

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

Regarding a request by Mason Wolfe for	)	<b><u>FINAL ORDER</u></b>
preliminary plat approval to divide 8.64 acres	)	<b>File No. 2022-034-</b>
into 34 single-family lots at 2219 NE 339 <sup>th</sup>	)	<b>SUB/SEPA/CAR/LLD/TRE</b>
Street in the City of La Center, Washington	)	<b>(Valley View Preliminary</b>
<b>Subdivision)</b>		

**A. SUMMARY**

1. Mason Wolfe (the “applicant”) requests approval of a preliminary plat to divide 8.64 acres into 34 lots for single-family detached homes and a stormwater tract.

a. The development is located at 2219 NE 339<sup>th</sup> Street; also known as tax assessor parcel 209062000 (the “site”). The site and abutting parcels to the south and west are in La Center and zoned LDR-7.5 (Low Density Residential, 7,500 square foot minimum lot size). Properties to the north, across NE 339<sup>th</sup> Street, are in unincorporated Clark County and zoned R-5 (Rural, five-acre minimum lot size). Properties to the east and northeast are also in unincorporated Clark County and zoned AG-20 (Agriculture, 20-acre minimum lot size).

b. The site is currently developed with a residence and ten accessory structures. The applicant proposed to remove all of the existing structures and build a new single-family detached dwelling on each of the proposed lots. The existing structures on the site may be eligible to be listed on the National Register of Historic Places (NRHP). The applicant’s architectural historian will further evaluate and document these buildings prior to demolition of these structures.

c. The site also contains a mapped geologically hazardous area. The National Earthquake Hazards Reduction Program (NEHRP) identifies the site as “Site Class D” for ground shaking amplification. This is a regulated geologically hazardous critical areas under LCMC 18.300.090(4) and requires a critical areas permit.

d. The site is bounded by NE 339<sup>th</sup> Street on the north, NE 24<sup>th</sup> Avenue on the east, and E 8<sup>th</sup> Way on the east portion of the south boundary. Lots in the Heritage Country Estates development abut the southwest and west boundaries of the site. The applicant will dedicate right-of-way and construct half-width frontage improvements along the site’s NE 339<sup>th</sup> Street, NE 24<sup>th</sup> Avenue, and E 8<sup>th</sup> Way frontages. In addition, the applicant will extend E 9<sup>th</sup> Street and E Vine Maple Avenue through the site from their existing termini at the west and south boundaries of the site. E Vine Maple Avenue will extend through the site to connect with NE 339<sup>th</sup> Street to the north. E 9<sup>th</sup> Street will turn south near the east boundary of the site as proposed E White Oak Avenue, which will then intersect E 8<sup>th</sup> Way on the south boundary of the site.

e. The applicant proposed to collect stormwater from impervious areas on the site and direct it to one of two stormwater facilities for treatment and detention. The site is topographically divided, so roughly 55-percent of the site drains to the northeast

and the applicant will direct stormwater from that area to a proposed stormwater facility in the northeast corner of the site, proposed Tract A. The southern 45-percent of the site drains to the southwest and the applicant will direct stormwater from that area to the existing stormwater facility in the Heritage Country Estates development, which was designed to accommodate additional runoff from this site. The applicant will discharge treated stormwater from the on-site detention facility into the existing culvert underneath 339<sup>th</sup> Street at less than predevelopment rates. The culvert discharges to a ditch, which then flows to Brezee Creek.

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 December 29, 2022 (the “Staff Report”). The applicant accepted those findings and conditions without exceptions. No one else testified orally or in writing, other than affected agencies.

3. Based on the findings provided or incorporated herein, the examiner approves the application subject to the conditions at the end of this final order.

## **B. HEARING AND RECORD HIGHLIGHTS**

1. Hearing Examiner Joe Turner (the “examiner”) received testimony at the public hearing about this application on January 5, 2023. 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 and the proposed development.

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

4. The applicant, Mason Wolfe, accepted the findings and conditions in the Staff Report without exceptions.

5. No one else testified at the hearing. 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.

## **C. DISCUSSION**

1. City staff recommended approval of the application based on the affirmative findings and subject to conditions of approval in the Staff Report. The applicant accepted those findings and conditions, without exception.

2. The examiner concludes the Staff Report identifies the applicable approval standards in the LCMC for the application and contains affirmative findings showing that the proposal does or can comply with those standards, provided that the applicant complies with the recommended conditions of approval. The examiner adopts the affirmative findings in the Staff Report as his own.

#### **D. CONCLUSION**

The examiner concludes that the applicant sustained the burden of proof that the proposed development 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.

#### **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 approves the remainder of the application, File No. 2022-034-SUB/SEPA/CAR/LLD/TRE (Valley View Subdivision Subdivision) in general conformance with the applicant' preliminary plat, subject to the following conditions:

##### **A. Planning Conditions**

1. The applicant shall apply for and receive approval of a sign permit and building permit (if applicable) for a subdivision entrance sign prior to sign construction in accordance with LCMC 8.60.
2. The applicant shall demonstrate that building height requirements are met prior to issuance of a building permit for each lot.
3. The applicant shall demonstrate that the maximum building lot coverage and maximum impervious surface area requirements per lot are met prior to issuance of a building permits.
4. Prior to engineering approval, the applicant shall provide a final landscape plan by a registered landscape architect with street trees spaced no greater than 30 feet on center.
5. The applicant 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.
6. The applicant shall obtain building permits in compliance with LCMC 15.05 prior to construction.

7. Prior to the issuance of occupancy, the applicant shall pay all system development fees, park, school, and traffic impact fees in effect at the time.
8. The applicant shall provide improved surface plans for all flag lots in accordance with LCMC 18.210.040(3)(b) in the final engineering plans.
9. 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 approved per LCMC 18.210.050(2) and (3).
10. The applicant shall comply with all provisions regarding monumentation outlined in Chapter 18.230 prior to final plat approval.
11. 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.
12. The applicant 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.
13. Ground-level exterior equipment such as air conditioning units, must be screened from view to an F2 or L3 standard prior to issuance of final inspection for each dwelling unit.
14. The applicant 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. Installation after occupancy requires City notification and approval.
15. The applicant's final landscape plan shall comply with the requirements of LCMC 18.245.060(11-16) for plant size and spacing prior to issuance of final inspection for each dwelling unit.
16. All required landscape areas including within the planter strip along public roadways must meet the City's irrigation requirements in LCMC 18.245.060(18). The applicant shall provide irrigation plans prior to final engineering approval.
17. The applicant shall demonstrate that each dwelling unit has at least two (2) off-street parking spaces and one (1) guest parking space per LCMC Table 18.280.010 prior to building permit approval. Parking spaces shall be within the 20-foot required garage setback.

18. The applicant shall adhere to all recommendations contained in the geotechnical report by Soil and Water Technologies, Inc. dated August 8, 2022 (Exhibit A.K.).
19. The final Landscape Plan, once submitted, shall avoid the use of plants from the nuisance plant list and the prohibited plants list per Table 18.340.040(3) and Table 18.340.040(4).
20. The final Landscape Plan, once submitted, shall avoid the use of plants from the nuisance plant list and the prohibited plants list per Table 18.340.040(3) and Table 18.340.040(4).
21. 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, if the identified tree for preservation is found to be eligible, the applicant shall install construction fencing around the driplines of the tree, so it is not inadvertently removed, and grading does not occur within its root zone.
22. Prior to engineering document approval, the applicant shall provide a site design alternatives analysis to explore ways to preserve the 40-inch sequoia tree on the site or document reasons why there is no alternative site design that could preserve the tree. Alternative site designs shall comply with the preliminary plat approval and conditions of approval.
23. Trees regulated by chapter 18.350 that are proposed to be removed shall be mitigated consistent with LCMC 18.350.

## **B. Public Works and Engineering Conditions**

24. Public and Private Road Standards City of La Center Engineering Standards for Construction shall apply to all public road improvements unless modified by the director. LCMC 12.10.040.
25. 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. NE 339<sup>th</sup> Street is classified as a Major Collector per the Capital Facilities Plan. General roadway and right-of-way standards shall apply and provide half street improvements per LCMC 12.10.090.
26. The applicant shall adhere to all recommendations contained in the geotechnical report True North Geotechnical except for street structural sections. The City of La Center Engineering Standards for structural sections shall be followed for NE 339<sup>th</sup> Street, NE 24th Avenue and the local streets within the subdivision.

27. The entire road section of E. 24th Avenue, and NE 339<sup>th</sup> Street are subsiding and is experiencing subgrade failure. Due to added traffic from this subdivision, and construction vehicles that may access the site for this subdivision, the applicant may need to reconstruct the existing portion of pavement that is failing on E. 24th Avenue, and NE 339<sup>th</sup> Street following construction. The city will assess the pavement and subgrade prior to construction, and determine if road repair is warranted based on the impact by construction vehicles. The applicant 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.
28. The applicant will implement all recommendations from the Traffic Report from Lancaster Mobly, dated September 20<sup>th</sup>, 2022. The applicant shall submit final grading and erosion control permit as part of the subdivision plans showing the proposed contours on the plans.
29. The City 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 30<sup>th</sup>, no soils shall remain exposed for more than two (2) days. From May 1<sup>st</sup> through September 30<sup>th</sup>, no soils shall remain exposed more than seven (7) days.
30. Sewer System Rules and Regulations Connection to public sewer is required. All work is to be performed by a duly licensed contractor in the City of La Center. Work will be performed using an open trench method unless otherwise approved. All costs associated with installing the side sewer shall be borne by the applicant. 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).
31. The applicant is proposing to connect the sanitary sewer piping from the development to the existing gravity sewer in Heritage Country Estates. Heritage Country Estates provided pipe stubs from the existing public sewer mains at E. Vine Maple Avenue and East Vine Oak Avenue. These pipe stubs can be extended to serve the lots in Valley View. The applicant will need to verify the condition of the existing sewer stubs provided to the site and install new connections to the manholes depending on the condition.

32. The applicant proposes to create new impervious interior streets in the subdivision. Per LCMC 18.320.210, treatment BMPs shall be sized to the 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 applicant 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.
33. 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.
34. If feasible, downspouts connections from the houses must connect directly into the site stormwater system. If connection of downspouts to the storm system is not feasible, then downspouts may be connected to the gutter by curb drains.
35. The applicant 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 or 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. An operations manual must be submitted for City review and approval. Adequate bonding is required to guarantee maintenance of the facility for a period of two years following final plat.
36. Stormwater facilities must be located in a separate tract.
37. Prior to final plat approval, the developer shall demonstrate to the City's satisfaction that:
38. 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 applicant 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.
39. 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.

40. 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.
41. 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.
42. 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 applicant 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. General: The applicant shall abide by the requirements in the comment letter from the Washington Department of Ecology dated November 30, 2022.
2. Earth: The applicant must comply with the design recommendations of the geotechnical site investigation by True Geotechnical Services dated August 8, 2022.
3. Air: The applicant is required to apply best management practices to reduce dust during construction.
4. Air: Construction equipment shall not be permitted to idle and is required to be shut off while not in use.
5. Water: The applicant shall decommission the existing private well prior to ground disturbance in accordance with Clark County and State of Washington requirements and must provide evidence of the approval and decommissioning in accordance with agency requirements.
6. Water: The applicant must use approved erosion control best management practices during construction in compliance with LCMC 18.320 and the final approved stormwater technical information report.
7. Plants: The applicant shall provide mitigation required by LCMC 18.350 for all trees on-site of 10 inches diameter at breast height (dbh) or greater as inventoried by Arborscape Ltd, Inc dated October 27, 2022. All proposed street trees are to be planted thirty feet apart at center or as approved by the Public Works Director to accommodate driveways, utilities, and other required improvements.



8. Environmental Health: The applicant shall complete a phase 1 environmental site assessment prior to ground disturbance to document any potential contamination and implement any recommendations of this report.
9. Environmental Health: The applicant shall comply with approved construction hours as required by the City of La Center.
10. Environmental Health. The applicant shall decommission the existing septic system prior to construction in accordance with Clark County requirements.
11. Light and Glare: The applicant shall comply with the requirements of LCMC 18.282 (Outdoor Lighting).
12. Recreation: The applicant is required to pay park impact fees prior to issuance of building permits.
13. Historic and cultural preservation: Existing buildings on the site are 45 years of age or older and meet registration requirements for listing on the National Register of Historic Places (NRHP). The applicant shall complete an additional assessment of these buildings by an architectural historian assessing impacts and potential mitigations for these buildings as recommended by the Clark County Archaeological Predetermination Survey for the Valley View Subdivision (June 20, 2022). A preliminary assessment and mitigation strategy is provided by Applied Archaeological Research, Inc. and dated December 16, 2022. This assessment and mitigation strategy shall be completed prior to final engineering approval. Should the forthcoming assessment by an architectural historian or concurrent review of the assessment by a qualified professional determine that one or more of the buildings should be preserved, the City may, but is not obligated, to require that the applicant apply for and receive approval of a post decision review application of the preliminary plat approval that redesigns the site to accommodate the buildings to be preserved. If building preservation is determined to be appropriate by the City and a qualified professional, the City will amend this SEPA MDNS and reissue it for notice and determination.
14. 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 applicant 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 applicant 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

15. Transportation: The applicant shall comply with the recommendations of the Traffic Analysis Report (Lancaster Mobley, September 20, 2022).

16. Transportation: The applicant is required to pay transportation impact fees prior to issuance of building permits.

17. Utilities: The applicant is required to pay sewer system development charges prior to issuance of building permits.

**D. CCFR Fire Conditions**

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

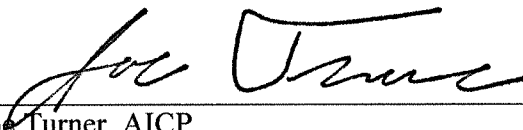
**E. CPU Conditions**

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

**F. Appeals**

The applicant, applicant's representative, or any person, agency or firm with an interest in the matter may appeal the decision. The appellant shall file the appeal together with the requisite fee and information within fourteen calendar days of the date of the decision being appealed (LCMC 18.030.130). The appeal shall be scheduled for a public hearing with the City Council not more than thirty-five days from the date a complete appeal was timely filed. A decision will be made by the City Council regarding the appeal for this application.

DATED this 12<sup>th</sup> day of January 2023.



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Joe Turner, AICP  
City of La Center Hearing Examiner