

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

RECEIVED

In the Matter of the Application of)	No. FP07-002EV
)	
Steve Burnstead Construction Co.)	Talus Parcels 10-12
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Final Plat.</u>)	AND DECISION

JAN 15 2008

MDRT

SUMMARY OF DECISION

The Hearing Examiner approves the final plat for Talus Parcels 10-12, subject to conditions.

SUMMARY OF PUBLIC MEETING

Request:

Steve Burnstead Construction Co. requests approval of a final plat to subdivide 15.70 acres into 104 lots for single-family residential use and tracts for critical area, open space, parks, utilities, access, and rights-of way. The property is located in the southwestern portion of the TALUS (formerly East Village) development at the south end of the Shangri-la Way extension in Issaquah, Washington.

Meeting Date:

The Hearing Examiner held a public meeting on the request on January 3, 2008.

Comment:

The following individuals provided comments at the public meeting:

Lucy Sloman, MDRT Consulting Planner
Leo Sulver, Applicant Representative

Exhibits:

The following exhibits were submitted at the public meeting:

1. Memorandum from Lucy Sloman, City MDRT Consulting Planner, to Hearing Examiner, dated December 20, 2007
2. MDRT Staff Report, dated December 20, 2007, with the following attachments:
 - A. Vicinity Map
 - B. Application, received September 20, 2007
 - C. Final Plat drawings, revised/received December 20, 2007
 - D. List of property owners within 300 feet
 - E. Affidavit of Service for Notice of Public Meeting mailing, dated December 5, 2007

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- F. Urban Village Development Commission Findings, Conclusions, and Recommended Conditions to the City Council for Talus Parcels 10-12 (PP06-002EV), dated April 6, 2007
 - G. City Council Notice of Action, dated December 13, 2007
 - H. Issaquah Municipal Code 18.13.170 - .270: Final Plat Requirements
 - I. Summary of Bonded Improvements, dated December 18, 2007
3. E-mail exchange between Lucy Sloman, City MDRT Consulting Planner, and Doug Schlepp of RH2 Engineering Inc., dated January 2, 2008 and January 3, 2008
 4. Notice of Public Meeting, published in *The Issaquah Press* on December 12, 2007

The Hearing Examiner enters the following Findings and Conclusions based upon the comments offered and exhibits admitted at the public meeting:

FINDINGS

1. Steve Burnstead Construction Co. (Applicant) requests approval of a final plat to subdivide 15.70 acres into 104 lots for single-family residential use and tracts for critical area, open space, parks, utilities, access, and rights-of-way.¹ The property is located in the southwestern portion of the TALUS (formerly East Village) development at the south end of the Shangri-la Way extension in Issaquah, Washington.² *Exhibit 1, pages 1 - 2; Exhibit 2, Staff Report, page 1; Exhibit 2, Attachment A; Exhibit 2, Attachment B; Exhibit 2, Attachment F.*
2. Property to the north of the proposed subdivision features a reservoir, a stream tributary to Tibbetts Creek, and the Shangri-La Way extension. To the east lie TALUS Parcel 14 and a stream tributary to Tibbetts Creek. A permanent open space (Native Growth Protection Area) and West Fork Tibbetts Creek are located to the south. The project boundary, buffer, and Cougar Mountain Regional Wildland Park lie west of the proposed subdivision. *Exhibit 1, pages 1 - 2; Exhibit 2, Staff Report, page 1; Exhibit 2, Attachment A; Exhibit 2, Attachment B; Exhibit 2, Attachment F.*
3. The City of Issaquah (City) received the final plat application on September 20, 2007. The City gave notice of the final plat application by mailing notice to parties of record and owners of property within 300 feet of the property subject to the application. On December 5, 2007, the City mailed notice of the public meeting associated with the application to owners of property within 300 feet of the subject property. The City

¹ The property subject to the final plat application was created by a short plat, SP02-001EV, and a lot line adjustment, LLA04-002EV. *Exhibit 2, Staff Report, page 2.*

² The subject property's legal description is found within the proposed final plat map submitted with the final plat application. *Exhibit 2, Attachment C.*

published notice of the public meeting in *The Issaquah Press* on December 12, 2007.³ The City did not receive any public comment on the final plat application. *Exhibit 2, Staff Report, page 3; Exhibit 2, Attachment B; Exhibit 2, Attachment D; Exhibit 2, Attachment E; Exhibit 4.*

4. Through review of the preliminary plat proposal, the City acted as lead agency and reviewed the environmental impacts of the final plat proposal as required by the State Environmental Policy Act (SEPA). Lucy Sloman, MDRT Consulting Planner, commented that because the subject property lies within the project envelope of the Environmental Impact Statement (EIS) the City issued for the TALUS development site, no SEPA review beyond the EIS was necessary for proposed development on the subject property.⁴ *Exhibit 2, Attachment F; Comment of Ms. Sloman.*
5. The subject property is designated Low Density Residential/Urban Village by the City Comprehensive Plan. The purpose and intent of the Urban Village (UV) designation is to encourage innovative uses, sites, and comprehensive planning of large land parcels to provide opportunities for: reasonably priced housing; enhanced public services and concurrency; infrastructure solutions and improvements; and creative land development through clustering, permanent preservation of wetlands and other natural areas, integration of recreational facilities, and phasing of infrastructure. The UV designation is implemented by the adoption of an UV development agreement and UV zoning by City Council. A UV development agreement has been adopted for Issaquah Highlands and TALUS. The UV development agreement adopted for TALUS is the Cougar Mountain East Village Development Agreement (“East Village Development Agreement”), dated

³ Pursuant to the East Village Development Agreement, any permit ordinarily required by the City to provide public notice, a public hearing, or meeting shall have identical requirements for public notice for the East Village Project. *East Village Development Agreement, Appendix J, Section 2.3.3.1.* IMC 18.04.490.C.2 requires notice of application and a public meeting on all final plat applications.

⁴ The “project envelope” means: “A. the allowable development within the East Village Project and approved East Village Expansion Areas of the uses permitted in Appendix C (Land Uses) of the Cougar Mountain East Village Development Agreement (East Village Development Agreement); B. the conversion of commercial uses to residential units s authorized by the terms and conditions of Section 10 of the East Village Development Agreement (Conversion of Commercial to Residential); C. the Master Developer’s Authorized Elections and Modifications under Appendix K of the East Village Development Agreement (Elections and Modifications); and D. all offsite improvements outside the East Village Property or the East Village Expansion Areas that are proposed as elements of the East Village Project or that are required by the City or other governmental entity with jurisdiction in order to mitigate impacts of the East Village Project (including but not limited to improvements to State Route 900 and construction of sanitary sewer and water lines and any surface water drainage facilities), and that have been disclosed and discussed in the City’s East Village Project EIS.” *East Village Development Agreement, Appendix G, SEPA Compliance for Implementing Approvals, Section 1.0 (December 1999).* Section 3.1 of Appendix G authorizes the City to determine if the requested Implementing Approval is within the Project Envelope. Section 3.2 directs the City to prepare a new SEPA threshold determination only if the requested Implementing Approval exceeds the Project Envelope. Implementing Approvals include final plats for the East Village development project. *East Village Development Agreement, Appendix G, SEPA Compliance for Implementing Approvals, Section 2.0 (December 1999).*

December 6, 1999. *City Comprehensive Plan, Land Use Element, page L-7; Exhibit 1, pages 1-2; Exhibit 2, Staff Report, page 1.*

6. The subject property is located within the City's Urban Village – East Village (UV) zoning district. The purpose of the district is to encourage innovative uses, sites and comprehensive planning of large (15 acres or more) land parcels. Upon City Council approval of a development agreement, the property's development is governed by the substantive provisions of the approved agreement and implemented through subdivisions, short plats, binding site plans or other applicable permits in accordance with the procedures specified in the agreement, or through standard City procedures if none are specified in the agreement. The Urban Village Development Commission determined that the land use, density, and dimensions conformed with the East Village Development Agreement. *Exhibit 2, Attachment H, Issaquah Municipal Code (IMC) 18.06.120; East Village Development Agreement, Appendix C Permitted Land Uses and Densities, Section 4.1; Exhibit 2, Staff Report, page 2; Exhibit 2, Attachment F, page 1.*
7. The subject property is currently undeveloped, though the property has been cleared and some grading and wall construction have occurred. The Shangri-la Way extension north of Parcels 10-12 has been constructed, but the final lift is not yet in place. The extension would allow Shangri-la Way to connect to the proposed public access to the subdivision. The connection to the regional water main and connection to the Metro sewer are complete and operational for Parcels 10-12. *Exhibit 1, page 1-2; Exhibit 2, Staff Report, pages 1-2; Exhibit 2, Attachment C; Exhibit 2, Attachment F, page 1.*
8. The following permit applications have either been approved or are currently under review:
 - SEP07 -001EV steep slope critical area study
 - SEP07 -002EV stream critical area study
 - SEP07 -004EV BSBL encroachment and mitigation
 - PUB07 -003EV mass grading
 - PUB07 -007EV roads and utilities
 - PUB07 -009EV stream landscape
 - PUB07 -010EV retaining wall
 - PUB07 -011EV NGPA and open space tract landscape
 - PUB07 -013EV stream mitigation

Exhibit 1, page 2; Exhibit 2, Staff Report, page 2.
9. The City Council approved the preliminary plat for TALUS Parcels 10-12 (PP06-002EV) with 62 conditions of approval on May 7, 2007.⁵ The preliminary plat application

⁵ Preliminary plats within the TALUS development site are reviewed according to Section 3.5 of the East Village Development Agreement. *East Village Development Agreement, Appendix J Processing of Implementing Approvals, Section 3.1.* According to Section 3.5, preliminary plats are ultimately decided by the City Council, following a

requested subdivision of the property into 104 lots for single-family homes and various tracts for critical area, open space, parks, utilities, access, and rights-of way. The comments of City Departments were incorporated into the City Council's decision. The conditions of approval were necessary to ensure compliance with IMC Chapter 18.13 (Subdivisions) and RCW Chapter 58.17 requirements that the public use and interest would be served by the subdivision and dedication; and that appropriate provisions had been 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 schools. *Exhibit 2, Attachment H, IMC Chapter 18.13; RCW Chapter 58.17; Exhibit 1, pages 1-2; Exhibit 2, Staff Report, page 3; Exhibit 2, Attachment C; Exhibit 2, Attachment F; Exhibit 2, Attachment G, pages 6731-6732.*

10. The MRDT reviewed the final plat application for consistency with five (5) City Council stipulations and 62 conditions of preliminary plat approval (PP06-002EV) approved by the City Council. The following is the MDRT's analysis of how the proposed final plat complies with applicable preliminary plat conditions of approval (numbered below), with staff analysis in italics:

In order to provide enhancement to the transition between the plat and the public trail; enhancement of the transition between the plat and the NGPA; removal of hazardous trees on City-owned open space; and, the addition of land to the NGPA, the Major Development and Regional Affairs Committee recommends that the City Council approve the preliminary plat of Talus Parcels 10, 11, and 12, File# PP06-002EV, with grading into the NGPA, as described and evaluated in the revised Staff Report dated March 13, 2007 and plat drawings dated February 26, 2007 except:

1. Yard wall heights will be limited to 8' maximum;

Complies. Reviewed and noted as part of PUB07-007EV.

2. Yard walls will be moved as close to the buildings as practical to minimize NGPA intrusion;

Complies. Reviewed as part of PUB07-007EV.

3. NGPA intrusion, aside from that needed for the trail, will not exceed 2,000 square feet and will not be deeper than 10 feet horizontally at any given point;

Complies. Reviewed and noted as part of PUB07-007EV.

public hearing and recommendation to the City Council on the preliminary plat application by the Urban Village Development Commission ("UVDC").

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4. Graded NGPA will be generally sloped at 3:1 in order to leave as much of the crest as possible; and,

Complies. Reviewed and conditioned as part of PUB07-007EV.

5. Private property located between the yard walls and the NGPA will be added to the City NGPA through Final platting of these Parcels or BLA.

Complies. Tracts J, K, and L are being dedicated to the city as additional Native Growth Protection Area, see Sht. 3, General Notes and Restrictions #13.

Conditions:

1. Various easements are required to provide access for the City of Issaquah or property owners. These easements shall be provided with the final plat. These include:
 - When the right-of-way is located at the back of sidewalk, woonerf, or similar paved area, and it is determined to be necessary by the Responsible Official, a two-foot maintenance and repair easement shall be granted to the City. For instance if a building or wall is located at the back of publicly owned paved area, the easement is not necessary.
 - Lots 56-58 and 67-69 require public access and utility easements from Road B to each interior property.
 - Access to retaining walls to allow for maintenance and replacement by the private owners.

Complies.

Bullet 1: Sht. 2, Easement provision #2.

Bullet 2: Sht. 3, Easement provision #55.

Bullet 3: Sht. 2-3, Easement provisions #52.

2. At Final Plat, a mechanism for ensuring the preservation of the westerly buffer (Tract D) as well as an easement for protection of the steep slope therein, shall be provided.

Complies. Sht 3, General Note and Restriction #10 specifies the purposes of the tract; in addition, Sht. 2, Easement Provision #52A, requires City notification prior to any one entering Tract D to perform work.

3. Generally, homes shall have direct pedestrian connections to the sidewalk (or woonerf) system without using the driveway. However, factors such as grade, lot width, etc... could result in walks connecting to the driveway. In any case, the front door and the route to it shall be evident from the street. The MDRT will review this with the building permit.

Compliance with this condition will be verified with future Building Permits.

4. For street-loaded lots, 40 feet in width or narrower as well as lots on dead end woonerfs, driveways shall be limited to 12 feet within the right-of-way. Driveways on street-loaded lots 45 feet or narrower shall be limited to 16 feet in width, within the right-of-way. In addition to the driveway widths specified above, there may also be 2-foot wings on either side of the driveway. The MDRT will review this with the building permit.

Compliance with this condition will be verified with future Building Permits.

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5. For lots 40 feet in width or narrower, at final plat or building permit review as appropriate, the MDRT will review the permit to create a street presence through the refinement of each lot's shape or width at the street, placement of the house, and/or other techniques.

Complies. The applicant provided information with the final plat demonstrating how buildings on certain lots will implement this condition. In addition, this provision will be implemented during building permit review.

6. Through engineering plan review, a lighting plan shall be proposed for new streets, woonerfs, alleys, or on-site exterior lighting which maintains lighting at the minimum necessary for safety, and balances the goal of minimizing night glow and off-site lamp visibility with pedestrian scale lighting. The lighting plan shall comprehensively address building, street, alley, woonerf, plaza, parking lot, and landscape lighting so that lighting impacts are not compounded in portions of the site by overlapping illumination patterns.

Complies. The applicant has submitted a street lighting plan implementing this condition. In addition, building and/or landscape permits will also be reviewed for compliance with this condition.

7. Builder(s) in this plat shall consider applying techniques identified in the current TALUS green building program.

Compliance with this condition will be verified with future Building Permits.

8. Deleted by UVDC

Not applicable.

9. Deleted by UVDC

Not applicable.

10. The level spreaders should be field-located and installed with hand tools to minimize disturbance to the buffer vegetation.

Complies. Reviewed and noted as part of PUB07-007EV.

11. Prior to issuance of any Utility Permit that allows the construction of impervious surfaces, the applicant shall either verify that there is sufficient downstream infrastructure capacity or shall design, permit, and complete the modifications necessary to assure there is sufficient capacity for all expected stormwater flows.

Complies. Downstream capacity analysis demonstrating sufficient infrastructure capacity completed with PUB07-007EV.

12. Prior to issuance of any Utility Permit that allows the construction of impervious surfaces, the total annual and 100-year peak stormwater discharges shall be calculated and shown on the applicable utility plan for archiving purposes.

Complies. 100-year peak stormwater discharge analysis completed and noted on PUB07-007EV.

13. Future permits implementing the plat and plat construction shall be consistent with the findings and conditions of approval in SEP07-001EV Notice of Decision.

Complies. Permits issued to date as well as future permits have been or will be reviewed for compliance with SEP07-001EV.

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- 13a. The City shall grant a temporary construction easement consistent with locations shown as part of this application to allow regrading of the top of the steep slope along the southern edge of Parcels 10-12, consistent with the geo-technical recommendations contained in SEP07-001EV.

Complies. This condition was implemented through PUB07-007EV.

14. Structural fills that have a resultant slope of greater than 40% do not need setbacks or buffers under the following circumstances: 1) they have been designed by a licensed geo-technical or structural engineer and 2) construction was performed under the guidance of a licensed structural or geo-technical engineer, and 3) the as-built plans are certified by a licensed structural or geo-technical engineer. Otherwise, these areas will be treated as steep slopes under Appendix E.

Complies. This condition was implemented through PUB07-007EV.

15. At the time of review and approval of these constructed steep slopes, special planting techniques on slopes 3.1:1 or steeper may be required to assure the establishment and viability of plant and tree materials.

Complies. Landscape permits were reviewed for compliance with this condition.

16. Future permits implementing the plat and plat construction shall be consistent with the findings and conditions of approval in SEP07-002EV Notice of Decision.

Complies. Permits issued to date as well as future permits have been or will be reviewed for compliance with SEP07-002EV.

17. The use of hazardous or toxic substances and pesticides or certain fertilizers is prohibited in the 15' BSBL from stream and wetland buffers; organic, slow-release fertilizers are permitted. This shall be noted on the Final Plat for the affected lots.

Complies. See Sht. 3, General Note and Restriction #6.

18. Any Building Setback Line (BSBL) reduction per Appendix E, Subsection 13.C.1 must be identified and approved prior to or with the submittal of the Final Plat. The final location of the BSBL must be documented on the Final Plat.

Complies. See Shts. 5 and 7, Details for Lots 49, 70, and 71.

19. Prior to issuance of Utility Permits for areas including critical areas, permanent survey stakes shall be installed in the field, that delineate the boundaries of all critical areas.

Complies. This was implemented through PUB07-007IH.

20. For any construction activities within 100 feet of the buffer of a critical area, an independent qualified professional shall be hired, acceptable to the Responsible Official, to be on-site as needed to ensure construction does not exceed the limits indicated. Following construction within this area, a licensed surveyor shall submit an affidavit to the Responsible Official attesting that the construction was contained within the approved limits.

Complies. Reviewed and noted as part of PUB07-007EV.

21. Any remaining critical areas impacted by approved critical area work shall be planted to prevent erosion, support adjacent critical areas, and minimize invasive plants. Appropriate plants will be determined in landscape review. This work shall be permitted and installed prior to Certificate of Occupancy of any adjacent unit.

Complies. Landscape permits have already been approved and compliance with this condition will be verified with future Building Permits.

22. At Final Plat, the BSBL for critical areas shall be shown on all lots with adjacent critical areas.

Complies. See Shts. 5-7.

23. Prior to occupancy of any adjacent divisions or lots, permanent signs identifying the type and value of the critical area shall be installed. Adjacent to single family lots, one sign shall be placed on every other common property line.

Compliance with this condition will be verified with future Building Permits.

24. Shangri La Way improvements, as permitted in PUB05-006EV and serving Parcels 10-12, must be completed and accepted (unless otherwise approved by the Designated Official) prior to Certificate of Occupancy for any lot in this plat.

Compliance with this condition will be verified with future Building Permits.

25. Prior to approval of any additional permits to implement this plat, the applicant must submit Administrative Minor Modifications to modify the Residential Street Standard to implement the plat as proposed.

Complies. AM07-001EV modified the Residential Street Standard as required.

26. All portions of houses served by a shared drive must be within 150 ft of Road B (as the hose lays).

Compliance with this condition will be verified with future Building Permits.

27. Prior to approval of any additional permits to implement this plat, the applicant must submit Administrative Minor Modifications to modify the Shared Drive standard for this plat to be 12 ft wide rather than 15 ft wide.

Complies. AM07-002EV modified the Shared Drive Standard as required.

- 27a. Address signs shall be provided at the lot nearest Road B to clearly identify the location of the following lots: Lots 57 and 58 on Tract E and Lots 67 and 68 on Tract F. The address signs shall be lit and have numbers/letters approximately 6 inches in height. The final location and design shall be approved by the Responsible Official.

Complies. See Sht. 2, Easement Provision #'s 60 and 61 for easement locations and compliance with this condition will be verified with future Building Permits.

28. Prior to approval of any additional permits to implement this plat, the applicant must submit Administrative Minor Modifications to allow the use of Issaquah Highlands' woonerf standards and guidelines to implement the plat as proposed.

Complies. AM07-003EV adopted the Issaquah Highlands Woonerf Standard as required.

29. Any woonerf without a turnaround, such as Road B, must accommodate through traffic with 18 ft wide travel area and an additional 7 ft of width, if parking is desired. There will be no obvious grade transition from Road B to the shared drives in Tracts E and F.

Complies. This condition was implemented through PUB07-007EV.

30. Curbs are not allowed on woonerfs except adjacent to parking, where surrounding grades can not accommodate inverted crown drainage, or as approved by the Responsible Official. Sheet flow from the woonerf to surrounding landscape is not allowed. All curbs shall be vertical; no extruded curbs are allowed. If curbs are necessary for both parking and stormwater, the placement of the curb should be consolidated.

Complies. This condition was implemented through PUB07-007EV.

31. Prior to issuance of Building Permits, site design of the houses fronting on any woonerf, shall limit height or presence of elements (e.g. walls, landscaping) directly abutting the woonerf that would inhibit drivers and pedestrians (especially small children) exiting lots from seeing each other.

Compliance with this condition will be verified with future Building Permits.

32. House numbers on Lots 73-76 must be a minimum of 5 inches tall. This will be reviewed or conditioned with building permit.

Compliance with this condition will be verified with future Building Permits.

33. Road D shall use, and Road C may use, the fire service access alley section, i.e. 18 feet right-of-way containing 12 feet of asphalt paving, with 3 foot concrete strips on either side of the asphalt.

Complies. This condition was implemented through PUB07-007EV.

34. The alleys shall be posted as “No Parking” or “No Parking – Fire Lane”, depending on the type of service they provide. Prior to issuance of Building Permits, the applicant shall receive approval of a striping and/or signing plan for both alleys and any streets approved with parking limitations, and the signs installed.

Complies. This condition was implemented through PUB07-007EV and compliance with this condition will also be verified with future Building Permits.

35. For Lots 83-90, if a fence is constructed around the back yard, a gate or similar entry as well as a rear house door must be provided for emergency service personnel to quickly and directly access the house from the alley. Access through the garage is not an acceptable alternative. This will be reviewed with building permit.

Compliance with this condition will be verified with future Building Permits.

36. Additional drivable surface must be provided on Lot 83 via easement or adjustment

of right-of-way to ensure fire truck turning movements to and from the east. The additional area needed will be determined with the Utility Permit; additional right-of-way or easement shall be provided with the Final Plat.

Complies. This condition was implemented through PUB07-007EV; also see Sht. 2, Easement Provision #7.

37. With the submittal of the Utility Permit allowing construction of Road E, the applicant must propose how to minimize construction impacts to residents of Parcel 14. Road E must be permitted and constructed prior to the issuance of the 50th Building Permit within this plat. Other than the construction traffic necessary for building the bridge and utility connection to Parcel 14, all other construction traffic related to Parcels 10-12 will not use the roads in and through Parcel 14.

Complies. This condition was implemented through PUB07-007EV.

38. Tract A and C will each provide a main walkway serving homes fronting on the parks (Lots 73-76 and Lots 83-90). These walkways will provide a relatively direct route from the street to the front walkway and door of each lot. In addition the walkway will be designed as a sidewalk, i.e. a minimum of 5 feet wide, constructed in concrete or similar hard surface materials. Design considerations, similar to a sidewalk, should be incorporated to ensure safe and functional pedestrian access. The sidewalks in each Tract shall be completed prior to Certificate of Occupancy or final inspection of the first home directly fronting on that tract.

Compliance with this condition will be verified with future Landscape and Building Permits.

39. At final plat, Tract A shall provide an easement to Lots 83-90 and Tract C shall provide an easement to Lots 73-76 for pedestrian access via the main walkway in perpetuity.

Complies. See Sht. 2, Easement Provisions #49 and #50.

40. To ensure that center-line of roads within the plat do not exceed 15%, road grades will be confirmed with Utility Permits and certified by a surveyor or other professional acceptable to the Responsible Official, following construction. This certification must be provided prior to issuing the first Building Permit in the plat. If grades exceed 15% then all homes past the 15+% slopes must be sprinklered.

Compliance with this condition will be verified with future Building Permits.

41. Driveways crossing a sidewalk or driveways from woonerfs and alleys which are primary emergency service access routes shall provide at least 18 feet of length on the lot if the driveway will be used for parking. Driveways from woonerfs and alleys which do not provide emergency access shall provide at least 16 feet of length on the lot if they will be used for parking. Driveways which are not intended for parking must be less than 12 feet in length to clearly indicate they do not accommodate parking. This will be reviewed with Building Permits.

Compliance with this condition will be verified with future Building Permits.

42. At Final Plat, Tracts G, H, and I shall be encumbered with an easement to the City of Issaquah allowing access for maintenance, repair, and/or replacement of the roads and bridges crossing these tracts.

Complies. See Sht. 2, Easement Provision #5.

43. Capital facility fees due at final plat shall be paid prior to final plat approval, and shall be collected based upon the number of lots contained in the final plat and in accordance with Appendix I. The applicant shall be obligated to pay required Appendix I parks mitigation fees, unless the Designated Official determines that credit for other recreational facilities are adequate to offset those fees.

Complies. Police fees have been paid in full for the entire community; fire, government, and school fees are collected with building permit. One half of the parks fees in the amount of \$151,442.72 are due and the applicant has met this obligation with recreation facilities and cash in the amount of \$26,442.72. The second half in the amount of \$151,442.72 will be collected proportionally with each building permit application.

44. A condition shall be placed on the face of the final plat which requires the payment of mitigation fees per the School Mitigation Agreement.

Complies. See Sht. 3, General Notes and Provisions #5.

45. Prior to Final Plat approval, 616 reservoir lid improvements, play equipment, and landscaping, or their equivalent, must be made available to the City.

Complies. Per a November 29, 2007 letter from Darren Peugh of Talus Management Services, the current Master Developer, these funds will be made available to the City of Issaquah.

46. The design of Tract A shall provide a relative flat portion (2-3% of cross slope) of reasonable size, i.e. at least approximately 2500 sq.ft. This will be reviewed with the Utility Permit for grading and/or landscape.

Compliance with this condition will be verified with future Landscape Permits.

47. In parks and landscape tracts, design of the above ground facilities, such as walkways, significant plant materials, etc... should take priority over the convenient location of utilities, unless this would significantly compromise the function of the utilities. This will be reviewed with the Utility Permit.

Compliance with this condition will be verified with future Landscape Permits.

48. Lots 73-76 and Lots 83-90 must have their "fronts" to Tracts C and A, respectively by providing: a) a front door facing the park, b) a front walkway to and from the park, c) a façade which through design and detailing conveys it is the front of the house. If a builder or homeowner desires low fencing or landscape along the park property line or adjacent to the main park walkway, it must be less than 42 inches in height. This will be reviewed and/or conditioned with the Building Permit.

Compliance with this condition will be verified with future Building Permits.

49. Tracts A and C must be complete (landscape, recreational facilities, and other elements whose timing is not specified in other conditions) prior to the Certificate of Occupancy of half the dwelling units immediately adjacent to the park or open space. Any other land, not incorporated into individual residential lots, which has been

disturbed by logging, clearing, and/or grading (including work approved by PUB05-015EV) shall be identified as part of the Utility Permit application for landscape and completed (installed and inspected) by Certificate of Occupancy of 50% of the plat's dwelling units. This will be reviewed with the Building Permit.

Compliance with this condition will be verified with future Building Permits.

50. No water services should be directly connected to the pipeline that would be converted to the 616 zone.

Complies. Compliance with this condition was reviewed with PUB07-007EV.

51. The two potable water pipelines must be interconnected with an isolation valve at the intersection of Road A and Road A. This will be reviewed with the Utility Permit.

Complies. Compliance with this condition was reviewed with PUB07-007EV.

52. Unless potable water is supplied from the 616 pressure zone (in a fully-looped configuration) only residential fireflows can be supported. All buildings must be either single or duplex residential uses. This will be reviewed with the Building Permit.

Compliance with this condition will be verified with future Building Permits.

53. Prior to Final Plat approval, provide water service easements on Lots 76 and 73 to accommodate meters.

Complies. See Sht. 2, Easement Provisions # 32 and # 33.

54. Prior to Final Plat approval, add a Public utility easement between Lots 7 and 8 for future water service connections to Shangri La Way.

Complies. Easement has been provided over Lots 6 and 7 in lieu of 7 and 8, together with Tract H, see Sht. 2, Easement Provision # 6. Due to the layout of the homes on lots 7 and 8, the easement has been shifted to lots 6 and 7 providing the City with the same benefit.

55. The applicant shall provide signs at the plat entrance and Tract C indicating how to find Bear Ridge Trail as well as a kiosk in Tract M which includes a map of the trail. The timing of improvements in Tracts C and M shall coincide with tract development as specified in other plat conditions. The sign at the plan entrance shall be completed by Certificate of Occupancy of Lot 72 or whichever lot is in closest proximity to the final location of the sign. This shall be reviewed with Building Permit for Lot 72, or the most proximate lot, and the Utility Permits for Tracts C and M.

Compliance with this condition will be verified with future Landscape and Building Permits. In addition, see Sht. 3, Easement Provision #56.

56. At Final Plat, Tracts A, B, M as well as any other tracts that have trails that connect between streets (access tracts, woonerfs, or other circulation elements) shall allow public access on the trails in perpetuity if the tracts containing the trails are privately owned. In addition, Tract M's easement needs to provide access to the slopes in the adjacent NGPA, i.e. Tracts L, K, J, and I.

Complies. For public access, see Sht. 2, Easement provision #58 which provides pedestrian access to the City over Tracts A, B, C, and M. For slope access, Tracts J, K, and L are being dedicated to the city as part of this final plat; see General Notes and Restrictions #13, Sht. 3; Tract I receives access via Easement Provision #5, Sht. 2.

57. The trail improvements in Tracts A, B, and M shall be signed prior to release of Final Plat mylars as well as any tract containing a trail. Signs shall identify that trails will be placed in these locations. Signs shall remain in place until construction of the trail is complete.

Complies. See final plat approval condition #2, below.

58. The trail improvements shown in this plat shall be completed prior to Certificate of Occupancy or final inspection of the last adjacent residence to each tract containing a trail, i.e. Tracts A (between Lots 86 and 87, connecting the main park walkway to Tract B), B (all improvements), and M (all improvements).

Compliance with this condition will be verified with future Building Permits.

59. With any clearing and grading work that would result in plant removal, the applicant shall provide an opportunity for plant salvage consistent with the WHNPP.

Complies. A plant salvage of the site was held March 31st 2007.

60. Homes adjacent to the westerly buffer to the Cougar Wildlands Regional Park and the NGPA shall provide a 4 ft tall, open fence to discourage backyard creep and dumping of debris, unless the lot is below a rockery, 5 or more ft tall, then no fence is required.

Complies. See General Note and Restriction #15, Sht. 3. These will also be reviewed and conditioned on future building permits.

61. Prior to any grading activities within the City-owned NGPA, the applicant will prepare a plan for review and approval which illustrates clearing limits and restoration following grading. The work will be bonded and monitored for 5 years.

Complies. The submitted and the city approved a clearing and restoration plan, PUB07-007EV. We have also received a bond.

62. Prior to the issuance of any building permits for lots abutting the NGPA, the builder shall remove all identified hazardous trees, as verified by the City arborist, within the NGPA adjacent to this subdivision.

Complies. Hazardous trees within the NGPA and adjacent to this parcel, have been identified by the City arborist and removed.

Exhibit 2, Staff Report, pages 4-12.

11. The MDRT reviewed the proposed final plat for compliance with the final plat technical requirements, format requirements, and dedications and certifications to be submitted with the final plat, as set forth in IMC 18.13.170 through IMC 18.13.200. The MDRT determined that all of these requirements had been satisfied and recommended approval of the final plat. At the public meeting, Ms. Sloman recommended that the stipulations by City Council be treated as conditions of approval. Ms. Sloman proposed amending general note/restriction 13 from Sheet 3 of the final plat map to specify that Tracts J, K, and L are encumbered with a Native Growth Protection Area (NGPA) as a condition of

final plat approval. *Exhibit 1, page 2; Exhibit 2, Staff Report, page 3; Exhibit 2, Attachment H; Exhibit 3; Comment of Ms. Sloman.*

12. According to IMC 18.13.260, a final plat shall not be approved by the Hearing Examiner until all required improvements are constructed in a satisfactory manner and approved by the responsible City Departments, or sufficient bond has been satisfactorily posted in lieu of completion. The City Public Works Director must notify the City Planning Department in writing of the improvements deferred, the amount of bond or other security and time limit of such, and any other pertinent information. *IMC 18.13.260.G.* The City Public Works Engineering Deputy Director stated in a letter to Keith Niven, City MDRT Program Manager, that the Applicant has deferred improvements for the plat and the amount of the bond for the deferred improvements shall be \$1,839,707 for road and wet utilities; \$241,568 for spine road phase 2 grading, road, and utilities; \$60,385 for spine road streetscape; and \$525,604 for right-of-way landscape, Tracts A, B, and C, and hardscape, walls, structures, and furnishing. The Applicant had already submitted bonds for critical areas mitigation, Tract M, and NGPA restoration and for site restoration. In a Memorandum to the Hearing Examiner dated December 20, 2007, Ms. Sloman stated that the Applicant has posted sufficient bond for all deferred improvements. *Exhibit 1, page 2; Exhibit 2, Staff Report, page 3; Exhibit 2, Attachment H; Exhibit 2, Attachment I.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide final plat applications pursuant to Issaquah Municipal Code (IMC) 18.13.040.D. According to IMC 18.04.470.B, a final plat is reviewed at a public meeting and does not require review at an open record hearing.

The Cougar Mountain East Village Development Agreement (“East Village Development Agreement”) governs development within TALUS. The East Village Development Agreement authorizes the Hearing Examiner to issue a written decision on requests for TALUS final plats, following a recommendation by staff and a public meeting. *East Village Development Agreement, Appendix J, Section 3.4.*

Criteria for Review

The criteria for final plat review are found in IMC 18.13.310, which states:

If the Hearing Examiner finds that the proposed plat makes appropriate provisions for the public health, safety, general welfare, and for such open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary sewers, parks, playgrounds, sites for schools and school grounds, and that the public use and interest will be served by the platting of such subdivision, then it shall be approved. If the Hearing Examiner finds that the proposed plat does not make such appropriate provisions or that the public use and interest will not be served, then the Hearing Examiner may disapprove the proposed subdivision.

These criteria are nearly identical to the criteria for review of plats set forth in RCW 58.17.110, the state subdivision statute. The City Council addressed consistency of the application with

RCW 58.17.110 criteria during preliminary plat review. *See Decision of the City Council, Preliminary Plat PP06-002EV, Exhibit 2, Attachments 6 and 7.* As a result of preliminary plat review, the City Council approved the preliminary plat but imposed 62 conditions of approval. Because the application has already undergone review for consistency with the applicable subdivision criteria and conditions of approval were applied to ensure consistency, final plat review is limited to determining whether conditions of preliminary plat approval and IMC Chapter 18.13 technical requirements have been satisfied.

Conclusions Based on Findings

1. **With conditions, the proposed final plat will comply with IMC Chapter 18.13 technical requirements.** The City gave adequate notice of the final plat application and associated public meeting. The City reviewed the environmental impacts of the final plat through SEPA review of the impacts of the preliminary plat within the greater TALUS development site. The Applicant has generally complied with IMC Chapter 18.13 technical requirements, including dedications and certifications dedication, improvements, and financial guarantees on deferred improvements. Conditions of approval are necessary to ensure that the Applicant includes necessary signatures of City representatives on the final plat; properly records the final plat; and properly submits copies of the final plat to City Departments. *Findings 1, 2, 3, 4, 11, and 12.*
2. **The final plat will comply with the applicable conditions of preliminary plat approval.** The mixed commercial and residential development proposed for the subject property is consistent with the subject property's Urban Village Comprehensive Plan designation. The proposed development is consistent with the purpose and requirements of the Urban Village zone, as the subject property would be developed consistent with the development density projections of the East Village Development Agreement. The Hearing Examiner is satisfied that this proposal has been adequately reviewed for compliance with the conditions of the preliminary plat approval and accepts City staff comments in that regard, which were uncontested. Some infrastructure improvements serving the subject property have already been completed; completion of other required improvements has been guaranteed through posting of a performance bond by the Applicant. With conditions, such as recording of the NGPA encumbrance on Tracts J, K, and L on the final plat map, appropriate provision has been made for the public health, safety, general welfare, and all other items specified in IMC 18.13.310. *Findings 1, 5 – 10, and 12.*

DECISION

Based on the preceding Findings and Conclusions, the final plat for Talus Parcels 10-12 is **APPROVED**, subject to the following conditions:

1. Minor, non-substantive adjustments may be made to the final plat at the discretion of the Responsible Official prior to recording.

2. Prior to recording the final plat, the Applicant shall amend general note/restriction 13 from Sheet 3 of the final plat map to specify that Tracts J, K, and L are encumbered with a Native Growth Protection Area (NGPA).
3. Prior to recording the final plat, the necessary signatures of City representatives shall be included on Sheet 1 and other sheets that apply.
4. The Applicant shall record the approved Final Plat with the King County Department of Records and Elections.
5. The Applicant shall provide a copy of the recorded Final Plat packages within ten (10) days of recording with the King County Department of Records and Elections. The Applicant shall also submit an electronic copy of the plats in a format acceptable to the City Public Works Department.

Decided this 15th day of January 2008.


THEODORE PAUL HUNTER
Hearing Examiner