

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

In the Matter of the Application of)	No. PPA20001
)	
Tom DeDonato)	Brimm Preliminary Plat
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Preliminary Plat</u>)	AND DECISION

SUMMARY OF DECISION

The application for a preliminary plat to subdivide a 4.71-acre parcel into three single-family residential lots and two critical area tracts, with associated improvements, at 15252 NE 195th Street 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 April 29, 2021, using remote technology. The record was left open until April 30, 2021, to allow a member of the public unable to connect to the remote meeting to submit written comments in lieu of live testimony.

Testimony:

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

Dillon Roth, City Senior Planner
Tom DeDonato, Applicant
Jamie Schroeder, Project Civil Engineer
Robert Grumbach, City Development Services Director

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated April 20, 2021
2. Land Use Application, dated November 2, 2020, with Application Submittal Checklist and Owner Authorization Form, dated February 24, 2020.
3. Preliminary Plat Plan Set (9 Sheets), revised February 26, 2021
4. Notice of Application, dated January 7, 2021
5. Notice of Public Hearing and Determination of Nonsignificance, dated April 7, 2021
6. Public Comments and City Responses:
 - a. Comments from Jorn Beam, dated January 7, 13, and 15, 2021, with City responses, dated January 11, 15, and 21, 2021

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- b. Comments from Barb and Steve Moses, dated January 13 and 16, 2021, with City responses, dated January 13, 15, and 19, 2021
- c. Comments from Steph Young, dated April 12 and 18, 2021, with City responses, dated April 13 and 19, 2021
- 7. Determination of Nonsignificance, dated April 7, 2021
- 8. SEPA Environmental Checklist, dated March 10, 2020
- 9. Wetland Delineation Report, Paul C. Hamidi, M.S., dated October 11, 2019
- 10. Critical Areas Peer Review Memorandum, The Watershed Company, dated April 27, 2020
- 11. Applicant Biologist Response to Request for Additional Information, Paul C. Hamidi, M.S., dated May 11, 2020
- 12. Applicant Biologist Response to Request for Additional Information, Paul C. Hamidi, M.S., dated June 1, 2020
- 13. Second Critical Areas Peer Review Memorandum, The Watershed Company, dated June 19, 2020
- 14. Wildlife Habitat Reconnaissance Report, Paul C. Hamidi, M.S., dated September 26, 2019
- 15. Arborist Report and Tree Plan, Layton Tree Consulting, LLC, updated February 24, 2020
- 16. Preliminary Septic System Approval, dated October 23, 2020
- 17. Certificate of Water Availability, dated October 10, 2019
- 18. Technical Information Report, CPH Consultants, dated February 23, 2021
- 19. Northshore School District Preliminary Certification, undated
- 20. Geotechnical Engineering Study, Earth Solutions NW, LLC, updated October 8, 2019
- 21. Title Report, printed March 2, 2020
- 22. Determination of Complete Application Letter, dated December 24, 2020
- 23. City Staff Presentation
- 24. Additional Comment from Jorn Beam, dated April 30, 2021, with City response, dated May 3, 2021

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. Tom DeDonato (Applicant) requests approval of a preliminary plat to subdivide a 4.71-acre parcel into three single-family residential lots and two Native Growth Protection Area (NGPA) critical area tracts. Associated improvements would include individual septic systems on each residential lot, private driveways, and an approximately 750-foot walking path around a critical area buffer associated with an on-site Category III wetland. The property is located at 15252 NE 195th Street.¹ *Exhibit 1, Staff Report, page 1; Exhibit 2; Exhibit 3.*

¹ The property is identified by Tax Assessor Parcel No. 0226055905. A legal description of the property is included with the Title Report. *Exhibit 21.*

2. The City of Woodinville (City) determined that the application was complete on December 1, 2020. On January 7, 2021, the City mailed notice of 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, with a comment deadline of January 21, 2021. On April 7, 2021, the City mailed notice of the open record hearing associated with the application to property owners within 500 feet of the site and to interested agencies, published notice in *The Seattle Times*, and posted notice on the subject property and at designated City locations. *Exhibit 1, Staff Report, page 2; Exhibit 4; Exhibit 5; Exhibit 22.*
3. The City did not receive any agency comments in response to its notice materials. The City received comments from three neighboring property owners, specifically:
 - Barb and Steve Moses submitted a comment stating that they live across the street from the project site and currently experience flooding issues. They expressed concerns about tree removal from the subject property potentially causing additional stormwater runoff to flow onto their property, particularly during the wet season. In response to the Moses's concerns, the City provided them with the preliminary stormwater drainage report for the proposed development.
 - Steph Young submitted a comment raising concerns about tree removal and requesting additional information about how stormwater from the project site would be managed. In response to Ms. Young's concerns, the City provided her with a brief description of how the Applicant proposed to manage stormwater on-site (as described later in this decision) and noted that the City would ensure that drainage on the property would comply with the current King County Stormwater Manual and with the municipal code.
 - Jorn Beam submitted several comments providing detailed descriptions of existing drainage issues in the area and raising concerns about the stormwater impacts of the proposal. He requested that members of City staff meet with him and his neighbors, the Moses, near his property to discuss and further investigate the existing drainage issues. In response to Mr. Beam's concerns, the City informed him that it would forward his request for a site visit to the City Public Works Department, that tree removal from the property would be limited by the City's tree protection ordinance, that stormwater management for the project would be required to comply with the current King County Stormwater Manual and with the municipal code, and that City staff would review the proposal to ensure that it would comply with all applicable development regulations. The City also provided Mr. Beam with the preliminary stormwater drainage report for the proposed development.

Exhibit 1, Staff Report, page 2; Exhibit 6.

State Environmental Policy Act

4. 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 January 21, 2021. 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 from three neighboring property owners during the consolidated comment period. 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 DNS on April 7, 2021, with an appeal deadline of April 28, 2021. The City provided notice of the DNS and the applicable appeal period with its notice of the public hearing associated with the application. The DNS was not appealed. *Exhibit 1, Staff Report, page 4; Exhibits 4 through 8.*

Comprehensive Plan and Zoning

5. The property is designated "Low Density Residential" under the City 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." *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.

6. 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, with other development types allowed under special circumstances. *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 three new residential lots on the 4.71-acre property, consistent with the base density requirement. *Exhibit 1, Staff Report, pages 1 and 4; Exhibit 2; Exhibit 3.*
7. Chapter 21.60 WMC provides subdivision design standards applicable to the proposed development. WMC 21.60.050(4) requires lot shapes to avoid awkward configurations and appendages. City staff reviewed the proposed residential lot shapes and determined that they avoid awkward configurations and appendages to the extent possible, given the presence of an approximately 5,114 square foot Category III wetland with an associated 60-foot buffer at the center of the property and an approximately 1,500 square foot Category IV wetland with an associated 40-foot buffer at the northwest corner of the property, as well as an existing unregulated stormwater ditch that generally flows from the northwest corner of the property to the south central property line. The existing stormwater ditch would be used as the approximate boundary between Lots 1 and 2 at the southern portion of the property to avoid stormwater being conveyed back and forth across property lines, which would limit maintenance obligations for the southern portion of the ditch to a single property owner. *Exhibit 1, Staff Report, page 4; Exhibit 2; Exhibit 3; Exhibit 9; Exhibit 11; Exhibit 13; Exhibit 18.*

8. 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 lot size averaging provisions of *WMC 21.22.170*, however, allow for a reduction in the minimum lot size required for the R-1 zone if certain criteria are met. As relevant to the proposed development, these criteria include requirements that the total number of lots in the development would not exceed one dwelling unit per acre, the average lot size would be no less than 35,000 square feet, and the proposed development would meet all other dimensional requirements. The Applicant proposes to utilize lot size averaging to allow for lots measuring 31,387 square feet (Lot 1), 61,408 square feet (Lot 2), and 55,995 square feet (Lot 3), for an average lot size of 37,296 square feet. As noted above, the proposed development would provide three residential lots on a 4.71-acre property, consistent with the base density requirement. City staff reviewed the Applicant's site plans and determined that the proposed development would meet all other dimensional standards for minimum lot widths, minimum setbacks, minimum average lot depth ratios, and side lot line orientations, and requiring 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. Exhibit 1, Staff Report, pages 4 through 7; Exhibit 2; Exhibit 3.*

9. *WMC 21.22.030* requires lots within the R-1 zone to have minimum street frontages of 100 feet, with an exception for lots meeting the requirements for a panhandle lot. Proposed Lots 1 and 2 would have street frontages measuring 193 feet and 159 feet, respectively, exceeding the minimum street frontage requirement. Lot 3 is proposed as a panhandle lot. City staff reviewed the proposal and determined that, with conditions, it would meet the requirements for a panhandle lot. *WMC 21.22.030.B.9*. Specifically, City staff determined that: on-site critical areas would prevent typical street frontage required for the R-1 zone; the panhandle corridor would exceed 20 feet in width; Lot 3 would meet all applicable dimensional requirements when excluding the area of the panhandle; a recommended condition would ensure that the access corridor would maintain a height clearance of 12 feet; driveway specifications would be reviewed with construction permits to ensure that the design would meet applicable standards; Lot 3 would be the only panhandle lot in the subdivision and would not be contiguous to an existing panhandle lot; the access corridor would be a part of Lot 3; and, with conditions, the proposal would comply with all requirements of the fire code. City staff also determined that the project would provide on-site recreation in the form of 4-foot-wide, 750-foot-long walking path composed of wood chips around the wetland buffer in proposed Tract A, consistent with the requirements of *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 3.*

Existing Site and Critical Areas

10. The 4.71-acre site is generally rectangular in shape and is bordered, to the south, by NE 195th Street and, to the east, north, and west, by single-family residential development. The property is currently developed at the southeast corner with a single-family residence that would be removed. The southern portion of the property contains maintained lawn areas, ornamental landscaping, and outbuildings associated with the existing residence. The northern portion of the property consists of undeveloped forested areas, with wetlands at the center and the northwest corner of the site. *Exhibit 1, Staff Report, page 1; Exhibit 2; Exhibit 3; Exhibit 9; Exhibit 14; Exhibit 15; Exhibit 18; Exhibit 20.*
11. Paul C. Hamidi, M.S., prepared a Wetland Delineation Report for the Applicant, dated October 11, 2019, which identified an approximately 5,114 square foot wetland (Wetland A) at the center of the property. The report determined that the wetland should be classified as a Category IV wetland with a standard 40-foot protective buffer. The Watershed Company provided a third-party peer review of Mr. Hamidi's assessment, dated April 27, 2020, which disagreed with the determination that Wetland A should be classified as a Category IV wetland. The third-party peer review also identified an additional wetland at the northwest corner of the property. In response to The Watershed Company's peer review, Mr. Hamidi submitted additional analysis identifying an approximately 1,500 square foot Category IV wetland with a standard 40-foot protective buffer (Wetland B) at the northwest corner of the property and revising the classification for Wetland A as a Category III wetland with a standard 60-foot buffer. The Watershed Company provided a second peer review, dated June 19, 2020, which recommended that the City accept Mr. Hamidi's revised classifications for Wetlands A and B. WMC 21.51.150 requires new subdivisions to delineate and protect wetlands and associated buffers within NGPA tracts. The Applicant proposes to designate NGPA tracts for the 40,145 square feet of wetland and buffer area associated with Wetland A (Tract A) and for the 7,958 square feet of wetland and buffer area on the property associated with Wetland B (Tract B), in accord with this requirement. Mr. Hamidi also prepared a wildlife habitat reconnaissance report for the Applicant, dated September 26, 2019, which determined that the property does not contain any regulated fish and wildlife conservation areas. *Exhibit 1, Staff Report, page 8; Exhibit 3; Exhibits 9 through 14.*
12. Earth Solutions NW, LLC, prepared a geotechnical engineering study for the Applicant, updated October 8, 2019, which determined that the property does not contain any geological hazard areas and that the proposed development would be feasible from a geotechnical standpoint. *Exhibit 20.*

Trees and Landscaping

13. 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 achieve a minimum tree density 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 will be required. *WMC 21.50.060(c); WMC 21.50.100*. The proposed subdivision would be required to achieve a minimum tree density of 329.7 tree credits based on a site area of 4.71 acres. In addition, subdivision projects must retain at least 10 percent of the tree density credits for all existing healthy, viable significant on-site trees prior to the subdivision or construction work. *WMC 21.50.070*. Layton Tree Consulting, LLC, prepared an arborist report for the Applicant, updated February 24, 2020, which identified a total of 1,059.5 tree credits on-site, of which 598.5 tree credits would be retained, exceeding the tree credit density and retention requirements for the site. The Applicant also proposes to plant an additional 21 trees on Lot 1, which would provide 10.5 tree credits, to achieve the tree credit density requirement for Lot 1. City staff would review the Applicant's proposed tree plantings on Lot 1 for compliance with supplemental tree planting requirements at the construction permit phase. *Exhibit 1, Staff Report, pages 8 and 9; Exhibit 3; Exhibit 15*.

Stormwater

14. CPH Consultants prepared a preliminary technical information report (TIR) for the Applicant, revised March 31, 2020, addressing stormwater management for the proposed development. The TIR noted that the property contains a single drainage basin that generally slopes both east and west toward Wetland A at the center of the site and that an existing stormwater ditch runs north to south through the property until it reaches NE 195th Street. Stormwater runoff from impervious surfaces would be collected and treated before being conveyed to detention facilities or dispersion trenches discharging to Wetland A. 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 for compliance with the requirements of the 2016 King County Surface Water Design Manual at the construction permit stage. *Exhibit 1, Staff Report, page 11; Exhibit 3; Exhibit 18*.

Utilities

15. The Applicant provided preliminary plat plans identifying 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 October 10, 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. Waste services would be provided by Waste Management. Woodinville Fire and Rescue would provide fire protection services. New and existing utilities are required to be placed underground. *WMC 21.60.120*. The Applicant has requested a waiver from this requirement to allow existing overhead power lines along the property's frontage to NE 195th Street to remain, which is allowed under *WMC 15.39.010(3)(b)* if the cost of undergrounding the power lines would be greater than two and one-half percent of the valuation of the project. The

City would evaluate the request at the site development permit phase. *Exhibit 1, Staff Report, pages 1, 9, and 11; Exhibit 2; Exhibit 3; Exhibit 16; Exhibit 17.*

Access and Traffic

16. Access to all three lots within the proposed subdivision would be provided from NE 195th Street. Lots 1 and 3 would be accessed from private driveways connecting to NE 195th Street at the property's southeast and southwest corners, respectively, with access to Lot 2 provided from the private driveway located within the panhandle for Lot 3. The Applicant would be required to construct half-street improvements along the property's frontage to NE 195th Street. The Applicant proposes frontage improvements that would require approval of a deviation from the requirements for a full and final build out of NE 195th Street. The Applicant's deviation request would be reviewed at the site development permit phase. City staff determined that the proposed development would generate approximately 19 new average weekday vehicle trips, with 2 new weekday PM peak-hour trips and 1.5 new weekday AM peak-hour trips. Because the proposal would generate fewer than 10 new peak-hour trips, it would not create 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 and determined that, with a condition requiring an emergency vehicle turnaround easement to be included on Lot 3, the project would provide for adequate emergency vehicle access and would comply with all other requirements of the fire code. 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 and specifications. *Exhibit 1, Staff Report, pages 7, 9, 10, 13, and 15; Exhibit 3.*

Schools and Parks

17. The Northshore School District identified 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 an existing bus stop at the intersection of 156th Avenue NE and NE 198th Street for transportation to the high school. The Northshore School District did not indicate that any additional provisions would be required to ensure that students residing at the subdivision would have safe walking conditions to schools or school bus stops. School impact fees would be required and would be collected for each new dwelling unit prior to building issuance. *Chapter 3.38 WMC*. Park impact fees would also be required for each new single-family dwelling unit and would be collected at the time of building permit issuance. *Chapter 3.36 WMC. Exhibit 1, Staff Report, pages 1, 10, and 11; Exhibit 19.*

Testimony

18. City Senior Planner Dillon Roth testified generally about the application and how, with conditions, it would meet the criteria for preliminary plat approval. He noted that the Applicant had originally applied for a short plat to subdivide the property into three

residential lots and a single NGPA tract but that, after a second wetland was identified on the property requiring the designation of an additional NGPA tract, the City determined that full subdivision approval would be required for the project. Mr. Roth explained that the municipal code requires full subdivision approval for any proposal that would result in five or more land divisions regardless of whether the resulting divisions would create developable lots. He described the existing conditions of the property, noting that it is currently developed with a single-family home, with approximately one third of the site containing maintained lawn areas and the remainder of the site covered with trees. Mr. Roth also described critical areas on-site, including a Category III wetland, with a standard 60-foot buffer, at the center of the site and a Category IV wetland, with a standard 40-foot buffer, located at the northwest corner of the site. He detailed public concerns that were raised about the project's stormwater impacts, noting that the Applicant proposes to manage stormwater on-site by conveying runoff from impervious surfaces to a detention facility for water quality treatment and flow control before dispersing to on-site wetlands to provide hydrologic recharge. Mr. Roth stressed that City staff reviewed the Applicant's preliminary storm drainage design and determined that it would comply with the requirements 2016 King County Surface Water Design Manual and that the Applicant's final storm drainage design would be reviewed during the site development permit stage, prior to any on-site construction activity. He stated that the Applicant would retain 56 percent of existing tree density credits on-site, exceeding the municipal code requirement to retain a minimum of 10 percent of existing tree density credits. *Testimony of Mr. Roth.*

19. Applicant Tom DeDonato testified that he understands and would comply with City staff's recommended conditions of approval. *Testimony of Mr. DeDonato.*
20. Project Civil Engineer Jamie Schroeder testified in response to public concerns that had been raised about existing drainage issues in the area and the project's potential stormwater impacts. He noted that stormwater currently flows from the north to the south toward the on-site wetlands and, therefore, there are no existing conditions on the property significantly impacting neighboring property to the north. Mr. Schroeder stated that the southeast corner of the property is currently developed with a single-family residence and maintained lawn areas and that he is unaware of any existing stormwater drainage infrastructure on-site to manage runoff from the developed portion of the property. He stressed that the project would include removal of the existing home and redevelopment of the site to comply with the current stormwater regulations, including water quality treatment and flow control requirements. Mr. Schroeder stated that the required stormwater improvements to the property would ensure that the project would not result in significant adverse stormwater impacts to neighboring properties. *Testimony of Mr. Schroeder.*
21. City Development Services Director Robert Grumbach testified that a member of the public, Jorn Beam, was interested in participating at the hearing but was unable to

connect to the remote hearing. The Hearing Examiner ruled that the record would be left open until April 30, 2021, to provide Mr. Beam with the opportunity to submit written comments in lieu of live testimony. Mr. Grumbach stated that the City would provide Mr. Beam with a recording of the remote hearing so that he would have the opportunity to view it before providing his written comments, which are noted immediately below. *Testimony of Mr. Grumbach; Oral Ruling of Hearing Examiner.*

Additional Materials

22. As noted above, the Hearing Examiner left the record open to provide Mr. Beam with the opportunity to submit any additional comments on the proposal. Mr. Beam submitted additional comments on April 30, 2021, which stated that the City should be responsible for addressing existing drainage issues in the area and should waive any requirement for the Applicant to install a sidewalk along the subject property's frontage to NE 195th Street. *Exhibit 24.*

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

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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 promote infill development. The proposal would be consistent with these goals by creating new single-family residential lots within an existing neighborhood with adequate public services, while minimizing environmental impacts through the permanent preservation of on-site critical areas in Native Growth Protection Area (NGPA) tracts. The property is zoned Residential R-1 and would be compatible with surrounding single-family development within the R-1 zone. The proposal would comply with minimum lot size requirements for the R-1 zone by utilizing lot size averaging and would comply with minimum lot street frontage standards by satisfying the requirements for Lot 3 to be designed as a panhandle lot. 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, and minimum setbacks.

The City provided reasonable notice and opportunity to comment on the proposal. The City received comments from three neighboring property owners that generally raised concerns with existing drainage issues in the area and with the proposal's potential stormwater impacts. The Applicant proposes to manage stormwater on-site by collecting runoff from impervious surfaces and providing water quality treatment before conveying the stormwater to detention facilities or dispersion trenches discharging to Wetland A. The City Public Works Department reviewed the Applicant's preliminary stormwater plan and determined it to be adequate for preliminary plat approval. The Applicant's final stormwater management plans would be reviewed for compliance with the requirements of the 2016 King County Surface Water Design Manual at the construction permit stage.

Access to each of the proposed lots would be provided from NE 195th Street. The Applicant proposes improvements along the property's frontage to NE 195th Street that would require approval of a deviation from the requirements for a full and final build out of NE 195th Street, which would be reviewed at the site development permit phase. City staff determined that the proposal would not result in a direct traffic impact requiring mitigation beyond the payment of transportation impact fees. 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 and specifications. Woodinville Fire and Rescue reviewed the proposal and determined that, with a condition requiring an emergency vehicle turnaround easement to be included on Lot 3, the project would provide for adequate emergency vehicle access and would comply with all other requirements of the fire code. The Northshore School District reviewed the application and did not indicate that any additional provisions would be required to ensure safe walking conditions to schools or school bus stops. The subdivision would be adequately served by public utilities and by private septic systems. The Applicant's tree retention and planting plan demonstrates that the proposal would meet all applicable tree retention and tree density requirements.

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 property contains an approximately 5,114 square foot Category III wetland (Wetland A) with a standard 60-foot buffer at the center of the property and an approximately 1,500 square foot Category IV wetland with a standard 40-foot buffer at the northwest corner of the property. No other critical areas were identified on or near the project site. The on-site wetlands and associated buffers would be permanently protected within NGPA tracts, in accord with code requirements. The public interest would be served by the platting of the subdivision. 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 – 22.

DECISION

Based on the preceding findings and conclusions, the request for a preliminary plat to subdivide a 4.71-acre parcel into three single-family residential lots and two NGPA critical area tracts, with associated improvements, at 15252 NE 195th Street is **APPROVED**, with the following conditions:²

1. The final plat drawing shall be in substantial conformance with the lot configuratoin and road layout and design set forth in Exhibit 3. 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-ofway 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.

The access corridor on Lot 3 shall maintain a minimum height clearance of 12 feet in perpetuity.

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

3. 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.
4. 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.

5. The following shall not be included on the final plat drawing: Building setbacks, conceptual building footprints, driveway lines, street improvement details, and other items not relevant to the plat recording.
6. A recent title report (within 30 days) and information on lot closures shall be provided with the application for final plat.
7. 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.)
8. 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.
9. 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 compliance 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.
10. A minimum of ten percent of the existing trees on-site are required to be retained, per WMC 21.50.080(2)(b). This ten percent shall be identified on the final plat drawing. Those trees identified to satisfy the ten percent retention standard shall be preserved, protected, and maintained in accordance with ANSI A300 standards, as developed by the Tree Care Industry Association, by the property owners of the lots or tracts on which the trees are located, unless found to be hazardous and authorized for removal by the City of Woodinville. A tree preservation and maintenance agreement to this effect shall be included on the final plat drawing. Language for the covenant must obtain approval from the City.
11. The NGPA tracts identified in Exhibit 3 shall be shown on the final plat and include approved language to protect those critical areas and buffers within those tracts in perpetuity in accordance with Chapter 21.51 WMC, or as amended.
12. Prior to the City approving the final plat for recording, frontage improvements shall be constructed and approved by the City or financially secured pursuant to WMC 21.63.030. The Applicant must obtain approval of a transportation infrastructure deviation to allow for frontage improvements to be designed as set forth in Exhibit 3.

13. The following improvements on Lot 3 shall be constructed or a financial guarantee provided prior to final plat approval:
 - a. A minimum 14-foot-wide paved driveway with an all-weather surface capable of supporting 75,000 pounds and a turnaround, compliant with Appendix D of the International Fire Code, shall be provided for emergency vehicle access.
 - b. A fire hydrant shall be located within 600 feet of the proposed residence.
14. An emergency vehicle turnaround easement shall be included on Lot 3 over the emergency vehicle turnaround, requiring the turnaround to remain clear of obstructions and maintained by the property owner of Lot 3. The Applicant must obtain approval from the City for the language to be included with the easement. The final location and size of the easement will be determined prior to final plat approval.
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 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. Final location and size of access and stormwater easements shall be recorded with the final plat in accordance with the City's requirements. All easements are required to prohibit the placement of any building on or over the easement.
19. Improvements to the public water system shall be installed or a financial guarantee provided prior to final plat approval. All construction of public 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 or their acceptance of a financial guarantee must be provided to the City prior to final approval of the plat.

20. 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 pursuant to WMC 21.80.220.

DECIDED this 14th day of May 2021.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center