

**BEFORE THE LAND USE HEARING EXAMINER
FOR THE CITY OF LA CENTER, WASHINGTON**

Regarding a request by Susanna S. Hung and the Susanna S. Hung Trust for preliminary plat approval to divide 20 acres into 71 single-family lots at 2000 NE Lockwood Creek Road in the City of La Center, Washington) **FINAL ORDER**
) **File No. 2020-004-**
) **SUB/VAR/CAR/SEPA**
) **(Lockwood Meadows)**

A. SUMMARY

1. Susanna S. Hung and the Susanna S. Hung Trust (the “applicants”) request approval of a preliminary plat to divide 20 acres into 71 lots for single-family detached homes and park, open space, and stormwater tracts, pursuant to the density transfer ordinance. The applicants also request variances to the maximum building lot coverage and maximum impervious surface coverage,

a. The development is located at 2000 NE Lockwood Creek Road Avenue; also known as tax lot 94 (209113000) of Section 2, Township 4 North, Range 1 East of the Willamette Meridian (the “site”). The site and properties to the north, west, and southwest, across NE Lockwood Creek Road, are zoned LDR-7.5 (Low Density Residential, 7,500 square foot minimum lot size) and subject to the Urban Holding-10 overlay zone. Properties to the east are in unincorporated Clark County and zoned AG-20 (Agriculture, 20-acre minimum lot size). Properties to the southeast, north of NE Lockwood Creek Road, are in unincorporated Clark County and zoned R1-7.5 (Residential, 7,500 square foot minimum lot size).

b. The site is currently developed with a manufactured home and barn, both of which will be removed to accommodate the proposed development.

c. The site also contains critical area: an Oregon White Oak tree measuring 40-inches in diameter at breast height (“dbh”) at the southwest corner of the site and two category IV wetlands -Wetland A in the east portion of the site and Wetland B in the central portion of the site, near the south boundary. The applicants propose to fill Wetland A (a small, low quality wetland) as allowed under 18.300.090(5)(d). The applicants will preserve Wetland B and the associated buffer within proposed Tract C. The applicants also propose to preserve the oak tree, which qualifies as priority habitat. However, the applicants are proposing grading impacts within the dripline of the oak tree, which will require approval of a critical areas permit and mitigation.

d. The applicants proposed to extend E. 4th Street through the site between the existing street stub at the west boundary of the site and NE 24th Avenue abutting the east boundary. The applicants will extend a loop street north of the on-site section of E. 4th Street, consisting of NE 21st Avenue, E. 5th Street, and NE 23rd Avenue. The applicants will extend E. Upland and E. White Oak Avenues into the site, between their existing stubs at the north boundary of the site and proposed E. 5th Street. NE 23rd Avenue will continue south of E. 5th Street, turning west to become proposed E. 3rd

Street, terminating in a cul-de-sac turnaround near the east boundary of tax lot 209065000. The applicants will dedicate right-of-way between E. 3rd Circle and the east boundary of tax lot 209065000 to allow future development on that parcel to access E. 3rd Street. The applicants will replace the existing pavement on the section of NE 24th Avenue abutting the site and construct curb, sidewalk, and other frontage improvements on the west side of this road. In addition, the applicants will provide a mid-block pedestrian trail between proposed E. 4th and E. 5th Streets and between proposed E. 4th Street and E. 3rd Circle.

e. The applicants proposed to provide 1.42 acres of parks and open space on the site, consisting of:

- i. A trail and open space in the 0.25-acre Tract A;
- ii. A publicly accessible park in 0.46-acre Tract B; and
- iii. Wetland and buffer in the 0.71-acre Tract C.

f. The applicants propose to collect stormwater from impervious areas on the site and direct it to a stormwater facility in Tract D for treatment and detention. The applicants will discharge treated stormwater from the detention facility into the existing ditch on the north side of NE Lockwood Creek Road at less than predevelopment rates.

g. Clark Public Utilities will provide domestic water and the City of La Center will provide sanitary sewer service to each proposed lot.

2. The City of La Center issued a Mitigated Determination of Nonsignificance ("MDNS") for the subdivision pursuant to the State Environmental Policy Act ("SEPA"). Hearing Examiner Joe Turner (the "examiner") conducted a public hearing to receive testimony and evidence about the application. City staff and consultants recommended that the examiner approve the preliminary plat subject to conditions. See the Staff Report & Recommendations dated May 9, 2022 (the "Staff Report"), as amended at the hearing. The applicants accepted those findings and conditions, as amended. Two persons testified orally with questions and concerns about the proposed development. Other persons testified in writing. Disputed issues or concerns in the case include the following:

- a. Whether traffic from this development will exceed the capacity of area streets or otherwise create a hazard;
- b. Whether the proposed development will cause or exacerbate flooding and other stormwater issues on adjacent properties;
- c. Whether the channel along the north boundary of the site is a protected waterway;

- d. Whether, and to what extent, the applicants are required to retain trees on the site;
- e. Whether the applicants can be required to provide a greenbelt walkway along the north boundary of the site; and
- g. Whether the applicants can be required to adopt CC&Rs regulating development on the site;

3. Based on the findings provided or incorporated herein, the examiner denies the variance request, File No. 2020-004-VAR, and approves the remainder of the application, File No. 2020-004-SUB/CAR/SEPA (Lockwood Meadows Subdivision) in general conformance with the applicants' preliminary plat, subject to the following conditions:

B. HEARING AND RECORD HIGHLIGHTS

1. Hearing Examiner Joe Turner (the "examiner") received testimony at the public hearing about this application on May 16, 2022. That testimony and evidence, including a recording of the public hearing and the casefile maintained by the City, are included herein as exhibits, and they are filed at City Hall. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. La Center consulting city planner Ethan Spoo summarized the Staff Report.

a. He noted that the site was annexed into the city of La Center last year and zoned LDR -7.5, subject to the Urban Holding-10 overlay zone. The site is currently developed with a single-family residence and a barn. Much the site is planted in Christmas trees.

b. The site contains wetlands and Oregon white oak habitat. The applicants proposed to fill wetland A in the eastern portion of the site and retain wetland B and the associated buffer in proposed Tract D. The applicants' grading plan shows minor impacts to the wetland B buffer. The applicants will need to modify their grading plan to avoid those impacts or obtain city approval of a critical area permit. The grading plan also shows impacts within the drip line of the Oregon white oak tree; grading and construction of a portion of the NE Lockwood Creek Road travel lane. The applicants will need to obtain city approval of a critical area permit for these impacts.

c. The applicants proposed to develop a park in Tract B to meet the Code requirement of a 0.19-acre park. The applicants proposed to provide a 0.46-acre park (Tract B), a 0.17-acre wetland tract (Tract C), and a 0.24-acre pedestrian trail (Tract A).

d. The applicants proposed to preserve most trees larger than five-inches dbh on the site. The applicants proposed to remove four trees of regulated size. The applicants will need to prepare a tree removal and preservation plan designating which trees will be removed and proposing protection measures for the retained trees. The

applicants will be required to plant additional trees to mitigate for the trees that are being removed.

e. The applicants requested variances to the maximum building lot coverage and maximum impervious surface coverage requirements of the LDR-7.5 zone. Staff recommend denial of the variances, as there are no “unusual circumstances” that apply to the site, and the variances are not necessary to preserve a substantial property right. The fact that other jurisdiction in the area allow greater lot coverage and impervious area is irrelevant. All properties in the city of La Center’s LDR-7.5 zone are subject to the same criteria. In addition, there is no evidence that the variance is the minimum necessary to alleviate any hardship. The applicants are requesting a blanket variance. The applicants did not propose any mitigation for the aesthetic impacts of larger homes and the increased grading and vegetation removal that the variances would create.

i. He noted a typographical error in the Staff Report. The first line on the last paragraph on page 21 should read “Staff does not agree that slopes and wetlands are not common in La Center.”

f. He requested the examiner delete proposed condition of approval 6, as it repeats condition 21 and is therefore redundant.

3. City engineer Tony Cooper summarized the engineering issues for the proposed development.

a. Adequate sight distance is available at the proposed intersections. The Code requires a minimum 250 feet of sight distance, based on the 25 mph posted speed limit. Roughly 580 feet of sight distance is available.

b. All intersections affected by traffic from the development will meet the city standard of Level Of Service (“LOS”) E or better, with one exception. The intersection of E. 4th Street and NE Highland Road/E. Ivy Avenue is currently operation at LOS F. However, there is no need to modify this intersection as the failing movement on E. Ivy Avenue carries very little traffic. The city received a grant to widen E. 4th Street and is currently designing and planning a traffic signal at that intersection as part of the widening project.

c. The applicants will be required to construct half-width improvements on the site’s NE Lockwood Creek Road and NE 24th Street frontages. The section of NE 24th Avenue abutting the site is in very poor condition. Therefore, the applicants will be required to reconstruct this street section in addition to half-width improvements on the west side. The applicants may need to reconstruct the offsite section of NE 24th Avenue between the site and NE Lockwood Creek Road to repair damage caused by construction vehicles. The city will review this issue through the final engineering review process.

d. The applicants will be required to install erosion control measures on the site prior to beginning construction. The applicants will collect stormwater runoff

from all impervious surfaces on the site and convey it to a stormwater facility within proposed Tract C for treatment and detention. The applicants will release the treated stormwater to the existing ditch on the north side of NE Lockwood Creek Road at less than predevelopment rates.

e. The applicant's geotechnical analysis noted significant groundwater flowing down the slopes north of the site. There is an existing drainage ditch on the north boundary of the site that captures runoff flowing down the hill. The applicants proposed to remove the ditch and grade the proposed lots to match the slopes on the abutting property. The applicants will need to design the drainage system to accommodate the existing runoff, potentially including subsurface drains in cut slopes and roadways on the site. Any groundwater collected in such drainage systems must be conveyed to the outfall on NE Lockwood Creek Road.

f. The applicants will connect to the existing eight-inch sewer line in the development west of the site. The city's sewer system has sufficient capacity to accommodate increased flows from this development.

g. The developer of the property north of the site was required to install "School Zone" signage on NE Spruce Avenue. Proposed sidewalks within the site will connect to offsite sidewalks and crosswalks that provide safe pedestrian access for students residing on the site who walk to school.

4. Attorney Steve Morasch testified on behalf of the applicants, Susanna S. Hung and the Susanna S. Hung Trust. He accepted the findings and conditions in the Staff Report, as amended, without exceptions.

a. He noted that the applicants proposed to dedicate right-of-way between the cul-de-sac at the end of NE 3rd Street and the west boundary of the site to allow future development on the adjacent property to access NE 3rd Street.

b. The applicants should only be required to reconstruct the existing pavement width of NE 24th Avenue east of the centerline. The applicants cannot dedicate additional right-of-way on the east side of this road that would be necessary to construct a full-width street section.

c. The proposed development will not increase, and may alleviate, some of the water impacts noted by Mr. Ralph, as the applicants will collect stormwater runoff from the site that currently flows onto his property and discharge it to the ditch on NE Lockwood Creek Road.

d. The trees on the north boundary of the site are not required to be preserved as they are smaller than five-inches in diameter. The applicants will likely remove all these trees to accommodate the planned grading.

5. Paul Jones questioned which trees the applicants proposed to remove and retain. He requested the applicants retain the existing trees on the north boundary of the site.

6. Charles Ralph expressed concern that the proposed development will increase runoff onto his property west of the site. He has issues with high groundwater now and this development could make the situation worse. He questioned whether the applicants will be required to install “School Zone” signage on E. Spruce Avenue.

7. The examiner closed the record at the end of the hearing and announced his intention to approve the application, subject to the findings and conditions in the Staff Report, as amended at the hearing.

C. DISCUSSION

1. City staff recommended that the examiner approve the preliminary plat, based on the affirmative findings and subject to conditions of approval in the Staff Report, as modified at the hearing. The applicants accepted those findings and conditions as modified, without exceptions.

2. The examiner finds that the Staff Report, as amended at the hearing, accurately identifies the applicable approval criteria for the preliminary plat and contains affirmative findings that the proposed preliminary plat does or can comply with the applicable standards of the LCMC and the Revised Code of Washington, provided the applicants comply with recommended conditions of approval as amended herein. The examiner adopts the affirmative findings in the Staff Report, as amended, as his own, except to the extent that those findings are inconsistent with the findings in this Final Order.

3. This development will generate additional traffic on streets in the area. That increased traffic will be perceptible to area residents. However, based on the applicants’ traffic analysis, it will not exceed the capacity of the streets nor create a hazard, except for the intersection of E. 4th Street and NE Highland Road/E. Ivy Avenue, which is currently operation at LOS F. However, the failing movement on E. Ivy Avenue carries very little traffic and this development will not add any traffic to that movement. The city received a grant to widen E. 4th Street and is currently designing and planning a traffic signal at that intersection as part of the widening project.

a. The additional traffic generated by this subdivision may pose an increased risk for drivers, cyclists, and pedestrians in the area. Higher vehicular traffic volumes create a marginally higher risk for pedestrians and bicyclists. It may well warrant a heightened degree of attentiveness to traffic when driving, cycling, or walking in the neighborhood. However, those risks are consistent with the location of the site in the urban area where City plans call for the sort of development being proposed. Reasonably prudent drivers will observe the posted speed limit and other applicable traffic regulations. Unfortunately, not all drivers are prudent. However, there is no

evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers.

b. The applicants cannot be required to install “School Zone” signs on E. Spruce Avenue, because the proposed development will not create the need for such signage. To the extent such signs are warranted, the need is an existing problem that is created by existing development and road improvements. The city can install such signage if it is required.

4. As discussed at the hearing, the applicants will reconstruct the section of NE 24th Avenue abutting the site in addition to constructing half-width improvements (curb, gutter, sidewalk etc.) on the west side of the street. The proposed sidewalks will connect to the existing sidewalks on the section of roadway to the north. The on-site sidewalks will be further extended and connect to NE Lockwood Creek Road in the future when the abutting property to the south redevelops. The applicants may also be required to reconstruct the offsite portion of the NE 24th Avenue pavement, depending on the extent of construction vehicle impacts. The city will review the need for offsite improvements through the final engineering review process.

5. The proposed development will not cause or exacerbate flooding and other stormwater issues on adjacent properties. Based on the existing topography, stormwater falling on the site currently flows southwest and south, towards the topographic gully on tax lot 209065000 and the ditch on NE Lockwood Creek Road. The applicants will replicate those existing conditions, collecting, treating, and detaining stormwater runoff in the proposed on-site stormwater facility prior to release into the ditch on NE Lockwood Creek Road.

6. The applicants is prohibited from increasing or concentrating stormwater runoff onto adjacent properties or from blocking surface flows that currently flow onto the site.

a. The proposed development will not increase, and may reduce, the volume of runoff flowing onto Mr. Ralph’s property. The proposed development may divert stormwater that currently flows onto his property and direct it to the stormwater facility and the ditch on NE Lockwood Creek Road. The applicants can grade the site to ensure that no additional stormwater flows onto neighboring properties.

b. Uphill properties to the north of the site drain onto the site under existing conditions. An existing ditch on the north boundary of the site collects and conveys that runoff to the east. The applicants proposed to eliminate the existing ditch and grade the site to match the slopes on abutting properties. The applicants will be required to grade the site and or install pipes or other systems to accommodate the existing runoff and convey it through the site. The city will review the applicants’ engineering and design to confirm compliance with applicable requirements.

i. The existing ditch on the north boundary is not a regulated stream. It is a manmade ditch that the applicants are not required to preserve. Therefore, a

bridge is not required to extend E. Upland and E. White Oak Avenues into the site as proposed.

7. The applicants is not required to retain the Christmas trees on the site. The Code only regulates trees that are five-inches dbh or larger. LCMC 18.350.020(12). The applicants will likely need to remove most, if not all, of the Christmas trees in order grade and develop the site as proposed. The applicants proposed to preserve most trees larger than five-inches dbh on the site. The applicants proposed to remove four trees of regulated size. The applicants will need to prepare a tree removal and preservation plan designating which trees will be removed and proposing protection measures for the retained trees. The applicants will be required to plant additional trees to mitigate for the regulated trees that are being removed.

8. The applicants are not required to provide a greenbelt walkway between this site and the abutting properties to the north. The Brezee Creek and Heritage Trails were constructed within required stream buffers that do not exist on this site. The lots on the north boundary of the site will abut the existing lots to the north. The homes on those lots will be setback 20 feet from the north boundary of the site, consistent with the rear-yard setback requirements of the LDR-7.5 zone. The applicants will construct a north-south trail between proposed E. 5th Street and E. 3rd Circle, which will provide access to the park and open space in proposed Tracts B and C.

9. The city has no authority to require the adoption of CC&Rs for this development, beyond those necessary to address the ownership and maintenance of common areas and private utilities such as stormwater, private roads, etc. The applicants or future property owners may choose to adopt CC&Rs regulating development.

10. The examiner denies the requested variances for the reasons set out in the Staff Report.

D. CONCLUSION

The examiner concludes that the applicants sustained the burden of proof that the proposed subdivision does or can comply with the applicable provisions of the La Center Municipal Code and Revised Code of Washington, provided it is subject to reasonable conditions of approval warranted to assure compliance in fact with those provisions. The examiner further finds that the applicants failed to demonstrate that the proposed variances comply with the applicable approval criteria.

E. DECISION

In recognition of the findings and conclusions contained herein, and incorporating the reports of affected agencies and exhibits received in this matter, the examiner hereby denies the variance request, File No. 2020-004-VAR, and approves the remainder of the application, File No. 2020-004-SUB/CAR/SEPA (Lockwood Meadows Subdivision) in

general conformance with the applicants' preliminary plat, subject to the following conditions:

A. Planning Conditions

1. The applicants shall submit engineering, construction, final plat, and building permit documents in compliance with the preliminary plat documents unless otherwise modified by conditions of approval in this staff report or as approved by the City through subsequent approvals.
2. The applicants shall demonstrate that the maximum building coverage and maximum impervious surface area requirements are met prior to issuance of a building permit for each lot.
3. Prior to engineering approval, the applicants shall provide a final landscape plan with street trees spaced no greater than 30 feet on center.
4. Parks and Open Spaces
 - a. Prior to engineering plan approval, the applicants shall demonstrate that the park meets ADA accessibility regulations.
 - b. The applicants shall place the park and trail in a public access easement.
 - c. The applicant's final park plan must provide a minimum of four benches.
 - d. The applicant's final park plan must show vegetation up to the edge of the wetland buffer and an underground irrigation system for all vegetated areas.
 - e. The applicant's final park plan shall show a low fence or vegetative barrier where the park abuts residential lots.
 - f. Prior to final engineering approval, the applicants shall provide a final park plan that: (1) provides lighting within the park Tract B and along the paths and within Tract A to deter criminal activity (2) contains maintenance notes that requires that all proposed trees within Tracts A and B must be limbed up to provide clear line of site along the pathways and (3) assigns an address for the park for emergency response
 - g. The applicants shall complete the required park and trail improvements or provide the City with a bond or other financial security, in an amount of at least 125 percent of the estimated cost of construction of the Tract B improvements with surety and conditions satisfactory to the Public Work Department providing for and securing to the City the actual construction and installation of such improvements prior to final plat approval.
 - h. The applicants shall construct the park prior to the issuance of the occupancy permit for the 25th dwelling unit.

5. The applicants shall obtain building permits in compliance with LCMC 15.05 prior to construction.
6. The preliminary plat shall expire five years from the date of approval by the hearing examiner, unless an application for final plat is submitted or an extension is requested per LCMC 18.210.050(2) and (3).
7. Prior to final plat approval, the Developer shall identify the setbacks for all lots on the face of the final plat. To minimize impacts to pedestrian safety and mobility, garage doors shall be setback a minimum of 20 feet from the interior edge of a sidewalk.
8. The applicants shall comply with all provisions regarding monumentation outlined in Chapter 18.230.
9. As outlined in LCMC 18.230.090, the final plat shall be drawn with ink upon three-millimeter Mylar film, or equivalent; said sheets are to be 30 inches by 21 inches, with a one-inch border on each side or as otherwise directed by the Clark County recording agency.
10. If any fences or hedges are proposed prior to the final plat, the applicants must provide information to the extent as regulated by LCMC 18.245.020.
11. The applicants shall provide a photometric plan prior to final engineering plan approval showing how the proposed lights will not cause more than a one foot-candle measure at any property line in conformance with 18.245.040 and LCMC 18.282.
12. Ground-level exterior equipment such as air conditioning units, must be screened from view to an F2 or L3 standard prior to issuance of occupancy for each dwelling unit.
13. The applicants shall install all landscaping prior to issuance of final inspection for each dwelling unit or no more than six months after final inspection if it will increase plant survival.
14. The applicant's final landscape plan shall comply with the requirements of LCMC 18.245.060(11-16) prior to final plat approval.
15. All required landscape areas including within the Tract B park, Tract A open space and trail, and planter strip along public roadways must meet the City's irrigation requirements in LCMC 18.245.060(18).
16. Prior to building permit approval, the applicants shall provide each dwelling unit with at least three (3) off-street parking spaces per LCMC Table 18.280.010.
17. Critical areas
 - a. The applicants shall obtain a critical areas permit for impacts to the oak tree and buffer prior to engineering document approval in compliance with all

applicable provisions of LCMC 18.300.090(2) including submittal of a critical areas report and mitigation plan.

- b. The applicants shall purchase credits for impacts to Wetland A and provide documentation of this purchase to the City prior to issuance of a grading permit.
 - c. The applicant's final approved grading plans shall not include impacts to the buffer of Wetland B or, if impacts are proposed, the applicants must apply and receive approval for a critical areas permit for impacts to the buffer.
 - d. The applicants shall mark the buffer of Wetland B during and throughout construction in compliance with LCMC 18.300.090(5)(q)(iii). Following construction, the applicants shall mark the buffer permanently along the upland boundary of the wetland buffer in compliance with LCMC 18.300.090(5)(q)iv). The permanent marking may consist of logs, a tree or hedge row, fencing and small signs at an interval of one per lot or every 50 feet, whichever is less worded substantially as follows: "Wetland and Buffer – Please Retain in a Natural State."
 - e. The applicants shall record a conservation covenant in a form approved by the city attorney in conformance with LCMC 18.300.090(5)(q)(v).
 - f. The applicants shall include the boundary of the wetland and it buffer and a reference to the recorded conservation covenant on the face of the final plat.
18. The final Landscape Plan, once submitted, shall only include native plants approved for use in La Center per Table 18.340.040(2) within critical areas and buffers, avoid plants on the Nuisance List Table 18.340.040(3), and not use prohibited plants from Table 18.340.040(4).

19. Tree Protection

- a. As a Condition of Approval, the applicants shall apply for a Type II tree removal permit, per 18.350.070(2) and meet the approval criteria of 18.350.080, prior to soil disturbance or removal of any trees regulated under LCMC 18.350.
- b. As a Condition of Approval, any trees proposed for removal shall be identified on the plan and shall be flagged in the field consistent with LCMC 18.350.060 so that the City can verify trees to be removed and preserved consistent with 18.350.070(3). In addition, the applicants shall install construction fencing around trees to remain, so they are not inadvertently removed and grading does not occur within their root zones.
- c. As a Condition of Approval, trees regulated by chapter 18.350 that are proposed to be removed shall be mitigated consistent with LCMC 18.350.

20. Impact Fees. Each builder shall be assessed and shall pay the impact fees for schools, parks and transportation in effect at the time of building permit issuance. The applicants shall be credited impact fees for the existing residence onsite.

B. Public Works and Engineering Conditions

1. Public and Private Road Standards and City of La Center Engineering Standards for Construction shall apply to all public road improvements unless modified by the director. LCMC 12.10.040. Lockwood Creek Road is classified as a Minor Arterial per the updated Capital Facilities Plan.
2. The city has designated Lockwood Creek Road as a Minor Collector “A” per the Engineering Standards. General roadway and right-of-way standards shall apply and provide half street improvements.
3. The applicants will need to adjust the sidewalk for widening so that it does not impact the existing White Oak tree adjacent to the property. East 24th Avenue is classified as a Minor Collector per the updated Capital Facilities Plan. The city has designated E. 24th Avenue as a Rural Minor Collector per the Engineering Standards. General roadway and right-of-way standards shall apply and provide half street improvements per LCMC 12.10.090.
4. The entire road section of E. 24th Avenue is subsiding and is experiencing subgrade failure. Due to added traffic from this subdivision, and construction vehicles that will access the site for this subdivision, the applicants will need to reconstruct the entire width of E. 24th Avenue to support these future vehicle loads. The applicants shall provide full street improvements on interior streets according to the City of La Center Local Access standard ST-15 In addition to the interior street improvements, streetlights, street trees and per LCMC 12.10.190. All pedestrian path of travel in public right of way including; sidewalks, curb ramps and street pedestrian crossings shall comply with the American Disabilities Act.
5. The applicants will implement all recommendations from the Traffic Report from Charbonneau Engineering dated August 5, 2021. The applicants shall submit final grading and erosion control permit as part of the subdivision plans showing the proposed contours on the plans.
6. The City’s Erosion Control Standards require that any activity disturbance over 500 SF must comply with the city standards. As part of these standards a construction stormwater permit is required from the Department of Ecology and an SWPPP will be necessary as part of the plan submittal to the city. All erosion control measures shall be designed, approved, installed and maintained consistent with Chapter 18.320 LCMC and the applicant’s Construction Stormwater Permit. Per the City Erosion Control Manual, from October 1 through April 30th, no soils

shall remain exposed for more than two (2) days. From May 1st through September 30th, no soils shall remain exposed more than seven (7) days.

7. The applicants shall follow all recommendations by the report prepared by Columbia West Engineering dated September 23rd, 2021. These are as follows:
 - a. Over-excavation and stabilization of pipe trenches or other excavations with imported crushed aggregate or gabion rock may also be necessary to provide adequate subgrade support.
 - b. The Geotechnical Report discusses recommends subdrains be installed along cuts slopes. It also suggests that because of the springs and seeps, that a drainage channel or perforated pipes be installed to drain the soil. Figure 6 in the report shows the use of subsurface drain rock and perforated pipe below the edge of the pavement. The SEPA included comments about drainage and seeping on the adjacent lots on the north and west sides of Lockwood Meadows proposed housing. A subsurface drainage system will need to be proposed to mitigate this groundwater, seepage problem behind the lots, as well as along the proposed roads. The standard city street sections will need to be modified to drain potential groundwater that can impact the roads. In addition, Lockwood Creek Road has an existing roadside ditch that drains all property north. A drainage culvert and disposal of stormwater will need to be shown for this proposed widening. Connection to an approved outfall will need to be shown for this subsurface pipe.
8. LCMC 18.212.050. Chapter 13.10 -- Sewer System Rules and Regulations Connection to public sewer is required. LCMC 13.10. All work is to be performed by a duly licensed contractor in the City of La Center. LCMC 13.10.230. Work will be performed using an open trench method unless otherwise approved. LCMC 13.10.200. All costs associated with installing the side sewer shall be borne by the applicant. LCMC 13.10.110. Per the City Engineering Standards, sanitary sewers should be designed to care for future loads that may reasonably be expected from full development upstream, consistent with the La Center Comprehensive Plan, Capital Facilities Plan, LCMC Title 13, and the Sewer Master Plan (General Sewer Plan).
9. The applicants are proposing to connect the sanitary sewer piping from the development to the existing gravity sewer in East 4th Way, to the west, that was constructed as part of the Heritage Country Estates Development. The applicants will need to verify the condition of existing 8-inch downstream sewer with video prior to connecting to the system.
10. Chapter 18.320 (Stormwater and Erosion Control) Section 18.320.120 (1) LCMC states that ground-disturbing activities of more than 500 square feet are subject to the requirements of City of La Center Erosion Control Guidelines. Section 18.320.120 (2)(a) LCMC states that the creation of more than 2,000 square feet of impervious surface is subject to stormwater regulation. The applicants propose to create new impervious interior streets in the subdivision. Per LCMC 18.320.210,

treatment BMPs shall be sized to treat the water quality design storm, defined as the six-month, 24-hour storm runoff volume. A Technical Information Report (TIR) will need to be submitted by the applicants and must comply with LCMC 18.320. The LCMC section 18.320.220 states that if surface water leaves the site, stormwater must be detained per LCMC. The design must meet the LCMC 18.320 and the 1992 Puget Sound Manual for the design of the system.

11. As part of the half street improvements for Lockwood Creek Road, the existing storm pipe culverts will need to be extended east to accommodate the new sidewalk and curb and gutter. The capacity of the existing roadside ditch is under insufficient and the condition may have to be assessed and upgraded to allow for stormwater from the development to be conveyed downstream.
12. The existing wetland on Tract B currently is being recharged by stormwater water and subsurface flow from the north portion of the parcel. By constructing the lots north of the wetland, the storm flow to this wetland will be reduced or eliminated. In addition, the drainage from the lots north and east of this wetland appear to drain to the adjacent property. The applicants are proposing to connect some of the downspouts from homes north of Tract C to drain directly to the wetland. A flow spreader is proposed to disperse flow to the wetland. The critical area report will have to support the use of this wetland recharge.
13. The collection system shall be designed by the rational method using HEC-12 1984 edition standards for gutter and storm pipe capacity. As an alternate, WSDOT Hydraulics Manual can be used for inlet capacity design. The 100-year rainfall intensity must be used for pipe capacity design using the rational method.
14. Downspouts connections from the houses must connect directly into the site stormwater system. Laterals from the storm main in the street must be shown to serve each lot.
15. Maintenance of Stormwater Facility The applicants shall be responsible for maintenance of the stormwater facility until an HOA is established to maintain the facility. When the HOA assumes responsibility of the facility, they will establish monetary funding of a reserve fund, for maintenance of the stormwater facility, when at least 50% of development of the housing units has occurred or at minimum 2-years after completion and acceptance of the subdivision by the City, whichever is more. The applicants and future owners will be responsible for maintaining the stormwater facility. An operations manual must be submitted for City review approval for the maintenance of the facility in all cases. Adequate bonding is required to guarantee maintenance of the facility for a period of two years following final plat. Stormwater facilities must be located in a separate tract. Prior to initiation of any construction or final plat approval, the developer shall demonstrate to the City's satisfaction that: 1. The developer shall establish a homeowner's association (HOA) and Articles of Incorporation, By-laws and CC&Rs of the HOA shall reflect that the HOA's operation and maintenance costs for stormwater facilities shall be borne by the HOA. The applicants will provide a "Stormwater Covenant" that shall describe the scope of maintenance of the

stormwater facility and it shall be recorded and incorporated in the CC&Rs. 2. The HOA shall be empowered to access its members' fees to be reserved and used to reimburse the City for the operation and maintenance of the facilities, if enforcement becomes necessary. 3. The City shall have the right of a third-party enforcement to ensure that the HOA remains intact and collects the fees and the City shall have the right to recapture any fees and costs associated with enforcement actions. Further, the following language is to be placed on the face of the plat: The City shall be granted the right, but not the duty, to access and maintain the stormwater facility consistent with 18.320.230 LCMC.

16. Street Lighting Street light design and installation is reviewed and approved by the City of La Center. Street lighting on local streets shall be Acorn full cutoff single fixture on a black decorative fiberglass pole and the frontage improvements will need to have Cobra Head LED light per the Engineering Standards. The applicants shall submit a Photometric analysis along with the street light design to verify compliance with the Engineering Standards.

C. SEPA (MDNS) Documentation and Mitigation Conditions

1. Earth: The applicants must comply with the design recommendations of the geotechnical site investigation by Columbia West Engineering, Inc. dated September 23, 2021.
2. Earth: All grading and filling of land must utilize only clean fill, i.e., dirt or gravel from an approved source;
3. Earth: All debris removed offsite must be disposed of at an approved location;
4. Air: The applicants are required to sprinkle the site with water during construction to reduce dust.
5. Air: The applicants shall use vehicles fitted with standard manufacturer's emission's control equipment to reduce construction-period emissions. Construction vehicles shall not be permitted to idle when not in use.
6. Water: The applicants must comply with the recommendations of the critical areas report (ELS, March 24, 2021) and the Bank Use Plan (ELS, November 2, 2021).
7. Water: The applicants must comply with the recommendations of the Preliminary Technical Information Report dated January 2022.
8. Water: The applicants must use approved erosion control best management practices during construction.
9. Water: The applicants shall apply for and obtain all necessary state and federal permits (e.g., Section 404 authorization from the U.S. Army Corps of Engineers and Section 401 approval from the Washington Department of Ecology, as applicable, prior to filling Wetland A.

10. Water: A City stormwater permit and Stormwater Pollution Prevention Plan (SWPPP) shall be required for the proposed project and shall be approved prior to construction.
11. Plants: The applicants shall retain the priority habitat Oregon White oak or receive approval for a critical areas permit for impacts to the Oak's dripline and shall also plant street trees spaced 30-feet on center, and plant landscaping as required by LCMC 18.245.
12. Environmental Health: For the demolition of the existing house on site, in addition to any required asbestos abatement procedures, the contractor shall ensure that any other potentially dangerous or hazardous materials present, such as PCB-containing lamp ballasts, fluorescent lamps, and wall thermostats containing mercury, are removed prior to demolition.
13. Environmental Health (Noise): All construction equipment shall have muffled exhaust and construction activities are only permitted during City-approved construction hours. Contractors are required to comply with the maximum noise level provisions of WAC 173-60 during construction.
14. Light and Glare: The applicants shall comply with the requirements of LCMC 18.282 (Outdoor Lighting).
15. Recreation: The applicants shall comply with LCMC 18.147 (Parks and Open Space).
16. Recreation: The applicants is required to pay park impact fees prior to issuance of building permits.
17. Historic and cultural preservation: In the event any archaeological or historic materials are encountered during project activity, work in the immediate area (initially allowing for a 100' buffer; this number may vary by circumstance) must stop and the following actions taken:
 - a. Implement reasonable measures to protect the discovery site, including any appropriate stabilization or covering;
 - b. Take reasonable steps to ensure confidentiality of the discovery site; and,
 - c. Take reasonable steps to restrict access to the site of discovery.

The applicants shall notify the concerned Tribes and all appropriate county, city, state, and federal agencies, including the Washington Department of Archaeology and Historic Preservation and the City of La Center. The agencies and Tribe(s) will discuss possible measures to remove or avoid cultural material and will reach an agreement with the applicants regarding actions to be taken and disposition of material. If human remains are uncovered, appropriate law enforcement agencies shall be notified first, and the above steps followed. If the remains are determined

to be Native, consultation with the affected Tribes will take place in order to mitigate the final disposition of said remains.

See the Revised Code of Washington, Chapter 27.53, "Archaeological Sites and Resources," for applicable state laws and statutes. See also Washington State Executive Order 05-05, "Archaeological and Cultural Resources." Additional state and federal law(s) may also apply.

Copies of the above inadvertent discovery language shall be retained on-site while project activity is underway.

Contact	Information
Cowlitz Indian Tribe, Nathan Reynolds, Interim Cultural Resources Manager	Phone: 360-575-6226; email: nreynolds@cowlitz.org
City of La Center, Bryan Kast, Public Works Director	Phone: 360-263-2889; email: bkast@ci.lacenter.wa.us
Office of the Clark County Medical Examiner (for human remains)	Phone: 564-397-8405; email: medical.examiner@clark.wa.gov
Washington DAHP, Dr. Allison Brooks, Ph.D, Director	Phone: 360-586-3066; email: Allyson.Brooks@dahp.wa.gov

18. Transportation: The applicants shall comply with the recommendations of the Traffic Analysis Report (Charbonneau Engineering, August 2021) and Trip Generation Update and Assessment Memorandum (Charbonneau Engineering, October 26, 2021).
19. Transportation: The applicants is required to pay transportation impact fees prior to issuance of building permits.
20. Utilities: The applicants shall pay the applicable sewer system development charge for each residential unit. Applicable fees will be assessed at the time of building permit application and are due prior to issuance of final occupancy for each unit.
21. Public Services: The applicants shall pay school, and park impact fees prior to the issuance of building permits for the onsite units. Applicable impact fees will be assessed at the time of building permit application and are due prior to issuance of final occupancy for each unit.

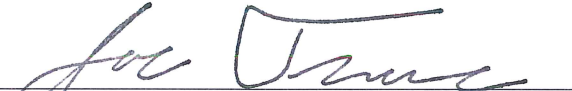
D. CCFR Fire Conditions

1. Applicants must comply with all applicable requirements and receive approval through Clark Cowlitz Fire & Rescue.

E. CPU Conditions

1. Applicants must comply with all applicable requirements and receive approval through Clark Public Utilities.

DATED this 7 day of June 2022.



Joe Turner, AICP
City of La Center Hearing Examiner