

December 18, 2006



To: Interested persons

Re: Wood Trails and Montevallo Subdivisions  
Final Environmental Impact Statement

The Public Hearing before the City Hearing Examiner on the Preliminary Plat and Re-zone Applications for the Wood Trails and Montevallo Subdivisions has been rescheduled. The Public Hearing is now scheduled for 2 days, Wednesday, February 28<sup>th</sup>, 2007, and Thursday, March 1<sup>st</sup>, 2007, (7 p.m. to 10 p.m.), at Carol Edwards Center, gymnasium, 17401-133rd Avenue NE, Woodinville, WA 98072. Questions regarding the Public Hearing should be directed to Susie McCann, Manager (susiem@ci.woodinville.wa.us), phone #(425) 489-2754.

Since a number of citizens have raised questions regarding the time for filing an appeal of the Wood Trails and Montevallo Subdivisions Final Environmental Impact Statement, the following statement is issued as public information.

The State Environmental Protection Act ("SEPA") allows for administrative appeals at the local agency level and for judicial appeals of a Final Environmental Impact Statement ("FEIS").

The provision for an administrative appeal of a FEIS at the local agency level is not required under SEPA. The Development Services Director has recently issued an Administrative Interpretation of the Woodinville Environmental and Development Regulations and determined that there is no local ordinance providing for an administrative appeal of a FEIS. This means that a judicial appeal of the Wood Trails and Montevallo Subdivisions FEIS is the only available means of appeal.

The rules for judicial appeals of an FEIS can be found in the Washington Administrative Code at WAC 197-11-680 (4). In part, these rules state the following:

"(b) When SEPA applies to a decision, any judicial appeal of that decision potentially involves both those issues pertaining to SEPA (SEPA issues) and those which do not (non-SEPA issues). RCW 43.21C.075 establishes time limits for raising SEPA issues, but says

that existing statutes of limitations control the appeal of non-SEPA issues. The statute contemplates a single lawsuit."

"(c) If there is a time limit established by statute or ordinance for appealing the underlying governmental action, then appeals (or portions thereof) raising SEPA issues must be filed within such time period."

The decision of the Woodinville City Council to approve or deny a re-zone or subdivision application is a land use decision which may be appealed by following the provisions of the Land Use Petition Act ("LUPA") found in RCW 36. 70C. A LUPA appeal must be served and filed within 21 days of the decision by the City Council. SEPA claims, including any claims that the FEIS is procedurally or substantively flawed, may be included within the LUPA appeal. Any SEPA claims not included within the appeal of the decision to approve or deny the re-zone or to approve or deny the subdivision application will likely be waived. A judicial appeal of only the FEIS without an appeal of the underlying project application is not allowed by statute.

Summary: Any appeal of the Wood Trails and Montevallo Subdivisions Final Environmental Impact Statement is timely made only if included in a timely served and filed LUPA appeal of the underlying decision to either approve or deny the requested rezone or the requested subdivision application. The LUPA appeal must be served within 21 days of the decision by the City Council. The City Council will make its decisions after reviewing the recommendations made by the Hearing Examiner.

The foregoing message is not intended as legal advice and anyone considering an appeal of the Wood Trail and Montevallo Subdivisions Final Environmental Impact Statement should consult their own attorney for legal advice.

*Cindy Baker*  
by *CHJ*  
Cindy Baker  
Interim Development Services Director