



CITY OF DUVALL  
Planning Department  
PO Box 1300, Duvall, WA 98019  
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www.duvallwa.gov

**EXHIBIT 1**

## STAFF REPORT & RECOMMENDATION

**TO:** John Galt, Hearing Examiner  
**FROM:** Troy Davis, Senior Planner  
Larissa Polanco, Assistant City Engineer  
**HEARING DATE:** October 19, 2020 at 10:00 A.M.  
**FILE NUMBER:** Collins Reasonable Use Exemption (RU18-001 & BLA18-002)

### I. INTRODUCTION

#### A. APPLICATION

Developer/Applicant: Cynthia & Wesley Collins  
11015 Geneva Ford Drive  
San Antonio, TX 78254  
425.246.1431  
wescollins@icloud.com

Property Owner: George & Beverly Ryan  
13042 Cavern Park #300  
San Antonio, TX 78249

Site Location: 27027 & 27043 NE 143rd Place, Duvall, WA

Parcel Number(s): 7325800130 & 7325800140

Requested Action: Obtain a Reasonable Use Exemption for single-family residential development on two existing legal lots encumbered almost entirely by Sensitive Areas.

Review Process: Type III – Hearing Examiner Decision

Project Timelines:

Pre-Application Meeting: May 1, 2018  
Application Submitted: November 27, 2018  
Notice of Complete Application: December 26, 2018  
Notice of Application: January 8, 2019

Notice of Application Comment Period Ends: January 22, 2019  
Additional Information Requested (clock stopped): February 15, 2019  
Additional Information Submitted (clock started): April 25, 2019  
Additional Information Requested (clock stopped): May 23, 2019  
Additional Information Submitted (clock started): April 23, 2020  
Additional Information Requested (clock stopped): May 27, 2020  
Additional Information Submitted (clock started): June 18, 2020  
SEPA Issued: July 23, 2020  
SEPA Comment Period End: August 6, 2020  
SEPA Appeal Period End: August 13, 2020  
Notice of Public Hearing: October 8, 2020  
Public Hearing: October 19, 2020  
120-Day Review Period Ends: June 2, 2020

**Number of days in review at time of public hearing: 237 Days**

## **B. EXHIBITS**

1. Staff Report *dated October 19, 2020*
2. Master Permit Application *submitted November 27, 2018*
3. Reasonable Use Exemption Application *submitted November 27, 2018*
4. Boundary Line Adjustment Application *submitted November 27, 2018*
5. Project Narrative *submitted November 27, 2018*
6. Vicinity Map *submitted November 27, 2018*
7. Title Report *dated November 19, 2018*
8. Site Plan *submitted April 20, 2020*
9. Boundary Line Adjustment *submitted June 12, 2020*
10. Sensitive Area Easement *submitted June 12, 2020*
11. Access and Utility Easement *submitted June 12, 2020*
12. Wetland Delineation *submitted November 27, 2018*
13. Buffer Map *submitted April 20, 2020*
14. Neighboring House Footprints *submitted November 27, 2020*
15. Critical Root Zones *dated December 13, 2019*
16. Tree Survey Data *dated November 11, 2019*
17. Urban Forestry Review of Site Plan Alternatives *dated December 3, 2019*
18. ESA Review *dated May 21, 2020*
19. ESA Mitigation Bank Confirmation *dated March 11, 2020*
20. Notice of Complete Application *dated December 26, 2018*
21. Notice of Application *dated January 8, 2020*
22. Affidavit of Mailing and Posting *dated January 8, 2020*
23. SEPA Checklist *submitted November 27, 2018*
24. SEPA Threshold Determination *submitted July 23, 2020*

25. City Affidavit of Mailing and Posting *dated July 23, 2020*
26. Newspaper Affidavit of Publication *received July 28, 2020*
27. Time Review Extension Request *received September 29, 2020*
28. Request for Corrections *dated February 15, 2019*
29. Resubmittal Acknowledgement *dated April 26, 2019*
30. Request for Corrections *dated May 23, 2019*
31. Resubmittal Acknowledgement *dated April 23, 2020*
32. Request for Corrections *dated May 27, 2020*
33. Resubmittal Acknowledgement *dated June 18, 2020*
34. Pre-Application Meeting Form *submitted May 25, 2018*
35. Notice of Public Hearing *dated October 19, 2020*
36. City Affidavit of Public Hearing *dated October 8, 2020*
37. Newspaper Affidavit of Public Hearing [*placeholder – pending receipt from newspaper*]
38. Official Zoning Map *approved December 4, 2018*
39. Watershed Areas Map
40. City Property Characteristics Memo *dated July 23, 2019*
41. Water and Sewer Availability Memo *dated July 21, 2020*

## II. BACKGROUND INFORMATION

### A. PROPOSED LAND USE ACTION

The Applicant, on behalf of Ryan Trust Property, is seeking a Reasonable Use Exemption permit with a concurrent Boundary Line Adjustment to make two existing and adjacent lots suitable for the construction of one single-family dwelling on each lot. The two lots are almost entirely encumbered by sensitive areas (wetlands) and their associated buffers which prohibits use of the two lots unless a Reasonable Use Exemption permit is obtained. The boundary line adjustment between the two lots is necessary to create a building site on each lot that is least impactful to the on-site sensitive area. The lots are located at 27043 NE 143<sup>rd</sup> Place, Duvall, WA 98019 (TPN 7325800140) and 27027 NE 143<sup>rd</sup> Place, Duvall, WA 98019 (TPN 7325800130).

### B. EXISTING SITE CONDITIONS

Project Area: 4.14 Acres (180,773sf)

Current Land Use: Vacant, Undeveloped

Zoning Classification: R8 (Residential 8 Units per Acre)

Comprehensive Plan Designation: R8 (Residential 8 Units per Acre)

Site Description: Vegetated wetlands

Neighboring Uses and Zoning:

- North: R8 (Rio-Vista Subdivision – currently under construction)  
East: R8 (Rio-Vista Subdivision – currently under construction)  
South: R8 (Ridge at Big Rock Subdivision – currently under construction)  
West: R8 (Single-Family Residential Dwelling)

### **III. REVIEW PROCESS AND ANALYSIS**

#### **A. DEVELOPMENT REVIEW PROCESS**

This combined Type III Application for Reasonable Use Exemption and Boundary Line Adjustment is subject to the applicable regulations set forth in the following chapters of Title 14 (Unified Development Regulations) of the Duvall Municipal Code:

1. DMC Chapter 14.08 – Permit Processing
2. DMC Chapter 14.10 – Zones, Maps, and Designations
3. DMC Chapter 14.12 – Single Family Residential Zoning Districts
4. DMC Chapter 14.40 – Tree Protection
5. DMC Chapter 14.42 – Sensitive Area Regulations
6. DMC Chapter 14.60 – SEPA
7. DMC Chapter 14.66 – Boundary Line Adjustments
8. DMC Chapter 2.30 – Land Use Hearing Examiner

#### **B. STAFF FINDING OF FACT**

Sections I-III.A above are included with the following Staff Findings of Fact:

##### **1. DMC Chapter 14.08 – Permit Processing**

This Chapter of the Duvall Municipal Code prescribes the procedures for processing land use applications that are submitted to the City. The City has six different land use permit types that each require a specific process for completing review.

Reasonable Use Exemptions are processed as Type III applications. Since the Applicant concurrently applied for a Boundary Line Adjustment which is a Type I application, the two applications are consolidated and processed under the higher application type (see DMC 14.08.010.B.2).

Final decisions on Type III applications are made by the Hearing Examiner with a recommendation from the Planning Department (see DMC 14.08.010.C.1 *footnote 1*). The Planning Department's recommendation is in Section VI of this report (*Exhibit 1*).

The procedural requirements for Type III applications listed in DMC 14.08.010.C.3-4 were met on the following dates:

1. A Pre-Application meeting was held with the Applicant on May 1, 2018 (*see Exhibit 34*); and
2. The Developer applied for Reasonable Use Exemption and concurrent Boundary Line Adjustment on November 27, 2018 (*see Exhibits 2-14*); and
3. A Notice of Complete Application was issued on December 26, 2018 (*see Exhibit 20*); and
4. A Notice of Application was issued January 8, 2019 (*see Exhibits 21-22*) with a comment period that ended at the close of business on January 22, 2019 (no written comments were received); and
5. A SEPA Threshold Determination was issued July 23, 2020 (*see Exhibits 24-26*) with a comment period that ended August 6, 2020 (no written comments were received); and
6. A Notice of Public Hearing was published October 8, 2020 (*see Exhibits 35-37*) ten days in advance of the Public Hearing (as required by DMC 14.08.030.E.2) inclusive of the information required by DMC 14.08.030.E.1.

Applications for Reasonable Use Exemption require a notice of final decision within 120 days after the applicant is notified that their application is complete (*see DMC 14.08.020.G*). The application for preliminary long subdivision was under review for 237 days from Notice of Complete Application to the date of the public hearing. The Applicant granted a review time extension on September 29, 2020 (*see Exhibit 27*).

## 2. DMC Chapter 14.10 – Zones, Maps, and Designations

All land within City limits, except for rights-of-way, are assigned a zoning classification. Zoning classifications specify the permissible land uses and development standards within that zone. The Official Zoning Map of the City of Duvall shows that the subject property is zoned Residential 8 Units per Acre (*see Exhibit 38*). The minimum density in this zone is 6 units per acre and the maximum density is 8 units per acre.

3. DMC Chapter 14.12 – Single Family Residential Zoning Districts

The zoning regulations for the Residential 8 Units per Acre zone are found in DMC Section 14.12.080. Lots within this zone must meet certain size, density, lot width, and frontage requirements. All other parameters of this section such as lot coverage and building height, are reviewed for compliance at time of individual building permit submittal. The proposed Boundary Line Adjustment (*see Exhibit 9*) has been reviewed for compliance with the following development standards listed in DMC Table 14.12.080.C:

SUBJECT	REQUIREMENT	REVIEW
Minimum lot size	4,000 square feet	Each lot will exceed minimum.
Minimum street setback	10 feet	Will be reviewed at time of building permit submittal.
Minimum rear setback	15 feet	Will be reviewed at time of building permit submittal.
Minimum sideyard setback	5 feet	Will be reviewed at time of building permit submittal.
Minimum density	6 units/acre	Cannot meet due to presence of sensitive areas. No subdivision proposed.
Maximum density	8 units/acre	See above.
Maximum lot coverage	60-70%	Will be reviewed at time of building permit submittal.
Floor area ratio	50%	Will be reviewed at time of building permit submittal.
Minimum lot width circle	30 feet	All lots exceed the minimum requirement
Minimum lot frontage	25 feet	All lots have at least 25 feet of frontage.
Maximum building height	35 feet	Will be reviewed at time of building permit submittal.

The two existing lots have a north/south orientation each with frontage along NE 143<sup>rd</sup> Place. The westerly lot (TPN 7325800130) is entirely encumbered by sensitive area. There is a small area in the northeast corner of the easterly lot (TPN 7325800140) that is not encumbered by sensitive area. The purpose of the boundary line adjustment is to shift the lot line between the two lots from a north/south orientation to an east/west orientation in order to utilize the area outside of the sensitive area to the greatest extent while simultaneously preserving two building lots and reducing impact to sensitive areas.

The Applicant is proposing a developable area on each lot (post boundary line adjustment) that is comparable to neighboring properties within the R8 zone. Lot A is proposed to have a developable area of 5,505 square feet and Lot B is proposed to have a developable area of 5,303 square feet. The allowed Floor Area Ratio will be derived from the developable area of each lot (*see SEPA Conditions in Exhibit 24*), allowing homes of similar size to those in the vicinity to be built on the subject lots (*see Exhibit 14*). The Floor Area Ratio is 50% of the developable area for each lot. This would allow a 2,752.5 square foot house to be built on Lot A and a 2,651.5 square foot house to be built on Lot B.

The building envelopes shown for each lot reflect the setback requirements of this section; including sensitive area setbacks which are 10 feet.

City staff finds that the proposed Reasonable Use Exemption meets the applicable development design standards for the R8 zone.

#### 4. DMC Chapter 14.40 – Tree Protection

New developments within the City are subject to tree protection requirements to protect existing stands of trees within the City to the greatest extent possible and ensure a certain level of tree canopy remains within the City through supplemental tree planting (*see DMC 14.40.010*).

The proposed developable area of each lot following the BLA will necessitate the removal of some Significant and Exceptional Trees. The City (with help of its consultant ESA and their subconsultant, Urban Forestry Services) worked with the Applicant to designate a developable area on each lot that will ensure the retention of trees to the greatest extent. Urban Forestry Services came up with three possible developable area scenarios and evaluated their impact to trees (*see Exhibit 15*). The City found that Alternative 3 would afford the greatest level of tree protection while maintaining the least impact to the wetland buffer.

The requirements of the Tree Protection Ordinance are keyed to two scenarios in which regulated trees are removed: 1) Trees that are removed in relation to new development sites (such as a subdivision or commercial site plan) and 2) Trees that are removed not associated with development activity. Situations involving Reasonable Use Exemption are not entirely contemplated under the code. Since trees within Native Growth Protection Easements or Tracts (NGPE) do not count toward the tree density requirement, only the trees within the designated developable area which is outside the NGPE are acknowledged. A NGPE will be placed over the area of each lot that is not within the identified developable area.

New development sites are required to retain a certain number of tree credits depending on lot size and zoning with a certain percentage of those tree credits coming from retained trees depending on which watershed sub basin the site is located in. The total tree credit threshold can be achieved through supplemental plantings.

New developments within the R8 zoning in Sub basin 3 must provide 35 tree credits per acre with 30% of those tree credits coming from retained trees. The developable area of Lot A with the access easement is 0.20 acres (8,925 square feet) which means 7 tree credits must be provided with 2 credits coming from retained trees. The Developable area of Lot B is 0.12 acres (5,303 square feet) which means 4 tree credits must be provided with 1 tree credit coming from retained trees.

Under Alternative 3, there would be 10 viable trees removed from Lot A (7 Significant Trees and 3 Exceptional Trees) and 11 viable trees removed from Lot B (7 Significant Trees and 4 Exceptional Trees) with no retained trees within the developable area of either lot ("Viable tree" means a significant tree that a qualified arborist has determined to be in good health with a low risk of failure, is relatively windfirm if isolated or exposed, is a species that is suitable for its location, and is therefore worthy of long-term retention). DMC 14.40.050.D allows for the Director to allow for impacts to Significant Trees beyond the minimum retention standards under certain circumstances. Since meeting the minimum retention standards would "reduce development opportunity such that the minimum residential densities established for each zoning designation under Title 14 would not be achieved", the 7 Significant Trees on Lot A and on Lot B are justified for removal. A 1:1 replacement ratio will be required for each Significant Tree removed (*see Condition 7a*).

Exceptional Trees, while afforded greater protection than Significant Trees, can be removed under certain circumstances. Pursuant to DMC 14.40.025.A.4, it has been adequately demonstrated that no other site alternative exists that would result in a lesser impact to on-site Exceptional Trees (a total of 7 Exceptional Trees would be removed between the two lots). Exceptional Trees that are removed; however, do require replacement at a 3:1 ratio (*see Condition 7a*). Any tree replaced on-site will be required to be identified on the site plan submitted at the time of building permit application (*see Condition 7b*). The site plan (see Exhibit 8), shows 21 replacement trees on the western edge of Lot A and 19 replacement trees on the western edge of Lot B. The proposed location on Lot A conflicts with wetland restoration occurring as a result of the violation caused by the adjacent neighbor to the subject property.

The City's Tree Protection Ordinance defines the 'Critical Root Zone' as "...the circular area surrounding a tree, centered at the base of the trunk, with a radius equal to one foot for every one inch of trunk diameter (DBH)." The Ordinance also defines the 'Inner Critical Root Zone' as "...an area encircling the base of a tree equal to one-half the diameter of the critical

root zone. Disturbance of this area beneath a tree would cause significant impact to the tree, potentially life threatening, and would require maximum post-care treatment to retain the tree.” Pursuant to DMC 14.40.080.A.6.b, no structures are allowed within the Inner Critical Root Zone (ICRZ) of a Significant/Exceptional tree. The Critical Root Zones and Inner Critical Root Zones of retained trees do extend into the developable area of each lot and will need to be shown on the site plan submitted at the time of building permit application (*see Condition 7d*).

City staff finds that the above referenced conditions are necessary to ensure the proposed preliminary long subdivision meets the applicable Tree Protection requirements of this Chapter.

#### 5. DMC Chapter 14.42 – Sensitive Areas

Sensitive Areas include topographical features such as wetlands, streams, rivers, steep slopes, and frequently flooded areas. They are regulated by federal, state, and local statute to preserve and enhance these features and prevent harm to both the natural and built environments.

An extensive Category III Wetland and its associated 105-foot buffer encumbers nearly all the subject parcels except for a small pocket in the northeast corner of the east parcel (*see Exhibit 13*). The extensive reach of the wetland over both parcels prohibits further subdivision, rendering the property unable to meet minimum density requirements.

A wetland delineation was conducted by Altmann Oliver Associates, LLC (AOA) in March of 2018 (*see Exhibit 12*). The wetland is part of a larger wetland complex that extends off-site to the west, south, and southeast. The wetland is supported by a high-water table with shallow ponding that drains to toward the northwest, crossing under an existing culvert under NE 143<sup>rd</sup> Place. The site is heavily vegetated with a forest canopy that transitions from deciduous tree types (such as alder, black cottonwood, and willow) in the west to evergreen trees (western red cedar) to the east. The understory consists mostly of native shrubs with some non-native reed canary grass.

The City’s peer review consultants, Environmental Science Associates (ESA), reviewed the wetland delineation prepared by AOA for compliance with the City’s Sensitive Area Regulations (DMC Chapter 14.42) including the Reasonable Use Exemption requirements of Section 14.42.070.B and found the wetland delineation and associated report prepared by AOA to meet code criteria (*see Exhibit 18*).

#### *Wetland Violation*

In June of 2019 the City noted that un-permitted land clearing within a sensitive area had taken place at 27011 NE 143<sup>rd</sup> Place (TPN 7325800120) which is adjacent to the Applicant's subject parcels. Through further investigation, the City discovered that the clearing also extended onto the Applicant's western parcel (TPN 7325800130) which is also within a sensitive area. This land clearing was not the fault of the Applicant, but the result of actions taken by the neighboring property owner at 27011 NE 143<sup>rd</sup> Place. The City is currently working with the neighboring property owner to ensure the sensitive area is restored on both properties.

6. DMC Chapter 14.60 – SEPA

This proposal was reviewed for environmental impacts under the State's Environmental Policy Act and the City issued a Mitigated Determination of Non-Significance on July 23, 2020 (*see Exhibit 24*). The City mailed notice of the Threshold Determination to surrounding property owners, agencies, and parties of record and published in the Seattle Times (*see Exhibits 25-26*). The comment period closed on August 6, 2020. No comments were received.

City staff finds that the above referenced conditions are necessary to ensure the proposed preliminary long subdivision adequately mitigates for environmental impacts.

7. DMC Chapter 14.66.120 – Boundary Line Adjustments

A boundary line adjustment is a mechanism by which the city may approve the alteration of boundary lines between subdivided or unsubdivided lots or both, where such an adjustment does not create any additional lot, tract, parcel, site, or division nor create lots which are nonconforming or more nonconforming than exists.

Boundary line adjustments must meet certain criteria. Section 58.17.040(6) of the Revised Code of Washington (RCW) states that BLAs cannot "...create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site." Additionally, Duvall's Municipal Code requires that BLAs meet the dimensional requirements of the underlying zone, retain legal access from a public right-of-way, not violate any other applicable requirement or condition, be recorded with King County after City approval and then surveyed and staked on-site.

The Applicant submitted a Boundary Line Adjustment concurrent with their Reasonable Use Exemption permit application in order to maintain two legal lots while minimizing impacts to on-site sensitive areas. The proposed BLA will not create any addition division or result in lots that are undevelopable (contingent on granting of Reasonable Use Exemption) and will

change the orientation of the lots from north/south to east/west. Lot A will have direct access to NE 143<sup>rd</sup> Place and Lot B will have access from NE 143<sup>rd</sup> Place via an access easement across Lot A. Lot A will total 65,267 square feet (1.5 acres) with a developable area of 8,925 square feet (5,505 square foot developable area for the house and 3,420 square foot developable area for the access and utility easement) and Lot B will total 115,230 square feet (2.65 Acres) with a developable area of 5,303 square feet.

Following approval, the Applicant will submit final drawings for signature and then record with King County (*see Conditions 5a through 5c*).

8. DMC Section 14.42.070.B – Reasonable Use Exemption

**Note:** Criteria for Reasonable Use Exemptions are listed in both DMC Chapter 14.74 (Reasonable Use Exemption) and within Section 14.42.070.B of DMC Chapter 14.42 (Sensitive Area Regulations). Staff evaluated the proposal for conformance with the Reasonable Use Exemption criteria of Section 14.42.070.B because these criteria was more comprehensive than the criteria set forth in Chapter 14.74 and is the most recent criteria adopted by the City.

If the application of the sensitive area regulations would deny all reasonable use of the property; development may be allowed if the development is consistent with the general purposes of the sensitive area regulations, is in the public interest, and a hearing examiner approves a reasonable use permit. To approve a reasonable use the city must find that the proposal is consistent with all of the following criteria:

- a. *There is no portion of the site where the provisions of the sensitive area regulations would not allow reasonable economic use, without a reasonable use permit, including agricultural use or continuation of legal nonconforming uses;*

The City finds that neither lot would be provided reasonable economic use under the provisions of the sensitive area regulations unless a reasonable use permit is provided.

- b. *There is no feasible on-site alternative to the proposed use or activities that will provide reasonable economic use, including location on any contiguous parcel that has been under the ownership or control of the applicant since the effective date of this chapter; other allowed uses; continuation of legal nonconforming uses; reduction in size, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to sensitive areas and associated buffers;*

The City finds that there is no feasible and reasonable on-site alternative to the proposed site plan. The City worked with the applicant through several site plan renditions to ensure minimum impact to Sensitive Areas and existing trees regulated by the City's Tree Protection Ordinance (DMC Chapter 14.40). The developable area of each lot is close to

the minimum lot size allowed in each zone and sufficiently sized to enable a house of similar size to those in the area to be constructed on each lot. The resulting density is the minimum density possible—1 unit per lot.

- c. *The inability to derive reasonable economic use of the property is not the result of actions by the applicant in segregating or dividing the property and/or creating the condition of lack of use after the effective date of this chapter;*

The City finds that the Applicant's inability to derive reasonable economic use of their property is *not* the result of the Applicant's actions. Both lots remain undeveloped and in their natural state. In 2018 the City updated its Sensitive Area Regulations, resulting in more stringent sensitive area protections, including increased buffer widths.

- d. *All reasonable methods to avoid or reduce adverse effects on sensitive area functions and values have been employed, including locating activities as far as possible from sensitive areas and design that will result in the minimum alteration of sensitive areas and associated buffers, existing topography, vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions. Where both sensitive areas and buffer areas are located on a parcel, buffer areas shall be disturbed in preference to the sensitive area;*

The City finds that all reasonable methods to avoid or reduce adverse effects on sensitive area functions and values have been utilized. The proposed developable areas of each lot following a boundary line adjustment will result in the least alteration of the sensitive area buffer, topography, vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions. The area of buffer to be disturbed is the least impactful.

- e. *The project includes compensatory mitigation for unavoidable sensitive area and buffer impacts in accordance with the mitigation requirements of this chapter;*

Mitigation Bank Credits will be required to be purchased prior to site disturbance in association with development on each lot.

- f. *The proposed activities will not result in adverse effects on endangered or threatened species as listed by the federal government or the State of Washington, or be inconsistent with an adopted recovery plan;*

The City finds the proposed activities will not result in adverse effects on endangered or threatened species or be inconsistent with an adopted recovery plan.

- g. *The proposed activities will not result in damage to nearby public or private property and are not a threat to the health or safety of people on or off the site;*

The City finds that the proposed activities will not result in damage to nearby public or private property or pose a threat to the health or safety of people on or off site.

- h. *The proposed activities will not lead to degradation of groundwater or surface water quality and will comply with all state, local and federal laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal.*

The City finds that the proposed activities will not lead to degradation of groundwater or surface water and will comply with all state, local, and federal laws.

#### **IV. CONCLUSIONS**

Having visited the subject site and processed the Reasonable Use Exemption and Boundary Line Adjustment application materials submitted by Applicant staff concludes:

1. The Applicant, Wes and Cindy Collins, is requesting a Reasonable Use Exemption and concurrent Boundary Line Adjustment for two adjacent parcels totaling 4.14 acres.
2. The location of the request 27043 NE 143<sup>rd</sup> Place, Duvall, WA 98019 (TPN 7325800140) and 27027 NE 143<sup>rd</sup> Place, Duvall, WA 98019.
3. The subject parcels are designated Residential 8 Units per Acre on the City's Future Land Use Map and zoned Residential 8 Units per Acre on the City's Official Zoning Map.
4. The subject parcels are almost entirely encumbered by sensitive area prohibiting the Applicant from achieving the minimum density requirements of the underlying zone. A Reasonable Use Exemption is needed before development can occur.
5. The Applicant's application for Reasonable Use Exemption and Boundary Line Adjustment was processed as a consolidated Type III Project Permit Application in accordance with the requirements of Duvall Municipal Code Chapter 14.08 (Permit Processing). Type III Project Permit Applications require quasi-judicial review and final decision by the City's contracted Hearing Examiner.
6. The statutory requirements for public notice in Duvall Municipal Code Chapter 14.08 (Permit Processing) have been met for the Notice of Application, SEPA Threshold Determination, and Notice of Public Hearing.
7. The proposed project has been reviewed under the provisions of the State Environmental Policy Act (SEPA). A Mitigated Determination of Non-Significance was issued under WAC 197-11-340(2) on July 23, 2020. No SEPA comments were received and no appeals were filed by the August 13, 2020 deadline.

8. The application for Reasonable Use Exemption and Boundary Line Adjustment has been reviewed for compliance with the 2015 City of Duvall Comprehensive Plan, Duvall Municipal Code Title 14 (Unified Development Regulations), and Public Works Development Design Standards and have been found by City staff to be compliant subject to certain conditions.

## V. PARTIES OF RECORD

As of the date of this staff report there are no Parties of Record.

## VI. STAFF RECOMMENDATION AND CONDITIONS

Based on the foregoing information and the exhibits attached to this report, staff recommends that the Hearing Examiner **APPROVE** the Collins Reasonable Use Exemption and Boundary Line Adjustment (RU18-001 and BLA18-002) applications subject to the following conditions:

### FROM PLANNING

1. Building permits shall conform to all applicable requirements of DMC Tile 14, Design Standards, and the City's 2015 Comprehensive Plan.
2. Building permits shall be in substantial conformance with the conditions of this Reasonable Use Exemption Permit.
3. The Hearing Examiner's Final Decision shall be recorded with King County against Lot A and Lot B following the recording of the Boundary Line Adjustment.
4. **Exhibit 8** is the approved **Reasonable Use Exemption Site Plan** subject to the following conditions:
  - a. The building envelope shown on each lot shall also reflect applicable Critical Root Zones from retained trees.
  - b. The location and species of replacement trees shall be identified on the site plan submitted with the building permit for each lot and not on the Reasonable Use Exemption Site Plan as currently shown.
  - c. Once the above conditions for Exhibit 8 are met, as determined by the City, the Applicant shall record the Reasonable Use Exemption Site Plan with King County against each lot following the recording of the Boundary Line Adjustment.

5. **Exhibit 9** is the approved Boundary Line Adjustment subject to the following conditions:
  - a. The Applicant shall provide the Boundary Line Adjustment, in a form acceptable to the King County records office, to the City for signatures.
  - b. Once the Applicant has obtained City signatures on the Boundary Line adjustment, the Applicant shall be responsible for recording the Boundary Line Adjustment with King County.
  - c. Once the Applicant has recorded the Boundary Line Adjustment, all adjusted lot lines shall be surveyed, and newly established lot corners staked.
  
6. **Exhibit 12** is the approved Wetland Delineation subject to the following condition:
  - a. The Wetland Delineation shall be recorded with King County against each lot.
  
7. **Exhibit 15, Alternative 3** and **Exhibit 16** is the approved Tree Protection Plan subject to the following conditions:
  - a. All Significant Trees to be removed shall be replaced at a 1:1 ratio and all Exceptional Trees to be removed shall be replaced at a 3:1 ratio on a lot by lot basis.
  - b. The location, species, and size of all replacement trees shall be identified on the site plan submitted for building permit.
  - c. Replacement trees shall be monitored by the property owner for a period of five years in accordance with DMC 14.40.090.
  - d. The Critical Root Zones and Inner Critical Root Zones shall be shown on the site plan submitted with Building Permit.
  - e. No structure (except for a fence) shall be constructed within an Inner Critical Root Zone.
  - f. All areas where work will occur within a Critical Root Zone shall be identified. Arborist oversight and approval shall be required for all work done within the Critical Root Zones of retained trees.
  - g. Tree Critical Root Zones and tree protection fencing shall be included in the building permit plans with the tree protection specifications referenced.
  - h. Prior to land clearing, tree protection fencing shall be located outside of all Critical Root Zones and silt fencing shall be located on the outside of all tree protection fencing. Hog

fuel or wood chip mulch at an eight-inch depth shall be utilized for TESC where needed in areas behind tree protection fencing.

- i. A full set of details and specifications for tree protection measures in accordance with the requirements of DMC 14.40.080 shall be provided.

## FROM PUBLIC WORKS/ENGINEERING

### *General*

1. Utilities, frontage, road, and mass grading improvements shall be completed to accommodate future single-family lots. Building pads shall be fine graded, grass seeded and maintained by the applicant.
2. The applicant shall submit a right-of-way use permit and “construction drawings” for City review detailing frontage improvements required, meeting the city’s obligations for the project. Required frontage improvements must be completed prior to building permit issuance or as otherwise approved by the Public Works Director.
3. Construction plans shall be developed in accordance with the Public Works Development Design Standards (PWDDS), as amended, Duvall Municipal Code (DMC), King County Fire District #45 requirements, SEPA Determination (Exhibit 24).
4. As-builts with NAVD 1988/NAD 83 datum shall be provided, reviewed, and approved prior to Street Performance Bond release. As-builts shall include all frontage improvements and shall be provided in Mylar and electronic formats upon approval by the City Engineer.
5. All utility connections shall be located below ground and be brought to the project site underground. All overhead utilities and utility poles along the frontage shall be removed and replaced with underground utilities to the nearest off-site pole consistent with DMC 14.66.050(J) and PWDDS.
6. Mailbox units (MBU’s) shall be installed as part of the building permit. Coordinate with the Post Office and Public Works on placement.
7. If moisture sensitive soils are present at the site soil admixtures, such as kiln dust, fly ash, or cement will not be allowed without a City-approved application and monitoring plan along with any other associated Washington State Department of Ecology requirements.
8. Payment of recovery contract fees may be required prior to water and sewer service tie-in.

### *Roads*

9. Frontage improvements shall include curb/gutter, sidewalk, landscaping, and streetlights in accordance with PWDDS. Required frontage improvements may be modified by the City Engineer to minimize sensitive area impacts prior to construction drawing approval and building permit issuance.
10. Frontage improvements on NE 143<sup>rd</sup> Place are eligible for Traffic Impact Fee credit. Credits will be determined by the City Engineer prior to building permit issuance.
11. All road pavement sections shall include a minimum 2-inch thickness overlay of ½” HMA over a 4-inch thickness of ½” HMA over and a 12-inch thickness of crushed rock over suitable firm and unyielding subgrade or compacted structural fill.
12. All curb/gutter and sidewalk shall be underlain by a minimum 6-inch thickness of crushed rock over suitable firm and unyielding subgrade or compacted structural fill per PWDDS.

### ***Water***

13. Water service and required fire sprinkler taps to the main line shall be minimized by branching services as possible and installed in accordance with PWDDS.
14. Fire sprinkler system requirements shall be determined prior to building permit issuance.

### ***Sewer***

15. Sewer services shall be installed in accordance with PWDDS.

### ***Storm Drainage***

16. All surface and stormwater management shall comply with the most recent version of the King County Surface Water Design Manual and city requirements.
17. All lot specific Low Impact Development (LID) Best Management Practices (BMPs) shall be recorded on individual lot title that the LID BMP is the homeowners responsible to keep and maintain and shall not be removed, modified, filled or used for any other purpose than the design intent. It shall be the responsibility of the applicant to disclose this maintenance obligation to the future homeowner at sale.
18. Any stormwater improvements in the right-of-way shall successfully operate and shall remain free of defects in workmanship, materials, and design during the maintenance and defect bond periods. The applicant shall clean the drainage system prior to the City’s final inspection and before the bonds are released.

FROM FIRE DEPARTMENT

19. When fire protection, including fire apparatus access roads and water supplies for fire protection, is required to be installed, such protection shall be installed and made serviceable prior to and during the time of residential and/or commercial building construction.