NOTICE OF DECISION

City of Woodinville

Development Services Department
425-489-2754 • 17301 133rd Avenue NE • Woodinville, WA 98072
Desk Hours • Monday – Thursday 7:30am – 5:00pm • Friday 7:30am – 4:00pm

The City of Woodinville has issued a Notice of Hearing Examiner Decision for the following project:

Project Name: Vinterra Subdivision

Proponent: Todd Oberg of Blueline Group, on behalf of Schuster Family Investments, LLC

Project Number: PPA12003/SEP12036

Description of proposal: Preliminary Plat Application to subdivide two existing parcels totaling 33.35 acre into 157 single-family residential lots in the R-4 and R-6 zoning districts. Construction will include grading, erosion control, street frontage improvements, tree protection, and stormwater/drainage improvements. SEPA is required for developments of five or more lots.

Project Decision: Approved with Conditions

Project Location: 15025 124th Avenue NE and 12825 NE 151st Street, Woodinville, WA.

Notice of Decision Date: **January 20, 2014**

End of Appeal Period Date/Time: **February 3, 2014 by 4:00 p.m.**

Project Permit Expiration Date: **January 20, 2021**

A public hearing was held before the Woodinville Hearing Examiner on December 11, 2013 for review of the Preliminary Plat application. After considering comments by the public, City staff, and outside agencies, the project was approved with conditions by the Woodinville Hearing Examiner, subject to the attached Findings of Fact, Conclusions and Decision.

The Preliminary Plat shall be valid for seven (7) years from the date of this Notice of Decision. If a final plat is not obtained within this period, the Preliminary Plat shall become null and void, and a new application would need to be submitted.

The Preliminary Plat shall also be declared void if there is a failure to comply with the approved plans or conditions of approval.

The application, supporting documents, and studies are available for review at the City of Woodinville, 17301 133rd Avenue NE, Woodinville, WA 98072. Contact: Erin Martindale, Project Manager, at (425) 877-2283. Email address: erinm@ci.woodinville.wa.us.

Appeals

A Party of Record must file an appeal of this decision within fourteen (14) days from date of this Notice of Decision. The final decision of the Hearing Examiner's Decision is appealable to the Woodinville City Council. Appeals must be delivered to the City of Woodinville and must be filed no later than Monday, February 3, 2014, by 4:00 p.m.

Appellants must be a party of record. To receive additional information on appeals for this application, please contact the Project Manager listed below.

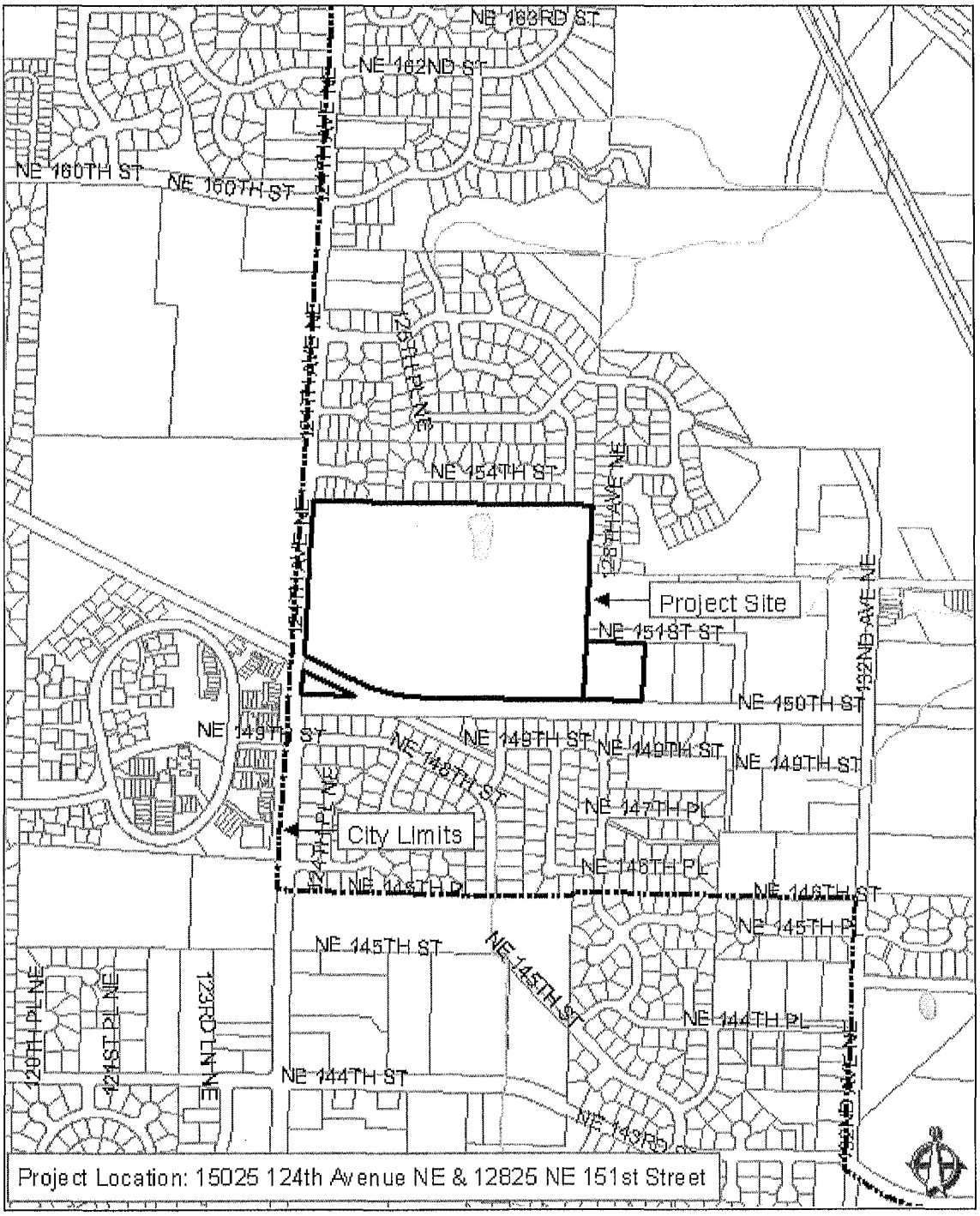
Affected property owners may request a change in valuation with King County for property tax purposes notwithstanding any program of revaluation. For information regarding property valuations and/or assessments, contact the King County Assessor's Office at 206-296-7300.

Contact person: Erin Martindale, Project Manager **(425) 877-2283**
Email address: erinm@ci.woodinville.wa.us

Date: January 20, 2014
David Kuhl, Development Services Director

Project Name: Vinterra Subdivision
File Numbers: PPA12003/SEP12036

Location Map



BEFORE THE HEARING EXAMINER
FOR CITY OF WOODINVILLE

In the Matter of the Application of Todd Oberg of Blueline Group for Approval of a Preliminary Plat	)))	No. FILE NO: PPA12003/SEP12036 FINDINGS, CONCLUSIONS, AND DECISION

SUMMARY OF DECISION

The subdivision of two existing parcels containing 33.35 acres into 157 single-family residential lots, generally located at 15025 124th Avenue NE (Parcel 'A') and 12825 NE 151st Street (Parcel 'B') Woodinville, Washington, is approved, subject to conditions as set forth in this document.

SUMMARY OF RECORD

Todd Oberg of the Blueline Group (Applicant) requested preliminary plat approval for the subdivision of two existing parcels containing 33.35 acres into 157 single-family residential lots. The acreage is in R-4 and R-6 zoning districts in the City of Woodinville (City). The property, generally located at 15025 124th Avenue NE (Parcel 'A') and 12825 NE 151st Street (Parcel 'B') Woodinville, Washington[1], is owned by the Estate of Henry Epp. Construction of the plat would include grading, erosion control, street frontage improvements, tree protection, and stormwater/drainage improvements. Review pursuant to the Washington State Environmental Policy Act (SEPA) is required for developments of five or more lots.

Hearing Date:
A hearing on the preliminary plat application was held before a Hearing Examiner of the City of Woodinville on December 11, 2013.

Testimony:
At the open record hearing the following individuals presented testimony under oath:

Jennifer Ngo- City of Woodinville
Dave Kuhl- City of Woodinville
Tom Hansen- City of Woodinville
Rick Roberts- City of Woodinville
Todd Oberg-Representative of Applicant
Tia Brotherton Heim-Representative of Applicant
Jennifer Reiner-Representative of Applicant
Kyle Lublin-Representative of Applicant
Edwin Koltonowski-Representative of Applicant

[1] The two parcels legal description is: Parcel No. 162605-9017: THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 26 NORTH, RANGE 5 EAST, W.M., IN KING COUNTY, WASHINGTON; EXCEPT THE NORTH 10 ACRES THEREOF; EXCEPT PORTION CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 514489, FOR PIPE LINE RIGHT OF WAY "TOLT RIVER PIPELINE"; AND EXCEPT PORTION LYING WITHIN COUNTY ROAD "124TH AVENUE NORTHEAST" and Parcel No. 162605-9077: WEST 300 FEET OF SOUTH 300 FEET OF NORTHEAST QUARTER OFSOUTHEAST QUARTER

Howard Heflin-public witness
J Heflin-public witness
Pat Graves-public witness
Jeff Hall-public witness
Keith Cotton-public witness
Teresa Thottakkarra-public witness
Mary Neifert-public witness

Exhibits:
At the open record hearing the following exhibits were submitted and admitted as part of the record on this proceeding:

Exhibit 1 Staff Report
Exhibit 2 Application materials, including application and project narrative, submitted August 27, 2013
Exhibit 3 Title Report, submitted August 27, 2013
Exhibit 4 Preliminary Plat Plans, prepared by Blueline Group, submitted October 16, 2013, including plat map, grading, utility, road, erosion control plans
Exhibit 5 Landscape and Tree Retention Plans prepared by Cramer Design Consultants, Inc., submitted October 16, 2013
Exhibit 6 Survey, prepared by Axis Survey and Mapping, submitted October 16, 2013
Exhibit 7 SEPA Checklist, prepared by Jennifer Reiner of DR Horton, submitted August 27, 2013
Exhibit 8 Determination Report for King County Parcel #1626059077, prepared by Wetland Resources, Inc. dated August 5, 2013
Exhibit 9 Critical Area Study and Buffer Mitigation Plan, prepared by Wetland Resources, Inc. dated revised April 4, 2013
Exhibit 10 Geotechnical Report, prepared by Terra Associates, Inc., dated September 11, 2012
Exhibit 11 Traffic Impact Analysis, prepared by Gibson Traffic Consultants, dated April 2013
Exhibit 12 Phase I and Limited Phase II Environmental Site Assessment Report of Findings, prepared by Tetra Tech, Inc., dated June 17, 2013
Exhibit 13 Revised Tree Inventory Report for Vinterra, prepared by Schoffner Consultant, revised August 26, 2013
Exhibit 14 Preliminary Technical Information Report, prepared by Blueline Group, dated August 27, 2013
Exhibit 15 Draft Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Vinterra, submitted December 18, 2012
Exhibit 16 Certificates of Water and Sewer Availability, submitted December 18, 2012
Exhibit 17 Vinterra Subdivision – Additional Information Request, prepared by Blueline Group, dated October 16, 2013
Exhibit 18 Vinterra Subdivision – Additional Information Request, prepared by Blueline Group, dated August 27, 2013
Exhibit 19 Vinterra Subdivision – Additional Information Request, prepared by Blueline Group, dated April 16, 2013
Exhibit 20 SEPA Determination of Nonsignificance (DNS) issued October 14, 2013
Exhibit 21 Notice of Application issued December 31, 2012 and reissued September 9, 2013
Exhibit 22 Notice of Public Hearing issued November 25, 2013
Exhibit 23 Agency Comments

Exhibit 24 Public Comments
Exhibit 25 Memo from Jenny Ngo, Planning Consultant, and Thomas E. Hansen, PE, Public Works Director, regarding Additional Exhibits and Corrections to the Staff Report, with the amended staff report
Exhibit 26 Northshore School District Comments December 11, 2013
Exhibit 27 Technical Review Committee Pre-Application Meeting Comments and Code Requirements Provided by Staff August 22, 2012
Exhibit 28 PowerPoint Presentation (Staff) December 11, 2013
Exhibit 29 Email from Greg Rubstello, City Attorney, to Dave Kuhl, Development Services Director regarding application vesting, dated December 11, 2013
Exhibit 30 Email from Tia Brotherton Heim of DR Horton with attachments, including cover letter, propose corrections, and letter from Duana Kolouskova regarding vesting, dated December 10, 2013
Exhibit 31 Applicant's Display at December 11, 2013 Hearing
Exhibit 32 Hearing Examiner Sign-In Sheet December 11, 2013
Exhibit 33 Pursuant to Order issued at Hearing Applicant's December response to amended staff report.

After consideration of the testimony and exhibits submitted at the open record hearing, the Hearing Examiner issues the following Findings and Conclusions:

FINDINGS

1. The Applicant requested preliminary plat approval for the subdivision of two existing parcels (totaling 33.35 acres) into 157 single-family residential lots in R-4 and R-6 zone districts in the City of Woodinville (City).[2] The application was reviewed and determined complete on December 20, 2012. *Exhibit 1, pg. 3.* The date of complete application is significant because all zoning and land use regulations vest. Building regulations vest at the time of a complete building permit.

2. The property, generally located at 15025 124th Avenue NE (Parcel 'A') and 12825 NE 151st Street (Parcel 'B'); Woodinville, Washington, is owned by the Estate of Henry Epp and Schuster Family Investments, LLC. Construction of the plat will include grading, erosion control, street frontage improvements, tree protection, and stormwater/drainage improvements. RCW 43.21C, the State Environmental State Environmental Act (SEPA), review is required for developments of five or more lots. *Exhibit 1, pg. 1; Testimony of Ms. Ngo.*

3. Pursuant to the SEPA the City of Woodinville was designated as the lead authority for environmental review of the proposed plat. On October 14, 2013, pursuant to WAC 197-11-340(2) a Determination of Non Significance (DNS)[3] was issued by the City of Woodinville, *Exhibit 20.* No appeals were received. *Exhibit 1, pg. 12*

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[2] The original December 18, 2012 submittal included creating 147 lots from the main commercial nursery property (referred to as Parcel 'A'). The August 27, 2013 amended submittal included the addition of 10 lots on Parcel 'B', for a total of 157 lots. *Exhibit 1, pg. 3.* The proposed plat has been reviewed and the decision is based on the plat having 157 lots.

[3] A DNS allows a development to continue without an Environmental Impact Report being prepared for the

4. The two parcels contain 33.35 acres: Parcel A is a 31.29 acre parcel that is in an R-6 zoning district; and Parcel B is a 2.07 acre tract that is in an R-4 zoning district. Both parcels have a comprehensive plan designation of "low to moderately residential development". *Exhibit 1, pg. 1; Testimony of Ms. Ngo; Exhibit 4.* The subdivision into 157 lots will consist of 149 lots being located on Parcel 'A' in the R-6 zoning district and 8 lots on Parcel 'B' in the R-4 zoning district. *Exhibit 1, pg. 5; Exhibit 2.*

5. The property, located in the Upper West Ridge neighborhood, is boarded by 124th Avenue NE on the west and 12000 block of the Tolt Pipeline Trail to the south and NE 154th Street and NE 151st to the north. The site generally slopes east to west with some steep slope areas and is vegetated with mature trees on the northern and eastern property lines. *Exhibit 1, pg. 2; Testimony of Ms. Ngo; Exhibit 4.* Parcel 'A' is developed as the "Vibrants Plant", a commercial nursery with planting rows, several structures/buildings and an irrigation pond. The structures on parcel A would be demolished. Parcel 'B' is developed with a single-family residence. A small Type III wetland (483 square feet) is along the south property line adjacent to the Tolt Pipeline Trail. *Exhibit 1, pgs. 2 and 3; Exhibit 2; Exhibit 14, pgs. 4 and 5*

6. The surrounding properties have the following zonings designations and uses: North: R-6, Single-Family Residential (6 units per acre); South: Tolt Pipeline Trail; R-6, Single-Family Residential (6 units per acre); East: R-4, Single-Family Residential (4 units per acre); West: City of Kirkland RSA 6, Single-Family Residential (6 units per acre). *Testimony of Ms. Ngo; Exhibit 1, pg. 3*

7. Woodinville Water District will provide water service, *Exhibit 16, pg.1,* and the Northshore Utility District will provide sewer service *Exhibit 16, pg. 7.* Electricity and Natural gas will be provided to the subdivision by the Puget Sound Energy. Telephone and cable service will be provided by Frontier and Comcast. *Exhibit 1, pg. 2.*

8. As established in WMC 21.12.030.A, the standard minimum lot size for properties in an R-4 zone is 9,000 square feet, and for lots in an R-6 zone, the minimum lot size is 6,000 square feet. The minimum lot sizes may be reduced if a portion of the property is constrained up to 50 percent with a critical area (WMC 21.24.085). One wetland that has been identified in the southern portion of the entire parcel includes a three to four foot deep ditch between a gas pipeline right-of-way and fill that has been used in the past as a nursery. The wetland, which collects hydrology from uncollected irrigation, precipitation and seepage from the gas pipeline, is less than one acre and has no forest connections and does not contain open water. It has been classified as a Class 3 wetland. It does, however, allow for reduction of area of some lots. *Exhibit 9, pg. 3; Exhibit 1, pg. 6; Exhibit 4.* For the instant plat, the minimum sized lot in the R-4 zoned area would be 7219 square feet; the minimum sized lot for the R-6 zoned area would be 5,000 square feet. *Exhibit 1. Pg.7; Exhibit 4.* The wetland would be enhanced through planting of trees, shrub and grass mixes and must be protected and maintained and monitored for five years. The Applicant

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Project. However, the Applicant is still responsible for adhering to all environmental requirements of the state and the City.

will be required to provide a minimum tree density of 60 trees credits per acre or mitigate through other methods. *Exhibit 25, pg. 2*

9. Because the property is impacted by a Class 3 wetland, it qualifies for density transfer and reduced minimum lot sizes. Lots in the R-4 zone may be reduced to 7,200 square feet and lots in the R-6 zone may be reduced to 5,000 square feet if the criteria of WMC 21.24.085 are satisfied. *Exhibit 1, pg. 6.* There are no other critical areas on the entire parcel, and the location of the transferred density will not be constrained by other critical area regulations. *Exhibit 1, pg. 6; Exhibit 9.* There will be no transfer of density to off-site properties. No lot averaging is proposed. *Exhibit 1, pg. 6.* The critical area is not included as part of the minimum lot size for the proposed lots. The critical area and its buffer have been set aside as a Natural Growth Protection Area (NGPA) tract. No panhandle lots are proposed. *Testimony of Ms. Ngo; Exhibit 1, pg. 6*

10. If developed consistent with the zoning standards, the number of dwelling units allowed in the R-4 zone would be four per acre and in the R-6 zoned section of the property, the number would be six units per acre. The proposed densities are 3.9 dwellings per acre and 4.8 dwelling units per acre, which do not exceed the base density. *Exhibit 1, pg. 6; Exhibit 4*

11. If 50 percent of a proposed developed site is constrained by critical areas, the density, which could be achieved on the constrained portion may be transferred to the non-sensitive area, if the base density is not exceeded. For the instant proposed plat a maximum of 4,715 square feet (0.108 acres) of the constrained area may be transferred to the remainder of the property. As proposed Parcel 'A', zoned R-6, would have a maximum base density of 187.09 units exclusive of the critical area and buffer (31.182 acres x 6 units/acre). Parcel 'B', zoned R-4, would be permitted a maximum base density of 8.28 dwelling units (2.07 acres x 4 units/acre). The Applicant is proposing 149 units in Parcel 'A' and 8 units in Parcel 'B', which is below the base density. *Exhibit 1, pg. 8; Exhibit 30.* Density credit can only be transferred within the development proposal site.

12. The plat at buildout would include lots that conform to the Woodinville zoning code. The lots would include those of minimum size and configuration. Infrastructure and site improvements are proposed to serve the lots, including streets, sidewalks, stormwater, sewer, electricity, recreational space. *Testimony of Ms. Ngo; Exhibit 1, pg. 6*

13. The proposed lots are generally rectangular with identifiable front, side, and rear property lines. While lot 8 is triangular with the most unique configuration, it has sufficient space and a relatively clear configuration for development of a single-family residence. No properties have appendages or panhandles. With the exception of Lot 157, the proposed lots comply with the depth to width ratio. Each lot has an average depth between the front and rear lot lines of not less than one-foot depth for each one foot of width. Due to the cul-de-sac and private road configuration off of Road G, Lot 157 has an average depth of .95 feet for each one foot of width. *Testimony of Ms. Ngo; Exhibit 1, pgs 6 and 7; Exhibit 4.*

14. Frontage improvements that would be made on the east side of 124th Avenue NE include curb and sidewalks. Many lots would be accessed via private lanes: Lots 7-8 through Tract 987, Lots 33-35 through Tract 990, Lots 140-141 through Tract 996, Lots 51 through 54 through Tract 992, Lots 79 to 81 through Tract 993, and Lots 143-146 through Tract 997.

Lots 140 through 146 have frontage on 124th Avenue NE and a private lane and are double frontage lots. Front lot lines would be applied on both streets for these lots. Vehicle access to the residences would be restricted to Road G and the private lane. Lots 1, 38-39, 48-49, 67-68, 82, 88-89, 95-96, 102-103, 109-110, 115-116, 120, 123-124, and 152-153 are corner lots that will have front lot lines from both streets. *Exhibit 1, pgs 3 and. 7; Exhibit 25.*

15. In the City of Woodinville class 3 wetlands are required to have a 50-foot buffer, but the buffer may be reduced to 25 feet if the existing buffer is significantly degraded and enhancement measures are implemented to provide net improvement. The wetland in the southern portion of the site is less than one acre in size and has not been forested and does not contain open water. The Applicant has proposed buffer enhancement that includes: removal of nursery plants, invasive species and gravel; the planting of native trees and shrubs; installation of split rail fence; and a five year monitoring plan. *Exhibit 9, page 6.*[4]

16. The Critical Area Report included information of the buffer of the class 3 wetland. It concluded that the buffer is "...significantly degraded through historic clearing, grading and maintenance and has not rooted native vegetation within its boundary". Because of the degraded buffer the Report concluded that the Applicant could develop with a reduced buffer as long as enhancement measures were implemented to provide a net improvement to the overall wetland and buffer function and value. *Exhibit 9, pg. 6.* The enhancement measures for the wetland would result in improved ecological functions that were described in detail in the Report. The City recommended adoption of them. *Exhibit 9; Exhibit 1, pg. 20.* The enhancement measures include buffer enhancement through removal of nursery plants, invasive species and gravel; planting native trees and shrubs; installing a split rail fence; and five year monitoring plan. The Report supports a reduced buffer of 25 feet surrounding the subject wetland. A 4,715 square foot critical area tract that includes the wetland and its buffer would be delineated as a Natural Growth Protection Area on the plat to protect the critical area from future development impacts pursuant to WMC 21.24.180. The proposal includes restoration and mitigation that will enhance the wetland and will result in improved ecological function. *Exhibit 9.*

17. There are two points of access to the proposed plat: on the western boundary ingress to and egress from the plat will occur onto 124th Avenue NE, which is designated as a minor arterial pursuant to WMC 12.12.020, *Exhibit 1, pg. 5*; and an access on the east border of the plat on NE 153rd Place, which connects to other adjoining subdivisions. In a traffic impact analysis, conducted by Gibson Traffic Consultants, it was determined that the plat at full development would generate 1,068 new vehicular trips (1550 predicted new trips less the 482 average daily trips from existing uses). There will be 133 new PM peak-hour trips. *Exhibit 11, pg. 19; Exhibit 25, pg. 2.*

18. The plat design calls for all internal roads in the subdivision to be connected to Road A, an east-west road. The proposed plat has been designed with a street system that includes cul-de-sacs, hammerheads, and a street grid with a rectangular circulation system. All of

[4] The Critical Area Report was based on a 148 unit residential subdivision. *Exhibit 9, pg. 4.* In response to questions at the hearing the Applicant submitted that the findings and details of the Critical Area Report apply to the increase of the plat to 157 units. *Testimony of Ms. Brotherton Heim*

the internal roads flow into Road A which intersects with 124th NE. *Exhibit 4, pg. 1.* None of the cul-de-sacs, hammerheads or loop roads exceeds 990 lineal feet from the access point of the new subdivision, and none of the roads serve more than 75 proposed dwelling units. *Exhibit 1, Pg. 10.* Because there will only be one connection to an adjoining neighborhood, the City determined that cut-through traffic through this site to nearby development will be limited. *Exhibit 1, pg. 10.* The City's Department of Public Works Department, upon review of the preliminary road plans and road profiles, determined compliance with the 1999 Transportation Infrastructure Standards and Specifications as enacted by the City in Chapter 12.09 WMC. *Exhibit 1, pg. 10.*

19. The City required the Applicant to address the amount of existing traffic in the general area and the amount that would be generated by the proposed subdivision. With the enactment of WMC 21.28.070, the City of Woodinville adopted a Level of Service (LOS)[5] E or better for acceptable traffic capacity. *Exhibit 1, pg. 9.* The Gibson Report evaluated LOS impacts at three intersections on 124th Avenue NE, including NE 160th Street, NE 144th Street and NE 157th Street. The 2018 future baseline conditions for all three intersections were established at LOS C to D, with delays ranging from 20.4 to 27.9 seconds. Using a worst case scenario, the report concluded that the project would slightly increase signal delays from 21.3 to 29.3 seconds, but the LOS level would remain at level C for all three intersections. *Exhibit 11, pg. 15.* The Public Works Department confirmed the findings of the submitted Traffic Impact Analysis prepared by Gibson Traffic Consultants, Inc. *Exhibit 1, pg. 10.* No contradicting traffic reports were submitted.

20. The proposed site access off 124th Avenue NE during AM peak-hours and PM peak-hours was predicted to be LOS B and LOS D respectively. Based on the Report, 124th Avenue NE would continue to operate above the City's accepted and adopted LOS E level (WMC 21.28.070). The Gibson report also concluded that a traffic signal was not warranted based on the findings of the study. *Exhibit 11, pg. 19.* In the City of Woodinville LOS D or better is desirable, with average delays at non-signalized intersections at 25 to 35 seconds or better. LOS E is considered adequate and average delays at signalized intersections are between 35 to 50 seconds. In Woodinville LOS F is considered inadequate with delays greater than 50 seconds. *Exhibit 1, pg. 9*

21. Street improvements are proposed along the east side of 124th Avenue NE. The improvements include a two-way left-turn lane, curbs, sidewalks, gutter, landscaping and crosswalk. The Applicant has proposed two potential frontage alternatives along a section of 124th Avenue NE near the point where the Tolt Pipeline Trail crosses the street. The final location is pending a decision from Seattle Public Utilities. One alternative would include a 6-foot curb and sidewalk within the east side of the 124th Avenue NE right-of-way. The second alternative would have a 5.5-foot planter and 8 foot sidewalk. The second alternative, currently in negotiation stage, would require approximately 13 feet

[5] Traffic congestion at intersections are measure in terms of LOS. Consistent with the Highway Capacity Manual: 2000 Edition by the Transportation Research Board (and adopted as part of the regulatory process of Woodinville) road facilities and intersections are rated between LOS A and LOS F, with LOS A being free flow traffic and LOS F being forced flow or over-capacity conditions. *Exhibit 11, pg. 9*

wide easement across the Tolt Pipeline Trail from Seattle Public Utilities. While both alternatives are acceptable to the Woodinville Public Works Department, the City submitted that the second alternative is preferable for pedestrians and trail access. *Exhibit 1, pgs. 9 & 10;*

22. According to the Applicant's designs, street illumination is proposed throughout the subdivision and on the east side of 124th Avenue NE along the property frontage. The Applicant must coordinate with Puget Sound Energy and the Public Works Department for design and installation of street lighting prior to final plat approval. *Exhibit 1, pg. 10*

23. A geotechnical report of the east part of the site was prepared by Terra Associates. Based on field exploration the site was found to be underlain on the east side by two to four feet of loose to medium dense organic fill overlying two to three feet of medium dense silty sand with grave overlying dense to very dense silty sand with grave. Some fill material was not organic and some ground water seepage between four and nine feet below grade was observed. The study on the west side of the site was conducted by Tetra Tech, who was given access to Terra's logs and the soil conditions findings. The conclusion was the west side of the site had similar soils with the exception of the non-organic fill. The geotechnical conclusion was that the native soils on the site will be suitable for support of the proposed development subjected to compliance with recommendations. *Exhibit 10, pg. 2*

24. An Environmental Site Assessment (ESA) was done for the property by Tetra Tech. The ESA resulted with 33 soil samples being taken throughout the site. Because of the extended use of chemicals during regular nursery operations, the ESA was required as part of the plat review. Tetra's review found that a nursery operation was apparent in a 1965 aerial photograph and that expansion of the nursery occurred until 2005. *Exhibit 12, pg. 4; Exhibit 1, Page 11.* The nursery operations included use of an irrigation pond that collected a combination of stormwater and well water. The water had historically been treated with fertilizers and pesticides prior to application throughout the property. In addition, an underground storage tank holding petroleum products that leaked had been previously removed from the site and appropriate site cleanup was conducted. *Exhibit 12; Exhibit 1, pg. 11.*

25. The sample sites, which included drainage areas, petroleum tank locations and other locations, were analyzed for pesticides, herbicides and metals. Based on the samples, Tetra determined that an isolated area adjacent to a culvert on the southern area of the property contains arsenic levels that exceed Washington Ecology MTCA Method B Cleanup Levels[6]. The findings of the ESA concluded that the remainder of the site did not have chemicals of concern that exceed Washington Department of Ecology standards. The recommendations of the ESA include that soils containing arsenic levels that exceed state standards should be excavated and adequately disposed off-site in connection to land development and that additional soil testing be conducted prior to excavation and removal off-site. *Exhibit 1, pg. 11; Exhibit 12, pg. 7*

26. As part of an effort to address privacy claims from adjoin developments the City's final recommendation included the following condition:

[6]Acceptable cleanup level is 20 mg/kg but the sample was 44 mg/kg.

Where feasible, the Applicant will construct 6-foot high wood fencing along existing property boundaries that abut neighboring properties. The fencing will comply with the standards in WMC 21.14.260. Alternatives that provide similar sight-obscuring qualities may be approved by the Planning Director or Public Works Director.

At the public hearing the Applicant objected to the imposition of this condition claiming that the City has no code authority to require the fencing. *Testimony of Ms. Tia Brotherton Heim*

27. The design of the plat has two recreational tracts, tract 995 near the middle of the plat and tract 991 near the T intersection of Road A in the eastern part of the plat. Another tract of land, tract 988 near the southwest border, will provide access to the Tolt Pipeline Trail. There is also an open space tract 999 is in the extreme southwest corner of the plat. The City in its review determined that the recreational and open spaces satisfy Woodinville Code requirements. *Exhibit 1, pg. 10.* The tracts will be owned and maintained by the homeowners' association. *Exhibit 2, pg. 4*

28. The plat has been designed to include several public access ways. The road between lots 52 and 53 will be available for public and emergency access. The road between Lot 37 and 38 will be terminated at the plat property line but will be available for future connection. A pedestrian access between lots 12 and 13 is for public trail connection. *Exhibit 4. Pg. 1; Exhibit 1, pg.10.*

29. The City enacted WMC 20.06.040(8) as a means of encouraging the design of a subdivision to include side lot lines to be at right angles to the street upon which the lot faces, except that on curved streets they shall be radial to the curve. The lots of the proposed plat have been drawn in a manner that the side lot lines create right angles to the street. In addition, pursuant to WMC 20.06.040(9) building setbacks are shown on the preliminary plat map. *Exhibit 1, pg. 7; Exhibit 4.*

30. The children in the subdivision who will attend public schools will go to Woodmoor Elementary, Northshore Junior High School and Inglemoor High schools. *Exhibit 1, pg. 10.* Local and state law requires safe walking conditions for students living in newly developed subdivisions[7]. On September 26, 2013, the Northshore School District, which will serve the subdivision, requested a raised sidewalk on the east side of 124th Avenue NE from NE 149th to NE 154th Place, a sidewalk on frontage along the Tolt Pipeline Trail, and a rapid flashing beacon with increased crossing time at the intersection of 124th Avenue NE and NE 160th Street. *Exhibit 1, pg. 13.* The City determined that the safe walking requirements would be met with sidewalks along the east side of 124th Avenue NE from the Tolt Pipeline Trail at Tract 999 to the northern boundary of the property. A crosswalk would be at the intersection of NE 154th Place and 124th Avenue NE. Placement of the signal timing at NE 160th Street and 124th Avenue NE would occur. *Exhibit 1, pg. 13*

31. A School Walk Safety Assessment that was completed by the Applicant found that the existing pedestrian infrastructure does not support safe walking conditions to and from the

[7] WMC 20.06.020.1.h and RCW58.17.110

subdivision. Because of this determination, additional improvements must be provided with the subdivision, including sidewalk improvements on 124th Avenue NE and an additional crosswalk at the intersection of NE 154th Place and 124th Avenue NE. *Exhibit 1, pgs. 10 and 11; Testimony of Mr. Hansen.*

32. In its amended Staff Report the City recommended that the Applicant be required to install a single marked crosswalk with rectangular rapid flashing beacons on 124th Ave. NE and NE 149th St. at the vicinity where the Tolt water line crosses 124th NE. Ave. *Exhibit 25, pgs. 3 and 24.* The Applicant did not object to this recommendation but submitted that the record should reflect that it is not responsible for installation of sidewalks on the west side of 124th Ave. NE. *Exhibit 33, Page 3*

33. Pursuant to a requirement that new residential subdivisions must submit a Type III Tree Plan (WMC 21.15.060), the Applicant provided landscape plans and tree preservation plans. *Exhibit 5; Exhibit 13.* Implementation of the plans would provide protection measures for existing trees and would include installation of a tree protection zone, fencing, signage, and construction techniques to prevent root damage. *Exhibit 1, pg. 8; Testimony of Ms. Ngo.*

34. A Tree Inventory Report prepared by Shoffner Consulting was submitted evaluating existing trees on site[8]. *Exhibit 13.* The minimum required tree density for the site is 60 tree credits per acre. *Exhibit 13, pg. 3*; the 33.35 acre site requires a minimum of 2,001 tree credits. Based on a tree census it was determined that the site currently has 384 trees, the equivalent of 1,144 tree credits. After site preparation and grading, 131 trees (344 tree credits) will remain on site. *Exhibit 13, pg. 3.* A landscaping plan has identified 452 trees (221 tree credits) ranging from 1 to 3 inch caliper trees that are to be planted on site. Based on City calculations, the Applicant will be required to provide mitigation with 1,476 tree credits through off-site mitigation or payment into the City Tree fund pursuant to WMC 21.15.070.2.e.i.B and C. *Exhibit 1, pgs. 8 and 9.* Revisions to the Tree Inventory Report and planning plans will be required to satisfy the minimum tree credit requirements for the site. *Exhibit 25, pg. 2*

35. WMC 21.15.070(2)(a) establishes the minimum tree standard as 60 credits per acre. For the 33.35 acres on the subject property there are 2001 tree credits required. There are currently 1,145 tree credits on the property and 131 trees will be retained. Based on these figures, the development of the site will be required to replace 1,657 tree credits. The Applicant will have the option of achieving those credits through tree replacement on site, or contribution to the City's tree fund. *Exhibit 13, pg. 3*

36. The Applicant proposed Bowhall red maple trees (Acer rubrum 'Bowhall') along 124th Avenue NE at a rate of 1 tree per 25 feet; on internal streets, street trees are proposed at a rate of 1 tree per 25 feet, with a combination of Japanese zelkova (Zelkova serrata 'Green Vase'), Bowhall red maples (Acer rubrum 'Bowhall'), and Capital flowering cherry (Pyrus calleryana 'Capital') trees. *Exhibit 5; Exhibit 13*

37. Two on-site stormwater detention ponds and vault would be developed as part of the subdivision. One would be located on Tract 998 immediately east of 124th Avenue NE,

[8] Shoffner Consulting is currently preparing an updated tree inventory which will be submitted with construction plans. The tree calculations will be based on the amended report. *Exhibit 30*

and the other on Tract 994 in the center of the property. *Exhibit 4. Pg. 10.* All stormwater runoff from the individual lots and the public and private roads will be captured in storm drain conveyance pipes that will be routed to the stormwater ponds/vault. Final plans will be reviewed for consistency with Chapter 14.09 WMC and the 2009 King County Surface Water Design Manual. *Exhibit 1, pg. 11*

38. In the City of Woodinville park and traffic impacts fees are required for new subdivision development. The required fees are based on the current fee schedule of the city and they are collected prior to building permit issuance. The impact fee credits will be established based on the requirements of WMC 3.36.110 and WMC 3.39.110. *Exhibit 1, pg. 11*

39. The Applicant's plans include a parcel of land, Tract 989, which will be established as a native growth protection easement (NGPE) to preserve the Class III wetland. Pursuant to WMC 20.06.060.4, NGPE's are granted where the preservation of native vegetation benefits the public health, safety and welfare, including control of surface water and erosion, maintenance or slope stability, visual and aural buffering, and protection of plant and animal habitat. A recommended condition of preliminary plat approval is that the NGPE remain undisturbed by future property owners. *Exhibit 1, pgs. 9*

40. The City and the Applicant disagreed over the terms of Condition 2(c) that was included in the City's recommendation of approval. The condition read:

    2. The following notes and information shall appear on the face of the final plat map. All signature blocks shall be in accordance with City Standards.
        C)."Building setbacks, driveway length, building height, building coverage, impervious surface coverage, and parking for this plat are subject to the standards in place at the time of a complete application for the single-family residential building permits. Applicants should have their site plan verified for compliance with these standards prior to submitting plans for a building permit."

    In an allowed post-hearing filing, the Applicant argued that while building regulations, such as those addressed in the International Building Code, vest at the time of building permit application, zoning and land use development standards vest at the time of complete plat application. The Applicant submitted that the standards called out in condition 2C of the City's recommendation vest at complete plat application and cannot be determined at the time of application of a building permit. *Exhibit 1, pgs. 16 and 17; Exhibit 33, Kolouskova attachment*

41. As part of the site development conditions the City recommended the following:
    16. All existing and proposed overhead utilities shall be placed underground, prior to final plat approval. At the east end of Road B the applicant shall install "No Parking" signs to keep the emergency vehicle turnaround clear of parked vehicles. Sign placement will be noted in final approval of construction drawings. The applicant will also install bollards at the end of the hammerhead, which can be removed for emergency personnel, to prevent traffic from entering onto the private roadway.

    The City in its corrections to the Staff Report added the requirement that all existing

and proposed overhead utilities shall be placed underground prior to final plat approval. *Exhibit 25, page 24.*

42. A. Based on its plat review the Woodinville Planning Department determined that the proposed Preliminary Plat, with conditions, would comply with the Comprehensive Plan goals and policies. The property has potential to support the single-family development. Utilities, including water, sewer and power, are available to support this development. The project is consistent with Goal LU-1 of the City's Plan which is to guide the City's population growth in a manner that maintains or improves Woodinville's quality of life, environmental attributes, and Northwest woodland character.

B. The plat would include construction of an internal street network within the Subdivision. The network would include sidewalks and recreational spaces; the sidewalks would connect to new frontage improvements on 124th Avenue NE as well as adjacent developments and the Tolt Pipeline Trail. The project is consistent with Goal LU-2 of the City's Plan, which is to establish land use patterns, densities, and site designs that encourage less reliance on single-occupant vehicle travel.

C. The plat would support development of low to moderately dense housing consistent with the zoning of the surrounding community. The design meets the dimensional lot standards of the R-4 and R-6 zoning districts and construction would comply with bulk and height standards prior to issuance of construction permits. It includes installation of street frontage and infrastructure improvements along NE 124th Street as well as internal streets. The Applicant would be required to meet the requirements for tree retention and mitigation, which will help to preserve the neighborhood character and natural environment. The project is consistent with Goal LU-3 of the City's Plan, which is to attain a wide range of residential patterns, densities, and site designs consistent with Woodinville's identified needs and preferences.

D. The plat would include two on-site recreation tracts and an open space tract for use by future residents. A connection to the Tolt Pipeline Trail between Lots 12 and 13 would be provided. The project is consistent with goal H-2 of the City's Plan, which is promote safe, physically accessible, and clean residential environments with associated open spaces.

Testimony of Ms. Ngo; Exhibit 1, pgs. 2-4

43. Fire hydrants are required to be spaced at a maximum of 500 feet apart. The Applicant's plans call for the hydrants to be less than 500 feet apart. *Exhibit 1, pg. 13*

44. Public comment letters were received during the public comment period (*Exhibit 24*) and members of the public submitted testimony at the public hearings. The primary concerns indicated in the letters were:

A. Traffic impacts on 124th NE: Letters and testimony from the public voiced concern about the increased congestion on 124th Ave. NE, as it currently exists and the impact from the proposed development. The most commented upon issue was the ingress and egress of neighborhoods off and to the Avenue. Some witnesses

questioned the accuracy of the submitted traffic report and the calculations for traffic that would be present during p.m. peak hours. Also, the number of existing traffic credits onto 124th was questioned. Some witnesses argued that a cumulative LOS should be considered all streets that connect to 124th Avenue. None of the witnesses provided independent traffic reports. Common testimony was that the traffic on 124th Avenue NE currently causes significant waits and that the increased traffic from the proposed subdivision will exacerbate the problem. There was also testimony that the trip generation calculations are inaccurate. In response the City submitted that it uses the standard trip calculation system that is used throughout the country.

B. Access to Tolt Trail: It was suggested that the connection to the Tolt Trail should be moved to the southeast portion of the site. Because of topography and grading concerns the access is between Lots 12 and 13.

C. Internal road connections: Numerous comments were submitted concerning road connections to adjoining subdivisions and the flow of traffic. The plat map (Exhibit 4) depicts the public streets and the connections to streets that serve other subdivisions. The street design has been reviewed pursuant to WMC 20.06.180 to determine if the design meets the requirements of this ordinance.

D. Rapid Flashing Light and School Safety: A crosswalk would be installed on 124th Ave. NE to provide a street crossing. Witnesses submitted testimony of the location of a flashing traffic light that would act as a traffic calming devise and provide additional safe pedestrian conditions. It was suggested that the flashing light should be amber and not red.

E. Infrastructure of other subdivisions: There were letters relating to the condition of the sidewalks and streets in adjoining neighborhood. The City submitted that the infrastructure of adjoining plats is not the responsibility of the Applicant and this issue was not considered in the City's review. *Exhibit 1, pg. 14.*

F. Other Issues: Many of the letters and testimony related to issues that were addressed by the City in its review and recommendations. They include: Construction impacts; environmental clean-up requirements; privacy and tree replacement. Issues were raised in letters about notice; however notice as given by the City is consistent with local and state requirements. *Exhibit 21 and 22*

CONCLUSIONS

I. Jurisdiction:

WMC 17.07.030:

Pursuant to, preliminary subdivisions are processed as a Type III decision. The Hearing Examiner is designated as the decision authority to decide preliminary subdivisions pursuant to WMC 20.08.030.

II. Criteria for Review of Preliminary Plats and modifications:

WMC 20.06.020 Review and approval criteria.

(1) Each proposed subdivision or short subdivision shall be reviewed to ensure that:

(a) 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) The proposal conforms to the development standards set forth in WMC Title 21, Zoning;

(c) The proposal conforms to the requirements of this section and those set forth in this chapter and WMC 17.09.020;

(d) 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) 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) The 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) 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 walk to school procedures, as established by the City, have been met;

(i) Tree preservation has been considered in accordance with the community urban forestry plan and tree preservation requirements have been adequately met.

(2) Lack of compliance with the criteria set forth in subsection (1) of this section shall be grounds for denial of a proposed subdivision or short subdivision, or for the issuance of conditions necessary to more fully satisfy the criteria

Conclusions based on Findings of Fact

1. The Applicant requested preliminary plat approval for the subdivision of two existing (parcels totaling 33.35 acres) into 157 single-family residential lots in R-4 and R-6 zone districts in the City of Woodinville (City). The application was reviewed and determined complete on December 20, 2012. The property, generally located at 15025 124th Avenue NE (Parcel 'A') and 12825 NE 151st Street (Parcel 'B'), Woodinville, Washington, is owned by the Estate of Henry Epp and Schuster Family Investments, LLC. Construction of the plat will include grading, erosion control, street frontage improvements, tree protection, and stormwater/drainage improvements. RCW 43.21C, the State Environmental State Environmental Act, review is required for developments of five or more lots. *Findings of Fact Nos. 1 and 2*

2. The proposed plat 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. *Findings of Fact Nos. 8, 28, 33, 34, 37, and 42 A-D*

3. The proposed plat conforms to the requirements of WMC 20.06 and those set forth WMC 20.06 and WMC 17.09.020. *Findings of Fact Nos. 7-43*

4. The proposed street system conforms to the City of Woodinville public infrastructure standards and specifications and neighborhood street plans the Design of the plat addresses safe, orderly and efficient circulation of traffic. *Findings of Fact Nos. 17-22*

5. The proposed subdivision will be adequately served with City approved Water, sewer, and other utilities appropriate to the nature of the subdivision. *Finding of Fact No. 7.*

6. The layout of lots, and their size and dimensions, has been designed with attention to topography and vegetation on the site in order that buildings may be reasonably sited, and the least disruption of the site, topography, trees and vegetation will result from development of the lots. *Findings of Fact Nos. 8-18, 23, 24 and 27-29.*

7. As a means of assuring that street and building sites of the plat are on geologically stable soil and that the stress and loads to which the soil may be subjected will not impact the development, the Applicant provided the City with a Geo-Tech Report that identified hazards and limitations to development. The designs of streets and lot layout have been based on the findings of said Report and the City has accepted its findings. An Environmental Assessment was also performed to address any contaminated soils. *Findings of Fact Nos. 16, 22-25*

8. Safe walkways to schools, and the process necessary to achieve this requirement, has been reviewed and determined by the City. *Findings of Fact No. 32*

9. Tree preservation has been considered in accordance with the community urban forestry plan. Tree preservation requirements have been established with conditions of this document. *Findings of Fact Nos. 32-35*

10. A wetland has been identified in the southern portion of the entire parcel and it includes a three to four foot deep ditch between a gas pipeline right-of-way and fill that has been used in the past by the previous use, a nursery. The wetland, which collects hydrology from uncollected irrigation, precipitation and seepage from the gas pipeline, is less than one acre, has no forest connected or on it and does not contain open water. It has been classified as a Class 3 wetland. It does however, allow for reduction of area of some lots. All review requirements, including buffer reduction and enhancements for reduction, have been included as conditions by the City and the all the requirements of chapter WMC 21.24 have been addressed. *Findings of Facts Nos. 15 and 16*

11. The zoning and land use standards for the plat vested as of the date of the complete plat

application. Washington law is well established that vesting occurs with a complete application. The complete application for the instant plat was December 20, 2012. *Finding of Fact No. 1.* The support of this conclusion is established in Washington law. In *Noble Manor Co. v. Pierce County*, 133 Wn.2d 269, 943 P.2d 1378 (1997). the Washington Supreme Court stated:

> The purpose of the vested rights doctrine is to provide a measure of certainty to developers and to protect their expectations against fluctuating land use policy. *Friends*, 123 Wn.2d at 522 (citing *West Main Assocs. v. City of Bellevue*, 106 Wn.2d 47, 51, 720 P.2d 782 (1986)).
> We conclude that when the Legislature extended the vested rights doctrine to plat applications, it intended to give the party filing an application a vested right to have that application processed *under the land use laws in effect at the time of the application.* Therefore, if the County requires an Applicant to apply for a use for the property in the subdivision application, and the Applicant discloses the requested use, then the Applicant has the right to have the application considered for that use *under the laws existing on the date of the application.* If all that the Legislature was vesting under the statute was the right to divide land into smaller parcels with no assurance that the land could be developed, no protection would be afforded to the landowner. (emphasis added)

The Noble Court reinforced previous land use decisions in which the Supreme Court determined that vesting of land use and zoning standards occur at the time of a complete plat application. In *Friends of the Law vs. King County*, 123 Wn.2d 518, 522 (1994) the Court held:

> "Vesting" refers generally to the notion that a land use application, under the proper conditions, will be considered only under the land use statutes and ordinances in effect at the time of the application's submission. *West Main Assocs. v. Bellevue*, 106 Wn.2d 47, 50-51, 720 P.2d 782 (1986). The purpose of vesting is to provide a measure of certainty to developers, and to protect their expectations against fluctuating land use policy. West Main, *at 51*. Although the doctrine at common law was extended to a number of different types of permits, it was never extended to applications for preliminary plat approval. *Norco Constr., Inc. v. King Cy.*, 97 Wn.2d 680, 684, 649 P.2d 103 (1982).

12. The City of Woodinville's Level of Service for traffic flow standards are set forth in WMC 21.28.070, which reads:

> 21.28.070 Adequate roads – Road capacity level of service (LOS) standard.
> (1) A calculated LOS D or better shall be considered desirable.
> (2) A calculated LOS E shall be considered adequate.
> (3) A calculated LOS F shall be considered inadequate.

The traffic flows on the surrounding roads and intersections have been studied and the traffic to be projected by the proposed development has been considered. The LOS of traffic before and after the development meets the current City standards as set forth in WMC 21.28.070. *Findings of Fact Nos. 19-20*

13. Pursuant to RCW 36.70B.040 – Determination of Consistency and WMC 17.13.100 the proposed plat has been reviewed for consistency with Woodinville's development regulations for a preliminary plat of 157 lots on a 33.35 acre plat. The infrastructure, including public facilities and services needed to serve the development has been considered. The design and characteristics of the proposed plat have been reviewed to determine consistence with Woodinville development standards. *Findings of Fact Nos.1-43*

DECISION

Based on the above stated Findings and Conclusions and the administrative record developed in this matter, it is hereby ordered:

The subdivision of two existing parcels containing 33.35 acres into 157 single-family residential lots, generally located at 15025 124th Avenue NE (Parcel 'A') and 12825 NE 151st Street (Parcel 'B') Woodinville, Washington, is **approved, subject to conditions as set forth in this document**.

FINAL PLAT/SITE PLAN

1. All improvements of the plat must be constructed consistent with the approved Preliminary Plat Map submitted October 16, 2013. The Planning Director and/or Public Works Director may approve minor modifications of the plans submitted if the modifications do not change the Findings of Fact or the Conditions of Approval.
2. The following notes and information shall appear on the face of the final plat map. All signature blocks shall be in accordance with City Standards.
    a. "The use and development of the property included within this plat shall be governed by the Conditions of Approval imposed through File Number PPA12003/SEP12036 and shall be binding upon the land until that approval is amended, revoked or expired."
    b. A free consent statement in conformance with City of Woodinville standards shall be acknowledged by property owners and shall be notarized.
    c. Zoning and land use standards vested with the complete application. All building permit standards will vest at the time of complete building permit applications.
    d. As part of the Homeowners Association agreement there shall be a section that requires the following: "All property owners shall maintain, in a uniform manner, the City right-of-way located between their property lines and the back of adjacent curbs or street lines to the maintenance level or standard applied to City parks. If the City is required to perform such maintenance, the City shall bill the property owners for the cost of such maintenance, including administration costs".
    e. A private road agreement for Tracts 987, 990, 992, 993, 996, and 997 must be designated on the face of the plat and must specify the use and maintenance responsibilities of the private facilities.
    f. "No lot may take direct access to 124th Avenue NE."
    g. "With application for each building permit, a tree planting plan shall be submitted, in conformance with the approved planting plan, prepared by _____, and approved by the City on _____. The required trees shall be planted prior to final inspection for the residence."

3. The following changes shall be made to the final plat map:
    a. Remove trees and topography from the map.
    b. Remove setbacks, driveway lines, the street improvement details, and other items not relevant to the plat recording.
    c. Add the bearings for the lot lines.
    d. Show all existing and proposed easements and tracts; show the easement and tract ownership and maintenance responsibilities.
    e. If any financial institutions appear in the title report at the time of final plat application, their signature must be added to the plat map.
    f. Include the requirement that the Homeowners Association is responsible for maintaining the landscaping and irrigation systems in the recreation tracts, stormwater tract, and planter strips adjacent to the tracts, including payment for any water usage.
4. A ten foot utility easement along the public and private street frontage shall be dedicated as part of the plat.
5. The right-of-way and the improvements for NE 153rd Place and Roads A through G shall be dedicated to the public as part of the final plat approval.
6. The following items must be shown on the face of both the final plat map and supplemental map prior to final approval. The required language for these items may be obtained from the City:
    a. Surveyor Certificate;
    b. Owners Statement;
    c. All new easement(s) over the property, their legal description(s) and associated dedication block(s);
    d. Recording block/Certification block for Planning Director and Public Works Director approval;
    e. Certification of Payment of Taxes and Assessments;
    f. Auditor's Certificate;
    g. North arrow;
    h. The survey control scheme, monumentation, monuments to be set, and references.
7. The Applicant shall submit a copy of the covenants, conditions and restrictions with the application for final plat approval.
8. All improvements shall be constructed in accordance with the approved site development plans and right-of-way construction plans and shall be installed prior to final plat approval. A financial security may be posted for final asphalt lift and landscaping pursuant to WMC 20.06.210 as approved by the Planning and Public Works Directors.
9. As-builts shall be submitted showing all public improvements with the application for final plat. The submitted as-builts shall be in the format required by the City's Infrastructure Design Standards and Specifications. The Applicant shall have a licensed surveyor or engineer prepare and/or supervise the preparation of record drawings to be reviewed, approved and signed by the Public Works Director upon satisfactory installation of the constructed infrastructure improvements and site work. The City will require one (1) reproducible (mylar), one (1) signed blueline, one (1) 11" x 17" reduced

copy, and one (1) electronic file in CAD format of the drawings shall be approved prior to final plat approval.

10. All permanent survey control monuments shall be provided in accordance with the City's Infrastructure Standards prior to final plat approval. Additional monumentation shall be installed as required by the Public Works Director.

11. Prior to acceptance of the improvements, a final inspection shall be completed by the Planning and Public Works Departments.

12. The Applicant shall:

    a. Construct frontage on 124th Avenue for the length of the property including curb and gutter, road widening, enclosed stormwater drainage, sidewalks, planter strips, bicycle lanes, street trees, street illumination, and landscaping as shown on the preliminary plans dated October 16, 2013 or minor modifications as approved by the Public Works Director.

    b. Widen 124th Avenue to provide a two-way left turn lane the full length of the property frontage and with transitions that meet the existing street channelization on both ends in accordance with city standards. Minor modifications may be approved by the Public Works Director.

SITE DEVELOPMENT

13. All work within public right-of-way shall be done with a right-of-way permit, including site, frontage and utility improvements. Right-of-way permits must include a traffic control plan, erosion control plan, and all frontage improvements proposed for the site.

14. All work on private property shall be done with a site development permit, including site, drainage, landscaping, mitigation and utility improvements. The site development permit application shall conform to the conditions of approval in this decision.

15. The Applicant must obtain all necessary state and federal permits and approvals, including a Forest Practice Permit, prior to starting of any construction activities.

16. A Heavy Hauling permit from the City of Woodinville is required.

17. All walls over four (4) feet in height or those that carry a surcharge shall have a separate building permit. Such walls must be designed by a professional engineer licensed in the State of Washington. Permits for the walls shall be submitted, reviewed and approved prior to construction of the wall.

18. A separate sign permit shall be required for any new or altered signs.

19. The Applicant must obtain updated water and sewer availability certificates prior to final plat approval.

20. The storm water detention pond shall be landscaped on all sides by Type II landscaping. A final landscaping plan with detailed landscaping for this area shall be submitted to the City for review and approval prior to issuance of any permits. The landscaping shall be designed

in conformance with the City's Municipal Code and Infrastructure Standards. A final irrigation plan shall be provided for this landscaping. The Homeowners Association shall be responsible for maintaining the landscaping. The maintenance and function of the pond shall be the responsibility of the City of Woodinville.

21. The stormwater detention design and stormwater discharge shall utilize the Best Management Practices of the 2009 King County Surface Water Design Manual and the current Department of Ecology National Pollutant Discharge Elimination System (NPDES). Drainage facilities must be designed for maximum impervious surfaces allowed, or a note shall be placed on the final plat map stating the impervious surface maximums allowed. All development shall proceed in accordance with the recommendations listed in the Preliminary Technical Information Report dated August 27, 2013, prepared by Blueline Group and any further addendums as accepted by the Public Works Director.

22. The Applicant is encouraged, but not required, to construct fencing, or other sight obscuring features, along existing property boundaries approved by the Development Services Director or Public Works Director. Fencing that is installed must comply with standards in WMC 21.14.260.

23. Mailbox locations shall be approved by the Woodinville postmaster and the City Engineer prior to installation to ensure that the required intersection sight distances are complied with and that they do not interfere with traffic operations or pedestrian travel paths.

24. All new utilities and existing utilities shall be installed and/or relocated underground within the development, including electrical transformers, telephone pedestals, cable splice cabinets, and those in the 124th Avenue NE frontage prior to final plat approval per WMC 15.39.010.

25. The Applicant shall install curb and gutter, sidewalks, planters, and street trees per City standards. The Applicant will be required to construct new public roads, private access roads, and frontage improvements that are consistent with preliminary plans dated October 16, 2013 and are in accordance with City standards. Final construction drawings must be approved by the Public Works Director. Any revisions are to be approved by the Public Works Director.

26. Road F shall be have an emergency vehicle connection and at least one pedestrian connection with NE 127th Place. A 6-foot sidewalk will be required on one side of Tract 992 connecting to NE 127th Place. The sidewalk can be located in the 10-foot utility easement. The Applicant will also be required to install bollards across the roadway that can be removed by emergency personnel per City Infrastructure Standards.

27. There shall be a full street connection from Road F to NE 153rd Place on the east side of the property.

28. All existing and proposed overhead utilities shall be placed underground, prior to final plat Approval. At the east end of Road B the Applicant shall install "No Parking" signs to keep the emergency vehicle turnaround clear of parked vehicles. Sign placement will be noted in final approval of construction drawings. The Applicant will also install bollards at the end of

the hammerhead, which can be removed for emergency personnel, to prevent traffic from entering onto the private roadway.

29. The Applicant shall be required to install a single marked crosswalk supplemented with rectangular rapid flashing beacons (RRFB) on 124th Ave. NE. in the vicinity of the intersection of 124th Ave. NE. and NE. 149th St. to the vicinity of where the City of Seattle Tolt Water line crosses 124th Ave. NE. This area is shown on Sheet 10 of 16 of Exhibit 4. Preliminary Plat Plans at Station 1+00 to Station 6+00. The Applicant may be required to construct a mid-street pedestrian refuge island at this same marked crosswalk, with RRFB within it limits, if required by the Public Works Director. The marked crosswalk and the pedestrian refuge areas in the mid-street island and the sidewalks of each side of 124th Ave. NE. shall be constructed to ADA standards. The exact location of the marked crosswalk shall be determined by the Public Works Director at the time of construction plan approval with the right of way permit required for the project.

30. A final tree preservation- maintenance agreement and replanting plan for the individual lots shall be submitted to the City for review and approval prior to final plat approval. The tree plan shall be designed in conformance with the City's Municipal Code and Infrastructure Standards. The project is subject to a City of Woodinville Type III tree plan. The site, 33.35 acres, is required and the Applicant is required to provide a total of 2001 tree credits through replanting or other mitigation requirements consistent with WMC 21.15.070.2.e. The final tree density credits totals will be evaluated in the tree preservation plan, replanting plan and tree inventory report submitted at final plat approval. Trees shall be planted within Tracts 988, 989, 991, 994, 995, 998, and 999 as part of the landscaping required for this project. Trees shall be planted on individual lots at the time of single-family residence construction. Prior to final plat approval, the planting shall be based on (1) an approved plan; and (2) a recommendation from the arborist on the number of trees each lot can support without creating a nuisance. If remaining tree credits are required, the Applicant shall comply with the requirements of WMC 21.15 by contributing to the City tree fund for those credits, prior to final plat approval. The final plans shall include the following revisions:
    - The tree credits that will be provided in the landscaping area in the NGPE, recreational and drainage (Tracts 988, 989, 991, 994, 995, 998 and 999) and the remaining number of credits to be provided by the individual lots (or another method per WMC 21.15).
    - Tree protection details shall be shown on the civil plans, per WMC 21.15.080. Tree protection for the trees on neighboring properties shall be called out specifically.
    - Identify those off-site trees on the plans that have the potential to be impacted by construction, as identified in the arborist report. Impacts to these trees during construction shall be evaluated by the arborist, and for those that are determined to no longer be viable, the Applicant shall work with the neighbor on an agreeable solution to the impact.
    - The arborist shall provide a specific recommendation on the number of trees each lot can support. The replanting plan shall conform to this recommendation.
    - A final irrigation plan, providing temporary irrigation for all planted trees.

31. The clearing limits of the approved plans shall be clearly delineated in the field. Where such

limits are in proximity to property boundaries or NGPEs, barrier fencing or siltation fencing shall be installed before site disturbance in accordance with the approved temporary erosion and sedimentation control plan.

32. A minimum four (4) foot tall chain link fence, or another fence as approved by the Planning Director pursuant to WMC 21.15.080 shall be installed around all trees designated to remain on the Tree Plan. The fence shall be located five (5) feet beyond the driplines of retained trees and shall surround the protected area of all retained trees, groups of trees, and their understory. A sign shall be installed every 15 feet along the entirety of the fence that states "Tree Protection Area, Entrance Prohibited, call 425-489-2754 to Report Violations".

33. All development shall proceed in accordance with the recommendations listed in the Critical Area Assessment prepared by Wetland Resource, Inc. and any further addendums as accepted by the Planning Director. The monitoring reports for the wetland mitigation shall begin with a baseline report, due at the time that the mitigation work is inspected and approved by the City, in conformance with the recommendation of the reports. Five (5) years of monitoring reports shall be submitted to the City on an annual basis after that date. The Applicant shall be responsible for correcting any areas identified in those reports that are not in compliance with the goals and objectives stated in the mitigation plan.

34. Remediation and/or disposal of the contaminated soil and sediments, which exceed Washington State Department of Ecology MTCA Method B cleanup levels for unrestricted/residential use, must be completed in accordance with the Phase I and Limited Phase II Environmental Site Assessment prepared by Tetra Tech, Inc. dated June 17, 2013 (Exhibit 13), as well as all requirements as set forth in State of Washington and Federal law, including abandonment of wells and removal of septic systems. The Applicant shall also submit to the City copies of any correspondence sent to, or received, from any governmental agency, including approvals of determinations, concerning the removal or remediation of contaminated soils.

35. A temporary erosion and sedimentation control plan shall be submitted, reviewed and approved by the City, and prepared in accordance with the 2009 King County Surface Water Design Manual. Temporary erosion and sedimentation control measures shall be installed and inspected prior to commencing any construction activities. Temporary erosion and sedimentation control measures shall be maintained at all times during construction.

36. All development be in accordance with the recommendations listed in the Geotechnical Report dated September 11, 2012, prepared by Terra Associates, Inc and any further addendums as accepted by the Public Works Director.

37. The Applicant shall submit a supplement to the existing Technical Information Report for approval by the City of Woodinville. The supplement report shall detail the design and construction of, but not limited to:
    - Stormwater facilities
    - Outfall locations
    - Erosion control at outfall locations
        i. East Basin – 24" CMP outlet to channel
    - The relocation of the existing water service line in the east basin ravine
    - Offsite stormwater Integrated Management Practices (IMP's)

o Additional requirements that the Applicant must meet.

The Woodinville Water District is currently planning on moving the water service line located in the East Basin. If this water service line is not moved by the time of final plat approval, the Applicant will take responsibility for relocating it, provided that the Applicant is able to obtain the underlying property owner's consent to relocate such water service line.

38. Construction noise is not permitted anytime on Sundays and holidays, or outside the hours of 7:00 a.m. through 7:00 p.m., Monday through Friday and 9:00 a.m. through 5:00 p.m. on Saturday; or, from Memorial Day to Labor Day, outside the hours of 7:00 a.m. through 9:00 p.m., Monday through Friday and 9:00 a.m. through 5:00 p.m. on Saturday.

39. The Development Services Director and/or the Public Works Director have the authority to direct the Applicant, or the Developer (if someone other than the Applicant develops the property), or the Developer's on-site representative, 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 Applicant or Developer or his representative to redirect such labor and equipment shall result in immediate project closure and resolution of the problem by the City.

40. Should archaeological materials (e.g. bones, shell, stone tools, beads, ceramics, old bottles, hearths, etc.) or human remains be observed during project activities, all work in the immediate vicinity should stop. The State Department of Archaeology and Historic Preservation (360-586-3065), the City planning office, the affected Tribe(s) and the County Coroner shall be contacted immediately to help assess the situation and determine how to preserve the resource(s). Compliance with all applicable laws pertaining to archaeological resources (RCW 27.53, 27.44 and WAC 25-48) is required. Failure to comply with this requirement could constitute a Class C Felony.

41. If at any time during clearing, grading and construction the streets are not kept clean and clear, all work will stop until the streets are cleaned and maintained in a manner acceptable to the Public Works Director in accordance with the Woodinville Municipal Code.

42. Prior to starting any construction, the Applicant and contractor shall attend a pre-construction meeting with City staff to discuss expectations and limitations of the project permit.

43. One week prior to starting construction on the site, the Applicant shall notify all neighboring property owners within 300 feet that the work will be occurring within the neighborhood.

44. All construction traffic shall take access off 124th Avenue NE. The Applicant shall not use any other public road for construction access without a permit from the City of Woodinville Public Works Department. All construction equipment, building materials, and debris shall be stored on the Applicant's property, off the public right-of-way. In no case shall the access to any private or public property be blocked or impinged upon without prior consent from the affected property owners and a right-of-way permit obtained from the City of Woodinville.

45. The Applicant shall pay park impact mitigation fees or other forms of negotiated impact mitigation for all lots in accordance with WMC 3.36. Payment of the park impact mitigation fee or mitigation amount shall be made to the City of Woodinville at the time of building

permit issuance. The total fee shall be based on the mitigation fee established in WMC 3.36. Impact fee credits will be established based on the requirements in WMC 3.36.110.

46. The Applicant shall pay transportation impact mitigation fees for each new average daily trip generated by the proposed development. Payment of the traffic impact mitigation fee shall be made to the City of Woodinville at the time of building permit issuance. There is a traffic impact trip credit of 482 daily trips for the site due to existing uses on the site as determined by the Traffic Impact Analysis (Exhibit 11). The Applicant shall determine when to apply the traffic impact trip credits when submitting the building permit applications. When the credits are depleted, the Applicant shall pay the traffic impact mitigation fee in effect at the time. The fee or mitigation amount shall be based on the mitigation fee established in WMC 3.39 in effect at the time of the fee payment. Impact fee credits will be established based on the requirements in WMC 3.39.110.

47. A performance guarantee, in the form of an assignment of funds or cash deposit, in the amount of 150 percent of the total project (public and private improvements, landscaping, tree planting, and wetland mitigation) as determined by the City, shall be submitted by the Applicant prior to site development permit issuance.

48. A maintenance guarantee, in the form of an assignment of funds or cash deposit, in the amount of 20 percent of the total project (public and private improvements, landscaping, tree planting, and wetland mitigation) as determined by the City, shall be submitted by the Applicant prior to City acceptance of the improvements and final plat recording. The City shall inspect the infrastructure at the end of the maintenance period. Any infrastructure that appears defective or has deteriorated beyond normal wear for the period of the guarantee shall be repaired by the Applicant to the satisfaction of the City.

49. Maintenance periods shall begin when the City has accepted all required site improvements. The maintenance periods are listed below, but may be extended by the City if on-site conditions warrant an extension:
    - Site, frontage, and lighting improvements – Two (2) years
    - Landscaping & Irrigation – Three (3) years
    - Tree Protection – Five (5) years
    - Wetland Mitigation – Five (5) years

50. A critical area performance guarantee, in the form of a surety bond, assignment of funds or cash deposit, in the amount of 150 percent of the total mitigation cost as determined by the wetland biologist and accepted by the City, shall be submitted by the Applicant prior to site development permit issuance.

Dated 16th day of January, 2014

James M. Driscoll

James M. Driscoll-Hearing Examiner