



## 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](mailto: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.

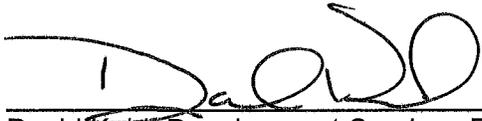
Appellants must be a party of record. To receive additional information on appeals for this application, please contact the Project Manager listed below.

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](mailto: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
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**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 151<sup>st</sup> 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 151<sup>st</sup> Street (Parcel 'B') Woodinville, Washington<sup>1</sup>, 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

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<sup>1</sup> 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 OF SOUTHEAST 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, proposed 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).<sup>2</sup> 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 151<sup>st</sup> 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)<sup>3</sup> was issued by the City of Woodinville, *Exhibit 20*. No appeals were received. *Exhibit 1, pg. 12*

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<sup>2</sup> 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.

<sup>3</sup> 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 124<sup>th</sup> Avenue NE on the west and 12000 block of the Tolt Pipeline Trail to the south and NE 154<sup>th</sup> Street and NE 151<sup>st</sup> 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 124<sup>th</sup> 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 124<sup>th</sup> 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.*<sup>4</sup>
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 124<sup>th</sup> 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 153<sup>rd</sup> 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

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<sup>4</sup> 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 124<sup>th</sup> 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)<sup>5</sup> E or better for acceptable traffic capacity. *Exhibit 1, pg. 9.* The Gibson Report evaluated LOS impacts at three intersections on 124<sup>th</sup> Avenue NE, including NE 160<sup>th</sup> Street, NE 144<sup>th</sup> Street and NE 157<sup>th</sup> 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 124<sup>th</sup> Avenue NE during AM peak-hours and PM peak-hours was predicted to be LOS B and LOS D respectively. Based on the Report, 124<sup>th</sup> 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 124<sup>th</sup> 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 124<sup>th</sup> 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 124<sup>th</sup> 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

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<sup>5</sup> 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 124<sup>th</sup> 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<sup>6</sup>. 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:

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<sup>6</sup>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<sup>7</sup>. On September 26, 2013, the Northshore School District, which will serve the subdivision, requested a raised sidewalk on the east side of 124<sup>th</sup> Avenue NE from NE 149<sup>th</sup> to NE 154<sup>th</sup> Place, a sidewalk on frontage along the Tolt Pipeline Trail, and a rapid flashing beacon with increased crossing time at the intersection of 124<sup>th</sup> Avenue NE and NE 160<sup>th</sup> Street. *Exhibit 1, pg. 13*. The City determined that the safe walking requirements would be met with sidewalks along the east side of 124<sup>th</sup> 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 154<sup>th</sup> Place and 124<sup>th</sup> Avenue NE. Placement of the signal timing at NE 160<sup>th</sup> Street and 124<sup>th</sup> 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

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<sup>7</sup> 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 124<sup>th</sup> Avenue NE and an additional crosswalk at the intersection of NE 154<sup>th</sup> Place and 124<sup>th</sup> 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 124<sup>th</sup> Ave. NE and NE 149<sup>th</sup> St. at the vicinity where the Tolt water line crosses 124<sup>th</sup> 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 124<sup>th</sup> 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<sup>8</sup>. *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 124<sup>th</sup> 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 124<sup>th</sup> Avenue NE,

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<sup>8</sup> 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*