BEFORE THE HEARING EXAMINER
FOR THE CITY OF ISSAQUAH

In the Matter of the Application of	)	No. PP14-00003
	)	
Darren Ludwigsen, on behalf of Summit Homes of Washington, LLC	)	Jazz Run Preliminary Plat
	)	
	)	
	)	FINDINGS, CONCLUSIONS,
For Approval of a Preliminary Plat	)	AND DECISION

SUMMARY OF DECISION

The request for a preliminary plat to subdivide a 6.22-acre site, known as "Jazz Run," into 19 single-family residential lots, including a .46-acre stormwater/utility tract and a 2.4-acre wetland/open space tract, off of SE 48th Street in Issaquah, Washington, is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposed development.

SUMMARY OF RECORD

Hearing Date:
The Hearing Examiner held an open record hearing on the request on April 28, 2015.

Testimony:
The following individuals presented testimony under oath at the hearing:

Peter Rosen, Senior Environmental Planner
Darren Ludwigsen, Applicant Representative
Don Proctor, P.E., Applicant Engineer
Doug Schlepp, P.E., City Consulting Engineer
Kate Stenberg
Bob Harrison
Karl Teunissen

Exhibits:
The following exhibits were admitted into the record:

1. Preliminary Plat Application, dated January 14, 2015, with attached Affidavits of Ownership and Agent Authority
2. Vicinity Map, undated
3. Project Narrative, dated December 31, 2014
4. Project Plans (eleven sheets), revised April 14, 2015:
   a. Cover Sheet (Sheet G-001)
   b. Existing Conditions (Sheet C-100)
   c. Subdivision Layout (Sheet C-200)
   d. Road and Grading Plan (Sheet C-300)

e. Road Profiles (Sheet C-310)
f. Road Details (Sheet C-320)
g. Storm Drainage Plan (Sheet C-400)
h. SE 48th Street Improvement Plans (Sheet C-500)
i. Wastewater Collection Plan (Sheet C-600)
j. Water Distribution Plan (Sheet C-700)
k. Tree Preservation Plan (Sheet C-800)

5. Geotechnical Engineering Study, GEO Group Northwest, Inc., dated December 31, 2014
6. Stormwater Management Report, Mead & Hunt, dated December 31, 2014
7. Critical Area Study, Altmann Oliver Associates, LLC, dated December 31, 2014
8. Critical Area Study Drawings (three sheets), dated December 31, 2014:
   a. Site Plan Impacts, Mitigation, and Detail (Sheet W1.1)
   b. Planting Plan and Details (Sheet W2.1)
   c. Construction Specifications (Sheet W2.2)
9. Certification of Transportation Concurrency, dated March 31, 2015
10. Notice Documents:
    a. Affidavit of Service of Mailing, dated January 23, 2015
    b. Notice of Application and Public Neighborhood Meeting, dated January 23, 2015
    c. Affidavit of Sign Installation, dated April 15, 2015
    d. Affidavit of Service of Mailing (Public Hearing), dated April 15, 2015
    e. Copy of Publication, *The Issaquah Press*, dated April 22, 2015
11. SEPA Environmental Checklist, dated December 31, 2014
12. Mitigated Determination of Nonsignificance, dated March 18, 2015
13. Notes from Public Neighborhood Meeting, dated February 3, 2015
14. Staff Report, dated April 28, 2015
15. Staff PowerPoint presentation (1 slide), undated
16. Comments from Kate Stenberg, dated April 27, 2015

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the public hearing:

FINDINGS

Application and Notice

1. Darren Ludwigsen, on behalf of Summit Homes of Washington, LLC (Applicant), requests approval of a preliminary plat to subdivide a 6.22-acre site, known as "Jazz Run," into 19 single-family residential lots off of SE 48th Street in Issaquah, Washington.[1] The proposal would include a .46-acre stormwater/utility tract (Tract A) and a 2.4-acre wetland/open space tract (Tract B). *Exhibit 1; Exhibit 3; Exhibit 14, Staff Report, pages 1 and 2.*

[1] The subject property is identified by Tax Assessor Parcel Nos. 222406-9048, 22406-9126, and 222406-9098. *Exhibit 14, Staff Report, page 1.* A legal description of the property is included with the Site Plans. *Exhibit 4.*

2. The City of Issaquah (City) determined the application was complete on January 20, 2015. The City mailed notice of the application and neighborhood meeting[2] to adjacent property owners on January 23, 2015. The City posted notice of the associated open record hearing on the property on April 15, 2015, and mailed notice to parties of record and adjacent property owners within 300 feet of the property the same day. On April 22, 2015, the City published notice of the open record hearing in *The Issaquah Press*. *Exhibit 10; Exhibit 14, Staff Report, page 2.*

State Environmental Policy Act (SEPA)

3. The City acted as lead agency and analyzed the environmental impacts of the proposed project as required by SEPA, Chapter 43.21C RCW. The City reviewed the Applicant's environmental checklist and other available information, and determined that, with eight mitigation measures, the proposal would not have a probable significant adverse impact on the environment. The City issued a Mitigated Determination of Nonsignificance (MDNS) on March 18, 2015. The mitigation measures direct that: final wetland/wetland buffer enhancement plans be approved by the Development Services Department prior to issuing construction permits; Tract B will be preserved as a critical area/open space tract precluding development in perpetuity; preserved trees along the back of Lots 1 through 5 will be protected during construction; approved tree protection measures must be in place prior to construction or demolition, and all clearing and grading must occur outside the critical root zone of significant trees; after initial clearing and grading, retained trees will be evaluated for hazard trees; the Applicant will pay its pro-rata share of the new traffic signal installed at the intersection of SE 48th Street and Issaquah Pine Lake Road; a City of Sammamish right-of-way permit will be obtained for all street frontage work on SE 48th Street; and the Applicant should mitigate for potential impacts on public services with a voluntary contribution to the General Government Buildings and Police Mitigation Fees. The MDNS designation was not appealed. *Exhibits 4 through 9; Exhibits 11 and 12; Exhibit 14, Staff Report, pages 12 and 13.*

Proposed Development

4. The Applicant proposes to subdivide a 6.22-acre site into 19 single-family residential lots. The proposed site is constrained by environmental critical areas and wetland buffers related to a Category 2 wetland on the south portion of the site. To avoid directly affecting critical areas or buffers, the development area is concentrated on approximately 3.5 acres of the 6.22-acre site. The Applicant proposes to reduce the wetland buffer from 75 feet to 56.25 feet, with significant enhancements made to the reduced buffer and in parts of the wetland area (which is overrun with non-native invasive species). The proposal also includes a separate tract for stormwater retention. The preliminary plat would allow for construction of utilities, roadways, stormwater facilities, site grading,

[2] As discussed more fully below, the City's River & Streams Board held a public neighborhood meeting on February 3, 2015, to hear comments from neighbors and interested persons on the proposed preliminary plat. *Exhibit 13.*

and other plat improvements prior to recording of a final plat to establish the lots and for review of building permits to construct the residences. *Exhibits 3 through 8; Exhibit 14, Staff Report, pages 1 through 3.*

Comprehensive Plan, Zoning, AAS, and Surrounding Property

5. The property is designated Low Density Residential (LDR) by the City Comprehensive Plan. The purpose and intent of the LDR designation is:

> to provide a variety of housing types and densities within a full range of urban services. The primary use in this designation is housing. The appropriate density of the individual residential zoning districts is based on the availability of urban services and the proximity to local streets, arterials and pedestrian access. Those areas with critical areas shall be appropriate for low density residential, with the intent to protect environmentally critical areas from impacts associated with more intensive development. These environmentally critical areas are valued as a community resource, both for conservation purposes and public enjoyment; provided, that the environmentally critical areas are protected, low density single family residential use may be appropriate.

City of Issaquah Comprehensive Plan, Table L-3 – Land Use Designations: Purpose and Intent, page L-11. The property is within the "North Issaquah" Subarea of the Comprehensive Plan. *Exhibit 14, Staff Report, page 4.*

6. The property is within the City's Single-Family Small Lot (SF-SL) zoning district. The purpose of the SF-SL zone is to:

> provide for single family neighborhoods which are in close proximity to low density multifamily neighborhoods and urban services. This district may include some of the historic plats of Issaquah. Appropriate areas for this district include those neighborhoods which are currently medium density single family or would be suitable because of the compatibility to surrounding densities and proximity to urban services. Permitted uses include single family homes, assisted living facilities and senior housing. Recreational uses which serve the neighborhood and urban services are also permitted; provided, that traffic and other related impacts are not detrimental to the district . . . [T]he following objectives also apply to this district:
>
> 1. Establish and preserve residential neighborhoods;
> 2. Encourage the reuse and remodeling, rather than demolition, of historic buildings to provide alternative housing opportunities;
> 3. Provide opportunities for single family residential development in areas served by public and urban services.

Issaquah Municipal Code (IMC) 18.06.100.D. Exhibit 3; Exhibit 14, Staff Report, page 5.

7. The SF-SL zoning designation allows for single-family residential development at a maximum density of 7.26 dwelling units per acre. *IMC Table 18.07.360.* Development of the proposed site is constrained by environmental critical areas and wetland buffers. Critical areas and associated buffers, including wetlands and streams, which cannot be developed, receive partial density credit which may then be transferred to the developable area of the site. *IMC 18.10.450.B.2.* An area equal to 2.29 acres, or 37 percent of the total site area, comprises critical areas and buffers. The City code allows for a 70 percent density credit when 31 to 40 percent of the proposed site is encumbered with critical areas. *IMC 18.10.450.B.2.* Accounting for density credit, the site's proposed 19 lots produce a gross density of 3.05 dwelling units per acre, well below the allowable maximum density. *Exhibit 3; Exhibit 7; Exhibit 14, Staff Report, page 5.*

8. The SF-SL zoning designation allows for a 6,000 square foot minimum lot size, but the City code permits "lot sizes below the minimum required for that zone to accommodate the transfer of density" from critical areas, provided the maximum zoning density is not exceeded. *IMC 18.10.450.B.3.* Lot sizes within the plat would vary between 4,661 and 6,549 square feet. The proposed project includes 99,752 square feet of critical areas and buffers, and the reduction in the lot sizes below the 6,000 square foot minimum lot size totals 11,717 square feet. Thus, the proposed total area, in gross, of lot size reductions is far less than the area transferred to accommodate on-site critical areas. *Exhibit 3; Exhibit 14, Staff Report, page 6.*

9. The SF-SL zone allows a maximum impervious surface area of 50 percent. *IMC 18.07.360, Table 1.* Critical areas and buffers may be counted toward the pervious surface requirement. *IMC 18.07.360, Table 1, note 4.* The wetland/wetland buffer area (Tract B) would be 2.29 acres, or approximately 37 percent of the 6.22-acre site. The Applicant's Stormwater Management Report, prepared by Mead & Hunt, estimates that the proposal would result in 2.31 acres of new and replaced impervious surfaces, or approximately 37 percent of the site. The 50 percent impervious surface limit must be met on each of the lots, and this will be reviewed and verified with building permits. *Exhibit 3; Exhibit 4.g; Exhibit 6; Exhibit 14, Staff Report, page 6.*

10. The SF-SL zone typically requires 10-foot front yard building setbacks, 20-foot rear yard setbacks, and 6-foot side yard setbacks. The proposed lots would provide ample space to meet the setback requirements; building setback requirements will be reviewed and verified with building permits. *Exhibit 1; Exhibit 3; Exhibit 4.c; Exhibit 14, Staff Report, page 6.*

11. Single-family residential developments, the Issaquah 22/Rivenwood and McBride/Avery Pointe plats, are located to the south and east of the proposed site. The Highland Terrace

plat, comprising larger single-family residential lots, borders the plat to the west. SE 48th Street borders the site to the north with single-family residential development (in the city of Sammamish) across the street. *Exhibit 3; Exhibit 14, Staff Report, page 3.*

Existing Conditions

12. The project site presently consists of three separate parcels developed with single-family residences. Two parcels have existing homes that would be removed during development of the plat. A lot-line adjustment on the third parcel would split off the north half of the parcel for inclusion in the Jazz Run plat; the remainder of the parcel would be retained, with the existing residence, outside of the plat area. The western part of the site is heavily forested with a mix of native trees. The site slopes moderately, between 10 and 20 percent, from north to south, with elevations ranging from 455 to approximately 410 feet. The south portion of the site includes a 1.76-acre Category 2 wetland, part of a larger wetland system extending off-site, totaling approximately four acres. A 2.4-acre wetland/open space tract (Tract B) would be designated to protect the wetland and its buffer. *Exhibit 3; Exhibits 6 through 8; Exhibit 14, Staff Report, pages 2 and 3*

Critical Areas

13. Altmann Oliver Associates prepared a critical area study for the Applicant, addressing the Category 2 wetland on the southern portion of the site and the Applicant's plan to provide for a reduced wetland buffer of 56.25 feet.[3] The study noted that the entire central and eastern portion of the wetland buffer currently consists of periodically mowed pasture area interspersed with patches of non-native Himalayan blackberry, and that the degraded buffer provides no significant habitat area or provide critical stormwater storage, erosion control, or groundwater recharge functions for the wetland. It also noted that the vegetation within the wetland itself is dominated by monotypic reed canary grass (a non-native invasive species) with patches of cattails. The study determined that the Applicant's proposal to plant a variety of dense native trees and shrubs throughout the buffer, and to plant approximately 1,500 willow cuttings throughout 42,500 square feet of the wetland, would "significantly increase the plant species and structural diversity of the buffer over current conditions and increase the overall wildlife habitat of the wetland and its buffer." *Exhibit 7.*

14. The proposal also includes placement of a 4-foot-wide, soft-surface trail mostly in the building setback of the wetland buffer.[4] Trails within wetland buffers are required to buffer-average, or to provide additional buffer area equal to the area of the trail. *IMC*

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[3] Category 2 wetlands typically require a 75-foot buffer. IMC 18.10.650.D, however, allows for a 25% reduction when enhancement of existing wetland buffer vegetation would demonstratively improve water quality and habitat functions.

[4] Plans originally called for placing the trail entirely in the wetland buffer. At the open record hearing, City staff and the Applicant's Engineer agreed that the trail would be placed, to the greatest extent possible, further away from the wetland in the 15-foot building setback adjacent to the wetland buffer. *Testimony of Peter Rosen; Testimony of Don Proctor.*

18.10.610.B.5. For portions of the trail in the wetland buffer, the Applicant would provide additional square footage to the buffer at least equal to the area of the trail. The trail would be aligned to avoid impacting existing trees and would be approved by the Development Services Department prior to installation. Also, to prevent encroachment into the wetland area by residents and pets, the Applicant would install a split-rail fence between the public trail and the wetland. *Exhibits 7 and 8; Exhibit 14, Staff Report, page 8.*

15. The proposal could affect existing wetland hydrology by directing on-site surface flows into the proposal's stormwater systems. To maintain the current wetland hydrology, the Applicant would prepare a wetland hydrology analysis, prior to the City issuing construction permits, to demonstrate how predevelopment hydrology to the wetland would be maintained. *Exhibit 7; Exhibit 14, Staff Report, page 8.*

16. The Applicant has submitted a 5-year monitoring/maintenance plan to ensure successful establishment of the wetland mitigation and enhancement planting. After the 5-year monitoring period, long-term maintenance of the wetland and buffer would become the responsibility of the Homeowners Association (HOA). This would be noted on the final plat along with the SEPA mitigation measure requiring that the 2.40-acre Tract B, containing the wetland and wetland buffer, be preserved as critical area/open space precluding development in perpetuity. *Exhibits 7 and 8; Exhibit 14, Staff Report, pages 8 and 9.*

<u>Landscaping and Tree Retention Areas</u>

17. Subdivisions in the SF-SL zone must retain a minimum of 30 percent of the total caliper of existing significant trees outside of critical areas and buffers. The Applicant submitted a tree retention plan indicating that approximately 31.1 percent of the total caliper of significant trees would be preserved. The preserved trees would be primarily along the western portion of the site, and mature, native trees would also be preserved adjacent to the wetland buffer in Tract B. Trees would also be retained along the western boundary of Lots 1 through 5, providing a vegetative screen and buffer from the adjacent property to the west. *Exhibit 3; Exhibit 4.k; Exhibit 12; Exhibit 14, Staff Report, page 7.*

18. SEPA mitigation measures require preservation of the trees along the west property boundary and protection of critical root zones of preserved trees during clearing and grading. They also require that approved tree protection measures are put in place prior to any construction or demolition activities and that trees retained along the edge of clearing limits be evaluated for hazard trees after rough clearing and grading. *Exhibit 12.*

19. Internal streets and frontage improvements along SE 48th Street would include landscape strips between the street and sidewalk, which would be planted with street trees. The plant selection and landscape details will be further reviewed with construction plans. *Exhibit 4; Exhibit 14, Staff Report, page 7.*

Stormwater

20. Mead & Hunt prepared a stormwater management report for the proposal. The report notes that the project site straddles a ridge between two major drainage basins: 75 percent of the developed project area would be in the west basin, with runoff flowing west through a proposed stormwater vault and the on-site wetland to the Lower Issaquah Creek basin, and eventually to Issaquah Creek; stormwater from the remaining portion of the site would flow to the east, into the Laughing Jacobs Creek basin, and eventually to Lake Sammamish. Runoff to both regional basins requires additional water quality treatment and phosphorus removal. *Exhibit 6.*

21. Stormwater from most of the development would be directed to a stormwater vault on Tract A of the plat. The stormwater vault would discharge via a dispersal trench into the on-site wetland in Tract B after being treated for water quality. The outlet from this wetland is an intermittent stream on the neighboring Issaquah 22 plat, which flows from the top of the Sammamish plateau down to the valley floor through a steep ravine. The City planned and permitted a regional stormwater system to tightline the stormwater discharge from developments in the SE 48th Street basin down to the valley floor to avoid the potential impacts of increased stormwater volumes. The developer of the Issaquah 22 plat constructed the tightline as mitigation for its stormwater impacts.[5] A control structure in the shared wetland would direct peak flows into the pipe tightline while maintaining existing hydrology in the wetland and stream outlet. *Exhibit 6; Exhibit 14, Staff Report, pages 8 and 9.*

22. Additional stormwater—primarily from the east portion of SE 48th Street that cannot feasibly be conveyed to the detention vault—would be collected in a curb gutter and routed though a Filterra vault for treatment before discharge. *Exhibit 6.*

Access, Frontage, and Parking

23. The site would be accessed from a new public street off of SE 48th Street. The SE 48th Street right-of-way is within the City of Sammamish's jurisdiction, and street frontage and improvements would meet the City of Sammamish frontage and landscape standards. A City of Sammamish right-of-way permit would be required for all street frontage work on SE 48th Street and would address haul routes, traffic control, and channelization. A SEPA mitigation measure also requires the new access road to meet City of Sammamish standards for sight distance on SE 48th Street. *Exhibits 3 and 4; Exhibit 14, Staff Report, page 9.*

24. The City code requires two parking spaces per single-family residence. *Chapter 18.09 IMC.* Each residence would have a two-car garage to meet this standard. This would be

[5] The wetland on the Jazz Run plat also impacts the Issaquah 22 and McBride plats. *Exhibit 14, Staff Report, page 9.*

reviewed with building permits. Parking would also be available in driveways. The proposed street plans provide for a parking lane on one side of the street and a parking lane would also be provided with street improvements on SE 48th Street. This would add approximately eight on-street parking spaces within the Jazz Run plat and 25 parking spaces along SE 48th Street. *Exhibits 3 and 4; Exhibit 14, Staff Report, page 7.*

Traffic

25. A traffic concurrency analysis was conducted to evaluate the impacts of traffic generated by the proposal. The proposal would involve 17 additional residential lots (although two existing residences would be removed, the traffic impacts from these residences are already accounted for), generating 17 new PM peak-hour trips. The traffic concurrency analysis determined that traffic generated from the proposal would not result in significant adverse impacts to the local street systems, and the City issued a Certificate of Traffic Concurrency on March 31, 2015. *Exhibit 9; Exhibit 14, Staff Report, page 9.*

26. Cumulative traffic impacts from all development along SE 48th Street, including the Jazz Run, Issaquah 22, and McBride plats, have been addressed and mitigated. A new traffic signal has been installed at the intersection of SE 48th Street and Issaquah Pine Lake Road. Traffic impacts of the Jazz Run plat would be mitigated by this traffic signal. The developer of Issaquah 22 has a "latecomer's agreement" for the traffic signal. The Applicant would be required, as a SEPA mitigation measure, to pay its pro-rata share of the signal cost. *Exhibit 12; Exhibit 14, Staff Report, page 9.*

Non-motorized Facilities

27. The City code requires non-motorized off-road facilities in addition to sidewalks to link to adjacent developments, opens spaces, schools, or other activity centers and public facilities. *IMC 18.07.081.* The proposal includes a 4-foot-wide, soft-surface trail along the on-site wetland. Similar trails have been provided in recently developed adjacent plats (McBride and Issaquah 22); as other properties develop, the trail would eventually connect around the entire 4-acre wetland, providing a passive walking trail for the neighborhood around a central, natural open space amenity. In addition, directly east of the proposal, there is a public trail within the McBride plat. A connection to this trail through the east end of the cul-de-sac in the Jazz Run plat would allow future residents to access the trail without having to walk to SE 48th Street. *Exhibit 4; Exhibit 14, Staff Report, page 6.*

Utilities

28. Water and sewer utilities would be provided by the Sammamish Plateau Water and Sewer District. The District would review water and sewer plans with construction permits. Electric power and natural gas mains exist on or adjacent to the site and would be provided by Puget Sound Energy. Communications facilities within the existing roadway would serve the site and would be provided by Comcast and Centurylink. No off-site improvements would be required. *Exhibit 11; Exhibit 14, Staff Report, page 9.*

Parks and Recreation, Schools

29. The proposed subdivision includes significant open space area and a public trail in Tract B that would provide opportunities for passive recreation. In addition, the stormwater vault (Tract A) would be landscaped to provide additional passive recreation and Applicant Representative Darren Ludwigsen testified that the Applicant would put a park and playground on Tract A for neighborhood use. The Applicant would pay a parks impact fee applied to each building permit to fund future acquisition of active park areas. The subdivision is in the Issaquah School District; it is currently unknown which schools the future residents of the plat would be assigned to, and a school bus stop has not yet been determined. The bus route, however, would run along SE 48th Street, and sidewalks internal to the plat would provide a safe, direct walking route to bus stops on SE 48th Street. *Exhibit 14, Staff Report, page 10; Testimony of Mr. Ludwigsen.*

Impact Fees

30. Impact fees are required for each new, single-family residence. The Applicant would pay the fees for each residential unit for traffic improvements, fire protection, schools, parks, general government (SEPA), and police (SEPA). Impact fees would be calculated when the City issues building permits. *Exhibit 14, Staff Report, page 11.*

Neighborhood Meeting

31. The City's River & Streams Board (Board) held a neighborhood public meeting on February 3, 2015, and took public comments about tree retention, the hydrology of wetlands, concerns over lot size, and general construction impacts. These comments were summarized by the Board, and placed in the record. *Exhibit 14, Staff Report, pages 11 and 12.*

Public and Applicant Comment, and Staff Response

32. City Senior Environmental Planner Peter Rosen testified that the lot-line adjustment necessary to create the plat is under review by the City and will be approved administratively. He noted that the proposal is near several other recently developed plats in the City's urban growth area, including the Issaquah 22, McBride, and Highland Terrace plats, and that the City is mindful of the cumulative impacts in the area from multiple new developments. Mr. Rosen testified that developing the Jazz Run plat would help complete the public trail around the entire wetland in the area, a public benefit for the region. Mr. Rosen also explained the City's proposed mitigation requirements. *Testimony of Mr. Rosen.*

33. Kate Stenberg, a professional biologist and land use planner, lives on SE 48th Street, directly across the street from the proposed plat. At the open record hearing, she testified that she is concerned with the impacts of construction vehicles, especially rollers used to

compact roads.[6] With development of other plats in the area, Ms. Stenberg experienced serious problems from ground-borne vibration. She and her husband own a historic farmhouse and the vibration shakes the home and rattles the antique windows. Through trial and error working with other developers, Ms. Stenberg learned that the best method for reducing vibration impacts is to have the rollers compact the road area in short bursts. Mr. Ludwigsen responded to this concern, stating that the Applicant's project manager would be available to work with her prior to construction to address and alleviate concerns over ground vibration. He noted that the City worked with the Applicant on ways to reduce the need for fill (especially over the stormwater vault in Tract A) and this reduces the need for compaction. City Consulting Engineer Doug Schlepp also responded to this concern and told Ms. Stenberg he would be personally available to handle problems if vibration issues come up during construction. *Testimony of Ms. Stenberg; Testimony of Mr. Ludwigsen; Testimony of Mr. Schlepp.*

34. Ms. Stenberg also expressed concern about noise from work being performed outside of approved construction hours. Mr. Schlepp responded by noting that he would be personally available to address noise-related issues that may come up during construction. He also explained that, if a developer does not respect approved construction hours, the City may revoke the developer's privilege of working on the project on Saturdays. Mr. Schlepp testified that the City has worked with the Applicant in the past and believes Summit Homes is very willing to work with neighboring property owners to reduce construction impacts. Mr. Ludwigsen also addressed the concern over noise and stated that contact information for the project manager would be made publicly available to address noise concerns after construction begins. *Testimony of Ms. Stenberg; Testimony of Mr. Schlepp; Testimony of Mr. Ludwigsen.*

35. Ms. Stenberg testified that the wetland on-site is degraded and expressed concern over approval of a reduced buffer and of impacts from the public trail within the wetland buffer. Mr. Rosen responded to this concern, noting that project plans call for significant improvements to the on-site wetland and the wetland buffer. He explained that reduced buffers are only appropriate when a wetland buffer is already degraded, as is the case here. Project Engineer Don Proctor testified that the Applicant could site the public trail, for the most part, in the building setback area adjacent to the wetland buffer but that, in certain areas, this would require removing significant trees. He proposed that the trail be located to the greatest extent possible in the building setback area adjacent to the wetland unless placement of the trail would not be feasible because of tree location. Mr. Rosen noted that the City would be amenable to this change. *Testimony of Mr. Schlepp; Testimony of Mr. Rosen; Testimony of Mr. Proctor.*

36. Ms. Stenberg expressed concerns over traffic on SE 48th Street, especially speeding. She noted that she has seen several deceased animals on the road and worries that, at some

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[6] Ms. Stenberg submitted a written copy of her concerns at the hearing. *Exhibit 16.*

point, a child may get hit trying to cross the street to access the playground in the adjacent plat. She would like to see traffic calming measures put into effect and, potentially, an additional crosswalk. Mr. Schlepp responded to Ms. Stenberg's concerns. He explained that the City of Sammamish has jurisdiction over SE 48th Street so the City of Issaquah cannot dictate how they maintain the road. He is willing, however, to work with the City of Sammamish's public works department on potential solutions to traffic concerns. Mr. Proctor testified that the Applicant has had three meetings with the Sammamish public works department to address traffic issues. He noted that the Applicant would design the road exiting the plat onto SE 48th Street such that left turns would be restricted. Mr. Proctor also explained that the frontage along SE 48th Street would include a "bulb out" design as drivers approached the plat entrance: the curb would extend out into the traffic lanes as much as possible to indicate to drivers they should drive slower. Mr. Proctor also explained that the City of Sammamish would require a parking lane and street trees along the SE 48th Street frontage and these features should help with speed issues. Mr. Ludwigsen noted that the Applicant has addressed site-distance issues with the City of Sammamish and that street lighting would be added to reduce visibility concerns. He also stressed that the Applicant would put a playground/park on Tract A reducing the likelihood that homeowners in the plat would cross SE 48th Street to use the private park in the Tremont plat. *Testimony of Ms. Stenberg; Testimony of Mr. Schlepp; Testimony of Mr. Proctor; Testimony of Mr. Ludwigsen.*

37. Ms. Stenberg also testified that she is concerned about reduced lot sizes and the impact this has on the character of the neighborhood. Mr. Rosen responded to this concern, noting that other plats in the area, namely Issaquah 22 and McBride, have smaller lot sizes than those proposed for Jazz Run. He explained that the smaller lot sizes comply with the Comprehensive Plan designation for the property and the zoning designation for the property. The smaller lot sizes are necessary to accommodate preservation of critical areas. He also stressed that the density of lots on the plat is less than half of what the Applicant could have proposed. He explained that he understands that long-time residents are concerned over the rural nature of the area changing but that, as part of the City's long-term planning efforts, development has been planned in this area (part of the City's Urban Growth Area) since the City first annexed it approximately 15 years ago. *Testimony of Ms. Stenberg; Testimony of Mr. Rosen.*

38. Bob Harrison, Ms. Stenberg's husband, also testified. He concurred with the concerns raised by Ms. Stenberg and noted that, with the development of so many new neighborhoods in the area (including the Aspen Meadows, McBride, and Issaquah 22 plats), SE 48th Street is becoming an urban road. Mr. Harrison also expressed concern about tree retention along the frontage of the plat because he would like to see such natural resources protected. *Testimony of Mr. Harrison.*

39. Karl Teunissen, another adjacent property owner, testified that he would not like the public trail around the wetland to travel too closely to his house. Site plans indicate that the trail would be located a significant distance away from his home. *Testimony of Mr. Teunissen.*

40. Mr. Ludwigsen testified that the Applicant would pay for its share of the traffic signal on SE 48th Street and that the Applicant is working on the latecomer's agreement related to the regional stormwater facilities. *Testimony of Mr. Ludwigsen.*

City Staff Recommendation

41. City staff determined that, with proposed conditions, the proposal would be consistent with the Issaquah Comprehensive Plan, Issaquah Land Use Code, and other application development regulations, including Chapter 18.13 IMC (Subdivision Code) and RCW 58.117.110 (Washington State Subdivision Code). City staff recommends approval of the preliminary plat. *Exhibit 14, Staff Report, pages 12 through 14; Testimony of Mr. Rosen.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has authority to hear and approve, conditionally approve, or disapprove the preliminary plat request after review of the preliminary plat, the administration's recommendation, testimony, and exhibits submitted at the public hearing. The Hearing Examiner makes the final decision on preliminary subdivisions. *Issaquah Municipal Code (IMC) 18.03.060.B; 18.03.170; 18.04.490.C.1; 18.13.140.A.*

Criteria for Review

Preliminary Plat

Preliminary plat proposals are reviewed through the Modified Level 4 review process and must comply with all the standards and criteria in Chapter 18.13 IMC. *IMC 18.04.480 and 18.04.490.C.1.*

The standards and criteria regarding preliminary plats set forth in Chapter 18.13 IMC are established to promote the orderly and efficient division and re-division of land within the city, to avoid placing undue and unnecessary burdens on both the Applicant and the City, and to promote the public health and general welfare, complying with the provisions of Chapter 58.17 RCW. The criteria for review of a preliminary plat are set forth in RCW 58.17.110(2), as follows:

> A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that:
> (a) Appropriate 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 school grounds 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).

Prior to any approval of the preliminary plat, all minimum street and utility improvements, or reasonable conditions deemed necessary to fulfill the purpose of the subdivision code, shall be specified by the Hearing Examiner, and the Applicant shall be advised of such. *IMC 18.13.140.B.*

The criteria for review adopted by the Issaquah 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

1. **With conditions, appropriate provisions will be made for the public health, safety, and general welfare, and appropriate provisions will be made for open spaces, drainage ways, streets, transit stops, potable water supplies, sanitary wastes, parks and recreation, schools and school grounds, and all other relevant facts.** The property is designated Low Density Residential (LDR) by the City Comprehensive Plan. The LDR designation provides for a variety of housing types and densities, while also protecting critical areas. The Applicant would protect critical areas and open spaces on the proposed site by limiting development to approximately 3.5 acres of the 6.22-acre site and prohibiting development on wetlands, wetland buffer areas, and stream buffers in perpetuity (apart from the proposed public trail that may enter part of the wetland buffer). Residential development is normally permitted within the City's Single-Family Small Lot (SF-SL) zoning districts at a maximum density of 7.26 dwelling units per acre. The City code allows for a 70 percent density credit, however, when 31 to 40 percent of the proposed site is encumbered with critical areas. Accounting for density credit, the site's proposed 19 lots fall below the allowable maximum density.

   The SF-SL zoning designation typically requires a 6,000 square foot minimum lot size, but permits smaller lots to accommodate density transfer from critical areas. The present proposal's smaller lot sizes comport with the goals of the SF-SL zoning designation. The SF-SL zoning designation allows a maximum impervious surface area of 50 percent. The Applicant estimates that the overall impervious surface area for the development would be approximately 37 percent, and building and development permits would require each lot to meet the 50 percent impervious surface limit requirement. Most stormwater runoff from the proposed development would be collected by a proposed on-site drainage system and discharged into a proposed detention vault for treatment before being discharged into the on-site wetland. The project area is within an especially sensitive

area and, increased scrutiny of stormwater treatment is necessary because phosphorous must be filtered and removed from the collected stormwater before it is discharged into the existing wetland. The Sammamish Plateau Water and Sewer District would provide water and sewer service to residences in the plat.

The City has issued a certificate of transportation concurrency. Schools are located near the proposed development and the Applicant would provide safe pedestrian access for students to access school bus stops. The Applicant would pay transportation, fire, schools, park, general government, and police impact fees at the time of building-permit issuance. The proposed development meets the City's design standards and provides adequate parking, landscaping, and tree retention.

Conditions are necessary to ensure that the Applicant complies with MDNS conditions; that the Applicant record the proposed lot-line adjustment prior to submitting plans for the final plat; that the Applicant apply for site work permits prior to construction and grading; that the 50 percent impervious surface limit is met on each residential lot; that public access easements are provided on the final plat for all proposed public trails; that the alignment of the wetland buffer trail avoids impacting existing trees and is approved by the Development Services Department prior to installation; that the wetland remains adequately protected through site development, monitoring, and maintenance; that the Applicant pay its proportionate share of the cost for the regional stormwater system; and that the Applicant pay impact fees for transportation, fire, schools, parks, general government, and police. *Findings 1, 3 through 41.*

2. **With conditions, the public use and interest would be served by the platting of such subdivision and dedication.** The City provided reasonable notice and opportunity to comment on the request. The City reviewed the proposed plat and issued a Mitigated Determination of Nonsignificance, with conditions to mitigate potential significant adverse impacts, that was not appealed. *Findings 1 through 41.*

DECISION

Based on the preceding Findings and Conclusions, the request for a preliminary plat to subdivide 6.22 acres into 19 single-family residential lots, including a .46-acre stormwater/utility tract (Tract A) and 2.4-acre wetland/open space tract (Tract B), off of SE 48th Street in Issaquah, Washington, is **APPROVED,** with the following conditions:[7]

<u>SEPA Mitigation Measures</u>

1. Final wetland/wetland buffer enhancement plans are required for approval by the Issaquah Development Services Department (DSD) prior to issuing construction permits. Final plans shall include a planting plan and a 5-year monitoring/maintenance plan with performance standards for monitoring success of the enhancement planting. The plans

[7] This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by City code.

shall meet standards of the King County Critical Areas Mitigation Guidelines for the planting density and monitoring performance standards.

2. The wetland and wetland buffer area are included in Tract B (2.40 acres). Tract B shall be preserved as a critical area/open space tract, protecting vegetation and precluding development in perpetuity. This shall be noted on the Final Plat.

3. Trees are shown to be preserved along the west property boundary, on the back of Lots 1 through 5. These retained trees could be impacted by clearing and grading for construction of residences on Lots 1 through 5. Clearing and grading shall be outside the critical root zone of preserved trees. Providing adequate tree protection may require adjusting clearing/grading limits on these lots.

4. Approved tree protection measures must be in place prior to any construction or demolition activities and installed in conjunction with limits of clearing and grading delineation. Clearing and grading shall be outside the critical root zone of significant trees.

5. After rough clearing and grading, trees retained along the edge of clearing limits shall be evaluated for hazard trees. If removal of hazard trees is necessary, the Applicant shall plant replacement trees consistent with the City's landscape code for replacement trees, IMC18.12.1390.

6. Traffic impacts of the proposed subdivision would be mitigated by a new traffic signal installed at the intersection of SE 48th St and Issaquah Pine Lake Road. The developer of the Issaquah 22 subdivision has a 'latecomer's agreement" for the traffic signal, managed by the City of Sammamish. The Applicant shall pay its pro-rata share of the signal cost.

7. A City of Sammamish right-of-way permit will be required for all street frontage work on SE 48th St and would address haul routes, traffic control plan and channelization. The new access road will also need to meet City standards for sight distance on SE 48th St.

8. The Applicant should mitigate for potential impacts on public services with a voluntary contribution for the General Government Buildings and Police Mitigation Fees. The mitigation fee is to be paid prior to issuance of building permits and the actual fee amount is determined at that time.

<u>Preliminary Plat Conditions</u>

9. The Applicant shall record the lot line adjustment (LLA15-00001) on the Teunissen lot (APN 2224069126), prior to submitting plans for the Final Plat.

10. The Applicant shall apply for a Site Works Permit to construct the roads, utilities and grading of the lots. A Final Plat review will follow after subdivision infrastructure has been installed or bonded for prior to recording.

11. Building setbacks and a 50% impervious surface limit shall be met on each of the residential lots and this will be reviewed and verified with building permits.

12. Public access easements shall be provided on the Final Plat for the public trail near the wetland, the trail connection from the south end of Road C to the public trail, and the trail connection from the east end of the cul-de-sac (Road A) to the gravel road east of the site. The Applicant shall be responsible for constructing the trail connections and improvements.

13. The public trail near the on-site wetland shall be located in the building setback area, to the greatest extent possible, but shall avoid impacting existing trees. The alignment shall be approved by the Development Services Department prior to installation.

14. The following critical area regulation conditions shall apply prior to final plat:
    1. Permanent survey stakes shall be set to delineate the boundaries between critical area tracts and adjoining lots.
    2. To prevent encroachment into the wetland area by residents and pets, the Applicant shall install a split-rail fence between the public trail and the wetland.
    3. Signs shall be installed, explaining the type and value of the critical area.
    4. A 5-year monitoring/maintenance period is required for the wetland/wetland buffer enhancement. Final mitigation plans shall include performance standards consistent with the King County Critical Areas Mitigation Guidelines.
    5. A 5 year monitoring/maintenance bond is required, equal to 50% of the cost of plants, installation, and the cost of 5 years of monitoring. The bond is required prior to Final Plat approval.

15. The Applicant shall provide an as-built plan of the wetland/wetland buffer enhancement and the consulting biologist shall verify in writing that the planting has been installed per plan, prior to final plat approval.

16. The Applicant shall prepare a wetland hydrologic analysis to demonstrate how pre-development hydrology to Wetland A would be maintained. Stormwater recharging the wetland shall be treated for water quality or come from non-pollution generating surfaces. This shall be approved by the City prior to issuing construction permits.

17. The Homeowner Association (HOA) shall have long-term maintenance responsibilities for the wetland and the public trail near the wetland in Tract B, consistent with the objectives of the approved mitigation plan. Maintenance responsibilities include removal of garbage, maintenance of trail and fences, and hand-removal of invasive plant species

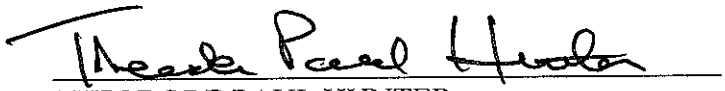
such as Himalayan Blackberry, Reed Canary Grass, English Ivy, Thistle, Creeping Nightshade, and Japanese Knotweed. This shall be included as a note for Tract B on the Final Plat.

18. The Applicant shall coordinate with the developer of Issaquah 22/Rivenwood to pay its proportionate share of cost for the regional stormwater line. The Applicant shall provide evidence of its agreement with the developer of Issaquah 22/Rivenwood, prior to recording the Final Plat.

19. The Applicant shall pay an in-lieu mitigation fee, based on its contribution of flow to the regional stormwater system, to partially fund downstream improvements necessary to mitigate for the impacts of the regional stormwater system improvements.

20. Impact fees are required for each new single-family residence. The following impact fees will be required and the applicable costs calculated at the time of issuance of building permits for each residential unit: Transportation, Fire, Schools, Parks, General Government (SEPA), Police (SEPA).

Decided this 8th day of May 2015.



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