

Cluster Developments

What is the purpose of a cluster development?

A cluster development provides for a small lot residential development in the rural zoning district that:

- Maintains rural character
- Maintains and conserves larger remainder parcels
- Protects and/or enhances sensitive environmental and wildlife habitat areas

Cluster developments are permitted only within the rural zoning districts of R-5, R-10 and R-20. This is achieved by placing homes in a small portion of the property while maintaining the majority of the site in a remainder parcel. The remainder parcel shall comprise a minimum of 65 percent of the site within the R-5 zone and 75 percent of the site within the R-10 and R-20 zones.

What development standards apply to cluster developments?

Cluster lots: Cluster lots shall be sited to minimize conflicts between housing and adjacent agricultural or forest zoned property. In addition, cluster lots and building sites may not include critical areas unless no other alternative exists.

Remainder parcels: The remainder parcel shall be contiguous. Fragmentation shall not occur unless no other alternative exists. Remainder parcels shall provide a buffer for the cluster lots from adjacent lands in a resource zoning district. The remainder parcel should contain to the maximum extent possible forested areas, prominent hillsides, meadows and ridges, in order to retain the rural character.

Remainder parcels can be included in the housing density for the proposal but they do not have to be. For instance, you could have a 20-acre parcel in the Rural-5 zoning district that would normally allow for density of four five-acre lots.

The density can be used in either of two ways for cluster division:

Option 1: Three 1-acre lots and the remainder lot can also have a house constructed on it.

Option 2: Four 1-acre lots and the remainder parcel can only be used for agriculture, forestry or open space – no residence can be constructed on the remainder lot.

Are there any specific design standards associated with this type of development?

Yes, and they are required to be recorded on the plat. The following are required:

- No entryway treatments, monument or other permanent development signs are permitted.
- Sight obscuring fences are not permitted within 50 ft of the public right of way, nor along cluster lot lines adjacent to the remainder lot.
- Existing historic rural features shall be preserved as much as is possible.

What about conducting resource activities on remainder parcels?

Any uses permitted in the rural zone districts are permitted on the remainder parcel. This includes forestry and

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For an alternate format, contact the Clark County ADA Compliance Office.
Phone: (360) 397-2322
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agriculture. If the density is used fully on the small lots (option 2 above), then a note has to be placed on plot map and a covenant recorded that gives notice of what activities are permitted on the remainder parcel.

What type of review is required?

What is a Type II Review process?

A Type II review process requires a ministerial decision by the Responsible Official. In making the decision, the official must determine if the proposed development meets the requirements of the applicable sections of the Clark County Code. This decision is made after reviewing the proposal and considering written comments received from the public. The Responsible Official will approve, approve with conditions, or deny the application. This decision may be appealed to the county Hearing Examiner.

What is a Type III Review process?

A Type III review process requires a public hearing before a Hearing Examiner. In making the decision, the Hearing Examiner must determine if the proposed subdivision meets the requirements of the applicable sections of the Clark County Code. This decision is made after reviewing the proposal, and after considering staff's recommendation and testimony from the public. The Hearing Examiner will approve, approve with conditions, or deny the application. This decision may be appealed to Superior Court.

Is a pre-application conference required?

A pre-application conference is required before submitting a Type III application. The requirement for a conference may be waived if the Planning Director determines that the proposal is relatively simple. A waiver requires the applicant to submit a completed Pre-Application Review Waiver Request Form and fee.

What is the application process?

The first step is to complete a State Environmental Policy Act (SEPA) environmental checklist, if applicable. The Permit Center staff located at the Public Service Center, 1300 Franklin Street, first floor, Vancouver, Washington, will assist the applicant in determining if a SEPA checklist is required with the application. The SEPA Review Application Form and Environmental Checklist are available at the Permit Center.

The next step is to submit a completed Type II or Type III Application Form, fees and a copy of the submittal requirements to the Permit Center.

What if I didn't submit all of the required information?

The county conducts two application checks to ensure that applications are complete before staff begins their development review process. Prior to accepting your application, the Permit Center staff will conduct a **Counter Complete** review of your submittal package. This initial review ensures that all main listed within the subdivision submittal requirements have been submitted before accepting your application (see attached submittal list).

Once your application is accepted, the original submittal package is routed to our review staff. Staff conducts a second completeness check, known as the **Fully Complete** review. This more detailed review ensures that all items under the numbered headings of the attached Type III Subdivision Submittal Requirements have been submitted. As an example, does the Proposed Land Division Plan show topography at two-foot contour intervals, water courses, streams, rivers, etc., center of stream surveyed for all on-site water courses, FEMA designated 100 year floodplain, etc.

If required items are missing from your original submittal, you will receive a letter of **Not Fully Complete** with a list of the missing items. If you have not submitted the requested information within 30 days of this written request, staff will return your application and refund the application fee, less the processing costs incurred to date.

If **all** of the submittal requirements have been met, the applicant will be directed to submit five additional copies that contain the revisions and additional information that may have been required to be Fully Complete. Once all Fully Complete copies have been received, you will receive a **Fully Complete** determination letter and be vested on the date you submitted the Fully Complete application.

What is Vesting?

Upon a determination of Fully Complete, your application is vested with the development regulations that are in place at the time the fully complete application was submitted.

Examples:

1. An application is submitted on June 1 and determined to be Fully Complete on June 25. The application is vested as of June 1.
2. An application is submitted on June 1 and subsequently determined to be **Not Fully Complete** on June 25. In response, the applicant submits additional information on July 8. The revised application is subsequently determined to be Fully Complete on July 18.

Note: The completeness decision will be made within 14 calendar days of new submittals. The application is vested as of July 8, the day the fully complete application was submitted.

To be contingently vested on the date a pre-application is filed the following conditions must be met:

1. All the required pre-application conference information was submitted on the pre-application submittal date
Note: the Pre-Application Conference Report will indicate whether the application is contingently vested.
2. A fully complete application for substantially the same proposal was filed within 180 calendar days of the date the county issued the Pre-Application Conference Report.

What kind of public notice is provided?

If a Type II review is required, within 14 days of the fully-complete date, a notice of application will be mailed to:

- Adjacent property owners within 500 feet of the site
- Applicant
- Neighborhood Association (if any)
- The newspaper if a SEPA environmental checklist is required

If a Type III review is required, within 14 days of the fully-complete date, a notice of the application, with the date, time and place for the public hearing will be mailed to:

- Applicant
- Neighborhood Association, if any
- Property owners within a 300' radius (if within an urban growth boundary), and a 500' radius (if outside an urban growth boundary) of the project site
- SEPA notice to newspaper and listed SEPA agencies

The notice will invite written comments to be submitted within 14 calendar days of the date of the notice. Copies of any written comments received in a timely manner will be sent to the applicant. The applicant may submit a written response within 14 days from the date the comments are mailed.

Applicant public hearing notice requirements

At least 30 calendar days prior to the public hearing, the **applicant** must post a public notice sign.

Our *Applicant Posting Requirements* handout contains the basic posting requirements plus sign specifications needed by the sign company and a sample *Affidavit of Posting*.

County public hearing notice requirements

At least 15 calendar days prior to the public hearing date, the county will post public notices including the date, time and place of the hearing and describing the proposal as follows:

- Posted at the site
- Published in the newspaper
- Mailed to property owners within a 300' radius (if within an urban growth boundary), and a 500' radius (if outside an urban growth boundary) of the project site
- Mailed to the Neighborhood Association
- Mailed to the applicant

The notice will invite interested parties to present testimony at the hearing either orally or in writing.

What is a SEPA determination?

The State Environmental Policy Act (SEPA) requires that a review of the potential environmental impacts of the proposed subdivision be conducted. County staff and interested agencies will review the subdivision application to determine its compliance with applicable federal, state and county code. Through this process a determination will be made as to whether the impacts will be considered non-significance (DNS), mitigated non-significance (MDNS), or significance (DS).

For a DNS or MDNS determination, an analysis will be incorporated within the Staff

Report referenced below. If a DS determination is made, the applicant is required to prepare an Environmental Impact Statement (EIS) prior to the county considering the proposed subdivision. The SEPA determination is published in *The Columbian* newspaper.

What is a Staff Report?

For a Type II review, staff's role is to prepare a Staff Report that summarizes their review of the proposal against the requirements of the Clark County Code. In this report, staff will make a **decision** to approve, approve with conditions or deny the application. This written report will be mailed to the applicant within 78 calendar days of the Fully Complete determination.

For a Type III review, staff's role is to prepare a Staff Report that summarizes their review of the proposal against the requirements of the Clark County Code. In this report, staff will make a **recommendation** to approve, approve with conditions or deny the application. This written report will be mailed to the applicant at least 14 calendar days prior to the scheduled public hearing on this matter.

When will the public hearing be held?

Within 78 days of a Fully Complete determination, a public hearing will be held before the county's Hearing Examiner to consider the Type III application.

What happens at the public hearing and when do I get to speak?

First, the applicant or their representative will be asked to present an overview of the proposed project to the audience, including those viewing the hearing over cable access television. The applicant will next give a detailed description of the project and design considerations, showing the site plan and other drawings by either utilizing the overhead projector or making pre-meeting arrangements to use the Power Point projector.

Once the overview is completed, the applicant may next raise issues regarding the staff report and recommendations. This is also the time for the applicant to address issues that they believe may be brought up during the public testimony portion of the hearing, and/or issues they believe the Hearings Examiner may raise.

Once the applicant has completed their presentation, county staff will present an overview of their analysis, findings and recommendation as to whether the application meets or exceeds the approval criteria.

Following the staff presentation, the hearing will be open to the general public for their testimony.

Once all the public testimony has been presented, the applicant will have the opportunity to provide rebuttal testimony.

The Hearing Examiner will then close the public hearing.

When will I receive the Hearing Examiner's decision?

Within 14 calendar days after the date the record closes, the Hearing Examiner will issue a written decision regarding the application. Within 7 calendar days of its issuance, the decision will be mailed to the applicant, other parties of record and the neighborhood associations.

Can the decision be appealed?

A Type II decision may be appealed to the Hearing Examiner.

A Type III decision by the Hearing Examiner is final unless a motion is filed for reconsideration or an appeal is filed with Superior Court.

See our *Appeals* handout for more information and fees.

After the Preliminary Cluster Plan is approved, what is next?

After receiving approval of the preliminary plan, the applicant may take one of two courses of actions:

- Bond all the public improvements and apply for a final plat approval
- Complete all the cluster (subdivision) improvements and apply for a final plat approval.

Application for final plat approval by the applicant consists of demonstrating compliance with all conditions of approval of the preliminary subdivision and requirements of the final subdivision requirements under CCC 40.540.070.

Once all the requirements have been met, the signed subdivision mylar plan and all necessary documents must be recorded at the Clark County Auditor's Office.

Please note that other development permits (e.g., building permits) cannot be issued, or sales closed until after the subdivision has been recorded.

How long do I have before I must complete the Final Plat?

Preliminary subdivisions shall be valid for a period of five years after approval, or approved extension by the BOCC, during which time a fully complete application for final plat approval must be submitted.

This time limit may be extended where there is an approved phased development or separate development agreements have been approved. See Clark County Code 40.500.010(B) for more information.

See *Final Plat and Recording Application Packet* for further information about the final plat review process.

See *Final Engineering Plan Review* handout for further information about the final engineering plan review process.

These handouts are available at
www.clark.wa.gov/publicworks/engineering/index.html.

Note: This handout is not a substitute for county code. For more detailed information, please refer to Clark County Code 40.210.020(D) Rural Cluster Development.

Submittal Requirements

Refer to the *Type II, II-A and III Submittal Requirements* handout.

Fee schedule

Fees are required to be paid when the application is submitted.

Type II Short Plat review

Please see our *Short Plat* handout for more information and fees.

Type III Subdivision review

Please see our *Subdivision* handout for more information and fees.

A Legal Lot Determination may be required if a previous legal review has not been completed. Please see our *Legal Lot Determination* handout for more information and fees.