



## STAFF REPORT TO THE HEARING EXAMINER

### PRELIMINARY PLAT INTERPRETATION REQUEST

LP-18-0001

TOLT MEADOWS II – JOHN DAY HOMES

July 17, 2020

Applicant:	John Day Homes, Inc. PO Box 2930 North Bend, WA 98045
Site Location:	33323 NE 45 <sup>th</sup> Street Assessor Parcel No: 152507-9041
Request Received:	June 17, 2020
Notice of Public Hearing Issued:	July 10, 2020
Hearing Examiner Public Hearing Date:	July 29, 2020
<b>Staff Recommendation:</b>	<b>Deny request/Continue to require use of NE 45<sup>th</sup> Street Access</b>

#### **Description of Request:**

In a letter dated June 16, 2020 and received by the City of Carnation on June 17, 2020, (Exhibit A) the applicant is requesting an interpretation of the Hearing Examiner's preliminary plat decision for Tolt Meadows II relating to construction access for the site to complete the final plat improvements and build homes.

#### **History & Background:**

Tolt Meadows II was granted preliminary plat approval by the Hearing Examiner in his decision dated January 31, 2019. (Exhibit B). This occurred following a public hearing held on January 16, 2019. There were no timely appeals filed on this decision.

During the public hearing, there was public testimony provided by residents and property owners located in the Tolt Meadows I subdivision, immediately adjacent to Tolt Meadows II. Several of these individuals expressed concern with the anticipated Tolt Meadows II construction traffic, noise, and safety. Rob McFarland, who represented John Day Homes at the time of the public hearing, publicly agreed at the hearing to utilize NE 45<sup>th</sup> Street for all plat and housing construction purposes. The Hearing Examiner's decision expressly acknowledged this representation. In further recognition of this representation, the applicant subsequently submitted a Traffic Control Plan on October 15, 2019 confirming agreement to utilize NE 45<sup>th</sup> Street for all construction purposes.

(Exhibit C). This was in response to the application for Right-of-Way construction permit (Exhibit D) that was approved pending traffic control plans.

John Day Homes has recently submitted for final plat approval. In numerous communications with the City, the applicant has recently expressed its contention that the Hearing Examiner's January 31, 2019 decision approving the Tolt Meadows II preliminary plat does not prohibit construction vehicles from accessing the site from 42<sup>nd</sup> Street during the home construction phase of development. The City has strongly disagreed with this assertion, and has scheduled this public hearing in order to enable the Examiner's consideration and adjudication of this issue. The final plat approval is on hold pending the outcome of this interpretation public hearing.

### **Hearing Examiner Order, City Code & City Interpretation:**

The Hearing Examiner's January 31, 2019 decision included several terms, findings, conclusions, and conditions related to Tolt Meadows 2. Based upon the applicant's unambiguous representation at the January 16, 2019 public hearing, the Hearing Examiner expressly found that construction vehicles would utilize the existing residential driveway. Finding of Fact 18(c), located on page 12 of the decision, states as follows:

Construction vehicles will utilize the existing, residential driveway during development of the plat and construction of the homes. Thus, construction vehicles will not impact residents of Tolt Meadows.

It is clear from both the plain language and context of this finding that the second sentence is wholly predicated upon the first. Stated differently, the Examiner's determination that construction vehicles would not impact neighboring residents was based entirely upon the immediately preceding finding—i.e., that construction vehicles would use the existing residential driveway for all future construction activity within the plat.

This finding is effectively subsumed within the Hearing Examiner's formal conditions of approval for Tolt Meadows II. Condition 1 (pg 14) expressly provides that "[t]he final plat shall be in substantial conformance with the submitted preliminary plat as modified through preliminary approval."

More fundamentally, Condition 50 (page 20) ties the Hearing Examiner's approval of the preliminary plat to the various representations made by the applicant

The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.

(Emphasis added.)

It cannot be credibly disputed that the applicant "represented" that site access for construction vehicles would be limited to the existing residential driveway—and thus, confined to the adjacent 45<sup>th</sup> Street right-of-way corridor—during both the site development and home construction phases of the underlying project. Indeed, the Examiner entered an express finding to this effect. See Finding No. 18(c). Abandoning this representation, as the applicant now seeks to do, would unquestionably represent a "substantial change" or "deviation" within the meaning of Condition 50.

The applicant's requested interpretation also impacts the City Councils ultimate consideration of the final plat for Tolt Meadows II. RCW 58.17.170(1) provides as follows:

When the legislative body of the city, town, or county, or such other agency as authorized by RCW 58.17.100 finds that the subdivision proposed for final plat approval conforms to all terms of the preliminary plat approval, and that said subdivision meets the requirements of this chapter, other applicable state laws, and any local ordinances adopted under this chapter which were in effect at the time of preliminary plat approval, it shall suitably inscribe and execute its written approval on the face of the plat.

The "terms" of approval for the Tolt Meadows II preliminary plat include the findings, conclusions and conditions within the decision as referenced above - including the requirement limiting construction vehicle access to the project site.

Based upon the unambiguous language of the preliminary plat decision, it is the City's position that the applicant must continue to use the existing residential access from the NE 45<sup>th</sup> Street arterial for the construction of all homes within the plat. Lot 8—where the existing residential driveway referenced in Finding 18(c) is located—would accordingly be developed last and would be allowed construction access from NE 42<sup>nd</sup> Street through Tolt Meadows 1 only by necessity and only after the other homes within the plat are constructed. In Staff's view, s this outcome reflects the clear intent of the above-referenced finding and conditions of preliminary plat approval.

Separate from and in addition to the plain language of the preliminary plat decision, the City has significant public health, safety, and welfare concerns should housing construction access to Tolt Meadows II not be confined to the existing residential driveway. 333<sup>rd</sup> Avenue NE is a 20' wide street with "No Parking" on the east side. Large construction vehicles parking (illegally) or even driving on 333<sup>rd</sup> Avenue NE have an adverse impact on the existing neighborhood. Additionally, there are large numbers of children in the neighborhood and the series of heavy vehicles related to housing construction present a significant and unnecessary safety hazard to the neighborhood.

Further, the developer has repeatedly demonstrated its inability to control its subcontractors consistent with representations to the City about not using 333<sup>rd</sup> Avenue NE and the NE 42<sup>nd</sup> Street access. Given the two prior parking and access violations by the developer during the construction of plat improvements – 1) with a heavy dump

truck with a heavy vibrator roller and trailer, and 2) the topsoil dump truck and backhoe trailer – both were NOT to use 333<sup>rd</sup> Avenue NE or NE 42<sup>nd</sup> Street. Both did and both parked along the east side of 333<sup>rd</sup> Avenue NE in the “No Parking” zone. Staff testimony at the upcoming interpretation hearing will further explain these concerns.

333<sup>rd</sup> Avenue NE is a completed street. Often in phased development projects, it is common practice to wait on the final 1’ A/C lift until construction is complete to then construct the final lift, paving over any construction related damage from repeated heavy vehicle traffic volumes. This is not possible for Tolt Meadows II construction regarding damage to 333<sup>rd</sup> Avenue NE, which is another reason to limit housing construction activities to the NE 45<sup>th</sup> Street arterial access. Construction traffic unnecessarily damages the existing 333<sup>rd</sup> Avenue NE and NE 42<sup>nd</sup> Street roadways.

The record demonstrates that, s based on numerous comments from the public at the original preliminary plat hearing, the applicant promised to limit plat AND housing construction access for Tolt Meadows II to NE 45<sup>th</sup> Street, using NE 42<sup>nd</sup> Street ONLY for the final north access lot. The January 31, 2019 decision approving the preliminary plat acknowledges and reflects these statements. Additionally, the number and weight of construction related vehicles presents both a neighborhood safety hazard and the potential for significant street damage to 333<sup>rd</sup> Avenue NE and NE 42<sup>nd</sup> Street. Limiting the developer’s access to NE 45<sup>th</sup> Street does not harm the developer, is unnecessary for reasonable ingress and egress to the project site and implicates only a minor inconvenience to the applicant.

**Conclusions & Recommendation:**

For the reasons set forth above, the City respectfully recommends that the applicant’s requested interpretation of the Tolt Meadows II preliminary plat decision be denied. The City instead asks the Hearing Examiner to reaffirm that the housing construction access for the plat shall be limited to NE 45<sup>th</sup> Street, until the final lot (Lot 8) is ready for construction with access from 333<sup>rd</sup> Avenue NE and NE 42<sup>nd</sup> Street.

SIGNED THIS 15<sup>th</sup> DAY OF July, 2020.

  
Amanda Smeller, City Planner  
City of Carnation

**Exhibits:**

- A. Applicant letter requesting Hearing Examiner’s interpretation, dated June 16, 2020
- B. Hearing Examiner preliminary plat decision, dated January 31, 2019
- C. Traffic Control Plan submitted by applicant, received October 15, 2019
- D. Application for Construction Permit in City Right of Way, issued October 8, 2019

**Johns Monroe**  
**Mitsunaga Koloušková**  
P L L C

Robert D. Johns (*Retired*)

Michael P. Monroe

Darrell S. Mitsunaga

Duana T. Kolouskova

Vicki E. Orsico

Dean Williams



Exhibit: A  
Date: July 17 2020

Hearing Examiner Causseaux  
City of Carnation  
4621 Tolt Avenue  
PO Box 1238  
Carnation, WA 98014-1238

Re: Tolt Meadows II – request for review of preliminary plat conditions regarding construction access

Dear Mr. Causseaux:

This office represents John Day Homes with respect to its subdivision commonly known as Tolt Meadows II, located in the City of Carnation. John Day Homes received an approval for its Tolt Meadows II preliminary plat on January 31, 2019, based on a favorable City staff recommendation. Since then, John Day Homes has proceeded with final engineering, received construction approvals and completed plat infrastructure for the project. John Day Homes is now landscaping and beginning construction of homes on the individual lots. We are contacting you to obtain interpretation of your preliminary plat decision for Tolt Meadows II as that relates to construction access for the site to complete the final plat improvements and build homes.

Without any authority in the plat conditions, the City has ordered John Day Homes not to use the existing public road network to construct landscaping and homes, even though NE 42<sup>nd</sup> Street, a public road, is completely built and connected to and through Tolt Meadows II. Instead, the City is ordering John Day Homes to continue to use a pre-existing, private driveway for all remaining landscaping and home construction on the individual lots. This even though that driveway is within the building footprint for a home on Lot 8 and John Day Homes has installed curb, gutter and sidewalk frontage improvements across where the driveway previously connected to NE 45<sup>th</sup>. The City's persistence requires construction vehicles to drive up and over the curb and sidewalk, damaging these frontage improvements and making Lot 8 undevelopable, as well as affecting the ability to build homes on the adjacent lots.

The preliminary plat conditions do not restrict the use of public roads nor is there any condition that restricts construction traffic routing. Although John Day Homes has attempted to work with the City to understand its legal underpinnings, the City has not pointed to any plat condition or SEPA mitigation measure that would support its requirement. To avoid further damage and delay, John Day Homes therefore asks the Hearing Examiner to review this matter and confirm that the conditions of preliminary plat do not restrict construction access now that there is completed public road access to the plat.

In Condition 50, the Examiner instructed that any changes, and, implicit thereto, significant questions regarding the plat approval be subject to further review and approval by the

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Hearing Examiner. Based on the following information, we respectfully request the Examiner review the plat conditions and conclude there is no plat condition that would limit John Day Homes' use of NE 42<sup>nd</sup> Street for the remainder of Tolt Meadows II improvements and home construction. Again, the remaining construction traffic is for landscaping and construction of homes.

As you may recall, Tolt Meadows II takes access via an extension of NE 42<sup>nd</sup> street, part of the City's existing, public road system. While the Tolt Meadows II property is adjacent to NE 45<sup>th</sup> Street, no direct vehicular access is allowed for the platted lots. Vehicles to and from Tolt Meadows II travel NE 42<sup>nd</sup>, a local road, and connect thereby with the NE 45<sup>th</sup> Street arterial. All roads used for both construction and future residential-related traffic are public. NE 42<sup>nd</sup> was built as part of the Tolt Meadows subdivision and is a dedicated public local access road. John Day Homes has completed all plat infrastructure and this road network is now complete.

During plat construction, vehicles for Tolt Meadows II have used the existing driveway that the prior, parent parcel also used to directly access NE 45<sup>th</sup> Street. This was consistent with Rob McFarland's explanation during the preliminary plat hearing. Based on the preliminary plat map, this driveway is to be decommissioned, curb/gutter/sidewalk is installed, and the area platted as Lot 8 for a single family residence.

John Day Homes has now completed the significant plat infrastructure, including having installed curb/gutter/sidewalk along the Tolt Meadows II property fronting NE 45<sup>th</sup> Street. This now cuts off the driveway so that John Day Homes can build a home on Lot 8 along with the remaining landscaping and home construction. The new road system is fully functional and major plat improvements are complete, it is reasonable for John Day Homes to complete the frontage improvements along NE 45<sup>th</sup> Street and now use the public road system for the remainder of construction.

However, the City has continued to demand that construction vehicles use the driveway rather than the public road network. As a result, construction vehicles are forced to drive over the sidewalk and curb rather than to use the completed public road network (NE 42<sup>nd</sup> Street). The City's requirement is damaging that plat infrastructure and making it impossible for John Day Homes to construction homes on all the lots and market those homes for sale.

There is no plat condition that supports the City's requirement. The Examiner did not impose any plat conditions regarding construction access or limiting the use of the existing public road network. Had the City wished for restrictions on construction traffic, normally such restrictions are made at the time of the SEPA threshold determination through mitigation measures which can then be addressed at the hearing for their reasonableness and need. Here, the City did not find it necessary to impose any mitigation measures regarding construction traffic in the DNS. Further, had the City wished to recommend a plat condition, it could have done so in its staff report (which it did not). Finally, had the City believed a plat condition was necessary based on testimony at the hearing, staff could have raised this in its comments or through reconsideration of the Examiner's decision.

But it is much too late in the platting process for Tolt Meadows II for the City to now impose a restriction that would damage plat infrastructure, cause increased costs and delays to home construction and adversely impact John Day Homes' ability to market its homes.

The Examiner did explain in his findings that John Day Homes intended to use the driveway for construction access in order to limit, in particular, heavy construction equipment particularly during the grading and infrastructure work. *See*, Findings 6, 17 and 18. This was based on Rob McFarlands' testimony at the hearing that construction traffic would use the existing driveway for plat improvements. John Day Homes reads those findings as collectively anticipating that construction vehicles would use the existing driveway for all significant plat infrastructure traffic. Those findings did not lead to any restrictions or plat conditions that would impose a timing or sequence for when construction traffic would shift to use the existing public road system now that significant plat infrastructure is complete, NE 45<sup>th</sup> Street frontage improvements are installed and homes are being built.

John Day Homes would like to decommission the driveway and build a home on Lot 8 along with the other lots. John Day Homes has completed the internal road network connected to NE 42<sup>nd</sup> Street. There is no legal or physical reason to bar to construction traffic shifting to use of NE 42<sup>nd</sup> Street, i.e. the public road system, as would allowed for any other construction project. It is typical for a project such as this to use the existing street network to access the project, particularly once the new roads (to be dedicated to the public) have been constructed. That is now the case for Tolt Meadows II.

Further, the public road system for Tolt Meadows I was built specifically with the expectation that it would connect to Tolt Meadows II (the second division of that same project). Based on the plat layout for both subdivisions, the roadway connection through the plats is reasonable for use to complete construction at a reasonable stage, after the initial, major improvements are completed.

It was never John Day Homes', or its representative Rob McFarland's, intent to restrict access to and from the site to only the private driveway until all homes are built, nor is that feasible. John Day Homes' originally had the idea to access the site using that private driveway to construct the majority of major infrastructure improvements, i.e. through utility installation, curb and gutter. However, once curb/gutter/sidewalk are installed along the frontage, the existing driveway is not useable without damage to those frontage improvements. It was never John Day Homes' intention nor agreement to limit all construction access to the driveway as that is not physically or economically feasible. It defies logic for John Day Homes to build frontage improvements as part of the last steps in plat infrastructure, only to ruin those improvements with construction vehicles when the public road system provides complete access to the lots for home construction.

John Day Homes is now prepared to build homes on Lot 8 and the adjacent lots, which require decommissioning of the driveway. An ongoing requirement to avoid using the public road system damages John Day Homes extensively and unnecessarily in light of the preliminary plat decision.

Based on the foregoing, we ask the Examiner to review the DNS and preliminary plat conditions of approval and instruct the City to allow John Day Homes to use NE 42<sup>nd</sup> Street, i.e. the public road system, to complete landscaping and home construction in Tolt Meadows II. John Day Homes is available to provide any material that the Examiner may require during review.

Thank you for your consideration of this request. As the plat is actively under construction, we request expedited review of this matter in order to limit further damage to the frontage improvements and delays to the construction schedule.

Sincerely,



Duana T. Koloušková  
Direct Tel: (425) 467-9966  
Email: [kolouskova@jmmlaw.com](mailto:kolouskova@jmmlaw.com)

cc: Zack Lell

~§17-3 Ltr. to Hearing Examiner 6-16-20.docx

OFFICE OF THE HEARING EXAMINER

CITY OF CARNATION

REPORT AND DECISION

Exhibit: B  
Date: July 17 2020

CASE NO.: PRELIMINARY SUBDIVISION APPLICATION-LP 18-0001

APPLICANT: John Day Homes, Inc.  
Attn: Rob McFarland  
P.O. Box 2930  
North Bend, WA 98045

PLANNER: Tim Woolett, City Planner

SUMMARY OF REQUEST:

Preliminary plat approval to allow subdivision of approximately 3.7 acres into fifteen lots. The parcel is located at 33323 N.E. 45<sup>th</sup> Street, situated adjacent to the south side of N.E. 45<sup>th</sup> Street and the west side of 334<sup>th</sup> Avenue N.E., and identified as Assessor's Parcel No. 152507-9041.

SUMMARY OF DECISION: Request granted, subject to conditions.

DATE OF DECISION: January 31, 2019

PUBLIC HEARING:

After reviewing the Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing convened on January 16, 2019, at 6:00 p.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "1" - Staff Report
- EXHIBIT "2" - Application
- EXHIBIT "3" - Plan Set
- EXHIBIT "4" - Plat Name Reservation Certificate
- EXHIBIT "5" - Vicinity Map with Property Owners within 100 Feet List

- EXHIBIT "6" - ALTA Loan Policy
- EXHIBIT "7" - Warranty Deed
- EXHIBIT "8" - Boundary Line Adjustment
- EXHIBIT "9" - Assessor's Map
- EXHIBIT "10" - Vicinity Map
- EXHIBIT "11" - Aerial Photo with Parcel Overlay
- EXHIBIT "12" - Zoning Map
- EXHIBIT "13" - Critical Areas Map
- EXHIBIT "14" - Certificate of Sewer Availability
- EXHIBIT "15" - Certificate of Water Availability
- EXHIBIT "16" - Technical Information Report
- EXHIBIT "17" - Design Infiltration Rate
- EXHIBIT "18" - Subsurface Exploration, Geologic Hazards, Preliminary Design
- EXHIBIT "19" - Request for Agency Comment
- EXHIBIT "20" - Building Official Response
- EXHIBIT "21" - Public Works Response
- EXHIBIT "22" - Engineer Review Comments
- EXHIBIT "23" - Environmental Checklist, Review, SEPA MDNS
- EXHIBIT "24" - Department of Archaeology & Historic Preservation Comments
- EXHIBIT "25" - Traffic Impact Review by Transpogroup
- EXHIBIT "26" - Affidavit of Mailing Notice of Application
- EXHIBIT "27" - Affidavit of Publication for Notice of Application
- EXHIBIT "28" - Affidavit of Posting
- EXHIBIT "29" - Affidavit of Mailing 2<sup>nd</sup> Notice of Application
- EXHIBIT "30" - Affidavit of Publication 2<sup>nd</sup> Notice of Application
- EXHIBIT "31" - Affidavit of Mailing Notice of SEPA MDNS and Public Hearing
- EXHIBIT "32" - Affidavit of Posting SEPA MDNS and Public Hearing
- EXHIBIT "33" - Affidavit of Publication SEPA MDNS and Notice of Public Hearing
- EXHIBIT "34" - Affidavit of Publication SEPA MDNS and 2<sup>nd</sup> Notice of Public Hearing
- EXHIBIT "35" - Public Comments
- EXHIBIT "36" - Plat of Tolt Meadows
- EXHIBIT "37" - Email from Tolt Meadows dated January 9, 2019
- EXHIBIT "38" - Letter from Dana McCabe dated January 15, 2019
- EXHIBIT "39" - Letter from Connor McCabe dated January 15, 2019
- EXHIBIT "40" - Letter from Brad McCabe dated January 15, 2019
- EXHIBIT "41" - Purchase and Sales Agreement Addendum 1C for Tolt Meadows
- EXHIBIT "42" - Response to Final Plat Approval Conditions
- EXHIBIT "43" - Note from Nana Sundquist Received January 16, 2019
- EXHIBIT "44" - Jim Ribail Comments and Photographs

**The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.**

TIM WOOLETT appeared, presented the City Staff Report, and introduced comments received between the time of preparation of the Staff Report and the hearing date. He testified that access to the site is provided via 333<sup>rd</sup> to 42<sup>nd</sup> to the site. The parcel is located in the R4 zone classification, has flat topography, and drains well. No critical areas are present and all improvements will be removed. The Comprehensive Plan designates the site and area as Medium Intensity Residential. The City provided proper notice, and in fact provided additional notice when the applicant did not timely post the parcel. The City responsible official issued a MDNS following SEPA review. Staff evaluated the application in accordance with the Comprehensive Plan, development regulations, the availability of utilities, stormwater requirements, and other ordinances. None of the parcel is within the jurisdiction of the Shoreline Management Act. No development will occur on the site until preliminary plat approval is granted. The Traffic Impact Analysis showed no issues with intersections or with the proposed access. However, if a separate access for the subdivision is provided onto 45<sup>th</sup>, such will create four intersections within 700 linear feet. Furthermore, the applicant proposes an addition to an existing subdivision and will construct a sidewalk to 45<sup>th</sup>. Curb, gutter, and sidewalks will be installed across the plat frontage on 45<sup>th</sup> and to 333<sup>rd</sup> Avenue N.E. Such will connect a gap in the sidewalks on 45<sup>th</sup>. All intersections in the area operate at Level of Service A. The municipal code does not require parks for this size of subdivision, but does require the payment of park impact fees. Staff recommends approval subject to compliance with 50 conditions.

ROB McFARLAND appeared and introduced the case.

DUANA KOLOUSKOVA, attorney at law, appeared on behalf of the request and introduced Exhibit 41, a purchase and sale agreement for Tolt Meadows, and Exhibit 42, proposed changes to conditions of approval. The applicant supports the Staff Report. The applicant will need to have further communication with the City regarding several issues to include a definition of the sidewalk connection to 45<sup>th</sup> and the fact that a bus stop is not required by code. She also described changes to Conditions 12 and 16 regarding the utilities crossing, the location of utilities easements, and compliance with the King County Stormwater Manual Standards. She also addressed Condition 50.

NANA SUNDQUIST appeared and testified that the project needs an additional exit. Forty children live in Tolt Meadows and additional traffic will include delivery trucks, garbage trucks, and other non-residential vehicles. The bus stops at the end of 333<sup>rd</sup> and children must walk on 333<sup>rd</sup> to and from the bus. We need to keep them safe. Parents also drop-off and pick-up children at the bus stop that creates additional cars. Emergency vehicle access is a problem. They would like to have a common area for children as they now play in the round-about. She introduced Exhibit 43, her comments.

JIN WEI appeared and testified that 45<sup>th</sup> is an evacuation route for emergencies. We need additional access for the new subdivision.

JAMES APPLGATE appeared and testified that construction vehicles will use 333<sup>rd</sup> in addition to the cars.

MARY EHRLICH appeared and testified that she welcomes the development, but there are also 60 adults in addition to the 40 children residing in the subdivision. They have no sidewalks and no common areas. The children must cross the street to the sidewalk and bus stop. Other subdivisions have common play areas. Many children from homes to the west come over to play in their area. Trucks also enter their area and make daily deliveries. The project should provide its own access and not access through their area.

DANA McCABE appeared and testified that her water pressure has decreased and she lives to the south. A lot of development has occurred to the north and has impacted their pressure over the past three years. This subdivision will decrease it even more. She is unsure about the fire hydrant and whether it has sufficient pressure. The City needs to assure proper connection. Riverside Park is a grass lot and has only a barbeque pit. The City needs to improve it.

CHRISTINE JENSON appeared and testified that she is the first homeowner in Division 1. A lot of congestion occurs in the area with the Holmquist Division behind. Sidewalks are on one side of the street. None exist behind the subdivision. Parking can occur on only one side of their road because of its narrowness. She is concerned with only one route out of the area.

MIKE FLOWERS appeared and testified that the City exhibits a lack of long term planning and is sacrificing safety for money. The applicant could provide a separate access, but would lose a lot. He served on the City Council for eight years. The sidewalk requirements need to be enforced. Fencing should also be required. The water issue has been ongoing for many years and needs to be mitigated. The City has failed to enforce the rules regarding tree removal. The condition needs to be clear as to which trees are to be retained.

JESSICA MERIZAN appeared and testified that her house is the second one in and that she purchased it last March. She agrees with her neighbors. She has no children, but has a four bedroom home that they hope to fill. Senior citizens also reside in the neighborhood and it is not safe for them to walk to their mailbox as there are no sidewalks. She has seen children playing in the dirt and they need to have a safe place. Their area is dark. She saw someone almost run over two dogs. They need additional lighting.

MARTY ADLER appeared and testified that he is a two month resident on 42<sup>nd</sup>. He has concerns regarding the safety of his three grandchildren. One street is insufficient to provide entrance and exit to the area. His grandchildren like to play ball in the front yard. He would like to see another outlet to accommodate the additional traffic.

ANGELA MUMFORD testified that she lives in one of four homes on 42<sup>nd</sup>. If she backs from her driveway the road is not wide enough. She has to turn at an acute angle, and now the subdivision traffic will go by her home. Emergency vehicles have a tight round-about and must slow down to access the area. She believes this is a serious issue as it creates life safety risks. Vehicles can't get to the new homes rapidly. She welcomes new homes into the area, but the roads are narrow and people park on the street.

BRADLEY McCABE appeared and testified that John Day is developing the new subdivision. The solution would be to extend the new, plat street straight out to 45<sup>th</sup>, but there are too many existing exits. A good sight line does not exist at 334<sup>th</sup>, and it is better for new residents to go straight out on a new road.

TIFFANY WELTON appeared and testified that she agrees with previous comments. Only one person has mentioned the possibility of fire. Adding these new homes without a new access will make it more difficult to evacuate the area should wildfires occur.

DAVID KANE appeared and testified that he is president of the homeowners association and is glad that John Day will develop the new area. He would like to see the covenants of the new subdivision's homeowners association consistent with theirs. He is concerned with speed enforcement on 45<sup>th</sup>, as it has no curb and cars have gone off the road and damaged the landscaping. People have slowed down, but we must look at some sort of speed controls. Upon development we will have additional homes and children. Sidewalks on 45<sup>th</sup> are a great start. The closest developed park is to the west, but the shoulder of the road consists of a ditch and no one can walk there. They need an improved park in the area. There is a bus stop on 334<sup>th</sup>. They could use a new, plat access road to get to the river.

DAVID WEST appeared and testified that he is a board member on the Tolt Meadows HOA and that they want common areas designed for families to enjoy. He is unsure why such a requirement was left out of their subdivision. The applicant should provide such an area for both subdivisions. The City could help protect children in the area by installing signs to slow traffic. The City could also provide speed limits or children at play signs.

ALEXANDER BATISCHEV appeared and testified that he agrees with the testimony of his neighbors. His house is closer to the development, and the new project will create safety concerns for him. So many cars are on the street at present. The population has doubled in the area. If we do not have a new street, all of the new traffic will pass by his home. We must plan now because in ten years it is too late. Planning must occur today.

JIM RIBAIL appeared and read his statement into the record (Exhibit 44).

JOHN HUFFMAN appeared and testified that he has safety concerns for his three daughters. Because there are no sidewalks there is no walking access out of the area. He also has concerns regarding deforestation. Many trees grow in the area. He does not

want to have trees changed to a sea of houses. Trees were lost in the previous development, only planting needs to occur. The landscaping is disappointing. He hopes to keep the trees. The round-about is not good. If there is no new street, then the applicant should fix the existing round-about. He is unsure how they will get construction trucks into and out of the area. Perhaps they could have a temporary construction access.

ROB McFARLAND reappeared and testified on behalf of the applicant. Concerning construction traffic, they have already thought about that and intend to use the existing driveway as a construction access. Concerning water pressure, they will install a new booster pump station that will contribute 60,000 gallon, which will assure adequate fire flow. The building permit process will require them to establish proper pressure exists for both domestic water and fire flow. They have agreed to make improvements on their side of the property to the same standards to include curbs, gutters, and sidewalks. They will also build a fence at the ten foot setback line and provide buffer landscaping. They will provide sidewalks on 45<sup>th</sup> to the Tolt Meadows community sidewalks. They will also add a walking path from the cul-de-sac to 45<sup>th</sup>, probably between Lots 6 and 7. Residents have two accesses already, and they will pay \$60,000 in traffic impact fees to the City. The City will determine how to spend that money. His traffic consultant is here to answer questions. The new homeowners association cannot join with the present association. If they create a new homeowners association, they will use a photocopy of the covenants for the existing subdivision so both subdivisions will have the same covenants. They will also pay park impact fees in the amount of about \$60,000 and the City will determine how to spend the money. The subdivision will comply with all City codes.

JOHN DAY appeared and testified that in developing his plat he made a decision about what would better serve his customers. He therefore chose to build homes on larger lots. The existing subdivision has the largest lots that he could build on, and that is the reason the subdivision has no community open space. This subdivision will have the same thing, i.e., larger lots and no open space. The layout is quite safe and reasonable. The round-about referred to in the testimony is really a traffic circle. They will provide wider streets. The fire department reviews all of the plans and will drive its trucks around the area before approving the streets. They will use the same standards for the present subdivision.

MR. WOOLETT reappeared and testified that the applicant will construct the streets to local access standards, which is consistent with plat requirements. Safety is always a concern.

AMY ARRINGTON, City manager, appeared and testified that stormwater management and sidewalks are important. The City has a Transportation Improvement Plan that includes funding to close gaps in sidewalks. The City will evaluate sidewalks to the west on 45<sup>th</sup>.

MARY MADOLE, City clerk, appeared and testified that improvements are prioritized with a six year horizon. The City will apply for grants to complete planned improvements.

MR. WOOLETT reappeared and testified that Exhibit 10 is a Certificate of Water Availability showing that adequate fire flow exists in the area. He recommended a condition regarding consultation with public works for either traffic calming devices or speed limit signs. The traffic circle is meant to be a calming device. He has no objection to the changes to conditions proposed by the applicant.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 8:30 p.m.

**NOTE:** A complete record of this hearing is available in the office of the City of Carnation.

### **FINDINGS, CONCLUSIONS, AND DECISION:**

#### **FINDINGS:**

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. The City responsible official issued a threshold Mitigated Determination of Nonsignificance (MDNS) following review of the project pursuant to the State Environmental Policy Act (SEPA) on December 7, 2018, and imposed with four mitigation measures. No appeals were filed.
3. A Notice of Public Hearing and SEPA MDNS in accordance with Chapter 15.09 CMC was mailed to adjacent property owners December 6, 2018, posted on the site and published in the Snoqualmie Valley Record on December 7, 2018. A second notice of Public Hearing and SEPA MDNS was published on December 14, 2018.
4. This application for preliminary subdivision approval was submitted on September 25, 2018 and deemed complete on October 4, 2018. Notice of application in accordance with Chapter 15.09 of the Carnation Municipal Code (CMC) was mailed to adjacent property owners on October 10, 2018, and published in the Snoqualmie Valley Record on October 12, 2018. Notice of application was posted on the site October 15, 2018, which was after the publication date and necessitated a second notice. A second notice of application was mailed to adjacent property owners on October 17, 2018, and published in the Snoqualmie Valley Record on October 19, 2018. Proper notice was provided.
5. The applicant, John Day Homes, Inc., has a possessory ownership interest in a generally rectangular, 3.7 acre parcel of property located at the southwest quadrant of the intersection of N.E. 45<sup>th</sup> Street and 334<sup>th</sup> Avenue N.E. within the City of Carnation. The applicant requests preliminary plat approval to allow subdivision of the parcel into 15, single-family residential lots with lot sizes varying from a

minimum of 7,572 square feet to a maximum of 14,816 square feet.

6. Present improvements on the site include a single-family residential dwelling and a number of accessory structures. Development of the plat will require removal/demolition of all structures. However, the applicant will use the residential driveway for construction access to the site.
7. The preliminary plat map shows access provided to all lots via an extension of 42<sup>nd</sup> Street that currently terminates at the east boundary of the Tolt Meadows subdivision. The applicant proposes to extend said street eastward to the center of the plat parcel and then north to a cul-de-sac in the northern portion of the parcel. All lots will access onto the internal plat road and no road connection is shown to the north to N.E. 45<sup>th</sup> Street or to the east to 334<sup>th</sup> Avenue N.E. Therefore, all traffic from the subdivision will access N.E. 45<sup>th</sup> via 333<sup>rd</sup> Avenue through the Tolt Meadows subdivision or via 332<sup>nd</sup> Avenue that extends between the Brook Tree Estates and Tolt Meadows subdivisions.
8. Abutting uses include 334<sup>th</sup> Avenue to the east and single-family homes within the Rivers Edge, Division 1 subdivision to the east thereof. N.E. 45<sup>th</sup> Street abuts the north property line and single-family homes on large parcels are to the north thereof. Lot 27 of Tolt Meadows and a 1.42 acre parcel improved with a single-family residential home abut the west property line of the plat parcel.
9. The parcel is located within the "Medium Intensity Residential" land use designation of the City of Carnation Comprehensive Plan. Said designation contemplates medium to low density residential development. The Carnation City Council adopted the Residential 4 (R4) zone classification to implement the Medium Intensity Residential designation of the Comprehensive Plan. Section 15.36.010 CMC provides that the R2.5, R3, R4, and R6 zones are designed primarily to accommodate single-family, detached, residential uses at varying densities. For the R4 zone Table 1 set forth in CMC 15.48.070 requires a minimum lot size of 7,500 square feet for lots within a standard subdivision. Said Table authorizes a maximum residential density of six dwelling units per net acre. Maximum building height is limited to 25 feet. All of the proposed plat lots exceed the minimum lot size (some significantly). Furthermore, the maximum density of the R4 classification authorizes 22 lots on the subdivision parcel. Thus, the applicant proposes a subdivision of approximately two-thirds of the allowed density.
10. The rectangular configuration of the lots will provide appropriate building envelopes for reasonably sized, single-family homes. All structures can meet the required, minimum setback widths from the street or front yard of 15 feet for the house and 20 feet for the garage; side yard width of five feet with a minimum average of 7.5 feet (total of 15 feet for the two, side yard setbacks); and rear yard setback width of 25 feet. The proposed preliminary plat is consistent with the Comprehensive Plan and meets all bulk regulations of the R4 zone classification.

11. The applicant submitted an application for preliminary subdivision approval on September 25, 2018, that the City deemed complete on October 4, 2018. In accordance with RCW 58.17.033, a portion of the State Subdivision Act, the subdivision application is vested for consideration under the Comprehensive Plan, zoning regulations, and other land use regulations in effect on October 4, 2018.
12. Section 15.16.190 CMC sets forth the purpose of the formal subdivision process, which is primarily to protect the public health, safety, and welfare. Said section also provides that to the extent possible, each subdivision design should reduce the visual dominance of the automobile, promote pedestrian activity, create a variety of interests in the appearance of residential streets, provide community open space, protect significant features of the natural environment, protect water quality, and control impacts from surface water. Section 15.16.220 CMC sets forth subdivision design criteria that applicants are encouraged to incorporate. Said criteria promote livable neighborhoods that are integrated into existing development. Findings on applicable subdivision design criteria for the proposed Tolt Meadows Division 2 subdivision are made as follows:
  - A. Criterion A encourages the subdivision design to integrate with the surrounding neighborhood so that separately designed projects work together to create distinct neighborhoods rather than create disjointed or isolated enclaves. In the present case the present applicant developed the Tolt Meadows subdivision located on an adjacent parcel to the west. The proposed plat will connect with Tolt Meadows and in essence become an extension of said subdivision. As shown on the Tolt Meadows subdivision final plat map (Exhibit 36), the full width of 42<sup>nd</sup> Street abuts the present subdivision parcel, and does not terminate in a cul-de-sac. Such clearly shows that said street will be extended in the future. Furthermore, in Addendum 1C that was part of all purchase and sale agreements for homes in the Tolt Meadows subdivision and signed by all purchasers, the following language appears:

You will see a "future road connection" sign on both the east and west ends of N.E. 42<sup>nd</sup> Street in Tolt Meadows indicating potential future connections to these neighborhoods.

Thus, 42<sup>nd</sup> Street was always planned for extension. Furthermore, the applicant testified that the present subdivision would have lot sizes equivalent to those in Tolt Meadows, and that if a homeowners association is established, it would use the same covenants as those effective in Tolt Meadows. Thus, the new subdivision will work together with Tolt Meadows to create a distinct neighborhood. In addition, the applicant will construct sidewalks along the south side of N.E. 45<sup>th</sup> Street across the plat parcel, and

in addition will extend said sidewalks to the northwest to 333<sup>rd</sup> Avenue N.E. and the Tolt Meadows' sidewalks. The applicant will also install sidewalks to connect with those presently on 42<sup>nd</sup> Street and will also provide a sidewalk connection from the new subdivision cul-de-sac to the sidewalk on N.E. 45<sup>th</sup> Street. The applicant has shown that this subdivision will integrate with the surrounding neighborhood.

- B. Criterion B requires new subdivisions adjacent to planned or existing parks to maximize visibility and pedestrian access to said areas. In the present case the applicant proposes to extend a sidewalk from the subdivision cul-de-sac north to S.E. 45<sup>th</sup> Street. Upon future sidewalk construction, residents will have pedestrian access to City parks. The subdivision is not adjacent to an existing park or public open space.
- C. Criterion C requires that new public streets and sidewalks be aligned with those in adjacent developments wherever feasible. As previously found the applicant will connect to sidewalks in N.E. 42<sup>nd</sup> Street and N.E. 45<sup>th</sup> Street and will install ADA compliant curb ramps at the N.E. 45<sup>th</sup>/333<sup>rd</sup> Avenue N.E. intersection.
- D. Criterion D encourages the provision of pedestrian connectivity from each project to adjacent neighborhoods, and the proposed subdivision does so as found above.
- E. Criterion E is not applicable as this subdivision has no intersecting streets.
- F. Criterion F encourages subdivision lots to face streets as opposed to backing up to them. However, when such is not possible and when a rear yard fence is provided, plat lots must provide a minimum, ten foot wide, landscape buffer on the outside of said fence. In the present case the rear property lines of Lots 9-15 will abut 334<sup>th</sup> Avenue N.E., and the applicant has expressed an intent to provide fencing and the ten foot wide, landscape buffer. Staff has also recommended and the applicant has not objected to a condition requiring such ten foot wide setback if fences are erected adjacent to the N.E. 45<sup>th</sup> Street right-of-way on Lots 7, 8, and 9.
- G. Criterion G is not applicable as the subdivision proposes no single loaded streets (those with homes on one side and open space on the other).
- H. Criterion H encourages the avoidance of cul-de-sacs wherever possible. However, where cul-de-sacs are necessary said criterion encourages the provision of pedestrian/bicycle access from the cul-de-sac to a street, park, or open space. As previously found the applicant will provide a bike/pedestrian pathway from the subdivision cul-de-sac to N.E. 45<sup>th</sup> Street. Furthermore, as found hereinafter, the City and the applicant have sound

reasons for a cul-de-sac in the present plat.

- I. Criterion I is not applicable since the applicant proposes no alley access for garages.
  - J. Criterion J encourages perimeter buffers, fences, and landscaping where a new subdivision adjoins an existing subdivision to mitigate adverse impacts. In the present case the applicant proposes a residential subdivision in a residential neighborhood. Furthermore, the plat's north and east property lines are abutted by streets. One plat lot (Lot 15) will extend across the entire south property line of the plat parcel and will not create density issues. The property owner of the 1.24 acre parcel that will abut five plat lots did not oppose the plat and made no request for a fence or landscape buffer.
13. Conditions of approval assure conformance with the requirements for streets and sidewalks as set forth in Chapter 15.56 CMC. In addition to previous findings setting forth required improvements, the applicant will also construct half street improvements along both N.E. 45<sup>th</sup> Street and 334<sup>th</sup> Avenue N.E. across the plat frontage. Improvements include curb, gutter, stormwater facilities, and sidewalks. The applicant will construct the internal plat road to City standards and illuminate said street with LED lights. The internal street will have a minimum right-of-way width of 48 feet, and utility easements on both sides will provide an overall width of 60 feet. The pavement width will measure 29 feet. The fire department and City staff will assure that the paved cul-de-sac radius is a minimum of 45 feet and will accommodate a fire truck.
  14. The City has submitted certificates of water availability and sewer availability confirming that adequate capacity exists to serve the proposed plat. Residents to the south of 42<sup>nd</sup> Street N.E. expressed concerns regarding the lack of water pressure following approval of new developments to the north. In the present case, a condition of approval requires the looping of a water main to an existing eight inch main on 334<sup>th</sup> Avenue N.E. between Lots 14 and 15. Such should improve water pressure in the area. Furthermore, prior to obtaining final plat approval the applicant must show that adequate water pressure exists for both domestic water and fire flow.
  15. The applicant must comply with CMC 15.60.300(A) that sets forth lighting requirements for streets, sidewalks, and common areas in subdivisions. Such will require a street light at the entry to the subdivision and possibly at the cul-de-sac.
  16. The parcel is not located within a mapped, 100 year flood plain, and no critical areas exist on the site. The Tolt River is located approximately 700 feet south of the plat parcel and thus outside the jurisdiction of the City Shoreline Master Program. The proposed lots have sufficient area to provide two, onsite, parking spaces. No sight distance issues exist at any intersection impacted by plat traffic.

17. The primary concern raised by residents in Tolt Meadows relates to the safety of the 62 adults and 40 children living therein. Residents express concerns that the additional traffic on 333<sup>rd</sup> Avenue N.E. created by the new subdivision will put residents (especially children) at risk. Such is especially true since children do not have a common area or park for play, and generally play in the street in the area of the round-about. Concerns include not only additional plat traffic, but also commercial delivery trucks and construction vehicles. Concerns also include the lack of egress should a natural disaster occur, and restricted emergency services due to a round-about inadequate to accommodate fire vehicles. Residents request that the subdivision have its own access onto N.E. 45<sup>th</sup> Street through Lot 8. Residents also express concern regarding the school bus stop at the intersection of N.E. 45<sup>th</sup>/N.E. 333<sup>rd</sup>. However, residents complimented the applicant on the quality of homes within Tolt Meadows and welcomed the new subdivision subject to its addressing their concerns.
18. The Examiner has carefully considered concerns raised by residents, but must agree with the proposed road configuration that does not include a new access onto N.E. 45<sup>th</sup> Street for the following reasons:
  - A. The applicant submitted a Traffic Impact Analysis (TIA) prepared by Transpogroup, a well-qualified traffic engineering firm (Exhibit 25). The TIA estimates that the project will generate approximately 15 vehicle trips during the weekday p.m. peak period. Such calculates to one, additional, vehicle trip every four to five minutes during that peak period and less trips during non-peak times. The traffic engineer also assessed the operations of the 333<sup>rd</sup> Avenue N.E./N.E. 45<sup>th</sup> Street intersection considering the new subdivision traffic. The engineer determined that no change in the overall Level of Service (LOS) would occur, and that the northbound approach at the intersection would continue to operate at LOS A during the weekday p.m. peak period. The engineer also determined that the neighborhood traffic circle (round-about) will adequately control traffic from the four legs of the intersection considering the increase in traffic from the subdivision. The City accepted the TIA and no expert testimony or reports contradict Transpogroup's analysis.
  - B. In a space of approximately 725 linear feet, three roads currently intersect with N.E. 45<sup>th</sup> Street. Allowing another access would create a fourth intersection within said distance, which could create a safety issue.
  - C. Construction vehicles will utilize the existing, residential driveway during development of the plat and construction of the homes. Thus, construction vehicles will not impact residents of Tolt Meadows.

- D. While the proposed plat will not include open spaces or community parks, the plat proposes larger lots than required by the code and one-third less density than authorized by the R4 zone. As a result future homeowners will have more yard areas in which to engage in outdoor recreation. In addition, the applicant will pay almost \$60,000 in park impact fees to the City for use in its park improvement program.
  - E. The applicant will also pay approximately \$60,000 in traffic impact fees to the City that the City will use for traffic improvements that could include extension of sidewalks to public parks to the west.
  - F. Residents may request the City Public Works Department to install either traffic calming devices or signs advising drivers of children playing and/or reduced speed limits.
19. The City proposes a condition requiring the applicant to consult with the school district regarding a possible school bus waiting area in the vicinity of 333<sup>rd</sup> Avenue N.E. However, the school district did not request a school bus waiting area and the CMC does not require the provision of such. Furthermore, the applicant will construct a sidewalk along 45<sup>th</sup> Street N.E. and school children can use said sidewalk to wait for a school bus. Children may also use the sidewalk on 333<sup>rd</sup> Avenue N.E. for such purpose. Therefore, a condition does not require provision of a school bus waiting area.
20. The applicant's stormwater system must meet the requirements of the State of Washington Department of Ecology Stormwater Management Manual for Western Washington. In addition, City standards require that all development treat and/or infiltrate stormwater runoff onsite. In the present case stormwater runoff from the plat road will sheet flow to bioretention swales on the south and east sides of said road. Eighteen inches of bioretention soil mix will treat the runoff before the water infiltrates into the native subgrade. Runoff from driveways will also flow to the bioretention swales in the right-of-way. Stormwater from roofs and other nonpolluting, impervious surfaces will infiltrate on individual lots. The plat's stormwater system protects the public health and welfare.

**CONCLUSIONS:**

1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the proposed preliminary plat is consistent with the policies of the City of Carnation Comprehensive Plan and satisfies all bulk regulations of the applicable R4 zone classification.

3. The applicant has shown that the request satisfies all criteria for subdivision development set forth in the CMC. Finally, the applicant has shown that the proposed preliminary plat makes appropriate provision for the public health, safety, and general welfare for open spaces, drainage ways, streets, roads, alleys, other public ways, potable water supplies, sanitary waste, parks and recreation, critical areas, fire protection, playgrounds, schools and school grounds, and safe walking conditions.
4. The proposed preliminary plat will serve the public use and interest by providing an appropriate and attractive location for a single-family residential subdivision consistent with existing uses in the area. Therefore, the proposed preliminary plat should be approved subject to the following conditions:
  1. The Final Plat shall be in substantial conformance with the submitted preliminary plat as modified through preliminary approval (*Exhibits 2 & 3*). The complete plat number and existing (parent) parcel numbers must appear at the top right corner of the final plat as follows:

FINAL PLAT NO. LP 18-0001  
PARCEL NO. 152507-9041

2. Prior to any site disturbance or development activities, construction performance and maintenance guarantees shall be provided in accordance with CMC 15.16 and the City of Carnation Street and Storm Sewer System Standards.
3. Prior to final plat approval, construction performance and maintenance guarantees shall be provided in accordance with CMC 15.16.476 (Ord 610 adopted 2000) and the City of Carnation Street and Storm Sewer System Standards.
4. Prior to final plat approval, unless otherwise waived or modified, road improvements shall be completed as required by the City Engineer in their comments and conditions dated December 6, 2018 (*Exhibit 22*).
5. Prior to final plat, temporary street name signs and no parking signs (if required on final engineering plans) shall be addressed. Permanent street designation and traffic control signs, including poles and hardware, shall be installed as required by the City Engineer. These items shall be paid for by the Applicant but shall be designed, furnished, and installed by the City to establish uniformity unless otherwise indicated by the City. Additional signage not shown on final engineering plans may be required based on site conditions as determined by the City Public Works Department.

6. On street parking shall be limited to one side only, and the opposite sides of the street shall be appropriately marked with "no parking" signs as prescribed by the City Engineer in coordination with the Fire Marshal.
7. Street lights shall be provided as required by the City of Carnation Street and Storm Sewer System Standards. All new streetlight wiring, conduit and service connections shall be located underground. Street lighting fixtures shall meet standards to prevent light spill. Developer shall submit proposed street light locations and system design to the City for review and approval and shall install street lighting system prior to final plat. Maintenance and payment for illumination along all streets shall be the responsibility of the Homeowners Association or jointly shared by the owners of the development.
8. Any driveway for the proposed lots accessing any new or existing city streets shall require a driveway approach conforming to the City of Carnation Street and Storm Sewer Standards. The driveway approach shall be designed by a civil engineer and the design shall be approved by the City. No portion of the driveway shall be permitted closer than five (5) feet from an abutting property line.
9. As provided in CMC 15.16.220 H., ... *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.* Because there are no proposed pedestrian access to the abutting streets, the final plat shall include a pedestrian access and/or bikeway from the cul-de-sac to NE 45<sup>th</sup> Street within the 15' utility easement and generally following the easterly property lines of Lots 6 and 7. The access shall be a 5' wide easement and be, at builder option, concrete or asphalt pavement. The access shall be improved and provided on the required as-builts prior to final plat approval.
10. Storm drainage for this subdivision shall be infiltrated on site, within the plat boundary. Any stormwater drainage system shall be designed by a civil engineer and the design shall be approved by the City following submittal of a Storm Drainage Review application with fees required by the fee resolution in effect at the time of application submittal.
11. No utilities shall cross over or through storm drainage infiltration facilities. Sleeved utilities may cross under storm drainage infiltration facilities.
12. It shall be noted on the face of the final plat: "All building downspouts and drains from all impervious surfaces such as patios and driveways shall be connected to an on-site stormwater infiltration drainage system". Any application for building permit shall comply with the requirements of the Department of Ecology Stormwater Management Manual for Western Washington, 2014. All connections of the drains shall be constructed and

approved prior to final building inspection and approval/occupancy.

13. Water system and water services shall be designed and constructed per the City of Carnation Combined Water and Sanitary Sewer Utility Technical Standards. Locations of services and meters shall be approved by the City Engineer. Note: A Public Utility Extension permit is required to construct.
14. To provide water services for the proposed lots, an eight-inch ductile iron line shall connect to the existing eight-inch tee at the intersection of NE 42nd Street and 333rd Ave NE with an eight-inch gate valve and extend to the end of the proposed cul-de-sac terminating with a fire hydrant. [CMC 15.60.200, 13.100]. To mitigate the longitudinal trench along the existing asphalt pavement that will be cut, a half street asphalt grind and overlay is required [Carnation Utility Standards].
15. The water main shall be looped to connect to the exiting eight-inch main on 334th Ave NE through Lots 14 and 15. A 15-ft wide utility easement is required with 10' of the easement on the north side of proposed Lot 15 to access the water main [Carnation Utility Standards].
16. New fire hydrants shall be fitted with a storz adapter [Carnation Utility Standards].
17. Prior to final plat approval, each new lot shall be connected to City of Carnation public water system. Water service shall be connected to the new water main and extended to the property, terminating with a meter set inside of a meter box as approved by the City Engineer. The approved connection shall be consistent with the City of Carnation Combined Water and Sanitary Sewer Utility Technical Standards as approved by the City Engineer. A General Facilities Charge (GFC) and meter fee shall be paid for each connection to the City water system.
18. Prior to final plat approval, each lot shall be connected to City of Carnation vacuum sewer system. Developer shall pay a City of Carnation General Facility Charge (GFC) and a side sewer permit fee for each lot connected to City sewer system. General facility charge shall be based on current fee schedule as of date of building permit issuance. Side sewer permit and inspection fees shall be based on the fee schedule in effect at the time of installation. At time of building permit issuance, applicant will fill out a Residential Sewer Use Certification for the King County Sewage Treatment capacity charge and will be responsible for this payment to King County.
19. Vacuum sewer system and side sewers shall be designed and constructed per the City of Carnation Combined Water and Sanitary Sewer Utility

Technical Standards prior to final plat approval. Locations of side sewers and valve pits shall be in accordance with the Certificate of Sewer Availability approved by the City engineering consultant (Lochner Engineering) dated August 21, 2018 (*ref. Exhibit 14*).

20. 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 AirVac's design manual.
21. A six-inch vacuum main extension from the exiting eight-inch vacuum main on NE 45<sup>th</sup> Street is required. The connection will require an isolation valve and gauge tap.
22. The sewer valve pit on 334th Ave NE that served the demolished house on the Tolt Meadows Div. 2 property may be used to serve a new home.
23. Prior to final plat approval all underground utility conduit (i.e., electric, phone, cable) will need to be extended to the property and terminating above ground with "sweeps" as directed by the appropriate utility entity.
24. Prior to final plat approval, any utility line installed within the city, or connection to existing facilities within the city, the developer shall, as soon as practicable after installation 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.
25. Stormwater quality and flow-control best management practices are required for the proposed subdivision. A Technical Information Report is required and shall comply with the 2014 DOE Stormwater Manual for Western Washington. Infiltration stormwater facilities shall be provided to control runoff including roadways, sidewalks, rooftops, parking areas and driveways and include applicable correction factors for infiltration facilities as recommended in the DOE Manual. [CMC 15.64.190.C].
26. If bioretention swales are installed, utility lines shall not cross under or through the swales.
27. Individual lot infiltration systems shall be located a minimum of 10-feet from building foundations and property lines, these infiltration systems may be constructed concurrent with building construction. Infiltration systems must be designed in accordance with the DOE Manual.

28. Temporary Sediment and Erosion Control and grading plans are required, stormwater runoff from impervious surfaces shall not be directed towards City right-of-ways or adjacent properties.[CMC 15.64.220].
29. Dust generated during construction activities shall be controlled by wetting the dust sources in areas of exposed soils and washing truck wheels before trucks leave the site. Mud and dirt shall not be tracked onto public rights-of-way.
30. Construction activities shall not pose any erosion or sedimentation impacts to off-site properties.
31. Development of all lots within this subdivision shall be in accordance with all of the requirements of CMC 15.48, Density and Dimensions, including front, side and rear setbacks and limitations on building height and on impervious surface.
32. Any new lot lines shall not result in the creation of a non-conforming setback. In any case where any structure would encroach into the setback of a newly created lot line, said structure shall be demolished or modified such that all setback requirements have been satisfied prior to final plat approval.
33. A minimum of two (2) off-street parking spaces per residential lot shall be provided.
34. Lots with a rear yard property line adjacent to a public right-of-way that would have a rear yard fence will need to provide a ten (10) foot landscape buffer between the fence and right-of-way line. To avoid the possibility of staggered fence lines along adjacent rights-of-way, it shall be noted on the final plat that rear yard fences along NE 45<sup>th</sup> Street and 334<sup>th</sup> Avenue NE shall be set back ten (10) feet from the rear yard property line and a ten foot landscape buffer shall be provided between the fence and right-of-way. In no case shall any rear yard fence be constructed within ten (10) feet of NE 45<sup>th</sup> Street or 334<sup>th</sup> Avenue NE right-of-way.
35. 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.
36. A Parks Impact Fee shall for each individual shall be assessed at the time of building permit issuance and paid prior to final certificate of occupancy.
37. 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.

38. All permit requests will be reviewed for compliance with applicable codes, ordinances, laws, rules and regulations prior to issuance of approval.
39. 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.
40. In accordance with RCW 58.17.280, the project proponent shall obtain from the City a specific address for the new lot (the existing home currently has an address) and place it on the final plat.
41. In the event that the US Postal Service will provide mail delivery to the proposed lots, a Neighborhood Delivery and Collection Box Unit (NDCBU) shall be provided with a mailbox for each new lot in accordance with City of Carnation Street and Storm Sewer Standards. Location shall be approved by US Postal Service and the City.
42. Utilities shall be provided to each lot in accordance with CMC Chapter 15.60. All new utility installations serving the proposed subdivision or along frontage shall be underground.
43. An easement shall be provided and graphically illustrated on the final plat for any utilities not within a public right-of-way and over property other than which the utility serves.
44. In addition to the conditions provided herein, all requirements set forth by the City Engineer (Lochner Engineering) in their comments dated December 6, 2018 (*Exhibit 22*), or as hereinafter amended shall be satisfied prior to final plat approval.
45. The responsibility for the maintenance and operation of any common facilities including, but not limited to roadside drainage facilities, shall be determined prior to final plat approval. Said facilities may be maintained and operated by the land divider, a lot owners' association, a public agency or a private agency consistent with applicable state requirements. Any maintenance obligations shall be noted on the final plat.
46. *If* said common facilities are to be owned and managed by a lot owners' association, said lot owner's association shall be established prior to final approval. The association is responsible for operating and maintaining all common facilities that have been dedicated or deeded to it by the land divider. The by-laws of the association shall authorize, at a minimum, the

following responsibilities and authorities:

- To enforce covenants and conditions required by Title 15 CMC, or in the lot owner's association.
  - To levy and collect assessments against all lots to adequately accomplish the association's responsibilities.
  - To collect money from unit owners to finance future improvements.
  - To collect delinquent assessments through the courts, including money to pay for the costs of court action.
  - To enter into contracts to build, maintain and manage common facilities required by Title 15 CMC.
  - To allow amendments to the by-laws for improvements required by Title 15 CMC which may or may not require a plat alteration to be submitted, approved and finalized in accordance with Title 15 CMC.
47. *If* a Home Owners Association is formed, the final plat shall include a statement which requires indefinite existence of the association and automatic membership in the association upon assumption of ownership of a lot within the plat. The Association by-laws shall be submitted and approved by the City Planner prior to final plat approval. The by-laws required for this section shall be separate from any by-laws or private covenants established by the subdivider. Any private covenants or restrictions proposed by the subdivider shall not be included with any required by-laws set forth by the Carnation Municipal Code.
48. The above requirements and/or decision are subject to change if proposed lot sizes or any other information provided by the applicant or their authorized representative proves inaccurate.
49. In accordance with RCW 58.17.140, a final plat that meets all the requirements of Sections 15.16.340 CMC and 15.16.350 CMC and of this decision shall be submitted to the City within 60 months of the date of this preliminary subdivision approval. The final plat may be presented to the City at any time during the period of preliminary approval.
50. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
51. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws,

regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

**NOTE:** In addition to the above listed conditions of preliminary subdivision approval, the applicant shall satisfy the conditions of the SEPA MDNS issued December 7, 2018.

**DECISION:**

The request for preliminary plat approval of Tolt Meadows Division 2 is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 31st day of January, 2019.

  
\_\_\_\_\_  
**STEPHEN K. CAUSSEAU, JR.**  
Hearing Examiner

TRANSMITTED this 31 day of January , 2019, to the following:

**APPLICANT:** John Day Homes, Inc.  
Attn: Rob McFarland  
P.O. Box 2930  
North Bend, WA 98045

**OTHERS:**

Tiffany Welton  
33412 N.E. 42<sup>nd</sup> Street  
Carnation, WA 98014

Jim Ribail  
4207-334<sup>th</sup> Avenue N.E.  
Carnation, WA 98014

Bradley, Connor and Dana McCabe  
4213-334<sup>th</sup> Avenue N.E.  
Carnation, WA 98014

Graham Nicastro and Jessica Merizan  
4451-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

David West  
4253-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

James and Susan Applegate  
4122-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

Alexander Batishchev  
33306 N.E. 42<sup>nd</sup> Street  
Carnation, WA 98014

Craig and Katie Tasa  
4481-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

Jonathon and Nancy McClay  
4020-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

Brian and Christine Jenson  
4321-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

Glenn and Mary Ehrlich  
4351-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

George and Beth Padilla  
4127-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

Kamila and Sahit Rawat  
4381-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

Kevin and Susani Langston  
33303 N.E. 42<sup>nd</sup> Street  
Carnation, WA 98014

Marvin Wagner  
4157-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

Anthony and Angela Mumford  
33307 N.E. 42<sup>nd</sup> Street  
Carnation, WA 98014

David and Kristen Kane  
4283-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

William Fratzke  
P.O. Box 724  
Carnation, WA 98014

Mike and Rose Flowers  
33342 N.E. 42<sup>nd</sup> Place  
Carnation, WA 98014

Gabriel Debacker  
4201-334<sup>th</sup> Avenue N.E.  
Carnation, WA 98014

Jin Wei  
4065-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

Marty Adler  
33298 N.E. 42<sup>nd</sup> Street  
Carnation, WA 98014

John and Shelly Huffman  
4152-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

Thayab and Lindsay Chhaya and  
Elizabeth Sundquist  
4060-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

Reena and David Deklotz  
Rick Schlecht  
4080-333<sup>rd</sup> Avenue N.E.  
Carnation, WA 98014

CITY OF CARNATION

Exhibit: C  
 Date: July 17 2020

www.invation.com  
 CITY OF CARNATION  
 OCT 15 2019  
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# FURY SITE WORKS INC

## TCD - TOLT MEADOWS II OFFSITE IMP.

**Legend**

- Work Area
- Cone
- Safety Zone

**CHANNELIZING DEVICE**

- EXISTING EDGE STRIPE
- EXISTING LANE STRIPE

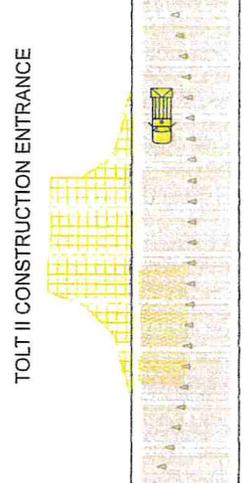
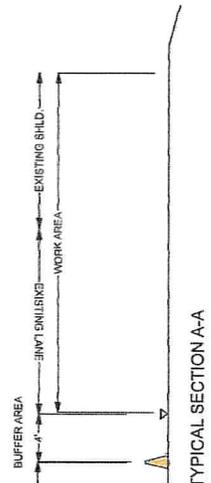
**CHANNELIZING DEVICE SPACING (FEET)**

MPH	TAPER	TANGENT
50/70	40	60
35/45	30	60
20/30	20	40

**SIGN SPACING-X (FEET) (1)**

ROADWAY TYPE	SPACING	SPACING	SPACING
FREWAYS & EXPRESSWAYS	875	875	875
RURAL THROUGH	600	600	600
RURAL ROAD	450	450	450
RURAL ROAD & URBAN ARTERIAL	325	325	325
RESIDENTIAL & BUSINESS DISTRICT	250	250	250
URBAN STREETS	25	25	25

(1) All spacing may be adjusted to accommodate interchange ramps.  
 (2) The spacing may be reduced in urban areas to fit roadway conditions.



**MINIMUM TAPER LENGTH (L) IN FEET**

Lane	25	30	35	40	45	50	60	65	70
Full	105	150	200	265	330	400	500	600	700
Partial	115	165	220	290	360	440	550	660	780

**LONGITUDINAL BUFFER SPACE = B**

SPEED (MPH)	25	30	35	40	45	50	60	65	70
LENGTH (FT)	150	200	250	300	350	420	500	600	700

**PROTECTIVE VEHICLE WITH TMA ROLL AHEAD DISTANCE**

VEHICLE TYPE	TYPICAL PROTECTIVE VEHICLE WITH TMA	STATIONARY OPERATION (min)
TRUCK	300	300
VEHICLE	150	150

- NOTES**
- PROTECTIVE VEHICLE RECOMMENDED MAY BE A WORK VEHICLE.
  - CONTACT REGION TRAFFIC OFFICE FOR WORK HOUR RESTRICTIONS.
  - RECOMMEND EXTENDING DEVICE TAPER ACROSS SHOULDER, (I/A TAPER).
  - USE PROTECTIVE VEHICLE WITH TMA ROLL AHEAD DISTANCE (SEE TABLE).
  - TRAFFIC SAFETY DEVICES RECOMMENDED FOR ALL TRAFFIC ON HIGH SPEED ROADWAYS. (SEE DEVICE MATRIX APPENDIX 2-2)
  - PCMS RECOMMENDED

- LEGEND**
- CHANNELIZING DEVICES
  - PROTECTIVE VEHICLE - RECOMMENDED
  - Flagger

**BUFFER DATA**

LONGITUDINAL BUFFER SPACE = B

SPEED (MPH) | 25 | 30 | 35 | 40 | 45 | 50 | 60 | 65 | 70

LENGTH (FT) | 150 | 200 | 250 | 300 | 350 | 420 | 500 | 600 | 700

TYPICAL PROTECTIVE VEHICLE WITH TMA ROLL AHEAD DISTANCE

VEHICLE TYPE | TYPICAL PROTECTIVE VEHICLE WITH TMA | STATIONARY OPERATION (min)

TRUCK | 300 | 300

VEHICLE | 150 | 150

MINIMUM TAPER LENGTH (L) IN FEET

Lane | 25 | 30 | 35 | 40 | 45 | 50 | 60 | 65 | 70

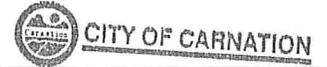
Full | 105 | 150 | 200 | 265 | 330 | 400 | 500 | 600 | 700

Partial | 115 | 165 | 220 | 290 | 360 | 440 | 550 | 660 | 780

**LEGEND**

- CHANNELIZING DEVICES
- PROTECTIVE VEHICLE - RECOMMENDED
- Flagger

Exhibit: D  
Date: July 17 2020



CITY OF CARNATION  
4621 Tolt Avenue • P. O. Box 1238 • Carnation, WA 98014-1238  
(425) 333-4192 phone • (425) 333-4336 fax • www.carnationwa.gov

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APPLICATION FOR CONSTRUCTION PERMIT IN CITY RIGHT-OF-WAY

CMC 15.56.250 Right-of-Way Street Use Permit Required. Prior to performing any work within a public right-of-way, the person performing the work shall obtain a right-of-way or street use permit from the Public Works Director, who may condition the permit as necessary to protect the public health, safety and welfare.

APPLICANT NAME: JOHN DAY HOMES INC.  
 MAILING ADDRESS: PO BOX 2930  
 CITY: NORTH BEND STATE: WA ZIP: 98045  
 APPLICANT PHONE: 925.888.1596 APPLICANT FAX:

CONTRACTOR NAME: FURY SITE WORKS INC. CONTACT NAME: MIKE DAY  
 MAILING ADDRESS: PO BOX 2118  
 CITY: NORTH BEND STATE: WA ZIP: 98045  
 CONTRACTOR LICENSE #: FURY SSW 894M @  COPY OF LICENSE ATTACHED  
 CONTRACTOR PHONE: S Am CONTRACTOR FAX:

PROJECT INFORMATION:

LOCATION OF WORK: address or nearest intersection: 33323 NE 45TH ST PARCEL NUMBER: 1525079041  
 DESCRIPTION OF WORK: attach detailed drawing(s): 15 LOT PLAT WITH ASSOCIATED ROAD AND UTILITY EXTENSIONS  
 DATE OF WORK: VALUATION OF CONSTRUCTION: \$

UTILITY CUSTOMER NAME: JOHN DAY HOMES INC.

By completing and signing the application below, applicant indicates that the conditions (page 2) have been read, understood, and agreed to.  
 APPLICANT SIGNATURE: X [Signature] DATE: 1/22/2019  
 NAME: PLEASE PRINT: MICHAEL DAY TITLE: PROJECT MANAGER

CITY ENGINEER/PUBLIC WORKS DIRECTOR APPROVAL:

SIGNATURE: X [Signature] DATE: 10-8-19  
 City Engineer / Public Works Director  
 NAME: PLEASE PRINT: JOSE GARRIA

COMMENTS: APPROVED TRAFFIC CONTROL PLANS ARE REQUIRED. SUBMIT TRAFFIC CONTROL PLANS FOR REVIEW A MINIMUM THREE WEEKS BEFORE COMMENCING WORK.

File No. ROW19-0002  
Issue Date 10-8-2019



CITY OF CARNATION  
 4621 Tolt Avenue • P. O. Box 1238 • Carnation, WA 98014-1238  
 (425) 333-4192 phone • (425) 333-4336 fax • www.carnationwa.gov

**APPLICATION FOR CONSTRUCTION PERMIT IN CITY RIGHT-OF-WAY**

**APPROVAL OF THIS PERMIT IS SUBJECT TO THE FOLLOWING CONDITIONS:**

1. All work performed within the Public Right-of-Way shall be in conformance with the City of Carnation adopted Design and Construction Standards and Specifications.
2. Permittee shall provide barricades as necessary to insure public safety.
3. Permittee shall provide adequate temporary signage or manpower to regulate and direct the flow of traffic around the construction area.
4. Permittee shall indemnify and hold the City harmless in any liability suits or judgements that may arise as a result of said construction activities by completing attached Hold Harmless Agreement (*see below*).
5. A pre-construction conference is required prior to commencing work.
6. Notification to Carnation Public Works shall be required forty-eight (48) hours prior to the start date. Call (425) 333-4192.
7. Location of all utilities shall be the responsibility of the applicant prior to construction. Any necessary relocation of existing utilities will be done at the permittee's expense.
8. Final inspection is required by the Carnation Public Works Department or the City Engineer.
9. Fees are based on those identified in the adopted Design and Construction Standards and Specifications. (*see below*)
10. Failure to meet any of the above conditions of approval could result in a Stop Work Order or legal action.

**HOLD HARMLESS AGREEMENT**

In consideration of the granting of a Street Use permit to the undersigned for encroachments and attachments situated upon a public right-of-way NE 45th St. which is more particularly described in the Right-of-Way permit attached, the undersigned agrees to indemnify and hold harmless the City of Carnation, its appointed and elected officials and employees, from and against any and all liability, loss, cost, damage and expenses, including costs and attorney fees in defense thereof, because of actions, claims or lawsuits for damages due to personal or bodily injury, including death at any time arising out of the attachment and encroachment permitted upon NE 45th St. by that certain Right-of-way permit dated 10-8-2019, which is attached hereto.

This Hold Harmless Agreement shall not apply to negligence of the City of Carnation, its officials or employees.

Signed this 15 day of OCTOBER, 2019

By: [Signature] MICHAEL DAN  
 (Applicant's Signature) (Printed Name)

**FINAL INSPECTION:**

SIGNATURE: X \_\_\_\_\_

DATE: \_\_\_\_\_

City Engineer / Public Works Director

NAME: PLEASE PRINT: \_\_\_\_\_

COMMENTS: \_\_\_\_\_

File No. ROW19-0002  
 Issue Date 10-8-2019