

PNW INVESTORS LLC

August 1, 2023

City of Marysville
Community Development Department
501 Delta Avenue
Marysville, WA 98270

Attn.: Mr. Chris Holland, Assistant Community Development Director
Ms. Emily Morgan, Senior Planner

RE: PA22-040
87th & 40th PRD
Partial Response to Technical Review #1

Dear Mr. Holland and Ms. Morgan:

On behalf of the 87th & 40th JV, this correspondence is written in partial response to the City's Technical Review #1 dated October 21, 2022 ("Technical Review #1 Memo").

The purpose of this correspondence is to address that portion of the City's 1st technical review comments regarding the 40th Street NE Arterial CIP and 87th / 40th Roundabout, and to propose for the City's consideration PRD and SEPA approval conditions that provide the Applicant the ability to construct the portion of the 40th Street NE Arterial CIP through the 87th & 40th PRD Property, while being compensated in a manner that is generally consistent with nexus and proportionality requirements expressed under MMC 22E.030 and RCW 43.21.

1. The City has established certain regional capital improvement projects ("CIP's") for the (i) creation of the 40th Street NE Arterial as a new road between 83rd Avenue NE and 87th Avenue NE, (ii) the expansion of 87th Avenue NE to arterial standards; and (ii) the construction of a roundabout at the intersection of 87th Avenue NE and 40th Street NE.

As City-sponsored CIP's, they provide benefit to the greater Whiskey Ridge Subarea and the City. See TIA – the 87th & 40th Project will contribute approximately 3% of total traffic trips affecting the total regional CIP at build-out. The City has not elected to fund the construction of said road improvements.

2. Development of the Stevens Ridge Project (City File No. PA21-038) and the Havenwood Project (City File No. PA21-052) will provide dedication of land for the portion(s) of 40th Street NE Arterial located within their property, but will not construct any portion of the 40th Street NE Arterial. Therefore, pending a legislative decision by the City to fund the construction of CIP, the 40th Street NE Arterial will not be a functional through-road.

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3. Traffic counts for the 87th & 40th PRD Project, as established by our traffic engineer (Kimley-Horn) do not justify the requirement for construction of either (i) a primary East-West arterial to adequately service the Project's vehicular traffic, or (ii) a roundabout at the intersection of 87th Avenue NE & 40th Street NE. *See Kimley Horne TIA.*

Absent construction of the entire through-segment of the 40th Street NE Arterial from 67th to 87th, the only east-west road design necessary to serve the South Phase (i.e., the 53 building lots on the portion of the 87th & 40th PRD Project located South of the 40th Street NE Arterial) from either a City regulatory or SEPA nexus-and-proportionality analysis basis is the construction of a 2-lane minor neighborhood road. The need to provide vehicular access to the South Phase from either 87th Avenue NE or the 40th Street NE Arterial results from the decision of the City to not require internal neighborhood street connectivity between the South Phase and the Havenwood Project, and thus can be considered not to be of the direct result of the property owner's actions.

4. Given that (i) the Project's traffic impacts do not justify construction of 40th Street NE Arterial to provide access to the South Phase; and (ii) the City will not elect to fund the construction of the 40th Street NE Arterial CIP, it is appropriate to provide for either:
 - Short-term access to 87th Avenue NE for the Project's South Phase pending the City's formal decision to proceed with construction of the 40th Street NE Arterial CIP; or:
 - Should the City be desirous of fully constructing the portion of the 40th Street NE Arterial CIP through the 87th & 40th Project in the near term, to compensate the Applicant for the portion of the 40th Street NE Arterial's road construction cost and dedication that is in excess of the nexus and proportionality required under SEPA.
5. Preliminary cost estimates to construct the 40th Street NE Arterial through the site (not including the 87th & 40th Roundabout) is approximately \$1,514,368.42. *See attached road construction cost estimate from Omni Contracting Solutions.*

Please note that the attached cost estimate does not include (i) the cost of acquisition of the underlying land required; (ii) the cost of a separate storm detention system; (iii) the cost of the additional storm detention volume required if incorporated into the 87th & 40th PRD's storm detention system, (iv) soft costs; or (v) taxes. Therefore, it is preliminary in nature and provided for discussion.

As currently designed, the 87th & 40th PRD Project's storm detention vaults are sized for the storm detention associated with the both (i) impervious surfaces created by the Project and (ii) the impervious surface resulting from construction of 40th Street NE.

- If 40th Street NE is not constructed as part of the 87th & 40th Project, Tract G is demonstrated to provide adequate horizontal area for placement of storm detention for the

future construction of the portion of the 40th Street NE Arterial CIP being dedicated by the Project. Tract G would therefore be included in the area to be conveyed to the City for the 40th Street NE Arterial CIP.

- If 40th Street NE is constructed as part of the 87th & 40th PRD, then Tract G would remain an open space tract, and the 40th Street NE's storm detention volume would be incorporated into the proposed storm detention system, with a prorata share compensation reimbursement based upon volume of detention required.

6. Estimated Dedication Area, Traffic Mitigation, and 40th Street Arterial Construction Costs.

- The total SF of right-of-way required for the 40th Street NE Arterial is calculated as follows:

40th Street and West Half of 87th & 40th Roundabout: 74,939 SF

Storm Detention Area (Tract G): 8,177 SF

Total Area Required for Construction of 40th Street NE Arterial: 83,116 SF

- The estimated fair market value ("FMV") of the required right-of-way is based on the Applicant's recent purchase of Tax Parcel #005907000-21300 as of 6-15-2023.

With a Purchase Price of \$1,550,000 and a total of 195,625 SF (per survey), the average price per SF for raw, unentitled and unimproved development land within the 87th & 40th PRD Project is approximately \$7.92.

Alternatively, the appraisal dated March 11, 2022 regarding dedication of 40th Street NE R-O-W for the Havenwood project, the estimated FMV per SF at \$9.26 per SF (\$225,000 FMV divided by 24,289 SF dedicated).

Total FMV for the portion of the 87th & 40th PRD Project required for dedication of the 40th Street NE Arterial and the West half of the 87th Roundabout (inclusive of storm detention area) is thus $83,116 \times \$9.26 = \$769,654.16$

- With a total forecasted 108 PM Peak hour trips (per Kimley Horne TIA), and a traffic mitigation fee of \$6,300 per PM Peak Hour trip, the total traffic mitigation fee for the 87th & 40th PRD Project is estimated to be \$680,400.
- The forecasted use of the 40th Street NE Arterial CIP by the 87th & 40th PRD Project is 107 of the total 1,522 trips at the future 87th & 40th Roundabout. That equates to 7.03% of total trips. *See Kimley Horne TIA, Attachments B-2 and C-6.*

Given the above information, the off-setting compensation for dedication of the required right-of-way can be approximately calculated (for discussion purposes) as follows:

Estimated Total Traffic Mitigation Fees:	\$680,400.00
Approx. FMV of Required Right-of-Way Dedication:	<u>\$769,654.16</u>
Estimated Uncredited Traffic Mitigation Balance:	\$ 89,254.16

When the estimated cost of constructing 40th Street NE Arterial is considered, the compensation deficit is estimated as follows:

40 th Street NE Arterial Preliminary Construction Cost:	\$ 1,514,368.42
Less Estimated Uncredited Traffic Mitigation Balance:	<u>\$ 89,254.16</u>
<i>Estimated Uncompensated Construction Cost:</i>	<i>(\$1,425,114.26)</i>

The above analysis demonstrates that dedication and full construction of this segment of the 40th Street NE Arterial CIP by the Applicant as part of the 87th & 40th PRD Project can be reasonably concluded to be inconsistent with SEPA nexus and proportionality requirements, absent provision of supplemental compensation from the City (in addition to credits against traffic mitigation fees once fully expended).

To avoid an undue nexus and proportionality burden being placed on the 87th & 40th Project, we therefore propose the following solutions for the City's consideration:

1. Dedication of 40th Street NE Arterial R-O-W and Roundabout area with Temporary Access to 87th Avenue for South Phase.

- The Applicant will dedicate the 40th Street NE Arterial right-of-way and the western half of the 87th & 40th Roundabout pursuant to MMC 22D.010.060 in exchange for a credit against traffic mitigation fees. The area proposed to be dedicated would include sufficient area for (i) storm detention (as calculated under currently adopted regulations) to provide for the City's eventual construction of 40th Street NE; and (ii) the West Half of the 40th Street NE Roundabout, inclusive of tapers.
- A temporary access to 87th Avenue NE will be provided to the South Phase pending construction of the 40th Street NE Arterial at a later date by the City. This temporary access would be removed upon construction of 40th Street NE Arterial CIP by the City at a later date and upon provision of alternative permanent access to the South Phase.

2. Dedication of 40th Street NE Arterial R-O-W and Local Access Street Construction to South Phase.

- The Applicant will dedicate the 40th Street NE Arterial right-of-way pursuant to MMC 22D.010.060 in exchange for a credit against traffic mitigation fees. The area proposed to be dedicated would include sufficient area for (i) storm detention (as calculated under currently adopted regulations) to provide for the City's eventual construction of 40th Street NE Arterial; and (ii) the West Half of the 40th Street NE Roundabout, inclusive of tapers.
- In the interim period of time until the City elects to proceed with funding of the construction of the balance of the 40th Street NE Arterial through to 83rd and the Roundabout at the intersection of 87th Avenue NE and 40th Street Arterial, the only use of the portion of the 40th Street NE Arterial right-of-way within the 87th PRD Project will be for access to the 53 housing units within the South Phase.
- Pursuant to City regulations this would equate to the need for a Local Access Street, fifty (50) feet in width, per Section 3-200 Road Classification. Given that the Local Access road only service the South Phase of the 87th & 40th PRD development, pedestrian facilities can be reasonably limited to the Southerly side of 40th Street NE, with the balance of the construction of the 40th Street NE Arterial to occur upon a City decision to fund its construction.

The proposed modified Local Access Street would be constructed on the South side of the 40th Street NE Arterial right-of-way dedication, so as to avoid the City having to remove or replace said improvements upon later construction of the remaining Arterial construction by the City.

Pending the City's construction of the 87th & 40th Roundabout, improvements to the intersection of 40th Street NE and 87th Avenue NE would be limited to a temporary left turn pocket, a stop sign and pedestrian crossing north-south.

See attached plans.

- The construction of an east-west neighborhood minor collector road within the prism of the 40th Street Arterial Right-of-Way meets with the nexus and proportionality doctrine of SEPA for the following reasons:
 - The Havenwood Project and the Stevens Ridge Project *will not* be constructing their portion(s) of the 40th Street NE Arterial; therefore, interim use of the road is solely for the benefit of the South Phase of the 87th & 40th PRD Project.

- Future funding for construction of the 40th Street NE Arterial is at the discretion of the City and is not determined at this time.
- The 87th & 40th PRD Project's traffic counts do not justify a requirement to construct either (i) the 40th Street NE Arterial as a 100-foot wide arterial or (ii) the Roundabout at the intersection of 87th Avenue NE and 40th Street NE. The requirement for construction of vehicular access to service the South Phase is therefore reasonably limited under SEPA to the Project's proportional impacts upon the City's road system.
- The 87th & 40th Roundabout would not be constructed by the Project. The Roundabout would be constructed by the City at a later date upon completing acquisition of sufficient property on the East side of 87th Avenue NE

3. Credit Against Bonus Dwelling Units Purchased for Construction of the 40th Street NE Arterial.

If the City requests full construction of the portion of the 40th Street NE Arterial CIP through the Project in addition to dedication of the underlying right-of-way, the Applicant requests the City to additionally compensate the Applicant for any un-credited portion of the right-of-way dedication and the actual documented construction cost of the 40th Street NE Arterial by means of off-setting credit against the Bonus Dwelling Units acquired by the Project pursuant to MMC 22C.090.030.

- The Applicant will dedicate the 40th Street NE Arterial CIP right-of-way pursuant to MMC 22D.010.060 in exchange for a credit against traffic mitigation fees. The area proposed to be dedicated would include sufficient area for the West Half of the 40th Street NE Roundabout, inclusive of tapers.
- Construction of the portion of the 40th Street NE Arterial through the Project (not including the 87th & 40th Roundabout) qualifies as a regional improvement pursuant to MMC 22.D.010.070.
- Storm detention for the portion of 40th Street NE Arterial through the 87th & 40th Project would be included in the Project's storm detention vault. Tract G would remain as part of the North Phase's open space.
- The Applicant's actual cost for construction of the portion of 40th Street NE Arterial through the Project would be credited against (i) any remaining uncredited transportation mitigation fees and (ii) the Bonus Dwelling Units purchased by the Project pursuant to MMC 22C.090.030(4).3.a The prorata share of the storm detention volume attributable to the 40th Street NE Arterial would be used to calculate the amount of Storm Detention Vault Construction Cost attributable to the credit.

- MMC 22C.090.030(4).3.a provides for Bonus Dwelling Units purchased to be utilized for existing capital improvement projects. Bonus Dwelling Units are currently \$25,000 per credit purchased.
- Application of the Bonus Dwelling Units to the Applicant's construction of the portion of the 40th Street Arterial CIP through the Project are justified pursuant to the express requirements of MMC 22C.090.030(4).3.a.
- The 87th & 40th PRD Project proposed purchasing a total of 37 bonus dwelling units, or a total of \$925,000.
- The cost differential between full construction of the 40th Street NE to arterial standards (\$1,425,114.26) and the bonus dwelling unit credit of \$925,000 (i.e., approx. \$500K) is approximately equal to the cost of constructing a two-lane local access road to provide access to the southerly 53-lots of the Project.

Thus, the proposal generally results in meeting the test of proportionality, as well as nexus between the dedication of right-of-way and construction of the CIP by the Applicant and the benefit derived by the City.

Under this scenario, the 87th & 40th Roundabout would not be constructed by the Project. The Roundabout would be constructed by the City at a later date upon completing acquisition of sufficient property on the East side of 87th Avenue NE

Summary:

The analysis set forth above and supporting documentation reasonably demonstrates that a requirement to construct the 40th Street Arterial CIP through the Project as a condition of approval would (i) not be necessary for the 87th & 40th Project to meet concurrency tests; (ii) be inconsistent with SEPA nexus and proportionality requirements; and (iii) constitute an undue financial burden upon the 87th & 40th Project.

We respectfully request the City's consideration of the alternatives set forth above as reasonable methods of resolving the issue at hand, and in good faith, look forward to the City's response.

Thank you for your assistance and consideration of this correspondence.

Best,



Michael Reid
Managing Director
MR/mr

Ltr to Holland and Morgan, City of Marysville
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8/1/2023
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cc: Brent Kirk, 87th & 40th JV Member
John and Joel Haack, 87th & 40th JV Members
Ben Madeo and Lafe Hermansen, Core Design
Brad Lincoln, Kimley-Horn
Dean Williams and Duana Kolouskova, Johns Monroe Mitsunaga & Kolouskova PLLC

Attachments:

- Omni Contracting Solutions Construction Cost Estimate for 40th Street NE Arterial
- Kimley-Horn Updated TIA dated February 9, 2023.



Project: 40th Street NE Construction Cost Estimate, City of Marysville

Plan Date: Core 9/15/22

Client Reid Development Group LLC

Bid Date 4/20/2023

9.4%	No.	Description	Quantity	Unit	Price	Subtotal	Tax	Total
Mobilization						\$26,407.63	\$0.00	\$26,407.63
	1	Mobilization	1	ls	26,407.63	\$26,407.63	\$0.00	\$26,407.63
Erosion Control						\$38,454.00	\$0.00	\$38,454.00
	2	Rock Construction Entrance	1	tons	5,500.00	\$5,500.00	\$0.00	\$5,500.00
	3	Silt Fence (ROW)	1,800	lf	6.25	\$11,250.00	\$0.00	\$11,250.00
	4	Interceptor Swale w/Check Dams	750	lf	4.50	\$3,375.00	\$0.00	\$3,375.00
	5	Temporary Sediment Trap	1	ea	3,000.00	\$3,000.00	\$0.00	\$3,000.00
	6	Temporary Culvert	80	lf	15.00	\$1,200.00	\$0.00	\$1,200.00
	7	CB Inlet Protection	11	ea	89.00	\$979.00	\$0.00	\$979.00
	8	Straw Bales	100	ea	39.00	\$3,900.00	\$0.00	\$3,900.00
	9	Water Truck	5	trip	350.00	\$1,750.00	\$0.00	\$1,750.00
	10	Street Sweeper	50	hr	150.00	\$7,500.00	\$0.00	\$7,500.00
Demo/Clearing						\$36,480.00	\$0.00	\$36,480.00
	11	Demo, Clear and Grub	1	ls	36,480.00	\$36,480.00	\$0.00	\$36,480.00
Grade/Excavate						\$75,367.50	\$0.00	\$75,367.50
	12	Cut & Fill	1	ls	75,367.50	\$75,367.50	\$0.00	\$75,367.50
Strip						\$191,250.00	\$0.00	\$191,250.00
	13	Strip and Export	4,500	tcy	42.50	\$191,250.00	\$0.00	\$191,250.00
Traffic Control						\$15,498.00	\$0.00	\$15,498.00
	14	Traffic Control	1	ls	15,498.00	\$15,498.00	\$0.00	\$15,498.00
Storm Onsite						\$136,764.67	\$0.00	\$136,764.67
	15	Type 1 - Catch Basin	12	ea	1,986.68	\$23,840.16	\$0.00	\$23,840.16
	16	12" PVC SD Pipe	823	lf	82.87	\$68,202.01	\$0.00	\$68,202.01
	17	Storm - Import Select Backfill	750	fon	33.35	\$25,012.50	\$0.00	\$25,012.50
	18	Storm - Export Unsuitable	500	tcy	24.00	\$12,000.00	\$0.00	\$12,000.00
	19	Clean Storm System	1	ls	3,510.00	\$3,510.00	\$0.00	\$3,510.00
	20	Jack and Raise to ATB	12	ea	350.00	\$4,200.00	\$0.00	\$4,200.00
Water Onsite						\$158,353.42	\$14,885.23	\$173,238.65
t	21	Connect to Existing 8" - 87th	1	ls	19,511.57	\$19,511.57	\$1,834.09	\$21,345.66
t	22	8" Class 52 Ductile Iron	785	lf	89.53	\$70,281.05	\$6,606.42	\$76,887.47
t	23	Misc Fittings	1	ls	17,200.00	\$17,200.00	\$1,616.80	\$18,816.80
t	24	Blowoff Assembly	1	ea	5,531.50	\$5,531.50	\$519.96	\$6,051.46
t	25	Temporary Blow-off	1	ea	1,500.00	\$1,500.00	\$141.00	\$1,641.00
t	26	Water - Import Select Backfill	550	ton	33.35	\$18,342.50	\$1,724.20	\$20,066.70



t	27	Water - Export Trench Spoils (Onsite)	450	tcy	24.00	\$10,800.00	\$1,015.20	\$11,815.20
t	28	Saw Cut, Remove and Dispose	1	ls	2,500.00	\$2,500.00	\$235.00	\$2,735.00
t	29	Asphalt Patch	10	ton	250.00	\$2,500.00	\$235.00	\$2,735.00
t	30	Flush, Test and Purity	785	lf	6.48	\$5,086.80	\$478.16	\$5,564.96
t	31	Jack and Raise Valves to ATB	6	ea	350.00	\$2,100.00	\$197.40	\$2,297.40
t	32	Jack and Raise Valves to HMA	6	ea	500.00	\$3,000.00	\$282.00	\$3,282.00
Curb/Sidewalk Onsite						\$221,430.37	\$0.00	\$221,430.37
	33	Grade for Curb	1,747	lf	11.01	\$19,234.47	\$0.00	\$19,234.47
	34	Curb & Gutter	1,747	lf	19.50	\$34,066.50	\$0.00	\$34,066.50
	35	Grade for Sidewalks	18,990	sf	1.51	\$28,674.90	\$0.00	\$28,674.90
	36	4" x 12' Wide Sidewalk	2,110	sy	53.95	\$113,834.50	\$0.00	\$113,834.50
	37	Compt Crushed Base for Curb	200	ton	36.60	\$7,320.00	\$0.00	\$7,320.00
	38	Compt Crushed Base for Sidewalk	500	ton	36.60	\$18,300.00	\$0.00	\$18,300.00
Streets Onsite						\$598,164.80	\$0.00	\$598,164.80
	39	Grade for Road -(Rough)	1	ls	28,150.00	\$28,150.00	\$0.00	\$28,150.00
	40	Fine Grade for Asphalt Paving	1	ls	8,640.00	\$8,640.00	\$0.00	\$8,640.00
	41	Saw Cut, Remove and Dispose	550	lf	14.90	\$8,195.00	\$0.00	\$8,195.00
	42	3" HMA CI 1/2" PG64-22	6,830	sy	24.56	\$167,744.80	\$0.00	\$167,744.80
	43	6" Asphalt Treated Base	6,830	sy	42.50	\$290,275.00	\$0.00	\$290,275.00
	44	Compt Gravel Base for Road	2,600	ton	36.60	\$95,160.00	\$0.00	\$95,160.00
Miscellaneous						\$1,200.00	\$112.80	\$1,312.80
t	45	Type III Barricade	2	ea	600.00	\$1,200.00	\$112.80	\$1,312.80
PROJECT TOTAL (Onsite, Offsite)						\$1,499,370.39	\$14,998.03	\$1,514,368.42