

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

In the Matter of the Application of)	No. PPA19001
)	
Jake Drake, The Blueline Group, on)	Countrywood Preliminary Plat
behalf of Countrywood Woodinville,)	
LLC)	
)	
<u>For Approval of a Preliminary Plat</u>)	FINDINGS, CONCLUSIONS, AND DECISION

SUMMARY OF DECISION

The application for a preliminary plat to subdivide a 9.41-acre parcel into eight, single-family residential lots, with associated tracts, at 18727 160th Avenue NE is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposed development.

SUMMARY OF RECORD

Hearing:

The Hearing Examiner held an open record hearing on the request on January 6, 2021, using remote meeting technology due to the COVID-19 pandemic.

Testimony:

The following individuals testified under oath at the open record hearing:

- Kelsey Loch, City Associate Planner
- Rick Roberts, City Public Works Director
- Todd Oberg, Applicant Representative
- Tim McHarg, Senior Land Use Planner, Van Ness Feldman
- Barry Margoese, Principal, Countrywood Woodinville, LLC
- Susan Prince, ISA Certified Arborist, Creative Landscape Solutions

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated December 30, 2020
2. Application materials
 - a. Land Use Application, dated June 7, 2019
 - b. Project Narrative, dated June 10, 2019
 - c. Water and Sewer Availability Request Application, dated May 2, 2019
 - d. Certificate of Water Availability, dated May 5, 2019
 - e. Conceptual Site Plan, dated April 19, 2019
 - f. Northshore School District's Preliminary Certification, undated
 - g. Conceptual Site Plan, dated April 19, 2019

*Findings, Conclusions, and Decision
City of Woodinville Hearing Examiner
Countrywood Preliminary Plat, No. PPA19001*

- h. Vicinity Map, undated
- i. Title Insurance information, dated May 29, 2019
- 3. Letter of Incomplete Application, dated July 2, 2019
- 4. Letter of Complete Application, dated July 11, 2019
- 5. Notice of Application, dated July 22, 2019
- 6. SEPA Environmental Checklist, dated June 18, 2019
- 7. Preliminary plat plans
 - a. Cover Sheet (Sheet 1 of 11, CV-01), dated November 5, 2020
 - b. Existing Conditions and Demolition Plan (Sheet 2 of 11, EC-01), dated November 5, 2020
 - c. Preliminary Plat Map (Sheet 3 of 11, PP-01), dated November 5, 2020
 - d. Preliminary Slope Analysis (Sheet 4 of 11, SA-01), dated November 5, 2020
 - e. Preliminary TESC and Clearing Plan (Sheet 5 of 11, TP-01), dated November 5, 2020
 - f. Preliminary Grading and Utility Plan (Sheet 6 of 11, GP-01), dated November 5, 2020
 - g. Preliminary Road Profiles (Sheet 7 of 11, RP-01), dated November 5, 2020
 - h. Preliminary Road Sections (Sheet 8 of 11, RD-01), dated November 5, 2020
 - i. Tree Retention Plan (Sheet 9 of 11, TR-01), dated November 5, 2020
 - j. Landscape and Tree Replacement Plan (Sheet 10 of 11, LS-01), dated November 5, 2020
 - k. Landscape Details (Sheet 11 of 11, LS-02), dated November 5, 2020
- 8. Wetland and Fish and Wildlife Habitat Assessment, Soundview Consultants, LLC, revised November 18, 2019; Response to Third-Party Comments, Soundview Consultants, LLC, dated November 18, 2019; Non-Wetland and Fish and Wildlife Habitat Assessment, Soundview Consultants, LLC, dated May 30, 2019; Response to Additional Information Request, Soundview Consultants, LLC, dated March 9, 2020
- 9. Environmental Peer Review, The Watershed Company, dated August 6, 2019; Additional Environmental Peer Review, The Watershed Company, dated February 25, 2020
- 10. City Department and Public Comments:
 - a. Additional Information Request Letter, dated October 3, 2019
 - b. Comment from Fred Drennan and Teresa Massagli, dated August 5, 2019
 - c. Comment from Gordon and Peggy Kelley, dated August 2, 2019
 - d. Comment from Fred Drennan and Teresa Massagli, dated July 29, 2019
 - e. Comment from Stephen Tracy, dated August 4, 2019
 - f. Environmental Peer Review, The Watershed Company, dated August 6, 2019
 - g. Additional Information Request Letter, dated February 10, 2020
 - h. Additional Information Request Letter, dated February 28, 2020
 - i. Additional Information Request Letter, dated May 28, 2020
 - j. Additional Information Request Letter, dated September 23, 2020
 - k. Additional Information Request Letter, dated September 28, 2020
 - l. Additional Information Request Letter, dated October 9, 2020
 - m. Additional Information Request Letter, dated November 3, 2020

11. Public Comments and Applicant Responses:
 - a. Comment from Fred Drennan and Teresa Massagli, dated July 29, 2019
 - b. Comment from Gordon and Peggy Kelley, dated August 2, 2019
 - c. Comment from Stephen Tracy, dated August 4, 2019
 - d. Comment from Fred Drennan and Teresa Massagli, dated August 5, 2019
 - e. Applicant Response to Public Comments, dated March 27, 2020
 - f. Email from TC Colleran to Jake Drake, dated March 27, 2020, with email string
12. Landscaping and Tree Retention Plan:
 - a. Landscape and Tree Replacement Plan (Sheet 10 of 11, LS-01), dated November 19, 2020
 - b. Tree Retention Plan (Sheet 9 of 11, TR-01), dated November 19, 2020
13. Preliminary Septic Approval, dated September 10, 2020, with application materials
14. Stormwater Vault Feasibility Study, The Blueline Group, dated March 31, 2020
15. Geotechnical Addendum – Supplemental Exploration, Associated Earth Sciences, Inc., dated March 25, 2019
16. Preliminary Technical Information Report, The Blueline Group, dated June 18, 2019, revised March 31, 2020
17. Public Works Deviation from Standards Request, dated December 16, 2020
18. Applicant Responses to City Department Comments, dated November 22, 2019; March 31, 2020; October 20, 2020; and November 6, 2020
19. Owner Authorization Form (Fred Drennan and Teresa Massagli), dated February 14, 2020; Owner Authorization Form (Gordon and Peggy Kelley), dated February 14, 2020
20. Construction Easement Agreement, dated November 5, 2019
21. Mailing Labels
22. Notice of Public Hearing, dated December 16, 2020
23. SEPA Final Determination of Nonsignificance (DNS), dated July 20, 2020
24. City PowerPoint Presentation
25. Additional Public Comments:
 - a. Comment from Jerod Gummer, dated December 22, 2020
 - b. Comments from David Mann, dated January 2 and 4, 2020
 - c. Comment from Jerod Gummer, dated January 22, 2020
26. Applicant comments in response to City Staff Report

The Hearing Examiner enters the following findings and conclusions based upon the testimony at the open record hearing and the admitted exhibits:

FINDINGS

Application and Notice

1. Jake Drake, The Blueline Group, on behalf of Countrywood Woodinville, LLC (Applicant), requests approval of a preliminary plat to subdivide a 9.41-acre parcel into eight single-family residential lots, two open space tracts, a stormwater tract, a Native Growth Protection Area (NGPA) tract, and a private road tract. The property is located at

18727 160th Avenue NE.¹ *Exhibit 1, Staff Report, page 1; Exhibit 2; Exhibit 7; Exhibit 12.*

2. The City of Woodinville (City) determined that the application was complete on July 11, 2019. On July 22, 2019, the City mailed notice of application to property owners within 500 feet of the site and to reviewing government agencies, published notice in the *Woodinville Weekly*, and posted notice on the subject property and at designated City locations, with a comment deadline of August 5, 2019. On December 16, 2020, the City mailed notice of the open record hearing associated with the application to property owners within 500 feet of the site and to reviewing government agencies, published notice in *The Seattle Times*, and posted notice on the subject property and at designated City locations. The City did not receive any agency comments in response to its notice materials. The City received several public comments from area residents in response to its notice materials, which are discussed in detail below. The City requested additional information from the Applicant to address its concerns and those of area residents on October 3, 2019, as well as on February 28, May 28, September 23, September 28, October 9, and November 3, 2020. *Exhibit 1, Staff Report, pages 2 and 3; Exhibit 4; Exhibit 5; Exhibit 10; Exhibit 11; Exhibit 18; Exhibit 21; Exhibit 22.*

State Environmental Policy Act

3. The City acted as lead agency and analyzed the environmental impacts of the proposal, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The City consolidated notice of the SEPA review and application comment periods under the optional process provided for by Washington Administrative Code (WAC) 197-11-355, with a comment deadline of August 5, 2019. The City's notice materials stated that the City's SEPA Responsible Official expected to issue a Determination of Nonsignificance (DNS) for the proposal. As noted above, the City received public comments during the consolidated comment period, which are discussed in detail below. The City reviewed the Applicant's environmental checklist, and other information on file, and determined that the proposal would not have a probable significant adverse impact on the environment. Accordingly, the City issued a Final DNS on July 20, 2020, with an appeal deadline of August 3, 2020. The DNS was not appealed. *Exhibit 1, Staff Report, pages 2 through 4; Exhibit 5; Exhibit 6; Exhibit 11; Exhibit 23.*

Comprehensive Plan and Zoning

4. The property is designated "Low Density Residential" under the City's Comprehensive Plan. The Low Density Residential designation "provides for established low density residential neighborhoods that are inappropriate for more intensive urban development due to significant environmentally critical areas, high cost and difficulty in extending public facilities, and/or presence of natural features that Woodinville seeks to retain."

¹ The property is identified by Tax Assessor Parcel No. 0226059098. A legal description of the property is included in the title report. *Exhibit 2.i.*

City Comprehensive Plan, 2015, page 2-7. City staff identified the following Comprehensive Plan goals and policies as relevant to the proposal:

- Protect and reinforce Woodinville’s Northwest Woodland Character. [Goal LU-1].
- Maintain and enhance development regulations that preserve Woodinville’s wooded hillsides, open spaces, and the character of established residential neighborhoods. [Policy LU-1.1].
- Provide land area and densities necessary to meet Woodinville’s projected needs for housing, employment, and public facilities. [Goal LU-2].
- Focus growth in compact and inviting mixed-use centers that have the capacity to absorb development (i.e., areas with vacant or underdeveloped land and available utility, street, park, and school capacity, or where such facilities can be effectively provided) and where environmental impacts can be minimized. [Policy LU-2.1].
- Allow new development only where adequate public services can be provided. [Policy LU-2.4].
- Provide for attractive, safe, diverse, and well-designed residential neighborhoods. [Goal LU-7].
- Maintain and enhance public improvement standards that emphasize safe, attractive, and compatible street design and employ low impact development techniques to the extent feasible. [Policy LU-7.1].
- Provide a diversity of housing types. [Goal H-1].
- Allow for a variety of housing types and lot sizes, including mixed use development, small and large lot single family development, accessory dwelling units, townhomes, duplexes, multiplexes, and apartments, and manufactured housing. [Policy H-1].
- Promote infill development designed to be compatible with existing neighborhoods while creating new housing opportunities. [Policy H-2].
- Provide a land use plan that accommodates Woodinville’s regionally determined housing growth target and supports regional objectives for housing diversity, affordability, innovative and flexible techniques, and a jobs-housing balance. [Policy H-3].

Exhibit 1, Staff Report, pages 1, 3, and 4.

5. The property is located within the City’s R-1 urban residential zoning district. Surrounding properties are also zoned R-1 and are developed with single-family residences. The purpose of Urban Residential (R) zones is to implement Comprehensive Plan goals and policies for housing quality, diversity, and affordability and to efficiently use residential land, public services, and energy. These purposes are accomplished, in the low-density zones (R-1 through R-4), by providing for predominantly single-family detached dwelling units. *Woodinville Municipal Code (WMC) 21.20.040(1) and (1)(a).* The R-1 zoning district provides for a base density of one dwelling unit per acre and does not have a minimum density requirement. *WMC 21.22.030; WMC 21.22.070.* The

project would provide a total of eight new residential lots, which meets the base density requirement. *Exhibit 1, Staff Report, pages 2 and 4 through 7; Exhibit 2; Exhibit 7.*

6. Chapter 21.60 WMC provides subdivision design standards applicable to the proposed development. The proposed lot shapes are generally rectangular in shape, with some varying property lines to accommodate a critical areas tract and stormwater tract, and would exceed the minimum average depth ratio requirement of not less than one foot of depth per foot of width, in compliance with lot design standards. *WMC 21.60.050(4) and (6)*. Lots within the R-1 zoning district are required to have a minimum lot size of 35,000 square feet. *WMC 21.22.030; WMC 21.60.050(5)*. The City's critical areas code, however, allows the minimum lot size in the R-1 zone to be reduced to 31,000 square feet as part of a density transfer to accommodate the preservation of critical areas and associated buffers located on a property that would be subdivided. *WMC 21.51.080*. As discussed in further detail below, approximately 18,733 square feet of a Category III wetland and its associated buffer is located on the subject property. With the allowable density transfer under *WMC 21.51.080*, the Applicant's proposed lot sizes, ranging between 34,352 square feet and 41,846 square feet, would meet applicable minimum lot size requirements. City staff reviewed the Applicant's site plans and determined that the proposed subdivision would meet all other subdivision design standards, including standards applicable to minimum lot width, minimum street frontage, minimum setbacks, and requirements for front lot lines to be the property line separating the lot from a street or vehicle access corridor. *WMC 21.22.030; WMC 21.60.050*. City staff further determined that the proposed open space tracts would provide passive recreation opportunities for residents of the subdivision, consistent with on-site recreation requirements. *WMC 21.60.180*. Compliance with applicable requirements for building coverage, landscape coverage, building height, driveway length, and garage distance from street frontage would be reviewed with the building permits for the construction of residences on the individual lots. *Exhibit 1, Staff Report, pages 4 through 7; Exhibit 2; Exhibit 7.*

Existing Site and Critical Areas

7. The 9.41-acre site is generally rectangular in shape, with a 60-foot-wide by 400-foot-long panhandle extending south to NE Woodinville Duvall Road. The property consists largely of open pasture areas, with trees concentrated along the perimeter and scattered throughout the property. The property is currently developed with a single-family residence and several outbuildings that would be demolished as part of the proposed subdivision. *Exhibit 1, Staff Report, page 2; Exhibit 2; Exhibit 7; Exhibit 8; Exhibit 16.*
8. Soundview Consultants, LLC (SVC), prepared a wetland and fish and wildlife habitat assessment on behalf of the Applicant, dated May 30, 2019, which determined that the property did not contain any potentially regulated wetlands, fish and wildlife habitat areas, or other sensitive areas. SVC identified an off-site Category III wetland (Wetland A) to the west of the property, with a standard 105-foot buffer extending onto the

southwestern corner of the property. WMC 21.51.310. SVC identified a second off-site wetland (Wetland B) located approximately 240 feet to the west of the property. Because the maximum wetland buffer required under WMC 21.51.310 is 225 feet, any potential buffer required for Wetland B would not extend onto the property. SVC also identified an off-site stream to the south of the property, which it determined would meet the definition of a Type Ns stream, with a 50-foot buffer that would not extend onto the property, and an off-site drainage entering Wetland A to the west of the property, which SVC determined would not meet the definition of a regulated waterbody.

The Watershed Company provided a third-party peer review of SVC's assessment, which agreed that Wetland A is a Category III wetland requiring a standard 105-foot buffer and that any potential buffer required for Wetland B would not extend onto the property but noted that a small portion of Wetland A extended onto the property. The Watershed Company also noted that the off-site stream to the south of the property (Cold Creek) is presumed to be a Type F, fish-bearing waterbody with a standard 140-foot buffer and that it should be delineated if it has defined channels through Wetland A. After receiving the third-party peer review comments, SVC prepared a revised assessment, dated November 18, 2019, which disagreed that wetland indicators were present on-site, but noted that the Applicant was willing to delineate the boundary of Wetland A onto the southwest corner of the property to move forward with the project. With the revised delineation, approximately 18,733 square feet of wetland and associated buffer are located in the southwest corner of the property. SVC's revised assessment also stated that it conducted site visits in April and October 2019 and found no evidence of a defined channels through Wetland A and that the potential maximum 140-foot stream buffers for from off-site areas meeting stream definitions would not extend onto the property. SVC confirmed its revised assessment in a March 9, 2020, memorandum following additional third-party peer review by The Watershed Company. *Exhibit 1, Staff Report, pages 7 and 8; Exhibit 8; Exhibit 9.*

9. WMC 21.51.150 requires new subdivisions to delineate and protect wetlands and associated buffers in perpetuity with NGPA tracts. The Applicant proposes to designate a NGPA tract for the 18,733 square feet of wetland and buffer area extending onto the southwest corner of the property, which would be fenced and contain signage, in accord with this requirement. The NGPA tract would be dedicated to a future homeowners association or to future lot owners of the Countrywood plat. *Exhibit 1, Staff Report, page 8; Exhibit 2; Exhibit 7; Exhibit 12.*
10. Associated Earth Sciences, Inc., prepared a geotechnical engineering report on behalf of the Applicant, dated June 3, 2019, which determined that the property did not contain any geological hazard areas and that the proposed development would be feasible from a geotechnical standpoint. *Exhibit 16.*

Trees and Landscaping

11. Chapter 21.50 WMC describes tree retention and landscaping requirements for development in the R-1 zoning district. Property that is zoned R-1 must have a minimum of 70 tree credits per acre, which is calculated as the sum of all retained existing trees and any supplemental plantings. *WMC 21.50.060*. If a site falls below the minimum tree density with existing trees, supplemental planting is required. *WMC 21.50.060(c); WMC 21.50.100*. The proposed subdivision would be required to have a minimum of 583.8 tree credits based on a net site area of 8.34 acres after deducting areas to be dedicated for a proposed right-of-way. Creative Landscape Solutions prepared an arborist report identifying 54 existing trees on-site that would be retained for a total of 242.5 tree credits. The Applicant proposes to plant an additional 656 trees on-site that would provide 336.5 tree credits. The Applicant would also be eligible for a 3.2 tree-credit bonus for Lot 8 under *WMC 21.50.110* based on the proposed retention of an existing grove containing six trees and for a 59.8 tree-credit bonus under *WMC 21.50.080(2)(e)* based on proposed plantings and retained existing trees and groves within the NGPA tract, with the 59.8 tree-credit bonus to be distributed equally among all eight developable lots. The Applicant's proposed tree retention and planting plan demonstrates that it would exceed the minimum tree-credit density required for the proposed subdivision. The Applicant would be required to submit a tree planting plan for individual lots demonstrating compliance with tree density requirements, which would be reviewed during the building permit phase. *Exhibit 1, Staff Report, pages 8 and 9; Exhibit 2; Exhibit 7; Exhibit 12.*

Stormwater

12. The Applicant submitted a preliminary technical information report (TIR), revised March 31, 2020, and a stormwater detention vault feasibility study, dated March 31, 2020, addressing stormwater management for the proposed development. The TIR noted that the property has an existing drainage ridge that runs through the panhandle portion of the site, which divides the property into a north basin generally sloping southwest toward Cold Creek and a south basin generally sloping south to the storm drain conveyance system within NE Woodinville Duvall Road. On-site stormwater runoff from the south basin would be collected and treated before being conveyed to the existing conveyance system within NE Woodinville Duvall Road. On-site runoff from the north basin would be collected and routed to an on-site detention facility located in a tract at the west of the property for water quality treatment and flow control measures before dispersing to the off-site Wetland A. All storm drainage controls would be required to comply with the 2016 King County Surface Water Design Manual. The City Public Works Department reviewed the Applicant's TIR and determined the proposed stormwater management system to be adequate for preliminary plat approval. The Applicant's final stormwater management plans would be reviewed at the construction permit stage. *Exhibit 1, Staff Report, page 13; Exhibit 2; Exhibit 7; Exhibit 10; Exhibit 14; Exhibit 16.*

Utilities

13. The Applicant provided a preliminary plat plan that identified the locations of utility easements. None of the proposed building envelopes would conflict with the proposed easements. The Woodinville Water District issued a Certificate of Water Availability, dated May 15, 2019. Seattle-King County Environmental Health Division provided pre-application approval to install individual septic systems on each new lot. Puget Sound Energy would provide electrical and natural gas services. Comcast would provide telephone and cable services. Waste services would be provided by Waste Management. Woodinville Fire and Rescue would provide fire protection services. All new utilities would be required to be placed underground. *WMC 15.39.010. Exhibit 1, Staff Report, pages 1, 10, 12, and 13; Exhibit 2; Exhibit 7; Exhibit 13.*

Access and Traffic

14. Access to the proposed subdivision would be provided from 160th Avenue NE, which connects to NE Woodinville Duvall Road to the south and would terminate in a cul-de-sac at the northeast corner of the property. 160th Avenue NE is currently adjacent to private gravel roads serving neighboring residential properties. The Applicant would be required to improve that segment of 160th Avenue NE as a public right-of-way in accordance with City residential street standards and would construct driveway aprons to connect neighboring lots currently served by the private gravel roads to the new right-of-way. To obtain the 60 feet of right-of-way required by the City's residential street standards, the Applicant would dedicate approximately 30 feet of width along the subdivision's east property line. The remaining 30 feet of right-of-way would be provided by an existing 15-foot-wide right-of-way connecting NE Woodinville Duvall Road to a dead-end section of 160th Avenue NE, along with 15 feet of width secured through an easement agreement with adjoining property owners to the east, Fred Drennan and Teresa Massagli. To accommodate concerns raised by neighboring property owners, which are discussed in more detail below, the Applicant has submitted deviation requests to the City Public Works Director to allow the sidewalk to be moved to the west side of the proposed street and to allow a split boulevard design for approximately 78 feet of the new roadway, which would accommodate a ten-foot-wide planter strip down between the two lanes to act as a traffic calming device. The Applicant's deviation requests are pending approval from the City Public Works Director. City staff determined that the proposed development would generate an increase of seven weekday PM peak-hour trips, below the 10 peak-hour trips that would constitute a "direct traffic impact" requiring mitigation measures beyond the payment of transportation impact fees. *WMC 21.11.220.* Transportation impact fees would be collected at the time of building permit issuance. Woodinville Fire and Rescue reviewed the proposal for access and determined that the project would allow for the safe, orderly, and efficient circulation of traffic and emergency vehicles. The City reviewed the project and determined that it would be consistent with the City's development regulations and would meet the City's transportation infrastructure standards. *Exhibit 1, Staff Report, pages 10 through 12, 14, and 15; Exhibit 2; Exhibit 7; Exhibit 17.*

Schools and Parks

15. The Northshore School District identified the Wellington Elementary School, Leota Middle School, and Woodinville High School as serving the proposed subdivision, with children walking to and from the elementary and middle schools. Students would drive or walk to a bus stop for transportation to the high school. Frontage improvements and a private pedestrian trail would connect to existing sidewalks north of the proposed subdivision, ensuring safe walking conditions. School impact fees would be required, with half of the impact fees due prior to final plat approval and the remaining amount due with issuance of a building permit for each single-family lot. *Chapter 3.38 WMC*. Park impact fees would also be required for each new single-family dwelling unit and would be calculated and collected at the time of building permit issuance. *Chapter 3.36 WMC. Exhibit 1, Staff Report, pages 2, 12, and 13; Exhibit 2.f; Exhibit 7; Exhibit 24; Testimony of Kelsey Loch.*

Written Comments

16. As noted above, the City received several written public comments in response to its notice materials. Specifically: Fred Drennan and Teresa Massagli provided comments raising concerns about the potential roadway improvements to 160th Avenue NE, the proposed lots sizes, the loss of trees, the loss of the rural character of the neighborhood, and the maintenance of the proposed NGPA, stormwater, and open space tracts; Stephen Tracy provided a comment expressing concern about the proposed access roadway potentially infringing on his property and noting that people currently speed along the existing roadway, use his driveway as a turnaround, and throw trash on his property; Gordon and Peggy Kelley provided a comment expressing concerns about traffic, speeding, and maintenance of the new access roadway; Jerod Gummer provided a comment requesting information on the proposed lot layouts and placement of homes on the property; and David Mann provided a comment requesting confirmation that there were no plans to make 160th Avenue NE a through street. *Exhibit 11.*
17. The Applicant provided a response to the public comments received from Fred Drennan and Teresa Massagli, Stephen Tracy, and Gordon and Peggy Kelley, which notes that members of the Applicant team met and corresponded with the neighboring property owners to develop an agreement benefiting all parties through drainage design, lighting design, a landscape mitigation account, and other items. The Applicant's response also noted that the Applicant received owner authorizations from Fred Drennan and Terry Massagli and from Gordon and Peggy Kelley that would allow some project work to occur on their properties as shown in the project design. *Exhibit 11.*

Testimony

18. City Associate Planner Kelsey Loch testified generally about the application and how, with conditions, it would meet the criteria for preliminary plat approval. She provided corrections to the staff report that have been incorporated into this decision. Ms. Loch

explained that the proposed improvements to 160th Avenue NE were the result of the Applicant's efforts to address concerns raised by neighboring property owners. She noted that, in light of neighbors' concerns, the Applicant has requested deviations from the City Public Works Director to allow 160th Avenue NE to be designed as a split boulevard as a traffic calming measure and to swap the locations of the sidewalk and drainage swale. Ms. Loch stated that the proposed deviations would result in a street layout that works for everyone and that the street would be dedicated to the City as a public right-of-way. She noted that the proposed street design and proposed pedestrian pathway connecting to existing sidewalks to the north would provide safe walking routes to area schools. Ms. Loch explained how the proposal would meet all requirements under the City's critical areas code, noting that no construction activity would occur within the proposed NGPA tract. She discussed tree retention and supplemental planting requirements, noting that the project would maintain 40 percent of existing healthy tree credits on-site, exceeding the requirement that a site retain at least 10 percent of healthy credits. Ms. Loch explained that the Applicant would be required to plant a significant number of trees because the property mostly consists of pasture areas with few existing trees. She noted that the Applicant's tree plan shows that the project would meet tree retention and supplemental planting requirements for purposes of preliminary plat approval and that individual lots would be reviewed for compliance at the building permit stage. *Testimony of Ms. Loch.*

19. Public Works Director Rick Roberts testified that the proposed boulevard design for 160th Avenue NE would provide traffic calming. He explained that the City does not typically require installation of speed bumps as a prophylactic measure prior to implementing roadway improvements but, instead, would address whether speed bumps should be installed if speeding issues arise in the future. *Testimony of Mr. Roberts.*
20. Applicant Representative Todd Oberg discussed proposed stormwater management measures for the property. He stated that the runoff from the small area of the property within the southern basin would be exempt from detention requirements and would be treated with a storm filter in a separate facility before discharging to the city system. Mr. Oberg noted that runoff from the remaining area of the property within the northern basin would be collected and routed to an on-site detention facility for water quality treatment before being dispersed to the off-site wetland, in a manner that would maintain the hydrology of wetland, consistent with low impact development techniques preferred by the Department of Ecology. *Testimony of Mr. Oberg.*
21. Tim McHarg, Senior Land Use Planner with Van Ness Feldman, addressed tree retention and supplemental planting requirements for the project. He noted the corrections made to the staff report, which have been incorporated into this decision. Mr. McHarg clarified that, although the tree plan proposes 611.9 total tree credits, only 583.8 tree credits are required and, therefore, the Applicant may plant fewer trees than proposed under the plan, so long as the minimum required tree credits are met. *Testimony of Mr. McHarg.*

22. Barry Margolese, Principal of Countrywood Woodinville, LLC, testified that the project site consists mostly of pastured areas and, therefore, the City's tree code places an excessive burden on the Applicant to plant additional trees. He also explained that the Applicant has worked with neighboring property owners to design a street that would work for everyone. *Testimony of Mr. Margolese.*
23. The Applicant's ISA Certified Arborist, Susan Prince of Creative Landscape Solutions, expressed concerns about the quantity of plantings required by the City's tree code. She noted that the site has been a pasture area for the past 100 years and that the quantity of required tree plantings would place a strain on natural resources associated with the site and surrounding properties. Ms. Prince explained that the watering that would be needed to maintain trees at the required density would be a huge cost to the environment and that she has not encountered this requirement in any other jurisdiction. She noted that the required density would result in a more heavily forested area than a native forest and that it would likely thin out under natural conditions within the next 40 to 50 years. She also expressed concern that the amount of required vegetation could result in detrimental impacts to the wetlands adjacent to the site (i.e., dewatering). *Testimony of Ms. Prince.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for preliminary plats. *WMC 2.27.010, 0.30; WMC 21.61.020.*

Criteria for Review

The Hearing Examiner must make written findings that appropriate provisions have been made for the public health, safety, and general welfare, including open space, site drainage, streets, transit, water and sanitary sewer services, parks and recreation, playgrounds, schools, and safe walk routes. *WMC 21.61.020(6).*

The Woodinville Municipal Code provides that an application for the subdivision of land shall be granted if the Applicant demonstrates all of the following criteria are met:

- (a) The proposal is in conformance with the Comprehensive Plan, Shoreline Master Program, and other City-adopted plans;
- (b) The proposal conforms to the development standards set forth in this title;
- (c) 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;

- (d) The proposed subdivision will be adequately served with City-approved water and sewer, and other utilities appropriate to the nature of the subdivision;
- (e) 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;
- (f) 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;
- (g) Safe walk to school procedures, as established by the City, have been met;
- (h) Tree preservation has been considered in accordance with the community urban forestry plan and tree preservation requirements have been adequately met.

WMC 21.61.040. See also WMC 21.80.240(2).

An application for a subdivision of land must also meet the criteria of the state statute governing subdivisions, detailed in Chapter 58.17 RCW, which contains the following requirements for approval of a subdivision application:

A proposed subdivision and dedication shall not be approved unless the city, town, or county legislature body makes written findings that: (a) [a]ppropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication.

RCW 58.17.110(2).

The criteria for review adopted by the Woodinville City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

With conditions, the preliminary subdivision would meet the criteria of WMC 21.61.040 and RCW 58.17.110(2). The property is designated Low Density Residential under the City Comprehensive Plan. This designation provides for low-density residential neighborhoods that are inappropriate for more intensive urban development due to critical areas, high cost, difficulty in extending public facilities, or the presence of natural features sought to be retained by the City. City staff identified several Comprehensive Plan goals related to the proposal, including goals to protect Woodinville's Northwest Woodland Character; provide land area and densities addressing the City's housing needs; provide for attractive, safe, diverse, and well-designed residential neighborhoods; and provide a diversity of housing types. The proposed development would be consistent with these goals by creating new single-family residential lots within an existing neighborhood with adequate public services and by making street improvements that would provide a public right-of-way that is safe and efficient for the circulation of traffic. The property is zoned Residential R-1 and would be compatible with surrounding single-family development within the R-1 zone. With the density transfer allowed under the City's critical areas code, the proposal would comply with minimum lot size requirements for the R-1 zone. The proposal would also comply with all other development standards for subdivisions in the R-1 zone, including standards related to base density, lot configuration, lot dimensions, minimum street frontage, and minimum setbacks.

The City provided reasonable notice and opportunity to comment on the proposal. The City received several comments from area residents that generally raised concerns with existing speeding issues in the area and with the proposed expansion of 160th Avenue NE. The Applicant has worked with concerned area residents to address these concerns. Access to the property would be from 160th Avenue NE, which connects to NE Woodinville Duvall Road to the south, and would terminate in a cul-de-sac at the northeast corner of the property. The project would be required to improve that segment of 160th Avenue NE as a public right-of-way in accordance with City residential street standards. The Applicant has pending deviation requests to place the paved sidewalk and drainage swale on opposite sides of the street from each other and to design the road as a split boulevard with a planter strip separating the two lanes, which would act as a traffic calming device alleviating concerns raised by neighboring residents. The proposed roadway improvements would provide for the safe, orderly, and efficient circulation of traffic and emergency vehicles. The proposed street frontage improvements and proposed pedestrian trail connecting to existing sidewalks would ensure that future students residing in the subdivision would have safe walking conditions to area schools. The subdivision would be adequately served by public utilities and by private septic systems.

The City analyzed the environmental impacts of the proposal, determined that it would not have a probable significant adverse impact on the environment, and issued a DNS, which was not appealed. The southwest corner of the property contains approximately 18,733 square feet of Category III wetland area and its associated buffer. The Applicant would designate this area as an NGPA tract in accord with code requirements. Although the Applicant has raised concerns with the significant number of trees that would be required to be planted under the City's tree

retention and supplemental planting requirements, the Applicant provided a tree plan demonstrating that the project would comply with these requirements, noting that it would raise its concerns about the tree preservation requirements with the City Council. Conditions, as detailed below, are necessary to ensure that the project would meet all applicable criteria for preliminary plat approval and all other local, state, and federal requirements. *Findings 1 – 23.*

DECISION

Based on the preceding findings and conclusions, the request for a preliminary plat to subdivide a 9.41-acre parcel into eight, single-family residential lots, with associated tracts, at 18727 160th Avenue NE is **APPROVED**, with the following conditions:²

1. The final plat drawing shall be in substantial conformance with the lot configuration and road layout and design set forth in Exhibit 7. Any modifications to the preliminary plat must obtain approval from the City staff prior to final approval of the plat. Major modifications that create or increase any adverse impacts, create additional lots, reduce open space area, or would result in a change to the conditions of approval shall be processed as a new preliminary subdivision application.

2. The following statements shall be included on the final plat drawing:

All property owners shall maintain in a uniform manner and consistent with the maintenance standards adopted in the Woodinville Municipal Code the public right-of-way located between their property lines and the back of adjacent street curbs or street lines. In such cases where the City of Woodinville performs such maintenance, the City, at its own discretion, may invoice the property owners for the cost of such maintenance, including administrative costs incurred by the City for the maintenance, and the property owners shall be responsible for paying such invoices.

With application for each building permit, a tree planting plan shall be submitted to the City in conformance with the approved planting plan prepared by Susan Prince, ISA Certified Arborist, of Creative Landscape Solutions and on record with the City. The required trees shall be planted prior to final inspection authorizing occupancy of the residence.

3. A 7.4 tree-credit bonus shall be allotted to each residential lot and this tree-credit bonus shall be recorded on the final plat. Included with the tree-credit bonus is that the tree credits shall not increase as trees qualifying for the bonus age.

² Conditions include both legal requirements applicable to all developments and requirements to mitigate the specific impacts of this development.

4. The following shall also be included on the final plat drawing with any modifications and final text requiring City approval:
 - a. A statement that the subdivision has been made with the free consent and in accordance with the desires of the owner or owners. This shall include a signature block for the owner, whose signature shall be written and notarized on the final plat drawing once the document is accepted by the City as being ready for final approval.
 - b. A certificate giving a full and correct description of the lands divided as they appear on the final plat.
 - c. A statement that the homeowner's association or the individual lot owners are 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.

5. The following items shall be shown on the final plat drawings:
 - a. Survey requirements consistent with Washington Administrative Code 332-130-050 and WMC 21.60.250;
 - b. Correct legal description of all new lots in the plat;
 - c. New easements to be recorded with the final plat, including their legal descriptions and associated dedication blocks.
 - d. Certificates for Development Services Director, Public Works Director and Hearing Examiner signature block approvals;
 - e. Certificate for Payment of King County Taxes and Assessments containing Assessor signature block;
 - f. Manager King County Office Fiance.
 - g. Auditor's recording certificate.
 - h. If a financial institution appears on the title report at the time of final plat approval, the signature of an official authorized to sign on behalf of the financial institution's interest shall be included on the final plat drawing.

6. The following shall be deleted from the final plat drawing: building setbacks, conceptual building footprints, driveway lines, street improvement details, and other items not relevant to the plat recording.

7. A recent title report (within 30 days) and information on lot closures shall be provided with the application for final plat.

8. Applicant shall obtain addresses for each lot as required by RCW 58.17.280 from the Development Services Department. Addresses shall be shown on final plat drawing. (These will be assigned once the application for final plat is submitted.)

9. Prior to approval of the final plat, a copy of the covenants, conditions and restrictions for the plat shall be submitted to the City for review and the Applicant must obtain approval from the City of the covenants, conditions and restrictions.
10. An updated arborist report and tree retention plan shall be submitted to the City prior to final plat approval to verify compliance with tree-credit requirements. All lots must demonstrate to individually comply with the minimum tree-credit requirement. The final tree density credits totals will be evaluated in the landscape plan and tree inventory report submitted at final plat approval pursuant to WMC 21.50.080. The Applicant is required to comply with the City's current tree preservation requirements absent any change to the requirements by City Council made applicable to the project. If, however, the City Council determines that an exception to municipal requirements is appropriate in relation to this proposal, the decision of the City Council shall control.
11. Trees being retained to meet the requirement of WMC 21.50.080(2)(b) shall be shown on the final plat drawing. A covenant requiring property owners to maintain and protect trees required to be retained shall be included on the final plat drawing. Language for the covenant must obtain approval from the City.
12. A tree preservation and maintenance agreement for trees located within common areas and the Native Growth Protection Area shall be prepared by the Applicant, obtain approval from the City, and be recorded prior to or at the same time as the final plat.
13. Prior to the City approving the final plat for recording, the following street and road improvements shall be constructed and approved by the City. Street improvements shall be provided pursuant to WMC 15.04.060, and the City's Transportation Infrastructure Standards for the following:

160th Avenue NE along the entire property length from NE Woodinville Duvall Road to the north end of the property, the Applicant must complete the street improvements as shown on the preliminary plans once updated to reflect, and pending final approval of, deviation request DEC19007.
14. Dedication of land shall be granted to the City as public right-of-way for streets and utilities as shown in Exhibit 7. This dedication and accompanying dedication language must obtain approval from the City and shall be shown on the final plat drawing.
15. Stormwater runoff and surface water and erosion control shall comply with the requirements set forth in the King County Surface Water Design Manual and supporting documentation referenced or incorporated in the manual adopted under Chapter 13.05 WMC. Verification of compliance with stormwater regulatory requirements will occur with construction permits.

16. Stormwater discharge shall meet the requirements set forth in in the King County Surface Water Design Manual and supporting documentation referenced or incorporated in the manual adopted under Chapter 13.05 WMC and the current Department of Ecology National Pollutant Discharge Elimination System (NPDES) requirements. Verification of compliance will occur with construction permits.
17. All existing and proposed new utilities shall be installed or relocated underground consistent with Chapter 15.39 WMC prior to final plat approval, unless authorized otherwise by Chapter 15.39 WMC.
18. Final location and size of sewer and water utility easements shall be recorded with the final plat in accordance with Woodinville Water Districts requirements.
19. Improvements for potable water shall be installed prior to final plat approval. All construction of potable water facilities shall be in accordance with the standards, specifications and regulations of the Woodinville Water District. Written verification from the Water District that all required improvements have been installed and completed must be provided to the City prior to final approval of the plat.
20. Fifty percent of the school impact fees shall be paid prior to final plat approval. A covenant shall be recorded on the final plat and included in the deed for each affected lot within the plat. The covenant shall include a requirement for the property owner to pay the balance of the school impact fee when the building permit to construct the single-family residence is issued. City's approval of the covenant language is required prior to recording.
21. This preliminary approval of the plat shall expire five years from the date the preliminary approval becomes final. The director may authorize a one-year extension if the extension criteria set forth in WMC 21.83.080(2) are satisfied.

DECIDED this 13th day of January 2021.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center