

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF WOODINVILLE**

In the Matter of the Application of	)	FILE NO. ZMA2004-053 and
	)	PPA2004-054
Phoenix Development for the Wood Trails	)	
	)	
Rezone and Preliminary Plat Application	)	FINDINGS, CONCLUSIONS, AND DECISION

**SUMMARY OF PROPOSAL**

**Proposal:** The applicant seeks approval of a rezone from R-1 to R-4 along with a preliminary plat approval to allow the subdivision of approximately 38.7 acres into 66 single-family residential lots with a request for surplus density of 19 lots to be transferred to another site. There will also be 21.9 acres of open space.

**Decision:** The Hearing Examiner recommends approval of the rezone and also approves the preliminary plat with a reduced density transfer.

**SUMMARY OF RECORD**

**Hearing Date:**

This matter was scheduled for hearing on February 28, 2007. Because of a possible defect in the public notice and also because the staff report was not available the required number of days before the hearing, the matter was continued until March 14, 2007. It was continued again until April 5, 2007. No testimony was taken on February 28<sup>th</sup>, but testimony was taken on both March 14<sup>th</sup> and April 5, 2007.

**Testimony:**

A full list of those who provided oral testimony is attached to this decision. At the hearings on this matter, the applicant, Phoenix Development, was represented by G. Richard Hill, Attorney at Law; McCullough Hill, PS, 701 5<sup>th</sup> Avenue, Suite 7220; Seattle, WA 98104. Some of the citizens who testified were organized in a group called "Concerned Neighbors of Wellington" and they were represented by J. Richard Aramburu, Attorney at Law; Aramburu-Eustis; 505 Madison Street, Suite 209; Seattle, WA 98104.

**Exhibits:**

A full exhibit list is attached to this decision. The record remained open until April 26, 2007, to allow further information to be submitted.

## **PROCEEDURAL ISSUES**

Several procedural issues were brought up during the course of the Hearing Examiner's consideration of this matter both in testimony and through exhibits. The following findings and conclusions are hereby made on some of those procedural issues.

1. An objection was made to the consolidation of the request for the rezone with the application for the preliminary plat. The Woodinville Municipal Code (WMC) states at WMC 20.80.020 (3) that, "unless the applicant requests otherwise, a subdivision or short subdivision application shall be processed simultaneously with application for variances, conditional uses, street vacations, and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to those actions permit simultaneous processing." The applicant did not request separate processing of these two matters and the Hearing Examiner concludes that the rezone qualifies as a quasi-judicial action under the ordinance. Therefore it was proper for these two actions to be heard together. This is in accord with RCW 58.17.070.

2. The Concerned Neighbors of Wellington (CNW) argue that the rezone application should not be considered vested and should be considered under the regulations in effect at the time of the hearing rather than under previous regulations. The City and Phoenix contend that the rezone and preliminary plat applications were deemed complete on July 8, 2004, and a letter was sent to that effect. Exhibit #13 and Exhibit #20. The Hearing Examiner concludes that the letter established vesting on that date and the applications are therefore to be considered under the codes and regulations in effect on July 8, 2004. This is consistent with the process set forth in RCW 36.70B.070. See also Schultz v. Snohomish County, 101 Wn.App 693, 701 (2000). This is also consistent with the Supreme Court's decision in Association of Rural Residents v. Kitsap County, 141 Wn.2d 185, 193, where the Court held that when a preliminary plat application vested, the accompanying planned unit development application vested also because it was the entire application that vested not just the preliminary plat. Planned unit developments are considered rezones under Washington law. Lutz v. Longview, 83 Wn.2d 566 (1979). Therefore the applicant has the right to have the entire application heard under the rules in effect on July 8, 2004, when the City determined that the application was complete.

3. This application was heard in the same time frame as the application for the Montevallo rezone and preliminary plat. The two projects were combined for the preparation of an environmental impact statement but were separate applications, filed on different dates, and were considered at separate hearings. As a courtesy to those who came to testify, the Hearing Examiner allowed testimony at each hearing on either proposal. They were not consolidated, however, into one application and are being treated by the City as separate applications. This is allowed under WMC 20.08.020(1) which would require their consolidation if the two properties were contiguous. They are not contiguous so consolidation was not required.

4. CNW objected several times throughout the proceedings about possible defects in the public notice. The first objection resulted in both plat hearings being continued from February 28<sup>th</sup> and March 1, 2007, to March 14<sup>th</sup> and 15, 2007, with the Wood Trails proposal being continued again until April 5, 2007. The main objection was to the misidentification of the Wood Trails property, but other objections were made, also. One objection was that the final hearing on April 5, 2007, was moved, at the last minute, from the Woodinville City Council Chambers to the Carol Edwards Center Gymnasium which is approximately a block away. This was done because of the size of

the crowd. The combined hearings lasted for almost 15 hours. A large number of people testified and many people testified more than once. The two proposals have been in the public's eye for an extended period of time and it would be difficult for the Hearing Examiner to conclude that anybody was unable to present written or oral testimony because of the alleged defects in the public notices. In fact, no one has come forth with any convincing argument that they were prejudiced by any defect in notice.

5. CNW also alleges that this zoning application cannot be approved because it is an illegal spot zone. Washington Case Law provides a concise definition of illegal spot zoning:

*Spot zoning is an action by which an area is carved out of a larger area and specially zoned for use totally different from, and inconsistent with, the surrounding land and not in conformance with the comprehensive plan. Save a Neighborhood Environment v City of Seattle, 101Wn.2d 280 (1984).*

The proposal's compliance with the comprehensive plan will be examined later in this decision. The Hearing Examiner concludes, however, that this is not an illegal spot zone because the use, detached single-family residential is not totally different from and inconsistent with surrounding properties which are also developed with detached single-family residential uses. The difference is density, not use. The Hearing Examiner finds that CNW has drawn too fine a line in attempting to find incompatibility. Both R-1 uses and R-4 uses are considered low density residential under Woodinville's Comprehensive Plan and would be considered as such under virtually every other comprehensive plan in any urban area in the State of Washington. Therefore, the Hearing Examiner concludes that this re-zone is not an illegal spot zone.

6. CNW argues that the hearing on this matter and any decision is premature because final plans and certain studies have not yet been completed. As an example, the applicant submitted a conceptual plan at the hearing on March 14, 2007, demonstrating how the project may look if all proposed conditions of approval recommended by staff were imposed. CNW argued that the proposal is not in final form, and, therefore, the hearings were premature.

This proposal is for preliminary plat. Plats are a two-step process with the preliminary plat being the initial step. A preliminary plat is defined in the State Law as:

*"A neat and approximate drawing of a proposed subdivision showing the general layout of streets, alleys, lots, blocks, and other elements of the subdivision consistent with the requirements of this chapter. The preliminary plat shall be the basis for the approval or disapproval of the general layout of the subdivision".*

A final plat is defined as:

*"The final drawing of the subdivision and dedication prepared for filing for record with the County Auditor and containing all elements and requirements set forth in this chapter and in local regulations adopted under this chapter. RCW 58.17.020(4)(5)".*

CNW argues that all studies and final design elements should be in place prior to this approval. That is not the way that the two-step process works, however. Many of the preliminary studies are

set forth in the Final Environmental Impact Statement but final design takes place after the preliminary plat has been approved and before the final plat is signed by the City. The Hearing Examiner finds that there is sufficient information in the record to adequately evaluate the preliminary plat application.

7. The record in this case is voluminous. The public hearings on this project and the Montevallo project lasted for almost fifteen hours and there are literally thousands of pages of exhibits. Many issues were raised in public testimony and in the written submittals by both CNW and Phoenix Development, as well as by City staff. Because of the volume of comments, the Hearing Examiner cannot address every issue raised. The Hearing Examiner will, however, address relevant issues that are necessary for the issuance of a decision pursuant to the regulations. However not every comment will be addressed.

### **GENERAL FINDINGS**

1. The Wood Trails property is located north and west of the intersection of NE 195<sup>th</sup> Street and 148<sup>th</sup> Avenue NE. It is west of the terminus of NE 195<sup>th</sup>, NE 198<sup>th</sup>, NE 201<sup>st</sup>, and NE 202<sup>nd</sup> Street. It is located in the NE quarter of Section 3, Township 26<sup>th</sup> North, Range 5, Willamette Meridian, King County. A full legal description is in the record in Exhibit #4. The property consists of approximately 38.7 acres. Exhibit #1, page 7.

2. The Wood Trails site topography is varied, with the overall slopes descending to the west. Elevations on the site range from approximately 250 feet in places along the western edge of the property to 430 feet at the eastern boundary. The most distinguishing site features include a series of east/west trending ravines with relatively moderate to steep side slopes. The ravine areas of the site generally contain slopes of 40% or steeper. Some relatively gentle sloping areas are located along the margins of the ravines, and throughout the easterly portions of the site. Moderately sloping areas are located along the westerly margins of the property. Exhibit #39, page 3.1-2.

3. To the north of the site is an undeveloped tract designated for future development; to the east and south the property is zoned R-1 and developed primarily with single-family homes on large lots, between one-half and one and one-half acres. To the west, the property is zoned Industrial and is developed with industrial uses. See Exhibit #39, pages 3.4-2 through 3.4-11.

4. The applicant proposes to subdivide the property into a total of 66 lots. The lots range in size from 5,060 square feet to 13,787 square feet with an average of 6,930 square feet. The proposal is to locate the lots on site in three groups. Thirteen lots would be located on the south side of the site near the intersection of 148<sup>th</sup> Avenue NE and NE 195<sup>th</sup> Street; in the middle of the site on the eastern side, there is to be twenty lots located along 148<sup>th</sup> Avenue NE extended and in the northeastern portion of the site there are to be thirty-three lots located near the western terminus of NE 202<sup>nd</sup> Street. Exhibit #1, page 8.

5. A conceptual preliminary plat of Wood Trails with the applicant's depiction of the proposal as complying with conditions of approval in the staff report is in the record as Exhibit # 65.

6. The applicant also seeks to transfer development rights from excess density in the Wood Trails plat to the Montevallo plat. The applicant seeks a density transfer of nineteen units. The

City has recalculated the density figures and has determined that nine units may be transferred. See Exhibit #1, pages 22 and 23.

7. The City issued a Determination of Significance under the State Environmental Policy Act (SEPA) on October 11, 2004. A Draft Environmental Impact Statement (DEIS) was issued on January 17, 2006, and a Final EIS (FEIS) was issued on December 13, 2006. See Exhibits #28, 34, and 39.

### **FINDINGS RELATED TO THE REZONE**

8. The proposal vested in July of 2004 and is governed by the 2004 Comprehensive Plan. The plan designates this site as low density residential which includes zoning designations of R-1 (1 unit per acre) through R-4 (4 units per acre). The property is currently zoned R-1 and the applicant seeks a rezone to R-4. Exhibit #,1 page 13.

9. The Woodinville Water District will provide sewer and water services to the proposed subdivision. Each lot in the development will be connected to the District's sewer and water systems, pending construction of site collection and distribution systems by the applicant. See Exhibits # 7, 8 and 165, page 17.

10. R-4 as proposed, is designated as low density residential in the relevant comprehensive plan. Other relevant plan policies cited include:

- a. Land Use Policy LU-1.1; preserve neighborhood character, while accommodating for GMA Growth Forecasts.
- b. Land Use Policy LU-1.2; guide growth to areas with capacity, where impacts will be minimized, and where growth will help areas appearance or vitality.
- c. Land Use Policy LU-1.3; phase growth and municipal services together.
- d. Land Use Policy LU-2.2; connect development, open space, recreation areas by planned street, path, and utility corridor networks.
- e. Land Use Policy LU-3.1; development should compliment existing residential development patterns.
- f. Land Use Policy LU-3.2; preserve neighborhood natural environment.
- g. Land Use Policy LU-3.4; provide controls to minimize encroachment by incompatible land uses.
- h. Land Use Policy LU-3.7; permit a range of densities to encourage a variety of housing types to serve a range of incomes.
- i. Housing Policy H-1.1; allow a variety of housing types and lot sizes.

- j. Community Design Policy CD-1.2; preserve views, natural features, and landmarks.
  - k. Community Design Policy CD-2.2; encourage native vegetation in residential, commercial, industrial areas.
  - l. Community Design Policy CD-2.3; use trees and landscaping to buffer surrounding land uses.
  - m. Community Design Policy CD-2.4; require street trees in all development.
  - n. Community Design Policy CD-2.5; require developments to retain existing significant vegetation, where feasible, through regulations in the Woodinville Zoning Code.
  - o. Community Design Policy CD-3.1; integrate existing development into the character of surrounding area.
  - p. Capital and Public Facilities Policy CF-3.1; require the City or other service providers to establish capital facilities service standards.
  - q. Environmental Policy ENV-3.1; encourage urban forest preservation.
  - r. Environmental Policy ENV-3.2; protect critical habitat areas.
  - s. Environmental Policy ENV-3.3; maintain a standard of no net loss of critical habitat functions and values.
  - t. Environmental Policy ENV-3.4; maintain critical area connectivity.
  - u. Environmental Policy ENV-3.7; encourage native plant use.
  - v. Environmental Policy ENV-4.1; protect public safety and potential seismic, flood hazard and slide hazard areas.
  - w. Environmental Policy ENV-4.2; minimize the adverse affects of development on topographic, geologic and hydrologic features and native vegetation. City of Woodinville Exhibit #1 pages 13-19.
11. A majority of the Wood Trails site has been identified by the King County (1990) Sensitive Areas Map folio as an erosion hazard area. Further, multiple localized areas on the Wood Trails site have slopes exceeding 40% and therefore meet WMC criteria for identification as a landslide hazard. Exhibit #1, page 9.
12. The staff report sets forth an analysis of the City's housing allocation under the Growth Management Act (GMA) for the planning period from 2001 to 2022. The allocation comes from the overall King County carrying capacity allocation attributed to Woodinville. Staff's conclusion is that the residential zones have the capacity necessary to meet the housing allocation now without further zone changes to higher density. Exhibit #1 pages, 5 and 6.

13. There was evidence presented by CNW, both in oral testimony and in writing, that there are large numbers of single-family detached homes for sale on lots approximately the size proposed by Phoenix for Wood Trails, within ten miles of this area and therefore there is no need for more of these on this site. While many of the lots identified were in communities other than Woodinville and also related to resale of existing homes rather than new homes, the data is relevant to the Hearing Examiner's decision. See Exhibit #161, pages 11 and 12.
14. Phoenix counters with an analysis of the remaining R-4 zoning in the City and argues that the City has used a flawed capacity analysis as it relates to properties zoned R-4 and available for new development. Phoenix argues that R-4 land developed between 2002 and 2007 has not been removed from the City's inventory of available R-4 land and that the remaining vacant and redevelopable R-4 lands have not been adjusted to affect new critical area boundaries, buffers and stormwater detention requirements adopted after 2002. Phoenix Development's expert states that the available land with R-4 zoning was 2.7% of the entire City in 2001 and it is less today because of development that has occurred and because of the increased critical area buffers. See Exhibit #165, pages 63 through 67. The land zoned R-1 represents approximately 30% of the total area of the City and approximately 50% of the residentially zoned land. Exhibit #1, page 7. See also Exhibit #128.
15. There was considerable oral and written testimony regarding the site itself and whether it is suitable for the proposed development. The City directed the preparation of an EIS for this development and the Montevallo development. The technical appendices to the DEIS include two geotechnical engineering studies in Appendix C and D, a drainage report in Appendix E, a wetland and stream report in Appendix I and a wildlife habitat report in Appendix K. Responses to public comment on the geotechnical report, submitted after the EIS was finalized are in the record as Exhibit #'s 131 and 165, pages 21 through 23.
16. CNW has also submitted a substantial amount of information, which is set forth in the record as Exhibit #101, Volumes 1 and 2. Volume 1 included sections on infrastructure, transportation, stormwater and sanitary sewer. Volume 2 included sections on zoning, a buildable land survey, well established subdivisions, impacts, environment, critical areas, wildlife, hydrology and preliminary plat details. The resumes of the members of CNW who prepared the information were also set forth and showed that the preparers had creditable credentials in scientific pursuits.
17. Phoenix Development responded to some of the information in Volumes 1 and 2 submitted by CNW. See Exhibits 128 through 143.
18. The geotechnical studies found in Appendix C and D of the EIS, conclude that while there are steep slopes on the Wood Trails site, the upland areas where development is proposed are not a landslide hazard area. This is based on subsurface explorations including forty-five test pits and two borings, one to forty-nine feet. See, for example, Exhibit #131, page 2. These are site-specific studies showing that the area of the Wood Trails site which is to be developed with roads and housing exhibiting good stability and soil strength characteristics. See Exhibit #131, page 4.
19. The geotechnical reports also studied the erosion issue. WMC 21.24.290.2A classifies erosion areas within the City of Woodinville. As stated in the geotechnical reports, however, site-specific investigations with the knowledge of the proposed development activities provides a more thorough evaluation of a potential erosion hazard. The reports state, that based on the site-specific evaluations, the upland areas where the development will occur, exhibit little evidence of wide spread erosion. As the site is developed, the City will require the use of best management

practices (BMP) so that soil erosion can be managed and impacts minimized. The open space areas of the site will retain their native vegetation, and a tree retention plan has been prepared. See Exhibit #39, page 3.1-18 and Exhibit #131, page 5.

20. The materials submitted by CNW, take issue with the applicant's conclusions. Those materials show mapping of the site and indicate areas where landsliding or erosion are most likely. Their conclusion is that the landslide and erosion hazards are sufficient to disallow the R-4 zoning. Their conclusions would make any development of the site questionable, however. Exhibit #101, Volume 2 (Critical Areas).

21. The Hearing Examiner finds the evidence presented by Phoenix to be credible on this issue. After completing the analysis on 45 test pits and two borings on site, in the areas where development will actually occur, the stability of the site for development has been established by the applicant. See Exhibit #131, pages 2 through 5.

22. Seismic hazards were also presented as an issue. A relatively recent study by the U. S. Geological Service (USGS) studied a hypothesized southeastward extension of the South Whidbey Island Fault Zone. One conclusion was that strong evidence suggests that two fault strands in the Maltby-Woodinville area slipped multiple times in the Holocene (present day to approximately to 11,500 years ago). The study concludes that the overall hazards posed by the South Whidbey Island Fault Zone remain in question. The geotechnical report states that the definition in the Woodinville Municipal Code defining seismic hazard areas does not apply to the subject site. The City apparently does not disagree. The Hearing Examiner finds that the evidence of potential seismic hazards is speculative and should not be used to prohibit this development. See Exhibit #131, page 6, WMC 21.24.290.2c. Exhibit #165, page 24 and Exhibit #1, page 19.

23. Considerable information and comment was submitted on storm drainage controls for the site including information related to possible impacts to Little Bear Creek. See Exhibit #101, Volume 1 (Stormwater Drainage); Volume 2 (Critical Areas) and Exhibit #39. Storm drainage was studied extensively in the DEIS and FEIS. See Exhibit #34, Appendix E and Exhibit #39, pages 3.2-1 through 3.2-37. The analysis follows the King County Surface Water Design Manual (KCSWDM), which was used by the City at the time this plat application was filed. The analysis was based upon the KCSWDM and the analysis was accepted by the City with some modifications. Those modifications include a detention vault instead of a detention pond because of possible erosion hazards and also an upgrade to the proposed piping system if needed. Water quality impacts to Little Bear Creek were also studied. See Exhibit #134; Exhibit #165, pages 68 through 70; and Exhibit #1, pages 19 and 28.

24. It is clear that any development of the site is going to create more impervious surfaces requiring storm drainage to be adequately managed. The applicant has confirmed that the site is not suitable for infiltration and therefore proposes a tight-line piping system to a detention vault located at the bottom of the slope. That will manage the storm drainage from the developed portion of the site but the twenty-one acres of land left in open space will still produce natural storm drainage. As stated, the applicant will comply with the KCSWDM regulations, which were in effect when the plat was filed. This includes treatment of the storm drainage, which is channeled to the detention vault. While the protection of Little Bear Creek must be of area wide concern, there is no evidence submitted that convinces the Hearing Examiner that complying with the King County regulations and controlling stormwater as proposed, will have any measurable effect on

Little Bear Creek. That matter was studied extensively by the applicant in the EIS. See Exhibit #39, page 3.2-1 through 3.2-11. See also Exhibit #134 and Exhibit #165, pages 68 through 72.

25. Materials submitted by CNW dispute the applicant's analysis of wildlife on the site. See Exhibit #101, Volume 2 (Wildlife). Members of CNW have spotted numerous types of birds and other fauna in their yards, adjacent to the site and on the site. They claim that the applicant has not done enough to protect wildlife habitat on site. Wildlife was studied for the EIS and that study is found in Exhibit #34, Technical Appendix K. A summary of that technical report is set forth in the FEIS, Exhibit #39, pages 3.3-1 through 3.3-7 and 3.3-11 through 3.3-14. The conclusions are that while some urban tolerant wildlife no doubt use the site because of its forested terrain, that there is no priority wildlife habitat, or endangered or threatened species on site. The western portion of the site is to be left in open space, in its natural condition and will still provide wildlife habitat, migration opportunities and the applicant will take measures to improve the foraging for wildlife on site. See Exhibit #133 and Exhibit #165, pages 18, 19 and 20. The Hearing Examiner finds that the applicant has presented credible evidence regarding wildlife habitat protections.

26. The proposal is reasonably compliant with the Woodinville Comprehensive Plan. The Hearing Examiner hereby adopts and incorporates the discussion of Comprehensive Plan Policies set forth in Exhibit #1, pages 13 through 19; Exhibit #39, pages 3.4.22 through 3.4.28 and Exhibit #19, pages 6 through 11. Specifically the Hearing Examiner finds that the zone change will allow the development of low-density detached single-family homes in an area designated in the comprehensive plan as low density residential. While arguments have been made that the adjacent neighborhood is much less dense, R-4 is still classified as low density. In addition, this development only borders the R-1 on one side and buffering, as has been recommended by the City, can alleviate impacts from a slight difference in density. The site will be served with City water and sewer and the street network will be improved. Much of the site will be left in a Native Growth Protection Area (NGPA) which will provide habitat and open space. It presents a range of densities, which encourages a variety of housing types to serve a variety of income levels. It preserves much of the natural features of the site, such as the steep slopes and will preserve trees in accordance with the City's Tree Retention regulations. Exhibit #1, pages 13 through 19.

### **Criteria for a Rezone**

WMC 21.44.070 sets forth the zone reclassification criteria. It states: "a zone reclassification shall be granted only if the applicant demonstrates that the proposal is consistent with the comprehensive plan and applicable functional plans and complies with the following criteria:

- 1) There is a demonstrated need for additional zoning of the type proposed;
- 2) The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties; and,
- 3) The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

In addition, in WMC 21.04.080, which describes the residential zones, it states:

*(1)(a) providing, in the low density zones (R-1 through R-4), for predominately single-family detached dwelling units. Other development types such as*

*duplexes and accessory units, are allowed under special circumstances. Developments with densities less than R-4 are allowed only if adequate services cannot be provided; (emphasis added)*

The courts have held:

*Rezones are not presumed valid. The applicant has the burden of showing that either conditions have changed since the original zoning or that the proposed rezone implements policies of the comprehensive plan and that the rezone bears a substantial relationship to the public health, safety, morals or welfare. General conformance with the Comprehensive Plan, not strict conformance is all that is required. The requirements of local ordinances must also be satisfied. Woods v Kittitas County 130 Wn App 573 (2005).*

### **Conclusions on Rezone Application**

1. Based on the findings by the Hearing Examiner as stated above, the Hearing Examiner concludes that the proposal is generally consistent with the City's Comprehensive Plan. See Exhibit #1, pages 13 through 18 and Exhibit #39, pages 3.4-22 through 3.4-28. A proposed rezone that furthers the goals of the local Comprehensive Land Use Plan, bears a substantial relationship to the public health, safety, morals or general welfare. Henderson v. Kittitas Co. 124 Wn.App. 747, 756 (2004)

2. The Hearing Examiner concludes, based upon the findings above that the criteria for a rezone have been met. They are:

A. There is a demonstrated need for additional zoning of the type proposed.

This criterion is a many faceted criteria. The City has analyzed it according to its GMA growth allocation from King County and found that Woodinville could meet its housing allocation without this rezone. The applicant's expert criticized the City's study as not fully analyzing the amount of actual R-4 Zoning there was in the city for development. Most of the housing development that has occurred since 2002 has been in apartments and condominiums rather than single-family residential uses. As the applicant's expert demonstrated, if the amount of R-4 developed between 2002 and 2007 were removed from the available R-4 land totals, the amount of R-4 available for new development or redevelopment would be much less than the existing amount cited by the City which still was only 2.7% of the land area of the City. The R-1 Zone by contrast, makes up nearly 30% of the City's zoning. Clearly more R-4 Zoning is needed to create a diversity of building sites availability by establishing more areas where detached single-family can be constructed at lower densities than R-1 densities. In addition, the Growth Management Hearings Board has held that Woodinville is not to perpetuate one-acre lots that will effectively thwart urban development. Urban develop being defined by the Board as four units per acre. See Hensley v Woodinville CPSGMHB Case number 96-3-0031 (February 25, 1997).

The Growth Hearing Board has held that a minimum urban density is four units per acre. The Supreme Court held in the case of Viking Properties v. Holm 155 Wn.2d. 112 (2005) that the Growth Boards don't have the authority to make "Bright line tests". The

Boards do have authority, however, to determine whether a City is in compliance with GMA. RCW 36.70A.280. One of the goals of GMA is to encourage urban development within urban areas and reduce sprawl. RCW 36.70A.020. The Hearings Board in the Hensley case, as cited above, have determined that one acre zoning will effectively thwart urban development. Therefore, the fact that the City has 30% of its zoning in R-1 and only 2.7% in R-4 clearly demonstrates the need for more R-4 zoning. Therefore, the Hearing Examiner finds that this criterion has been met.

B. The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties.

The uses to the west are industrial but the steep slope's natural vegetation will create an appropriate buffer between the R-4 and the industrial uses. To the north is Snohomish County and the land has a rural designation and is outside the City and any urban growth area. The adjacent zoning to the east and south is R-1. As stated above, both R-1 and R-4 are designated in the low-density residential category and this site will be developed with single-family residential uses although at a higher density than the R-1. While there was considerable argument made that the R-4 would not be compatible with the R-1, both are detached single-family uses and both are considered low-density zoning by the City. See WMC 21.04.080(1)(a).

In addition, the Woodinville code in place when this application vested, clearly stated that this property could not be developed as R-1 because utilities are available. This would put the applicant in a Catch-22 position of having property that could not be developed with either R-4 or R-1. The code has since been changed, but the old code still applies. It should also be noted that pursuant to WMC 21.08.030, the R-1 through R-4 are located in what's known as the Residential Low Density Zone. Therefore the Hearing Examiner must find that the zone reclassification to R-4 is consistent and compatible with the zoning of the surrounding properties.

C. The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

As noted above, the property was studied extensively in the DEIS and FEIS. Both the applicant's experts and the City's reviewing experts concluded that the site was suitable based on the characteristics of the site. The extensive study of geotechnical aspects, stormwater drainage, landslide hazards and erosion hazards convinces the Hearing Examiner to conclude that the site is suitable. The soils in the upper portion of the site have the strength to be developed with single-family dwelling units at the proposed density and the steeper portions of the site will be retained in their natural state as open space. Stormwater can be accommodated and with the conditions of approval as set forth in this decision, the site is suitable for development.

### **FINDINGS RELATED TO THE PRELIMINARY PLAT**

1. The Hearing Examiner hereby adopts and incorporates all findings and conclusions from the previous section relating to the general findings and the rezone request.

2. The preliminary plat as filed is set forth in the record as Exhibit #11. The applicant also submitted a conceptual Wood Trails site plan which depicts recommended conditions of approval from the staff report. That is in the record as Exhibit #65. The Wood Trails plat with data information is set forth in Exhibit #64.
3. Wood Trails as proposed meets the R-4 zoning criteria for depth, front and side lot lines and building setbacks as they were set forth in the subdivision code when this proposal was vested. Exhibit #1, page 20. The proposed lot and street layout will be in conformance with the Woodinville Municipal Code. See WMC 20.06.040 and 20.06.130. Exhibit #1, page 20.
4. The Wood Trails proposal is for detached single-family residential uses which is allowed in the zoning code. WMC 21.08.
5. This preliminary plat proposes sixty-six lots with approximately 21.9 acres of open space protected in perpetuity as a Native Growth Protection Area (NGPA). The gross density is set forth in the application as 1.7 units per acre. Exhibit #19, pages 2 and 3.
6. Wood Trails contains a wetland that is being eliminated for the installation of a drainage vault. The wetland will be relocated to the NGPA area located on Tract A and it will be enhanced/enlarged on a two to one basis. Exhibit #1, page 21.
7. The applicant has asked for the right to transfer residential density to the Montevallo receiving site. Under the applicant's analysis, nineteen credits can be transferred. Staff has analyzed the applicant's calculation and revised them based on conditions of approval, such as additional roadway improvements and determined that nine density transfer credits should be allowed. See Exhibit #1, pages 22 and 23. The preliminary plat will be served by public water and sewer service from the Woodinville Water District. Exhibit #165, page 17.
8. Comments from the Woodinville Fire and Life Safety Deputy Chief and also the Chief of Police for Woodinville indicated neither agency found any significant impacts on their operations from the development of the site. Exhibit #39, pages 7.2 and 7.3.
9. The internal roadways will be constructed to full standards and will connect with existing rights-of-way. Four east west streets will serve the plat. NE 195<sup>th</sup> Street, NE 198<sup>th</sup> Street, NE 201<sup>st</sup> Street, and NE 202<sup>nd</sup> Street. The connections to those streets will also be constructed to full standards. Those four streets connect to 156<sup>th</sup> Avenue NE to the east. Staff has noted that road section "B" as depicted on the plat, will be allowed to be built to a reduced standard because of environmental and grade constraints and to allow for a reduction in impervious surface. Exhibit #1, page 25.
10. The transportation network and the project's impacts on that network were studied extensively in the EIS. See Exhibit #39, section 3.5. Traffic safety was studied in Exhibit #39, section 3.5.1.8 and the conclusion was that safety should not be a big concern despite the limitations of the roadways serving the plat. The traffic study also did a Level Of Service (LOS) analysis and found that all of the intersections would still be within acceptable LOS standards. Exhibit #39, table 3.5-6 on page 3.5-56. The traffic analysis in the FEIS received a peer review from Parametrix a consultant to the City's Public Works Department and Parametrix agreed with the traffic analysis that had been performed by Transpo Group and Perteet Engineering. See Exhibit #39-Additional Information located in the back of the FEIS.

11. Many issues were raised both during the hearings and in written testimony regarding the transportation system. Those concerns related to sight deficiencies on existing roadways, inferior road widths and lack of sidewalks on the four streets that provide access to this plat and a concern that the consultant used inadequate traffic growth figures. See Exhibit #101, Volume 1 (Transportation). The Transpo Group who did the EIS analysis responded to that information. See Exhibit #129. CNW responded again at Exhibit #161 and Transpo responded one more time at Exhibit #165, pages 14 through 16. The Hearing Examiner understands that the four roads which access Wood Trails are not built to City standards, have some sight distance deficiencies and very few sidewalks. The Hearing Examiner is not convinced, however, that will result in a significant number of accidents or other safety concerns. The people who now drive these roads are obviously careful because the accident reports are minimal. There was no convincing evidence submitted that people living in Wood Trails will drive otherwise. Further, the applicant's consultant has suggested mitigating measures in the way of signage and other traffic calming devices which could result in safer roadways if found necessary by the City. See Exhibit #129, page 2. The applicants consultant, the Transpo Group and the City's consultant, Perteet Engineering have followed standard methodology in conducting these traffic studies. They were given a peer review and the Hearing Examiner finds them to be credible.
12. The City of Woodinville requires payment of a Traffic Impact Mitigation Fee (TIF) for each dwelling unit created. TIF fees are determined by the zone in which the site is located. This site is in the Leota Zone. TIF fees are paid at the time a building permit for a dwelling unit is issued. The amount of the fee will be determined by the applicable fee ordinance at the time the complete building permit application is submitted to the Development Services Department. See Chapter 3.39 WMC and Exhibit #1, page 26.
13. Students who reside in the Wood Trails plat will attend schools in the North Shore School District #17. They would attend the Wellington Elementary School, the Leota Junior High School or the Woodinville High School. Staff states that enrollment in the North Shore School District; particularly in the eastern portion of the district where the plat is located, is experiencing slow growth and declining enrollment. Therefore, adding some number of students to the schools would not have a significant adverse impact on those schools. The applicant has submitted a North Shore School District school walk safety assessment. Exhibit #9. The school district reviewed the proposed subdivision and suggested that the area along NE 198<sup>th</sup> Street meets acceptable standards. Exhibit #1, page 26.
14. There are no existing City of Woodinville parks, recreation facilities or properties in the West Wellington Neighborhood or within close walking distance. This plat, however, is subject to the Park Impact Fee Ordinance, Chapter 3.36 WMC. A park impact fee will have to be paid to contribute to future park improvements.
15. There are no transit stops within what would be considered walking distance from this proposed plat. There is transit service to Woodinville, however. King County Metro operates two transit routes in the vicinity of the project site. A park and ride lot is located in the downtown area. Exhibit #39, page 3.5-30.
16. The applicant has submitted a preliminary tree retention map which is in the record as Exhibit #12. Staff has found that the proposal complies with landscape and tree retention standards of WMC 21.16.130 through 200. A final plan will also be required.

17. The applicant has requested several deviations from standards set forth in Woodinville's codes and regulations. Those requests and the City's response are set forth in Exhibit #1, pages 10 and 11. The proposed deviations which have been granted by the City include:

- a. The first request is to divert stormwater away from the natural discharge point and connect pond outfall to a closed pipe system. This was approved by the City with the conditions that an analysis of the conveyance systems sizing must be made to reduce impacts on the existing system. If the existing stormwater system cannot accept flows, that system must be upgraded.
- b. The applicant has requested a deviation to reduce right-of-way width standards. This was not allowed except for road section "B". That will be allowed to be built to a reduced standard because of environmental and grade constraints and a reduction in impervious surface.
- c. The applicant's road "B" is a modified loop cul-de-sac. The City has found that it meets the design criteria for a deviation from the standard that streets be no longer than 150 feet.
- d. The City has approved the elimination of a Class 3 wetland at the bottom of the slope in order to provide an area for a detention facility. Mitigation will be required on a two to one basis on Tract A, prior to any final plat approval.
- e. The applicant requested a deviation to allow the installation of utilities in steep slope areas. The City will allow it upon a showing of proper design and anchorage of utilities within a combined trench. Stormwater pipes must be anchored on the surface.

No other deviations were approved by the City. See Exhibit #1, pages 10 and 11.

## **Conclusions on Preliminary Plat Application**

### **Jurisdiction**

The Hearing Examiner is granted jurisdiction to hear and decide preliminary plat applications pursuant to Woodinville Municipal Code (WMC) Section 20.08.030.

### **Criteria for Review**

To approve a preliminary plat, the Hearing Examiner must find that the following criteria set forth in WMC 20.06.020 are satisfied:

- A. Goals and Policies. The proposal conforms to the goals, policies, criteria and plans set forth in the City of Woodinville comprehensive plan, community urban forestry plan, and parks, recreation and open space plan;
- B. Development Standards. The proposal conforms to the development standards set forth in WMC Title 21, Zoning Code;

- C. Subdivision Standards. The proposal conforms to the requirements of WMC 20.06.020 – Review and Approval Criteria for Subdivisions, WMC 20.06 – Subdivisions and WMC 17.09.020 – Project Permit Application;
- D. Proposed Street System. The proposed street system conforms to the City of Woodinville public infrastructure standards and specifications and neighborhood street plans, and is laid out in such a manner as to provide for the safe, orderly and efficient circulation of traffic;
- E. Utilities. The proposed subdivision or short subdivision will be adequately served with City approved water and sewer, and other utilities appropriate to the nature of the subdivision or short subdivision;
- F. Layout of Lots. The proposed layout of lots, and their size and dimensions take into account topography and vegetation on the site in order that buildings may be reasonably sited, and that the least disruption of the site, topography, trees and vegetation will result from development of the lots;
- G. Geologically Stable Soil. Identified hazards and limitations to development have been considered in the design of streets and lot layout to assure street and building sites are on geologically stable soil considering the stress and loads to which the soil may be subjected;
- H. Safe Walking to School Procedures. Safe walking to school procedures, as established by the City, have been met;
- I. Tree Preservation. Tree preservation has been considered in accordance with the community urban forestry plan and tree preservation requirements have been adequately met.

### **Conclusions Based on Findings**

1. With conditions, the proposal meets “Criteria A.” because it conforms to the goals, policies, criteria, and plans set forth in the City of Woodinville Comprehensive Plan, community urban forestry plan, and parks, recreation and open spaces plan. Subdivision development will occur in an area zoned for low-density residential development and surrounded by existing low-density residential development except for the area to the west which is zoned industrial. In the FEIS developed for the proposed subdivision, the mitigation suggested will become conditions of approval. Significant trees will be preserved and the applicant shall establish a Native Growth Protection Area (NGPA) to preserve open space and steep slopes. See also the Findings and Conclusions on the Comprehensive Plan Compliance set forth under the Zoning Section. Conditions of approval are necessary to insure that erosion and sedimentation resulting from subdivision development is adequately controlled using Best Management Practices and that stormwater is adequately controlled and disposed of.

2. As proposed, the proposal meets “Criteria B.” because the lots in the plat are consistent with the density and dimensional standards of the R-4 zoning district and would be compatible with surrounding development. With an approval of a rezone to R-4, the proposed subdivision density is consistent with the density provisions of the City code. No lot is to be less than the minimum lot size or minimum lot width. The proposed subdivision while being slightly more dense than the

properties to the east, will still result in low density detached single-family residential development, which is consistent with uses on the lands to the east.

3. With conditions, the proposal meets “Criteria C.” because the proposal is consistent with the subdivision standards set forth in WMC Chapter 20.06, including those pertaining to lot standards, easements, water supply, sewage disposal, storm drainage, watercourses, street right-of-way widths, street lighting and recreation. Subdivision lots will meet minimum lot size and width standards for the R-4 zone. Woodinville Water District will provide water and sewer service to the proposed subdivision. Stormwater runoff from the subdivision will be collected and impounded on site and then routed off-site in accordance with applicable stormwater regulations. The preliminary plat map is consistent with R-4 zoning. The applicant shall pay a park mitigation fee to the City upon the issuance of a building permit for each dwelling.

Certain conditions of approval are necessary to ensure the proposed subdivision meets the code and those conditions will be in place for this plat.

4. With the deviations granted by the City engineer, the proposal meets “Criteria D.” because the proposed street system conforms to the City of Woodinville standards and provides for the safe, orderly, and efficient circulation of traffic. The streets in the plat conform to the City of Woodinville public infrastructure standards and specifications and neighborhood street plans, and are laid out in such a manner as to provide for the safe, orderly and efficient circulation of traffic.

5. The proposed subdivision meets “Criteria E.” because it will be served with water and sewer by the Woodinville Water District.

6. The proposal meets “Criteria F.” because the layout of lots, and their size and dimensions take into account topography and vegetation on the site in order that buildings maybe reasonably sited and that the least disruption of the site, topography, trees and vegetation will result. The eastern upper portions of the site are the flattest and will be where development occurs and the steep slopes will be left in open space. Trees will be retained in accordance with code requirements, and a Natural Growth Protection Area (NGPA) will be established. A landscape plan and tree retention plan has been submitted and will be a requirement with final plat submission.

7. A geotechnical study concluded that the site soils are suitable for urban residential development. The design of the lots and the stormwater system considered site grades and topography. Therefore, the proposal meets “Criteria G.”

8. Safe walk to school procedures have been complied with, meeting “Criteria H.”

9. “Criteria I.” has been met because tree preservation has been considered in accordance with the community urban forestry plan and tree preservation requirements have been adequately met.

## **DECISION**

Based on the preceding Findings and Conclusions, the Hearing Examiner recommends that the rezone from R-1 to R-4 be approved by the City Council and also approves the subdivision of this property into 66 residential lots with a density transfer of 9 lots to the Montevallo plat. The

property shall be developed substantially in accordance with plans submitted and as modified by these conditions of approval. This approval is granted subject to the following conditions:

### **GENERAL**

1. The City Development Services Director shall have the authority to direct the developer or his on-site representatives to immediately cease activities and redirect their attention to resolving any problem, particularly any environmental degradation, which in the director's opinion needs immediate resolution. Failure of the developer or his representative to redirect such labor and equipment shall result in immediate project closure and resolution of the problem by the City. The developer will be billed for such City time and materials involved in resolving the problem, which shall include a penalty of 10% of the assessed cost. Such bill shall be paid prior to the City removing the closure.
2. Mail routes and mailbox locations shall be approved by the postmaster. Mailbox locations shall also be approved by the City Engineer to insure they do not interfere with traffic sight distances.
3. The Natural Growth Protection Area (NGPA), the landscape strips and any other private common areas shall be maintained by a homeowners association. A set of covenants, conditions, and restrictions (CC&Rs) prepared for the proposed development is subject to review and approval by the City of Woodinville, and shall be recorded with the King County Auditor's Office prior to the recording of the final plat. The CC&Rs shall address the duties and responsibilities of the homeowners association with respect to common areas. This includes, but is not limited to the levying and collection of assessments, and the operation, maintenance and preservation of all common areas and facilities and shall also provide for the administration and enforcement of these duties and responsibilities. The City shall be kept informed of all names and addresses of current association officers.
4. The final plat shall include a clause requiring property owners and the homeowners association to maintain, in a uniform manner, City right-of-way/easements located between their property lines and the back of adjacent sidewalks. The City shall have the authority to enforce such maintenance. If, upon being informed by the City to perform such maintenance and said property owner does not comply, the City shall have the option of maintaining the right-of-way/easement and shall bill the property owner for all associated costs including administrative costs. If City invoices are not paid within ninety (90) days, the city shall have the option of attaching a lien against said property.
5. Maintenance bond(s) amounts must be approved by the Public Works Director and bonds shall be submitted to the City prior to final plat approval. The maintenance bond shall be for a minimum of two (2) years. At the end of the bonding period, the City shall inspect the installed infrastructure. Any infrastructure that appears defective or has deteriorated beyond normal expectation for the bonding period shall, at the City Engineer's direction, be repaired or replaced to the satisfaction of the City.
6. A maximum of nine (9) dwelling units are eligible to be transferred from the Wood Trails (sending site) in accordance with the WMC 21.36.030 and WMC 21.36.050 (Transfer of Residential Density Credits) to the proposed Montevallo project site, which is being processed under a separate permit number.

7. Plat plans shall include City signature block.

**ENVIRONMENTAL** – Reference Final EIS (Exhibit 39).

1. The wetland relocation and class must be shown on the plat drawing. The site receiving the wetland must submit an application for environmental review (separate Land Modification Permit). The restored wetland will be replaced on a 2:1 ratio on Tract A prior to issuance of the first home certificate of occupancy. The restoration plan shall be submitted with the engineering plans.

2. The geotechnical Engineering Study does not address the utility installation in the geological hazard area. Applicant's geotechnical engineer shall provide a comprehensive geotechnical report and recommendations for the application of utilities, infrastructure, and housing.

3. The Natural Growth Protection Area (NGPA) is to be dedicated to the homeowners association. The boundary of the NGPA shall be delineated by an approved fence (split-rail) with signage approved by the City. The signs shall be located every 100 feet along the NGPA boundary; additionally, there shall be a sign centered along each lot line adjacent to the NGPA.

4. Anywhere on the slope where infiltration or dispersion is proposed within 50 feet of the top of the slope, piping to a detention facility shall be required because of erosion hazards.

5. The applicant shall comply with the suggested mitigating measures set forth in the FEIS Exhibit #39.

**FIRE**

1. Road width and construction for Fire Department access must meet City of Woodinville Transportation design requirements (TISS).

2. Curb turning radius shall be a 25-foot curvature.

3. Fire Department access roads with dead-ends over 150 feet shall have an approved turn-around per City of Woodinville Transportation Infrastructure Standards and Specifications (TISS).

4. Fire hydrants shall be installed in compliance with requirements of the City Engineer and the Fire Marshall. Hydrant spacing shall be in accordance with Uniform Fire Code, Appendix III-A and B.

5. A current hydrant flow chart is required at the closest hydrant to each structure at the time of building permit submittal for that structure. Fire flow will be calculated based on the square footage of each structure. Homes not meeting minimum fire flow requirements shall be provided with an automatic fire sprinkler system.

6. Homes served by access roads greater than a 15 percent grade shall be provided with an automatic fire sprinkler system.

7. City "No Parking" signs shall be provided for one side of any street less than 28 feet wide.

8. Any road used for fire department access which is 28 feet or less in width shall have parking on one side of the street only. Any road used for fire department access 26 feet or less shall have no parking on either side of the street. Note: This requirement is not to be construed as an approval of any deviation request for roads narrower than that required by the City of Woodinville Transportation and Infrastructure Standards. Example: A deviation is noted on Road B

9. Homes 5,000 square feet or greater in size shall be provided with an automatic fire sprinkler system per International Fire Code (IFC) pending site development.

### **IMPACT FEES**

1. This project is subject to the following impact fee Ordinances:

- a. Transportation Impact Fee (TIF) Ordinance codified at Chapter 3.39 WMC
- b. Park Impact Fee (PIF) Ordinance codified at Chapter 3.36 WMC

### **LANDSCAPE & TREE RETENTION**

1. The applicant shall develop the same size lots immediately adjacent to the site on the east, compatible with adjacent existing Wellington neighborhood lots or plant a 50 foot (this is an increased width) Type I Full Screen Buffer per Chapter 21.16.040(1).

2. This project shall comply with City street tree requirements. Street trees shall be provided as follows, per WMC 21.16.050:

a. The trees shall be owned (unless in the City right-of-way) and maintained by the homeowners association. Ownership and maintenance shall be noted on the face of the final recorded plat.

b. The species of trees retained shall be reviewed and approved by the City of Woodinville Development Services Department. If located within the right-of-way, trees shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers or which are not compatible with overhead utility lines.

c. Street trees shall be located within the street right-of-way and planted in accordance with WMC 2.24.090, City of Woodinville Public Infrastructure Standards and Specifications, Landscaping Section 7, Details 341, 342, and in accordance with the Public Tree Care Standards Manual.

d. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, the performance bond must be replaced with a maintenance bond, per WMC 21.24.150, held for a period of up to five (5) years. The duration of maintenance/monitoring obligations shall be established by the Planning Director, based upon the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures. After the

maintenance period has ended, the maintenance bond may be released after the City of Woodinville Development Services Department has completed a second inspection and determined that the trees have been kept healthy and thriving. A detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of WMC 21.16.140;

3. No clearing of the subject property is permitted until the final tree retention and grading plan is approved by the City of Woodinville Development Services Department. Flagging and temporary fencing of trees to be retained shall be provided, consistent with WMC 21.16.160;
4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant WMC 21.16.160;
5. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with WMC 20.06.175 20.06.190 and 21.16. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.);

## **SURFACE WATER**

1. Detention Pond Tract D – The City requires the installation of a detention vault instead of a detention pond because of erosion hazards and close proximity to adjacent industrial buildings that could pose a safety concern. Measures shall be taken to limit erosion along the slopes above the vault to stabilize the site. Example: installation of erosion control mats, hydroseeding, or other appropriate permanent vegetation.
2. Tract D shall be dedicated to the City of Woodinville for maintenance of the vault.
3. Allowable impervious areas on each lot must be labeled on the plat drawing.
4. Stormwater shall be conveyed by using continuous fused HDPE pipe on the hillside and constructed per standards; including anchoring to the surface to reduce erosion impacts.

## **TRANSPORTATION**

1. A transportation impact fee is required. This project is subject to Transportation Impact Fee (TIF) Ordinance 3.39. TIF fees are paid at the time of building permit issuance. The fee amount shall be the amount in effect as of the date of the filing of a complete building permit application for each dwelling unit. The applicant shall submit a completed TIF Worksheet with each (new dwelling) building permit.
2. All street names shall be shown on the plat plans (Example: 156<sup>th</sup> Avenue NE).
3. Bollards shall not be installed in any public right-of-way.
4. All north/south roads will be constructed to full standards. Connections from existing rights of way (NE 195<sup>th</sup> St, NE 198<sup>th</sup> St, NE 201<sup>st</sup> St, and NE 202<sup>nd</sup>) will be constructed to full standards. Only road section “B” will be allowed to be built to a reduced standard because of environmental and grade constraints and a reduction of impervious surface. Note: Density will

be calculated using full roadway standards – including Road B. (Exhibit 11).

5. The proposed roads shown on the plat drawings must satisfy City standard for high density residential streets (TISS Detail 104A and 104B).
6. Street layout/geometry must satisfy City TISS requirements.
7. The Geotechnical Engineering Study does not address the proper road pavement section. City standard roadway section (TISS Detail 104B) for High Density Residential Streets must be used.
8. All right-of way must be shown with dimensions and labeled on the plat drawing.
9. The City Limits must be shown on the plat drawing.
10. According to a site traffic impact analysis of the City of Woodinville Public Works Department (Exhibit #38), Chapter 3.5, Transportation, in the Final Environmental Impact Statement issued on December 12, 2006, the City projected additional peak period traffic generated by this project. Accordingly, this project is subject to the City of Woodinville Transportation Impact Fee Ordinance codified at Chapter 3.39 WMC.
11. All required improvement shall be completed before final plat approval.
12. Drawings of record shall be approved and signed by the Public Works Director prior to final plat approval.
13. The City Engineer shall approve all plans for city infrastructure and shall approve such installation prior to acceptance by the City.
14. Maintenance bond(s) amounts are to be approved by the Public Works Department and bonds shall be submitted to the City prior to final plat approval. The maintenance bond shall be for a minimum of two (2) years. At the end of the bonding period, the city shall inspect the installed infrastructure. Any infrastructure that appears defective or has deteriorated beyond normal expectation for the bonding period shall, at the City Engineers direction, be repaired or replaced to the satisfaction of the City.  
  
This includes:
  - a. Landscape – 2-Year Maintenance Guarantee
  - b. Lighting – 2-Year Maintenance Guarantee
  - c. Site Improvements – 2-Year Maintenance Guarantee
  - d. Wetland – 5-Year Maintenance Guarantee
15. Street lighting shall be in compliance with city standards as approved by the City Engineer.
16. Future connectivity points (manholes and lateral connections) shall be provided per Woodinville Water District (at all street connections at property boundaries).
17. City of Woodinville recommends that sewer laterals be placed at every other property edge along 202<sup>nd</sup> Street between Wood Trails and Montevallo developments as a mitigation measure

of street impacts.

18. All other utilities shall be placed underground within the development.
19. The final plat must show proper design and anchoring of utilities within a combined trench. They must meet the requirements for steep slopes and erosion hazard areas.

**OTHER CONSIDERATIONS:**

Preliminary approval of this application does not limit the applicant's responsibility to obtain any required permit or license from the State or other regulatory body. This may include, but is not limited to the following:

- a. Forest Practice Permit from the Washington State Department of Natural Resources.
- b. National Pollutant Discharge Elimination System (NPDES) Permit from WSDOE.
- c. Water Quality Modification Permit from WSDOE.
- d. Water Quality Certification (401) Permit from U.S. Army Corps of Engineers.

DATED this 16th day of May 2007.

  
Greg Smith  
City of Woodinville Hearing Examiner pro tem

**Testimony Listing:**

Spoke 03/14/2007 Spoke 4/05/2007 Spoke 03/15/2007

Shading represents difficulty in reading sign in sheet

Bob Vick, Sr. V.P. Phoenix Development 16108 Ash Way, Suite 201 Lynnwood, WA 98087	3/14/2007	4/5/2007	3/15/2007
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Richard Hill, Attorney McCullough Hill, PS 701 Fifth Avenue, Suite 7220 Seattle, Washington 98104	3/14/2007	4/5/2007	3/15/2007
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Mathew Gardner Gardner Johnson LLC 119 First Avenue South, Suite 410 Seattle, Washington			3/15/2007
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Jeffrey Cox Triad Associates 12112 115th Avenue NE Kirkland, WA 98034	3/14/2007		3/15/2007
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Ray Coglas Earth Solutions NW 2881 152nd Avenue NE Redmond, WA 98052	3/14/2007	4/5/2007	
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Ed Sewall Sewall Wetland Consulting at time work was done on this project operated under trade name of B12 Wetland Consulting	3/14/2007	4/5/2007	
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Cindy Baker City of Woodinville Development Services Department 17301 133rd Avenue NE Woodinville, WA 98072	3/14/2007	4/5/2007	3/15/2007
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Ron Braun City of Woodinville Development Services Department 17301 133rd Avenue NE Woodinville, WA 98072	3/14/2007	4/5/2007	3/15/2007
Debra Crawford City of Woodinville Development Services Department 17301 133rd Avenue NE Woodinville, WA 98072	3/14/2007	4/5/2007	
Susie McCann City of Woodinville Development Services Department 17301 133rd Avenue NE Woodinville, WA 98072	03/14/2007 did not discuss - She identified herself & stated her qualifications		
Yosh Monzaki City of Woodinville Public Works Department 17301 133rd Avenue NE Woodinville, WA 98072	3/14/2007		3/15/2007
Ray Sturtz City of Woodinville Development Services Department 17301 133rd Avenue NE Woodinville, WA 98072	3/14/2007		3/15/2007
Zach Lell, City Attorney			?
Dave Nelson Nelson Geotechnical Associates	3/14/2007		
Bala Dodoye-Alali Nelson Geotechnical Associates	03/14/2007 - did not discuss, she identified herself & stated qualifications		
Joel Birchman Perteet	3/14/2007	4/5/2007	3/15/2007
Richard Weinman Weinman Consulting	3/14/2007		

Ken McDowell Woodinville Water District		4/5/2007	
Richard Aramburu, Attorney 505 Madison Street, Suite 209 Seattle, WA 98104	3/14/2007	4/5/2007	3/15/2007
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Lee Cappell 16212 NE 203rd Place Woodinville, WA <a href="mailto:leealicec@comcast.net">leealicec@comcast.net</a>		4/5/2007	
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Christy Diemond 14136 NE Woodinville Duvall Road 144 Woodinville, WA 98072 <a href="mailto:QCl@oz.net">QCl@oz.net</a>	3/14/2007	
Kathleen Forman 19831 156th Avenue NE Woodinville, WA 98072 <a href="mailto:pkforman@juno.com">pkforman@juno.com</a>		3/15/2007
Tim Gifford 19539 170th Avenue NE Woodinville, WA 98072 <a href="mailto:Tim@absolutemobilitycenter.com">Tim@absolutemobilitycenter.com</a>		3/15/2007

<p>Jeff Glickman  19405 148th Avenue NE  Woodinville, WA 98072  <a href="mailto:jeff@glickman.com">jeff@glickman.com</a></p>	<p>4/5/2007  4/5/2007</p>	<p>3/15/2007</p>
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**Wood Trails PPA and ZMA Exhibit Index List –  
Revised 05/01/2007 by Sandy Guinn**

<b>Exhibit Number</b>	<b>Description</b>	<b>Number of Pages</b>
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<b>3</b>	PPA WT Title Report	<b>54</b>
<b>4</b>	PPA WT Legal Description	<b>1</b>
<b>5</b>	PPA WT Vicinity Map	<b>1</b>
<b>6</b>	PPA WT Density	<b>2</b>
<b>7</b>	PPA Certificate of Water Availability	<b>5</b>
<b>8</b>	PPA Certificate of Sewer Availability	<b>4</b>
<b>9</b>	PPA Northshore School District Walk Safety Assessment	<b>3</b>
<b>10</b>	PPA Development Consistency Checklist	<b>4</b>
<b>11</b>	PPA WT Preliminary Plat Plan	<b>9</b>
<b>12</b>	PPA WT Preliminary Tree Retention Map (duplicate of page 3 of Exhibit 11 to staff report)	<b>1</b>
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<b>17</b>	WT General Application ZMA 2004-053	<b>4</b>
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<b>20</b>	ZMA Letter of Complete Application	<b>2</b>
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<b>22</b>	ZMA PPA Proof of Publication – Notice of Application	<b>1</b>
<b>23</b>	ZMA Property Owner Radius Map and Mailing List	<b>5</b>
<b>24</b>	ZMA State of Washington Department of Community, Trade and Economic Development – Reviewing and approval letter with list of reviewing agencies.	<b>2</b>
<b>25</b>	SEPA Application SEP2004-055	<b>3</b>
<b>26</b>	SEPA Environmental Checklist	<b>15</b>
<b>27</b>	SEP Letter of Complete Application	<b>2</b>
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<b>29</b>	Proof of Publication - Scoping EIS - Notice of Determination of Significance	<b>2</b>
<b>30</b>	Signed Notice of Revised EIS Scope 12/20/04	<b>2</b>
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<b>32</b>	Signed Notice of Draft Environmental Impact Statement (DEIS) - Availability Notice	<b>2</b>
<b>33</b>	Proof of Publication - Final Environmental Impact Statement (DEIS) - Availability Notice	<b>1</b>

34	Cover Sheets for Volume One and One Appendices of the Draft Environmental Impact (DEIS) – Report and Appendices A-L. Draft available for review at City of Woodinville’s Development Services’s counter. <b>SEE MONTEVALLO EXHIBIT #35</b>	2
35	Signed Notice of Official Director’s Interpretation Regarding Appeals Procedure of Final Impact Statement (FEIS) 11/6/06	11
36	Proof of Publication - Of Official Director’s Interpretation Regarding Appeals of Adequacy of Final Impact Statement (FEIS)	1
37	Signed Notice - Final Environmental Impact Statement (FEIS) - Availability Notice 12/13/06	4
38	Proof of Publication - Final Environmental Impact Statement (FEIS) - Availability Notice	1
39	Cover sheets for Volume One and Two Appendices of the Final Environmental Impact Statement – Report and Appendices A-P. Draft available for review at City of Woodinville’s Development Services’s counter. <b>SEE MONTEVALLO EXHIBIT #40</b>	3
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<b>64</b>	Board – Wood Trails - Data Information	<b>1</b>
<b>65</b>	Board - Conceptual Wood Trails Site Plan (Applicant's Depiction of Staff Report)	<b>1</b>
<b>66</b>	Board – Wood Trails Preliminary Grading and Utility Plan with easements highlighted in orange	<b>1</b>
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<b>70</b>	Board - Wood Trails Preliminary Plat submitted 6/19/04 with approximated steep slopes and wetlands outlined	<b>2</b>
<b>71</b>	Email dated March 14, 2007 from Cindi Stinson to Cindy Baker; Susie McCann	<b>3</b>
<b>72</b>	Email dated March 6, 2007, from Susan Huso to Cindy Baker	<b>2</b>
<b>73</b>	Letter dated March 8, 2007, from Greg Smith, City of Woodinville Hearing Examiner pro tem, to G. Richard Hill, J. Richard Aramburu, J. Zachary Lell, and Cindy Baker	<b>2</b>
<b>74</b>	Letter dated February 22, 2007 from J. Richard Aramburu to Mr. Greg Smith, City of Woodinville Hearing Examiner (with attachments)	<b>12</b>
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<b>77</b>	Letter dated February 23, 2007 from G. Richard Hill, McCullough Hill, to Greg Smith, Hearing Examiner	<b>3</b>
<b>78</b>	Letter from Laura Glickman dated March 13, 2007 to City of Woodinville, Susie McCann	<b>4</b>
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<b>96</b>	Letter dated March 14, 2007 from Frederick C. Motteler to Hearing Examiner City of Woodinville	<b>5</b>
<b>97</b>	DVD One: Traffic 4 PM_March-08-2007 Woodinville - Dvual Rd 156th Avenue NE  DVD Two: Traffic 5 PM_MAR_08_07 Woodinville – Duvall Road	<b>2 DVDs</b>
<b>98</b>	Wellington CCRs	<b>1 cd</b>
<b>99</b>	Letter submitted by Mike O’Grady dated March 14, 2007	<b>2</b>
<b>100</b>	Species Occurrence by Month 2000-2006 (Yard list from 15124 NE 198 <sup>th</sup> St)	<b>2</b>

<b>101</b>	Two sets of 3 volumes were submitted to the Hearing Examiner by the public. It was stated that both sets were exactly the same except the cover. One cover was Montevallo and one was Wood Trails. Because of their size, only one will be relied on as an exhibit. Analysis of Wood trails Rezone and Preliminary Plat Application, Volumes One, Two, Three, and one CD – See Montevallo Exhibit #74	<b>2144 and one CD</b>
<b>102</b>	Letter dated April 5, 2007 from Jeff Glickman addressed to Greg Smith, Hearing Examiner - submitted by Jeff Glickman	<b>69</b>
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<b>104</b>	Letter from Helen Gottschalk dated April 3, 2007, addressed to Mr. Examiner submitted by Helen Gottschalk	<b>1</b>
<b>105</b>	Woodinville City Council Hearing of March 12, 2007, verbatim transcript submitted by Attorney Aramburu	<b>22</b>
<b>106</b>	Typed Comments submitted by Lisa Rhodes	<b>2</b>
<b>107</b>	Woodinville Weekly Editorials dated April 5, 2007, submitted by Matthew Jenson	<b>33</b>
<b>108</b>	MLS Analysis of “Need” dated April 5, 2007 submitted by Matthew Jenson	<b>8</b>
<b>109</b>	Comments submitted by Matthew Jenson	<b>2</b>
<b>110</b>	Letter from Doyle & Janet Watson dated April 3, 2007 addressed to City Hall c/o Hearing Examiner submitted by Janet Watson	<b>2</b>
<b>111</b>	Letter from The Children of Doyle and Janet Watson dated April 3, 2007 addressed to Hearing Examiner, City of Woodinville and written comments from Darcy Morrissey submitted by Darcy Morrissey	<b>2</b>
<b>112</b>	Letter from Todd Higgins dated April 1, 2007, submitted by Roger Mason	<b>1</b>
<b>113</b>	Todd Higgins Informed Consent DVD interview submitted by Roger Mason	<b>1 DVD</b>
<b>114</b>	Typed comments submitted by Susan Huso	<b>6</b>
<b>115</b>	Typed comments submitted by Susan Huso	<b>5</b>
<b>116</b>	Complaint For Declaratory Relief and Petition for Writ of Review dated July 13, 2005, Kitsap Citizens for Rural Preservation, a non-profit organization, v. Kitsap County, Respondent/Defendant, submitted by Susan Huso	<b>11</b>
<b>117</b>	Copy of Kitsap County Ordinance No. 350-2005 dated November 28, 2005, submitted by Susan Huso	<b>2</b>
<b>118</b>	Letter from Jeff Glickman dated April 5, 2007 (with attachments) addressed to Greg Smith, Hearing Examiner, submitted by Jeff Glickman	<b>10</b>

<b>119</b>	Email sent April 4, 2007 from Jeff Glickman to Mr. Richard Leahy, City Manager, Mr. Zach Lell, City Attorney, Mr. Greg Smith, Hearing Examiner, Ms. Cynthia Baker, Interim Development Services Director (submitted by Jeff Glickman)	<b>1</b>
<b>120</b>	Typed comments from Brad Rich read/submitted into the record by Nathan Rich	<b>2</b>
<b>121</b>	Typed comments, with attachments, from Steve Gottschalk addressed to Mr. Smith, submitted by Steve Gottschalk	<b>36</b>
<b>122</b>	Narrative to accompany video of traffic operations at Woodinville-Duvall Rd and 156 <sup>th</sup> Avenue NE submitted by Roger J. Mason, PE	<b>4 pages and 2 DVDs</b>
<b>123</b>	Letter dated April 5, 2007 from Susan Boundy-Sanders addressed to Hon. Greg Smith, Hearing Examiner pro tem for the City of Woodinville regarding R-1 versus R-4 in recent Woodinville City Council and Woodinville Planning Commission deliberations, recommendations, and decisions – submitted by Susan Boundy-Sanders	<b>18</b>
<b>124</b>	Letter dated April 5, 2007 from Susan Boundy-Sanders, MS Geology, Caltech, addressed to Hon. Greg Smith, Hearing Examiner pro tem for the City of Woodinville, Re: Earthquake faults on the Wood Trails and Montevallo sites – submitted by Susan Boundy-Sanders	<b>117</b>
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<b>128</b>	Letter dated April 5, 2007 from Bob Vick, Phoenix Development Incorporated, addressed to Mr. Greg Smith following up on demonstrated need analysis relating to the proposal submitted by Rich Hill	<b>2</b>
<b>129</b>	Memorandum dated April 5, 2007 from Michael Swenson, The Transpo Group, addressed to Rich Hill, McCullough Hill, PS, (a response to public comments on transportation issues prepared by Mr. Swenson) - submitted by Rich Hill	<b>6</b>
<b>130</b>	Michael Swenson, P.E., P.T.O.E., of The Transpo Group, resume - submitted by Rich Hill	<b>1</b>
<b>131</b>	Earth Solutions NW LLC Addendum Report Geologic Hazards Proposed Wood Trails Project Woodinville, Washington ES-0067(Addendum Report which Mr. Coglas testified this evening) submitted by Rich Hill	<b>12</b>
<b>132</b>	Raymond A. Coglas, M.S., P.E., resume submitted by Rich Hill	<b>1</b>
<b>133</b>	Letter dated April 5, 2007, from Ed Sewall, President/Senior Biologist, Sewall Wetland Consulting, Inc., to Hearing Examiner, Re: Applicant Response to Wellington Community Group Comments on Plants and Animals Section of Wood Trails/Montevallo EIS SWC Job #A4-166 submitted by Rich Hill	<b>12</b>

134	Memorandum dated April 4, 2007, from Mark Keller, P.E., (Drainage Engineer) of Triad Associates addressed to Rich Hill, re: Wood Trails and Montevallo Drainage - submitted by Rich Hill	3
135	Proposed Revision to City Staff Drainage Condition Recommendations on Montevallo relating to the proposed detention vault - submitted by Rich Hill	1
136	Memorandum dated April 4, 2007, from Triad Associates addressed to George Newman addressing the capacity analysis of the City and demonstrating the City will not be meeting its growth targets -submitted by Rich Hill	5
137	Memorandum dated April 4, 2007, from George Newman addressed to Rich Hill, McCullough Hill, relating to the right of way issue on the Montevallo Summers addition plat submitted by Rich Hill	2
138	Memorandum dated April 5, 2007, from Gardner Johnson Matthew Gardner of that firm to G. Richard Hill addressing the need for diversity of housing opportunities in the City of Woodinville submitted by Rich Hill	5
139	Copy of Executive Summary of the City of Woodinville's Sustainable Development Study and Attachment A Environmental Report on the Sustainable Development project submitted by Rich Hill	80
140	Copy of Central Puget Sound Growth Management Hearings Board decision in Hensley vs City of Woodinville submitted by Rich Hill	12
141	Applicant Phoenix Development's Reply Memorandum on Montevallo submitted by Rich Hill	30
142	Applicant Phoenix Development's Reply Memorandum on Wood Trails submitted by Rich Hill	31
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144	CD submitted by Perteet	20 pages CD
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147	Green folder - Correspondence from citizens and copy of Request for Public Records (#2007-043) and documentation supplied – submitted by Cindy Baker, City of Woodinville	4
148	Green folder - Correspondence from citizens submitted outside of the Hearing on March 15, 2007 – submitted by Cindy Baker, City of Woodinville	3
149	Green folder - Correspondence and emails from residents and citizens; letter dated March 30, 2007 from Northshore School District to Cindy Baker, City of Woodinville; letter dated February 23, 2007 from G. Richard Hill, McCullough Hill, PS, to Greg Smith, Hearing Examiner – submitted by Cindy Baker, City of Woodinville	76
150	City of Woodinville comprehensive Plan, Land Use Appendix, Appendix 3: Land Use November 2003 – submitted by City of Woodinville	6
151	DVD of the Wood Trails Video taped at April 5, 2007 public hearing - submitted by City of Woodinville	1 DVD

<b>152</b>	Sign In Sheet for April 5, 2007 public hearing – submitted by City of Woodinville	<b>20</b>
<b>153</b>	Green Folder – See Montevallo Exhibit #84 (submitted by City of Woodinville)	<b>97</b>
<b>154</b>	Correspondence submitted by citizens; Jones & Stokes (Lisa Grueter) email dated April 6, 2007, addressed to Cindy Baker regarding noise attenuation from trees; Perteet (Joel E. Birchman) email dated April 04, 2007, addressed to Cindy Baker, regarding WT & Montevallo Rebuttal	<b>36</b>
<b>155</b>	Letter from Cindy Baker, City of Woodinville, dated April 16, 2007, addressed to Greg Smith, Hearing Examiner with attachments (best available science)	<b>373</b>
<b>156</b>	Email dated April 13, 2007 from Jane Winant to Cindy Baker; Richard Leahy; Email dated April 16, 2007 from Mike Daudt to Susie McCann; Jennifer Kuhn; <a href="mailto:gsmith@spokanecity.org">gsmith@spokanecity.org</a>	<b>7</b>
<b>157</b>	Email sent December 8, 2006 from Yosh Monzaki to Cindy Baker, Steve Munson, Susie McCann, Mick Monken; email sent December 13, 2006 from Sandy Guinn to Development Services; Correspondence from Traci Herman to Cindy Baker responding to email request of March 2, 2007; Email sent April 16, 2007, from Lee Ann Reid to Sandy Guinn; Copy of letter dated March 2, 2007 from Fred A. Green, President, CNW, to Cindy Baker; copy of letter dated March 15, 2007, from Sunday and Scot McCallum to Woodinville City Council & Planning Commission; and copy of letter received April 16, 2007, from Austin T. Winant to Mr. Greg Smith, Hearing Examiner	<b>13</b>
<b>158</b>	Letter dated November 1, 2006 from Cindy Baker, Interim Development Services Director to Richard Aramburu, Attorney at Law; letter dated September 22, 2006 from J. Richard Aramburu to J. Zachary Lell, Ogden Murphy Wallace, PLLC, and Ray Sturtz, Planning Director; letter dated April 16, 2007 from Michael Daudt to Greg Smith Hearing Examiner; Email sent April 12, 2007, from Steve and Karen Tidball to Council; Email sent April 18, 2007, from Susan Huso to Richard Leahy	<b>15</b>
<b>159</b>	Evidence Summary and Arguments by Concerned Neighbors of Wellington In Opposition To Rezone and Plats	<b>50</b>
<b>160</b>	Hand typed note from Kathy McLemore to Jeff/Lisa with ABC Legal Service form dated 4-19-07	<b>2</b>
<b>161</b>	Analysis of Wood Trails Rezone and Preliminary Plat Application , Volume Four, prepared by Concerned Neighbors of Wellington	<b>196</b>
<b>162</b>	Letter dated April 19, 2007, from Otto K. Paris, L.G., L.HG., Hydrogeologist to Ms. Cindy Baker, Interim Director of Development Services	<b>3</b>
<b>163</b>	Tree Preservation Plan for Wood Trails & Montevallo projects dated April 19, 2007, from Peter C. Blansett, S. A. Newman Firm	<b>6</b>
<b>164</b>	Email sent March 11, 2007, from Kerry Kunnanz to Susie McCann	<b>1</b>

<b>165</b>	Transmittal dated April 26, 2007, from Triad Associates, addressed to Hearing Examiner with attachments (Phoenix Development Rebuttal Memorandum prepared by G. Richard Hill; Response Letter to Additional Review Comments prepared by Transpo; Response Letter prepared by Woodinville Water District; Response Letter prepared by Sewall Wetland Consulting; Response Letter to CNW Comments prepared by Earth Solutions NW; Rebuttal to CNW Narrative prepared by Phoenix Development Inc.; Response to Comments RE: City Capacity Analysis prepared by Erika Jensen; Response Letter to CNW Volume 4 Comments prepared by Mark Keller; Letter regarding Summers Addition prepared by Mark Harrison	<b>72</b>
<b>166</b>	Email sent April 27, 2007, from Cindy Baker to Susie McCann, forwarding email sent April 26, 2007, from Rich Hill to Zach Lell-City Attorney; Rick Aramburu; Cindy Baker	<b>13</b>