

**BEFORE THE LAND USE HEARINGS EXAMINER  
OF CITY OF VANCOUVER, WASHINGTON**

Regarding an application by Provision Investments, ) **FINAL ORDER**  
LLC for preliminary plat approval to divide 2.34 )  
acres into 19 lots at 918 & 1000 NE 104<sup>th</sup> ) **PRJ-169517/LUP-85290**  
Avenue in the City of Vancouver, Washington ) **(NE 104<sup>th</sup> Ave Subdivision)**

**A. SUMMARY**

1. The applicant, Provision Investments, LLC, requests approval to divide the 2.34-acre parcel into 19 lots for single-family dwellings and ADUs (Accessory Dwelling Units) pursuant to the City’s Infill Development and Narrow Lot standards.

a. The subdivision parcel is located at 918 & 1000 NE 104<sup>th</sup> Avenue; also known as tax assessor parcels 165387000 and 165551000 (the “site”). The site and abutting properties to the north, south, and west are zoned R-6 (Low Density Residential, 6 dwelling units per acre). Properties to the east, across NE 104<sup>th</sup> Avenue are zoned R-18 (Higher Density Residential, 18 units per acre).

b. The site is currently developed with two single-family detached residences and associated accessory structures. The applicant proposes to remove all of the accessory structures and the eastern residence, and divide the site into 19 lots. The applicant proposed to retain the existing western residence on proposed Lot 7 and develop each of the remaining lots with a single-family detached or attached dwelling and an ADU (Accessory Dwelling Unit). All proposed lots comply with the minimum dimensional standards for the R-6 zone, as modified by the Infill Development and Narrow Lot standards.

c. The applicant will dedicate right of way and construct half-width frontage improvements along the portions of NE 104<sup>th</sup> Avenue and NE 10<sup>th</sup> Street abutting the east and north boundaries of the site. The applicant will construct a sidewalk and planter strip on the section of NE 102<sup>nd</sup> Avenue abutting the west boundary of the site. The applicant will extend a new public alley along the south boundary of the site, between NE 102<sup>nd</sup> and NE 104<sup>th</sup> Avenues. The existing home will take vehicular access from NE 10<sup>th</sup> Street. All of the remaining lots will take vehicular access from the proposed public alley. All lots will take pedestrian access from the public pedestrian rights-of-way along NE 10<sup>th</sup> Street, NE 102<sup>nd</sup> Avenue, and NE 104<sup>th</sup> Avenue.

d. The applicant will collect, treat, and infiltrate stormwater runoff from all new impervious surfaces on the site. The City of Vancouver will supply domestic water and sanitary sewer service to the proposed development.

2. The proposed development is exempt from review under the State Environmental Policy Act (“SEPA”) as Minor New Construction. Hearings Examiner Joe Turner (the "examiner") conducted a public hearing to receive testimony and evidence about the application. City staff recommended the examiner approve the preliminary plat subject to conditions. See the Staff Report and Recommendation to the Hearings

Examiner dated February 3, 2026, (the "Staff Report"). The applicant accepted those findings and conditions without exceptions. Three persons testified orally with questions and concerns about the development. Other persons testified in writing. Disputed issues or concerns in the case include the following:

- a. Whether the applicant can be required to retain existing trees on the site;
- b. Whether the proposed homes will be owner occupied or rentals;
- c. Whether the proposed development will impact existing fences abutting the south boundary of the site;
- d. Whether the development makes adequate provisions for maintenance of the proposed alley;
- e. Whether the proposed development will cause or increase stormwater runoff onto adjacent properties;
- f. Whether the development makes adequate provisions for solid waste and recycling collection;
- g. Whether the proposed development will increase the risk of trespass, vandalism, and theft in the area; and
- h. Whether the alley will have prohibited light and noise impacts on adjacent residents.

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

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

1. The examiner received testimony at a public hearing about this application on February 17, 2026. All exhibits and records of testimony are filed at the City of Vancouver. At the beginning of the hearing, the examiner described how the hearing would be conducted and how interested persons could participate. The examiner disclaimed any *ex parte* contacts, bias, or conflicts of interest. The following is a summary by the examiner of selected testimony and evidence offered at the public hearing.

2. Planner Scott Taylor appeared on behalf of the applicant and summarized the proposed development and his PowerPoint presentation.

a. The applicant proposes to divide the 2.34-acre site into 10 lots for detached and attached dwellings pursuant to the City's Infill Development and Narrow Lot standards.

i. The applicant will retain the existing residence in the western portion of the site on proposed Lot 7. The applicant will remove the remaining residence and all other existing structures. The applicant proposed to develop each of remaining lots with a single-family attached or detached residence, an ADU, and a detached garage.

ii. The applicant will dedicate right-of-way and construct frontage improvements as necessary along the site's NE 10<sup>th</sup> Street, NE 102<sup>nd</sup> Avenue and 104<sup>th</sup> Avenue frontages. The applicant will extend a public alley along the south boundary of the site, between NE 102<sup>nd</sup> and 104<sup>th</sup> Avenues. The proposed garages will access the alley.

iii. The Code requires that this development provide a minimum six guest parking spaces; the applicant will provide 23 guest parking spaces on streets abutting the site.

iv. The applicant will remove all of the existing trees on the site to accommodate the proposed development. The applicant will comply with the City's minimum tree density requirements by planting as many trees as possible on the site and paying into the City's tree fund for the remaining tree obligation, equivalent to roughly 20 tree units.

iv. The applicant will collect and treat stormwater runoff prior to infiltrating it on the site.

b. He offered the following responses to issues raised in the public testimony:

i. The applicant intends to sell the lots to individual owners. The future property owners may choose to rent the ADUs.

ii. The applicant will not alter the existing fences between the site and abutting properties to the south, unless the adjacent property owners want to work with the applicant to replace their fences. The applicant will take steps to protect the existing fences during construction on the site.

iii. The alley will be located in a public right-of-way dedicated to the City. Therefore, the City will be responsible for maintenance of the pavement and any vegetation within the right-of-way. The strip of land between the alley pavement and the south boundary of the site will be gravel surfaced or planted with minimal landscaping.

iv. The applicant must remove all of the existing trees on the site in order to construct required improvements. Grading on the site will damage the roots of the existing trees, making it impossible to retain them. In addition, large fir trees drop large branches, which can pose a hazard to people and structures on and abutting the site. Although it may be feasible to retain large trees on large lots, the infill development proposed on this site will require removal of all of the trees.

v. The applicant will grade the site to direct runoff to the proposed storm system. During construction the applicant will excavate the alley, creating a low area where stormwater will collect and infiltrate, preventing runoff from flowing onto adjacent properties south of the site. The applicant will construct the alley with a “V” shaped profile that will direct runoff to collection facilities in the center of the alley. The applicant designed the stormwater system with excess capacity to ensure that it can accommodate runoff from all expected storm events.

vi. With the exception of the existing residence on proposed Lot 7, residents of the primary structures will place their solid waste and recycling containers in the alley for pickup on collection days. Residents of the ADUs and the existing residence will place their solid waste and recycling containers on NE 10<sup>th</sup> Avenue for pickup. The applicant will designate collection points outside of the travel lanes of the alley.

vii. Residents of the proposed development will increase the number of “eyes on the street,” which may help deter theft, vandalism, and similar issues.

3. City planner Anthony Tortorici summarized the Staff Report. He noted that the proposed development is exempt from SEPA review as minor new construction.

4. Susan Saul noted that the Vancouver City Council adopted a Green Building Program on January 12, 2026. Although this project is exempt from this program as small scale residential development, less than 20 units, the proposed development conflicts with the spirit and intent of Goal 4, “Action 4.3” of that program, specifically the tree planting and tree canopy coverage requirements. The proposed development will reduce the overall tree canopy coverage in the Marion Neighborhood, which will impact the quality of life for existing residents by eliminating the beneficial effects of the large mature native Douglas fir trees on the site. The proposed tree plan will never replace the existing trees that are being removed. The applicant should be required to redesign the development to conserve as many trees on the site as possible.

5. Sonia Roll agreed with Ms. Saul’s testimony regarding preservation of trees on the site, especially the trees on the south boundary of the site.

6. Adam Luke objected to the proposed alley on the south boundary of the site. The alley will abut the rear of his property, generating noise and light pollution in close proximity to his bedroom. It will also provide direct access to the rear yards of existing homes, increasing the risk of trespass and theft. He questioned who will be responsible for maintenance of the strip of landscaping between the alley pavement and the property line.

7. Jane Epstein questioned how the applicant will grade the site to ensure that the development does not direct stormwater runoff onto her property, especially during construction, before the stormwater facilities are in place, and how the applicant will protect her existing fence during construction.

8. The examiner closed the record at the end of the public hearing and announced his intention to approve the application subject to the conditions of approval in the Staff Report.

### **C. DISCUSSION**

1. City staff recommended approval of the proposed preliminary plat, based on the affirmative findings and subject to conditions of approval in the Staff Report. The applicant accepted those findings and conditions without exceptions or corrections.

2. The examiner concludes the affirmative findings in the Staff Report show that the proposed preliminary plat does or can comply with the applicable standards of the City Code and Revised Code of Washington, provided the applicants complies with recommended conditions of approval. The examiner adopts the affirmative findings in the Staff Report as his own, except to the extent they are inconsistent with the following findings.

3. Development of the site as will require removal of most of the vegetation on the site, including mature trees. However, the Code does not prohibit such removal. This site and the surrounding area are zoned for single-family residential uses. Most vegetation on the site, including trees, must be removed to develop roads, utilities and building sites at the required density. The examiner acknowledges the benefits provided by the mature vegetation on the site. However, the Code generally does not require applicants to retain trees and other vegetation outside of mapped habitat areas. VMC 20.770.080(A) requires that the applicant provide a minimum tree density of 30 tree units per acre on the site. The applicant can achieve this requirement by retaining existing trees, planting new trees, or a combination of both. When there is insufficient space to accommodate all of the required tree density on a development site, VMC 20.770.080(B)(5)(c) allows applicants to pay into the City's Tree Account. The City will use those funds to purchase, install, and maintain trees elsewhere in the City.

a. This development is not subject to the City's Green Building Program cited by Ms. Saul, as that program was adopted after this application was filed.

4. The proposed development will not cause or increase stormwater runoff onto adjacent properties. The applicant will grade the site to direct stormwater runoff towards proposed catch basins connected to the stormwater system for the site. The applicant will treat runoff collected from roads and other pollution generating surfaces and infiltrate all collected stormwater into the ground. As Mr. Taylor noted, during construction the applicant will excavate the alley on the south boundary of the site, which will prevent runoff from the site from entering adjacent properties to the south.

5. The applicant has no authority to remove or alter existing fences on the boundaries of the site without the permission of the owners of the adjacent properties. The applicant will be liable for any unauthorized damage. Therefore, it is in the applicant's best interest to protect such fences during construction.

6. Noise and light from vehicles operating on the proposed alley will be perceptible to area residents. However, such impacts are consistent with the location of the site in the urban area where City plans call for the sort of development being proposed. Existing fences on the south boundary of the site will mitigate such impacts to some extent, but the Code does not require the applicant to take additional steps to limit such impacts.

7. As Mr. Taylor noted, the applicant will dedicate the alley to the City of Vancouver, which will be responsible for maintenance of the improvements and vegetation within the alley right-of-way.

8. The applicant will designate areas for solid waste and recycling collection containers on pickup days, as required by VMC 20.927.040(A)(3)(g).

9. Neighbors expressed concerns that the homes on the site will become rental units. However such concerns are irrelevant, because they do not relate to any applicable approval criteria. The City does not regulate the ownership of homes.

10. The proposed development will attract additional people to the immediate area, which may increase the potential for trespass, litter, vandalism, and other illegal activities. However the hearing examiner finds that there is no substantial evidence in the record that the future residents of this development are any more or less likely to engage in nuisance or illegal activities than other people.

#### **D. CONCLUSION**

Based on the above findings and discussion, the examiner concludes that PRJ-169517/LUP-85290 (NE 104<sup>th</sup> Ave Subdivision) should be approved, because it does or can comply with the applicable standards of the Vancouver Municipal Code and the Revised Code of the State of Washington, subject to conditions of approval necessary to ensure the final plat and resulting development will comply with the Code.

#### **E. DECISION**

Based on the findings, discussion, and conclusions provided or incorporated herein and the public record in this case, the examiner hereby approves PRJ-169517/LUP-85290 (NE 104<sup>th</sup> Ave Subdivision), subject to the following conditions of approval:

#### **CONDITIONS OF APPROVAL**

##### **Prior to Civil Plan Approval**

1. Upload the civil plan review set showing the revisions requested as well as all necessary reports (geotechnical, hydrology, traffic analysis, road modification, etc.). Include a detailed site plan in the civil plan review set. For questions on these requirements please contact 360-487-7804.
2. Grading plan review fees will be due upon submitting civil plans for review. Contact Permit Center staff at 360-487-7802 to obtain a fee quote.

3. Update all plans to uniformly reflect the correct number of tree units proposed.
4. Pay into the City Tree Fund at a rate of \$850 per tree if required tree units cannot be planted on-site.
5. Utilize *Carpinus carolinia* 'American Hornbeam' street trees instead of the proposed Amalanchier street trees.
6. Optimize tree diversity; include native species and at least 60 percent conifers; utilize insect and disease resistant trees. Include native conifer calculation of 60 percent with tree density calculations. Plant Douglas firs in the large lots such as Lot 1 and Lot 7 in groupings. Plant a mix of Vanderwolf pines and Incense cedars and Alaskan cedars in the other lots.
7. Place a note on civil plans that reads "If any cultural or historical resources are discovered during development, construction shall cease until a qualified archaeologist assesses the find."
8. Provide Side Loader garbage truck turning movements.
9. Pay concurrency modeling fees totaling \$1,500.
10. Include the City of Vancouver standard advanced pavement restoration requirements on the civil drawings for both streets.
11. Complete the sanitary sewer design on the civil drawings. Prepare according to Vancouver's current General Requirements and Details for design and construction. Include in the plans a direct connection from Lot 7 (that contains the existing house to remain) to the main in NE 10th Street and abandonment of the on-site private sewer facilities.
12. Abandoned the lateral that previously served 918 NE 104th Avenue per City of Vancouver requirements.
13. Submit a Construction Stormwater Pollution Prevention Plan (SWPPP).
14. Register all UIC wells are required to be registered with Washington State Department of Ecology.
15. Obtain Washington State Department of Ecology UIC Program rule authorization for all proposed public UIC wells.

#### **Prior to Construction**

16. All fire hydrants for emergency use shall be established and maintained clear for emergency use.
17. Fire apparatus access roads shall be established.
18. Secure construction permits and schedule and attend a pre-construction meeting. Construct new public sewers and service laterals as shown on the approved civil plans. Satisfy construction services testing and inspection requirements and secure construction acceptance.

#### **Prior to Final Grading**

19. Submit a final summary report by the geotechnical engineer of record final summary report by the geotechnical engineer of record that states the project soils were prepared in accordance with the governing geotechnical report and construction documents.
20. Provide a geotechnical report for tree excavating and root system removal with compaction report and provide a letter from the geotechnical engineer showing compliance and summarizing field observations and inspection, prior to footing inspection.

### **During Construction**

21. Install temporary address signage visible and legible from the street fronting the properties for emergency response during construction.
22. Ensure fire hydrants are not obstructed in any manner.
23. Maintain clear fire apparatus access roads for emergency response.
24. Provide fire extinguishers and no smoking signs.

### **Prior to Final Plat Approval**

25. Submit a final plat application. Applications can be found under Building, Planning and Environment on the City of Vancouver website, [www.cityofvancouver.us](http://www.cityofvancouver.us).
26. Properly abandon any on-site sewage system discovered during development with written notice provided to Clark County Public Health and mark locations on the final plat. Describe action taken to legally abandon the system with pumper's receipt attached.
27. Provide a copy of the sanitary sewer final acceptance letter.
28. Properly decommission any wells identified during development by a Washington licensed well driller. Provide written notice to Clark County Public Health and mark well locations on final plat.
29. Provide a copy of the water final acceptance letter.
30. Comply with all requirements set forth on the civil drawings for both streets, pursuant to the minor road modification approval.
31. Provide the following improvements to NE 10th Street per City of Vancouver standards:
  - Dedicate additional right of way as necessary to obtain the 27-foot half-width right of way, per T10-14.
  - Install additional street pavement as necessary to obtain 36-foot street width, per T10-14. It is important to establish 36 feet of paved width to allow much-needed on-street parking on both sides of the street.
  - Install curb, gutter, planter strip, and detached sidewalk, per T10-14.
  - Install standard double-directional pedestrian ramps on all street corners.
  - Street lighting must be installed or upgraded to current standards, see street lighting comments below.
  - Utility trenching must be restored per T05-04A&B and T05-05. Asphalt restoration shall meet T05-01A&B and T05-07. A single continuous width restoration is required.
  - Install traffic control devices as warranted, and storm drainage as required by the city stormwater ordinance.
32. Provide the following improvements to NE 102nd Avenue per City of Vancouver standards:
  - No additional right of way or paved street width is required along the project frontage of NE 102nd Avenue. The existing curb may be removed and replaced, or it may be protected in place. In any case, the paved width of the street must remain at least 36 feet wide.
  - Install new sidewalk and planter strip, per T10-14.
  - Install standard double-directional pedestrian ramps on all street corners. The alignment of NE 10th Street is offset at the intersection with NE 102nd Ave. Due

- to this offset, the east-west ramp constructed at the southeast corner of NE 102nd Ave and 10th Street must align with the existing ramp at the northwest corner. Contact staff if there are any questions regarding this item.
- Street lighting must be installed or upgraded to current standards, see street lighting comments below.
  - Install traffic control devices as warranted, and storm drainage as required by the city stormwater ordinance.
33. Provide the following improvements to NE 104th Avenue per City of Vancouver standards:
- Dedicate public right of way as necessary to provide 30 feet of half-width right of way, per city standard plan T10-13.
  - Install additional pavement width as necessary to provide 19 feet half-width paved street, per T10-13.
  - Install curb, gutter, planter strip, and detached sidewalk, per T10-13.
  - Install standard double-directional pedestrian ramps on all street corners.
  - Street lighting must be installed or updated to current city standards. See street lighting comments below.
  - Utility trenching shall be restored per T05-04A&B and T05-06A&B (CDF). Asphalt restoration shall meet T05-01A&B and T05-07. A single continuous width restoration is required.
  - Install traffic control devices as warranted, and storm drainage as required by the city stormwater ordinance.
34. Provide the following items for the public alley per City of Vancouver standards:
- Dedicate a minimum of 20 feet of public right of way, per T10-19.
  - Install a paved alley surface with a minimum paved width of 16 feet, per the conditions of the approved road modification and/or T10-19.
  - Install standard driveway approaches where the alley intersects with the public streets.
  - Install “No Parking” signs on both sides of the alley.
35. Notes Required on Plat:
- If any cultural resources are discovered while undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia and the City of Vancouver Community Development Department shall be notified. Failure to comply with these State requirements may constitute a Class C felony, subject to imprisonment and/or fines.
  - Pursuant to VMC 20.915, Park, School and Traffic impact fees will be calculated at time of building permit application and shall be due and payable at the time the building permit is issued, except as provided in Section 20.915.075. Notwithstanding the foregoing, all impact fees shall be recalculated for building permit applications that have not been issued within one year of submittal.
  - All lots in this subdivision are subject to Development standards VMC 20.920 Infill Development for the R-6 zoning district.
  - Development within this subdivision is subject to an approved tree plan. Tree removal is subject to approval by the City of Vancouver. Street trees must be planted prior to occupancy per the approved plan.
  - Alternative Process for Vacation or Modification of Dedicated Easements (VMC 20.320.080 and RCW 64.04.175): Easements dedicated or granted to the City of Vancouver on this plat may be modified by City Council using the

easement vacation process and by recording of an updated plat. A Type II or Type III plat alteration process shall not generally be required to modify and/or vacate City of Vancouver easements on this plat. All other easements created by this plat may be amended through a Type II plat alteration process and recording an updated plat.

- An easement is hereby reserved under and upon the exterior six feet of all boundary lines of the lots and tracts adjacent to public/private roads for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, and water. All lots containing pad mount transformers are subject to the minimum clearances as defined by Clark Public Utilities Construction standards. All proposed building designs on these lots must provide adequate clearance for all combustible materials. Also, sidewalk easements, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six feet along the front boundary lines of all lots and tracts adjacent to public streets.

**Prior to Issuance of any Building/Development Permits**

- 36. Ensure proposed dwelling units meet development standards of the R-6 zoning district.
- 37. Demonstrate compliance with additional development standards of 20.410.050(B)(1).
- 38. Pay all required fees, including impact fees.

**Prior to Issuance of Certificate of Occupancy**

- 39. Pay application fees and secure sewer connection permits. Connect new building sewers according to the Building Department's plumbing code.

DATED this 3rd day of March 2026



---

Joe Turner, AICP  
City of Vancouver Land Use  
Hearings Examiner

**NOTE:** *Only the decision and the conditions of approval are binding on the applicants as a result of this order. Other parts of the final order are explanatory, illustrative and/or descriptive. They may be requirements of local, state, or federal law, or requirements which reflect the intent of the applicant, the city staff, or the Examiner, but they are not binding on the applicants as a result of the final order unless included as a condition.*

**APPEAL:** Decisions of the Hearings Examiner may be appealed to the City Council within 14 days after written notice of the Hearings Examiner decision pursuant to the procedures set out in VMC 20.210.130

In the absence of a valid appeal within the timelines specified above, the Hearings Examiner's decision shall become final and conclusive.