rear yards of those lots. In the 13-lot layout, the 200-foot shoreline jurisdiction includes a very narrow sliver of the cul-de-sac bulb and the majority of the development envelopes of Lots 8, 9, 10, 11, 12, and 13; in this layout, the 100-foot shoreline buffer includes a narrow (maybe 20-foot wide) portion of the rear yards of those lots. In all three proposed layouts, the 20-foot-wide trail easement is proposed to be located within Tract A abutting the southern edge of the development envelope. No shoreline stabilization, no utility installation, and no significant vegetation are proposed within shoreline jurisdiction under any of the three plat designs. Minimal grading or filling would occur within shoreline jurisdiction. In all three layouts, the existing structures and appurtenances would be removed from proposed Tract A and the area revegetated. *Exhibits 1, 2, and 34.* Residential subdivisions are allowed within shoreline jurisdiction per the SMP. *Exhibit 1; SMP Policies P5, P6, P11, P12, SMP Regulations R2, R4, R5, etc.*

33. According to information in the environmental checklist submitted by the Applicant, the subject property is in an area historically used by the Snoqualmie Tribe and is considered by the tribe to be culturally significant and to have a high probability of containing unidentified archaeological deposits, a position with which the Washington State Department of Archaeology and Historical Preservation concurs. A review of potential historic and cultural impacts was conducted during the proposal's environmental review, and Tribes and relevant state and local agencies were provided notice and an opportunity to comment. Archaeological preservation mitigation measures were imposed in the project's environmental threshold determination, and Planning Staff recommended conditions of plat and SUP approval that require implementation of inadvertent discovery procedures during construction. *Exhibits 1, 17, 18, and 20.*
34. As noted above, all three proposed plat layouts would place the vast majority of site disturbance outside of shoreline jurisdiction. The 10-lot layout includes portions of two improved roads and portions of four lot development envelopes within shoreline jurisdiction, but only includes a narrow sliver of unimproved dedicated road right-of-way within the 100-foot shoreline buffer. The 12-lot layout includes smaller portions of improves roadway and the development envelope for four lots within shoreline jurisdiction, but only a narrow sliver of backyard of those four lots within the 100-foot shoreline buffer. The 13-lot layout includes the least amount of road right-of-way within shoreline jurisdiction and only backyard within the 100-foot shoreline buffer; however, it contains the majority of the development envelopes for six lots within shoreline jurisdiction. These three configurations present various trade offs when balancing the obligation to comply with various code provisions and the mandate to minimize impacts to the regulated shoreline. *Exhibits 1, 2, and 34.*
35. Portions of the residential lots located within shoreline jurisdiction would be required to be configured to meet all applicable development standards. The residential development is proposed to be located and constructed to result in no net loss of shoreline ecological function. The Applicant's landscape plan includes a conceptual mitigation plan, proposing revegetation within the 100-foot wide shoreline buffer, primarily to be planted in the area where existing residential improvements would be demolished. The plans call

for planting native trees, shrubs, and groundcovers with species selection aimed at enhancement of habitat functions. Planting specifications would be required to be provided in a final landscape plan prior to final plat, which must be revised to depict the correct plat layout and to include five years of monitoring for the shoreline revegetation area with annual monitoring reports prepared by a qualified biologist documenting the success of the restoration against the performance standards. Planning Staff submitted that, as conditioned, the proposed residential development is designed to result in no net loss of shoreline ecological function. Staff recommended a condition of approval requiring mitigation to be completed immediately following disturbing activities and prior to use or occupancy. *Exhibits 1 and 3.*

36. Of note, SMP review regulation R236 prohibits location of motor vehicle and rail transportation facilities within shoreline jurisdiction or inside vegetation management corridors, unless: the proponent demonstrates that no feasible upland alternatives exist; and the project represents the minimum development necessary to serve another specific, localized and permitted shoreline use [...]. While all three plat layouts include some portion of roadway within the 200-foot shoreline jurisdiction, it is notable that in the predeveloped condition, existing NE 42nd Street appears to already be within 200 feet of the ordinary high water mark of the on-site stream, and Planning Staff urges that the project be required to extend existing NE 42nd Street into the plat. Of the three plat layouts considered herein, the 13-lot design includes the least amount of roadway within the 200-foot shoreline jurisdictional boundary, the 12-lot design considerably more roadway within the 200-foot jurisdiction, and the 10-lot layout the most roadway within the shoreline jurisdiction. However, none of the three designs includes any improved road surface or utility installation within the 100-foot buffer. In the preliminary plat drawings included in the record was Sheet C4.00-Preliminary Road Profiles, which shows that in the 10-lot layout extending NE 42nd Street into the plat, the existing and proposed grade for the roadway are consistently similar with very little grading would be needed. Even less grading would be required within the shoreline jurisdiction for the other two plat layouts. *Exhibits 1, 2, and 34.*

SEPA, Notice, and Comment

37. The City of Carnation assumed the role lead agency for review of the proposal's potential environmental impacts pursuant to the State Environmental Policy Act (SEPA). The SEPA Responsible Official reviewed documents submitted by the Applicant including the environmental checklist and concluded that compliance with applicable City development regulations and specified mitigation measures would ensure that the proposal would avoid probable, significant, adverse environmental impacts. A mitigated determination of non-significance (MDNS) was issued on July 15, 2022, imposing 13 mitigation measures addressing the following: erosion control; construction equipment emissions; dust control the requirement for a Department of Ecology Construction General Stormwater Permit; site drainage infiltration; tree protection measures; remediation of contaminated soil if encountered; the required construction mitigation plan; compliance with the design and construction recommendations of the accepted subsurface exploration/geotechnical report; required field marking the boundary for Tract A; the required landscape plan for the shoreline revegetation area; the requirement for

archeological review; and a requirement to implement appropriate measures in the event of inadvertent discovery of archeological/cultural resources. *Exhibit 18*. During the 14-day comment period on the MDNS, the City received and considered four comments; however, it was determined that the MDNS addressed all requirements and it was not amended. The MDNS was not appealed. *Exhibit 1; Millie Anne VanDevender Testimony*.

38. The application was submitted March 8, 2021, and through the course of review, the proposal and the Applicant's supporting materials were revised over time. Notice of complete application was mailed to adjacent property owners within 300 feet on April 15, 2021, and posted on-site on April 7, 2021 and published in the Snoqualmie Valley Record on April 16 and April 23, 2021. *Exhibits 1, 20, 21, 22, and 23*. Notice of public hearing and SEPA determination were mailed to adjacent property owners within 300 feet on July 28, 2022 and sent to agencies and parties of record on July 29 and August 1, 2022, posted on-site on July 27, 2022 and published in the *Snoqualmie Valley Record* on July 29 and August 5, 2022. *Exhibits 1, 24, 25, 26, 27, 28, 29, and 30*.
39. The City received six public comments following notice of application, which expressed the following concerns:
- Some felt the comment period was too short;
 - Neighboring property owners expressed concern that the proposal included portions of their property, would impact an existing fence on their property, and/or would rely on easements through their property that they had not granted;
 - Potential impacts to neighboring private wells;
 - Stormwater runoff onto adjacent property;
 - Questions regarding how the City is addressing the levee and revetment along Tolt River and shoreline issues;
 - Issues arising from grade changes between the neighbor's and the subject property;
 - Construction access through the neighborhood;
 - Noise levels of construction vehicles;
 - Stream protection;
 - Tree retention and protection;
 - Concerns about the proposed removal of trees along 336th Avenue NE and support for retention of trees;
 - Impacts to traffic safety at the intersection of 336th Avenue NE and NE 42nd Avenue;
 - Water availability for fire flow;
 - A request that no homes be built south of NE 42nd Street; and
 - Comments from the Snoqualmie Indian Tribe asserted that the subject property has a high probability for archaeological deposits, requested formal

archaeological review, and requested that the Snoqualmie Tribe be notified of any archaeological work.

Exhibits 32a through 32f. There was no public comment at the virtual public hearing, and no post-hearing written public comment was submitted.

40. In response to these comments, City Staff offered the following. Staff clarified the comment period for the notice of application, that no development activity is proposed on the commenter's property, and that no easements serving the proposed development are proposed on the commenter's property. Staff confirmed that stormwater standards do not allow runoff to flow onto neighboring properties. Planning Staff noted that comments relating to annexation are not relevant to the instant proposal. Proposed grades and roadway design along the subject property's north boundary take into consideration the adjacent off-site grades of the property to the north. While the issue raised about the existing fence is unclear, Staff submitted that the existing fence encroaches onto the subject property and would be removed, and that a new fence is proposed along the shared property line. Staff noted that the existing private well and septic systems on the subject property would be decommissioned and future residential lots connected municipal water and sewer. Addressing construction vehicle access, Staff recommended a condition of approval that would prevent construction vehicles from looping around the residential neighborhood and parking on NE 42nd Street. Regarding concerns about regulated critical areas, Staff noted the proposal avoids development within the shoreline buffer and would include revegetation of existing developed areas within the buffer. Addressing trees, Staff noted that all trees within proposed Tract A would be retained, and three existing trees on the developable portion of the site would be retained. Regarding the existing row of trees along 336th Avenue NE north of NE 42nd Street, this row of trees is located within the right-of-way and is proposed for removal because retention would prevent the installation of required frontage improvements (curbs, gutters, and sidewalks), noting that they would be replaced by street trees; however, the row of trees south of NE 42nd Street would be preserved. Addressing construction impacts, Staff submitted that CMC 9.34.080 regulates motor vehicle noise levels and CMC 9.34.060.F limits construction hours to ensure that noise does not become a public nuisance, and noted that the City requires the Applicant to submit a construction mitigation plan to mitigate impacts to the surrounding neighborhood. A condition of approval was recommended that would prohibit construction vehicles from idling on public streets. The City Engineer required a stop sign at the intersection of 336th Avenue NE and NE 42nd Avenue to address potential safety impacts. Regarding fire flow, the City Engineer confirmed that there is sufficient water for fire flow, with additional water pressure to be provided through a new booster pump station currently under construction which would be operational by the time the plat is developed. *Exhibit 1.*
41. Addressing the public comment from the neighbor to the north concerning the existing fence, the Applicant submitted that there is a longstanding agreement between the former owner of the subject property and these neighbors. The fence, which is not on the property line, would be removed and replaced along the property line to be consistent with CMC 15.68.260, and with the 1997 agreement. *John Day Testimony; Exhibit 36.*

42. Addressing the ultimate question posed at the time of hearing – whether the 10-lot layout should be imposed as desired by the City or whether one of the alternative layouts can satisfy the requirements of City code – Staff asserted that CMC 15.16.220.C requires the Applicant to design the plat to include extension of existing NE 42nd Street. Citing CMC 15.36.220.H, Planning Staff submitted that no dead-end street or cul-de-sac should be allowed within the proposal, and that the looped road configuration of the 10-lot layout was required to satisfy CMC 15.56.060. Staff also stated that the looped road configuration was required by CMC 15.36.220 subsections A, D, and E, in that it would best create connections for pedestrians and best create an individual neighborhood that would tie into the fabric of the existing neighborhoods west of the site and blend with the residential character and current transportation routes within the City. Because CMC 15.56.040 prohibits and/or discourages access to an arterial, Planning Staff asserted that the proposed looped road system would facilitate potential future development on the adjacent lots to the east and north that are currently outside City limits but within the urban growth area and that it would avoid disjointed or isolated enclaves. Staff contended that both alternative layouts still proposed roadway within the shoreline jurisdiction. Staff noted that due to the presence of critical areas the Applicant could have elected, but declined to elect, to create a cluster subdivision to allow a greater number of lots. The City Engineer agreed with the Applicant’s concept of reducing the amount of impervious surface area generally, but noted that the reason for reducing impervious surface area is to reduce runoff, and on the subject property, the site’s soils would easily infiltrate any runoff, preventing sheet flows towards the regulated waterbodies. *Testimony of Millie Anne VanDevender, Jean Lin, and Jorge Garcia.*
43. In response to the City’s proposed 10-lot layout, Applicant representatives contended that while connectivity facilitating future growth is undoubtedly a core value of the City code, and is the basis for avoiding cul-de-sacs where possible, the requirement of the looped road conflicts with other core values of the City. First, due to the extent of critical areas to the east and south, including channel migration and erosion hazard areas and wetlands, the Applicant contended that urban growth is unlikely to extend to the east at any foreseeable point in the future. Second, the project engineer calculated that the 10-lot layout requires 110 lineal feet of road per lot, while the 12-lot design creates 58 lineal feet per lot, and the 13-lot design only creates 38 lineal feet per lot. In creating twice as much roadway, the Applicant argued that the looped road results in excess and unnecessary runoff from pollution generating surfaces. Third, it would place roadway within the shoreline buffer, which can be avoided with either the 12 or 13-lot layouts. Having two site entrances along 336th Avenue NE would double the possibility of intersection conflicts for drivers in the vicinity. More specifically, the looped road creates impacts to the abutting parcel to the north. The half-street improvement along the north subject property line would be a 35-foot right-of-way, which is 70% of the width required at full build out, and which guarantees an encumbrance on the neighbor’s property; also, a road along the majority of the northern site boundary would make the parcel to the north have double frontage in the event of future subdivision and/or redevelopment, meaning any future residences there would be rear facing to at least one of the streets. They noted that while CMC 15.16.220 says that where possible cul-de-

sacs should be avoided, it also states that new lots should be street facing. Applicant John Day testified that he's been building in the Valley since 1986, and his most recent plat approved in the City, located not too far east of the subject property, required a cul-de-sac. *Testimony of John Day and Jeremy Febus; Duana Kolouskova Argument; Exhibits 34, 35, and 38.*

44. Additionally, the Applicant argued that while the City doesn't have clearly stated intersection spacing requirement, best practices dictate a reference to the King County Road Standards, which recommend spacing of at least 500 feet between intersections with arterials. Both Applicant alternatives meet this spacing standard, while the City's required looped road provides 240 feet of intersection spacing from 45th Street, an arterial to the north. Both alternatives meet all emergency access requirements; even the cul-de-sac because of its adequate turn around is capable of providing code-compliant emergency access to fewer than 30 lots. Applicant representatives argued that requiring the sacrifice of two or three lots is contrary to the intent of the Growth Management Act, sacrificing density in favor of speculative benefit for the adjacent property. There is currently no plan to redevelop the parcel to the north, and it is not know when, or if, or in what manner it would ever redevelop. The Applicant contended that the proposed alternative layouts provide appropriate roadway scenarios and make more efficient use of the developable land with the UGA. *Testimony of John Day and Jeremy Febus; Duana Kolouskova Argument; Exhibits 34, 35, and 38.*
45. Planning Staff reviewed the proposal for compliance with all applicable provisions in the following: standards for land divisions in CMC Chapter 15.16; the City of Carnation Comprehensive Plan; density and dimensional regulations established in CMC Chapter 15.48; streets and sidewalks standards in CMC Chapter 15.56; utilities in CMC Chapter 15.60; floodways, floodplains, drainage, and erosion in CMC Chapter 15.64; parking, CMC Chapter 15.72; the critical areas code, CMC Chapter 15.88; shoreline management, CMC Chapter 15.92; the environmental policy code, CMC Chapter 14.01; and the public health, safety, welfare, use and interest, requirements of RCW 58.17.110. Based on review of the entire record, including public comment and Applicant responses, Planning Staff recommended approval of the 10-lot configuration subject to the conditions enumerated in the staff report. *Exhibit 1; Testimony of Millie Anne VanDevender and Jean Lin.* The Applicant waived objection to the recommended conditions, but requested that either of the alternate plat designs be approved in place of the 10-lot, looped road configuration favored by Staff. *John Day Testimony.*

CONCLUSIONS

Jurisdiction:

The hearing examiner is granted authority to hold public hearings and make decisions on preliminary plat applications pursuant to CMC 2.78.090, 2.78.110, 15.09.020, and 15.10.010. While pursuant to CMC 15.09.050 shoreline substantial development permits and associated special use permits are Type II land use applications decided by the City Planner, CMC 15.09.040 allows an applicant to request consolidated review of all permits required for a single project, which was requested in the instant proceedings, and this provision requires all permits to

be considered in a single review of the highest classification of any of the individual permits, thus conferring authority on the Examiner to decide the instant shoreline substantial development permits and associated special use permit.

Criteria for Review:

Formal Subdivision

Pursuant to CMC 15.09.300.B, the hearing examiner shall review the preliminary plat and staff recommendation, and shall consider adoption or rejection of the recommendation to ensure conformance with the general purpose of the provisions of this title, Title 12, Streets, Sidewalks and Public Places, and other adopted administrative rules and regulations. The hearing examiner's decision shall include findings of facts and conclusions to support the decision.

In addition, all preliminary subdivisions must comply with the following requirements in the Revised Code of Washington.

RCW 58.17.110 - Approval or disapproval of subdivision and dedication

- (2) A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. ...

Special Use Permit

Pursuant to CMC 15.18.040.A, a conditional use permit shall be granted by the hearing examiner, and a special use permit shall be granted by the city planner, if each of the following criteria are satisfied:

1. The proposed use is consistent with the city of Carnation comprehensive plan and the CMC;
2. The proposed use is designed and constructed, and will be operated and maintained, in a manner that is compatible with the existing or intended character, appearance, quality of development and physical characteristics of both the subject property and the surrounding vicinity;
3. The location, size and height of buildings, structures, walls, fences, and screening vegetation for the conditional or special use will not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
4. The type, hours of operation, and appropriateness of the proposed use in relation to adjacent uses will not create unusual hazards or result in adverse impacts; and
5. The proposed use will be served by adequate public facilities and services and will not adversely affect public services to the surrounding area in a manner and/or to a degree

that cannot be sufficiently mitigated through the imposition of reasonable conditions of approval.

- B. In granting a special or conditional use permit, the permit-issuing authority may attach to the permit such reasonable conditions as will ensure that the development in its proposed location will satisfy the criteria established in subsection A of this section or otherwise mitigate any adverse impacts of the proposed use.
- C. The permit-issuing authority may attach to a permit a condition limiting the permit to a specified duration.
- D. All conditions or requirements of approval shall be entered on the face of the permit.
- E. All conditions or requirements of approval authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this title.

Additional Applicable Code Provisions:

CMC 15.16.220 - Subdivision design

New residential subdivisions are encouraged to incorporate the following design goals in order to promote livable neighborhoods that are integrated into existing development:

- A. New residential projects should be designed to integrate with the surrounding neighborhood. Wherever possible, new subdivisions should be designed so that individual separately designed projects work together to create distinct neighborhoods rather than disjointed or isolated enclaves.
- B. New subdivisions adjacent to planned or existing parks or other public open spaces should maximize visibility and pedestrian access to these areas.
- C. Wherever feasible, new public streets and sidewalks should be aligned with and connected to those of adjacent developments, in accordance with this chapter and Chapter 15.56 CMC Streets and Sidewalks.
- D. Subdivision design should provide for pedestrian connectivity within each project as well as to adjacent neighborhoods, nearby schools and parks, and to transit. All streets and sidewalks should be designed to provide safe and pleasant conditions for pedestrians, the disabled and cyclists.
- E. The length of block faces between intersecting streets should be as short as possible, ideally not more than four hundred feet, to enhance pedestrian connectivity.
- F. To the extent possible, developments should be configured to face streets and not back up to them. Where subdivisions must back up to existing streets or arterials and a fence is provided, a minimum ten-foot landscape buffer shall be required to screen any tall fences. Landscaping shall follow the requirements of Chapter 15.76 CMC Screening, Landscaping and Trees.
- G. Single loaded streets (i.e., those with residential development on one side and open space on the other) should be used to provide public access and visibility of natural open spaces, public parks, or schools, as well as buffering homes from parks and schools. Where single-loaded streets are both feasible or desirable, other methods that provide similar access and visibility may be used, including private streets, bike

and pedestrian paths, or the placement of private common open space or recreation facilities adjacent to the public open space.

- H. The use of cul-de-sacs should be avoided wherever possible. If cul-de-sacs are necessary, pedestrian access and/or bikeway should be provided between private parcels to connect with an adjacent cul-de-sac, street, park or open space, if applicable.
- I. Alleys may be provided for garage access. Otherwise, individual lots are encouraged to be wide enough to accommodate garages at the side or rear of the lot, to minimize the appearance of street frontage that is dominated by garages and pavement.
- J. Where a new subdivision adjoins an existing subdivision or neighborhood, perimeter buffers, fences and landscaping may be required when these features serve to mitigate any adverse impacts of the new subdivisions on adjoining neighborhoods.

CMC 15.16.230 - Lot averaging.

Under this procedure, lot sizes may be reduced in area below the minimum lot size for a standard subdivision of the zoning district as specified in CMC Chapter 15.48 Table I provided that the average lot size of the lots created in the subdivision is not below the standard minimum lot size of the zoning district. In no cases shall the lots be smaller than those specified as the minimum lot size for cluster subdivision in Table I.

CMC 15.18.050 Expiration of permits.

- A. Special use and conditional use permits shall expire automatically if, within one year after the issuance of such permits:
 - 1. The use authorized by such permit has not commenced, in circumstances where no substantial construction, erection, placement, alteration, excavation, demolition, or similar work is necessary before commencement of such use; or
 - 2. Less than ten percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the project site.

CMC 15.56.060 Coordination with surrounding streets

- A. The street system of a subdivision shall be coordinated with existing, proposed, and anticipated streets outside the subdivision or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding streets") as provided in this section.
- B. Collector streets shall intersect with surrounding collector or arterial streets at safe and convenient locations.
- C. Neighborhood or local access streets and alleys should connect with surrounding streets where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons, but connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.
- D. Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property

line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the permit-issuing authority may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic or accommodate emergency vehicles. Notwithstanding the other provisions of this subsection, no temporary dead-end street in excess of 1,000 feet may be created unless no other practicable alternative is available.

Conclusions Based on Findings:

Preliminary Plat

1. Regarding the ultimate question of plat layout, the undersigned is not persuaded that sacrifice of two to three additional lots is required in order to ensure connectivity, nor that the looped road – with nearly twice as much pollution generating impervious surface and the resulting fewer and smaller lots – is the required outcome under the applicable provisions of CMC Chapters 15.16 and 15.56. With all due respect intended, the looped road the City would impose on the plat arguably presents more detriment to the proposed plat than any potential hardship the parcel to the north might encounter in accessing public roads when and if it redevelops. In light of the requirements in CMC 15.56.120.C and in CMC 14.56.060.A and .C to intersect with existing street locations, and the requirement in CMC 15.18.220.H to avoid cul-de-sacs when possible, Alternative 1 - the 12-lot layout - would more clearly comply with applicable provisions while maximizing efficient use of available land within the UGA. The 12-lot design would provide two points of potential future access and therefore can arguably be said to better satisfy Staff's connectivity concerns than Alternate 2, the 13-lot design. The City's 10-lot design would place more road improvements within the shoreline jurisdiction and would nearly double the amount of pollution generating surface required, while costing two lots, negatively impacting the affordability of the resulting homes. Based on the record as a whole, the undersigned is persuaded that the 12-lot layout best meets all applicable requirements and it is approved. *Findings 2, 3, 4, 5, 6, 7, 8, 9, 10, 42, 43, 44, and 45.*
2. As conditioned, the proposal makes appropriate provisions for public health, safety, and welfare. Given the lot averaging allowed by CMC 15.16.230, the proposed lot sizes can be approved in the R-4 zone, including Lots 2 and 11 which are slightly under 7,500 square feet; all other proposed lots strictly conform to the bulk dimensional requirements of the R-4 zoning district. The proposed internal roadway would be designed and built to applicable local access road standards, providing pedestrian access, parking, and travel lanes consistent with code. Projected traffic from the 10 lots was considered by the City Engineer and determined not to trigger any off-site transportation improvements. Because the study intersection was found to operate at LOS A with the trips from 10 lots, and the proposed 12-lot plat would generate only two more PM peak hour trips, the undersigned is satisfied that the record submitted is adequate to support the conclusion that the project's traffic can easily be accommodated by the surrounding road network. Traffic impact fees would mitigate the project's impacts on the transportation infrastructure in the vicinity. As conditioned, stormwater runoff would be captured and infiltrated within the plat consistent with the requirements of the DOE Stormwater Management Manual for Western Washington. Water and sewer service are available to

be provided by connection to municipal utilities for all 12 lots. Tract A would provide on-site passive recreation opportunities, and planned parks in the immediate vicinity would eventually provide formal recreation options nearby. The project's per-lot park impact fees would contribute the plat's proportional share to their construction. The record contains no evidence that schools at any level lack capacity to serve the 12 lots; impacts of the additional demand for public education would be addressed by payment of impact fees. While safe walking conditions to the middle and elementary schools were not clearly demonstrated in the record, the undersigned notes that the plat's sidewalks would contribute to the walkability of the routes between the plat and those two schools, and also that both are more than a mile away from the plat, such that school bussing is likely to be available. The proposal was reviewed for compliance with the requirements of SEPA; the issued MDNS was not challenged. *Findings 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 37, 38, 39, 40, 41, 42, 43, 44, and 45.*

3. With conditions, the public interest would be served by plat approval. Adequate study was undertaken to review the site's potential for geologic and erosion hazards, and none were identified given that all development is proposed to be setback a minimum of 100 feet from the on-site stream's ordinary high water mark. As proposed and conditioned, the entire 100-foot shoreline buffer area, and all on site critical areas, would be permanently retained in their existing condition, except that existing residential improvements would be removed and the area restored with native plantings for enhancement of shoreline ecological functions and values. The public interest would be benefited by the Applicant's clean up of this previously disturbed portion of the shoreline buffer and by the dedication of a trail easement through the open space tract along the outer edge of the shoreline buffer. Conditions of approval would ensure that common improvements, including but not limited to the landscaped areas, would be maintained adequately by a homeowners association. *Findings 8, 10, 18, 19, 26, 27, 28, 29, 30, 31, 32, 32, 34, 35, 37, 38, 39, 40, 41, 42, 43, 44, and 45.*
4. All necessary findings to demonstrate consistency with the Comprehensive Plan, level of service standards, capacity of public infrastructure, community facilities and services, and subdivision design standards have been entered. The proposal demonstrates compliance with applicable Comprehensive Plan goals and policies, in that the proposed use is consistent with the land use designation, zoning map, and zoning regulations, which together represent the City's efforts to direct growth and development in a manner that enhances and reflects community values. The proposed density is consistent with the zone and the Comprehensive Plan designation for the site. Conditioned to require construction of an internal road that stubs at the north and east site boundaries and extends from existing NE 42nd Street, the proposal to develop 12 lots is compatible with existing surrounding residential development and roadways. As proposed and conditioned, all development would be placed on lands that are: largely unconstrained by critical areas; where development is within proximity to, if not walking distance of, schools, parks, and other public services; where the new lots can be served by municipal water and sewer utilities; and where stormwater can be infiltrated on-site. Municipal services have capacity to serve the proposed lots. In providing a public trail easement and in improving 336th Avenue NE site frontage, including provision of a new receiving

ADA-ramp across the street at the existing corner of 336th Avenue NE and NE 42nd Street, the proposal would improve public access to the City's pedestrian network. With conditions requiring payment of transportation, parks, and school impact fees, the project would not adversely affect the community by eroding levels of service. *Findings 2, 3, 4, 8, 10, 11, 12, 14, 15, 17, 19, 20, 21, 22, 23, 24, 25, and 45.*

Special Use Permit for Shoreline Substantial Development

5. As concluded above, the proposal is consistent with the Carnation comprehensive plan and the applicable provisions of the CMC. As proposed and conditioned, it would also be consistent with the applicable provisions of the Carnation Shoreline Master Program.
 - a. Specifically, residential development including the creation of lots and the installation of roads and utilities serving them are allowed in the Urban Conservancy shoreline environment. All on-site critical areas and the majority of the required 100-foot shoreline buffer would be included within Tract A, which as noted above would not be developed with new uses or structures, but instead would have existing residential development removed and the area restored with plantings. The only "development" within Tract A in the 12-lot layout would be dedication of a public trail easement, to be publicly developed at a later time. Within the 12-lot plat, only narrow portions of the extreme rear yards of Lots 7, 8, 9, and 10 would be within 100 feet of the ordinary high water mark, and in addition to horizontal separation, these rear yards are elevated topographically above the elevation of the floodway. The 12-lot layout does include small portions of the on-site extension of NE 42nd Street within the 200 foot jurisdiction; however, of note, existing NE 42nd Street is already within 200 feet. The remaining proposed lots and roadway including municipal and private utilities would be developed upland of the floodway and shoreline buffer. No shoreline stabilization is proposed or required, and there would be no impact to the Holberg Levee along the north bank of the on-site stream. The proposal has demonstrated compliance with SMP Policies P1, P5, P6, P7, P8, P11, and P12, and SMP Regulations R2, R4, R5, and R9.
 - b. Inadvertent discovery measures are required to be implemented during earth disturbing work by both the MDNS mitigation measures and plat conditions of approval, satisfying SMP Regulations R14 and R15.
 - c. The plat was designed to preserve and protect the on-site critical areas and nearly all of the 100-foot shoreline buffer outside of the development envelope. The previously placed improvements within the shoreline buffer are proposed to be removed and the area restored with native plantings, which conditions would ensure would be maintained and monitored for at least five years, and the entire Tract A preserved in a native state in perpetuity. No development would occur within the floodplain, the floodway, or within 100 feet of the channel migration zone (the shoreline buffer). By placing the development envelope topographically elevated from, and 100 feet setback from, the channel migration zone, the proposed plat design reduces grading, excavation, and fill within shoreline jurisdiction to the bare minimum. Conditions of approval would ensure that effective erosion and sediment control measures are installed prior to earth disturbing work, and that the stormwater runoff from the plat's

new impervious surfaces is handled in accordance with City and State regulations. The proposal has demonstrated compliance with SMP Policies P20 and P22 and SMP Regulations R21, R22, R28, R29, and R30.

- d. The proposal was designed to minimize impacts to critical aquifer recharge areas, frequently flooded areas, fish and wildlife habitat conservation areas, and the on-site stream to the maximum extent feasible. Conditions of approval would ensure compliance with mitigation planting requirements such that the minor impacts from having a narrow sliver of rear yards – containing fencing and landscaping – within the 100-foot shoreline buffer would be fully mitigated, so as to ensure no net loss of ecological functions. The project has demonstrated compliance with the applicable provisions of SMP Appendix A, Sections A1.112, 1.116, 1.117, and 1.200.
- e. The proposal would dedicate a 20-foot wide trail easement from 336th Avenue NE through the north portion of Tract A to the east site boundary, ensuring the ability of the City to construct a future Tolt River trail, demonstrating compliance with SMP Regulations R43, R51, R53, R54, and R56.
- f. Single-family residential development is a preferred use in the Urban Conservancy shoreline environment when developed in a manner that consistent with control of pollution and prevention of damage to the natural environment. As proposed and conditioned, the project is designed to result in no net loss of shoreline ecological function, to connect to municipal water and sewer, to handle stormwater runoff in compliance with local and state standards, and to provide an open space tract for low-intensity recreation, demonstrating compliance with the applicable requirements of SMP Regulations R132, R138, R189, R190, R191, R192, R196, and R200.
- g. Designed to exclude any road improvements from the 100-foot shoreline buffer and to require landscaping between the proposed extension of NE 42nd Street and the shorelines, the proposal as conditioned would comply with the intent of SMP Regulation R236, which prohibits “[m]otor vehicle and rail transportation facilities” (roads) from being located within shoreline jurisdiction unless the proponent demonstrates that no feasible upland alternatives exist and the project represents the minimum development necessary to serve another specific, localized and permitted shoreline use. In this case, multiple provisions of the City Code require extension of NE 42nd Street into the plat. Existing NE 42nd Street is within shoreline jurisdiction. As concluded above, the plat has been designed to minimize impacts to maximum extent possible while providing code-required access to preferred single-family residential uses. All utilities within the extension of NE 42nd Street would be appurtenant to and necessary to support the preferred residential uses, and their placement within the outer approximately 50 feet of onsite shoreline jurisdiction represents the minimum intrusion necessary. The road extension within the shoreline jurisdiction would be located entirely in the flatter portion of the site, and the road would be designed to reduce necessary grading while meeting the drainage and stormwater management objectives. The proposal demonstrates that as conditioned it can comply with SMP Policies P212, P215, and 218, and SMP Regulations R236, R241, R254, R257, R355, R358, and R361.

Findings 2, 3, 4, 5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 45.

6. As concluded above, the proposed 12-lot plat was designed, and as conditioned would be constructed, operated, and maintained, in a manner that is compatible with the existing and intended character and physical characteristics of the subject property and existing and allowed improvements in the surrounding vicinity. *Findings 2, 3, 4, 5, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, and 45.*
 7. The placement and height of the future residences would not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties, which are zoned for residential or park uses. *Findings 8, 10, 11, and 45.*
 8. The proposed residential uses, appurtenant roads and utilities, open space tract, and trail dedication would not create unusual hazards or result in adverse impacts to surrounding properties. *Findings 8, 10, 11, and 45.*
 9. As concluded above, the 12 lots would be adequately served by roads, utilities, and emergency services as proposed and conditioned. The project's impacts to schools, parks, and the road network would be mitigated through the payment of per lot impact fees. *Findings 2, 3, 4, 8, 10, 11, 12, 14, 15, 17, 19, 20, 21, 22, 23, 24, 25, and 45.*
- B. Pursuant to the authority conferred to the permit-issuing authority in CMC 15.18.040 subsections B and C, it is the determination of the undersigned that the duration of the special use permit and shoreline substantial development permit shall run with the five-year duration of the preliminary plat.

DECISIONS

Based upon the preceding findings and conclusions, the requested preliminary plat, shoreline substantial development permit, and special use permit to subdivide approximately 6.28 acres into 12 lots for single-family detached residential development with an approximately three-acre open space/critical areas tract on property currently addressed as 4304 336th Avenue NE, Carnation, Washington are **GRANTED** subject to the following conditions:

General

1. Subject to revisions driven by plat redesign to allow the 12-lot layout and revisions driven by final engineering details, or the conditions imposed below, the final plat shall be in substantial conformance with the submitted preliminary plat drawings labeled Alternate 1 in the record at Exhibit 34. The complete plat number and existing (parent) parcel number must appear at the top right corner of the final plat as follows:

FINAL PLAT NO. LP-21-0001
PARCEL NO. 152507-9027

2. A topographic survey sealed by a licensed professional land surveyor is required. The survey shall include underground utilities, adjacent streets, floodplain, applicable buffers, and other critical areas. [CMC 15.16.350]
3. The preliminary approval of these applications for plat, shoreline substantial development permit, and special use permit will be valid for a period of five (5) years from the date of preliminary approval, together with any additional extensions that may be granted by changes to State law or City code. If all conditions have not been completed and a final plat has not been approved and filed within that period of time, the approval will expire and become null and void. No site disturbing development activities may commence until such time as all permits related thereto have been approved by the City of Carnation and a pre-construction meeting between the Applicant, their contractors, and City staff has been held.
4. Approval by the City Engineer of the engineering details of the proposed streets, storm drainage, sanitary sewer and water systems, and other proposed public facilities shall be required prior to construction activities and final plat approval.
5. Construction performance and maintenance guarantees shall be provided in accordance with City of Carnation Street and Storm Sewer System Standards. Before utility extension and right-of-way permits are issued, the Applicant shall furnish the City a performance bond to guarantee the full and complete construction and installation of the right-of-way improvements. [CMC 15.16.740]
6. The Applicant shall comply with all mitigation measures in the SEPA mitigated determination of non-significance (File No. ECF-21-0001) issued on July 15, 2022.
7. All permit requests will be reviewed for compliance with applicable codes, ordinances, laws, rules, and regulations prior to issuance of approval.
8. Current City of Carnation standard plan general notes, roadway notes, drainage notes, and erosion and sediment control notes shall be shown on the engineering plans submitted for approval.
9. A Construction Mitigation Plan will be required as part of construction permits, such as those required for clearing and grading or civil permits. To minimize impacts to the surrounding residential neighborhood, construction vehicles shall enter and exit from 336th Avenue NE, and shall not loop through the residential neighborhood via 334th Avenue NE and NE 42nd Street. Additionally, construction vehicles shall not park on NE 42nd Street. The Applicant shall also ensure that construction vehicles do not idle on the public streets during construction.
10. The geotechnical engineer of record shall observe street and utility construction and shall conduct on-site material sampling and compaction testing to verify compaction for roadway, and utility trenching meets recommended compaction criteria.

11. In accordance with RCW 58.17.280, the project proponent shall obtain from the City a specific address for each new lot and place the information on the final plat map.
12. Placement of mailbox structures shall be in conformance with Postal Service requirements. Post Master's approval of mailbox type and locations is required prior to construction start.
13. A homeowners association (HOA) shall be created for the maintenance of any shared required outdoor areas or other open space (Tract A), shared parking areas, and other common use areas, buildings, and utilities within the development. Covenants, conditions, and restrictions (CC&Rs) shall be submitted to the City Planner and City Engineer for review and approval prior to approval of the Final Plat. The CC&Rs shall place the responsibility to maintain the private streets, common areas, and landscaping in the development on the HOA. The HOA shall be created prior to final certificate of occupancy of 50% of the units, or at the discretion of the City Planner and City Engineer.
14. All applicable Shoreline Master Program policies and regulations shall be followed at all times during development.
15. Construction pursuant to the Shoreline Substantial Development permit shall not begin and is not authorized until 21 days from the date of receipt with Ecology as defined in RCW 90.58-140 (6) and WAC 173-27-130, or until all review proceedings initiated within the 21 days from the date of receipt of the decision, except as provided in RCW 90.58.140(5)(a) and (b). The date of receipt for a Shoreline Substantial Development Permit means that date the Applicant receives written notice from Ecology that it has received the decision.
16. Existing fencing located south of the north property line shall be replaced with a new privacy fence along the property line.
17. Trench patching is not allowed on existing asphalt streets. In lieu of a trench patch, the developer must grind and overlay a minimum 30-foot-wide asphalt section.

Clearing, Filling, and Grading

18. An application for Clearing, Filling and Grading is required [CMC 15.40.070]. A spill prevention and control plan is also required. [CMC 15.64.230]
19. Dust generated during construction activities shall be controlled by wetting the dust sources of exposed soils and washing truck wheels before trucks leave the site. Mud and dirt shall not be tracked onto public rights-of-way.
20. The Applicant shall report any soil contamination that is detected to the Department of Ecology via the Statewide Environmental Incident Report Form online per the requirements of Washington's Model Toxics Control Act.

Streets and Sidewalks

21. A right-of-way permit is required for work within the City right-of-way [CMC 15.60.030]. An on-site pre-construction meeting shall be held before commencing work within the right-of-way.
22. Street and storm sewer system improvements shall be consistent with the City's 2018 Street and Storm Sewer System Standards, WSDOT Standard Plans and Standards for Road, Bridge, and Municipal Construction and the 2019 Ecology Stormwater Manual for Western Washington. All streets shall be crowned at the pavement centerline. [CMC 15.56.100(A), CMC 15.56.060, CMC 15.56.090]
23. Dead-end streets shall be avoided. The plat shall provide for the extension of NE 42nd Street to the east boundary of the proposed plat for future street continuation. NE 42nd Street shall be classified "Local Access" and consist of a 50-foot-wide right-of-way, two-10-foot-wide travel lanes, an eight-foot-wide parking lane, curbs, gutters, a six-foot-wide sidewalk on the north side of the street and crowned section per City standards. The existing curb, gutter, and sidewalk on the south side of the street shall extend west, across the 336th Avenue NE to close off the existing driveway to the property.
24. The new internal street shall stub to the north and east property boundaries. A street shall be installed adjacent to the north plat line and consist of a 35-foot-wide right-of-way, two 10-foot-wide lanes, curb, gutter, and a six-foot-wide sidewalk. The internal street shall be classified "Local Access" and consist of a 50-foot-wide right-of-way, two-10-foot-wide travel lanes, a nine-foot-wide parking lane, curbs, gutters, and six-foot-wide sidewalks on the south side of the street. [CMC 15.56.100(A), CMC 15.56.060, CMC 15.56.090]
25. Frontage improvements along 336th Avenue NE are required and shall consist of curb and gutter, storm drain facilities including treatment and infiltration, six-foot-wide sidewalk, illumination, a minimum 29-foot wide asphalt section, measured from face of curb to face of curb. The street asphalt section, however, shall not be narrower than the existing pavement width.
26. Sight distance triangles shall be provided on the construction documents showing sight distance at all intersections. Areas within the triangles shall be clear of sight-line obstructions.
27. ADA compliant curb ramps shall be installed at all intersections, with two ramps at each corner. Ramps shall be aligned to the corresponding ramp across the street. The developer must reconstruct the existing curb ramps at the northwest corner of the NE 42nd Street and 336th Avenue NE intersection to meet current ADA requirements.
28. The street lighting system must be a complete system designed by Puget Sound Energy along internal streets and 336th Avenue NE frontage. All new wiring, conduit, and service connections shall be located underground. LED street illumination design shall be submitted conforming to PSE/Intolight requirements. Streetlights shall be provided at

intersections and all street lighting fixtures shall meet City standards and prevent light spill. The developer shall submit proposed street light locations and system design to the City for review and acceptance. Maintenance and payment for illumination along all Plat streets shall be the responsibility of the HOA. [CMC 15.60.300]

29. Street signs are required and shall include “no parking” signs, street name signs, and stop signs. Provide eastbound and westbound stop signs at the NE 42nd Street and 336th Avenue NE intersection, include a stop ahead sign eastbound on NE 42nd Street and a temporary traffic revision sign with flagging. No parking signs shall be placed along the internal road as required by the City Engineer and Fire Marshal.
30. Underground electrical and communication lines shall be installed behind the sidewalks in dedicated utility easements a minimum of 10-feet wide.
31. Residential driveways shall be Type 1, consistent with WSDOT Standard Plan F-80.10-4. Driveway widths shall not exceed 18-feet wide or be less than 10-feet wide. [CMC 15.56.050]
32. No portion of a cement concrete driveway shall be within five feet of the adjacent property lines. [Carnation Street Standards]

Stormwater

33. A drainage permit is required for the stormwater management systems. [CMC 15.64.230]
34. Stormwater quality and flow-control best management practices are required for the proposed subdivision including the 336th Avenue NE frontage and the entire lengths of the proposed streets. Uncontrolled storm water runoff to adjacent properties or City right-of-way is not allowed. A Technical Information Report is required and shall comply with the 2019 Ecology Stormwater Manual for Western Washington as required by Section 15.64.190(C). Infiltration stormwater facilities shall be designed to infiltrate 100 percent of the 50-year developed runoff event utilizing the following Ecology correction factors; Site variability of 0.8, uncertainty 0.40, maintenance 0.50.
35. The HOA shall be responsible to maintain the Plat’s stormwater facilities through a drainage covenant recorded against the title of the underlying property. The covenant shall include but not be limited to operation and maintenance by the HOA of stormwater facilities including stormwater related landscaping. [CMC 15.64.190.F.3].
36. Infiltration systems shall be located a minimum of 10-feet from building foundations and property lines. In-situ testing is required to determine the existing soils’ infiltration capacity. [Ecology Manual]. The infiltration rates shall include applicable correction factors for infiltration facilities as recommended in the Ecology Manual but in no case shall the maintenance correction factor assume more than infiltration of 60% of its design capacity or a correction factor, CF_m of 0.6. Stormwater runoff from all adjacent street frontage shall be managed behind the sidewalks or on-site. Stormwater facilities within the 100-foot buffer to the south is not allowed.

37. Effective erosion control and sediment measures shall be designed, installed, and maintained to minimize the discharge of pollutants. A temporary sediment pond shall be designed and constructed as part of the sediment control measures.
38. Temporary Sediment and Erosion Control and grading plans are required. Stormwater runoff from impervious surfaces shall not be directed towards City rights-of-way or adjacent properties. [CMC 15.64.220].

Potable Water

39. Water system improvements shall be consistent with the City's 2017 Combined Water and Sanitary Sewer Utility Technical Standards.
40. To provide water services for the proposed lots, a looped system with two connections is required. Proposed main lines shall connect to the existing water main on 336th Avenue NE. The developer must install a water quality testing facility per City standards. [CMC 15.60.200 and CMC 13.100]
41. The developer shall contribute a proportional share to design and construct a Booster Pump that will increase water pressure in the area of the development based on the number of lots developed. It is expected that the booster pump station will serve 151 existing and future buildable lots. The proportional share will be 12 lots/151 lots or 7.947% of the Booster Pump Station cost adjusted for inflation. Payment of the developer's proportional share shall be made to the City of Carnation before the final plat is approved.
42. Water mains and service lines shall be installed and located in order to maintain the required minimum separation from proposed and existing, sanitary sewer lines. [Carnation Utility Standards]
43. The water main shall extend to the east property line along the NE 42nd Street right-of-way for future extension. The developer must install a fire hydrant or two-inch blow-off at the east end of the water main.
44. New fire hydrant spacing and locations shall be in accordance with the International Fire Code and as directed by the Fire Marshal. Each new fire hydrant shall be fitted with a storz adapter. [Carnation Utility Standards]
45. Existing well(s) shall be properly decommissioned in accordance with King County Department of Health requirements and records shall be submitted to the City with final plat application.

Sanitary Sewer

46. The sanitary sewer improvements shall be designed by the Developer per the City of Carnation's Combined Water and Sanitary Sewer Utility Technical Standards and Aqseptence Group/Airvac's design manual. [CMC 13.100]

47. All lots shall connect to the City of Carnation vacuum sewer system. The Developer shall acquire side sewer permits for each lot connected to the City sewer system. [CMC 13.50 and CMC 13.70]
48. Sewer mains and service lines shall be installed and located in order to maintain the required minimum separation from proposed and existing water lines. [Carnation Utility Standards]
49. The vacuum sewer main shall extend to the east property line along the NE 42nd Street right-of-way for future extension.
50. Existing septic system(s) shall be properly decommissioned in accordance with King County Health Department requirements and records shall be submitted to the City with final plat application.
51. The project proponent or contractor must obtain a Public Utility Extension permit for the sewer and water main improvements which shall be constructed per the City of Carnation Utility Standards. [CMC 13.100.070]
52. Side sewers shall be constructed per City of Carnation Sewer Standards. Side sewer permits are required prior to commencing side sewer construction. [CMC 13.70.040]
53. The Developer shall transfer ownership of accepted water and sewer facilities installed by the Developer to the City of Carnation through a Bill of Sale prior to final recording. The Bill of Sale shall include but not limited to the legal description of the development and material quantities of water and sewer facilities installed. [CMC 15.60.010]

Other Utilities

54. Utilities shall be provided to each lot in accordance with CMC 15.60. All existing and proposed electric, telephone, cable, and communication lines on the site shall be placed underground. Overhead extensions are not allowed [CMC 15.60.350]. The utility designs shall include a trench detail and continuous underground warning tapes installed 12-inches above each utility line.
55. The electric utility service provider must review the proposed plans and certify to the City that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.
56. The developer shall, as soon as practicable after installation of any utility line within the City, or connection to any existing facilities within the city, is complete, and before acceptance of any utility line, furnish the City with a printed and an AutoCAD computer disk (or other format acceptable to the City Engineer) copy of a drawing that shows the exact location of such utility lines. Such drawings must be verified as accurate by the utility service provider. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing such development.

57. An Ecology Construction Stormwater General Permit is required. Conformance with the Ecology Construction Stormwater General Permit shall be ensured with weekly monitoring by the Applicant or their agent and reporting of the site's best management practices for conformance of the Stormwater General Permit and SWPPP requirements including water sampling of stormwater discharged from the site. Weekly monitoring reports shall be submitted to the City of Carnation Public Works inspector. [Ecology Stormwater Manual]

Land Use and Zoning

58. Development of all lots within this subdivision shall be in accordance with all the requirements of CMC 15.48, Density and Dimensions, including front, side, and rear setbacks, and limitations on building height and on impervious surface.
59. The existing row of fir trees located within the 336th Avenue NE right-of-way adjacent to Tract A must be retained unless it would cause an undue burden upon the development as determined by the City Planner based on the function or safety of the site, the health and vitality of the trees, and whether retaining the trees would result in a safety hazard.
60. Prior to final plat, the Applicant shall provide documentation of a homeowners association agreement to maintain in perpetuity any and all street trees provided on private property that are intended to meet the requirements of CMC 15.76.100.
61. Landscape plans are required, and shall include trees designated for protection and retention, as well as irrigation of new landscape plantings. The Landscape Plan and Tree Preservation Plan must contain the same information and configuration of lots and rights-of-way prior to issuance of the final plat.
62. Prior to final plat, a certified arborist hired by the Applicant shall be required to inspect all trees remaining on the site and provide a written report as to the status of such trees. Any protected tree found to be irreparably damaged, severely stressed or dying shall be replaced as provided for in CMC 15.76.130(C).
63. A 20-foot wide public trail easement through the open space Tract A is required as shown on the application materials.
64. Signage (to be approved by the Shoreline Administrator) shall be conspicuously installed along the public access easements to indicate the public's right of use and the hours of operation. The Proponent [developer, and then HOA] shall bear the responsibility for establishing and maintaining such signs.

Shoreline Master Program (SMP)

65. All applicable Shoreline Master Program policies and regulations shall be followed at all times during development.
66. Public access requirements imposed pursuant to the issuance of an approval or permit

under the Shoreline Master Program shall run with the land and shall be enforceable against successor owners in interest. Subsequent owners shall not adversely affect or diminish the usefulness or value of the public access requirements imposed pursuant to the Shoreline Master Program.

67. Although the features of the OHWM, the floodway, the CMZ, and subsequent buffers have been accurately depicted on the plans, sheet C3.00 [or future submittals such as construction documents showing similar detail] must be corrected to show the accurate labels for the OHWM and floodway.
68. The Applicant must provide permanent survey stakes delineating the boundary between adjoining property and Tract A using iron or concrete markers as established by current survey standards. The Applicant shall identify the boundary between a critical area tract and contiguous land with permanent signs. Critical area signage must be provided at the edge of the shoreline buffer to identify the protected area.
69. The known characteristics, locations, and boundaries of the following areas and sites shall be recorded upon the face of the plat: critical areas; flood zones; shoreline buffers and setbacks; permit conditions; and access and open space easements. Landowners shall file these notations with the King County Assessor's Office at the time of any plat approval or prior to the sale of any lot within the platted property. Additionally, a notice on title must be recorded with the records division of King County documenting the presence of the regulated critical areas and buffer. The notice shall include all information listed in SMP Appendix 1.117.
70. Mitigation/revegetation of the shoreline buffer must be completed immediately following demolition of the existing structures located within the shoreline buffer and existing septic system and prior to use or occupancy of the activity or development.
71. In order to mitigate potential impacts to the buffer and incorporate measures to ensure no net loss, no right-of-way shall be developed within the 100-foot shoreline buffer.
72. A final landscape plan must be provided which shows the revised road layout, the correct shoreline buffer, and indicating all plantings within the 100-foot shoreline buffer. The plan must include five years of monitoring for the shoreline revegetation area. The Applicant shall submit monitoring reports prepared by a qualified biologist to the City annually documenting the success of the restoration against the performance standards. The plan currently includes a single performance standard of 90% survival of plant material after three years. A 90% survival standard is acceptable; however, the restoration must be monitored for five years. The following additional performance standards should be included:
 - a. Plant Diversity: establish at least three native trees, four native shrubs, and two native groundcover species by Year three and maintain this diversity through Year five.
 - b. Native Plant Cover:

- i. Achieve 50% areal cover of native woody vegetation by year three.
 - ii. Achieve 65% areal cover of native woody vegetation by year four.
 - iii. Achieve 80% areal cover of native woody vegetation by year five.
 - c. Invasive plant cover: areal cover for invasive plants will not exceed 10% at any year during the monitoring period. Invasive plants include those designated by the King County Noxious Weed Board.
73. All persons shall immediately stop work and notify the City, Department of Archaeology and Historic Preservation (DAHP), and potentially affected tribes if any phenomena of potential archaeological interest are uncovered during excavations. In such cases, the developer shall be required to provide for a site inspection and evaluation by a professional archaeologist to ensure that all possible valuable archaeological data are properly salvaged.
74. During construction, the Applicant and/or any contractor(s) or agents performing construction or site development work shall immediately cease operation and notify the City upon discovery/disturbance of any cultural resources or archaeological materials. The City will refer the owner to the appropriate state or federal agency and/or tribal authority for direction. Compliance with any such direction, including without limitation any required site monitoring, shall be at the Applicant's sole expense.

Public Facilities

75. A School Impact Fee as imposed by the Riverview School District for each individual lot shall be assessed at the time of building permit issuance and paid prior to final certificate of occupancy.
76. A Parks Impact Fee for each individual lot shall be assessed at the time of building permit issuance and paid prior to final certificate of occupancy.
77. A Transportation Impact Fee for each individual lot shall be assessed at the time of building permit issuance and paid prior to final certificate of occupancy.

DECIDED September 20, 2022.



Sharon A. Rice
Carnation Hearing Examiner