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COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

PHOENIX DEVELOPMENT, INC., a Washington Corporation, and G&S SUNDQUIST THIRD FAMILY LIMITED PARTNERSHIP, a Washington limited partnership,

Appellants,

v.

CITY OF WOODINVILLE, a Washington Municipal Corporation, and CONCERNED NEIGHBORS OF WELLINGTON, a Washington Nonprofit Corporation,

Respondents.

APPELLANTS' BRIEF

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INTRODUCTION

Phoenix Development ("Phoenix") has proposed to develop two low density residential subdivisions – Wood Trails and Montevallo – in Woodinville, Washington ("City"). Each subdivision will result in 66 new single family homes, at a density of R-4 (four dwelling units per acre). R-4 is considered "low density residential" in the City's Comprehensive Plan and Land Use Code, and is the minimum allowed density under the City's land use code when public services are available.

When Woodinville was incorporated in 1995, it adopted a Comprehensive Plan under the Growth Management Act ("GMA"). Its Plan designated approximately 60% of its residentially zoned land at a density of one unit per acre. For a city within the "urban growth area" of King County, the one unit per acre residential zoning was viewed as extremely low density. Not surprisingly, that density designation was appealed to the Growth Management Hearings Board ("GMHB"), which ultimately held, in *Hensley v. Woodinville,* CPSGMHB Case No. 96-3-0031, FDO at 9-10 (February 25, 1997), that the City's Plan was unlawful. The Board stated that the City may not "perpetuate an inefficient pattern of one-acre lots," and added that "[f]or the Board to conclude otherwise would sanction the inappropriate conversion of undeveloped land into

sprawling low-density [one-acre] development, which would effectively thwart long-term urban development within the City's boundaries…"

The City did not appeal the *Hensley* decision. Instead, the City Council ("Council") chose to comply with *Hensley* by allowing the extremely low density one acre development only when adequate services such as city water and sewer are not available. Where services are available, higher densities of at least R-4 would be required. Accordingly, the City amended its development regulations to provide that:

> **Developments with densities less than R-4 are allowed only if adequate services cannot be provided.**

WMC 21.04.080(1)(a) (emphasis added).

The Comprehensive Plan was also amended to include a new policy LU-3.6:

> Encourage moderate (5-8 d.u.) and medium (9-18 d.u.) density housing throughout the community where sufficient public facilities and services are available, where the land is capable of supporting such uses, and where compatible with adjacent land uses.

Based on these legislative actions, the GMHB was assured that the City would not continue to sanction "the inappropriate conversion of undeveloped land into sprawling low-density development." Accordingly, the Board found the City in compliance with the GMA.

Against this background, the Wood Trails and Montevallo sites were both zoned R-1, one dwelling unit per acre. However, city water was

available, and city sewer could be made available, as well as other services. Accordingly, in reliance on the holding in *Hensley,* the City's revised Comprehensive Plan, and WMC 21.04.080(1)(a), Phoenix applied for a zoning map amendment to re-designate the Wood Trails and the Montevallo sites from "Low Density Residential R-1" to "Low Density Residential R-4." From Phoenix's understanding, this zoning change was mandated by the *Hensley* decision and WMC 21.04.080(1)(a). There was no need to apply for a Comprehensive Plan amendment because the Comprehensive Plan already authorizes R-4 density on these sites.

After a lengthy, three-year review process, the City's professional staff and Hearing Examiner recommended approval of the Wood Trails and Montevallo proposals. However, significant community opposition arose. The neighborhood opposition desires to keep the one-unit per acre density. The Council, ultimately, did not follow the recommendations of its professional staff. Instead it overrode those recommendations, apparently to accommodate this community opposition.

The Council did not explicitly state that its denial was based on NIMBY considerations. In its formal Decisions denying the proposals, the Council identified two reasons for its decision. First, the Council concluded the rezones were inconsistent with the Comprehensive Plan.

Second, the Council concluded the Wood Trails and Montevallo properties were not served by adequate public facilities and services.

The record shows, however, that the proposed rezones are fully consistent with the Comprehensive Plan and in fact implement that Plan. The record also amply demonstrates that the Wood Trails and Montevallo properties are served by adequate public facilities and services.

Community opposition alone can not be the basis for denial of land use proposals. *Maranatha Mining, Inc. v. Pierce County*, 59 Wn.App. 795, 805, 801 P.2d 985, 991-992 (1990). Because the Wood Trails and Montevallo proposals implement the Comprehensive Plan and are served by adequate public facilities and services, the Council's decision should be reversed. The Council's decision is an erroneous application of the law, is not supported by substantial evidence, and is a clearly erroneous application of the law to the facts.

ASSIGNMENTS OF ERROR

Phoenix assigns error to Findings 3-10, 13-14, 16, 21, and 24-26, and Conclusions 1-8 of the Council's Montevallo ("M") Decision; Findings 3-12, 14-17, 22, 25-27, and Conclusions 1-8 of the Council's Wood Trails ("WT") Decision; and to the King County Superior Court Final Judgment entered August 12, 2008 and Order Dismissing Appeal of Land Use Decision entered on February 29, 2008.

ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Should the City Council Decisions to deny the Wood Trails and Montevallo Zoning Map Amendments be reversed (and the King County Superior Court's order sustaining the Decisions be reversed)?

2. Has Phoenix met its burden to demonstrate that its rezone proposals comply with all applicable criteria of the Woodinville Municipal Code and state law?(M Findings 3-10, 13-14, 16, 21, and 24-26, and Conclusions 1-8; WT Findings 3-12, 14-17, 22, 25-27, and Conclusions 1-8).

3. Should the Court reverse the City Council's decisions to deny the Wood Trails and Montevallo subdivisions (and the King County Superior Court's affirmance of those decisions)? (M Conclusion 9; WT Conclusion 9; and King County Superior Court Final Judgment entered August 12, 2008 and Order Dismissing Appeal of Land Use Decision entered on February 29, 2008).

STATEMENT OF FACTS[1]

[1] In this brief, citations to the Administrative Hearing Transcripts will include the reference "TR," date and page number. Citations to exhibits in the Certified Appeal Board Record will be to Wood Trails ("WT") Ex. __; and Montevallo ("M") Ex. __. Certain exhibits from the administrative record, including the Hearing Examiner Decisions and City Council Decisions, and pertinent Woodinville Comprehensive Plan and Land Use Code provisions, are included in the Appendix to this Brief, and will be identified as App. Ex. __.

A. The Growth Management Act's Urban Density and Anti-Sprawl Provisions, *Hensley v. Woodinville,* LU 3.6 and WMC 21.04.080.

> The Legislature enacted the Growth Management Act (GMA), RCW 36.70A,.010-902 to minimize the threats unplanned growth poses to the environment, economic development and public welfare. RCW 36.70A.010. The GMA's goals include **reducing sprawl**, encouraging development in areas already characterized by urban development, preserving open spaces and the environment, and encouraging availability of affordable housing. See RCW 36.70A.020.

Peste v. Mason County, 133 Wn.App. 456, 463, 136 P.3d 140, 144 (2006) (emphasis added).

The Washington Supreme Court has stated that the "primary method required for meeting the goals of subsections .020(1) (urban growth) and .020(2) (reduce sprawl) is set forth in RCW 36.70A.110." *Quadrant Corp. v. Central Puget Sound Growth Management Hearings Board*, 154 Wn.2d 224, 246, 110 P.3d 1132, 1144 (2005). RCW 36.70A.110(1) requires that each county "shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature."

Michael J. McCormick, FAICP, former Assistant Director for Growth Management with the Washington State Department of Community Development, elaborated on these urban density and anti-sprawl GMA provisions in a letter submitted to the Hearing Examiner:

> Encouraging increased densities is a key element of the GMA and for all sound planning efforts to reduce sprawl, preserve rural and resource lands and protect water and air quality. The GMA requires "urban densities" to be located inside the UGA and prohibits them outside. But the GMA does not establish a specific numerical limit to what is urban and what isn't.
>
> The State has provided some helpful guidance... One of these documents covered urban growth area designations and densities... This document contains an abundance of examples from within Washington state and outside on the need for and benefit of setting higher residential densities. Typical single family detached housing developments are found at a much higher density [than proposed in the Wood Trails and Montevallo projects]. Absent some recognized environmental constraint, appropriate new planned urban densities are more in the range of five to eight units per acre...
>
> More than half of all cities [in the Central Puget Sound Area] have more than 90% of their single family zoning above four units per acre.

M. Ex. 65 at pp. 26-32 (attached as App. Ex. J).

In this context, the City of Woodinville adopted its initial Growth Management Act Comprehensive Plan on June 24, 1996. Corrine R. Hensley submitted a petition for review to the Central Puget Sound Growth Management Hearings Board, claiming that the City had failed to plan for urban densities. WT Ex.140 (attached as App. Ex. O).

Ms. Hensley challenged the City's Comprehensive Plan Policy LU-3.6, which provided: "Allow densities higher than one dwelling unit per acre only when adequate services and facilities are available to serve the proposed development." In its decision, the Board held:

> Because the Act requires that cities make available and provide urban services throughout their UGAs, the Board cannot construe Goal U-3 to perpetuate an inefficient pattern of one-acre lots. For the Board to conclude otherwise would sanction the inappropriate conversion of undeveloped land into sprawling low-density development, which would effectively thwart long-term urban development within the City's boundaries…

WT Ex. 140, at 9-10 (App. Ex. O).

The City did not appeal the decision but chose instead to comply with it, by amending its Plan and development regulations.

WMC 21.04.080 directly responds to the Board's order. In order to avoid "the inappropriate conversion of undeveloped land into sprawling low-density development, which would effectively thwart long-term urban development within the City's boundaries," WMC 21.04.080(1)(a) states that **"[d]evelopments with densities less than R-4 are allowed only if adequate services cannot be provided"** (emphasis added). App. Ex. E.

Policy LU-3.6, which was found to be out of compliance with GMA, was replaced with a new policy LU-3.6, which provides:

> Encourage moderate (5-8 d.u.) and medium (9-18 d.u.) density housing throughout the community where sufficient public facilities and services are available, where the land is capable of supporting such uses, and where compatible with adjacent land uses.

App. Ex. D.

B. Phoenix Meets with City Staff and Reviews City Regulations.

Robert Vick, Senior Vice President of Phoenix Development, described the background and interests of Phoenix at the Hearing Examiner's public hearing on the proposals:

> Phoenix is a strong supporter of the policies of the Growth Management Plan, including policies that require urban densities in UGAs to reduce sprawl, to promote efficient use of infrastructure and to protect critical areas. All of our projects have been consistent with those rules.
>
> Portions of the Wood Trails property have been in the family of the Phoenix Development's principal owner, Larry Sundquist, for many, many, many years... At this time his aunt and uncle who own the property – who are in their 80s – would like to realize the value from the property and would like to see it developed.

TR 66-67 (3/14/07).

In 2004, Mr. Vick met with City planning staff to determine the City rules applicable to development of the Wood Trails and Montevallo sites. TR 66-70 (3/14/07). He learned that these two sites were zoned Low Density R-1. However, he also learned that the applicable City ordinance **required** development to occur at Low Density R-4 if adequate services were available to the sites. WMC 21.04.080(1)(a). He advised the City that Phoenix was prepared to extend the already available sewer lines to the sites.

He also reviewed the City's Comprehensive Plan, which designates the Wood Trails and Montevallo properties as Low Density Residential, 1-4

dwelling units per acre. M Ex. 40, pp. 3.4-22 to 3.4-28. Accordingly, no Comprehensive Plan amendment would be required, since the Plan already authorized density up to 4 dwelling units per acre.

The Comprehensive Plan also makes it clear that the City has determined that it has an obligation to provide urban densities of four dwelling units per acre or greater:

> The purpose of the [Buildable Lands] Program is for these local governments [including Woodinville] to compare anticipated growth against actual development over time to answer two basic questions: (1) Do local governments have suitable land to accommodate expected growth for the 20 year planning period? And (2) **Are urban densities (four units to the acre and greater)** being achieved in the Urban Growth Area?

Chap. 2, p. 7 (emphasis added) (see App. Ex. D).

The City's Comprehensive Plan also cites the King County Countywide Planning Policies (with which the City's Plan must be consistent). These policies mandate at FW-11 (cited in the City's Comprehensive Plan at Chap. 2, p. 8): **"Require land use patterns that will reduce consumption of land and concentrate development."** The City's Comprehensive Plan Policy LU 3.6 was designed to address the mandate of King County Countywide Planning Policy FW-11, as well as the *Hensley* decision, when it states:

> **Encourage moderate (5-8 d.u.) and medium (9-18 d.u.) density housing throughout the community** where sufficient public facilities and services are available, where the land is capable of supporting such uses, and where compatible with adjacent land uses.

(emphasis added).

Woodinville's Comprehensive Plan is clear that the Land Use Map is the City's explicit direction for future zoning, and is intended to allow the public to know in advance what land uses are encouraged and allowed:

> Under the Growth Management Act, all zoning actions and development regulations must be consistent with the community's adopted comprehensive plan. Since the Growth Management Act requires that a city's development regulations be consistent with its comprehensive plan, it is imperative that the Future Land Use Map be sufficiently detailed to enable the public to understand what the designations on the Future Land Use Map imply for future zoning and what land uses will be allowed in various locations.

Chap. 3, p. 7 (see App. Ex. D). The Low Density Residential designation is applied to the Wood Trails and Montevallo properties on the Future Land Use Map, which means that "the permitted density for this designation will not exceed **4 dwelling units per acre**." *Id.*

Woodinville's Comprehensive Plan also encourages greater affordability and a diversity of housing types. It requires the City to: "Define land use regulations to allow for development that will accommodate a range of incomes by providing for a variety of housing types and cost. Regulations shall include provisions such as: 1. **Requiring minimum densities for subdivisions to ensure full land use where urban services are provided.**" Policy H-1.4 (see App. Ex. D). This policy led directly to WMC 21.04.080(1)(a): **"Developments with densities less than**

R-4 are allowed only if adequate services can not be provided."

C. Wood Trails and Montevallo Applications Submitted.

In reliance on the *Hensley* case and the City's Comprehensive Plan and land use regulations, Phoenix submitted applications for subdivision approval and zoning map amendments for the Wood Trails and Montevallo sites. WT Exs. 2-27; M Exs. 2-28. A vicinity plan as well as site plans depicting the two proposals are included in the Appendix Exs. A-C.

D. EIS Finds Projects Comply with Applicable City Requirements.

After receiving the two applications from Phoenix, City staff then engaged in two years of environmental review. In January 2006, the City published its Draft EIS. It evaluated four land use alternatives, and reviewed the affected environment, significant impacts, and mitigation with respect to the following elements of the environment: earth, water, plants and animals, land use, transportation, and public services. Its technical appendices included four geotechnical engineering studies, four drainage reports, two wetland reports, and an extensive transportation analysis. M Ex. 35.

The Final EIS was published eleven months later, in December 2006. It provides additional analysis on each of the elements of the environment analyzed in the Draft EIS. In addition, it includes a second volume of technical appendices. The technical appendices include additional earth resources and groundwater documentation, an updated wetland mitigation

plan, and an updated transportation analysis. M Ex. 40.

The EIS concludes that the Wood Trails and Montevallo proposals will result in **no significant unmitigated adverse environmental impacts** and are consistent with all applicable City policies and regulations.

As for earth (soil stability and erosion issues), the Final EIS concludes that Montevallo will have no significant adverse impacts. M Ex. 40, p. 3.1-22. Wood Trails also will have no significant impacts so long as its detention pond is replaced by a vault, no dispersion trenches are placed within 50 feet of the top of the slope, and no utility trenches are dug in steep slopes. M Ex. 40, p. 3.1-22. Of course, these mitigation measures would be readily satisfied.

As for water, the EIS concludes that changes to the hydro-geologic regime will be "minor," and that impacts to water quantity and water quality issues will be "minimal." M Ex. 40, p. 3.2-37.

As to plants and animals, the EIS concludes that impacts would "not be significant." M Ex. 40, pp. 3.3-20 - 3.3-21.

As to land use, the EIS concludes that the Wood Trails and Montevallo proposals are compatible with adjacent residential land uses. M Ex. 40, pp. 3.4-17 -- 3.4-18. The EIS finds the proposals to be consistent with applicable comprehensive plan land use policies and the zoning code purpose statements for R-4 zones. M Ex. 40, pp. 3.4-22 – 3.4-30.

As to traffic and parks, the Final EIS finds no significant adverse impacts. M Ex. 40, pp. 3.5-94 and 3.6-8.

E. Staff Recommends Approval of the Proposals.

After completion of the EIS, the City's professional planning and engineering staff then completed its review of the two proposals. After completing that review, the City's Planning Director and Public Works Director recommended approval of the proposals, with conditions. M Ex. 1, p. 27 and WT Ex. 1, p. 32. The City's Planning Director and Public Works Director concluded that the proposals comply with the City's Comprehensive Plan and the City's land use code provisions on land development (subject to further demonstration by the applicant before the Hearing Examiner on the "demonstrated need" criterion, see Argument Section B.4 *infra)*. See M Ex. 1, pp. 10-27 and WT Ex. 1, pp. 13-32.

F. Hearing Examiner Holds Open Record Public Hearings on Proposals.

The Hearing Examiner held open record public hearings on the proposals on March 15, March 16, and April 5, 2007.

The testimony and documentary evidence submitted by Joel Birchman, P.E., of Perteet Engineering (the City's transportation expert) and Mike Swenson, P.E., of The Transpo Group (the applicant's transportation expert) supplemented that already included in the Final EIS. That additional evidence confirmed that there is adequate capacity for the traffic the

proposals will generate, and that traffic can be handled safely. Appropriate mitigation measures will ensure that there is no change in existing levels of safety. See WT Exs. 86, 129, 165 at 14-16 (App. Ex. K); WT Ex. 144 (App. Ex. L) and testimony of Joel Birtschman, P.E. (TR 136-149 (4/5/07)).

The evidence testified to and submitted by Ray Coglas, P.E., of Earth Solutions NW, in addition to the analyses contained in the EIS, show that both proposals can proceed without incurring risk due to geologic hazards. As with any project, the development must follow best management practices. See WT Ex. 131; WT Ex. 165 at 18-24 (App. Ex. M).

Mark Keller, P.E., of Triad Associates submitted evidence that confirmed the conclusions in the Final EIS that stormwater drainage will be safely retained and released in accordance with applicable drainage codes. Yosh Monzaki, the City Public Works staff person responsible for this issue, confirmed Mr. Keller's analysis. See WT Exs. 66, 134; WT Ex. 165 at 68-70; testimony of Yosh Monzaki (TR 34-35 (3/14/07)).

Ed Sewall of Sewall Wetland Consulting confirmed that the project impacts on plants and animals will be nonsignificant, that impacts on wetlands will be mitigated, and that the current hydrogeology of the Montevallo wetland will be protected. See WT Ex. 133; WT Ex. 165 at 18-20; testimony of Ed Sewall (TR 167-174 (4/5/07)).

With respect to land use planning and zoning need issues, Matthew

Gardner, Bob Vick, and Michael McCormack all submitted evidence. As a site located in a city and inside the urban growth boundary, there is a clear need for more dense zoning than R-1 can provide. R-1 zoning is a grossly inefficient use of land in an age of land scarcity and smart growth. Sound planning principles require a minimum urban density within urban growth areas. R-4 is considered by most experts in the field, as well as most Puget Sound jurisdictions, to be the minimum "urban" density. See M Ex. 65 at 18-21, 26-32; WT Exs.128, 136, 138; WT Ex. 165 at 61-62; TR 66-70 (3/14/07); TR 30-40 (3/15/07).

G. Hearing Examiner Approves Subdivisions and Recommends Rezone Approval.

Following the open record public hearing, Greg Smith, the City of Spokane Hearing Examiner specially retained by the City, issued two decisions ("HE Decisions"), which recommended approval of the Wood Trails and Montevallo Zoning Map Amendments. HE M Decision, pp. 5-11; HE WT Decision, pp. 11-15 (App. Ex. F).

The Hearing Examiner concluded that the Montevallo and Wood Trails proposals comply with each of the four WMC general rezone criteria. WMC 21.44.070.

In his Decisions, the Hearing Examiner also reviewed the criteria set forth in WMC 20.06.020 for preliminary plat approval, and concluded that the Wood Trails and Montevallo proposals meet each of the criteria for

subdivision approval. HE WT Decision at pp. 11-16; HE M Decision at pp. 11-15 (App. Ex. F).

H. City Council Erroneously Rejects Recommendations of its Professional Consultants, Staff and Hearing Examiner.

Following the Hearing Examiner's Decisions, a neighborhood opposition group known as CNW appealed the Hearing Examiner's plat approvals to the Council, and asked the Council to deny the rezone.

On August 6 and 13, 2007, the Council conducted a closed record review of the Hearing Examiner Decisions and Recommendations. On August 20, 2007, the Council adopted Findings, Conclusions and Decision, one for Wood Trails and one for Montevallo (attached as App. Ex. G). The Council denied the zoning map amendments for the two sites, and reversed the Hearing Examiner's approval of the subdivisions. It is these two Council Decisions that Phoenix respectfully asks the Court to review.

I. Sustainability Study Confirms Wood Trails and Montevallo Sites Are Not Environmentally Constrained.

During the time that the Wood Trails and Montevallo proposals were being reviewed, the City prepared a "Sustainable Development Study." This study was to determine what future zoning densities would be appropriate in the City's current R-1 zoned neighborhoods and consistent with GMA requirements. That study was ultimately published on February 20, 2007, and became part of the Wood Trails and

Montevallo administrative record. WT Ex. 139 (Pertinent Portions Attached as App. Ex. N).

The Study acknowledges that the residential zones in the City make up approximately 60% of the City's 3500 acres. The R-1 zone encompasses about 50% of the City's residentially zoned areas. The R-1 zone is located on the northeast uplands of the City. Id, p. 8 of 80.

The environmental portion of the Study analyzes the six drainage basins located in this area. Id, Figure ES-2. The Wood Trails site is in the Hillside Drainages. The Montevallo site is located in the Golf Course Basin. Compare Figure ES-2 with WT Ex. 68.

With respect to environmental considerations, the Study concludes that only two of the drainage basins meet the applicable environmental criteria justifying a potential R-1 designation: the Lake Leota Basin and the Cold Creek Basin. As for the other drainage basins, the Study states:

> **Protection of geologically hazardous areas in and adjacent to the R-1 zone depends primarily on proper development practices and stormwater management, not maintenance of R-1 zoning.**

WT Ex. 139, pp. 22-28 of 80, 67-68 of 80 (App. Ex. N) (emphasis added). Accordingly, neither the Wood Trails site nor the Montevallo site would qualify for an R-1 designation on environmental grounds.

As to capital facilities, the Study concluded that fire and police services' "response time" would not be affected; that increasing density

"would not create an effect on schools"; and that increasing density to R-4 would "have no major impact to the current capacity of [water] supply or facilities." *Id*, p. 23 of 80.

As for transportation, the Study makes it clear that the R-1 areas of the City, including the Wood Trails and Montevallo sites, are fully suited to accommodate R-4 zoning:

> **In summary, transportation conditions can be mitigated under different densities, and transportation is not a distinguishing factor in the R-1 study.**

Id. p. 22 of 80 (emphasis added).

Despite the fact that this Study, financed by the City, was before the Council at the time of its quasi-judicial review of the Wood Trails and Montevallo proposals, the Council nonetheless denied the proposals to change their land use designations to R-4.

J. Superior Court Review and Appeal to Court of Appeals.

Phoenix filed a petition under the Land Use Petition Act with the King County Superior Court to review the two City Council decisions denying its proposals. After briefing and argument, the Superior Court affirmed the City Council decisions. CP 568-571, 587-589. Phoenix timely filed its Notice of Appeal to this Court on August 13, 2008.

ARGUMENT

A. The Land Use Petition Act Sets Forth the Applicable Standard of Review.

The Land Use Petition Act, RCW 36.70C, ("LUPA") provides that the Court may grant relief when the petitioner has carried the burden of establishing that:

> (a) the body or officer that made the land use decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;
>
> (b) the land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;
>
> (c) the land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;
>
> (d) the land use decision is a clearly erroneous application of the law to the facts;
>
> (e) the land use decision is outside the authority or jurisdiction of the body or officer making the decision; or
>
> (f) the land use decision violates the constitutional rights of the party seeking relief. RCW 36.70C.130(1).

As the Court of Appeals recently stated in *J.L. Storedahl & Sons, Inc. v. Clark County,* 143 Wn.App. 920, 928, 180 P.3d 848, 851-852 (2008):

> Standards (a), (b), (e), and (f) present questions of law that this court reviews de novo. *Cingular Wireless, LLC v. Thurston County,* 131 Wn.App. 756, 129 P.3d 300 (2006) (citing *HJS Dev.,* 148 Wn.2d at 468). Standard (c) concerns a factual determination

> that this court review for substantial evidence. *Cingular Wireless,* 131 Wn.App. at 768 (citing *Citizens to Pres. Pioneer Park, LLC v. City of Mercer Island,* 106 wn.App. 461, 473, 24 P.3d 1079 (2001)). We grant some deference to the party who prevailed in the highest forum that exercised fact-finding authority. *City of University Place v. McGuire,* 144 Wn.2d 640, 652-53, 30 P.3d 453 (2001).

Substantial evidence is "evidence which 'would convince an unprejudiced thinking mind of the truth of the declared premise.'" *Bjarnsen v. Kitsap County,* 78 Wn.App. 840, 844-845, 899 P.2d 1290, 1292 (1995). A decision is clearly erroneous when a reviewing court is "left with the definite and firm conviction that a mistake has been committed." *Schofield v. Spokane County,* 96 Wn.App. 581, 586, 980 P.2d, 277, 280 (1999).

Under prior case law, it was necessary to demonstrate that a rezone decision was "arbitrary and capricious" before relief could be awarded. *Englund v. King County*, 67 Wn.App. 701, 705, 839 P.2d 339, 341-42 (1992). That is no longer the case. "To obtain relief from a land use decision, it is no longer necessary to show that the decision was arbitrary and capricious. RCW 36.70C.130 (2) (enacted 1995)." *Henderson v. Kittitas County,* 124 Wn.App. 747, 752, n. 2, 100 P.3d 842 (2004). "On review of a superior court's decision on a land use petition, [the Court of Appeals stands] in the same position as the superior court and [applies]

the… standards [set forth in LUPA] to the record created before the board." *Id,* 124 Wn.App. at 752.

In addition, a site-specific rezone request is quasi-judicial, not legislative.

> As a quasi-judicial decision, the [decision-maker] must evaluate site-specific rezone requests under legislatively established criteria, including the comprehensive plan policies and other development regulations, **and those criteria constrain the [decision-maker's] discretion.**

J.L. Storedahl & Sons, Inc. v. Clark County, 143 Wn.App. 920, 931, 180 P.3d 848, 853 (2008) (emphasis added).

To the extent the pertinent Comprehensive Plan policies and development regulations may be ambiguous, they "must be strictly construed in favor of the landowner." *Sleasman v. Lacey,* 159 Wn.2d 639, 643 n. 4, 151 P.3d 990, 992 (2007).

B. The Wood Trails and Montevallo Proposals Comply with the City's Rezone Criteria – The City Council's Denial Must Be Reversed.

The argument advanced by Phoenix is straightforward. Quite simply, the City Council must follow its own code requirements and planning policies, and the mandate of the Growth Management Act that they were adopted to implement. Here, the Council acted to achieve a politically expedient result, and appeased an organized and active group of

neighbors, but did so at the cost of smart growth. This is exactly what the GMA was intended to prevent.

The legislatively established criteria which the Council must apply are set forth in the City's land use code. The City's rezone criteria are set forth in WMC 21.04.080 (copy attached at App. Ex. E) and provide:

> (1) The purpose of the Urban Residential zones (R) is **to implement Comprehensive Plan goals and policies for housing quality, diversity and affordability, and to efficiently use residential land, public services and energy.** These purposes are accomplished by:
>
> (a) Providing, in low-density zones (R-1 through R-4), for predominantly single-family detached dwelling units... **Developments with densities less than R-4 are allowed only if adequate services cannot be provided...**

(emphasis added). This "purpose statement" for the residential zones "**shall be used** to guide... any changes to the range of permitted uses within each zone through amendments to this title." WMC 21.04.020 (emphasis added) (see App. Ex. E). Accordingly, these legislatively determined criteria constrain the Council when it acts quasi-judicially to consider zoning map amendments.

The second applicable provision setting forth rezone criteria is WMC 21.44.070 (see App. Ex. E):

> A zone reclassification shall be granted only if the applicant demonstrates that the proposal is consistent with the Comprehensive Plan and applicable functional plans at the time the application for such zone classification is submitted, and complies with the following criteria:

(1) There is a demonstrated need for additional zoning as the type proposed.

(2) The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties.

(3) The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

These two provisions of the City land use code incorporate within them the three basic rules that courts have applied to rezones: (1) the burden of proof is on the applicant; (2) the applicant must demonstrate either changed circumstances or that the rezone implements policies of the comprehensive plan; and (3) the rezone must have a substantial relationship to the public health, safety, morals or general welfare (provision of housing and reducing urban sprawl satisfy this test). *Woods v. Kittitas County*, 162 Wn.2d 597, 617, 174 P.3d 25 (2007); *Henderson,* supra, 124 Wn.App. at 844-45; *Englund v. King County*, 67 Wn.App. 701, 708, 839 P.2d 339, 343 (1992).

As the record demonstrates and the Hearing Examiner concluded, the Wood Trails and Montevallo proposals meet all of these criteria:

- Adequate services;
- Predominantly environmentally unconstrained;
- Consistent with the Comprehensive Plan;
- Demonstrated need;
- Consistent and compatible with surrounding properties;

- Practically and physically suitable.

The Council's conclusions to the contrary are clearly erroneous and not supported by substantial evidence. The Council's decisions must therefore be reversed, in accordance with RCW 36.70C.130.

1. Adequate Services.

WMC 20.40.080(1)(a) and (2)(b) state that densities less than R-4 will be allowed in the City's residential zones only if "adequate services" cannot be provided. The corollary, then, is that if "adequate services" can be provided, R-4 zoning will be required. As the Hearing Examiner stated in explaining his recommendation that the property be rezoned to R-4:

> [T]he Woodinville code in place when this application vested, clearly stated that this property could not be developed as R-1 because utilities are available. [If R-4 zoning were to be denied to Phoenix,] this would put the applicant in a Catch-22 position of having property that could not be developed with either R-4 or R-1...

Hearing Examiner WT Decision at 11, App. Ex. F.

All parties agree that the projects include extending the available sewer lines to serve the sites. These sites will not be dependent on septic systems.

The other "urban services" that are relevant to this criterion are defined in the Growth Management Act. RCW 36.70A.030(20) defines "urban services" as:

> those public services and public facilities at an intensity historically and typically provided in cities, specifically including

> storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with rural areas.

All of these services are available to the Wood Trails and Montevallo properties. There are adequate fire and police services. WT Ex. 83, p. 18 (App. Ex. F). The sites will also be served by adequate water, sewer and other utilities. HE WT Decision, p. 15 (App. Ex. F). There is adequate school capacity. The City's Sustainable Development Study confirms that all capital facilities are adequate for R-4 development. WT Ex. 139, p. 16. (App. Ex. N).

Despite the mountain of evidence demonstrating there are adequate services to the Wood Trails and Montevallo properties, the Council in Conclusions 2-8 suggested that the proposals should be denied because of "deficient public facilities and services." **The Council cites to nothing in the record supporting this conclusion.** App. Ex. G.

The Council did identify three alleged inadequacies: (1) substandard arterial roads and pedestrian walkways providing access to and from the subject property; (2) the absence of City parklands "within walking distance" of the subject property; and (3) the absence of public transit services in the neighborhood area. WT Finding 6(c).

With respect to "roads and walkways," these are not "urban services" as defined in GMA. RCW 36.70A.030(20). Their "adequacy" or

"inadequacy" is thus not a relevant criterion in the Council's quasi-judicial review of the compliance of the proposals with WMC 21.04.080(1)(a).

Even if their adequacy were deemed to be relevant, there is no substantial evidence in the record to support a conclusion that roads and walkways are inadequate to support R-4 zoning. To the contrary, the adequacy of roads and walkways is fully demonstrated in the record:

- The City's EIS states that all traffic intersections will operate at acceptable levels of service, traffic safety is adequate, and pedestrian safety is adequate (M Ex. 40, pp. 3.5-56 through 3.5-60).

- The City's EIS identified existing site distance as an issue that would require mitigation and described appropriate mitigation measures to address that issue (M Ex. 40, pp. 3.5-93 through 3.5-94). Accordingly, site distance issues that currently exist would be addressed.

- The City's Sustainable Development Study concluded that "transportation issues were not a basis for maintaining R-1 densities," because **"standards in place for development will address growth at any level including R-4."** (WT Ex. 139, p. 22 of 80 (App. Ex. N)) (emphasis added).

- The City's Public Works Director and the City's Transportation Engineering Consultant testified that roads and walkways are adequate and

safe at R-4 densities, subject to traffic calming and related conditioning (TR 45-49 (3/14/07); TR 139-149 (04/05/07)).

One of the neighbor opponents of the proposals, Roger Mason, is an engineer. At the hearing before the Hearing Examiner, he submitted a short report raising three traffic questions relating to the proposal: (1) the safety of local roads providing access to the Wood Trails site; (2) sight distance propriety of the local road connections with 156th Avenue NE; and (3) actual traffic growth. WT Ex. 101, Vol. I, pp. 21-39.

The City's transportation expert consultant, Joel Birchman, P.E., of Perteet Engineering, fully responded to each of these three questions in his testimony to the Hearing Examiner (TR 138-149, 4/05/07) and in WT Ex. 144 (App. Ex. L). The conclusion of his analysis follows:

> So what can we conclude by this? We have minor traffic impacts due to the proposed action but none of them exceed the City's adopted level-of-service standard. And that was presented in previous testimony. There are several sight-distance problem locations that can be mitigated with improvements.

TR 148-149, (4/05/07). The City's traffic expert recommend approval as follows:

> Any potential increase in risk to safety attributed to the Proposed Action's increase in traffic is to be offset by a proportional increase in safety provided by the construction of roadway and/or pedestrian safety improvements. Potential improvements may include lane delineations, lane widening and/or turn lanes at defined locations, pedestrian improvements at defined locations, raised curbing, and additional signage. The appropriateness of any proposed roadway and/or pedestrian safety improvement must be determined solely by

> the City Engineer and shall be determined in light of access locations, and vertical and horizontal roadway geometrics.

WT Ex. 144 (App. Ex. L). In short, minor transportation impacts will be appropriately mitigated as is the case with all major residential subdivisions.

As to the question raised by Mr. Mason on background traffic growth, Mr. Perteet, the City's expert, explained that historic long term traffic growth rates have varied from +5.8% to -4.0% per year. The Puget Sound Regional Council estimates such growth at 2.5% per year, based on population and employment growth. Historically, this is the most reliable estimate and is the rate utilized by the City in its environmental analysis. *Id.*

Michael Swenson, P.E., of Transpo Engineers, also an expert transportation engineer, confirmed each of Mr. Birchman's conclusions in his analyses. WT Ex. 129 (App. Ex. K).

In a nutshell, then, Mr. Mason's cursory analysis does not constitute "substantial evidence" that supports the Council's Finding. RCW 36.70C.130(1)(c). Considering the record as a whole, "an unprejudiced thinking mind" would agree with the City's EIS, with the City's Sustainable Development Study, with Joel Birchman, P.E., and with Michael Swenson, P.E., that the roadways and pedestrian pathways are adequate to accommodate the proposed rezoned properties at R-4 densities. *Bjarnsen*, supra, 78 Wn.App. at 844-845. *Accord, Ferry County v. Concerned Friends of Ferry County,* 155 Wn.2d 824, 123 P.3d 102 (2005) (substantial evidence

did not support conclusion that Best Available Science was used by Ferry County in developing its list of endangered species, despite fact that County had relied upon expert testimony of a professional wildlife biologist retained by the County to advise it).

Turning next to the contention that there are no neighborhood parks within "walking distance" of the sites (FF 6(c)): First, as with "roads and walkways," parks are not included as "urban services" as defined in GMA. RCW 36.70A.030(20). Their "adequacy" or "inadequacy" is therefore not a relevant criterion in the Council's quasi-judicial review of the compliance of the proposals with WMC Section 21.04.080(1)(a).

Second, even if the adequacy of parks were to be considered a relevant criterion, the record again does not support the Council's conclusion that the Wood Trails and Montevallo sites are inadequately served by parks. In the relatively small town of Woodinville, the City offers six neighborhood parks, three community parks, four open space parks, three special uses parks, and five linear parks, totaling 98.1 acres. There are three park resources within ½ mile of the Wood Trails site.[2] There are additional resources provided by nearby municipalities as well as King and Snohomish

[2] The Greenbrier neighborhood park and the Greenbrier open space and trail are approximately ½ mile south of the Wood Trails site. Rotary Community Park and Trail are approximately ½ mile west of the Wood Trails site. The Wellington Hills Golf Course is adjacent to the Montevallo site.

Counties. M Ex. 40, p. 3.6-1. Moreover, the two proposals will contribute the sum of $403,225 to the City in parks impact fees. Id. at p. 3.6-6.

The Montevallo and Wood Trails properties are well served by parks. Considering the record as a whole, then, there is no "substantial evidence" that would convince an "unprejudiced thinking mind" that the properties are inadequately served by parks facilities such that a rezone to R-4 density should be denied. *Bjarnsen*, supra, 78 Wn.App. at 844-845.

With respect to public transit, the City Council contends that there is inadequate transit serving this neighborhood. However, it is undisputed that King County Metro operates two transit routes on the arterial streets providing access to the project site. Moreover, a park and ride lot is located downtown in the valley just below the project sites (approximately 4400 yards distant according to Google Maps), so that residents can commute via transit to jobs in Bellevue, Redmond and Seattle. HE WT Decision, p. 13. Transit is available to serve Wood Trails and Montevallo residents.

Moreover, as Michael McCormick stated, if the Council wanted to increase the provision of transit to the Leota and Wellington Neighborhoods, it would designate those neighborhoods at a density of 7 to 8 dwelling units per acre (as recommended in Policy LU 3.6 of the City's Comprehensive Plan). Such a density is, according to the Washington State Department of Community Development Growth Management Division, the "locally

developed threshold for transit supporting densities." M Ex. 65, p. 30 (App. Ex. J). By limiting density to a sprawling one unit per acre, the Council is guaranteeing that transit will remain at current levels.

As with roads and parks, there is no "substantial evidence" in the record taken as a whole, then, that would convince an "unprejudiced thinking mind" that the Council's conclusions that transit services are inadequate to serve the Wood Trails and Montevallo properties are correct. *Bjarnsen*, supra, 78 Wn.App. at 844-845.

Accordingly, the Wood Trails and Montevallo sites clearly have adequate public facilities and services available to serve them. The City Council's denial of the rezone on this basis must be rejected. *See Kenart & Assocs v. Skagit County,* 37 Wn.App. 295, 680 P.2d 439 (1984) (findings insufficient to support denial of rezone); *J.L. Storedahl & Sons, Inc.*, supra, 143 Wn.App. 920 (findings of fact did not support denial of rezone; Board directed to approve the rezone); *Sunderland Family Treatment Services v. Pasco,* 127 Wn.2d 782, 903 P.2d 986 (1995) (denial of special use permit for group home not supported by substantial evidence); *Nagatani Bros. v. Skagit County,* 108 Wn.2d 477, 739 P.2d 696 (1987) (denial of subdivision not supported by substantial evidence; Board directed to approve the subdivision).

Conclusions 2-8 identify a number of ancillary concerns related to

this issue. They all boil down to the contention that the City has made a planning decision to invest infrastructure dollars in the downtown area rather than in the Leota and Wellington neighborhoods, and that therefore the City does not have the resources to invest infrastructure dollars in Leota and Wellington. This is all well and good, but is totally irrelevant. It is not necessary, as demonstrated above, for the City to invest infrastructure dollars in these neighborhoods. The record proves that there is adequate existing infrastructure to accommodate R-4 development. Suffering from the same logical inconsistency and irrelevance are CC WT Decision Findings 16-22 and 25-26, and CC M Decision Findings 16, 21, 24, and 26.

2. Predominantly Environmentally Unconstrained.

WMC 20.40.080(2)(b) states that R-4 designations are appropriate on lands "that are predominantly environmentally unconstrained…" The term "unconstrained" is not defined in the City's land use code. The Compact Oxford English Dictionary (Oxford Univ. Press Rev. Ed. 2003) defines the terms as follows: "not constrained or limited." "Constrain" is defined in the same dictionary as "severely restrict the scope or activity of." The question then is whether environmental issues "severely restrict the scope or activity of" development on the Wood Trails or Montevallo properties.

The Council did not identify this issue as a basis to deny either the Wood Trails or Montevallo rezones. See Montevallo and Wood Trails

Decisions, Conclusions 1-8. Nor did the Council suggest that the Montevallo property was subject to environmental constraints.

With respect to Wood Trails, however, the Council did raise the question whether environmental constraints should be a basis for denial of R-4 zoning. In WT Finding 6(d), the Council asserts that R-1, rather than R-4, zoning is appropriate for the Wood Trails property because of "area-wide environmental constraints imposed by steep slopes and erosion hazard areas…." WT Findings 9 and 10 suggest that the presence of steep slopes and wetlands on the Wood Trails property results in "evidence of area-wide environmental constraints."

However, there is no substantial evidence in the record that suggests that steep slopes, wetlands, or erosion hazard areas "severely restrict the activity of" development on the Wood Trails site at R-4 densities. In fact, **the record establishes the opposite.**

The City's EIS thoroughly evaluated the issues of soil stability, wetlands, and streams on both properties. The technical appendices to the EIS include two geotechnical engineering studies, a drainage report, and a wetland and stream report. After all this analysis, **the EIS found no environmental constraints precluding development** of the properties at R-4 densities. Soil stability and erosion issues were fully addressed and

mitigated. Impacts to water quality and quantity are minimal. M Ex. 40, pp. 3.1-22, 3.2-37.

Even after the environmental review contained in the EIS, additional evidence was presented to the Hearing Examiner. See, e.g., WT Ex. 165. The Hearing Examiner found the evidence submitted by Phoenix to be credible. He concluded that "the stability of the site for development has been established by the applicant." HE WT Decision, p. 8 (App. Ex. F).

Furthermore, the City's Sustainable Development Study concluded that there are no "area-wide environmental constraints" on the Wood Trails and Montevallo properties that would preclude development at R-4 densities. WT Ex. 139, pp. 28-32 of 80 (App. Ex. N)

Two opponents of the proposals, neither of whom were geotechnical engineers, submitted maps showing that portions of the Wood Trails property include steep slopes and erosion hazard areas. TR 139-150 (3/15/07). As stated above, however, these matters were thoroughly studied by the experts in the EIS process. Moreover, as contrasted with the studies set forth in the EIS, neither of these two project opponents conducted any site-specific geotechnical study to determine the properties' soils stability.

A complete response to the questions raised by these project opponents was made by Ray Coglas, P.E. WT Ex. 165 at pp. 21-60 (App. Ex. M). TR 151-167(4/05/07). Mr. Coglas stated that the subsurface

characterization of the site he conducted included deep boring data to a depth of 49 feet, well below the level of any proposed excavation. The deep boring data "confirm the presence of highly competent, very dense and stable glacial deposits" throughout the Wood Trails site. *Id.*

With respect to landslide hazards, he noted that this issue has been "thoroughly evaluated through the subsurface explorations, site reconnaissance work, geologic map and aerial photograph review and evaluation of soil characteristics on adjacent sites." WT Ex. 165 at 22-24 (App. Ex. M). Mr. Coglas explained that his evaluation disclosed that "the upland areas of the Wood Trails site where development is proposed do not meet the definition of a landslide hazard area as defined" in the Woodinville Municipal Code. The residential lots will maintain an appropriate setback from any 40 percent slopes. *Id.*

With respect to erosion hazards, Mr. Coglas stated that "any exposed earth surface, whether it be flat or sloping has some susceptibility to erosion." "The fact remains, however, that erosion can be managed" and that "properly engineered erosion control measures are very effective." The project will include weekly monitoring in accordance with DOE standards. Mr. Coglas' conclusion, based on his site specific scientific studies, is "that the site is stable and development as proposed is feasible." *Id.*

Mr. Coglas' work was reviewed by the City of Woodinville geotechnical expert, Dave Nelson, P.E. of Nelson Geotechnical Associates, Inc., who took no exception to it. *Id.* *See also* M Ex. 40, p. FS-4.

In short, there is no substantial evidence in the record that would convince an "unprejudiced thinking mind" that environmental constraints would "severely limit" the ability of the Wood Trails or Montevallo sites to be developed at R-4 densities. *Bjarnsen*, supra, 78 Wn.App. at 844-845.

3. Consistent with the Comprehensive Plan.

WMC 21.44.070 states that a zone reclassification may be granted when the applicant demonstrates that the proposal is consistent with the Comprehensive Plan. Here, the EIS demonstrates the proposals' consistency with the Plan. M Ex. 40, pp. 3.4-22 – 3.4-28. The Staff Report also includes a lengthy analysis of the proposals' consistency with the Plan. WT Ex. 1, pp. 13-19. It analyzes eight land use policies, two housing policies, three community design policies, one capital facilities element policy, and four environmental policies. It concludes that "[t]he proposed rezone to R4, Low Density Residential, complies with the policies of the Comprehensive Plan…" WT Ex. 1, p. 13.

The Hearing Examiner agreed, and found:

> The proposal is reasonably compliant with the Comprehensive Plan. The Hearing Examiner hereby adopts and incorporates the discussion of Comprehensive Plan Policies set forth in Exhibit #1, pages 13 through 19; Exhibit #39, pages 3.4.22 through 3.4.28 and Exhibit

> #19, pages 6 through 11.
>
> Specifically the Hearing Examiner finds that the zone change will allow the development of low density detached single family homes in an area designated in the comprehensive plan as low density residential. While arguments have been made that the adjacent neighborhood is much less dense, R-4 is still classified as low density...
>
> The site will be served with City water and sewer and the street network will be improved. Much of the site will be left in a Native Growth Protection Area (NGPA) which will provide habitat and open space. It presents a range of densities, which encourages a variety of housing types to serve a variety of income levels. It preserves much of the natural features of the site, such as the steep slopes and will preserve trees in accordance with the City's Tree Retention regulations. Exhibit #1, pages 13 through 19.

HE WT Decision at p. 9; HE M Decision at p. 8 (App. Ex. F).

Despite these thorough analyses in the EIS, in the Staff Report, and by the Hearing Examiner, the City Council cites inconsistency with the Comprehensive Plan as one of its two grounds to deny the proposed rezones. Council WT and M Decisions, Conclusion 1 (App. Ex. G).

However, the Council cites no "significant Comprehensive Plan Policy" with which the proposed rezones are inconsistent. Moreover, a review of the Council's Findings shows that the Council in its Findings also identifies no Comprehensive Plan Policy with which the proposed rezones are allegedly inconsistent. To the contrary, the Council admits in its Findings that "the proposed rezone is arguably consistent with several policies of the City's Comprehensive Plan..." Council WT and M

Decisions, Finding 6 (App. Ex. G).

Due to the fact that the Council failed to cite any support for this Conclusion, and in fact observed that the proposals were consistent with several policies of the Comprehensive Plan, Conclusion 1 must be rejected as a basis for denial of the rezones.

Moreover, as the Hearing Examiner properly concluded, "[a] proposed rezone that furthers the goals of the local Comprehensive Land Use Plan, bears a substantial relationship to the public health, safety, morals or general welfare. *Henderson,* supra, 124 Wn.App. at 756." HE WT Decision at p. 10, App. Ex. F. And, by virtue of implementing the policies of the Comprehensive Plan, the proposed rezones meet any applicable "changed circumstances" requirement. *SORE v. Snohomish County*, 99 Wn.2d 363, 662 P.2d 816 (1983).

4. Demonstrated Need.

WMC 21.44.070 requires the applicant to show that there is a "demonstrated need" for additional zoning of the type proposed.

The Hearing Examiner presented a thorough analysis and resolution of this issue:

> This criterion is a many-faceted criterion. The City [Staff Report] has analyzed it according to its GMA growth allocation from King County and found that Woodinville could meet its housing allocation without this rezone. The applicant's expert criticized the City's study as not fully analyzing the amount of actual R-4 zoning there was in the City for development. Most of the housing development

> that has occurred since 2002 has been in apartments and condominiums rather than single-family residential uses. As the applicant's expert demonstrated, if the amount of R-4 developed between 2002 and 2007 were removed from the available R-4 totals, the amount of R-4 available for new development or redevelopment would be much less than the existing amount cited by the City which still was only 2.7% of the land area of the City. The R-1 zone, by contrast, makes up nearly 30% of the City's zoning. Clearly more R-4 zoning is needed to create a diversity of building sites availability by establishing more areas where detached single-family can be constructed at [higher] densities than R-1 densities. In addition, the Growth Management Hearings Board has held that Woodinville is not to perpetuate one-acre lots that will effectively thwart urban development. See *Hensley v. Woodinville* CPSGMHB Case number 96-3-0031 (February 25, 1997)...
>
> One of the goals of GMA is to encourage urban development within urban areas and reduce sprawl. RCW 36.70A.020. The Hearings Board in the Hensley case, cited above, has determined that one acre zoning will effectively thwart urban development. Therefore, the fact that the City has 30% of its zoning in R-1 and only 2.7% in R-4 clearly demonstrates the need for more R-4 zoning. Therefore, the Hearing Examiner finds that this criterion has been met.

HE WT Decision, pp. 10-11; HE M Decision, pp. 9-10 (App. Ex. F).

In its Conclusions, the City Council does not identify the "demonstrated need" criterion as one of the grounds for its denial of the rezones. See Conclusions 1-8. The Council does, however, assert certain "Findings" relating to the issue of "need."

Council WT and M Findings 5 and 6 assert that "[i]t is not necessary to rezone the property in order to provide consistency with the City's Comprehensive Plan." The Council makes no effort, however, to explain why. As explained in the EIS, the City's Comprehensive Plan

includes numerous policies with which R-1 zoning is inconsistent. *See,* e.g., Policy LU 3.6: "Encourage moderate (5-8 d.u.) and medium (9-18 d.u.) density housing throughout the community…"; Policy H-1.4: Require "minimum densities for subdivisions to ensure full land use where urban services are provided"; Chap., 2, p. 7: "Are urban densities (four units to the acre and greater) being achieved in the Urban Growth Area?"

Council WT and M Findings 7 and 8 assert that it is not necessary for the City to approve the proposed rezones in order to meet its GMA mandated growth targets or to provide housing diversity. As the Hearing Examiner concluded, however, the City's study did not fully analyze the amount of actual R-4 zoning that is available in the City. Even if the City provides zoning for apartments downtown, it fails in its obligation to provide more affordable and land-efficient single family housing if it retains its current 30% of R-1 zoned land, and does not increase its current 2.7% of R-4 zoned land. HE WT Decision at pp. 10-11; HE M Decision at pp. 9-10; WT Ex. 136; App. F, I, H.

Council WT Decision Finding 14 and M Decision Finding 13 state merely that "The Council finds that the proposed rezone is not 'needed' at this time." However, it again cites to no evidence in the record and provides no explanation as to how or why the Council chooses to make this conclusory finding. It must accordingly be disregarded. *Bjarnsen,*

supra, 78 Wn.App. at 844-845. Council WT Decision Finding 15 and M Decision Finding 14 suggest that although the Comprehensive Plan supports these rezones, it does not mandate them. Again, the Council cites to no evidence in the record for this conclusory finding and provides no rationale to support it. These findings also must be disregarded. *Bjarnsen*, supra, 78 Wn.App. at 844-845.

Moreover, the term "demonstrated need" is a term of art in the area of zoning. While no published Washington cases address this term, cases from other jurisdictions uniformly equate "demonstrated need" with market or business demand. *Trisko v. City of Waite Park*, 566 N.W.2d 349 (Minn. Ct. App. 1997); *1000 Friends of Oregon v. Marion County*, 116 Ore. App. 584, 842 P.2d 441 (Ore. Ct. App. 1992); *Blaker v. Planning & Zoning Comm'n*, 212 Conn. 471, 484, 562 A.2d 1093 (Conn. 1989); *Eveline Township v. H & D Trucking Co.*, 181 Mich. App. 25, 32-33, 448 N.W.2d 727 (Mich. Ct. App. 1989).

The evidence submitted by Phoenix at the hearing in this matter demonstrated that there is a market and business demand for the housing type and density proposed. Most prospective purchasers, the evidence demonstrates, can not afford to buy homes on one-acre "estate" properties, while many can afford homes on R-4 zoned lots. See TR 66-70 (3/14/07);

TR 30-40 (3/15/07); M Ex. 65, Att. A; WT Exs. 128, 136, 138, 165. (App. Exs. H, I).

Moreover, sound planning principles indicate the demonstrated need for R-4 housing. Michael McCormick, FAICP, former Assistant Director for Growth Management for the Washington State Department of Community Development, submitted a report to the Hearing Examiner which made the following observations: (1) The Puget Sound Regional Council's current updating of its VISION 2020 plan, extending it to the year 2040, envisions a significant increase in population allocation to Woodinville, underscoring the importance of increasing density from one to four dwelling units per acre, as proposed by Phoenix;[3] (2) Increasing density from one to four dwelling units per acre is consistent with Growth Management Hearings Board decisions, accommodates urban density, supports transit and schools, and allows for more efficient use of existing capital facilities;[4] (3) Increasing density from one to four dwelling units per acre is necessary to assure sustainable development, which requires the efficient use of land, and is consistent with the Smart Growth project of the United States Environmental

[3] VISION Update; Draft Revised Multicounty Planning Policies (Growth Management Policy Board, February 1, 2007); VISION 2020 Update; Recommended Preferred Alternative for a Regional Growth Strategy (Adopted by the Growth Management Policy Board on February 8, 2007).

[4] Joseph W. Tovar, FAICP; Appropriate Urban Densities in the Central Puget Sound Region (Puget Sound Regional Council: November 4, 2005).

Protection Agency.[5] Mr. McCormick concluded that approving the proposed R-4 rezone will be consistent with sound urban planning principles, and denying it will be inconsistent with those principles. M Ex. 65, Att. B (App. Ex. J).

In addition to market demand and sound planning principles, this rezone is needed because the rezone is legally mandated. First, the rezone is legally mandated because the City's zoning code requires that developments be approved at densities of no less than 4 dwelling units per acre when urban services are provided. WMC 21.04.080(1)(a).

Second, the City is collaterally estopped from denying the proposed rezones. As stated above, the Growth Management Hearings Board has directly addressed the densities required in the area in which the Wood Trails and Montevallo properties are located. In *Hensley v. Woodinville*, *supra*, the Board held unequivocally that the City could not perpetuate low-density one-acre zoning. Instead, GMA requires urban densities of at least R-4 in this area. See Ex. 40.

The City did not appeal *Hensley*, but instead adopted Comprehensive Plan Policy LU 3.6 and WMC 21.04.080, which are directly responsive to the Board's order. WMC 21.04.080(1)(a) states clearly that "[d]evelopments with densities less than R-4 are allowed only

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[5] See http://www.epa.gov/smartgrowth/index.htm.

if adequate services cannot be provided." In other words, throughout the City, R-1 development is prohibited unless adequate services cannot be provided. An application for R-1 development in an area where adequate services can be provided – such as the project site – would not comply with the City's zoning regulations.

The City is bound by the Board's decision that densities of at least four units per acre are required within the City under the doctrine of collateral estoppel. *Christensen v. Grant County Hosp.*, 152 Wn.2d 299, 307, 96 P.3d 957 (2004). Collateral estoppel applies "where an issue was adjudicated by an administrative agency in the earlier proceeding." *Id.*

In this case, the issue decided by the Board is identical to the issue presented in this proceeding. The Board examined whether the City could maintain the existing pattern of one-acre lots within the neighborhood in which the project site is located. The Board determined that the City's land use regulations could not legally perpetuate these historic low densities. The City Council is bound by *Hensley*.

The demonstrated need criterion, then, is fully met. The bottom line is that the amount of R-4 land available for new development in the City is much less than 2.7% of the City's land. The R-1 zone, by contrast, makes up nearly 30% of the City's land. More R-4 zoning is needed to create a diversity of building sites at densities greater than R-1, building

sites at a sufficient **urban** density to encourage urban development within urban areas and to reduce sprawl.

5. The Proposed Rezones are Compatible with the Uses and Zoning of Surrounding Properties.

WMC 21.44.070 requires that the new zone be compatible with the uses and zoning of surrounding properties. In this case, the proposed rezones are to R-4, a low-density residential zoning designation in the City. Surrounding properties are zoned R-1. The uses of the two zones are the same: Low-density residential. The Comprehensive Plan designates these properties as appropriate for densities between R-1 and R-4. As the EIS, the Staff Reports, and the Hearing Examiner found, this criterion is met. M Ex. 40, pp. 3.4-30 – 3.4-32; WT Ex. 1, p. 24; M Ex. 1, p. 20; HE WT Decision, p. 11; HE M Decision, p. 10 (App. Ex. F).

Neither the City Council's Conclusions nor its Findings suggest this criterion as a basis for denial of the rezone. It would be too late at this stage of the proceedings for the City to belatedly assert that this issue serves as a basis for its denial.

6. The Properties are Practically and Physically Suited for the Uses Allowed in the Proposed Zone Reclassification.

Finally WMC 21.44.070 requires that the Wood Trails and Montevallo sites be "practically and physically suited" for R-4 low-density residential use. The City concedes that Montevallo is suited for R-4 zoning.

As to Wood Trails, the suitability of the site for the uses allowed in R-4 was thoroughly discussed in Sections B.1 and B.2 above.

7. The City Council's Unlawful Finding 6.

Before leaving the issue of the rezone, Phoenix is compelled to address the City Council's unlawful Finding 6 (in both the Wood Trails and Montevallo decisions). In that finding, the City Council purports to be acting "in its legislative capacity," and makes the finding that "the current zoning designation of R-1 is appropriate."

This finding is unlawful because it is clear in this case that the Council is required to be acting quasi-judicially, and is constrained to apply **existing** legislative policy in determining whether to approve the rezones. The Council is **not** free to adopt **new** legislative policy. *J.L. Storedahl, supra.* 143 Wn.App. at 931. Since it is clear that the Council has no lawful basis to make legislative findings when it is obligated to act quasi-judicially, Finding 6, purporting to be adopted in the Council's "legislative capacity," must accordingly be stricken and totally disregarded.

8. Conclusion on Rezone Criteria.

Accordingly, applicable facts and law clearly demonstrate the Wood Trails and Montevallo proposals meet all of the City's rezone criteria. The City Council's conclusions to the contrary are clearly erroneous and not supported by substantial evidence. The Decisions of the City Council to

deny the site-specific rezones should be reversed. *J.L. Storedahl, supra.* 143 Wn.App.920; *Kenart & Assocs,* supra, 37 Wn.App. 295; *Sunderland Family Treatment Services,* supra, 127 Wn.2d 782; *Nagatani Bros.,* supra, 108 Wn.2d 477.

C. The Hearing Examiner Decisions to Approve the Subdivisions Should Be Affirmed.

The Hearing Examiner approved both subdivisions. In the Wood Trails and Montevallo Decisions, he adopted Findings, set forth the grounds upon which he exercises jurisdiction, reviewed the criteria for preliminary plat approval, entered conclusions based on those findings, and rendered his decisions approving the subdivisions with conditions. HE WT Decision, pp. 11-22; HE M Decision, pp. 11-20 (App. Ex. F).

CNW appealed both approvals to the City Council. The parties fully briefed the issues to the Council, and presented oral argument.

The Council, in its Decisions, reversed the Hearing Examiner's Decisions to approve the subdivisions on one ground – Since the Council denied the rezone to R-4, the subdivision proposals, which were dependent on R-4 zoning, were also denied. Council WT Decision; Council M Decision (App. Ex. G).

Since, as demonstrated above, the City Council Decisions to deny the rezones should be reversed, by the same token, the City Council Decisions to reverse the Hearing Examiner approvals of the subdivisions should

themselves be reversed, and the subdivision approvals should be affirmed. *Nagatani Brothers v. Skagit County,* 108 Wn.2d 477, 739 P.2d 696 (1987).

CONCLUSION

The Woodinville City Council denied the Wood Trails and Montevallo rezones for two stated reasons. First, the Council stated the rezones were inconsistent with the Comprehensive Plan. To the contrary, as the record discloses and as all of the City's professional consultants and staff concluded, the rezones are consistent with the Plan. Second, the Council asserted there was inadequate public infrastructure to support development at R-4 density. To the contrary, as the record discloses and as all of the City's professional consultants and staff concluded, the Wood Trails and Montevallo site have adequate public infrastructure to support development at R-4 density.

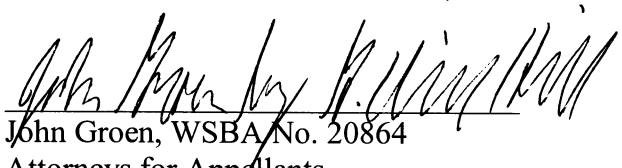
The City's denial, then, of the proposed rezones must be reversed. And, once the rezones are approved, the Hearing Examiner's approval of the subdivisions should be reinstated.

DATED this 3rd day of November, 2008, at Seattle, Washington.

Respectfully submitted,
McCULLOUGH HILL, P.S.

G. Richard Hill WSBA No. 8806
Attorneys for Appellants

GROEN STEPHENS & KLINGE, LLC



John Groen, WSBA No. 20864
Attorneys for Appellants

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APPENDICES

A. M Ex. 40 Figure 1-2
B. M Ex. 40 Figure 2.1-1
C. M Ex. 40 Figure 2.1-3
D. Woodinville Comprehensive Plan
    Chapter 1, p. 1
    Chapter 2, pp. 7-8
    Chapter 3, p. 2
    Chapter 3, p. 7
    Chapter 4, pp. 1-2
E. Woodinville Municipal Code
    21.04.020
    21.04.080
    21.44.070
F. Hearing Examiner Decisions
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G. City Council Decisions
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H. Robert Vick Written Testimony
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I. Matthew Gardner Written Testimony
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K. Michael Swenson Written Testimony
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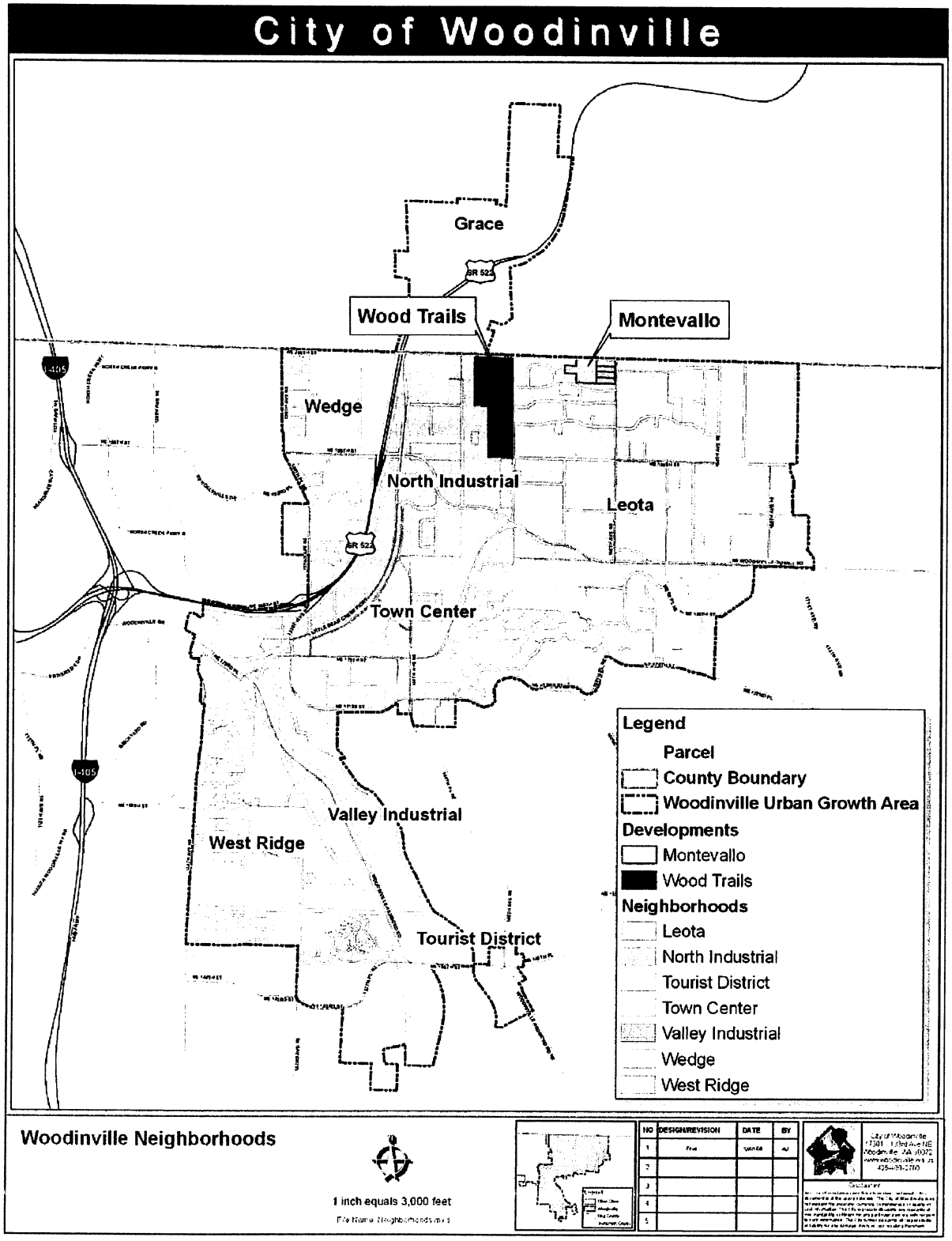
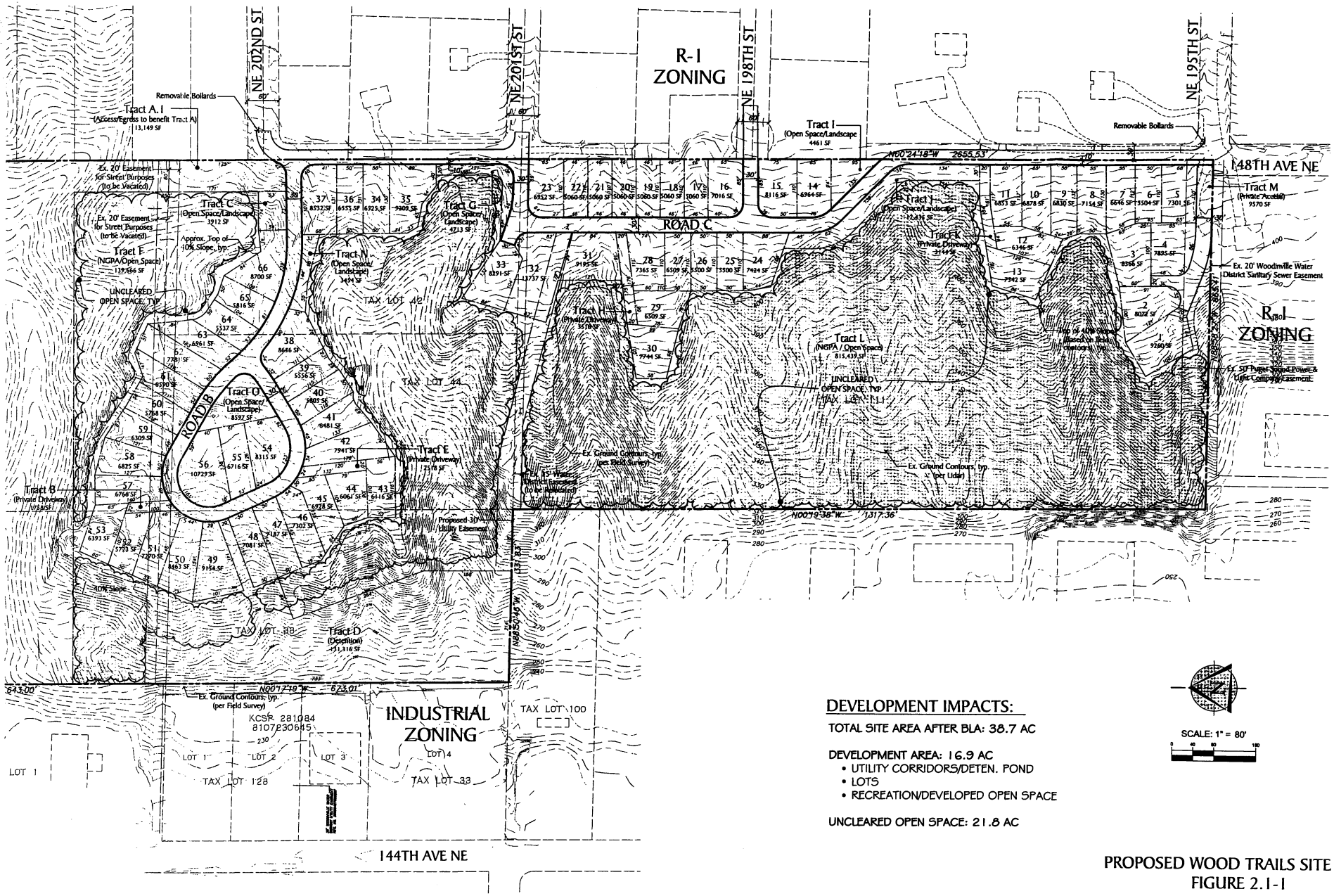
N. Sustainable Development Study
    WT Ex. 139
O. Hensley v. Woodinville
    WT Ex. 140

APPENDIX A

Figure 1-2. Woodinville Neighborhoods



APPENDIX B



DEVELOPMENT IMPACTS:

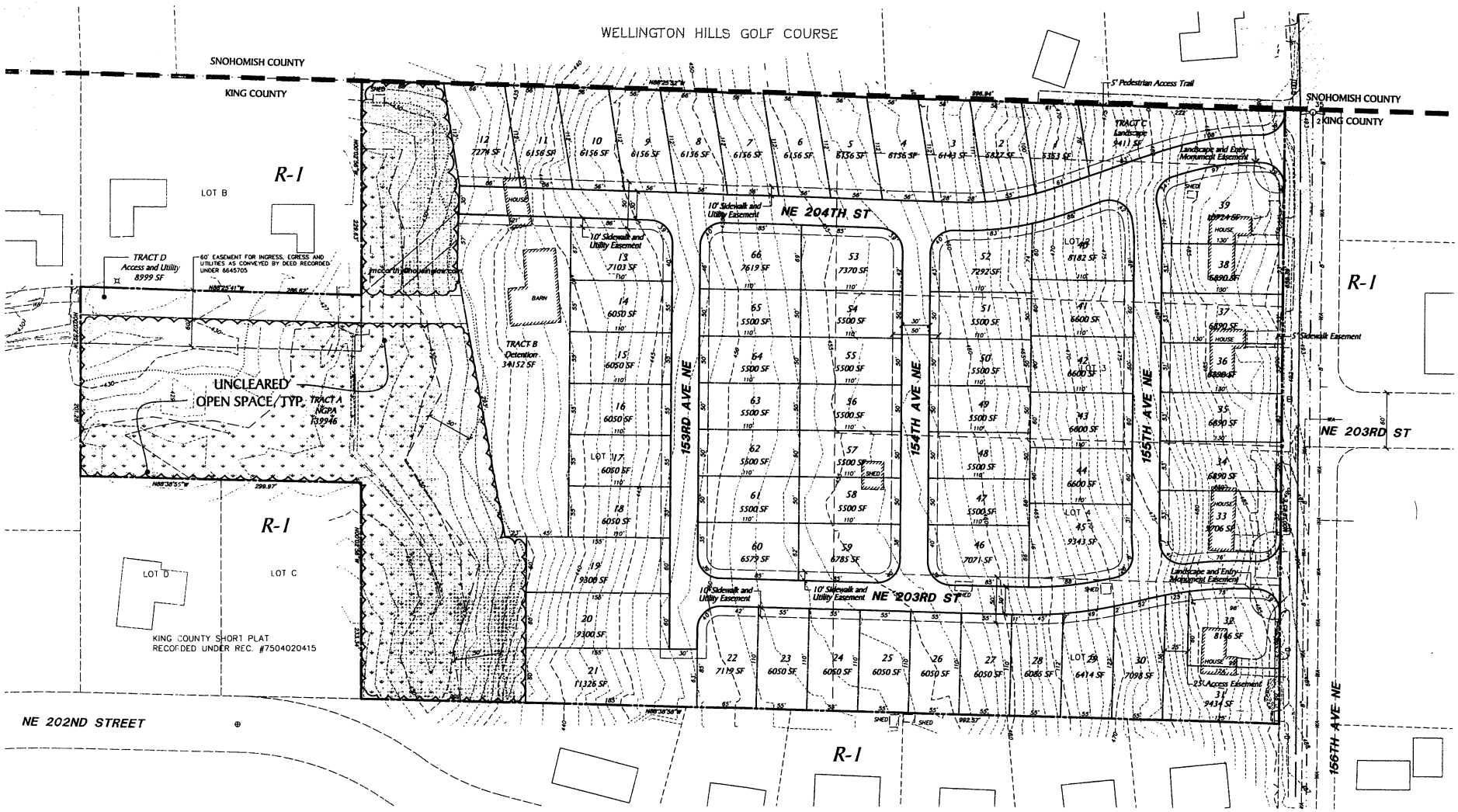
TOTAL SITE AREA AFTER BLA: 38.7 AC

DEVELOPMENT AREA: 16.9 AC
- UTILITY CORRIDORS/DETEN. POND
- LOTS
- RECREATION/DEVELOPED OPEN SPACE

UNCLEARED OPEN SPACE: 21.8 AC

PROPOSED WOOD TRAILS SITE PLAN
FIGURE 2.1-1

APPENDIX C



DEVELOPMENT IMPACTS:

TOTAL SITE AREA: 16.48 AC

DEVELOPMENT AREA: 13.38 AC
- Utility corridors / Deten. pond
- Lots / R.O.W's
- Landscape / Developed open space

UNCLEARED OPEN SPACE: 3.1 AC

SCALE: 1" = 50'

PROPOSED MONTEVALLO SITE PLAN
FIGURE 2.1-3

APPENDIX D

CHAPTER 1 INTRODUCTION

1.1 How to Use this Plan

This Comprehensive Plan for the City of Woodinville (Plan) provides a guide for future growth in Woodinville. The Plan contains a number of important elements related to growth. Each element contains an introduction, goals, and policies as well as implementation strategies and monitoring programs. Each respective element also includes an appendix that contains background information regarding:

- Existing conditions,
- Trends and projections,
- Planning implications, and
- Summary of relevant King County and Snohomish County planning policies.

Users of this Plan should locate the portion(s) addressing their interests and pay particular attention to the goals and policies. Since many planning issues are interrelated (e.g., land use and transportation), the goals and policies of one element may pertain to other elements as well. Proposed development projects in the City of Woodinville, the project's design must conform to any and all pertinent goals and policies. When reviewing and commenting on a proposed development project, the planning staff and the decision-making body need to know what specific planning goals and policies are of concern, particularly regarding the proposed project's conformance. Any plan, in its most current version, mentioned in this Comprehensive Plan is adopted by reference. Element and number should reference the goals and policies.

This introduction provides a basis for the Plan. It includes:

- Discussion of the purposes of the Plan,
- Short history of the Woodinville area,
- Definition of the planning boundaries,
- Description of the vision of the community,
- Demographic and economic profile of Woodinville and in some cases its neighbors, and
- Description of the natural environment.

Chapter 2 provides an overview of State growth management requirements while Chapters 3 through 12 include the plan elements and their respective appendices. The data and maps come from a variety of sources including Geographic Information System data layers produced specifically for the Comprehensive Plan. The data came from a variety of sources including the City of Woodinville, King County, Snohomish County, the Puget Sound Regional Council, and Puget Power, as well as research by EDAW, Inc., consultants to the City for the Comprehensive Plan.

1.2 Purpose of the Comprehensive Plan

Woodinville, like other cities and counties in Washington, has prepared this Comprehensive Plan as required by the Washington State Growth Management Act as the City's guide for future development based on the community's vision and values.

Existing development regulations will be updated to be consistent with this Comprehensive Plan following plan adoption. In reviewing regulations for consistency, the City will ensure that development patterns suggested in the Plan are encouraged. In addition to new development regulations identified in the Land Use Element, other regulations will be enacted as necessary to implement the Plan.

Planning is an ongoing process, and improved data or changing circumstances will require amendments to the Comprehensive Plan. In particular, the Plan will be updated once a year or in the event of an emergency such as something that would cause the Plan to be internally inconsistent or for an unseen event that would create a need to revise the Plan within the one year. The updates will also address any specific concerns, clarify inconsistencies that were identified during the year, review adequacy of the adopted level of service standards, and update any environmental information. In addition, the City will update their Comprehensive Plan every 7-years, as mandated by the Growth Management Act. The community's vision provides long-range guidance for the City (see Chapter 1). To maintain consistency and allow sufficient time for decisions to take effect, these general guidelines should not be changed more than every five years. However, as specific goals and policies are achieved, revision of the Plan in each element may be required to continue progress toward the overall goals.

The City of Woodinville is committed to following its adopted Comprehensive Plan and will allow for an adequate period of time for policies and actions to take effect prior to considering changes to it. The City is also committed to working with King and Snohomish counties and other jurisdictions to coordinate and resolve local and regional issues.

2.4 Buildable Lands

The Buildable Lands Program is required for six Western Washington counties, (Clark, King, Kitsap, Pierce, Snohomish, and Thurston) and the 97 cities and towns within their boundaries. In May 1997, the program as a part of a larger bill, was adopted by the state legislature and signed by the governor. The bill added the Buildable Lands Program to the Growth Management Act. The purpose of the program is for these local governments to compare anticipated growth against actual development over time to answer two basic questions: (1) Do local governments have suitable land to accommodate expected growth for the 20 year planning period? and (2) Are urban densities (four units to the acres and greater) being achieved in the Urban Growth Area?

Participating jurisdictions are required to gather data annually and evaluate, at five year intervals, the level and type of development occurring. This information is then sent to the county for comparison and publication. This applies to housing, commercial, and industrial land uses. The data collected shows vacant and redevelopable parcels with the City of Woodinville in residential, commercial, and industrial zones. Vacant land is defined as parcels with no structures and redevelopable land is defined as parcels with older structures but with possible redevelopment in the future.

Table 2-1: Consistency of Goals and Policies*

City of Woodinville	King County	Snohomish County
Land Use		
LU-1: Guide population growth in a manner that maintains or improves Woodinville's Northwest character, environmental attributes, and quality of life.	**FW-11:** Require land use patterns that will reduce consumption of land and concentrate development. **CC-2:** Encourage land use patterns and regulations that protect community character.	
LU-1.1: Preserve the character of existing neighborhoods while accommodating projected growth over the next 20 years.	**FW-12:** Provide enough land to accommodate future urban development. **LU-26:** Identify urban development within the UGA. **LU-66**: Provide adequate residential land for the projected growth over the next 20 years.	**UG-1:** Establish a UGA that accommodates growth over the next 20 years. **HO-15:** Balance the needs of housing with other land use decisions. **HO-2:** Make adequate provisions for existing and projected housing needs. **UG-9:** Respect the character of existing residential neighborhoods.
LU-1.2: Encourage future development in areas that have the capacity to absorb growth, minimize adverse environmental impacts, and enhance the area's appearance and vitality.	**LU-28:** Direct urban development to areas with the capacity to absorb the growth.	**OD-10:** Encourage infill and redevelopment of suitable areas consistent with local comprehensive plans. **HO-14:** Encourage the use of environmentally sensitive housing development practices in order to minimize the impacts of growth on the county's natural resources.
LU-1.3: Phase development with municipal services in an organized and cost effective manner.	**LU-29:** Require phased development. **LU-30:** Phase growth so that non-urban land is converted to urban land only as services become available.	**OD-1:** Promote efficient use of land and coordination of municipal services with development. **OD-2:** Develop at urban densities and provide urban services and capital facilities.
LU-1.4: Coordinate land use decisions with neighboring jurisdictions.	**LU-37:** Cooperate with neighboring jurisdictions in the development of comprehensive plans.	**UG-4:** Implement plans through a collaborative planning process between cities and county. **JP-1:** Coordinate county and municipal planning as required by GMA. **JP-2:** Encourage frequent interjurisdictional coordination.
LU-2: Encourage less reliance on single-occupancy vehicles.	**LU-57:** Require parking regulations and other measures to encourage less reliance on single-occupancy vehicles. **LU-72:** Establish mechanisms to encourage transit use.	**UG-5:** Support pedestrian, bicycle, and transit compatible design. **UG-11:** Encourage mixed-use, pedestrian friendly and transit compatible development.

LU-2.2 Connect residential, open space, and recreation areas by an appropriately planned network of streets, walkways, bicycle paths, and utility corridors.

LU-2.3 Encourage the most intensive residential and employment land uses along major transportation routes to support transit service.

LU-2.4 Encourage development of a transit system and facilities that link the Town Center Neighborhood and the Tourist District.

GOAL LU-3: To attain a wide range of residential patterns, densities, and site designs consistent with Woodinville's identified needs and preferences.

Policies

LU-3.1 Encourage development that complements the existing residential development patterns in Woodinville's neighborhoods.

LU-3.2 Preserve the existing natural environment of Woodinville's neighborhoods.

LU-3.3 Maintain each residential area as a safe, pleasant, and enjoyable place to live.

LU-3.4 Provide controls to minimize encroachment by incompatible land uses within and between zoning districts.

LU-3.5 Allow lot clustering where applicable when residential development abuts sensitive areas or rural resource lands to provide open space buffers and to reduce potential land use conflicts.

LU-3.6 Encourage moderate (5-8 d.u.) and medium (9-18 d.u.) density housing throughout the community where sufficient public facilities and services are available, where the land is capable of supporting such uses, and where compatible with adjacent land uses.

LU-3.7 Permit a range of densities to encourage a variety of housing types that meet the housing needs of residents with a range of incomes.

LU-3.8 Allow for an appropriate level of flexibility in the development regulations, while balancing community goals and the need for predictability in decision making.

LU-3.9 Where appropriate, allow larger parcels with moderate density land use designations to develop with a mix of housing types, including single family, townhouse, apartment, and senior-assisted residences.

GOAL LU-4: To establish land use patterns that encourage a variety of commercial services and employment opportunities.

Policies

LU-4.1 Create a vibrant compact downtown Woodinville that is an inviting place to work, shop, live, and socialize.

LU-4.2 Encourage mixed-use development that balances residential and business uses within commercial areas.

GOAL LU-8: To manage growth and development within the Downtown Mixed-Use Overlay in a manner that balances the needs of commercial and residential uses.

Policies

LU-8.1 Encourage a mix of housing types in and around downtown for all economic segments of the community.

LU-8.2 Encourage multi-story construction that maintains existing vistas and views.

LU-8.3 Locate larger developments of retail and residential uses nearest freeway access and major streets.

LU-8.4 Encourage the development of underground parking or multistory parking structures in downtown as an alternative to surface parking.

LU-8.5 Encourage mini-parks and open spaces in downtown.

LU-8.6 Establish regulations for developments in office-designated areas that protect abutting low- and moderate-density residential parcels with appropriate restrictions on height, setbacks, landscaping, and access.

LU 8.7 Ensure that regulations governing zoning incentives, are used appropriately to further the goals and policies of the Comprehensive Plan.

GOAL LU-9: To maintain the downtown area as the center for commercial, civic, cultural, and recreational activities.

Policies

LU-9.1 Encourage uses that will support day and evening activities for all ages.

LU-9.2 Encourage linkage of paths and trails from the downtown to the rest of the Town Center Neighborhood and to the entire community.

LU-9.3 Develop Sorenson School campus and purchase appropriate adjacent properties as a civic center, consistent with the City's adopted Civic Center Master Plan.

GOAL LU-10: To provide an active and diverse industrial area that promotes economic growth.

Policies

LU-10.1 Limit non-industrial use of industrial lands to uses which are complementary to industrial activities.

LU-10.2 Protect industrial lands from encroachment by other land uses, which would reduce the economic viability of industrial lands.

LU-10.3 Develop industrial lands so as to minimize impacts on surrounding lands uses, especially residential land uses.

LU-10.4 Establish new or additional industrial development that complies with the following criteria:

CHAPTER 4 HOUSING

4.1 Introduction

The Housing Element has a pivotal role in growth management plans. The element encourages the development of housing in a way which conserves open space, reduces unnecessary costs, and provides housing choices. With this approach, the City of Woodinville has a way to control the effects of growth without losing its sense of community. One of Woodinville's strengths is in providing a wide range of housing opportunities for its residents, including single family houses to townhomes, apartment communities, and senior housing. The neighborhoods are strong and people care about the community. They desire to maintain the quality of their neighborhoods while planning for the future.

The Growth Management Act requires jurisdictions to set targets for affordable housing and to establish plans for meeting those targets while recognizing the vitality and character of existing residential neighborhoods. As a rule of thumb, the jurisdiction has allocated enough land for low and moderate income housing when there is enough land zoned at higher densities (> 12 dwelling units/ acre) to accommodate all the expected low income households and at least half the moderate income households. Woodinville has provided enough land zoned at higher densities (> 12 dwelling units/acre) for all low and moderate income households anticipated for the City of Woodinville by King County in the countywide policies. (See Table A3-2: Projected New Dwelling Units for Comprehensive Plan in the Land Use Element Appendix.) A description of countywide housing policies in King and Snohomish counties appears in the Appendix to the Housing Element along with the required inventory and analysis of existing and projected housing needs.

Section 4.2 contains the goals and policies. Section 4.3 includes implementation strategies and a monitoring plan. A carrying capacity analysis, which identifies the City's ability to meet housing growth allocation as established by the Washington State Office of Financial Management and King and Snohomish counties, is described in the Land Use Element Appendix.

4.2 Goals and Policies

Goal H -1: To preserve existing housing and neighborhoods and provide a diversity of housing types that promote housing opportunities for all economic segments of the City's population.

Policies

H-1.1 Allow for a variety of housing types and lot sizes through mixed use development and small and large lot single family development, townhomes, duplexes, multiplexes, apartments, manufactured housing, mobile home parks, and accessory dwelling units.

H-1.2 Promote housing ownership opportunities for people at all economic levels in the City.

H-1.3 Adopt and periodically update, a Housing Strategy Plan and Work Program which outlines specific housing strategies to be considered in addressing the City's housing needs and goals.

H-1.4 Define residential land use regulations to allow for development that will accommodate a range of incomes by providing for a variety of housing types and cost. Regulations shall include provisions such as:

1. Requiring minimum densities for subdivisions to ensure full land use where urban services are provided,
2. Allowing for bonus densities in developments that meet certain community goals such as senior housing, housing affordability, proximity to transit, dedication of parks/trails/open space, preservation of historic landmarks, energy conservation, protection of sensitive areas, and tree preservation,
3. Permitting high density for low income elderly housing projects when consistent with the Housing Strategy Plan and other applicable land use policies, and
4. Providing flexible subdivision standards subject to adopted criteria.

H-1.5 Support additional affordable housing with the goal of meeting the targets established and defined in the Growth Management Planning Council Countywide Planning Policies for low and moderate income housing. These Growth Management Planning Council targets are:

1. 17% of growth in new households affordable to moderate-income households, and
2. 24% of growth in new households affordable to low-income households.

   (Note: Units may be either new or converted.)

H-1.6 Provide incentives for moderately priced housing ownership through flexible lot size requirements and permitting townhome and condominium housing.

H-1.7 Encourage preservation and maintenance of existing affordable housing.

H-1.8 Work in partnership with public and private groups to seek resources for a balance of affordable housing development types and needs.

H-1.9 Promote regulatory efficiency to minimize the cost of housing development.

H-1.10 Encourage the building of affordable housing compatible with existing residential development.

H-1.11 Promote the development of housing for seniors of all incomes.

Goal H -2: To promote safe, physically accessible, and clean residential environments with associated open spaces.

Policies

H-2.1 Require common, convenient, and usable open space in residential development, such as on-site pocket parks or trails.

H-2.2 Encourage preservation, maintenance, and improvements to existing residential structures by:

1. Conducting a periodic survey of housing conditions and neighborhood environments to identify maintenance and restoration needs of older neighborhoods, and
2. Seeking and promoting resources that provide financial and other assistance to citizens for maintaining or repairing health and safety features of their homes.

APPENDIX E

21.04.020 Zone and map designation purpose.

The purpose statements for each zone and map designation set forth in the following sections shall be used to guide the application of the zones and designations to all lands in the City of Woodinville. The purpose statements also shall guide interpretation and application of land use regulations within the zones and designations, and any changes to the range of permitted uses within each zone through amendments to this title. (Ord. 295 § 4, 2001; Ord. 242 § 1, 1999; Ord. 175 § 1, 1997)

21.04.030 Reserved.

(Ord. 295 § 4, 2001; Ord. 242 § 1, 1999; Ord. 175 § 1, 1997)

21.04.040 Public/Institutional zone.

(1) The purpose of the Public/Institutional zone (P/I) is to provide and protect properties devoted to public and semi-public uses and uses providing social and physical services to the Woodinville community. This purpose is accomplished by:

(a) Providing a zone in which uses serving public needs may be located;

(b) Limiting residential and privately owned operations; and

(c) Protecting adjacent properties from potential impacts of public uses.

(2) Use of this zone is appropriate on properties designated by the Comprehensive Plan to be public and/or institutional, such as schools, government facilities, social services, hospitals, libraries, utilities, etc. (Ord. 295 § 4, 2001; Ord. 242 § 1, 1999; Ord. 194 § 1, 1997; Ord. 175 § 1, 1997)

21.04.050 Reserved.

(Ord. 295 § 4, 2001; Ord. 242 § 1, 1999; Ord. 175 § 1, 1997)

21.04.060 Reserved.

(Ord. 295 § 4, 2001; Ord. 242 § 1, 1999; Ord. 175 § 1, 1997)

21.04.070 Reserved.

(Ord. 295 § 4, 2001; Ord. 242 § 1, 1999; Ord. 175 § 1, 1997)

21.04.080 Residential zone.

(1) The purpose of the Urban Residential zones (R) is to implement Comprehensive Plan goals and policies for housing quality, diversity and affordability, and to efficiently use residential land, public services and energy. These purposes are accomplished by:

(a) Providing, in the low-density zones (R-1 through R-4), for predominantly single-family detached dwelling units. Other development types, such as duplexes and accessory units, are allowed under special circumstances. Developments with densities less than R-4 are allowed only if adequate services cannot be provided;

(b) Providing, in the moderate density zones (R-5 through R-8), for a mix of predominantly single-family attached and detached dwelling units. Other development types, such as apartments, duplexes, and townhomes would be allowed so long as they contribute to Woodinville's small town atmosphere as articulated in the vision statement found in the City's Comprehensive Plan and conform to all applicable regulations;

(c) Providing, in the medium density zones (R-9 through R-18), for duplexes, multifamily apartments, and townhomes, at densities supportive of transit and providing a transition to lower density areas; and

(d) Providing, in the high-density zones (R-19 through R-48), for the highest residential densities, consisting of duplexes and multistory apartments. Developments

have access to transit, pedestrian and nearby commercial facilities, and provide a transition to high intensity commercial uses.

(2) Use of this zone is appropriate in residential areas designated by the Comprehensive Plan as follows:

(a) The R-1 zone on or adjacent to lands with area-wide environmental constraints, or in well-established subdivisions of the same density, which are served at the time of development by public or private facilities and services adequate to support planned densities;

(b) The R-4 through R-8 zones on urban lands that are predominantly environmentally unconstrained and are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services; and

(c) The R-12 through R-48 zones in appropriate areas of the City that are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 295 § 4, 2001; Ord. 242 § 1, 1999; Ord. 175 § 1, 1997)

21.04.085 Neighborhood Business zone.

(1) The purpose and intent of the Neighborhood Business zone (NB) is to provide for small-scale, convenience retail shopping and office facilities at the neighborhood level located in accordance with the City of Woodinville Comprehensive Plan and encourage the compatible integration of small-scale shopping and office centers into the neighborhood areas which it serves.

(2) Use of this zone is appropriate in neighborhood centers designated by the Comprehensive Plan which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 295 § 4, 2001)

21.04.090 Tourist Business zone.

(1) The purpose of the Tourist Business zone (TB) is to encourage tourist-related uses, to provide convenient daily retail and personal services for a limited service area, and to minimize impacts of commercial activities on nearby properties. These purposes are accomplished by:

(a) Limiting nonresidential uses to those retail or personal services which can serve the everyday needs of the tourist industry and surrounding residential area;

(b) Allowing for a mix of retail, service and residential uses; and

(c) Excluding industrial and community/regional business-scaled uses.

(2) Use of this zone is appropriate in areas designated tourist business by the Comprehensive Plan which are served at the time of development by adequate public sewers, water supply, roads and other needed public facilities and services. (Ord. 379 § 8, 2004; Ord. 347 § 5, 2003; Ord. 295 § 4, 2001; Ord. 242 § 1, 1999; Ord. 175 § 1, 1997)

21.04.100 General Business zone.

(1) The purpose of the General Business zone (GB) is to provide auto-oriented retail and services for local and regional service areas that exceed the daily convenience needs of residential neighborhoods but that cannot be served conveniently by the Central Business District, and to provide retail and business services in locations within the City that are appropriate for extensive outdoor storage and auto-related and commercial uses. These purposes are accomplished by:

(a) Providing a wide range of the retail, recreation, and business services than are found in neighborhood business areas;

(b) Allowing for commercial uses with extensive outdoor storage or auto-related and industrial uses; and

(c) Limiting residential, institutional, personal services and office to those necessary to directly support commercial activity.

(4) The Hearing Examiner may impose reasonable conditions upon the granting of a special use permit for a secure community transition facility, pursuant to applicable provisions of the WMC; provided, that with respect to the subject matters specifically addressed in RCW 71.09.285 through 71.09.340, the Hearing Examiner shall not impose any condition more restrictive than the requirements specifically addressed by those sections. This subsection shall not be construed as limiting any authority the Hearing Examiner may have to impose conditions of a type that are not specifically addressed by RCW 71.09.285 through 71.09.340. Furthermore, it is understood that DSHS may voluntarily impose conditions upon its proposal that would be more restrictive than the requirements of RCW 71.09.285 through 71.09.340. To the extent that this subsection (4) conflicts with subsection (6) of this section, subsection (6) shall control.

(5) The City hereby adopts the siting policy guidelines developed by DSHS pursuant to RCW 71.09.285 and 71.09.290 and such guidelines shall be considered by the Hearing Examiner in making his/her decision on the special use permit for a secure community transition facility. The Hearing Examiner shall deny a special use permit application if it determines that DSHS did not comply with the siting policy guidelines in selecting the proposed site.

(6) With respect to the siting of secure community transition facilities, nothing in this section shall be construed by the Hearing Examiner or a reviewing court to be a regulation more restrictive than the minimum requirements (RCW 71.09.285 through RCW 71.09.340). The Hearing Examiner is hereby authorized, in making his/her decision regarding the siting of a secure community transition facility, to ignore any regulation herein that the Hearing Examiner determines to be more restrictive than the minimum requirements. (Ord. 325 § 2, 2002; Ord. 175 § 1, 1997)

21.44.070 Zone reclassification.

A zone reclassification shall be granted only if the applicant demonstrates that the proposal is consistent with the Comprehensive Plan and applicable functional plans at the time the application for such zone reclassification is submitted, and complies with the following criteria:

(1) There is a demonstrated need for additional zoning as the type proposed.

(2) The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties.

(3) The property is practically and physically suited for the uses allowed in the proposed zone reclassification. (Ord. 400 § 20, 2005; Ord. 175 § 1, 1997)

21.44.080 Home occupation permit.

A home occupation permit shall be granted by the Planning Director only if the applicant demonstrates that the home occupation will be conducted in compliance with the provisions of WMC 21.30.040. (Ord. 175 § 1, 1997)

21.44.090 Home industry permit.

A home industry permit shall be granted by the Planning Director only if the applicant demonstrates that the home industry will be conducted in compliance with the provisions of WMC 21.30.050. (Ord. 175 § 1, 1997)

Chapter 21.46
AMENDMENTS

Sections:

21.46.010 Purpose.
21.46.020 Authority and application.

APPENDIX F

BEFORE THE HEARING EXAMINER
FOR THE CITY OF WOODINVILLE

In the Matter of the Application of	)	FILE NO. ZMA2004-094 and
	)	PPA2004-093
Phoenix Development for the Montevallo	)	
	)	
	)	FINDINGS, CONCLUSIONS,
Rezone and Preliminary Plat Application	)	AND DECISION

SUMMARY OF PROPOSAL

Proposal: The applicant seeks approval of a rezone petition from R-1 to R-4 along with a preliminary plat approval to allow the subdivision of approximately 16.48 acres into 66 single-family residential lots. The preliminary plat application includes a request for surplus density of 19 lots to be transferred from another site.

Decision: The Hearing Examiner recommends approval of the rezone and also approves the preliminary plat with a reduced density transfer of nine lots.

SUMMARY OF RECORD

Hearing Date:

This matter was scheduled for hearing on March 1, 2007. Because of a possible defect in the public notice and the fact that the staff report was not issued within the time frames set forth in the ordinance, the matter was continued until March 15, 2007. No testimony was taken on March 1st, but testimony was taken on March 15th and also April 5, 2007, at a continued hearing for the Wood Trails proposal.

Testimony:

A full list of those who provided oral testimony is attached to this decision. At the hearings on this matter, the applicant, Phoenix Development, was represented by G. Richard Hill, Attorney at Law; McCullough Hill, PS, 701 5th Avenue, Suite 7220; Seattle, WA 98104. Some of the citizens who testified were organized in a group called "Concerned Neighbors of Wellington" and they were represented by J. Richard Aramburu, Attorney at Law; Aramburu-Eustis; 505 Madison Street, Suite 209; Seattle, WA 98104.

Exhibits:

A full exhibit list is attached to this decision. The record remained open until April 26, 2007, to allow further information to be submitted to the official record.

PROCEEDURAL ISSUES

Several procedural issues were brought up during the course of the Hearing Examiner's consideration of this matter both in testimony and through exhibits. The following findings and conclusions are hereby made on some of those procedural issues.

1. An objection was made to the consolidation of the request for the rezone with the application for the preliminary plat. The Woodinville Municipal Code (WMC) states at WMC 20.80.020 (3) that, "unless the applicant requests otherwise, a subdivision or short subdivision application shall be processed simultaneously with application for variances, conditional uses, street vacations, and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to those actions permit simultaneous processing." The applicant did not request separate processing of these two matters and the Hearing Examiner concludes that the rezone qualifies as a quasi-judicial action under the ordinance. Therefore it was proper for these two actions to be heard together. This is in accord with RCW 58.17.070.

2. The Concerned Neighbors of Wellington (CNW) argue that the rezone application should not be considered vested and should be considered under the regulations in effect at the time of the hearing rather than under previous regulations. The City and Phoenix contend that the rezone and preliminary plat applications were deemed complete on July 8, 2004, and a letter was sent to that effect. Exhibit #13 and Exhibit #20. The Hearing Examiner concludes that the letter established vesting on that date and the applications are therefore to be considered under the codes and regulations in effect on July 8, 2004. This is consistent with the process set forth in RCW 36.70B.070. See also *Schultz v. Snohomish County 101 Wn.App 693, 701 (2000)*. This is also consistent with the Supreme Court's decision in *Association of Rural Residents v. Kitsap County, 141Wn.2d 185, 193*, where the Court held that when a preliminary plat application vested, the accompanying planned unit development application vested also because it was the entire application that vested not just the preliminary plat. Planned unit developments are considered re-zones under Washington law. *Lutz v. Longview, 83 Wn.2d 566 (1979)*. Therefore the applicant has the right to have the entire application heard under the rules in effect on July 8, 2004, when the City determined that the application was complete.

3. This application was heard in the same time frame as the application for the Montevallo rezone and preliminary plat. The two projects were combined for the preparation of an environmental impact statement but were separate applications, filed on different dates, and were considered at separate hearings. As a courtesy to those who came to testify, the Hearing Examiner allowed testimony at each hearing on either proposal. They were not consolidated, however, into one application and are being treated by the City as separate applications. This is allowed under WMC 20.08.020(1) which would require their consolidation if the two properties were contiguous. They are not contiguous so consolidation was not required.

4. CNW objected several times throughout the proceedings about possible defects in the public notice. The first objection resulted in both plat hearings being continued from February 28th and March 1, 2007, to March 14th and 15, 2007, with the Wood Trails proposal being continued again until April 5, 2007. The main objection was to the misidentification of the Wood Trails property, but other objections were made, also. One objection was that the final hearing on April 5, 2007, was moved, at the last minute, from the Woodinville City Council Chambers to the Carol Edwards Center Gymnasium which is approximately a block away. This was done because of the size of the crowd. The combined hearings lasted for almost 15 hours. A large number of people testified

and many people testified more than once. The two proposals have been in the public's eye for an extended period of time and it would be difficult for the Hearing Examiner to conclude that anybody was unable to present written or oral testimony because of the alleged defects in the public notices. In fact, no one has come forth with any convincing argument that they were prejudiced by any defect in notice.

5. CNW also alleges that this zoning application cannot be approved because it is an illegal spot zone. Washington Case Law provides a concise definition of illegal spot zoning:

> *Spot zoning is an action by which an area is carved out of a larger area and specially zoned for use totally different from, and inconsistent with, the surrounding land and not in conformance with the comprehensive plan. Save a Neighborhood Environment v City of Seattle, 101Wn.2d 280 (1984).*

The proposal's compliance with the comprehensive plan will be examined later in this decision. The Hearing Examiner concludes, however, that this is not an illegal spot zone because the use, detached single-family residential is not totally different from and inconsistent with surrounding properties which are also developed with detached single-family residential uses. The difference is density, not use. The Hearing Examiner finds that CNW has drawn too fine a line in attempting to find incompatibility. Both R-1 uses and R-4 uses are considered low density residential under Woodinville's Comprehensive Plan and would be considered as such under virtually every other comprehensive plan in any urban area in the State of Washington. Therefore, the Hearing Examiner concludes that this re-zone is not an illegal spot zone.

6. CNW argues that the hearing on this matter and any decision is premature because final plans and certain studies have not yet been completed. As an example, the applicant submitted a conceptual plan at the hearing on March 14, 2007, demonstrating how the project may look if all proposed conditions of approval recommended by staff were imposed. CNW argued that the proposal is not in final form, and, therefore, the hearings were premature.

This proposal is for preliminary plat. Plats are a two-step process with the preliminary plat being the initial step. A preliminary plat is defined in the State Law as:

> *"A neat and approximate drawing of a proposed subdivision showing the general layout of streets, alleys, lots, blocks, and other elements of the subdivision consistent with the requirements of this chapter. The preliminary plat shall be the basis for the approval or disapproval of the general layout of the subdivision".*

A final plat is defined as:

> *"The final drawing of the subdivision and dedication prepared for filing for record with the County Auditor and containing all elements and requirements set forth in this chapter and in local regulations adopted under this chapter. RCW 58.17.020(4)(5)".*

CNW argues that all studies and final design elements should be in place prior to this approval. That is not the way that the two-step process works, however. Many of the preliminary studies are set forth in the Final Environmental Impact Statement but final design takes place after the

preliminary plat has been approved and before the final plat is signed by the City. The Hearing Examiner finds that there is sufficient information in the record to adequately evaluate the preliminary plat application.

7. The record in this case is voluminous. The public hearings on this project and the Montevallo project lasted for almost fifteen hours and there are literally thousands of pages of exhibits. Many issues were raised in public testimony and in the written submittals by both CNW and Phoenix Development, as well as by City staff. Because of the volume of comments, the Hearing Examiner cannot address every issue raised. The Hearing Examiner will, however, address relevant issues that are necessary for the issuance of a decision pursuant to the regulations. However not every comment will be addressed.

8. CNW and others have objected to the subdivision of the Montevallo property because the prior plat of Summer's Addition shows a road on site. It is argued that the plat cannot proceed until this public road is properly vacated. See Exhibit #88, pages 4 through 7. Phoenix Development has responded to that allegation in Exhibit #95, pages 71 and 72. The research done by Phoenix Development's project surveyor showed that there was no record of that road ever being dedicated as a public road in the King County records. It also has never been improved. The notations on the plat bear this out along with the fact that the lot owner has been paying taxes on the property shown as a road for over thirty years according to the evidence. For the reasons set forth in Exhibit #95 submitted by Phoenix Development, it does not appear that road was dedicated to the public even though the northern portion has been used by various adjacent property owners. Based on the evidence the Hearing Examiner cannot find that this allegation should keep the plat from moving forward through the process.

GENERAL FINDINGS

1. The applicant proposes to rezone the Montevallo project site from R-1 (1 unit per acre) to R-4 (4 units per acre) and to subdivide the property into 66 single-family residential lots. The property contains 16.48 acres. The proposed 66 lots include 19 surplus density credits to be transferred from the Wood Trails project site, which is also owned by the applicant. Transfers of density credits are allowed under WMC Chapter 21.36. Exhibit #1, page 5. The site is located on the west side of 156th Avenue NE directly south of the King-Snohomish County line and the Wellington Hills Golf Course. Exhibit #1, page 5. The legal description is lots 1 through 5, Summers Addition, according to the plat thereof, recorded in volume 100 of plats, pages 33 and 34 in King County, Washington. Exhibit #4.

2. As stated, property to the north is in Snohomish County and developed with the Wellington Hills Golf Course. To the west and south are single-family residential uses and the properties are zoned R-1 and most are built on large lots. Along the east side of the site is 156th Avenue NE and there is a large undeveloped parcel across that street to the east. Exhibit #1, page 5.

3. The site is irregular in shape and contains approximately 16.48 acres in area. It is reasonably flat with a topography sloping gently from east to west at slope gradients in the range of five to 10 percent. Elevations on this site range from approximately 430 feet on the western part of the property to 490 feet at the eastern edge. The wetland located at the western end of the property is a topographic low point. The soil type is Alderwood Type C (6 to 15% slope) which has a moderate erosion hazard. Exhibit #1, page 5.

4. A single forested and emergent delineated Class 2 Wetland is located on the west side of the site. It is approximately 71,567 square feet in size. Water within this wetland drains to the north offsite in an intermittent flow, ditched stream feature. This stream eventually enters a more defined ravine offsite to the west which flows several thousand feet down a steep hillside before being culverted under the highway (SR 522) and eventually entering Little Bear Creek. Due to the length of its culverted channel just east of SR 522, as well as the very steep topography along the hillside to the north and west of the site, fish cannot enter or access the tributary that the site's wetland drains into on the west side of SR 522. See Exhibit #27, page 6; Exhibit #1, page 5 and Exhibit #40, page 3.2-11.

5. The applicant will protect the wetland with a fifty-foot buffer, which was the standard minimum buffer from the edge of the wetland for Class 2 Wetlands under the 2004 code when the application vested. Originally the wetland buffer was to be averaged and some portion used as a detention facility, but testimony by Mr. Sewall, the applicant's wetland expert, stated that the proposal no longer needs a buffer reduction. See Exhibit #1, Page 5 and Exhibit #95, page 10.

6. The tie-in to provide sewer service to the development will require construction in the wetland. While the original plan was to construct the sewer line through the wetland and restore it, testimony at the hearing was that the proponent will bore the sewer line underneath the wetland because it had an impermeable bottom and boring under it would be possible. Wood Trails, Exhibit #133, page 3.

7. The applicant seeks approval to subdivide this 16.48 acre site into 66 single-family residential lots along with a rezone from R-1 to R-4. The 66 lots include 19 density credits transferred from Wood Trails as calculated by the developer. The City has calculated the density credits to be 9. See Exhibit #1, page 19 and Wood Trails Exhibit #1, pages 22 and 23. The lots will range in size from 5,500 square feet to 13,737 square feet averaging approximately 6,708 square feet. The proposal is to construct single-family detached residential dwellings on site. Sewer and water will be supplied by the Woodinville Water District. See Exhibit #1, page 9 and Exhibit #95, page 17.

8. Access to this site will be via 156th Avenue NE, which is a north south collector. Two new access streets labeled as NE 203rd and NE 204th are shown on the Montevallo plat map. Exhibit #11. The plat map also shows three north south streets, 155th NE, 154th Avenue NE and 153rd Avenue NE serving several of the lots. The two east west streets dead end before leaving the plat on the west side and the north south streets stay within the boundaries of the plat. Exhibit #11. There is also a conceptual site plan in the record, which shows how the site might be developed if it complied with all of the staff recommended conditions of approval. See Exhibit #67. Exhibit #67, as a conceptual plan, shows the number of lots being reduced to 56, complying with Staff's calculations of transferred densities. It also shows the roadways being reconfigured with only one entrance from 156th Avenue NE. The lots are shown to be slightly larger due to the reduction of ten lots on site from the original drawing. See Exhibit #67.

FINDINGS RELATED TO THE REZONE

9. The proposal vested in November of 2004 and is governed by the 2004 Comprehensive Plan. The plan designates this site as low density residential which includes R-1 (1 unit per acre) through R-4 (4 units per acre). The property is currently zoned R-1 an the applicant seeks a

rezone to R-4. Exhibit #,1 page 13 and Exhibit #20.

10. The Woodinville Water District will provide sewer and water services to the proposed subdivision. Each lot in the development will be connected to the District's sewer and water systems, pending construction of site collection and distribution systems by the applicant. See Exhibits # 7 and 8. See also Exhibit #95, page 17.

11. R-4 as proposed, is designated as low density residential in the relevant comprehensive plan. Other relevant plan policies include:

a. Land Use Policy LU-1.1 preserve neighborhood character, while accommodating for GMA Growth Forecasts.

b. Land Use Policy LU-1.2 guide growth to areas with capacity, where impacts will be minimized, and where growth will help areas appearance or vitality.

c. Land Use Policy LU-1.3 phase growth and municipal services together.

d. Land Use Policy LU-2.2 connect development, open space, recreation areas by planned street, path, and utility corridor networks.

e. Land Use Policy LU-3.1 development should compliment existing residential development patterns.

f. Land Use Policy LU-3.2 preserve neighborhood natural environment.

g. Land Use Policy LU-3.4 provide controls to minimize encroachment by incompatible land uses.

h. Land Use Policy LU-3.7 permit a range of densities to encourage a variety of housing types to serve a range of incomes.

i. Housing Policy H-1.1 allow a variety of housing types and lot sizes.

j. Community Design Policy CD-1.2 preserve views, natural features, and landmarks.

k. Community Design Policy CD-2.2 encourage native vegetation in residential, commercial, industrial areas.

l. Community Design Policy CD-2.3 use trees and landscaping to buffer surrounding land uses.

m. Community Design Policy CD-2.4 require street trees in all development.

n. Community Design Policy CD-2.5 require developments to retain existing significant vegetation, where feasible, through regulations in the Woodinville Zoning Code.

o. Community Design Policy CD-3.1 integrate existing development into the character of surrounding area.

p. Capital and Public Facilities Policy CF-3.1 require the City or other service providers to establish capital facilities service standards.

q. Environmental Policy ENV-3.1 encourage urban forest preservation.

r. Environmental Policy ENV-3.2 protect critical habitat areas.

s. Environmental Policy ENV-3.3 maintain a standard of no net loss of critical habitat functions and values.

t. Environmental Policy ENV-3.4 maintain critical area connectivity.

u. Environmental Policy ENV-3.7 encourage native plant use.

v. Environmental Policy ENV-4.1 protect public safety and potential seismic, flood hazard and slide hazard areas.

w. Environmental Policy ENV-4.2 minimize the adverse affects of development on topographic, geologic and hydrologic features and native vegetation. City of Woodinville Exhibit #1 pages 13-19.

12. The staff report sets forth an analysis of the City's housing allocation under the Growth Management Act (GMA) for the planning period from 2001 to 2022. The allocation comes from the overall King County carrying capacity allocation attributed to Woodinville. Staff's conclusion is that the residential zones have the capacity necessary to meet the housing allocation now without further zone changes to higher density. Exhibit #1 page 4.

13. There was evidence presented by CNW, both in oral testimony and in writing, that there are large numbers of single-family detached homes on lots approximately the size proposed by Phoenix for Montevallo, within ten miles of this area and therefore there is no need for more density on this site. While many of the lots listed were in communities other than Woodinville and also related primarily to the resale of homes rather than the development of new lots, the data is relevant to the Hearing Examiner's decision. See Exhibit #91, pages 11 and 12.

14. Phoenix counters with an analysis of the remaining R-4 inventory in Woodinville arguing that the City has a faulty capacity analysis as it pertains to properties zoned R-4 and available for new development. Phoenix argues that land zoned R-4 and developed between 2002 and 2007 has not been removed from the City's inventory and that the remaining vacant and redevelopable R-4 lands have not been adjusted to affect new critical area boundaries, buffers and stormwater detention requirements adopted after 2002. Their experts state that the available land with R-4 zoning was 2.7% of the entire City in 2001 and it is less today because of the increased critical area buffers. See Exhibit #95, pages 63 through 67. The land zoned R-1 represents approximately 30% of the total area of the City and approximately 50% of the residentially zoned land. Exhibit #1, page 5. See also Wood Trails Exhibit #128.

15. The City ordered the preparation of an EIS for this development and the Wood Trails development. The technical appendices to the Draft EIS include two geotechnical engineering

studies in Appendix C and D, a drainage report in Appendix E, a wetland and stream report in Appendix I and a wildlife habitat report in Appendix K. There are summaries of the geotechnical report, which were submitted after the EIS was finalized and they are in the record as Exhibit #95, pages 21 through 23. and Wood Trails Exhibit #131.

16. Those reports conclude that the site is appropriate for development due to the fact that it is relatively flat and grading would be minor. The wetland will be protected pursuant to City regulations and stormwater will be directed to a detention facility, treated and then dispersed to the wetland. See Exhibit #40, page 2-12.

17. The geotechnical reports also studied the erosion issue. WMC 21.24.290.2A classifies erosion areas within the City of Woodinville. As stated in the geotechnical reports, however, site-specific investigations with the knowledge of the proposed development activities provides a more thorough evaluation of a potential erosion hazard. The reports state, that based on the site-specific evaluations, the Montevallo site exhibits little evidence of erosion. As the site is developed, the City will require the use of best management practices (BMP) so that soil erosion can be managed and impacts minimized. See Exhibit #40, page 3.1-15.

18. Considerable information was submitted on storm drainage controls for the site including possible impacts to Little Bear Creek. Storm drainage was studied extensively in the DEIS and FEIS. See Exhibit #35, Appendix E and Exhibit #40, pages 3.2-1 through 3.2-37. The analysis follows the King County Surface Water Design Manual (KCSWDM), which was used by the City at the time this plat was filed. The analysis was based upon the KCSWDM and the analysis was accepted by the City with some modifications. Those modifications are in the conditions of approval. Water quality impacts to Little Bear Creek were also studied. See Wood Trails.Exhibit #134; Exhibit #95, pages 68 through 70; Exhibit #27 and Exhibit #35, Appendix J, pages 1 through 8.

19. The proposal is reasonably compliant with the Woodinville Comprehensive Plan. The Hearing Examiner hereby adopts and incorporates the discussion of Comprehensive Plan Policies set forth in Exhibit #1, pages 10 through 16. Specifically the Hearing Examiner finds that the zone change will allow the development of low-density detached single-family homes in an area designated in the comprehensive plan as low density residential. While arguments have been made that the adjacent neighborhood is much less dense, R-4 is still classified as low density. In addition, buffering as recommended by the City can alleviate impacts from a slight difference in density. The site will be served with City water and sewer and the street network will be improved. The west side of the site will be left in a Native Growth Protection Area (NGPA) which will provide habitat and open space and enhance a degraded wetland. It presents a range of densities, which encourages a variety of housing types to serve a variety of income levels. It preserves much of the natural features of the site, such as the wetland and will preserve trees in accordance with the City's Tree Retention regulations. Exhibit #1, pages 10 through 16 and Exhibit #19 pages 7 through 11.

Criteria for a Rezone

WMC 21.44.070 sets forth the zone reclassification criteria. It states: "a zone reclassification shall be granted only if the applicant demonstrates that the proposal is consistent with the comprehensive plan and applicable functional plans and complies with the following criteria:

1) There is a demonstrated need for additional zoning of the type proposed;

2) The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties; and,

3) The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

In addition, in WMC 21.04.080, which describes the residential zones, it states:

> *(1)(a) providing, in the low density zones (R-1 through R-4), for predominately single-family detached dwelling units. Other development types such as duplexes and accessory units, are allowed under special circumstances. Developments with densities less than R-4 are allowed only if adequate services cannot be provided; (emphasis added)*

Washington courts have held:

> *Rezones are not presumed valid. The applicant has the burden of showing that either conditions have changed since the original zoning or that the proposed rezone implements policies of the comprehensive plan and that the rezone bears a substantial relationship to the public health, safety, morals or welfare. Only general, not strict conformance with the Comprehensive Plan is required. The requirements of local ordinances must also be satisfied. Woods v Kittitas County 130 Wn App 573 (2005).*

Conclusions on Rezone Application

1. Based on the findings by the Hearing Examiner as stated above, The Hearing Examiner concludes that the proposal is in fact consistent with the City's Comprehensive Plan. See Exhibit #1, pages 10 through 16 and Exhibit #40, pages 3.4-22 through 3.4-28. Courts have held that consistency with a Communities Comprehensive plan is evidence that a rezone promotes public health, safety, morals and welfare. *Henderson v. Kittitas Co., 124 Wn.App 747, 756 (2004)*

2. The Hearing Examiner concludes, based upon the findings above that the criteria for a rezone have been met. They are:

A. There is a demonstrated need for additional zoning of the type proposed.

This criterion is a many faceted criteria. The City has analyzed it according to its GMA growth allocation from King County and found that Woodinville could meet its housing allocation without this rezone. The applicant's expert criticized the City's study as not fully analyzing the amount of actual R-4 Zoning there was in the city for development. Most of the housing development that has occurred since 2002 has been in apartments and condominiums rather than single-family residential uses. As the applicant's expert demonstrated, if the amount of R-4 developed between 2002 and 2007 were removed from the available R-4 land totals, the amount of R-4 available for new development or redevelopment would be much less than the existing amount cited by the City which still

was only 2.7% of the land area of the City. The R-1 Zone by contrast, makes up nearly 30% of the City's zoning. Clearly more R-4 Zoning is needed to create a diversity of building sites availability by establishing more areas where detached single-family can be constructed at lower densities than R-1 densities. In addition, the Growth Management Hearings Board has held that Woodinville is not to perpetuate one-acre lots that will effectively thwart urban development. Urban develop being defined by the Board as four units per acre. See *Hensley v Woodinville CPSGMHB Case number 96-3-0031 (February 25, 1997).*

The Growth Hearing Board has held that a minimum urban density is four units per acre. The Supreme Court held in the case of *Viking Properties v. Holm 155 Wn.2d. 112 (2005)* that the Growth Boards don't have the authority to make "Bright line tests". The Boards do have authority, however, to determine whether a City is in compliance with GMA. RCW 36.70A.280. One of the goals of GMA is to encourage urban development within urban areas and reduce sprawl. RCW 36.70A.020. The Hearings Board in the Hensley case, as cited above, have determined that one acre zoning will effectively thwart urban development. Therefore, the fact that the City has 30% of its zoning in R-1 and only 2.7% in R-4 clearly demonstrates the need for more R-4 zoning. Therefore, the Hearing Examiner finds that this criterion has been met.

B. The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties.

To the north is Snohomish County and the land has a rural designation. The adjacent zoning to the west, east and south is R-1. As stated above, both R-1 and R-4 are designated in the low-density residential category and this site will be developed with single-family residential uses although at a higher density than the R-1. While there was considerable argument that the R-4 would not be compatible with the R-1, both uses are detached single-family residential uses and both are considered low-density zoning by the City. See WMC 21.04.080(1)(a).

In addition, the Woodinville code in place when this application vested, stated that this property could not be developed as R-1 because utilities are available. This would put the applicant in a Catch-22 position of having property that could not be developed with either R-4 or R-1. The code has since been changed, but the old code still applies to this application. It should also be noted that pursuant to WMC 21.08.030, the R-1 through R-4 are located in what's known as the "Residential Low Density Zone". Therefore the Hearing Examiner must find that the zone reclassification to R-4 is consistent and compatible with the zoning of the surrounding properties.

C. The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

As noted above, the property was studied extensively in the DEIS and FEIS. Both the applicant's experts and the City's reviewing experts concluded that the site was suitable based on the characteristics of the site. The extensive study of geotechnical aspects, stormwater drainage, and the wetland convinces the Hearing Examiner to conclude that the site is suitable. The soils on the site have the strength to be developed with single-family units at the proposed density and the wetland area on the site will be retained in its

natural state as open space. Stormwater can be accommodated and with the conditions of approval as set forth in this decision, the site is suitable for development.

FINDINGS RELATED TO THE PRELIMINARY PLAT

1. The Hearing Examiner hereby adopts and incorporates all findings and conclusions from the previous section relating to the rezone request as well as the General Findings.

2. The preliminary plat as filed is set forth in the record as Exhibit #11. The applicant also submitted a conceptual Montevallo site plan which depicted recommended conditions of approval from the staff report. That is in the record as Exhibit #62. The Montevallo plat with data information is set forth in Exhibit #63.

3. Montevallo as proposed meets the requirements for depth, front and side lot lines and building setbacks as they were set forth in the subdivision code when this proposal was vested. Exhibit #1, page 17. The proposed lot and street layout will be in conformance with the Woodinville Municipal Code. See WMC 20.06.040 and 20.06.130. Exhibit #1, page 17.

4. The Montevallo proposal is for detached single-family residential uses which is allowed in the zoning code. WMC 21.08.

5. This preliminary plat proposes sixty-six lots with approximately 3.43 acres of open space protected in perpetuity as a Native Growth Protection Area (NGPA). The gross density is set forth in the application as 4.0 units per acre. Exhibit #19, pages 2 and 3. This will be reduced because of a reduce density transfer allowance.

6. Montevallo contains a wetland that is being enhanced. The wetland will be located in the NGPA area located on Tract A. Exhibit #1, pages16 and 17.

7. The applicant has asked for the right to receive residential density from the Wood Trails sending site. Under the applicant's analysis, nineteen credits can be transferred. Staff has analyzed the applicant's calculation and revised them based on additional conditions of approval, such as wider roadways in Wood Trails and determined that nine density transfer credits should be allowed. See Wood Trails Exhibit #1, pages 22 and 23. The preliminary plat will be served by public water and sewer service from the Woodinville Water District. Exhibit #95, page 17.

8. Comments from the Woodinville Fire and Life Safety Deputy Chief and also the Chief of Police for Woodinville indicated neither agency found any significant impacts on their operations from the development of the site. Exhibit #40, pages 7.2 and 7.3.

9. The internal roadways will be constructed to full standard and will connect with existing rights-of-way at 156th Avenue NE. The original plat showed two connections to 156th Avenue NE, one at NE 204th Street and one at NE 203rd Street. The conceptual plan submitted by the applicant and in the record as Exhibit #62, which shows a redesigned plat complying with City staff conditions, shows only one entrance to the plat approximately in the center. That plan also shows all lots being served by two east west streets and two north south streets for circulation purposes. See Exhibit #62.

10. The transportation network and the projects on that network were studied extensively in the EIS. See Exhibit #40, section 3.5. Traffic safety was studied in Exhibit #40, section 3.5.I.8 and concluded that safety should not be a big concern despite the limitations of the roadways in the surrounding neighborhood. The traffic study also did a Level Of Service (LOS) analysis and found that all of the intersections would still be within acceptable LOS standards. Exhibit #40, table 3.5-6 on page 3.5-56. The traffic analysis and the FEIS received a peer review from Parametrix the consultant to the City's Public Works Department and Parametrix agreed with the traffic analysis. See Exhibit #40-additional information located in the back of the FEIS.

11. Many issues were raised during the hearing process regarding sight deficiencies, inferior road widths and lack of sidewalks in the adjoining neighborhood. Those comments were responded to by the Transpo Group, the company that prepared the FEIS analysis, and their responses convinced the Hearing Examiner that the FEIS analysis is correct and that traffic impacts should be minimal. See Exhibit #165, pages 14 through 16 and Wood Trails Exhibit #129.

12. The City of Woodinville requires payment of a Traffic Impact Mitigation fee (TIF) for each dwelling unit created. TIF fees are determined by the zone in which the site is located. This site is in the Leota Zone. TIF fees are paid at the time a building permit for a dwelling unit is issued. The amount of the fee will be determined by the applicable fee ordinance at the time the complete building permit application is submitted to Development Services Department. See Chapter 3.39 WMC and Exhibit #1, page 21.

13. Students who reside in the Montevallo plat will attend schools in the North Shore School District #17. They would attend either the Wellington Elementary School, or the Leota Junior High School or Woodinville High School. Staff states that enrollment in the North Shore School District; particularly in the eastern portion of the district where the plat is located is experiencing slow growth and declining enrollment. Therefore adding some number of students to the schools would not have a significant adverse impact on those schools. The applicant has submitted a North Shore School District school walk safety assessment. Exhibit #9. The school district currently does not assess impact fees. Exhibit #1, page 22.

14. There are no existing City of Woodinville parks, recreation facilities or properties in the West Wellington Neighborhood or within close walking distance. This plat is subject to the Park Impact Fee Ordinance, Chapter 3.36 WMC. A park impact fee will have to be paid to contribute to future park improvements.

15. There are no transit stops within what would be considered walking distance from this proposed plat. There is transit service to Woodinville, however. King County Metro operates two transit routes in the vicinity of the project site. A park and ride lot is located in the downtown area. Exhibit #40, page 3.5-30.

16. The applicant has submitted a preliminary tree retention map which is in the record as Exhibit #12. Staff has found that the proposal complies with landscape and tree retention standards of WMC 21.16.130 through 200. A final plan will be required.

17. The applicant has requested several deviations from standards set forth in Woodinville's codes and regulations. Those requests and the City's response are set forth in Exhibit #1, page 8. The proposed deviations which have been granted by the City include:

a. The applicant has requested to divert more stormwater away from the natural discharge point, i.e. the wetland, and connect a vault outfall to a closed pipe system. The City did not approve that deviation because it was determined that the diversion proposed would not continuously hydrate the wetland. Therefore a detention pond is recommended by the City. The applicant has requested a slight modification in the City's condition on that detention pond and the Hearing Examiner agrees to the language submitted by the applicant. It will become a condition of approval.

b. The applicant has requested a reduction in right-of-way width standards from sixty feet to fifty feet. For various reasons set forth in Exhibit #1, page 8, the City has rejected that modification.

c. The applicant proposes placing the sewer line underneath the wetland through boring. The City agrees that noninvasive boring under the wetland area is appropriate.

No other deviations were approved by the City. See Exhibit #1, pages 10 and 11.

Conclusions on Preliminary Plat Application

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide preliminary plat applications pursuant to Woodinville Municipal Code (WMC) Section 20.08.030.

Criteria for Review

To approve a preliminary plat, the Hearing Examiner must find that the following criteria set forth in WMC 20.06.020 are satisfied:

A. Goals and Policies. The proposal conforms to the goals, policies, criteria and plans set forth in the City of Woodinville comprehensive plan, community urban forestry plan, and parks, recreation and open space plan;

B. Development Standards. The proposal conforms to the development standards set forth in WMC Title 21, Zoning Code;

C. Subdivision Standards. The proposal conforms to the requirements of WMC 20.06.020 – Review and Approval Criteria for Subdivisions, WMC 20.06 – Subdivisions and WMC 17.09.020 – Project Permit Application;

D. Proposed Street System. The proposed street system conforms to the City of Woodinville public infrastructure standards and specifications and neighborhood street plans, and is laid out in such a manner as to provide for the safe, orderly and efficient circulation of traffic;

E. Utilities. The proposed subdivision or short subdivision will be adequately served with City approved water and sewer, and other utilities appropriate to the nature of the subdivision or short subdivision;

F. Layout of Lots. The proposed layout of lots, and their size and dimensions take into account topography and vegetation on the site in order that buildings may be reasonably sited, and that the least disruption of the site, topography, trees and vegetation will result from development of the lots;

G. Geologically Stable Soil. Identified hazards and limitations to development have been considered in the design of streets and lot layout to assure street and building sites are on geologically stable soil considering the stress and loads to which the soil may be subjected;

H. Safe Walking to School Procedures. Safe walking to school procedures, as established by the City, have been met;

I. Tree Preservation. Tree preservation has been considered in accordance with the community urban forestry plan and tree preservation requirements have been adequately met.

Conclusions Based on Findings

1. With conditions, the proposal complies with "Criteria A." in that it conforms to the goals, policies, criteria, and plans set forth in the City of Woodinville Comprehensive Plan, community urban forestry plan, and parks, recreation and open spaces plan. Subdivision development will occur in an area zoned low-density residential and surrounded by existing low-density residential except for the area to the north which is rural. In the FEIS developed for the proposed subdivision the mitigation suggested will become conditions of approval. Significant trees will be preserved and the applicant shall establish a Native Growth Protection Area (NGPA) to preserve open space and the site's wetland. See also the Findings and Conclusions on the Comprehensive Plan Compliance set forth under the Zoning Section. Conditions of approval are necessary to insure that any erosion resulting from subdivision development is adequately controlled using best management practices and that stormwater is adequately controlled and disposed of.

2. As proposed, the project meets "Criteria B." because it is consistent with the density and dimensional standards of the R-4 zoning district and is compatible with surrounding development. With an approval of a rezone to R-4, the proposed subdivision density is consistent with the density provisions of the City code. No lot is to be less than the minimum lot size or minimum lot width. The proposed subdivision while being slightly more dense than the properties around, will still result in low density detached single-family residential development, which is consistent with uses on those lands.

3. With conditions, the proposal conforms to "Criteria C" because it would be consistent with the subdivision standards set forth in WMC Chapter 20.06, including those pertaining to lot standards, easements, water supply, sewage disposal, storm drainage, watercourses, street right-of-way widths, street lighting and recreation. Subdivision lots will meet minimum lot size and width standards for the R-4 zone. Woodinville Water District will provide water and sewer service to the proposed subdivision. Stormwater runoff from the subdivision will be collected and impounded on site and then directed to the wetland on site to keep it hydrated. The preliminary plat map is

consistent with R-4 zoning. The applicant shall pay a park mitigation fee to the City upon the issuance of a building permit for each dwelling.

Certain conditions of approval are necessary to ensure the proposed subdivision meets the code and those conditions will be in place for this plat.

4. The proposal meets "Criteria D." because the proposed street system conforms to the City of Woodinville standards and provides for the safe, orderly, and efficient circulation of traffic. The streets in the plat conform to the City of Woodinville public infrastructure standards and specifications and neighborhood street plans, and are laid out in such a manner as to provide for the safe, orderly and efficient circulation of traffic.

5. The proposed subdivision meets "Criteria E." because it will be served with water and sewer by the Woodinville Water District.

6. The proposal meets "Criteria F" because the layout of lots, and their size and dimensions take into account topography and vegetation on the site in order that buildings maybe reasonably sited and that the least disruption of the site, topography, trees and vegetation will result. The site is reasonably flat and the soils are stable. Many trees will be retained and a Natural Growth Protection Area (NGPA) will be established around the wetland and it will be preserved and enhanced. A landscape plan and tree retention plan has been submitted and will be a final requirement with final plat submission.

7. A geotechnical study concluded that the site soils are suitable for urban residential development design of the lots and the stormwater system considered site grades, topography and the existing wetland. Therefore, the proposal meets "Criteria G."

8. Safe walk to school procedures have been complied with, meeting "Criteria H.".

9. "Criteria I." has been met because tree preservation has been considered in accordance with the community urban forestry plan and tree preservation requirements have been adequately met.

DECISION

Based on the preceding Findings and Conclusions, the Hearing Examiner recommends that the rezone from R-1 to R-4 be approved by the City Council and also approves the subdivision of this property into 56 residential lots with a density transfer of 9 lots from the Wood Trails plat. The property shall be developed substantially in accordance with plans submitted and as modified by these conditions of approval. This approval is granted subject to the following conditions:

GENERAL:

1. The Department Director shall have the authority to direct the developer or his on-site representatives to immediately cease activities and redirect their attention to resolving any problem, particularly any environmental degradation, which in the director's opinion needs immediate resolution. Failure of the developer or his representative to redirect such labor and equipment shall result in immediate project closure and resolution of the problem by the City. The developer will be billed for such City time and materials involved in resolving the problem, which shall include a penalty of 10% of the assessed cost. Such bill shall be paid prior to the

City removing the closure.

2. Mail routes and mailbox locations shall be approved by the postmaster. Mailbox locations shall also be approved by the City Engineer to insure they do not interfere with traffic sight distances.

3. The Natural Growth Protection Area (NGPA), the landscape strips and any other private common areas shall be maintained by a homeowners association. A set of covenants, conditions, and restrictions (CC&Rs) prepared for the proposed development is subject to review and approval by the City of Woodinville, and shall be recorded with the King County Auditor's Office prior to the recording of the final plat. The CC&Rs shall address the duties and responsibilities of the homeowners association with respect to common areas. This includes, but is not limited to the levying and collection of assessments, and the operation, maintenance and preservation of all common areas and facilities and shall also provide for the administration and enforcement of these duties and responsibilities. The City shall be kept informed of all names and addresses of current association officers.

4. The final plat shall include a clause requiring property owners and the homeowners association to maintain, in a uniform manner, city right-of-way/easements located between their property lines and the back of adjacent sidewalks. The city shall have the authority to enforce such maintenance. If, upon being informed by the City to perform such maintenance and said property owner does not comply, the City shall have the option of maintaining the right-of-way/easement and shall bill the property owner for all associated costs including administrative costs. If city invoices are not paid within ninety (90) days, the city shall have the option of attaching a lien against said property.

5. Maintenance bond(s) amounts shall be approved by the Public Works Department and bonds shall be submitted to the City prior to final plat approval. The maintenance bond shall be for a minimum of two (2) years. At the end of the bonding period, the city shall inspect the installed infrastructure. Any infrastructure that appears defective or has deteriorated beyond normal expectation for the bonding period shall, at the City Engineers direction, be repaired or replaced to the satisfaction of the City.

6. Nine (9) dwelling units may be transferred from the Wood Trails property (sending site) in accordance with the WMC 21.36.030 and WMC 21.36.050 (Transfer of Residential Density Credits).

ENVIRONMENTAL – Reference Final EIS (Exhibit 40)

1. The wetland location and class must be shown on the plat drawing.

2. The pedestrian access trail easement shall be removed from the proposal.

3. The wetland must be properly restored after installation of the storm drainage and sanitary sewer pipes. A restoration plan shall be submitted with the engineering plans.

4. The current Wetland Report does not address the wetland recharge method proposed by the Applicant. Discharge is to be from the detention facility.

5. The Geotechnical Engineering Study does not address the utility installation by boring in the wetland area. The applicant's geotechnical engineer shall provide recommendations for utility installation in the wetland area. This is to be submitted with engineering plans.

6. A Native Growth Protection Area (NGPA) shall be place upon all areas not included within the site development (lot and right of way) areas of the subdivision and shall be designated on the final plat. The onsite wetland and required buffers are to be protected as an NGPA. NGPA Tract A is to be dedicated to the homeowners association.

7. The boundary of the Native Growth Protection Area (NGPA) shall be designated by signs to be approved by the City. The signs shall be located every 100 feet along the NGPA boundary; additionally, there shall be a sign centered along each lot line adjacent to the NGPA.

8. The boundary of the NGPA shall be delineated by an approved fence (split-rail).

9. The applicant shall comply with the suggested mitigating measures set forth in the FEIS Exhibit #40.

FIRE

1. Road width and construction for Fire Department access must meet City of Woodinville Transportation design requirements.

2. Curb turning radius shall be a 25-foot curvature.

3. Fire Department access roads with dead-ends over 150 feet, such as NE 204th Street near Tract B, shall have an approved turn-around per City of Woodinville Transportation Infrastructure Standards and Specifications (TISS)

4. The Fire Department shall have access to within 150 feet of any portion of a buildable portion of any lot.

5. A current hydrant flow chart is required for the closest hydrant to each structure at the time of building permit application for that structure. Fire flow will be calculated based on square footage of each structure. Homes not meeting minimum fire flow requirements shall be provided with an automatic fire sprinkler system.

6. Hydrant spacing shall be in accordance with Uniform Fire Code, Appendix III-B

7. Homes 5,000 square feet in size or greater shall be provided with an automatic fire sprinkler system per International Fire Code (IFC) pending site development.

8. Homes served by access roads greater than 15% grade shall be provided with an automatic fire sprinkler system.

9. Any road used for fire department access 28 feet or less in width shall have parking on one side of the street only. Any road used for fire department access 26 feet or less shall have no parking on either side of the street. Note: This requirement is not to be construed as an approval of any deviation request for roads narrower than that required by the City of Woodinville Transportation and Infrastructure Standards.

IMPACT FEES

1. This project is subject to the following impact fee Ordinances:

- Transportation Impact Fee (TIF) Ordinance (Chapter 3.39 WMC) and
- Park Impact Fee (PIF) Ordinance (Chapter 3.36)

2. As provided for under the City of Woodinville Municipal Code and the City of Woodinville Comprehensive Plan, and analysis by the Northshore School District Number 417, it has been determined that this development will not have an adverse impact on the School District.

LANDSCAPE & TREE RETENTION

1. This project shall comply with applicant City street tree requirements. Street trees shall be provided as follows, per WMC 21.16.050:

a. The trees shall be owned and maintained by the homeowners association, unless located in the City right-of-way. Ownership and maintenance shall be noted on the face of the final recorded plat.

b. The species of trees shall be approved by the City of Woodinville Development Services Department. If located within the right-of-way, tree shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers or which are not compatible with overhead utility lines.

c. Trees shall be located within the street right-of-way and planted in accordance with WMC 2.24.090, City of Woodinville Public Infrastructure Standards and Specifications, Landscaping Section 7, Details 341, 342, and in accordance with the Public Tree Care Standards Manual.

d. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, the performance bond must be replaced with a maintenance bond, and per WMC 21.24.150, held for a period of up to five (5) years. The duration of maintenance/monitoring obligations shall be established by the Planning Director, based upon the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures. After the maintenance period has ended, the maintenance bond may be released after the City of Woodinville Development Services Department has completed a second inspection and determined that the trees have been kept healthy and thriving.

2. A detailed tree retention plan shall be submitted with the final engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of WMC 21.16.140.

3. No clearing of the subject property is permitted until the final tree retention plan is approved

by the City of Woodinville Development Services Department. Flagging and temporary fencing of trees to be retained shall be provided, consistent with WMC 21.16.160.

4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant WMC 21.16.160.

5. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with WMC 20.06.175 20.06.190 and 21.16.

6. Plat plans shall include a City signature block.

7. Track C, as shown on the preliminary plat, shall be maintained by the Home Owner's Association.

SURFACE WATER

1. Storm drainage containment, treatment and disposal must be in compliance with the 1998 King County Surface Water Design Manual requirements.

2. The storm drainage easement on Tract D will be dedicated to the City for the purpose of storm facilities maintenance only.

3. The Track B Detention Pond or other detention system that is demonstrated to promote continued hydration of the wetland – Shall be dedicated to the City of Woodinville after the required maintenance period has ended.

4. The total of impervious areas on each lot and for all roadways must be labeled on the plat drawing.

TRANSPORTATION

1. A transportation impact fee is required. This project is subject to the City's Transportation Impact Fee (TIF) Ordinance (Chapter 3.39 WMC). TIF fees are paid at building permit issuance for each residence. The fee amount shall be the amount in effect as of the date of complete building application. Submit a completed TIF Worksheet with each new dwelling building permit.

2. 156th Avenue NE right-of-way must be shown with dimensions and labeled on the plat drawing.

3. The proposed roads shown on plat drawings must satisfy City standards for high density residential streets (TISS Detail 104A and 104B). Full width right-of-ways and roadways are required, which may mean a reduction in the number of lots.

4. The street layout/geometry must satisfy City TISS requirements.

5. The Geotechnical Engineering Study does not address the proper road pavement section. City standard roadway section (TISS Detail 104B) for High Density Residential Streets must be

used. Right-of way must be shown with dimensions and labeled on the plat drawing.

6. The City Limits must be shown on the plat drawing.

7. According to a site traffic impact analysis of the City of Woodinville Public Works Department, Chapter 3.5 Transportation in the Final Environmental Impact Statement issued on December 12, 2006, the City projected additional peak period traffic generated by this project. Therefore, this project is subject to City of Woodinville Transportation Impact Fee Ordinance No. 356.

8. All required improvements shall be completed before final plat approval.

9. Drawings of record shall be approved and signed by the Public Works Director prior to final plat approval.

10. The original plat drawing showed two access roads to the plat from 156th Avenue NE. The conceptual plan shown at the hearing depicts only one access road. Any reduction in access roads from two to one, must be approved by the City Engineer and the Fire Department. The City Engineer shall approve all plans for city infrastructure and shall approve such installation prior to acceptance by the City.

11. Maintenance bond(s) amounts must be approved by the Public Works Department and bonds shall be submitted to the City prior to final plat approval. The maintenance bond shall be for a minimum of two (2) years. At the end of the bonding period, the city shall inspect the installed infrastructure. Any infrastructure that appears defective or has deteriorated beyond normal expectation for the bonding period shall, at the City Engineers direction, be repaired or replaced to the satisfaction of the City.

Example:

a. Landscape – 2-Year Maintenance Guarantee
b. Lighting – 2-Year Maintenance Guarantee
c. Site Improvements – 2-Year Maintenance Guarantee
d. Wetland – 5-Year Maintenance Guarantee

12. Street lighting shall be in compliance with city standards as approved by the City Engineer.

13. All utilities shall be underground within the development.

L. <u>OTHER CONSIDERATIONS</u>

Preliminary approval of this application does not limit the applicant's responsibility to obtain any required permit or license from the State or other regulatory body. This may include, but is not limited to the following:

a. National Pollutant Discharge Elimination System (NPDES) Permit from WSDOE
b. Water Quality Modification Permit from WSDOE
c. Water Quality Certification (401) Permit from U.S. Army Corps of Engineers.

DATED this 16th day of May 2007.

Greg Smith
City of Woodinville Hearing Examiner pro tem

BEFORE THE HEARING EXAMINER
FOR THE CITY OF WOODINVILLE

In the Matter of the Application of	)	FILE NO. ZMA2004-053 and
	)	PPA2004-054
Phoenix Development for the Wood Trails	)	
	)	
	)	FINDINGS, CONCLUSIONS,
Rezone and Preliminary Plat Application	)	AND DECISION

SUMMARY OF PROPOSAL

Proposal: The applicant seeks approval of a rezone from R-1 to R-4 along with a preliminary plat approval to allow the subdivision of approximately 38.7 acres into 66 single-family residential lots with a request for surplus density of 19 lots to be transferred to another site. There will also be 21.9 acres of open space.

Decision: The Hearing Examiner recommends approval of the rezone and also approves the preliminary plat with a reduced density transfer.

SUMMARY OF RECORD

Hearing Date:

This matter was scheduled for hearing on February 28, 2007. Because of a possible defect in the public notice and also because the staff report was not available the required number of days before the hearing, the matter was continued until March 14, 2007. It was continued again until April 5, 2007. No testimony was taken on February 28th, but testimony was taken on both March 14th and April 5, 2007.

Testimony:

A full list of those who provided oral testimony is attached to this decision. At the hearings on this matter, the applicant, Phoenix Development, was represented by G. Richard Hill, Attorney at Law; McCullough Hill, PS, 701 5th Avenue, Suite 7220; Seattle, WA 98104. Some of the citizens who testified were organized in a group called "Concerned Neighbors of Wellington" and they were represented by J. Richard Aramburu, Attorney at Law; Aramburu-Eustis; 505 Madison Street, Suite 209; Seattle, WA 98104.

Exhibits:

A full exhibit list is attached to this decision. The record remained open until April 26, 2007, to allow further information to be submitted.

PROCEEDURAL ISSUES

Several procedural issues were brought up during the course of the Hearing Examiner's consideration of this matter both in testimony and through exhibits. The following findings and conclusions are hereby made on some of those procedural issues.

1. An objection was made to the consolidation of the request for the rezone with the application for the preliminary plat. The Woodinville Municipal Code (WMC) states at WMC 20.80.020 (3) that, "unless the applicant requests otherwise, a subdivision or short subdivision application shall be processed simultaneously with application for variances, conditional uses, street vacations, and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to those actions permit simultaneous processing." The applicant did not request separate processing of these two matters and the Hearing Examiner concludes that the rezone qualifies as a quasi-judicial action under the ordinance. Therefore it was proper for these two actions to be heard together. This is in accord with RCW 58.17.070.

2. The Concerned Neighbors of Wellington (CNW) argue that the rezone application should not be considered vested and should be considered under the regulations in effect at the time of the hearing rather than under previous regulations. The City and Phoenix contend that the rezone and preliminary plat applications were deemed complete on July 8, 2004, and a letter was sent to that effect. Exhibit #13 and Exhibit #20. The Hearing Examiner concludes that the letter established vesting on that date and the applications are therefore to be considered under the codes and regulations in effect on July 8, 2004. This is consistent with the process set forth in RCW 36.70B.070. See also *Schultz v. Snohomish County 101 Wn.App 693, 701 (2000)*. This is also consistent with the Supreme Court's decision in *Association of Rural Residents v. Kitsap County, 141Wn.2d 185, 193*, where the Court held that when a preliminary plat application vested, the accompanying planned unit development application vested also because it was the entire application that vested not just the preliminary plat. Planned unit developments are considered re-zones under Washington law. *Lutz v. Longview, 83 Wn.2d 566 (1979)*. Therefore the applicant has the right to have the entire application heard under the rules in effect on July 8, 2004, when the City determined that the application was complete.

3. This application was heard in the same time frame as the application for the Montevallo rezone and preliminary plat. The two projects were combined for the preparation of an environmental impact statement but were separate applications, filed on different dates, and were considered at separate hearings. As a courtesy to those who came to testify, the Hearing Examiner allowed testimony at each hearing on either proposal. They were not consolidated, however, into one application and are being treated by the City as separate applications. This is allowed under WMC 20.08.020(1) which would require their consolidation if the two properties were contiguous. They are not contiguous so consolidation was not required.

4. CNW objected several times throughout the proceedings about possible defects in the public notice. The first objection resulted in both plat hearings being continued from February 28th and March 1, 2007, to March 14th and 15, 2007, with the Wood Trails proposal being continued again until April 5, 2007. The main objection was to the misidentification of the Wood Trails property, but other objections were made, also. One objection was that the final hearing on April 5, 2007, was moved, at the last minute, from the Woodinville City Council Chambers to the Carol Edwards Center Gymnasium which is approximately a block away. This was done because of the size of

the crowd. The combined hearings lasted for almost 15 hours. A large number of people testified and many people testified more than once. The two proposals have been in the public's eye for an extended period of time and it would be difficult for the Hearing Examiner to conclude that anybody was unable to present written or oral testimony because of the alleged defects in the public notices. In fact, no one has come forth with any convincing argument that they were prejudiced by any defect in notice.

5. CNW also alleges that this zoning application cannot be approved because it is an illegal spot zone. Washington Case Law provides a concise definition of illegal spot zoning:

> *Spot zoning is an action by which an area is carved out of a larger area and specially zoned for use totally different from, and inconsistent with, the surrounding land and not in conformance with the comprehensive plan. Save a Neighborhood Environment v City of Seattle, 101Wn.2d 280 (1984).*

The proposal's compliance with the comprehensive plan will be examined later in this decision. The Hearing Examiner concludes, however, that this is not an illegal spot zone because the use, detached single-family residential is not totally different from and inconsistent with surrounding properties which are also developed with detached single-family residential uses. The difference is density, not use. The Hearing Examiner finds that CNW has drawn too fine a line in attempting to find incompatibility. Both R-1 uses and R-4 uses are considered low density residential under Woodinville's Comprehensive Plan and would be considered as such under virtually every other comprehensive plan in any urban area in the State of Washington. Therefore, the Hearing Examiner concludes that this re-zone is not an illegal spot zone.

6. CNW argues that the hearing on this matter and any decision is premature because final plans and certain studies have not yet been completed. As an example, the applicant submitted a conceptual plan at the hearing on March 14, 2007, demonstrating how the project may look if all proposed conditions of approval recommended by staff were imposed. CNW argued that the proposal is not in final form, and, therefore, the hearings were premature.

This proposal is for preliminary plat. Plats are a two-step process with the preliminary plat being the initial step. A preliminary plat is defined in the State Law as:

> *"A neat and approximate drawing of a proposed subdivision showing the general layout of streets, alleys, lots, blocks, and other elements of the subdivision consistent with the requirements of this chapter. The preliminary plat shall be the basis for the approval or disapproval of the general layout of the subdivision".*

A final plat is defined as:

> *"The final drawing of the subdivision and dedication prepared for filing for record with the County Auditor and containing all elements and requirements set forth in this chapter and in local regulations adopted under this chapter. RCW 58.17.020(4)(5)".*

CNW argues that all studies and final design elements should be in place prior to this approval. That is not the way that the two-step process works, however. Many of the preliminary studies are

set forth in the Final Environmental Impact Statement but final design takes place after the preliminary plat has been approved and before the final plat is signed by the City. The Hearing Examiner finds that there is sufficient information in the record to adequately evaluate the preliminary plat application.

7. The record in this case is voluminous. The public hearings on this project and the Montevallo project lasted for almost fifteen hours and there are literally thousands of pages of exhibits. Many issues were raised in public testimony and in the written submittals by both CNW and Phoenix Development, as well as by City staff. Because of the volume of comments, the Hearing Examiner cannot address every issue raised. The Hearing Examiner will, however, address relevant issues that are necessary for the issuance of a decision pursuant to the regulations. However not every comment will be addressed.

GENERAL FINDINGS

1. The Wood Trails property is located north and west of the intersection of NE 195th Street and 148th Avenue NE. It is west of the terminus of NE 195th, NE 198th, NE 201st, and NE 202nd Street. It is located in the NE quarter of Section 3, Township 26th North, Range 5, Willamette Meridian, King County. A full legal description is in the record in Exhibit #4. The property consists of approximately 38.7 acres. Exhibit #1, page 7.

2. The Wood Trails site topography is varied, with the overall slopes descending to the west. Elevations on the site range from approximately 250 feet in places along the western edge of the property to 430 feet at the eastern boundary. The most distinguishing site features include a series of east/west trending ravines with relatively moderate to steep side slopes. The ravine areas of the site generally contain slopes of 40% or steeper. Some relatively gentle sloping areas are located along the margins of the ravines, and throughout the easterly portions of the site. Moderately sloping areas are located along the westerly margins of the property. Exhibit #39, page 3.1-2.

3. To the north of the site is an undeveloped tract designated for future development; to the east and south the property is zoned R-1 and developed primarily with single-family homes on large lots, between one-half and one and one-half acres. To the west, the property is zoned Industrial and is developed with industrial uses. See Exhibit #39, pages 3.4-2 through 3.4-11.

4. The applicant proposes to subdivide the property into a total of 66 lots. The lots range in size from 5,060 square feet to 13,787 square feet with an average of 6,930 square feet. The proposal is to locate the lots on site in three groups. Thirteen lots would be located on the south side of the site near the intersection of 148th Avenue NE and NE 195th Street; in the middle of the site on the eastern side, there is to be twenty lots located along 148th Avenue NE extended and in the northeastern portion of the site there are to be thirty-three lots located near the western terminus of NE 202nd Street. Exhibit #1, page 8.

5. A conceptual preliminary plat of Wood Trails with the applicant's depiction of the proposal as complying with conditions of approval in the staff report is in the record as Exhibit # 65.

6. The applicant also seeks to transfer development rights from excess density in the Wood Trails plat to the Montevallo plat. The applicant seeks a density transfer of nineteen units. The

City has recalculated the density figures and has determined that nine units may be transferred. See Exhibit #1, pages 22 and 23.

7. The City issued a Determination of Significance under the State Environmental Policy Act (SEPA) on October 11, 2004. A Draft Environmental Impact Statement (DEIS) was issued on January 17, 2006, and a Final EIS (FEIS) was issued on December 13, 2006. See Exhibits #28, 34, and 39.

FINDINGS RELATED TO THE REZONE

8. The proposal vested in July of 2004 and is governed by the 2004 Comprehensive Plan. The plan designates this site as low density residential which includes zoning designations of R-1 (1 unit per acre) through R-4 (4 units per acre). The property is currently zoned R-1 and the applicant seeks a rezone to R-4. Exhibit #,1 page 13.

9. The Woodinville Water District will provide sewer and water services to the proposed subdivision. Each lot in the development will be connected to the District's sewer and water systems, pending construction of site collection and distribution systems by the applicant. See Exhibits # 7, 8 and 165, page 17.

10. R-4 as proposed, is designated as low density residential in the relevant comprehensive plan. Other relevant plan policies cited include:

a. Land Use Policy LU-1.1; preserve neighborhood character, while accommodating for GMA Growth Forecasts.

b. Land Use Policy LU-1.2; guide growth to areas with capacity, where impacts will be minimized, and where growth will help areas appearance or vitality.

c. Land Use Policy LU-1.3; phase growth and municipal services together.

d. Land Use Policy LU-2.2; connect development, open space, recreation areas by planned street, path, and utility corridor networks.

e. Land Use Policy LU-3.1; development should compliment existing residential development patterns.

f. Land Use Policy LU-3.2; preserve neighborhood natural environment.

g. Land Use Policy LU-3.4; provide controls to minimize encroachment by incompatible land uses.

h. Land Use Policy LU-3.7; permit a range of densities to encourage a variety of housing types to serve a range of incomes.

i. Housing Policy H-1.1; allow a variety of housing types and lot sizes.

j. Community Design Policy CD-1.2; preserve views, natural features, and landmarks.

k. Community Design Policy CD-2.2; encourage native vegetation in residential, commercial, industrial areas.

l. Community Design Policy CD-2.3; use trees and landscaping to buffer surrounding land uses.

m. Community Design Policy CD-2.4; require street trees in all development.

n. Community Design Policy CD-2.5; require developments to retain existing significant vegetation, where feasible, through regulations in the Woodinville Zoning Code.

o. Community Design Policy CD-3.1; integrate existing development into the character of surrounding area.

p. Capital and Public Facilities Policy CF-3.1; require the City or other service providers to establish capital facilities service standards.

q. Environmental Policy ENV-3.1; encourage urban forest preservation.

r. Environmental Policy ENV-3.2; protect critical habitat areas.

s. Environmental Policy ENV-3.3; maintain a standard of no net loss of critical habitat functions and values.

t. Environmental Policy ENV-3.4; maintain critical area connectivity.

u. Environmental Policy ENV-3.7; encourage native plant use.

v. Environmental Policy ENV-4.1; protect public safety and potential seismic, flood hazard and slide hazard areas.

w. Environmental Policy ENV-4.2; minimize the adverse affects of development on topographic, geologic and hydrologic features and native vegetation. City of Woodinville Exhibit #1 pages 13-19.

11. A majority of the Wood Trails site has been identified by the King County (1990) Sensitive Areas Map folio as an erosion hazard area. Further, multiple localized areas on the Wood Trails site have slopes exceeding 40% and therefore meet WMC criteria for identification as a landslide hazard. Exhibit #1, page 9.

12. The staff report sets forth an analysis of the City's housing allocation under the Growth Management Act (GMA) for the planning period from 2001 to 2022. The allocation comes from the overall King County carrying capacity allocation attributed to Woodinville. Staff's conclusion is that the residential zones have the capacity necessary to meet the housing allocation now without further zone changes to higher density. Exhibit #1 pages, 5 and 6.

13. There was evidence presented by CNW, both in oral testimony and in writing, that there are large numbers of single-family detached homes for sale on lots approximately the size proposed by Phoenix for Wood Trails, within ten miles of this area and therefore there is no need for more of these on this site. While many of the lots identified were in communities other than Woodinville and also related to resale of existing homes rather than new homes, the data is relevant to the Hearing Examiner's decision. See Exhibit #161, pages 11 and 12.

14. Phoenix counters with an analysis of the remaining R-4 zoning in the City and argues that the City has used a flawed capacity analysis as it relates to properties zoned R-4 and available for new development. Phoenix argues that R-4 land developed between 2002 and 2007 has not been removed from the City's inventory of available R-4 land and that the remaining vacant and redevelopable R-4 lands have not been adjusted to affect new critical area boundaries, buffers and stormwater detention requirements adopted after 2002. Phoenix Development's expert states that the available land with R-4 zoning was 2.7% of the entire City in 2001 and it is less today because of development that has occurred and because of the increased critical area buffers. See Exhibit #165, pages 63 through 67. The land zoned R-1 represents approximately 30% of the total area of the City and approximately 50% of the residentially zoned land. Exhibit #1, page 7. See also Exhibit #128.

15. There was considerable oral and written testimony regarding the site itself and whether it is suitable for the proposed development. The City directed the preparation of an EIS for this development and the Montevallo development. The technical appendices to the DEIS include two geotechnical engineering studies in Appendix C and D, a drainage report in Appendix E, a wetland and stream report in Appendix I and a wildlife habitat report in Appendix K. Responses to public comment on the geotechnical report, submitted after the EIS was finalized are in the record as Exhibit #'s 131 and 165, pages 21 through 23.

16. CNW has also submitted a substantial amount of information, which is set forth in the record as Exhibit #101, Volumes 1 and 2. Volume 1 included sections on infrastructure, transportation, stormwater and sanitary sewer. Volume 2 included sections on zoning, a buildable land survey, well established subdivisions, impacts, environment, critical areas, wildlife, hydrology and preliminary plat details. The resumes of the members of CNW who prepared the information were also set forth and showed that the preparers had creditable credentials in scientific pursuits.

17. Phoenix Development responded to some of the information in Volumes 1 and 2 submitted by CNW. See Exhibits 128 through 143.

18. The geotechnical studies found in Appendix C and D of the EIS, conclude that while there are steep slopes on the Wood Trails site, the upland areas where development is proposed are not a landslide hazard area. This is based on subsurface explorations including forty-five test pits and two borings, one to forty-nine feet. See, for example, Exhibit #131, page 2. These are site-specific studies showing that the area of the Wood Trails site which is to be developed with roads and housing exhibiting good stability and soil strength characteristics. See Exhibit #131, page 4.

19. The geotechnical reports also studied the erosion issue. WMC 21.24.290.2A classifies erosion areas within the City of Woodinville. As stated in the geotechnical reports, however, site-specific investigations with the knowledge of the proposed development activities provides a more thorough evaluation of a potential erosion hazard. The reports state, that based on the site-specific evaluations, the upland areas where the development will occur, exhibit little evidence of wide spread erosion. As the site is developed, the City will require the use of best management

practices (BMP) so that soil erosion can be managed and impacts minimized. The open space areas of the site will retain their native vegetation, and a tree retention plan has been prepared. See Exhibit #39, page 3.1-18 and Exhibit #131, page 5.

20. The materials submitted by CNW, take issue with the applicant's conclusions. Those materials show mapping of the site and indicate areas where landsliding or erosion are most likely. Their conclusion is that the landslide and erosion hazards are sufficient to disallow the R-4 zoning. Their conclusions would make any development of the site questionable, however. Exhibit #101, Volume 2 (Critical Areas).

21. The Hearing Examiner finds the evidence presented by Phoenix to be credible on this issue. After completing the analysis on 45 test pits and two borings on site, in the areas where development will actually occur, the stability of the site for development has been established by the applicant. See Exhibit #131, pages 2 through 5.

22. Seismic hazards were also presented as an issue. A relatively recent study by the U. S. Geological Service (USGS) studied a hypothesized southeastward extension of the South Whidbey Island Fault Zone. One conclusion was that strong evidence suggests that two fault strands in the Maltby-Woodinville area slipped multiple times in the Holocene (present day to approximately to 11,500 years ago). The study concludes that the overall hazards posed by the South Whidbey Island Fault Zone remain in question. The geotechnical report states that the definition in the Woodinville Municipal Code defining seismic hazard areas does not apply to the subject site. The City apparently does not disagree. The Hearing Examiner finds that the evidence of potential seismic hazards is speculative and should not be used to prohibit this development. See Exhibit #131, page 6, WMC 21.24.290.2c. Exhibit #165, page 24 and Exhibit #1, page 19.

23. Considerable information and comment was submitted on storm drainage controls for the site including information related to possible impacts to Little Bear Creek. See Exhibit #101, Volume 1 (Stormwater Drainage); Volume 2 (Critical Areas) and Exhibit #39. Storm drainage was studied extensively in the DEIS and FEIS. See Exhibit #34, Appendix E and Exhibit #39, pages 3.2-1 through 3.2-37. The analysis follows the King County Surface Water Design Manual (KCSWDM), which was used by the City at the time this plat application was filed. The analysis was based upon the KCSWDM and the analysis was accepted by the City with some modifications. Those modifications include a detention vault instead of a detention pond because of possible erosion hazards and also an upgrade to the proposed piping system if needed. Water quality impacts to Little Bear Creek were also studied. See Exhibit #134; Exhibit #165, pages 68 through 70; and Exhibit #1, pages 19 and 28.

24. It is clear that any development of the site is going to create more impervious surfaces requiring storm drainage to be adequately managed. The applicant has confirmed that the site is not suitable for infiltration and therefore proposes a tight-line piping system to a detention vault located at the bottom of the slope. That will manage the storm drainage from the developed portion of the site but the twenty-one acres of land left in open space will still produce natural storm drainage. As stated, the applicant will comply with the KCSWDN regulations, which were in effect when the plat was filed. This includes treatment of the storm drainage, which is channeled to the detention vault. While the protection of Little Bear Creek must be of area wide concern, there is no evidence submitted that convinces the Hearing Examiner that complying with the King County regulations and controlling stormwater as proposed, will have any measurable effect on

Little Bear Creek. That matter was studied extensively by the applicant in the EIS. See Exhibit #39, page 3.2-1 through 3.2-11. See also Exhibit #134 and Exhibit #165, pages 68 through 72.

25. Materials submitted by CNW dispute the applicant's analysis of wildlife on the site. See Exhibit #101, Volume 2 (Wildlife). Members of CNW have spotted numerous types of birds and other fauna in their yards, adjacent to the site and on the site. They claim that the applicant has not done enough to protect wildlife habitat on site. Wildlife was studied for the EIS and that study is found in Exhibit #34, Technical Appendix K. A summary of that technical report is set forth in the FEIS, Exhibit #39, pages 3.3-1 through 3.3-7 and 3.3-11 through 3.3-14. The conclusions are that while some urban tolerant wildlife no doubt use the site because of its forested terrain, that there is no priority wildlife habitat, or endangered or threatened species on site. The western portion of the site is to be left in open space, in its natural condition and will still provide wildlife habitat, migration opportunities and the applicant will take measures to improve the foraging for wildlife on site. See Exhibit #133 and Exhibit #165, pages 18, 19 and 20. The Hearing Examiner finds that the applicant has presented credible evidence regarding wildlife habitat protections.

26. The proposal is reasonably compliant with the Woodinville Comprehensive Plan. The Hearing Examiner hereby adopts and incorporates the discussion of Comprehensive Plan Policies set forth in Exhibit #1, pages 13 through 19; Exhibit #39, pages 3.4.22 through 3.4.28 and Exhibit #19, pages 6 through 11. Specifically the Hearing Examiner finds that the zone change will allow the development of low-density detached single-family homes in an area designated in the comprehensive plan as low density residential. While arguments have been made that the adjacent neighborhood is much less dense, R-4 is still classified as low density. In addition, this development only borders the R-1 on one side and buffering, as has been recommended by the City, can alleviate impacts from a slight difference in density. The site will be served with City water and sewer and the street network will be improved. Much of the site will be left in a Native Growth Protection Area (NGPA) which will provide habitat and open space. It presents a range of densities, which encourages a variety of housing types to serve a variety of income levels. It preserves much of the natural features of the site, such as the steep slopes and will preserve trees in accordance with the City's Tree Retention regulations. Exhibit #1, pages 13 through 19.

Criteria for a Rezone

WMC 21.44.070 sets forth the zone reclassification criteria. It states: "a zone reclassification shall be granted only if the applicant demonstrates that the proposal is consistent with the comprehensive plan and applicable functional plans and complies with the following criteria:

1) There is a demonstrated need for additional zoning of the type proposed;

2) The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties; and,

3) The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

In addition, in WMC 21.04.080, which describes the residential zones, it states:

(1)(a) providing, in the low density zones (R-1 through R-4), for predominately single-family detached dwelling units. Other development types such as

duplexes and accessory units, are allowed under special circumstances. Developments with densities less than R-4 are allowed only if adequate services cannot be provided; (emphasis added)

The courts have held:

Rezones are not presumed valid. The applicant has the burden of showing that either conditions have changed since the original zoning or that the proposed rezone implements policies of the comprehensive plan and that the rezone bears a substantial relationship to the public health, safety, morals or welfare. General conformance with the Comprehensive Plan, not strict conformance is all that is required. The requirements of local ordinances must also be satisfied. Woods v Kittitas County 130 Wn App 573 (2005).

Conclusions on Rezone Application

1. Based on the findings by the Hearing Examiner as stated above, the Hearing Examiner concludes that the proposal is generally consistent with the City's Comprehensive Plan. See Exhibit #1, pages 13 through 18 and Exhibit #39, pages 3.4-22 through 3.4-28. A proposed rezone that furthers the goals of the local Comprehensive Land Use Plan, bears a substantial relationship to the public health, safety, morals or general welfare. *Henderson v. Kittitas Co. 124 Wn.App. 747, 756 (2004)*

2. The Hearing Examiner concludes, based upon the findings above that the criteria for a rezone have been met. They are:

A. There is a demonstrated need for additional zoning of the type proposed.

This criterion is a many faceted criteria. The City has analyzed it according to its GMA growth allocation from King County and found that Woodinville could meet its housing allocation without this rezone. The applicant's expert criticized the City's study as not fully analyzing the amount of actual R-4 Zoning there was in the city for development. Most of the housing development that has occurred since 2002 has been in apartments and condominiums rather than single-family residential uses. As the applicant's expert demonstrated, if the amount of R-4 developed between 2002 and 2007 were removed from the available R-4 land totals, the amount of R-4 available for new development or redevelopment would be much less than the existing amount cited by the City which still was only 2.7% of the land area of the City. The R-1 Zone by contrast, makes up nearly 30% of the City's zoning. Clearly more R-4 Zoning is needed to create a diversity of building sites availability by establishing more areas where detached single-family can be constructed at lower densities than R-1 densities. In addition, the Growth Management Hearings Board has held that Woodinville is not to perpetuate one-acre lots that will effectively thwart urban development. Urban develop being defined by the Board as four units per acre. See *Hensley v Woodinville CPSGMHB Case number 96-3-0031 (February 25, 1997).*

The Growth Hearing Board has held that a minimum urban density is four units per acre. The Supreme Court held in the case of *Viking Properties v. Holm 155 Wn.2d. 112 (2005)* that the Growth Boards don't have the authority to make "Bright line tests". The

Boards do have authority, however, to determine whether a City is in compliance with GMA. RCW 36.70A.280. One of the goals of GMA is to encourage urban development within urban areas and reduce sprawl. RCW 36.70A.020. The Hearings Board in the Hensley case, as cited above, have determined that one acre zoning will effectively thwart urban development. Therefore, the fact that the City has 30% of its zoning in R-1 and only 2.7% in R-4 clearly demonstrates the need for more R-4 zoning. Therefore, the Hearing Examiner finds that this criterion has been met.

B. The zone reclassification is consistent and compatible with uses and zoning of the surrounding properties.

The uses to the west are industrial but the steep slope's natural vegetation will create an appropriate buffer between the R-4 and the industrial uses. To the north is Snohomish County and the land has a rural designation and is outside the City and any urban growth area. The adjacent zoning to the east and south is R-1. As stated above, both R-1 and R-4 are designated in the low-density residential category and this site will be developed with single-family residential uses although at a higher density than the R-1. While there was considerable argument made that the R-4 would not be compatible with the R-1, both are detached single-family uses and both are considered low-density zoning by the City. See WMC 21.04.080(1)(a).

In addition, the Woodinville code in place when this application vested, clearly stated that this property could not be developed as R-1 because utilities are available. This would put the applicant in a Catch-22 position of having property that could not be developed with either R-4 or R-1. The code has since been changed, but the old code still applies. It should also be noted that pursuant to WMC 21.08.030, the R-1 through R-4 are located in what's known as the Residential Low Density Zone. Therefore the Hearing Examiner must find that the zone reclassification to R-4 is consistent and compatible with the zoning of the surrounding properties.

C. The property is practically and physically suited for the uses allowed in the proposed zone reclassification.

As noted above, the property was studied extensively in the DEIS and FEIS. Both the applicant's experts and the City's reviewing experts concluded that the site was suitable based on the characteristics of the site. The extensive study of geotechnical aspects, stormwater drainage, landslide hazards and erosion hazards convinces the Hearing Examiner to conclude that the site is suitable. The soils in the upper portion of the site have the strength to be developed with single-family dwelling units at the proposed density and the steeper portions of the site will be retained in their natural state as open space. Stormwater can be accommodated and with the conditions of approval as set forth in this decision, the site is suitable for development.

FINDINGS RELATED TO THE PRELIMINARY PLAT

1. The Hearing Examiner hereby adopts and incorporates all findings and conclusions from the previous section relating to the general findings and the rezone request.

2. The preliminary plat as filed is set forth in the record as Exhibit #11. The applicant also submitted a conceptual Wood Trails site plan which depicts recommended conditions of approval from the staff report. That is in the record as Exhibit #65. The Wood Trails plat with data information is set forth in Exhibit #64.

3. Wood Trails as proposed meets the R-4 zoning criteria for depth, front and side lot lines and building setbacks as they were set forth in the subdivision code when this proposal was vested. Exhibit #1, page 20. The proposed lot and street layout will be in conformance with the Woodinville Municipal Code. See WMC 20.06.040 and 20.06.130. Exhibit #1, page 20.

4. The Wood Trails proposal is for detached single-family residential uses which is allowed in the zoning code. WMC 21.08.

5. This preliminary plat proposes sixty-six lots with approximately 21.9 acres of open space protected in perpetuity as a Native Growth Protection Area (NGPA). The gross density is set forth in the application as 1.7 units per acre. Exhibit #19, pages 2 and 3.

6. Wood Trails contains a wetland that is being eliminated for the installation of a drainage vault. The wetland will be relocated to the NGPA area located on Tract A and it will be enhanced/enlarged on a two to one basis. Exhibit #1, page 21.

7. The applicant has asked for the right to transfer residential density to the Montevallo receiving site. Under the applicant's analysis, nineteen credits can be transferred. Staff has analyzed the applicant's calculation and revised them based on conditions of approval, such as additional roadway improvements and determined that nine density transfer credits should be allowed. See Exhibit #1, pages 22 and 23. The preliminary plat will be served by public water and sewer service from the Woodinville Water District. Exhibit #165, page 17.

8. Comments from the Woodinville Fire and Life Safety Deputy Chief and also the Chief of Police for Woodinville indicated neither agency found any significant impacts on their operations from the development of the site. Exhibit #39, pages 7.2 and 7.3.

9. The internal roadways will be constructed to full standards and will connect with existing rights-of-way. Four east west streets will serve the plat. NE 195th Street, NE 198th Street, NE 201st Street, and NE 202nd Street. The connections to those streets will also be constructed to full standards. Those four streets connect to 156th Avenue NE to the east. Staff has noted that road section "B" as depicted on the plat, will be allowed to be built to a reduced standard because of environmental and grade constraints and to allow for a reduction in impervious surface. Exhibit #1, page 25.

10. The transportation network and the project's impacts on that network were studied extensively in the EIS. See Exhibit #39, section 3.5. Traffic safety was studied in Exhibit #39, section 3.5.I.8 and the conclusion was that safety should not be a big concern despite the limitations of the roadways serving the plat. The traffic study also did a Level Of Service (LOS) analysis and found that all of the intersections would still be within acceptable LOS standards. Exhibit #39, table 3.5-6 on page 3.5-56. The traffic analysis in the FEIS received a peer review from Parametrix a consultant to the City's Public Works Department and Parametrix agreed with the traffic analysis that had been performed by Transpo Group and Perteet Engineering. See Exhibit #39-Additional Information located in the back of the FEIS.

11. Many issues were raised both during the hearings and in written testimony regarding the transportation system. Those concerns related to sight deficiencies on existing roadways, inferior road widths and lack of sidewalks on the four streets that provide access to this plat and a concern that the consultant used inadequate traffic growth figures. See Exhibit #101, Volume 1 (Transportation). The Transpo Group who did the EIS analysis responded to that information. See Exhibit #129. CNW responded again at Exhibit #161 and Transpo responded one more time at Exhibit #165, pages 14 through 16. The Hearing Examiner understands that the four roads which access Wood Trails are not built to City standards, have some sight distance deficiencies and very few sidewalks. The Hearing Examiner is not convinced, however, that will result in a significant number of accidents or other safety concerns. The people who now drive these roads are obviously careful because the accident reports are minimal. There was no convincing evidence submitted that people living in Wood Trails will drive otherwise. Further, the applicant's consultant has suggested mitigating measures in the way of signage and other traffic calming devices which could result in safer roadways if found necessary by the City. See Exhibit #129, page 2. The applicants consultant, the Transpo Group and the City's consultant, Perteet Engineering have followed standard methodology in conducting these traffic studies. They were given a peer review and the Hearing Examiner finds them to be credible.

12. The City of Woodinville requires payment of a Traffic Impact Mitigation Fee (TIF) for each dwelling unit created. TIF fees are determined by the zone in which the site is located. This site is in the Leota Zone. TIF fees are paid at the time a building permit for a dwelling unit is issued. The amount of the fee will be determined by the applicable fee ordinance at the time the complete building permit application is submitted to the Development Services Department. See Chapter 3.39 WMC and Exhibit #1, page 26.

13. Students who reside in the Wood Trails plat will attend schools in the North Shore School District #17. They would attend the Wellington Elementary School, the Leota Junior High School or the Woodinville High School. Staff states that enrollment in the North Shore School District; particularly in the eastern portion of the district where the plat is located, is experiencing slow growth and declining enrollment. Therefore, adding some number of students to the schools would not have a significant adverse impact on those schools. The applicant has submitted a North Shore School District school walk safety assessment. Exhibit #9. The school district reviewed the proposed subdivision and suggested that the area along NE 198th Street meets acceptable standards. Exhibit #1, page 26.

14. There are no existing City of Woodinville parks, recreation facilities or properties in the West Wellington Neighborhood or within close walking distance. This plat, however, is subject to the Park Impact Fee Ordinance, Chapter 3.36 WMC. A park impact fee will have to be paid to contribute to future park improvements.

15. There are no transit stops within what would be considered walking distance from this proposed plat. There is transit service to Woodinville, however. King County Metro operates two transit routes in the vicinity of the project site. A park and ride lot is located in the downtown area. Exhibit #39, page 3.5-30.

16. The applicant has submitted a preliminary tree retention map which is in the record as Exhibit #12. Staff has found that the proposal complies with landscape and tree retention standards of WMC 21.16.130 through 200. A final plan will also be required.

17. The applicant has requested several deviations from standards set forth in Woodinville's codes and regulations. Those requests and the City's response are set forth in Exhibit #1, pages 10 and 11. The proposed deviations which have been granted by the City include:

a. The first request is to divert stormwater away from the natural discharge point and connect pond outfall to a closed pipe system. This was approved by the City with the conditions that an analysis of the conveyance systems sizing must be made to reduce impacts on the existing system. If the existing stormwater system cannot accept flows, that system must be upgraded.

b. The applicant has requested a deviation to reduce right-of-way width standards. This was not allowed except for road section "B". That will be allowed to be built to a reduced standard because of environmental and grade constraints and a reduction in impervious surface.

c. The applicant's road "B" is a modified loop cul-de-sac. The City has found that it meets the design criteria for a deviation from the standard that streets be no longer than 150 feet.

d. The City has approved the elimination of a Class 3 wetland at the bottom of the slope in order to provide an area for a detention facility. Mitigation will be required on a two to one basis on Tract A, prior to any final plat approval.

e. The applicant requested a deviation to allow the installation of utilities in steep slope areas. The City will allow it upon a showing of proper design and anchorage of utilities within a combined trench. Stormwater pipes must be anchored on the surface.

No other deviations were approved by the City. See Exhibit #1, pages 10 and 11.

Conclusions on Preliminary Plat Application

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide preliminary plat applications pursuant to Woodinville Municipal Code (WMC) Section 20.08.030.

Criteria for Review

To approve a preliminary plat, the Hearing Examiner must find that the following criteria set forth in WMC 20.06.020 are satisfied:

A. Goals and Policies. The proposal conforms to the goals, policies, criteria and plans set forth in the City of Woodinville comprehensive plan, community urban forestry plan, and parks, recreation and open space plan;

B. Development Standards. The proposal conforms to the development standards set forth in WMC Title 21, Zoning Code;

C. Subdivision Standards. The proposal conforms to the requirements of WMC 20.06.020 – Review and Approval Criteria for Subdivisions, WMC 20.06 – Subdivisions and WMC 17.09.020 – Project Permit Application;

D. Proposed Street System. The proposed street system conforms to the City of Woodinville public infrastructure standards and specifications and neighborhood street plans, and is laid out in such a manner as to provide for the safe, orderly and efficient circulation of traffic;

E. Utilities. The proposed subdivision or short subdivision will be adequately served with City approved water and sewer, and other utilities appropriate to the nature of the subdivision or short subdivision;

F. Layout of Lots. The proposed layout of lots, and their size and dimensions take into account topography and vegetation on the site in order that buildings may be reasonably sited, and that the least disruption of the site, topography, trees and vegetation will result from development of the lots;

G. Geologically Stable Soil. Identified hazards and limitations to development have been considered in the design of streets and lot layout to assure street and building sites are on geologically stable soil considering the stress and loads to which the soil may be subjected;

H. Safe Walking to School Procedures. Safe walking to school procedures, as established by the City, have been met;

I. Tree Preservation. Tree preservation has been considered in accordance with the community urban forestry plan and tree preservation requirements have been adequately met.

Conclusions Based on Findings

1. With conditions, the proposal meets "Criteria A." because it conforms to the goals, policies, criteria, and plans set forth in the City of Woodinville Comprehensive Plan, community urban forestry plan, and parks, recreation and open spaces plan. Subdivision development will occur in an area zoned for low-density residential development and surrounded by existing low-density residential development except for the area to the west which is zoned industrial. In the FEIS developed for the proposed subdivision, the mitigation suggested will become conditions of approval. Significant trees will be preserved and the applicant shall establish a Native Growth Protection Area (NGPA) to preserve open space and steep slopes. See also the Findings and Conclusions on the Comprehensive Plan Compliance set forth under the Zoning Section. Conditions of approval are necessary to insure that erosion and sedimentation resulting from subdivision development is adequately controlled using Best Management Practices and that stormwater is adequately controlled and disposed of.

2. As proposed, the proposal meets "Criteria B." because the lots in the plat are consistent with the density and dimensional standards of the R-4 zoning district and would be compatible with surrounding development. With an approval of a rezone to R-4, the proposed subdivision density is consistent with the density provisions of the City code. No lot is to be less than the minimum lot size or minimum lot width. The proposed subdivision while being slightly more dense than the

properties to the east, will still result in low density detached single-family residential development, which is consistent with uses on the lands to the east.

3. With conditions, the proposal meets "Criteria C." because the proposal is consistent with the subdivision standards set forth in WMC Chapter 20.06, including those pertaining to lot standards, easements, water supply, sewage disposal, storm drainage, watercourses, street right-of-way widths, street lighting and recreation. Subdivision lots will meet minimum lot size and width standards for the R-4 zone. Woodinville Water District will provide water and sewer service to the proposed subdivision. Stormwater runoff from the subdivision will be collected and impounded on site and then routed off-site in accordance with applicable stormwater regulations. The preliminary plat map is consistent with R-4 zoning. The applicant shall pay a park mitigation fee to the City upon the issuance of a building permit for each dwelling.

Certain conditions of approval are necessary to ensure the proposed subdivision meets the code and those conditions will be in place for this plat.

4. With the deviations granted by the City engineer, the proposal meets "Criteria D." because the proposed street system conforms to the City of Woodinville standards and provides for the safe, orderly, and efficient circulation of traffic. The streets in the plat conform to the City of Woodinville public infrastructure standards and specifications and neighborhood street plans, and are laid out in such a manner as to provide for the safe, orderly and efficient circulation of traffic.

5. The proposed subdivision meets "Criteria E." because it will be served with water and sewer by the Woodinville Water District.

6. The proposal meets "Criteria F." because the layout of lots, and their size and dimensions take into account topography and vegetation on the site in order that buildings maybe reasonably sited and that the least disruption of the site, topography, trees and vegetation will result. The eastern upper portions of the site are the flattest and will be where development occurs and the steep slopes will be left in open space. Trees will be retained in accordance with code requirements, and a Natural Growth Protection Area (NGPA) will be established. A landscape plan and tree retention plan has been submitted and will be a requirement with final plat submission.

7. A geotechnical study concluded that the site soils are suitable for urban residential development. The design of the lots and the stormwater system considered site grades and topography. Therefore, the proposal meets "Criteria G."

8. Safe walk to school procedures have been complied with, meeting "Criteria H."

9. "Criteria I." has been met because tree preservation has been considered in accordance with the community urban forestry plan and tree preservation requirements have been adequately met.

DECISION

Based on the preceding Findings and Conclusions, the Hearing Examiner recommends that the rezone from R-1 to R-4 be approved by the City Council and also approves the subdivision of this property into 66 residential lots with a density transfer of 9 lots to the Montevallo plat. The

property shall be developed substantially in accordance with plans submitted and as modified by these conditions of approval. This approval is granted subject to the following conditions:

GENERAL

1. The City Development Services Director shall have the authority to direct the developer or his on-site representatives to immediately cease activities and redirect their attention to resolving any problem, particularly any environmental degradation, which in the director's opinion needs immediate resolution. Failure of the developer or his representative to redirect such labor and equipment shall result in immediate project closure and resolution of the problem by the City. The developer will be billed for such City time and materials involved in resolving the problem, which shall include a penalty of 10% of the assessed cost. Such bill shall be paid prior to the City removing the closure.

2. Mail routes and mailbox locations shall be approved by the postmaster. Mailbox locations shall also be approved by the City Engineer to insure they do not interfere with traffic sight distances.

3. The Natural Growth Protection Area (NGPA), the landscape strips and any other private common areas shall be maintained by a homeowners association. A set of covenants, conditions, and restrictions (CC&Rs) prepared for the proposed development is subject to review and approval by the City of Woodinville, and shall be recorded with the King County Auditor's Office prior to the recording of the final plat. The CC&Rs shall address the duties and responsibilities of the homeowners association with respect to common areas. This includes, but is not limited to the levying and collection of assessments, and the operation, maintenance and preservation of all common areas and facilities and shall also provide for the administration and enforcement of these duties and responsibilities. The City shall be kept informed of all names and addresses of current association officers.

4. The final plat shall include a clause requiring property owners and the homeowners association to maintain, in a uniform manner, City right-of-way/easements located between their property lines and the back of adjacent sidewalks. The City shall have the authority to enforce such maintenance. If, upon being informed by the City to perform such maintenance and said property owner does not comply, the City shall have the option of maintaining the right-of-way/easement and shall bill the property owner for all associated costs including administrative costs. If City invoices are not paid within ninety (90) days, the city shall have the option of attaching a lien against said property.

5. Maintenance bond(s) amounts must be approved by the Public Works Director and bonds shall be submitted to the City prior to final plat approval. The maintenance bond shall be for a minimum of two (2) years. At the end of the bonding period, the City shall inspect the installed infrastructure. Any infrastructure that appears defective or has deteriorated beyond normal expectation for the bonding period shall, at the City Engineer's direction, be repaired or replaced to the satisfaction of the City.

6. A maximum of nine (9) dwelling units are eligible to be transferred from the Wood Trails (sending site) in accordance with the WMC 21.36.030 and WMC 21.36.050 (Transfer of Residential Density Credits) to the proposed Montevallo project site, which is being processed under a separate permit number.

7. Plat plans shall include City signature block.

ENVIRONMENTAL – Reference Final EIS (Exhibit 39).

1. The wetland relocation and class must be shown on the plat drawing. The site receiving the wetland must submit an application for environmental review (separate Land Modification Permit). The restored wetland will be replaced on a 2:1 ratio on Tract A prior to issuance of the first home certificate of occupancy. The restoration plan shall be submitted with the engineering plans.

2. The geotechnical Engineering Study does not address the utility installation in the geological hazard area. Applicant's geotechnical engineer shall provide a comprehensive geotechnical report and recommendations for the application of utilities, infrastructure, and housing.

3. The Natural Growth Protection Area (NGPA) is to be dedicated to the homeowners association. The boundary of the NGPA shall be delineated by an approved fence (split-rail) with signage approved by the City. The signs shall be located every 100 feet along the NGPA boundary; additionally, there shall be a sign centered along each lot line adjacent to the NGPA.

4. Anywhere on the slope where infiltration or dispersion is proposed within 50 feet of the top of the slope, piping to a detention facility shall be required because of erosion hazards.

5. The applicant shall comply with the suggested mitigating measures set forth in the FEIS Exhibit #39.

FIRE

1. Road width and construction for Fire Department access must meet City of Woodinville Transportation design requirements (TISS).

2. Curb turning radius shall be a 25-foot curvature.

3. Fire Department access roads with dead-ends over 150 feet shall have an approved turn-around per City of Woodinville Transportation Infrastructure Standards and Specifications (TISS).

4. Fire hydrants shall be installed in compliance with requirements of the City Engineer and the Fire Marshall. Hydrant spacing shall be in accordance with Uniform Fire Code, Appendix III-A and B.

5. A current hydrant flow chart is required at the closest hydrant to each structure at the time of building permit submittal for that structure. Fire flow will be calculated based on the square footage of each structure. Homes not meeting minimum fire flow requirements shall be provided with an automatic fire sprinkler system.

6. Homes served by access roads greater than a 15 percent grade shall be provided with an automatic fire sprinkler system.

7. City "No Parking" signs shall be provided for one side of any street less than 28 feet wide.

8. Any road used for fire department access which is 28 feet or less in width shall have parking on one side of the street only. Any road used for fire department access 26 feet or less shall have no parking on either side of the street. Note: This requirement is not to be construed as an approval of any deviation request for roads narrower than that required by the City of Woodinville Transportation and Infrastructure Standards. Example: A deviation is noted on Road B

9. Homes 5,000 square feet or greater in size shall be provided with an automatic fire sprinkler system per International Fire Code (IFC) pending site development.

IMPACT FEES

1. This project is subject to the following impact fee Ordinances:

   a. Transportation Impact Fee (TIF) Ordinance codified at Chapter 3.39 WMC
   b. Park Impact Fee (PIF) Ordinance codified at Chapter 3.36 WMC

LANDSCAPE & TREE RETENTION

1. The applicant shall develop the same size lots immediately adjacent to the site on the east, compatible with adjacent existing Wellington neighborhood lots or plant a 50 foot (this is an increased width) Type I Full Screen Buffer per Chapter 21.16.040(1).

2. This project shall comply with City street tree requirements. Street trees shall be provided as follows, per WMC 21.16.050:

   a. The trees shall be owned (unless in the City right-of-way) and maintained by the homeowners association. Ownership and maintenance shall be noted on the face of the final recorded plat.

   b. The species of trees retained shall be reviewed and approved by the City of Woodinville Development Services Department. If located within the right-of-way, trees shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers or which are not compatible with overhead utility lines.

   c. Street trees shall be located within the street right-of-way and planted in accordance with WMC 2.24.090, City of Woodinville Public Infrastructure Standards and Specifications, Landscaping Section 7, Details 341, 342, and in accordance with the Public Tree Care Standards Manual.

   d. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, the performance bond must be replaced with a maintenance bond, per WMC 21.24.150, held for a period of up to five (5) years. The duration of maintenance/monitoring obligations shall be established by the Planning Director, based upon the nature of the proposed mitigation, maintenance or monitoring and the likelihood and expense of correcting mitigation or maintenance failures. After the

maintenance period has ended, the maintenance bond may be released after the City of Woodinville Development Services Department has completed a second inspection and determined that the trees have been kept healthy and thriving. A detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of WMC 21.16.140;

3. No clearing of the subject property is permitted until the final tree retention and grading plan is approved by the City of Woodinville Development Services Department. Flagging and temporary fencing of trees to be retained shall be provided, consistent with WMC 21.16.160;

4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant WMC 21.16.160;

5. A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with WMC 20.06.175 20.06.190 and 21.16. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.);

SURFACE WATER

1. Detention Pond Tract D – The City requires the installation of a detention vault instead of a detention pond because of erosion hazards and close proximity to adjacent industrial buildings that could pose a safety concern. Measures shall be taken to limit erosion along the slopes above the vault to stabilize the site. Example: installation of erosion control mats, hydroseeding, or other appropriate permanent vegetation.

2. Tract D shall be dedicated to the City of Woodinville for maintenance of the vault.

3. Allowable impervious areas on each lot must be labeled on the plat drawing.

4. Stormwater shall be conveyed by using continuous fused HDPE pipe on the hillside and constructed per standards; including anchoring to the surface to reduce erosion impacts.

TRANSPORTATION

1. A transportation impact fee is required. This project is subject to Transportation Impact Fee (TIF) Ordinance 3.39. TIF fees are paid at the time of building permit issuance. The fee amount shall be the amount in effect as of the date of the filing of a complete building permit application for each dwelling unit. The applicant shall submit a completed TIF Worksheet with each (new dwelling) building permit.

2. All street names shall be shown on the plat plans (Example: 156th Avenue NE).

3. Bollards shall not be installed in any public right-of-way.

4. All north/south roads will be constructed to full standards. Connections from existing rights of way (NE 195th St, NE 198th St, NE 201st St, and NE 202nd) will be constructed to full standards. Only road section "B" will be allowed to be built to a reduced standard because of environmental and grade constraints and a reduction of impervious surface. Note: Density will

be calculated using full roadway standards – including Road B. (Exhibit 11).

5. The proposed roads shown on the plat drawings must satisfy City standard for high density residential streets (TISS Detail 104A and 104B).

6. Street layout/geometry must satisfy City TISS requirements.

7. The Geotechnical Engineering Study does not address the proper road pavement section. City standard roadway section (TISS Detail 104B) for High Density Residential Streets must be used.

8. All right-of way must be shown with dimensions and labeled on the plat drawing.

9. The City Limits must be shown on the plat drawing.

10. According to a site traffic impact analysis of the City of Woodinville Public Works Department (Exhibit #38), Chapter 3.5, Transportation, in the Final Environmental Impact Statement issued on December 12, 2006, the City projected additional peak period traffic generated by this project. Accordingly, this project is subject to the City of Woodinville Transportation Impact Fee Ordinance codified at Chapter 3.39 WMC.

11. All required improvement shall be completed before final plat approval.

12. Drawings of record shall be approved and signed by the Public Works Director prior to final plat approval.

13. The City Engineer shall approve all plans for city infrastructure and shall approve such installation prior to acceptance by the City.

14. Maintenance bond(s) amounts are to be approved by the Public Works Department and bonds shall be submitted to the City prior to final plat approval. The maintenance bond shall be for a minimum of two (2) years. At the end of the bonding period, the city shall inspect the installed infrastructure. Any infrastructure that appears defective or has deteriorated beyond normal expectation for the bonding period shall, at the City Engineers direction, be repaired or replaced to the satisfaction of the City.

This includes:

a. Landscape – 2-Year Maintenance Guarantee
b. Lighting – 2-Year Maintenance Guarantee
c. Site Improvements – 2-Year Maintenance Guarantee
d. Wetland – 5-Year Maintenance Guarantee

15. Street lighting shall be in compliance with city standards as approved by the City Engineer.

16. Future connectivity points (manholes and lateral connections) shall be provided per Woodinville Water District (at all street connections at property boundaries).

17. City of Woodinville recommends that sewer laterals be placed at every other property edge along 202nd Street between Wood Trails and Montevallo developments as a mitigation measure

of street impacts.

18. All other utilities shall be placed underground within the development.

19. The final plat must show proper design and anchoring of utilities within a combined trench. They must meet the requirements for steep slopes and erosion hazard areas.

OTHER CONSIDERATIONS:

Preliminary approval of this application does not limit the applicant's responsibility to obtain any required permit or license from the State or other regulatory body. This may include, but is not limited to the following:

a. Forest Practice Permit from the Washington State Department of Natural Resources.
b. National Pollutant Discharge Elimination System (NPDES) Permit from WSDOE.
c. Water Quality Modification Permit from WSDOE.
d. Water Quality Certification (401) Permit from U.S. Army Corps of Engineers.

DATED this 16th day of May 2007.

Greg Smith
City of Woodinville Hearing Examiner pro tem

APPENDIX G

BEFORE THE CITY COUNCIL OF
THE CITY OF WOODINVILLE

In the Matter of the Hearing Examiner's:) Rezone Recommendation and Preliminary Plat) Approval for the "Montevallo" Development)	**Appeal Application No: APP2007-0001 Montevallo** **FINDINGS, CONCLUSIONS, AND DECISION UPON CLOSED RECORD REVIEW**

SUMMARY OF DECISION

The City Council, of the City of Woodinville, denies the requested Rezone Application (ZMA2004094) recommended by the City Hearing Examiner and Grants the Appeal of the Concerned Neighbors of Wellington (CNW) of the Hearing Examiner's approval of the Preliminary Plat Application (PPA2004093) based solely upon the denial of the Rezone. Since the Hearing Examiner's approval of the Preliminary Plat Application was contingent upon the approval of the rezone, the City Council does not reach the merits of the other claims of error raised by the CNW in their appeal of the Hearing Examiner's Approval of the Preliminary Plat Application.

SUMMARY OF RECORD AND PROCEDURAL MATTERS

Closed Record Review:
A closed record review of the Hearing Examiner's recommendation of May 16, 2007 to approve the requested rezone and of the Hearing Examiner's decision to approve the Preliminary Plat Application based on the appeal of the CNW was held by the City Council on August 6 and August 13, 2007. Oral argument was heard from the Applicant Phoenix Development, Appellant CNW, and other parties of record. No new evidence was received by the City Council. Exhibits received and considered by the Hearing Examiner as well as the video/audio recordings of the open record hearing before the Hearing Examiner were provided to and reviewed by the City Council Members prior to the August 6, 2007 public meeting.

FINDINGS OF FACT

1. The following "General Findings" made by the Hearing Examiner are adopted and incorporated by reference herein: 1, 2, 3, 4, and 6.

2. The following "Findings Related To The Rezone" made by the Hearing Examiner are adopted and incorporated by reference herein: 9, 11, 12, 13, 14, and 15.

3. The subject site is currently zoned R-1 and has been zoned R-1 since incorporation of the City. The zoning designation was at the time of incorporation a continuation of the applicable King County zoning designation under which the land had been subdivided and developed as part of unincorporated King County. Although the property can currently be

developed under the R-1 zoning designation as provided in the specific language of the WMC there is nothing in the record to indicate the Applicant ever sought preliminary plat or other development approval consistent with the current R-1 zoning.

4. The R-1 zoning is consistent with the "Low Density Residential" land use designation described in the City's Comprehensive Plan and the land use designation for the area in which the subject site is located on the Future Land Use Map made part of the City's Comprehensive Plan.

5. It is not necessary to rezone the property in order to provide consistency with the City's Comprehensive Plan. Current property zoning is consistent with the City's Comprehensive Plan.

6. In its legislative capacity, the City Council finds that the current zoning designation of R-1 is appropriate. The R-1 designation is appropriately placed upon the property in consideration of:

a. The development history of the area in which the property is located.

b. The maintenance of the existing suburban neighborhood character.

c. The lack of adequate public facilities and services to support the proposed R-4 development, including, but not limited to the substandard arterial roads and pedestrian walkways providing access to and from the subject property, the absence of any City parklands within walking distance of the subject property, and the absence of public transit services servicing the neighborhood area. Developments with R-4 densities are inappropriate in areas of the City where adequate public facilities and services cannot be provided at the time of development. See the statement of purpose in WMC Section 21.04.080(1)(a).

d. The absence of any substantial changes in the circumstances from which the original zoning determination was made, including, but not limited to land use patterns, public opinion, established neighborhood character, substandard roadways, the absence of stores, sidewalks, and community parks.[1] Public sewer has not been brought to the property, but the Applicant for the rezone has proposed bringing public sewer to the property in its preliminary plat application. The Applicant would connect to public sewer at locations that have existed and been available for sewer connection since the mid 1990's.

e. Although the proposed rezone is arguably consistent with several policies of the City's Comprehensive Plan, a change in the zoning at the subject site is not needed or necessary to fulfill the City's Comprehensive Plan or to implement the Land Use Element of the Plan.[2]

f. The well established R-1 subdivisions of the same R-1 density served by public and private facilities and services inadequate to support the planned R-4 densities. See the statement of purpose in WMC Section 21.04.080(2)(a) and (b).

7. Specific growth targets have been set for the City of Woodinville to meet by 2022 by King County consistent with the Growth Management Act (GMA) RCW 36.70A and the City of Woodinville is on track to meet these targets. It is not necessary for the City of

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[1] Although the issue of whether or not there were changed circumstances to support a rezone was in dispute, the Council notes that the Hearing Examiner made no specific finding on this issue.

[2] Although the issue of whether or not the rezone was needed to fulfill the comprehensive plan was in dispute, the Council notes that the Hearing Examiner made no finding on this issue. The Hearing Examiner found only that the proposed rezone was "generally compliant" with the comprehensive plan.

Woodinville to approve of the Montevallo development to meet these growth targets. Although the Applicant disputes the accuracy of the City staff's numbers, the Applicant has not demonstrated that the City is not on track to meet is targets.

8. The City of Woodinville currently has a diversity of housing within the R-1, R-4 R-6 R-12, R-24, R-48, TB and Central Business District (CBD) zoning designations that allow for a wide variety of housing types, incomes and living situations.

9. The FEIS completed by the City of Woodinville shows that the Montevallo development identifies unavoidable adverse impacts to transportation systems of the city and in the neighborhoods the development is set within. The impacts can be avoided by denial of the rezone. Reliance upon disputed mitigation measures and the safe driving habits of future residents of higher density developments is unwise and not in the public interest.

10. The Montevallo Development as proposed is not in character with the surrounding R-1 neighborhoods and properties.

11. The City of Woodinville must ensure that its capital investments carry out the goals and objectives of the comprehensive plan in a manner which is consistent with the Land Use Element, Capital Facilities Element and Transportation Element of the Plan.

12. The City of Woodinville must ensure that its capital investments carry out the goals and objectives of the comprehensive plan in a manner which is consistent with the Land Use Element, Capital Facilities Element, and Transportation Element of the plan.

13. The "need" criterion under WMC 21.44.070 ultimately requires an objective judgment by the City Council based upon plans, goals, policies and timeframes. The Council finds that the proposed rezone is not "needed" at this time.

14. While some Comprehensive Plan and code provisions can be construed as supporting further R-4 development within the low density residential areas of the City, the extent, character and timing of any such development is not indelibly predetermined.

15. The City Council has identified key priorities for planning growth and infrastructure investment in the Comprehensive Plan under a number of different elements as well as in the Municipal Code, the Capital Improvement Plan (CIP) and City's budget so that near-term and long-term growth proceeds as a coordinated, time efficient and cost effective investment process.

16. The Comprehensive Plan has a twenty year planning horizon and the City Council recognized that funding constraints require a need for prioritization of actions. As a result, the City Council selected the downtown area for its focus for growth and infrastructure requirements because the downtown has the existing infrastructure capacity and services readily available where the City could achieve many of its GMA goals for housing, employment, and economic development and transportation improvements. This is precisely what the Growth Management Act, Vision 2020 and the King County-wide planning policies are asking cities to do: to guide development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

17. King County countywide policies call for contiguous and orderly development within Urban Growth Areas and the provision for urban services to such development.

18. Chapter III Land Use Pattern of the County's Countywide Planning Polices describes policies relating to land use and development. Relevant land use (LU) policies are summarized as follows. Urban areas (which includes all of the City of Woodinville) are designated to accommodate a majority of future growth and at least the 20-year projection of population and employment growth (LU-25a & LU-26). Within Urban Areas, growth should first be directed to centers and urbanized areas with existing infrastructure capacity (LU-28). Growth phasing plans for the next 10 to 20 years are required and shall be based on locally adopted definitions, service levels, and financing commitments (LU-29). Chapter III also includes a statement that phased growth is required to promote efficient use of the land, add certainty to infrastructure planning and to insure that urban services can be provided to urban development.

19. The Growth Management Act urban growth goal states: "Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner".

20. Vision 2020, a long-range growth and transportation strategy for Puget Sound Region, provides the following relevant frame work polices. Concentrate development in urban areas to conserve agricultural, forest, and environmental resources. Within urban growth areas, promote growth into centers that are connected by an efficient, transit-oriented, multi-modal transportation system (RF-1). Develop a transportation system that emphasizes accessibility, includes a variety of mobility options, and enables the efficient movement of people, goods, and freight (RF-4). The proposed rezone runs contrary to this strategy.

21. The City Council decision to focus planning and growth in the downtown provided the context within short-term capital planning could be done and subsequent decisions made with a view to a longer planning horizon.

23. The City Council has given priority to capital improvements that: (1) protect the public health and safety; (2) have a positive impact on the operating budget through reduced expenditures; (3) correct existing deficiencies or maintain existing levels of service adopted in the Comprehensive Plan; and (4) provide critical City services such as police, surface water and transportation.

24. The City is not yet prepared to commit capital resources to the subject area in the near-term. Committing the City to prematurely construct infrastructure and provide services to this area will become increasingly problematic, resulting in an increasing inefficiency of services thereby lessening the economic gain and placing a growing strain on the fiscal resources of the community.

25. While new development creates impacts upon public facilities and is required to pay its fair share of costs associated with those impacts, it does little in the way of correcting existing deficiencies within the context of the Capital Improvement Plan (CIP) and the overall capacity of the City to provide for infrastructure needs and services. The City has a

20 year list of transportation needs. Because of the scope, nature size and costs of these needs and because the sources of funding are limited relative to the cost of improvements, the City has focused its investment on major traffic chokepoints in and around downtown.

26. The City has provided over $100,000 in funding to an ongoing sustainable development study, referenced in Ordinance 431 that will answer significant questions related to land use in the City that should be available to the City Council before additional rezones in the R-1 areas of the City are approved. See also the City Staff Report references to the study.

27. Preliminary plat approval is contingent upon approval of the requested rezone.

CONCLUSIONS

1. In its quasi-judicial capacity, the City Council finds that, a site specific rezone of the property to R-4 density would be inconsistent with significant Comprehensive Plan Policies and does not bear a substantial relationship to the public health, safety, morals or welfare.

2. Approval of the proposed rezone is inappropriate at this time due to the deficient public facilities and services (other than sewer) in the area where the property is located and the currently ongoing sustainable development study

3. The proposed rezone, and the anticipated higher density development that would result, does not meet the City Council's key priorities identified for planning growth and infrastructure investment in the Comprehensive Plan under a number of different elements as well as in the Municipal Code, the Capital Improvement Plan (CIP) and City's budget so that near-term and long-term growth proceeds as a coordinated, time efficient and cost effective investment process.

4. The City Council selected the downtown area for its focus for growth and infrastructure requirements because the downtown has the existing infrastructure capacity and services readily available where the City could achieve many of its GMA goals for housing, employment, and economic development and transportation improvements. The proposed rezone, as outlined, does not further the City's goals and objective in this regard which is to guide development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

5. The rezone is inconsistent with the City's strategy to meet its regional growth objective. The City has chosen to meet the growth objective in the CBD while insuring that new growth in other areas of the City does not negatively impact the City's transportation land use and capital facilities goals and objectives. RCW 36.70A directs growth as follows: growth should first be directed to centers and urbanized areas with existing infrastructure capacity (consistent with LU-28 County-wide planning policy). Growth phasing plans for the next 10 to 20 years are required and shall be based on locally adopted definitions, service levels, and financing commitments (LU-29). Chapter III also includes a statement that phased growth is required to promote efficient use of the land, add certainty to infrastructure planning and to insure that urban services can be provided to urban development.

6. The City of Woodinville planning approach is complying with GMA requirements. According to past King County Buildable Lands Reports and the preliminary 2007 report, the City has excess capacity to accommodate its GMA housing allocation and is also meeting its employment growth target. The City is providing and supporting affordable housing for the Eastside through its participation in a coalition of east King County cities (ARCH). The City of Woodinville Capital Facilities planning and CIP are addressing the City's infrastructure deficiencies and commits the City to extending infrastructure and services to support urban development with the intent of maximizing the benefit from capital projects relative to costs and resources and in an efficient manner.

7. While new development creates impacts upon public facilities and is required to pay its fair share of costs associated with those impacts, it does little in the way of correcting existing deficiencies within the context of the CIP and the overall capacity of the City to provide for infrastructure needs and services. The City has a 20 year list of transportation needs. Because of the scope, nature, size, and costs of these needs and because the sources of funding are limited relative to the cost of improvements, the City has focused its investment on major traffic chokepoints in and around downtown.

8. Planning is critical to assist a city in its evolution. Given the location of the City, the Council objective is to effectively and comprehensively think and plan in a manner consistent with sound regional planning. The City must proactively direct development to occur in appropriate locations and concurrent with the availability and provision of adequate public facilities and services. Planning comprehensively ensures the integrity of the City's growth strategy. Development which the City cannot readily and efficiently provide services to is clearly premature and is not consistent with the City of Woodinville Comprehensive Plan.

9. The current underlying zoning of the property at R-1 is inconsistent with the proposed density of the preliminary plat application.

DECISION

BASED UPON THE PRECEDING FINDINGS OF FACT AND CONCLUSIONS, THE CITY COUNCIL THEREFORE DENIES REZONE APPLICATION ZMA2004094 AND REVERSES THE HEARING EXAMINER'S APPROVAL OF THE PRELIMINARY PLAT APPLICATION PPA2004093 FOR THE PROPOSED "MONTEVALLO SUBDIVISION.

APPROVED AND ADOPTED BY THE WOODINVILLE CITY COUNCIL this 20th Day of August, 2007.

BEFORE THE CITY COUNCIL OF
THE CITY OF WOODINVILLE

In the Matter of the Hearing Examiner's:) Rezone Recommendation and Preliminary Plat) Approval for the "Wood Trails" Development)	**Appeal Application No: APP2007-0002 Wood Trails** **FINDINGS, CONCLUSIONS, AND DECISION UPON CLOSED RECORD REVIEW**

SUMMARY OF DECISION

The City Council, of the City of Woodinville, denies the requested Rezone Application (ZMA2004053) recommended by the City Hearing Examiner and Grants the Appeal of the Concerned Neighbors of Wellington (CNW) of the Hearing Examiner's approval of the Preliminary Plat Application (PPA2004054) based solely upon the denial of the Rezone. Since the Hearing Examiner's approval of the Preliminary Plat Application was contingent upon the approval of the rezone, the City Council does not reach the merits of the other claims of error raised by the CNW in their appeal of the Hearing Examiner's Approval of the Preliminary Plat Application.

SUMMARY OF RECORD AND PROCEDURAL MATTERS

Closed Record Review:
A closed record review of the Hearing Examiner's recommendation of May 16, 2007 to approve the requested rezone and of the Hearing Examiner's decision to approve the Preliminary Plat Application based on the appeal of the CNW was held by the City Council on August 6 and August 13, 2007. Oral argument was heard from the Applicant Phoenix Development, Appellant CNW, and other parties of record. No new evidence was received by the City Council. Exhibits received and considered by the Hearing Examiner as well as the video/audio recordings of the open record hearing before the Hearing Examiner were provided to and reviewed by the City Council Members prior to the August 6, 2007 public meeting.

FINDINGS OF FACT

1. The following "General Findings" made by the Hearing Examiner are adopted and incorporated by reference herein: 1, 2, 3, 4, 5, and 7.

2. The following "Findings Related To The Rezone" made by the Hearing Examiner are adopted and incorporated by reference herein: 8, 9, 10, 11, 12, 13, 14, 15, and 16.

3. The subject site is currently zoned R-1 and has been zoned R-1 since incorporation of the City. The zoning designation was at the time of incorporation a continuation of the applicable King County zoning designation under which the land had been subdivided and developed as part of unincorporated King County. City development regulations allow the property to be

developed consistent with its R-1 designation. There is nothing in the record to indicate that the Applicant attempted to develop the property under its current R-1 zoning designation.

4. The R-1 zoning is consistent with the "Low Density Residential" land use designation described in the City's Comprehensive Plan and the land use designation for the area in which the subject site is located on the Future Land Use Map made part of the City's Comprehensive Plan.

5. It is not necessary to rezone the property in order to provide consistency with the City's Comprehensive Plan. Current property zoning is consistent with the City's Comprehensive Plan.

6. In its legislative capacity, the City Council finds that the current zoning designation of R-1 is appropriate. The R-1 designation is appropriately placed upon the property in consideration of:

a. The development history of the area in which the property is located.

b. The maintenance of the existing suburban neighborhood character.

c. The lack of adequate public facilities and services to support the proposed R-4 development, including, but not limited to the substandard arterial roads and pedestrian walkways providing access to and from the subject property, the absence of any City parklands within walking distance of the subject property, and the absence of public transit services servicing the neighborhood area. Developments with R-4 densities are inappropriate in areas of the City where adequate public facilities and services cannot be provided at the time of development. See the statement of purpose in WMC Section 21.04.080(1)(a).

d. Area-wide environmental constraints imposed by steep slopes and erosion hazard areas make R-1 zoning particularly appropriate for the site by minimizing the significant unavoidable adverse impacts of residential development of the property. See the statement of purpose in WMC Section 21.04.080(2)(a) and (b).

e. The absence of any substantial changes in the circumstances from which the original zoning determination was made, including, but not limited to land use patterns, public opinion, established neighborhood character, substandard roadways, the absence of stores, sidewalks, and community parks.[1] Public sewer has not been brought to the property, but the Applicant for the rezone has proposed bringing public sewer to the property in its preliminary plat application. The Applicant would connect to public sewer at locations that have existed and been available for sewer connection since the mid 1990's.

f. Although the proposed rezone is arguably consistent with several policies of the City's Comprehensive Plan, a change in the zoning at the subject site is not needed or necessary to fulfill the City's Comprehensive Plan or to implement the Land Use Element of the Plan.[2] The Council does not construe its Comprehensive Plan or development regulations as requiring a rezone of this type.

g. The well established R-1 subdivisions of the same R-1 density served by public and private facilities and services inadequate to support the planned R-4 densities. See the statement of purpose in WMC Section 21.04.080(2)(a) and (b).

---

[1] Although the issue of whether or not there were changed circumstances to support a rezone was in dispute, the Council notes that the Hearing Examiner made no specific finding on this issue.

[2] Although the issue of whether or not the rezone was needed to fulfill the comprehensive plan was in dispute, the Council notes that the Hearing Examiner made no finding on this issue. The Hearing Examiner found only that the proposed rezone was "generally compliant" with the comprehensive plan.

7. Specific growth targets have been set for the City of Woodinville to meet by 2022 by King County consistent with the Growth Management Act (GMA) RCW 36.70A and the City of Woodinville is on track to meet these targets. It is not necessary for the City of Woodinville to approve of the Wood Trails development to meet these growth targets. Although the Applicant disputes the accuracy of the City staff's numbers, the Applicant has not demonstrated that the City is not on track to meet is targets.

8. The City of Woodinville currently has a diversity of housing within the R-1, R-4 R-6 R-12, R-24, R-48 and Central Business District (CBD) zoning designations that allow for a wide variety of housing types, incomes and living situations.

9. The Woodinville Municipal Code (WMC) Critical Areas Ordinance mapping showed evidence of area-wide environmental constraints as evidence in the FEIS and exhibits.

10. The FEIS completed by the City of Woodinville shows evidence of area-wide environmental constraints. See exhibit for steep slopes. See exhibit for wetlands.

11. The FEIS completed by the City of Woodinville shows that the Wood Trails development identifies unavoidable adverse impacts to transportation systems of the city and in the neighborhoods the development is set within. The impacts can be avoided by denial of the rezone. Reliance upon disputed mitigation measures and the safe driving habits of future residents of higher density developments is unwise and not in the public interest.

12. The Wood Trails Development as proposed is not in character with the surrounding R-1 neighborhoods and properties.

13. The City of Woodinville must ensure that its capital investments carry out the goals and objectives of the comprehensive plan in a manner which is consistent with the Land Use Element, Capital Facilities Element, and Transportation Element of the plan.

14. The "need" criterion under WMC 21.44.070 ultimately requires an objective judgment by the City Council based upon plans, goals, policies and timeframes. The Council finds that the proposed rezone is not "needed" at this time.

15. While some Comprehensive Plan and code provisions can be construed as supporting further R-4 development within the low density residential areas of the City, the extent, character and timing of any such development is not indelibly predetermined.

16. The City Council has identified key priorities for planning growth and infrastructure investment in the Comprehensive Plan under a number of different elements as well as in the Municipal Code, the Capital Improvement Plan (CIP) and City's budget so that near-term and long-term growth proceeds as a coordinated, time efficient and cost effective investment process.

17. The Comprehensive Plan has a twenty year planning horizon and the City Council recognized that funding constraints require a need for prioritization of actions. As a result, the City Council selected the downtown area for its focus for growth and infrastructure requirements because the downtown has the existing infrastructure capacity and services readily available where the City could achieve many of its GMA goals for housing, employment, and economic

development and transportation improvements. This is precisely what the Growth Management Act, Vision 2020 and the King County-wide planning policies are asking cities to do: to guide development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

18. King County countywide policies call for contiguous and orderly development within Urban Growth Areas and the provision for urban services to such development.

19. Chapter III Land Use Pattern of the County's Countywide Planning Polices describes policies relating to land use and development. Relevant land use (LU) policies are summarized as follows. Urban areas (which includes all of the City of Woodinville) are designated to accommodate a majority of future growth and at least the 20-year projection of population and employment growth (LU-25a & LU-26). Within Urban Areas, growth should first be directed to centers and urbanized areas with existing infrastructure capacity (LU-28). Growth phasing plans for the next 10 to 20 years are required and shall be based on locally adopted definitions, service levels, and financing commitments (LU-29). Chapter III also includes a statement that phased growth is required to promote efficient use of the land, add certainty to infrastructure planning and to insure that urban services can be provided to urban development.

20. The Growth Management Act urban growth goal states: "Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner".

21. Vision 2020, a long-range growth and transportation strategy for Puget Sound Region, provides the following relevant polices. Concentrate development in urban areas to conserve agricultural, forest, and environmental resources. Within urban growth areas, promote growth into centers that are connected by an efficient, transit-oriented, multi-modal transportation system (RF-1). Develop a transportation system that emphasizes accessibility, includes a variety of mobility options, and enables the efficient movement of people, goods, and freight (RF-4). The proposed rezone runs contrary to this strategy.

22. The City Council decision to focus planning and growth in the downtown provided the context within short-term capital planning could be done and subsequent decisions made with a view to a longer planning horizon.

24. The City Council has given priority to capital improvements that: (1) protect the public health and safety; (2) have a positive impact on the operating budget through reduced expenditures; (3) correct existing deficiencies or maintain existing levels of service adopted in the Comprehensive Plan; and (4) provide critical City services such as police, surface water and transportation.

25. The City is not yet prepared to commit capital resources to the subject area in the near-term. Committing the City to prematurely construct infrastructure and provide services to this area will become increasingly problematic, resulting in an increasing inefficiency of services thereby lessening the economic gain and placing a growing strain on the fiscal resources of the community.

26. While new development creates impacts upon public facilities and is required to pay its fair share of costs associated with those impacts, it does little in the way of correcting existing deficiencies within the context of the Capital Improvement Plan (CIP) and the overall capacity of the City to provide for infrastructure needs and services. The City has a 20 year list of transportation needs. Because of the scope, nature size and costs of these needs and because the sources of funding are limited relative to the cost of improvements, the City has focused its investment on major traffic chokepoints in and around downtown.

27. The City has provided in excess of $100,000 to finance an ongoing sustainable development study, referenced in Ordinance 431 that will answer significant questions related to land use in the City that should be available to the City Council before additional rezones in the R-1 areas of the City are approved. See also the references to the study in the Staff Report.

CONCLUSIONS

1. In its quasi-judicial capacity, the City Council finds that, a site specific rezone of the property to R-4 density would be inconsistent with significant Comprehensive Plan Policies and does not bear a substantial relationship to the public health, safety, morals or welfare.

2. Approval of the proposed rezone is inappropriate at this time due to the deficient public facilities and services (other than sewer) in the area where the property is located and the currently ongoing sustainable development study

3. The proposed rezone and anticipated higher density development that would result does not meet the City Council's key priorities identified for planning growth and infrastructure investment in the Comprehensive Plan under a number of different elements as well as in the Municipal Code, the Capital Improvement Plan (CIP) and City's budget so that near-term and long-term growth proceeds as a coordinated, time efficient and cost effective investment process.

4. The City Council selected the downtown area for its focus for growth and infrastructure requirements because the downtown has the existing infrastructure capacity and services readily available where the City could achieve many of its GMA goals for housing, employment, and economic development and transportation improvements. The proposed rezone, as outlined, does not further the City's goals and objective in this regard which is to guide development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

5. The rezone is inconsistent with the City's strategy to meet its regional growth objective. The City has chosen to meet the growth objective in the CBD while insuring that new growth in other areas of the City does not negatively impact the City's transportation land use and capital facilities goals and objectives. RCW 36.70A directs growth as follows: growth should first be directed to centers and urbanized areas with existing infrastructure capacity (consistent with LU-28 County-wide planning policy). Growth phasing plans for the next 10 to 20 years are required and shall be based on locally adopted definitions, service levels, and financing commitments (LU-29). Chapter III also includes a statement that phased growth is required to promote efficient use of the land, add certainty to infrastructure planning and to insure that urban services can be provided to urban development.

6. The City of Woodinville planning approach is complying with GMA requirements. According to past King County Buildable Lands Reports and the preliminary 2007 report, the City has excess capacity to accommodate its GMA housing allocation and is also meeting its employment growth target. The City is providing and supporting affordable housing for the Eastside through its participation in a coalition of east King County cities (ARCH). The City of Woodinville Capital Facilities planning and CIP are addressing the City's infrastructure deficiencies and commits the City to extending infrastructure and services to support urban development with the intent of maximizing the benefit from capital projects relative to costs and resources and in an efficient manner.

7. While new development creates impacts upon public facilities and is required to pay its fair share of costs associated with those impacts, it does little in the way of correcting existing deficiencies within the context of the CIP and the overall capacity of the City to provide for infrastructure needs and services. The City has a 20 year list of transportation needs. Because of the scope, nature, size, and costs of these needs and because the sources of funding are limited relative to the cost of improvements, the City has focused its investment on major traffic chokepoints in and around downtown.

8. Planning is critical to assist a city in its evolution. Given the locational context of the City, the objective is to effectively and comprehensively think and plan in a manner consistent with sound regional planning. The City must proactively direct development to occur in appropriate locations and concurrent with the availability and provision of adequate public facilities and services. Planning comprehensively ensures the integrity of the City's growth strategy. Development which the City cannot readily and efficiently provide services to is clearly premature and is not consistent with the City of Woodinville Comprehensive Plan.

9. The current underlying zoning of the property at R-1 is inconsistent with the proposed density of the preliminary plat application.

DECISION

BASED UPON THE PRECEDING FINDINGS OF FACT AND CONCLUSIONS, THE CITY COUNCIL THEREFORE DENIES REZONE APPLICATION ZMA2004053 AND REVERSES THE HEARING EXAMINER'S APPROVAL OF THE PRELIMINARY PLAT APPLICATION PPA2004054 FOR THE PROPOSED "WOOD TRAILS SUBDIVISION.

APPROVED AND ADOPTED BY THE WOODINVILLE CITY COUNCIL this 20th Day of August, 2007.

APPENDIX H

PHOENIX DEVELOPMENT INCORPORATED

EXHIBIT 66
PAGE 1 OF 14

March 15, 2007

Mr. Greg Smith, Hearing Examiner
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Re: Wood Trails and Montevallo – "Demonstrated Need Analysis"

Dear Mr. Smith:

This letter is in follow up to City Staff comments regarding the burden of "Demonstrated Need" for R-4 zoning for these two projects, and supplements my testimony of March 14, 2007. I have assembled the attached additional reports to further demonstrate the need for R-4 development in the City of Woodinville. The data is drawn from two resources: New Home Trends – An on line project tracking and analysis service, and Fourth Quarter 2006 Residential Market Monitor – Seattle Area – which is produced by Hanley Wood Market Intelligence. We entered specific data requests into the New Home Trends analysis and then the reports are the summary of the findings. I have attached copies of each report and indexed them as Exhibit(s) A – I.

FINDINGS

Exhibit A – Input = 4000 – 9600 SF lot size, City of Woodinville, Currently Selling Detached Communities. Result = Only two projects totaling 21 lots.

Exhibit B – Input = 4000 – 9600 SF lot size, City of Woodinville, Proposed Detached Plats. Result = Three projects. Wood Trails, Montevallo, and a 12 lot plat.

Exhibit C – Input = 1 acre – 5 acre lot size, City of Woodinville, Currently Selling. Result = 1 Plat – no prices available yet.

Exhibit D – Input = 1 acre – 5 acre lot size, City of Woodinville, Proposed Detached Plats. Result = No unrecorded applications

Exhibit E – Input = 4000 – 9600 SF lots, Multiple Listing Service areas 600, 610, Currently Selling Detached Developments. Result = 34 developments 496 / homes.

Exhibit F – Input = Quarterly Report, 4000 – 9600 SF lots, City of Woodinville. Result = very limited sales rate based on lack of inventory / "note sold out projects".

16108 Ash Way, Suite 201 • Lynnwood, WA 98087 • Telephone (425) 775-8661 • Fax (425) 742-8469

Exhibit G – Demand Summary – Seattle Area – Hanley Wood – Projections for continued Job Growth.

Exhibit H – Demand Calculation for Seattle Area – Hanley Wood – Indicates a demand for approximately 38,600 new homes needed for 2007 alone.

Exhibit I – New Home Affordability Ratio – Hanley Wood Graded "F" – as in failing. National average is 41% - Seattle area market is 20.2%

CONCLUSIONS

1. Exhibit(s) A & B show a very constrained housing supply in the City of Woodinville for R-4 type housing. If not for Wood Trails and Montevallo, there would be only one 12 lot plat in the pipeline of unrecorded plats, (per New Home Trends data). There should not be such a wide GAP / void between the apartment /condo market and 1 acre estate development.

2. Exhibits C & D show that there is virtually a non-existent market in the 1 – 5 acre niche.

3. Exhibit E shows that it is the broader MLS areas surrounding Woodinville, which includes parts of Kirkland, Redmond, and Bothell, and Unincorporated Snohomish County, that is shouldering the burden of higher densities. Woodinville's use of R-1 zoning as an exclusionary device is pushing the R-4 Urban Densities outside its boundaries onto its neighbors.

4. Exhibit F – Shows the limited, or constrained quarterly unit sales, based on a very limited number of projects.

5. Exhibit G & H – The Hanley Wood data reports that the Seattle Metro Area job growth rate for the year 2006 was 3.6%, which is a very strong job creation number. As well, the report points to the expectation that the City of Bellevue, now at 32,000 employment levels, will increase to 60,000 by the year 2020. The new housing demand for 2007 is estimated to be 38,600 homes. That's one year alone.

6. Exhibit I – "The affordability factor remains the most notable negative impact for the Seattle Region as it has reported a new all time low of 20% for the new home market, 21% lower than the national average of 41%. Competition from lower priced resale homes remains relatively high while the resale affordability ratio is still hovering around 31%. The minimum annual income needed to purchase a new home is $103,564 with a fixed rate mortgage and $97,872 for an adjustable rate mortgage, well above the median household."
   (1) Residential Market Monitor Seattle Area – Fourth Quarter 2006.

There is a great need in the City of Woodinville for R-4 housing stock to meet the challenge of affordability. As these reports and findings clearly indicate, the City of Woodinville has not fulfilled the need to supply reasonably affordable new housing stock. Instead, there is apparent reliance upon the unaffordable and anemic 1 acre lot supply to provide detached housing stock. The result is that the neighboring communities are shouldering the demand for increased densities. The expected continuation in robust job growth is going to escalate demand on available land supplies within the Urban Growth Area Boundary Line. The result will be significantly higher prices on new homes, which makes the R-1 zone totally unrealistic in the Urban Areas.

We would request again of the Hearing Examiner, that you approve the Rezone Request for R-4 zoning and Preliminary Plat on the Wood Trails and Montevallo projects.

Thank you for your consideration,

Bob Vick
Senior Vice-President
Phoenix Development, Inc.

EXHIBIT A

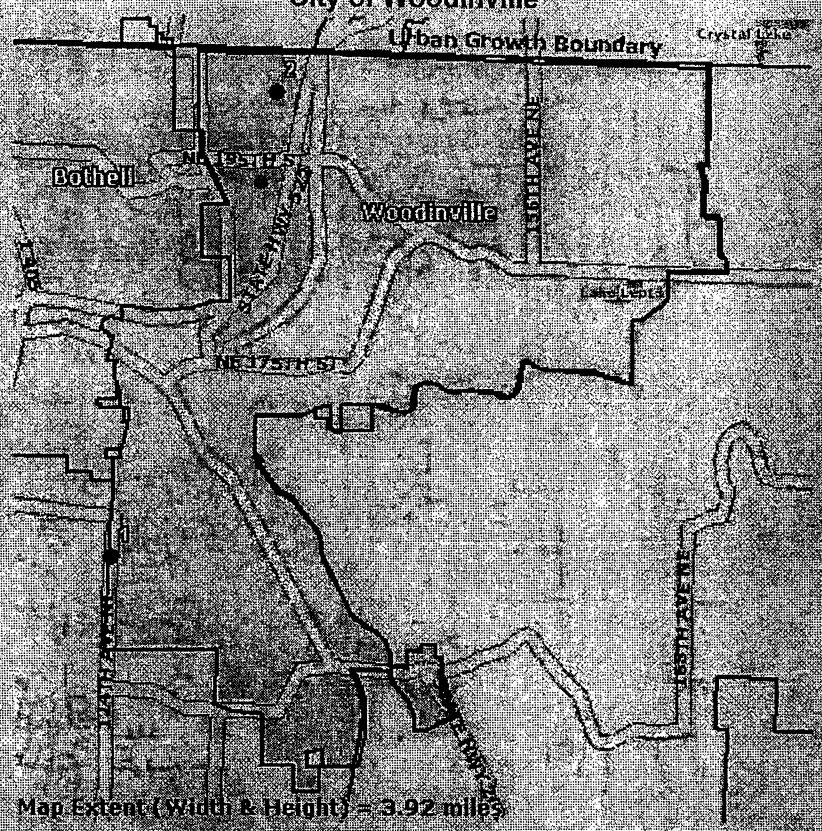
NewHomeTrends
DATA•RESEARCH•CONSULTING

Prepared by
Bob Vick
for a valued client

Selection Criteria	
Typ Lot SqFt	4,000 - 9,600
County	King
City	Woodinville
Status	Not Surveyed, Not Yet Selling, Under Const. Not Selling, Taking Reservations, SellingLots, Selling Homes, Selling Lots & Homes

City Summary for Woodinville (using the criteria above)	
Developments	2
Total Mo Sales (Avg)	.58
Avg Mo Sales / Devlp	.58
Median Avail Price	$659,950
Average Avail Price	$669,650
Median Avail $/SqFt	$232
Lots/Homes Avail	10
Months of Spec Inv	6.9

Currently Selling Detached Developments for City of Woodinville



Currently Selling Detached Developments for City of Woodinville

Map Index	Development Name and Address	Last Update	Status	Map Page Grid	Typ Lot Size	Total Price Range	Total SqFt Range	Total $/SqFt Range	Avail Price Range	Lots Recrd	Lots/ Homes Sold	Start of Sales	Avg Mnth Sales	Vacant Lots	Spec Inv	Est. Sellout
1	Norman Court 124th Ave NE & NE 155th Pl	3/1/2007	Selling Homes	506 G2	6,400	$649,000 $719,000	3,068 3,194	$214 $230	$697,500 $697,500	12	11	8/1/2005	0.58	0	1	May 2007
2	Veranda Lane 136th Ave NE & NE 202nd St	3/1/2007	Selling Homes	476 H4	4,500	$651,500 $659,950	2,716 2,849	$232 $240	$651,500 $659,950	9	0	2/27/2007		6	3	
	Totals									21	11		.58	6	4	Aug 2008

Projected Sellout is calculated using the formula: (Lots or Homes Avail / Avg Mnth Sales) = # of months until sellout.
Note: This information is accurate to the extent that records are provided by builders and their representatives.
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Web Site: www.NewHomeTrends.com Email: t.britsch@NewHomeTrends.com Phone: (425) 742-8040

EXHIBIT 66
PAGE 4 OF 14

EXHIBIT B

NewHomeTrends
DATA•RESEARCH•CONSULTING

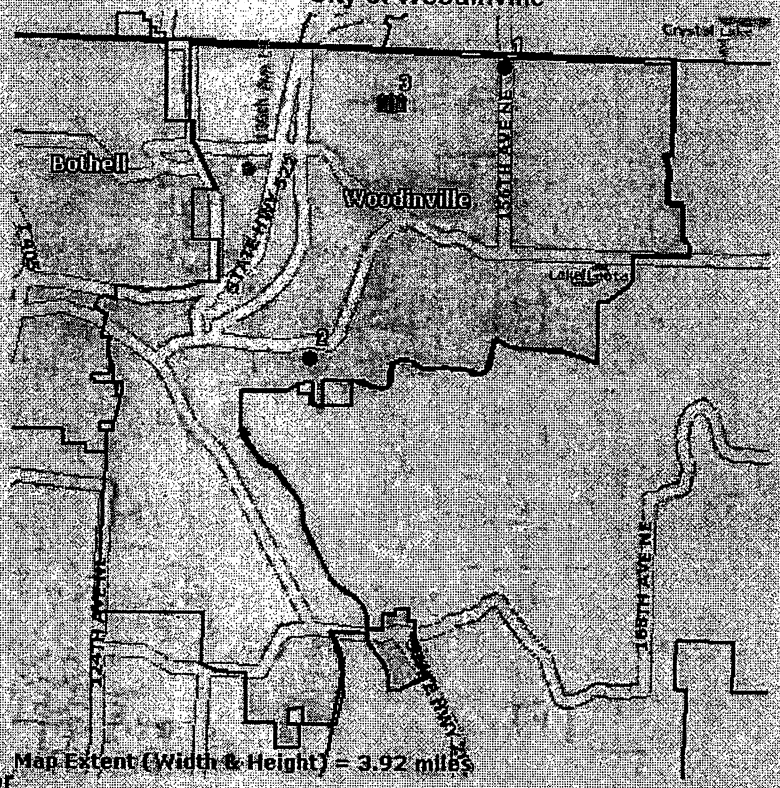
Prepared by
Bob Vick
for a valued client

Selection Criteria	
Typ Lot SqFt	4,000 - 9,600
County	King
City	Woodinville
Status	Review, Litigation, Prelim, Approval, Extension

City Summary for Woodinville (using the criteria above)	
Developments	3
Curr Lot Total	144

Development Summary for Wood Trails	
Curr Lot Total	66
Typical Lot Size	7,000 SqFt
Status	Review
Aerial	

Proposed Detached Plats for City of Woodinville



Map Extent (Width & Height) = 3.92 miles

Proposed Detached Plats for City of Woodinville

Map Index	Plat Name	City	Map Page Grid	Market Area	Curr Lot Total	Typ Lot Size	Status	Appl Date	Hearing Date	Prelim Appr Date
1	Montevallo 156th Ave NE & NE 203rd Pl	Woodinville	477 B4	Northshore	66	5,500	Review	11/8/2004	3/15/2007	
2	One Fortieth Place 14041 NE 171st St	Woodinville	476 J7	Northshore	12	4,500	Review	6/15/2006	9/28/2006	
3	Wood Trails 148th Ave NE & NE 195th St	Woodinville	477 A5	Northshore	66	7,000	Review	6/18/2004	3/14/2007	
Totals: 3					144					

Projected Sellout is calculated using the formula: (Lots or Homes Avail / Avg Mnth Sales) = # of months until sellout
Note: This information is accurate to the extent that records are provided by builders and their representatives.
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EXHIBIT 66
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EXHIBIT C

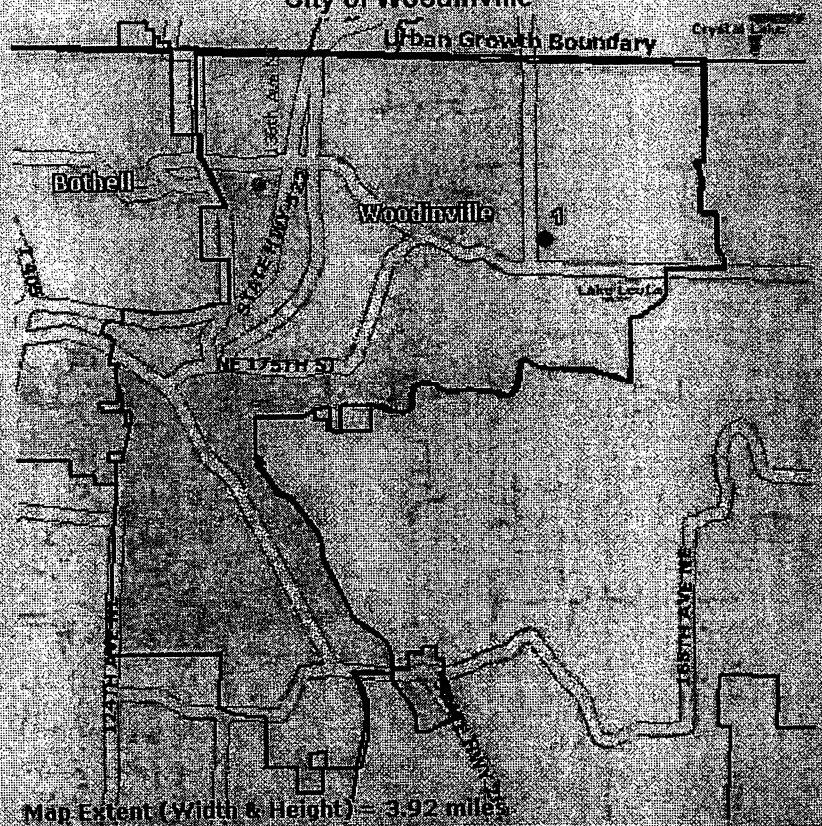
NewHomeTrends
DATA•RESEARCH•CONSULTING

Prepared by
Bob Vick
for a valued client

Currently Selling Detached Developments for City of Woodinville

Selection Criteria	
Typ Lot SqFt	43,560 - 217,800
County	King
City	Woodinville
Status	Not Surveyed, Not Yet Selling, Under Const, Not Selling, Taking Reservations, SellingLots, Selling Homes, Selling Lots & Homes

City Summary for Woodinville (using the criteria above)	
Developments	1
Total Mo Sales (Avg)	.00
Avg Mo Sales / Devlp	
Median Avail Price	N/A
Average Avail Price	N/A
Median Avail $/SqFt	N/A
Lots/Homes Avail	7
Months of Spec Inv	N/A



Currently Selling Detached Developments for City of Woodinville

Map Index	Development Name and Address	Last Update	Status	Map Page Grid	Typ Lot Size	Total Price Range	Total SqFt Range	Total $/SqFt Range	Avail Price Range	Lots Recm	Lots/ Homes Sold	Start of Sales	Avg Mnth Sales	Vacant Lots	Spec Inv	Est Sellout
1	Bonterra 157th Pl NE & NE Old Woodinville-Duvall Rd	3/1/2007	Not Yet Selling	477 B8	45,650					7	0			7	0	
Totals										7	0			7	0	

Projected Sellout is calculated using the formula: (Lots or Homes Avail / Avg Mnth Sales) = # of months until sellout
Note: This information is accurate to the extent that records are provided by builders and their representatives.

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EXHIBIT 66
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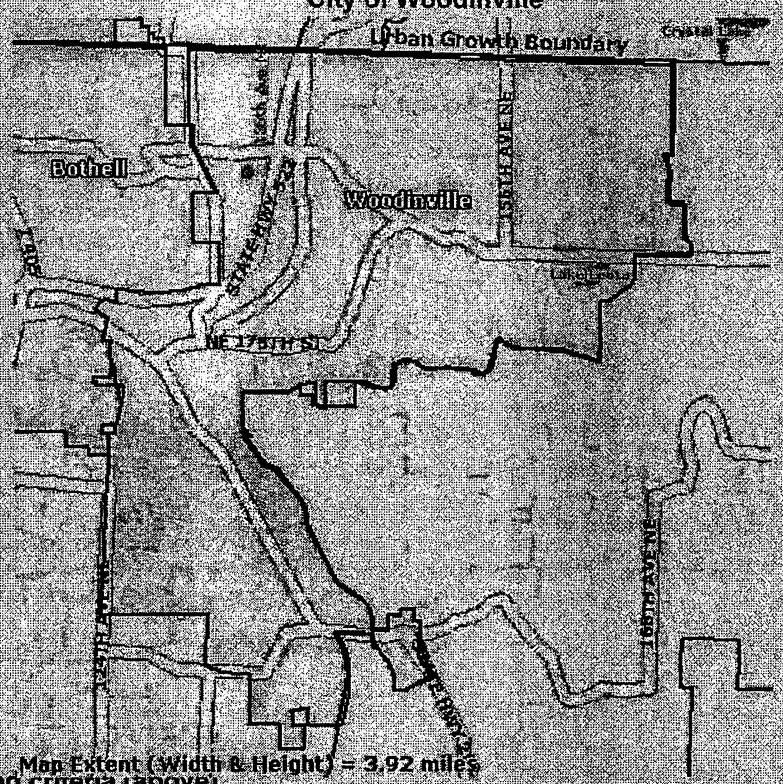
EXHIBIT D

NewHomeTrends
DATA•RESEARCH•CONSULTING

Prepared by
Bob Vick
for a valued client

Selection Criteria	
Typ Lot SqFt	43,560 - 217,800
County	King
City	Woodinville
Status	Review, Litigation, Prelim, Approval, Extension

Proposed Detached Plats for City of Woodinville



Map Extent (Width & Height) = 3.92 miles

No Plat(s) match the selected criteria (above).

Projected Sellout is calculated using the formula: (Lots or Homes Avail / Avg Mnth Sales) = # of months until sellout
Note: This information is accurate to the extent that records are provided by builders and their representatives.
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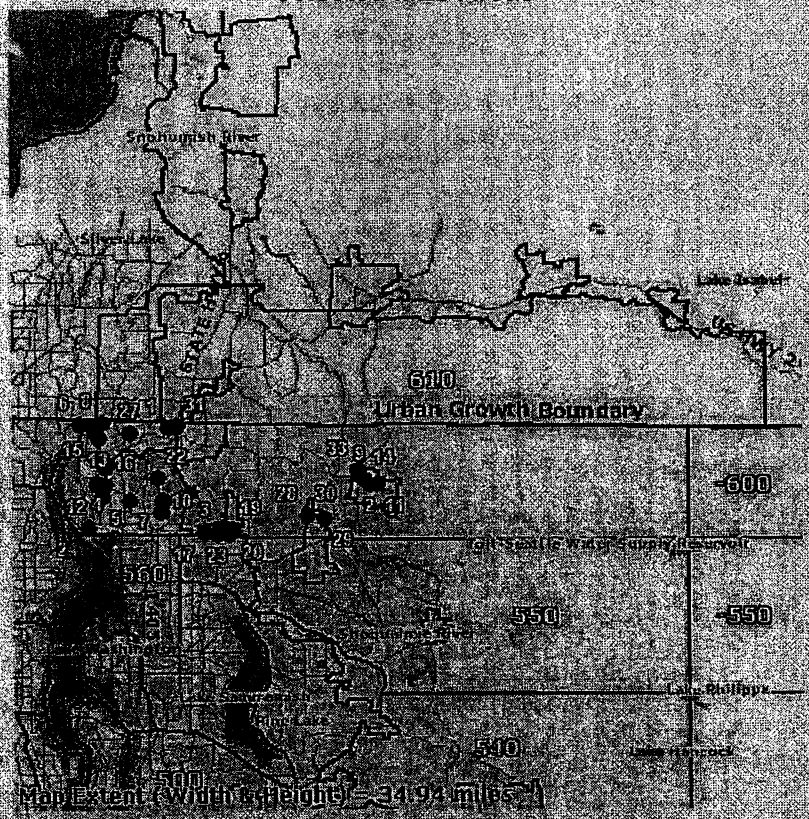
Prepared by
Bob Vick
for a valued client

EXHIBIT E

Currently Selling Detached Developments for Selected MLS Areas

Selection Criteria	
Typ Lot SqFt	4,000 ≈ 9,600
County	King
MLS Area	600, 610
Status	Not Surveyed, Not Yet Selling, Under Const, Not Selling, Taking Reservations, SellingLots, Selling Homes, Selling Lots & Homes

MLS Summary (using the criteria above)	
Developments	34
Total Mo Sales (Avg)	44.49
Avg Mo Sales / Devlp	2.02
Median Avail Price	$758,470
Average Avail Price	$795,436
Median Avail $/SqFt	$249
Lots/Homes Avail	496
Months of Spec Inv	2.8



1 Andalusia
2 Arborwood
3 Aspenridge
4 Belmont Estates
5 Bloe Heron Place
6 Blueberry
7 Calina at Kirkland
8 Chateau Meadows
9 Cherry Hill Vista
10 Cliff Mull 6 at Kirkland
11 Fawn Meadows
12 Fernwood
13 Frances Park
14 Heron Cove
15 Herons Reach
16 Inglemoor Court
17 Kensington
18 Linden Lane on 132nd
19 Monticello Estates
20 Monticello Estates 2
21 Noble Long Flat
22 Norman Court
23 Northstar 2
24 One Eagle Place
25 Sable Ridge
26 Shadowcreek
27 Sonoma Park
28 Trilogy at Redmond Ridge, Cedar Heights
29 Trilogy at Redmond Ridge, Meadow
30 Trilogy at Redmond Ridge, Skyline
31 Veranda Lane
32 Whistlers Ridge
33 Willow Ridge (Detached)
34 Wynstone

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EXHIBIT 06
PAGE 9 OF 14

EXHIBIT E continued

Currently Selling Detached Developments for Selected MLS Areas (600, 610)

Map Index	Development Name and Address	Last Update	Status	Map Page Grid	Typ Lot Size	Total Price Range	Total SqFt Range	Total $/SqFt Range	Avail Price Range	Lots Recrd	Lots/ Homes Sold	Start of Sales	Avg Mnth Sales	Vacant Lots	Spec Inv	Est. Sellout
1	Andalusia 130th Ave NE & NE 200th Pl	3/1/2007	Selling Homes	476 H4	4,500	$498,000 $585,000	2,140 3,036	$190 $283	$501,910 $570,190	26	17	7/15/2006	2.26	6	1	Jul 2007
2	Arborwood NE 152nd St & 273rd Dr NE	3/1/2007	Selling Homes	508 H2	6,500	$427,000 $574,000	2,386 4,316	$113 $199	$554,000 $554,000	26	25	3/1/2005	1.04	0	1	Apr 2007
3	Aspenridge NE 120th St at 167th Pl NE	3/8/2007	Selling Homes	507 C7	5,500	$899,950 $939,950	3,023 3,406	$286 $285	$909,950 $929,950	18	2	4/22/2005	0.09	12	4	Mar 2022
4	Belmont Estates 81st Ave NE & NE 149th St	3/1/2007	Not Yet Selling	506 A2	4,600					15	0			4	9	
5	Blue Heron Place 8421 NE 141st St	3/1/2007	Not Yet Selling	506 B3	5,200					5	0			5	0	
6	Blueberry 20005 68th Ave NE	3/1/2007	Selling Homes	475 J4	6,000	$569,900 $569,900	2,600 2,600	$219 $219	$569,900 $569,900	7	0	11/1/2006		3	4	
7	Calina at Kirkland NE 140th St & 105th Ct NE	3/1/2007	Selling Homes	506 D3	6,200					7	0	2/1/2007		7	0	
8	Chateau Meadows NE 203rd St & 83rd Pl NE	3/1/2007	Selling Homes	476 B4	5,500	$695,000 $850,000	3,130 3,840	$202 $230	$795,000 $795,000	12	11	7/24/2005	0.57	0	1	May 2007
9	Cherry Hill Vista 2nd Ave NE & NE Anderson St	3/1/2007	Selling Homes	508 G1	5,300	$459,000 $474,785	2,140 3,036	$190 $215	$461,051 $474,785	30	0	2/1/2007		27	1	
10	Cliff Mull 6 at Kirkland NE 140th St at 127th Pl NE (SW Corner of intersection)	3/1/2007	Not Yet Selling	508 G4	5,000					6	0			1	4	
11	Fawn Meadows 276th Pl NE & NE 153rd Ln	3/1/2007	Selling Homes	508 H2	5,100	$479,950 $504,950	2,275 2,600	$200 $214	$479,950 $499,950	8	3	6/23/2006	0.36	0	4	Feb 2008
12	Fernwood 81st Ave NE & NE 147th Ln	3/1/2007	Selling Homes	506 A2	5,600	$699,000 $743,400	2,540 2,830	$260 $275	$699,500 $734,900	9	1	9/1/2006	0.17	3	4	Sep 2010
13	Frances Park NE 189th Pl & 82nd Ave NE	3/1/2007	Not Yet Selling	476 B5	5,000					5	0			1	4	
14	Heron Cove 4th Ave NE & NE Stewart St	3/1/2007	Selling Homes	508 G2	9,000	$825,000 $1,295,000	3,927 5,800	$200 $286	$825,000 $1,295,000	13	0	1/6/2005		8	4	
15	Herons Reach 19600 78th Ave NE	3/1/2007	Selling Homes	476 B4	4,500	$519,950 $545,000	2,216 3,083	$190 $235	$545,950 $585,950	18	16	2/1/2006	1.24	0	2	May 2007
16	Inglemoor Court 68th Ave NE & NE 147th Ct	3/1/2007	Selling Homes	508 B2	4,500	$419,950 $729,950	1,850 3,136	$197 $258	$709,950 $729,950	18	12	2/1/2005	0.48	0	3	Sep 2007
17	Kensington NE 116th St & Woodinville Redmond Rd (NE Ccorner)	3/8/2007	Selling Homes	507 B7	6,250	$449,950 $1,249,950	2,276 4,888	$146 $394	$949,950 $1,249,950	121	107	12/4/2001	1.55	4	7	Oct 2007
18	Linden Lane on 132nd NE 132nd St &	3/1/2007	Selling Homes	506 G5	4,600	$649,950 $689,950	2,481 2,651	$260 $264	$649,950 $684,950	11	2	2/2/2007	2.00	9	0	Jul 2007

EXHIBIT E continued

	126th Ct NE															
19	Monticello Estates NE 116th St & 178th Ave NE	3/8/2007	Selling Homes	507 D7	5,500	$552,990 $937,990	2,663 4,011	$188 $272	$775,990 $925,990	94	89	12/1/2004	3.27	0	3	May 2007
20	Monticello Estates 2 NE 120th Wy & 179th Pl NE (S of intersection)	3/8/2007	Selling Homes	507 E6	6,500	$699,990 $942,615	2,698 3,248	$233 $349	$732,990 $756,990	21	18	5/1/2006	1.76	0	3	May 2007
21	Noble Long Plat 88th Ave NE & NE 163rd St	3/1/2007	Selling Homes	476 B7	8,000	$699,990 $749,999	3,040 3,822	$196 $230	$699,990 $749,999	6	0	1/23/2007		0	6	
22	Norman Court 124th Ave NE & NE 155th Pl	3/1/2007	Selling Homes	506 G2	8,400	$649,000 $718,000	3,068 3,184	$214 $230	$697,500 $697,500	12	11	8/1/2005	0.58	0	1	May 2007
23	Northstar 2 NE 118th St & 167th Pl NE	3/8/2007	Selling Homes	507 B6	5,600	$442,950 $899,950	2,301 4,048	$185 $308	$759,950 $899,950	76	49	5/1/2003	1.06	23	5	May 2009
24	One Eagle Place 76th Ave & NE 120th Pl	3/8/2007	Selling Homes	506 A6	9,600	$872,000 $2,299,500	3,976 5,976	$194 $385	$2,299,500 $2,299,500	15	9	7/1/2006	0.71	3	2	Dec 2010
25	Sable Ridge NE 120th St at 167th Pl NE	3/8/2007	Selling Homes	507 C7	5,500	$890,000 $895,950	2,826 4,104	$206 $282	$877,950 $877,950	12	9	8/1/2004	0.29	2	1	Jan 2008
26	Shadowcreek 76th Ave NE & NE 198th St	3/1/2007	Selling Homes	476 B4	4,500					16	0	11/1/2006		10	6	
27	Sonoma Park 104th Ave NE & NE 194th St	3/1/2007	Selling Homes	476 D4	8,500	$790,000 $986,000	3,405 4,633	$207 $240	$839,950 $978,950	19	16	5/1/2006	0.60	3	7	Nov 2008
28	Trilogy at Redmond Ridge: Cedar Heights 232nd Ave NE & Adair Creek Way NE	3/8/2007	Selling Homes	508 C5	7,500	$397,499 $903,499	1,199 3,052	$253 $336	$397,499 $903,499	207	34	1/16/2006	2.49	174	2	Jan 2013
29	Trilogy at Redmond Ridge: Meadow Sun Break Way NE & NE 126th St	3/8/2007	Selling Homes	508 C7	7,000	$264,900 $1,017,976	1,185 3,082	$197 $414	$418,999 $473,999	274	269	11/1/2003	6.69	0	1	Apr 2007
30	Trilogy at Redmond Ridge: Skyline NE 143rd St & 232nd Ave NE	3/8/2007	Selling Homes	508 C6	7,500	$279,556 $987,737	1,198 3,082	$157 $368	$561,029 $889,509	226	202	1/16/2006	4.77	6.8	16	May 2007
31	Veranda Lane 166th Ave NE & NE 202nd St	3/1/2007	Selling Homes	476 H4	4,500	$661,500 $659,950	2,716 2,849	$232 $240	$651,500 $659,950	9	0	2/27/2007		0	3	
32	Whistlers Ridge NE 116th St & 174th Pl NE	3/8/2007	Selling Homes	507 C7	6,200	$605,950 $1,189,950	2,992 5,000	$179 $358	$1,075,950 $1,145,950	62	45	2/1/2003	0.91	8	7	Jul 2008
33	Willow Ridge (Detached) 1st Ave NE & NE Bird St	3/1/2007	Not Yet Selling	508 G1	5,000					20	0			20	0	
34	Wynstone 172nd Ave NE & NE 120th Wy	3/8/2007	Selling Homes	507 D6	6,500	$734,950 $920,795	2,934 3,719	$232 $268	$799,950 $804,950	48	23	4/1/2006	2.05	12	9	Feb 2008
	Totals									1467	859		44.49	363	124	Feb 2008

Projected Selloutis calculated using the formula: (Lots or Homes Avail / Avg Mnth Sales) = # of months until sellout
Note: This information is accurate to the extent that records are provided by builders and their representatives.
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Selection Criteria

Typ Lot SqFt	4,000 - 9,600
County	King
City	Woodinville
Status	Not Surveyed, Not Yet Selling, Under Const, Not Selling, Taking Reservations, SellingLots, Selling Homes, Selling Lots & Homes, Sold Out, Temporary Off Market, Sales Pending

EXHIBIT
F

Quarterly Sales Summary
for City of Woodinville

Prepared by
Bob Vick
for a valued client

Development Name and Address	Updated	Status	Q2 '05	Q3 '05	Q4 '05	Q1 '06	Q2 '06	Q3 '06	Q4 '06	Q1 '07
Casswood Estates: 13211 NE 195th St	1/1/2007	Sold Out	4	2	1	5				
Norman Court: 124th Ave NE & NE 155th Pl	3/1/2007	Selling Homes			1	5	3	2		
Sonoma Place: 132nd Ave NE & NE 185th St	10/1/2005	Sold Out	3							
Stratford: NE 200th St & 136th Ave NE	8/2/2006	Sold Out		4	3	3	3			
Veranda Lane: 136th Ave NE & NE 202nd St	3/1/2007	Selling Homes								
Westcliffe: 129th Ave. NE and NE 154th St	8/1/2006	Sold Out	3	2						
6			10	8	5	13	6	2	0	0

Note: This information is accurate to the extent that records are provided by builders and their representatives.
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V. Demand Summary

Current Qtr Grade: B- *Last Qtr Grade: B-*

In 2005, employment in the Seattle-Olympia-Bremerton region grew by 3.0% adding 52,450 jobs for a total of 1,817,492 jobs. This was over twice as many jobs added as the 16-year average of 28,168. Fourth quarter 2006 employment growth figures ended slightly higher at 1,882,258 jobs with a 3.6% increase over 2005's pace. Washington's high-tech industry employment has grown to more than 152,000, according to American Electronics Association, the nation's largest trade association for the high-tech industry. Microsoft alone employs 30,255 of those workers. The sector reporting the highest gain was Information increasing jobs by 8.2% while the U.S. remained flat in. Driven by a sizzling housing market and resurgence in commercial real estate, the construction industry reported the second largest gain and has grown by 8,900 jobs, 7.5%, from a year ago. Manufacturing reported the third highest gain of 4% in the Seattle region while slowing across the U.S. at a slight (1%) decrease. The services industry added 17,000 jobs over the last twelve months ending December 2006, bringing the total number of service employment to 658,600 jobs. The services industry which comprises 35% of Seattle's economy saw a 2.6% increase in jobs, the largest employment sector in the Seattle region. Seattle's economy outpaced the U.S. in all job sectors with the exception of the Government sector which basically mirrored the U.S. in terms of percent of total employment growth.

Household formations grew by 18,500 throughout 2006. 2005 added approximately 17,700 households, less than the 18-year average of 23,444. After an eight year low in 2003, Seattle's population growth has been steadily increasing. Population growth remained flat compared to 2005, with a net gain of just under 40,000 people in 2006, yet we expect growth to continue upwards of 21,550 households in 2007.

Tourism is at an all time high in the Seattle area. In 1999, only six cruise ships stopped in Seattle, bringing just 6,615 passengers. This past summer, more than 150 cruise ships took 500,000 passengers on seven-day Alaska cruises. And this growing segment of tourism to the Seattle area is creating growth in other areas as well. The cruise lines have agreements with the Port of Seattle to provision their ships in Seattle rather than in other ports. This means all food, beverages, paper products and more are being trucked onto the two terminals and loaded by local labor. A recent study found that the cruise ship industry in this area generates $70 million in annual business revenue, $4.5 million in annual state and local taxes and creates over 1,500 jobs.

Just east of downtown Seattle, the downtown Bellevue area employs about 32,000 workers alone, making it the second highest employment density in the state, after downtown Seattle. The Puget Sound Regional Council predicts Bellevue will continue to grow faster than any other area to 60,000 downtown jobs by 2020. What was still a modest village a generation ago is now the second most vital economic engine in the state, with a skyline that rivals downtown Seattle's. Downtown Bellevue is entering another growth spurt that should strengthen its image as a major business center with residential, commercial and retail projects worth more than $1.5 billion under construction or in the review/permitting stage. Microsoft recently announced plans to lease the top 15 floors, 320,000 square feet, of the Lincoln Square office tower in downtown Bellevue. Real Estate professionals are calling this one of the largest office deals on the Eastside in recent memory. The office tower is slated to be complete by summer 2007.

EXHIBIT
H

Demand Calculation

Economists have proven that short-term housing demand is highly correlated with employment growth. We have subjectively determined that a 60% weighting on employment-generated demand, and a 20% weighting each on population and household generated demand, best reflects the projected demand for Seattle housing. Using this methodology, we estimate that there will be demand for 38,600 new housing units in 2007.

2007 New Housing Demand

Demand Methodology	% Weighting	Projection	Ratio	Total
Employment-Generated	60%	63,900	1.28	49,965
Household-Generated	20%	21,550	1.00	21,550
Population-Generated	20%	49,000	2.27	21,550
Conclusion				38,600

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EXHIBIT
1

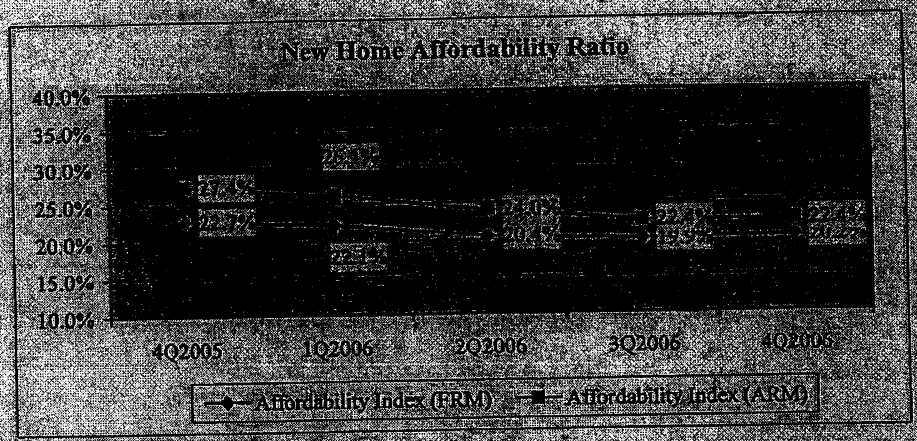
Active Inventory

	December 2006	Previous Quarter	% Change	Direction from Previous Quarter	Same Period Last Year	% Change	Direction From Last Year
Detached Unsold Inventory	9,748	9,731	0.2%	*Increasing*	8,847	10.2%	*Increasing*
Attached Unsold Inventory	3,857	4,429	-12.9%	*Decreasing*	2,825	36.5%	*Increasing*
Total Unsold Inventory	13,605	14,160	-3.9%	*Decreasing*	11,672	16.6%	*Increasing*

SUBMARKET	UNITS	%
King	4,834	35.5%
Kitsap	289	2.1%
Pierce	2,912	21.4%
Snohomish	3,798	27.9%
Thurston	1,772	13.0%
TOTAL:	13,605	100.0%

New Home Affordability Ratio

Current Qtr Grade: F *Last Qtr Grade: F*



PHOENIX DEVELOPMENT INCORPORATED

EXHIBIT 165
PAGE 61 OF 72

April 24, 2007

COPY

Mr. Greg Smith, Hearing Examiner
808 W. Spokane Falls Blvd.
Spokane, WA 99201

Re: Rebuttal to CNW Narrative – Exhibit 161, page(s) 11 to 21

Dear Mr. Smith:

The CNW arguments fail because their data is reliant upon existing R-1 housing stock for supply comparisons. They simply leave out the fact that the cost of a new home built on an acre lot is out of reach for the large majority of people.

The CNW group asserts a strong market demand for R-1 type housing. Exhibit 161 page 12, CNW states; "The analysis clearly shows that there is a high need for more R-1 houses as demonstrated by their shorter time on the market and higher sale price per square foot. Remember that the R-1 houses are resale units that historically fetch lower prices per square foot than new houses."

We agree with CNW that homes on acreage have a "higher sales price per square foot", and that existing resale houses "fetch lower prices per square foot than new houses" That is precisely the point! A high percentage of the existing housing stock in the Wellington neighborhood, and other R-1 / Low Density zoned neighborhoods consists of older homes which do not command anywhere near the same price of a new home built on an acre lot today.

CNW's analysis does not provide any meaningful discussion of new housing stock. As we have already demonstrated in our earlier reports and testimony, the actual supply of new homes is woefully inadequate.

Moreover, CNW's analysis is based on comparisons reliant on maintaining predominantly a status quo on over half of the residentially zoned land of the city, which is inconsistent with GMA urban densities. According to the City of Woodinville's "Final Sustainable Development Study dated February 21, 2007; "The R-1 Zone area represents approximately 30% of the total acres of the City, and approximately 50% of the residentially zoned land." It is growth / demand that will require adding new dwelling units within the City R-1 Low Density zoned areas CNW would set aside, given that these areas comprise 50% of the City's residentially zoned land. R-4 is a "Low Density" use, which uses up the available land

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supply at a rate four times lower than R-1. R-4 density will result in a more affordable /diverse opportunity for future new home owners to own a new home, and will help to create an actual viable housing supply into the future.

CNW asserts in its "Executive Summary" that; "In a ten mile radius of the proposed developments there are over 6000 new or pending houses that are very similar. The applicant's developments will decrease diversity." (Exhibit 161 –Page(s) 11 -12) This statement is very telling, as it amplifies the notion that the CNW group recognizes the need / demand for the "applicants developments". Simply put, they just do not want these developments "in their back yard." We have already substantiated that there has been only a trickle of new home development in the City of Woodinville as a whole. So, it would require that CNW survey of data be pushed out to "a ten mile radius" to find the actual new home supply being provided by other municipalities. CNW admits in their analysis that others within a 10 mile radius are taking the density, while they are seeking to preserve their current inefficient one lot per acreage status as the standard for their area.

The CNW argument extends its arm out over the larger remaining parcels of land in the R-1 low density zone to constrict the larger parcels to conform to an R-1 density, when R-4 is an allowed low density zone when services are available. The CNW argument would use up the remaining larger tracts of land in the area in R-1 development, over even R-4 low density development. This is based on a perception that these low density neighborhoods will not be consistent with their view of what a neighborhood should look like. These larger remaining blocks of property are vital to City of Woodinville to provide for the future housing needs, and cannot be squandered away to meet the agenda of the CNW group.

The R-4 low density developments proposed, Wood Trails and Montevallo, are New Home developments using larger tracts of land to a higher level than what CNW would like to see. The R-4 zoning as proposed for these developments is consistent with the Comprehensive Plan, the City's land use code, and sound public policy at the time of our application(s). The plat applications before the Examiner are based on the City codes applicable to the project(s) at the time of the application.

CNW has deluged the Examiner with mountains of paper in an effort to bulk up their incorrect and inequitable position that everything around them should remain unchanged forever We hope and expect that the Examiner will rely on the factual evidence provided throughout these hours of public hearings, multiple consultant reports, and the full EIS prepared and published by the City of Woodinville to conclude that R-4 is appropriate for these developments and that the proposed plat applications meet the City's requirements for approval.

Sincerely,

Bob Vick
Senior Vice-President
Phoenix Development, Inc.

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CITY OF WOODINVILLE
DEVELOPMENT SERVICES

APPENDIX I

EXHIBIT A

EXHIBIT 65
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GARDNER
JOHNSON

DATE: Wednesday, March 07, 2007

TO: G. Richard Hill
Attorney at Law
McCullough Hill, PS
701 Fifth Avenue, Suite 7220
Seattle, Washington 98104

FROM: GARDNER JOHNSON LLC

SUBJECT: WOOD TRAILS / MONTEVALLO PRELIMINARY PLAT & REZONE.

GARDNER JOHNSON has been retained by MCCULLOUGH HILL, PS to consider economic and market factors that could influence development patterns within the City of Woodinville, Washington State. The request for such an analysis arises in connection with the proposal of their clients, PHOENIX DEVELOPMENT to develop the Wood Trails[1] and Montevallo[2] plats. Both projects are considered vested to the codes and regulations in effect on July 8, 2004 and November 23 2004 respectively. In both circumstances, the developer has requested a zoning map amendment to re-designate the properties from an R-1 to R-4 density level. The City has asked Phoenix Development to provide information relevant to the question as to whether there is a "demonstrated need" for R-4 zoned land in the City of Woodinville. As the following discussion discloses, there certainly is, from the economic and market factor perspectives, a "demonstrated need" for such land.

One of the keys to the City's decision making is the discussion of growth within the City and the City's "carrying capacity," i.e. its ability to meet its mandated goals under the auspices of the Comprehensive Plan.

We have reviewed the City's "carrying capacity" discussion in the Wood Trails and Montevallo Staff Reports (pp. 5-7 and pp. 3-5, respectively). Our observation is that because the City's methodology is flawed it is incorrect to conclude, as staff does, that the City has sufficient zoning capacity to meet its demand for housing units.

In fact, the analysis conducted by the City in the Staff Report is simply a quick calculation subtracting units constructed between 2001 and 2006 from the 2001 capacity, for example.

[1] Wood Trails Rezone ZMA2004-053 / Preliminary Plat Application PPA2004-054
[2] Montevallo Rezone ZMA2004-094 / Preliminary Plat Application PPA2004-093

119 FIRST AVENUE SOUTH, SUITE 410, SEATTLE, WA 98104
206/442-9200 206/442-9201 (FAX)

2001 R1 Capacity	158 dwelling units minus
2001-'06 additional R1 units	50 dwelling units
= Remaining capacity	108 dwelling units remaining capacity

However, the proper methodology for calculating buildable lands must be based on *available* land. The method of calculating based just on the number of units fails to account for the amount of land that was used to get the 50 dwelling units. It is likely, based on the experience of most Washington jurisdictions, that more land was used to develop those fifty units than anticipated in the Buildable Lands Report - this often happens, for example, when critical areas are found to be more extensive than anticipated.

This is particularly important because the City, in its Buildable Lands Report, has two different calculations for each zone- one assuming the minimum density required under code, and one assuming densities based on past development. In the R-4 zone the minimum density is 3 DU per acre and the assumed density is 5.4 DU per acre. The actual capacity in the 2001 Buildable Lands Report[3] is a range from 1,417 (minimum density) - 1,947 (assumed density). The City Staff Report portrays only the highest end of the capacity range. If the City instead were to take the low end of the capacity range, based on minimum density, then there will be a perceived shortfall of 452 housing units.

The staff report calculations are incorrect because they are not based on gross and net acreages and land removed from the inventory but rather on assumed capacity. To explain this, they state that 50 units were provided within the past 5-years and arbitrarily suggested that 50 units equals 50 acres on R-1 zoned land. This is not the case. In calculating existing buildable land, one needs to recalculate how much land was actually used to accommodate the additional dwelling units and then recalculate. This is not apparent in the City's analysis.

Thus, even from the perspective of carrying capacity to accommodate the City's Housing Allocation, it is far from clear that the City's current capacity is sufficient. Indeed, it is our view, as discussed more fully below, that there will be considerably greater demand for R4 density single family housing than the City can provide under current zoning.

From an economic perspective, there are also a number of issues that need to be considered when discussions over density changes take place.

1. **Pricing Environment**

The Woodinville market has seen substantial price escalation over the last several years. Our most recent data suggests that median pricing for single family houses has increased by 46% between 2003 and the end of 2006. The current median list price for single family houses for sale in the area[4] is $659,950.

[3] http://www.metrokc.gov/budget/buildland/Woodinville_final.pdf
[4] Zip Code 98072

We are all aware of the affordability issue in the Puget Sound region and, while we do not suggest that this development will provide "affordable" housing options, we believe that housing values associated with R-4 density development on a per unit basis will be meaningfully more affordable than housing that would be developed on 1-unit per acre lots. Examples are developments such as The Hedges and Nolan Woods[5] where units are selling for well over $2M on lots close to 1-acre in size, and others such as Norman Court[6] and Georgian Estates[7] where prices range from $500,000 to $700,000 on lots at approximately 6 units per acre.

It is clear that demand for more "affordable" units is greater than the demand for estate (one lot per acre) housing. In fact, there is a very limited demographic that can afford homes valued at $2M – the demand for such homes is small, and as a result there is relatively little need for new homes to be developed on such large lots. On the other hand, the demographic that can afford homes in the $500,000 to $700,000 range is much greater. The need for such homes is clearly demonstrable – witness that homes in this price range are the *median* valued homes in the Woodinville zip code, and that homes in this price range are rapidly being purchased.

2. Development Environment

With the increasing aging of our population, we note that demand for housing on large, one acre lots has been in decline over recent years. According to our demand models, 31% of city residents will be over 55 years of age by 2011. Similarly, younger families with children, who would certainly enjoy one acre lots, simply cannot afford them.

Additionally, we continue to see growth in the Eastside commercial markets that is being driven by companies' increasing acknowledgement of the fact that commute times are getting worse and it is important to consider employees home locations when considering their most efficient location. As this is the case, adding residential units in Woodinville, closer to the business centers of Bellevue, Redmond and Kirkland is clearly needed. Moreover, denser product (R-4 and greater) will appeal to, and be more likely to be affordable to, families who are still in the workforce. Approximations are that families with gross incomes of $125,000 per annum could afford a median priced house in the area. To afford a $2M estate house, their annual income would have to be between $400,000 and $500,000[8]

Considering the area on a transactional basis, we note that the Woodinville market has seen an average of just shy of 500 transactions annually amounting to almost 1/7th of its total housing inventory turning over annually. This rapid turnover is indicative of the high demand for single family housing in Woodinville. Whilst we understand that the City believes that it is meeting its allocation of population as cited in the King County Comp

[5] Both 35,000 square foot lots located on NE 163rd Court and NE 126th Way
[6] 6,100 Square foot lots – NE 155th Place
[7] 6,600 square foot lots – NE 155th Court
[8] Assuming a 20% down payment at a 30 year fixed rate of 6.04%

Plan[9], economic indicators strongly suggests that regional, and therefore local, growth will exceed this target and that the City will see demand exceeding its supply under current zoning. This is a function of the affordability of estate housing vis-à-vis median priced housing and that the local economy appears to be growing at a rate that exceeds the nation as a whole. The City saw considerable growth in the 1990's with City population increasing by 29.2% in terms of households and 21.7% in terms of absolute population[10].

As is attested to in the staff report[11], the City has already issued permits amounting to almost 30% of its quota in the five year period from 2001 to 2006. In addition, to assume that ancillary demand will be more than covered by potential development in the more urbanized areas of the city, i.e. the C.B.D, assumes that there will be a propensity toward multifamily dwelling units. While it is certainly reasonable to expect that there is some demand for multi-family housing in the downtown and tourist sections of the City, the availability of this multi-family housing will not meaningfully reduce the need for more affordable single family housing at R4 densities. Many families, especially those with children, aspire to a single family home but will never be able to afford such a home on an estate-sized lot. Homes on denser lots (R4 and greater) is the market's response to this demonstrated need.

It is our conclusion, then, that market forces will dictate that demand for market rate housing will exceed its supply and that the specific need for R-4 housing in Woodinville will far outpace that of R-1 zoned housing.

[9] 1,869 new households between 2001 and 2022 Per Comp Plan Technical Appendix D – Growth Targets and the Urban Growth Area
[10] Source: DemographicsNow
[11] PPA-2004-054 Table 1 Pg 6

About Gardner Johnson LLC

GARDNER JOHNSON, LLC offers a full range of real estate and economic advisory services, and has extensive experience in a wide range of land uses and development forms. The firm offers a highly qualified staff of professionals, with over fifty years of combined industry experience. The Firms' experience includes land use and regional economics, residential market analysis, commercial and industrial market analysis, periodic economic and market forecasting and financial analysis. Experience includes the following types of projects:

Land Use and Regional Economics

- *Economic Development Plans;*
- *Economic Impact Analysis;*
- *Fiscal Impact Analysis;*
- *Housing Need Assessment;*
- *Public Need Analysis;*
- *Development Fee Incidence Analysis;*
- *Litigation Support/Expert Witness Testimony;*
- *Target Industry Analysis*

Residential Market Analysis

- *Rental Apartments;*
- *Urban mid-rise and high-rise;*
- *Redevelopment;*
- *Mixed-use development programs;*
- *Public policy advisory;*
- *Detached Single Family;*
- *Condominiums/Townhomes;*
- *Retirement Communities;*
- *Master Planned Communities; and*
- *Public-private partnerships;*

Periodic Economic and Market Forecasting

Commercial/Industrial Market Analysis

- *Speculative Office Space;*
- *Retail Shopping Centers;*
- *Business Parks, Including Flex Space;*
- *Hotel/Motel & Conference Center*

Financial Analysis

- *Financial Feasibility Analysis;*
- *Tax Credit Underwriting;*
- *Residual Land Value Analysis;*
- *Highest and Best Use Analysis; and*
- *Least Cost Location Analysis.*

Strategic Planning

Fiscal & Economic Impact Analysis

The Firm has been actively involved in the development of many of the largest and most complex developments in the Pacific Northwest, and is regularly retained by the region's most prominent developers to complete market and financial feasibility studies in the Northwest. In addition, we work for many of the region's lenders on a retainer basis to monitor local real estate markets.

GARDNER JOHNSON has extensive experience forecasting land needs for jurisdictions as well as private-sector clients. The Firm has developed a series of proprietary models that allow for land demand forecasts to reflect market realities. These are used for land use forecasting, as well as for short-term forecasting by our institutional and banking clients. Our models are dynamic, and allow for variation in the profile of growth and development activity as a result of policy inputs and inter-regional shifts.

The Firm serves a diverse mix of clients, including government and public agencies, corporations, developers, institutional investors, financial institutions and non-profit organizations. The diversity of our client base has allowed us to approach the development process from a wide range of perspectives. As a result, we have developed a comprehensive understanding of the factors necessary to encourage, facilitate, and direct the development process in support of public policy objectives. We have been among the leading consultants to private sector developers in the region, are viewed as the primary source of real estate market evaluation by the area's largest commercial lenders. GARDNER JOHNSON regularly melds public policy with market and financial realities, producing accurate, reliable and realistic advice.

Our hallmark as action-oriented professionals is to provide our clients with clear and definitive recommendations that can be readily implemented. Our recommendations are driven by, and based upon, grounded creativity regarding market, economic, physical, and political realities that influence a given real estate asset, portfolio, or geographic sphere.

About Matthew Gardner

Mr. Gardner's career started as a Land Agent for Cluttons, an international firm of Chartered Surveyors where he advised clients such as the British Royal family and the Church of England in their real estate matters. As a Principal of GARDNER JOHNSON, Mr. Gardner specializes in residential and commercial analysis, and is particularly passionate about urban housing needs. Mr. Gardner is a regular speaker on the regional economy as it pertains to real estate and economic matters.

PROFESSIONAL AFFILIATIONS

Washington State University Center for Real Estate Research – Trustee
Building Industry Association of Washington – Director
Urban Land Institute – Technical Assistance Panel Member
Pacific Real Estate Institute – Member
National Association of Business Economists - Member

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GARDNER
JOHNSON

DATE: Thursday, April 05, 2007

TO: G. Richard Hill
Attorney at Law
McCullough Hill, PS
701 Fifth Avenue, Suite 7220
Seattle, Washington 98104

FROM: GARDNER JOHNSON LLC

SUBJECT: WOOD TRAILS / MONTEVALLO PRELIMINARY PLAT & REZONE.
Comments on "Analysis of Wood Trails Rezone & Preliminary Plat Application - Volume 2

GARDNER JOHNSON has been retained by MCCULLOUGH HILL, PS to consider the above analysis prepared by residents of Woodinville et al.

Although the above document was very ample and cited a plethora of publicly prepared documents it fails, among other things, to address one of the core issues that, from an economic standpoint, must be addressed.

A key in the hearing examiners' decision making must be to refer to the City's Housing Policies, including Goal H-1 and Policy H-1.1. Goal H-1 states:

"To preserve existing housing and neighborhoods and provide a diversity of housing types that promote housing opportunities for all economic segments of the City's population."

Policy H-1.1 states:

"Allow for a variety of housing types and lot sizes through mixed use development and small and large lot single family development, townhomes, duplexes, apartments, manufactured housing, mobile home parks, and accessory dwelling units."

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One notes, in particular, the requirement to provide "a diversity of housing types." The City's Ordinance 431, adopted last month and included with the Neighbors' materials, concludes that development of Woodinville Village, the Serkin property and redevelopment of Canterbury Square will ultimately lead to the sale/leasing of 800 units therefore covering a substantial proportion of the City's required growth. This, however, flies in the face of the above Comprehensive Plan policies that require *diversity* in the development of the City's housing stock.

The growth figure of 1,869 housing units is derived from recommendations made by the Puget Sound Regional Council; however, population growth is expected to be 4,400 people and, therefore, an average household size of 2.34 people. Clearly attached housing such as that being developed at Woodinville Village, the Serkin property and Canterbury Square is not suited to most families with children.

Ultimately it is the City's obligation to abide by its own Comprehensive Plan and to allow a full range of housing options as mandated by Housing Policy H-1.1, not just large lot one-acre estate housing for the wealthy on the one hand, and multifamily housing in the Valley for everyone else on the other.

APPENDIX J

Michael J. McCormick FAICP
Planning Consulting Services • Growth Management • Intergovernmental Relations

March 12, 2007

To: G. Richard Hill
Attorney at Law
McCullough Hill, PS
701 Fifth Avenue, Suite 7220
Seattle, Washington 98104

From: Michael J. McCormick

Subject: Woodinville Residential Density Considerations

You have asked me to examine the planning considerations supporting higher residential densities requested by your clients in their applications to the City of Woodinville for the Wood Trails and Montevallo plats. The Woodinville Comprehensive Plan designates the area containing both proposals at Low Density Residential and provides for a density up to 4 dwelling units per acre.[1] The City staff have recommended approval of the requests to rezone these two areas from R-1 to R-4.[2] This memorandum will identify and summarize some reasons why approval of these requests supports good public policy and planning principles for the City of Woodinville.

Planning Context

The Washington State Growth Management Act (GMA) was originally enacted in 1990 and 1991. The GMA required certain counties, and the cities within them, to undertake a new comprehensive planning program. King County and all the cities within are required to plan under the GMA. Some of the key planning elements under the GMA are the establishment of 13 (now 14) goals to be achieved through a set of requirements which called for, among other things, counties, and their cities, to plan to accommodate future growth; counties to designate Urban Growth Areas (UGA's) where future urban growth was to be concentrated; the development of Countywide Planning Policies (and Multiple Countywide Planning Policies within the four-county central Puget Sound

[1] City of Woodinville Comprehensive Plan (December 2002), Chapter 3, Page 7.
[2] City of Woodinville Staff Report To The Hearing Examiner For Wood Trails Rezone ZMA2004-053 And Preliminary Plat Application PPA2004-054 (February 23, 2007) and City of Woodinville Staff Report To The Hearing Examiner For Montevallo Rezone ZMA2004-094 And Preliminary Plat Application PPA2004-093.

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area) to guide local planning; and, requirements for local comprehensive plans and their implementing development regulations to be consistent.[3]

The GMA originally included 13 goals to guide the development of local comprehensive plans and implementing development regulations. The 13 goals discourage sprawling development, encourage development in urban areas with adequate public facilities, encourage economic development throughout the state consistent with comprehensive plans, encourage efficient multimodal transportation systems, provide for the protection of property rights, and require that adequate public facilities and services necessary to support development be available when new development occurs. Many of these planning goals directly relate to specific planning requirements in the act.[4] The City of Woodinville's Comprehensive Plan, Zoning Designations and Development Regulations were developed within this framework.

Accommodating Future Growth

The Washington State Office of Financial Management periodically issues a range of future population growth that each county and its cities must plan to accommodate in the next 20 years. Within the central Puget Sound region[5], this allocation is made by the individual counties, in consultation with their cities, but under the umbrella of a set of multicounty planning policies which were developed and adopted by the Puget Sound Regional Council (PSRC) as VISION 2020.

PSRC is currently updating VISION 2020, extending it to the year 2040. As part of this process, the multicounty planning policies are being updated, and a preferred growth alternative created.[6] Both of these items are to be acted on by PSRC's Executive Board this month.

The preferred growth alternative is best compared to current population targets extended to the year 2040. This adds the 18 year period between 2022 (which is the current target horizon) and 2040. The preferred growth alternative diverges from current plans in the following ways: it assigns more growth to the most urbanized areas (Seattle, Tacoma, Everett, Bellevue, Bremerton), then to the other 14 cities with regional growth centers, and then to the 13 largest suburban cities in the region that do not currently have regional growth centers. Woodinville is identified as one of these

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[3] See RCW 36.70A. An excellent overview can be found on the Washington State Department of Community Development's Growth Management Services web site at http://www.cted.wa.gov/site/375/default.aspx.
[4] In 1995, a 14th goal on shoreline management was added to the GMA.
[5] This includes King, Kitsap, Pierce and Snohomish Counties.
[6] See, respectively, VISION Update, Draft Revised Multicounty Planning Policies (Growth Management Policy Board, February 1, 2007); and, VISION 2020 Update, Recommended Preferred Alternative for a Regional Growth Strategy (Adopted by the Growth Management Policy Board on February 8, 2007).

new "Larger Suburban Cities." The preferred growth alternative assigns 30,000 more population[7] than what is shown in current plans extended to 2040 to this class of cities, but does not distribute specific amounts to any individual city. This will be done subsequently and ultimately incorporated into the King County Countywide Planning Policies.[8]

It is reasonable to assume that Woodinville, as one of the 13 new Larger Suburban Cities will be required to take some share of the 30,000 additional population above what might be expected by just extending the current growth trends. This will place additional pressure on Woodinville to accommodate additional growth. While the current plan, and recent land capacity analysis, suggest the City can meet its current responsibilities, a new significant addition will be problematic.[9] In this light, it would be smart, and from a planning perspective desirable, for the City to conserve what existing residential lands are available to help meet this anticipated future need. One way to do this is to increase existing density as with the approval of these two proposed plats.

Urban Density Issues

Encouraging increased urban densities is a key element of the GMA and for all sound planning efforts to reduce sprawl, preserve rural and resource lands and protect water and air quality. The GMA requires "urban densities" to be located inside the UGA and prohibits them outside. But the GMA does not establish a specific numerical limit to what is urban and what isn't.[10] The State has provided some helpful guidance. The Washington State Department of Community, Trade, and Economic Development published a series of technical assistance documents during the initial years of the GMA. One of these documents covered urban growth area designation and densities. THE ART AND SCIENCE OF DESIGNATING URBAN GOWTH AREAS, PART II contains a thorough discussion of the implications of setting densities and presents a number of examples and arguments which argue for urban densities being set based on a number of factors.[11] This document contains an abundance of examples from within Washington state and outside on the need for and benefit of setting higher residential densities. Typical single family detached housing developments are found at a much higher density than we are discussing here. Absent some

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[7] Within the PSRC region, target allocations are made for both population and employment. The discussion here is limited to the population component only. While important, the employment allocation does not directly translate to housing.

[8] See King County Countywide Planning Policies (Updated July 2006)

[9] King County (and its cities) are one of six counties required to periodically review their available land supply. This Buildable Lands Requirement (RCW 36.70A.215) led to the issuance of the King County Buildable Lands Evaluation Report 2002 (September 2002) in which Woodinville's current supply of available land was reported to meet the current requirements with a surplus capacity for 798 additional people.

[10] See RCW 36.70A.030(18). For a more detailed discussion of UGA designation criteria and density see the publication in Note 10, below.

[11] THE ART AND SCIENCE OF DESIGNATING URBAN GROWTH AREAS, PART II: Some Suggestions for Criteria and Densities, (March 1992), Washington State Department of Community Development Growth Management Division.

recognized environmental constraint, appropriate new planned urban densities are more in the range of five to eight units per acre. It is not uncommon to find popular, well designed new single family development at densities up to 12 units per acre.[12] There continues to be a generally feeling within the planning community that, while not officially established, four units per acre continues to be a "safe" place to start for acceptable urban densities under the GMA. A recent analysis looked at of the central Puget Sound area cities (King, Kitsap, Pierce and Snohomish Counties) compared the percent of single family land area designated above and below four units per acre. More than half of all cities have more than 90% of their single family zoning above four units per acre. In fact only seven of the 47 cities examined had a lower percentage of density above four units per acre lower than Woodinville (Normandy Park, Woodway, Brier, Bainbridge Island, Clyde Hill, Hunts Point and Medina).[13]

The absence of a numerical urban density definition created considerable uncertainty, angst and proved problematic for a number of local jurisdictions. The first attempt at clear guidance came from a decision of the Central Puget Sound Washington Growth Management Hearings Board[14] which established 4 dwelling units per acre as the minimum density for "urban development" under the GMA.[15] This became an evolving and generally accepted standard until a 2005 decision of the Washington State Supreme Court that the hearings boards did not have the authority to set a "bright line" minimum urban density.[16]

However, the issue remains and it is clear that areas designated with relatively less dense designations within UGA's will continue to generate pressure both political and economic. Woodinville has had its own experience where the Central Puget Sound Growth Management Hearings Board sent a clear warning. Specifically the hearings board said:

> Simply stated, Woodinville may not engender or perpetuate a near-term land use pattern (one-acre lots) that will effectively thwart long-term (beyond the twenty-year planning horizon) urban development within its boundaries. *See Robison v. Bainbridge Island*, CPSGMHB Case No. 94-3-0025, Final Decision and Order (May 3, 1995), at 30. Also, encouraging a pattern of new one-acre lots constitutes sprawl. *See Bremerton v. Kitsap County*, CPSGMHB Case No. 95-3-0039, Final Decision and Order (Oct. 6, 1995), at 49.[17]

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[12] See The Right Size Home: Housing Innovation in Washington, (undated), The Housing Partnership.
[13] Joseph W. Tovar, FAICP, Appropriate Urban Densities in the Central Puget Sound Region: Local Plans, Regional Visions, and the Growth Management Act. (November 4, 2005).
[14] The GMA established three Growth Management Hearings Boards to hear appeals of local comprehensive plans and development regulations. Generally see RCW 36.70A.250 through .290.
[15] Bremerton v. Kitsap County, Cent. Puget Sound Growth Mgmt. Hearings Bd., No. 95-3-0039.
[16] Viking Properties v. Holm, 155 Wn.2d 112 (2005).
[17] Hensley v. City of Woodinville, Cent. Puget Sound Growth Mgmt. Hearings Bd., No. 96-3-0031.

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Lower densities (such as R-1) inside UGAs work against progress in meeting the goals of the GMA and remain vulnerable to challenges brought outside the scope of "Viking". Increasing densities can help support the development and continuation of transit service. A locally developed threshold for transit supporting densities has been articulated at 7 to 8 dwelling units per acre.[18] Similarly, increased densities are more likely to attract families with children which would be attractive to the Northshore School District in the face of decreasing enrollments.[19] Efficient use of existing capital facilities is another important principle helped by increasing density without straining capacity, as is the case here.

Other Important Considerations

Beyond the specific goals and requirements of the GMA lie additional principles worthy of consideration.

The Washington Association of Realtors (WAR) has undertaken an ambitious program to increase housing opportunities in this state. To support this effort, WAR is tracking, among others, the performance of all cities within the central Puget Sound region. A portion of their work is seeking to find out the degree to which individual jurisdictions are, first, planning for sufficient acreages of appropriately planned residential densities and, second and perhaps more important, the degree to which these same jurisdictions are meeting their housing numbers targets.[20]

The first of these is the concept of "sustainability". The City is currently undertaking the development of such a policy. A well established definition of sustainable development is: "development which meets the needs of the present without compromising the ability of future generations to meet their own needs."[21] The idea that we must decrease our consumption, including our consumption of land, is a strong element championed around the globe. Decreasing the size of residential development lots is a relatively painless way to contribute to sustainable efforts.

Within the U.S. the idea of a "New Urbanism" has emerged to promote walkable, neighborhood-based development as an alternative to sprawl. The principles of New Urbanism include higher densities "for ease of walking, to enable a more efficient use of services and resources, and to create a more convenient, enjoyable place to live."[22]

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[18] THE ART AND SCIENCE OF DESIGNATING URBAN GROWTH AREAS, PART II, Some Suggestions for Criteria and Densities, (March 1992), Washington State Department of Community Development Growth Management Division, p. 16.

[19] City of Woodinville Staff Report To The Hearing Examiner For Montevallo Rezone ZMA2004-094 And Preliminary Plat Application PPA2004-093, p. 22.

[20] See http://www.warealtor.com/firstpage2.asp and follow the link to Washington Realtors Make Homes a Priority.

[21] UK Govt Sustainable Development found at http://www.sustainabledevelopment.gov.uk/what/index.htm

[22] Found at http://www.newurbanism.org/newurbanism/principles.html

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Smart Growth is another contemporary term which we hear often in the discussion about growth, density and housing. The U.S. Environmental Protection Agency has established a significant program around the "Smart Growth" term to support "communities grow in ways that expand economic opportunity, protect public health and the environment, and create and enhance the places that people love."[23] The Growth Management Program has issued a series of discussion papers to "start discussions for possible solutions for some key growth and quality of life issues." Discussion Paper No. 1 (of 12) is on Housing. A specific land use strategy included in the paper is to use smaller residential lots for detached housing.[24]

Within the planning community starting at the individual community level in Washington state, across the country and, indeed, throughout the world, planners find a number of compelling reasons to promote and encourage increased residential densities. I have highlighted a number here which I feel are particularly applicable to the current requests being made by your clients to the City of Woodinville. This presents a great opportunity for the City to approve the two projects and make a small step toward achieving the goals of the Growth Management Act and support the other positive outcomes we all want.

In conclusion, from my perspective as a planner with over thirty-five years experience in Washington State dealing with local planning and growth management related issues, approving the proposed rezones from R-1 to R-4 will result in a desirable planning outcome and is consistent with sound planning principles. Retaining the R-1 designation on these properties, in the absence of significant environmental constraints, is inconsistent with sound planning principles, and with the policies of the Growth Management Act to encourage urban densities within urban growth areas and to reduce sprawl.

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[23] See http://www.epa.gov/smartgrowth/index.htm.
[24] Smart Growth Discussion Paper No. 1 of 12: Housing, Washington State Community, Trade and Economic Development, (undated).

Michael J. McCormick FAICP

Planning Consulting Services • Growth Management • Intergovernmental Relations

Bio for Michael J. McCormick, FAICP

Mike McCormick is currently a planning consultant located in Olympia, Washington specializing in growth management, planning and intergovernmental relations.

Prior to establishing his consulting firm in 1994, Mike culminated a 25-year career with the Washington State Department of Community Development as Assistant Director for Growth Management. He was actively involved in the creation of the Washington State Growth Management Act in 1990 and, subsequent to the enactment, directed the state's role in implementing the act for three years. In 1991, he received the Governor's Distinguished Management Leadership Award.

Mike has practiced planning in Washington state for more than 35 years, many of those years working at the state level to assist local governments meet a variety of unique planning and financial challenges. He remains active with the Washington Chapter of the American Planning Association's legislative efforts to build and support good planning in Washington State.

In 1999, he was elected to the first class of Fellows of the American Institute of Certified Planners for his contribution to the planning profession. He has been the recipient of the Washington Chapter of APA's Myer Wolfe Award for Professional Achievement and the President's Award for Distinguished Service.

Mike has a Bachelors of Arts in Geography from Fresno State College and a Masters of City Planning from the University of California, Berkeley.

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APPENDIX K

86

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MEMORANDUM

Date:	March 6, 2007	**TG:**	04007.00
To:	Mick Monken - City of Woodinville Cindy Baker - City of Woodinville		
From:	Mike Swenson, P.E., P.T.O.E.		
cc:	Loree Quade - Phoenix Development, Inc. Rich Hill - McCullough Hill, PS		
Subject:	Wood Trails/Montevallo: Final Environmental Impact Statement Addendum		

This memorandum provides a summary of additional analyses prepared as an addendum to the FEIS recently published by the City with respect to the proposed Wood Trails and Montevallo residential projects.

The additional analysis has been prepared to address the change in intersection operations that would result from City staff's desire to not install the bollards at either the NE 202 Street access or the NE 195th Street access. While both the R-1 housing alternative and the attached housing alternative assumed that access to all four city roadways would be permitted, the proposed action included the bollards at NE 202nd Street and NE 195th Street in response to neighborhood concerns. Since the proposed action did not assume access to either NE 202nd Street or NE 195th Street the intersection operations at all four connection points would change slightly from that reported in the FEIS.

Intersections levels of service were recalculated with the revised trip assignment as described above. The updated assignment of traffic and with-project traffic forecasts are summarized in Attachment A. For comparison purposes the previous traffic volumes utilized in the FEIS are included in this attachment. The results of the updated LOS analyses are summarized in Table 1 and Table 2 for the weekday AM and PM peak hours, respectively. For comparison purposes, the results previously shown in the FEIS are included for comparison purposes.

As shown in Table 1, all four intersections evaluated for this updated analysis are forecast to operate at LOS B or better during the weekday AM peak hour and better then LOS C during the weekday PM peak hour. The results of the updated analysis, when compared to the previous results shown in the FEIS show minor increases in delay at the NE 202nd Street and NE 195th Street intersections due to the increased traffic assigned to those streets. The intersections of NE 201st Street and NE 198th Street show minor improvements.

The Transpo Group Inc. 11730 118th Avenue N.E. Suite 600 Kirkland, WA 98034-7120 425.821.3665 Fax: 425.825.8434

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Table 1. 2008 LOS Summary (Weekday AM and PM Peak Hours) – Proposed Action

		With-Project Conditions FEIS Results			With-Project Conditions Updated Analysis		
	Intersection	LOS[1]	Delay[2]	WM[3]	LOS	Delay	V/C or WM
Weekday AM Peak Hour							
1	156th Ave NE / NE 202nd St	B	10.4	EB	B	10.6	EB
2	156th Ave NE / NE 201st St	B	11.2	EB	B	11.0	EB
3	156th Ave NE / NE 198th St	B	12.8	WB	B	12.6	WB
4	156th Ave NE / NE 195th St	B	13.3	WB	B	13.4	WB
Weekday PM Peak Hour							
1	156th Ave NE / NE 202nd St	B	11.7	EB	B	12.1	EB
2	156th Ave NE / NE 201st St	B	12.5	EB	B	12.2	EB
3	156th Ave NE / NE 198th St	C	18.6	WB	C	18.0	WB
4	156th Ave NE / NE 195th St	C	17.8	WB	C	18.1	WB

1. Level of Service
2. Average delay in seconds per vehicle
3. Worst movement reported for unsignalized intersections

In addition to the LOS impacts of the revised trip assignment, consideration is given to the suitability of the access roads connecting to the site. Based on direction from the City, and the removal of the bollards, traffic volumes will increase on both NE 202nd Street and NE 195th Street as a result of the proposed action.

As noted in the FEIS, along NE 195th Street, there is a vertical curve east of the entrance to the proposed neighborhood that has sight distance limitations. Based on previous discussions with City staff we understand that City staff will be requesting that this road be widened to provide two 10 foot travel lanes. A center lane strip will then be added to guide vehicles over the crest of the curve.

Conditions along NE 202nd Street are described in the FEIS and indicate that the roadway varies in width between 20 and 22 feet and includes 2 to 4 foot shoulders. Two sections of NE 202nd Street are estimated to exceed the sight distance standards developed by the City of Woodinville for a 25 mph posted speed. Due to the limited increase in vehicles per hour generated by the project, no significant impacts to traffic safety or operations are anticipated. In acknowledgement of the existing deficiencies, it is recommended that the City consider the placement of traffic calming measures and or warning signs near the deficient points.

We trust this memorandum provides the additional information requested. Please do not hesitate to call if you have any questions.

M:\04\04007 Woodinville\FEIS Analysis\WP\04007_Site Access Memo.doc

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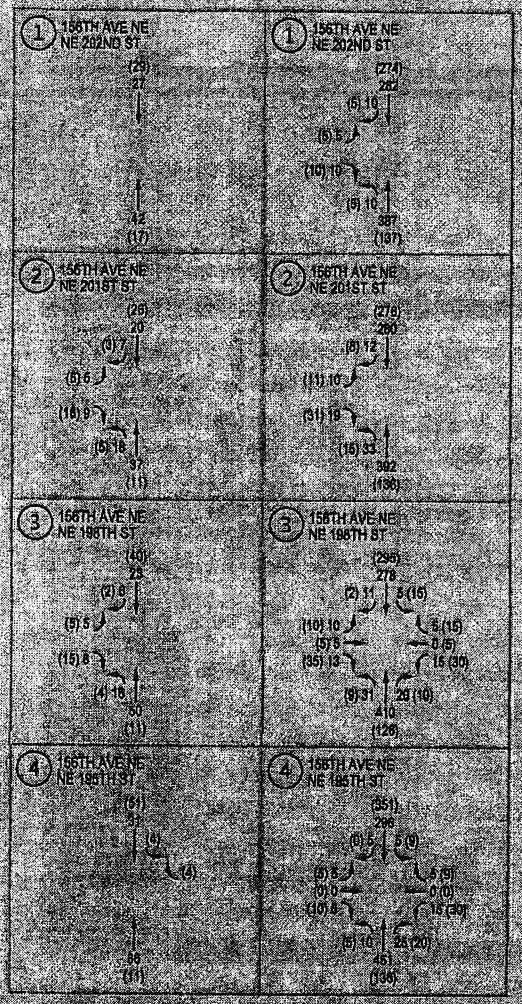
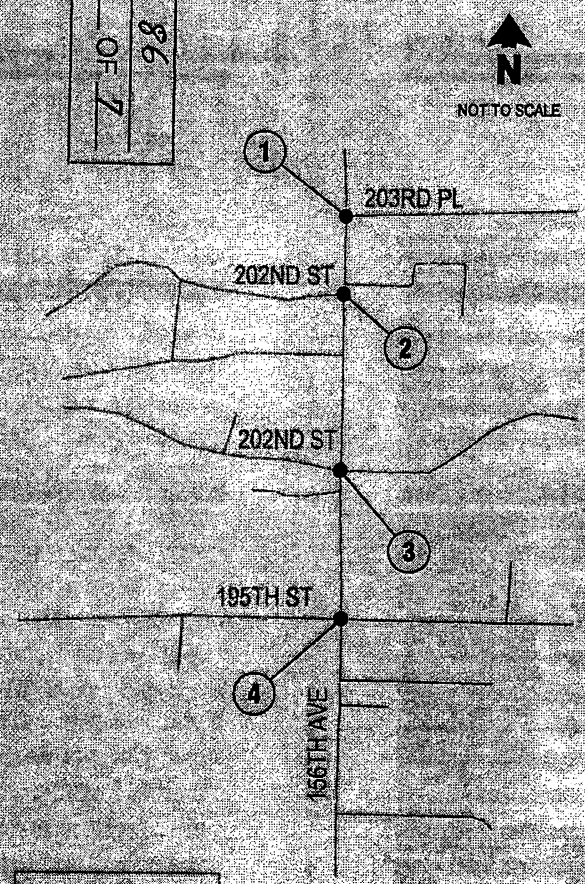
Wood Trails / Montevallo FEIS (Proposed Action)

Trip Assignment | 2008 With-Project Volumes

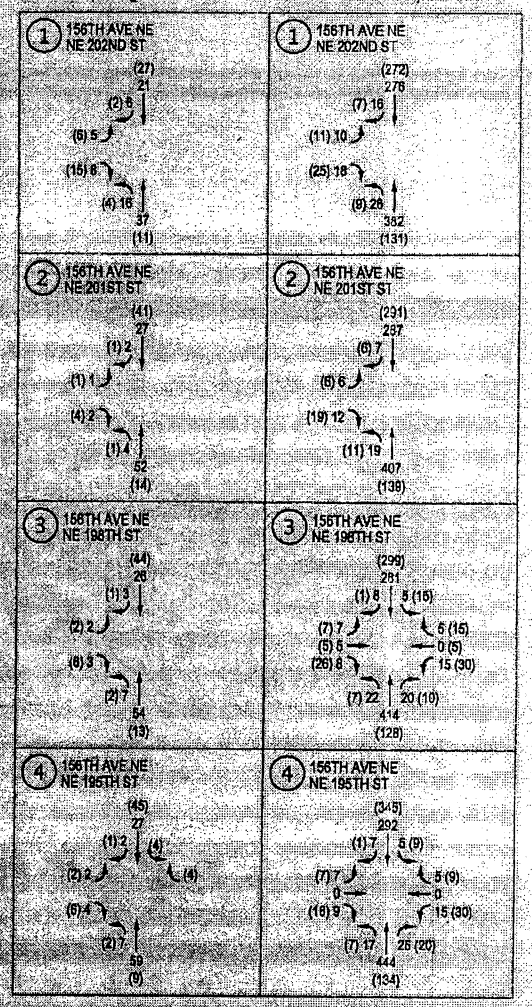




LEGEND
X = PM PEAK HOUR
(X) = AM PEAK HOUR

Wood Trails / Montevallo Addendum (Proposed Action)

Revised Trip Assignment | Revised 2008 With-Project Volumes



Attachment A

Forecast Peak Hour Volumes – Proposed Action (Updated)

Wood Trails

The Transpo Group

M:\04\04007 Wood Trails\Graphic, 4 intersections (5 Mar 07) <L3 (2)> robertm 03/06/07 13:05

Wood Trails-Montevallo EIS
2: NE 202nd St & 156th St NE

2008 With Proposed Action- AM Peak Hour
3/2/2007

Movement	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Lane Configurations						
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	11	25	19	131	272	7
Peak Hour Factor	0.94	0.94	0.94	0.94	0.94	0.94
Hourly flow rate (vph)	12	27	10	139	289	7
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type	None					
Median storage veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	452	293	297			
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	452	293	297			
tC, single (s)	6.4	6.2	4.1			
tC, 2 stage (s)						
tF (s)	3.5	3.3	2.2			
p0 queue free %	98	96	99			
cM capacity (veh/h)	565	751	1259			

Direction Lane #	[illegible]	[illegible]	[illegible]
Volume Total	38	149	297
Volume Left	12	10	0
Volume Right	27	10	7
cSH	682	1259	1700
Volume to Capacity	0.06	0.01	0.17
Queue Length 95th (ft)	4	0	0
Control Delay (s)	10.6	0.6	0.0
Lane LOS	B	A	
Approach Delay (s)	10.6	0.6	0.0
Approach LOS	B		

Intersection Summary			
Average Delay	1.0		
Intersection Capacity Utilization	24.7%	ICU Level of Service	A
Analysis Period (min)	15		

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The Transpo Group

Wood Trails-Montevallo EIS
3: NE 201st St & 156th St NE

2008 With Proposed Action- AM Peak Hour
3/2/2007

Movement	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Lane Configurations						
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	8	19	11	139	291	6
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Hourly flow rate (vph)	7	21	12	151	316	7
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type	None					
Median storage veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	495	320	323			
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	495	320	323			
tC, single (s)	6.6	6.4	4.1			
tC, 2 stage (s)						
tF (s)	3.7	3.5	2.2			
p0 queue free %	99	97	99			
cM capacity (veh/h)	495	677	1225			

Direction Lane #	[illegible]	[illegible]	[illegible]
Volume Total	27	163	323
Volume Left	7	12	0
Volume Right	21	0	7
cSH	622	1225	1700
Volume to Capacity	0.04	0.01	0.19
Queue Length 95th (ft)	3	1	0
Control Delay (s)	11.0	0.7	0.0
Lane LOS	B	A	
Approach Delay (s)	11.0	0.7	0.0
Approach LOS	B		

Intersection Summary			
Average Delay	0.8		
Intersection Capacity Utilization	26.4%	ICU Level of Service	A
Analysis Period (min)	15		

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The Transpo Group

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Wood Trails-Montevallo EIS — 2008 With Proposed Action- AM Peak Hour

4: NE 196th St & 156th St NE — 3/2/2007

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations		⇕			⇕			⇕			⇕	
Sign Control		Stop			Stop			Free			Free	
Grade		0%			0%			0%			0%	
Volume (veh/h)	7	5	24	30	5	15	7	126	10	15	299	1
Peak Hour Factor	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96
Hourly flow rate (vph)	7	5	25	31	5	16	7	133	10	16	311	1
Pedestrians												
Lane Width (ft)												
Walking Speed (ft/s)												
Percent Blockage												
Right turn flare (veh)												
Median type		None			None							
Median storage veh)												
Upstream signal (ft)												
pX, platoon unblocked												
vC, conflicting volume	518	502	312	326	497	139	312			144		
vC1, stage 1 conf vol												
vC2, stage 2 conf vol												
vCu, unblocked vol	518	502	312	326	497	139	312			144		
tC, single (s)	7.2	6.6	6.2	7.1	6.5	6.2	4.1			4.1		
tC, 2 stage (s)												
tF (s)	3.5	4.0	3.3	3.5	4.0	3.3	2.2			2.2		
p0 queue free %	98	99	96	93	99	98	89			99		
cM capacity (veh/h)	498	490	721	439	470	919	1231			1433		

Direction, Lane #	EB 1	WB 1	NB 1	SB 1
Volume Total	40	52	151	328
Volume Left	7	31	7	16
Volume Right	25	16	10	1
cSH	605	524	1231	1433
Volume to Capacity	0.07	0.10	0.01	0.01
Queue Length 95th (ft)	4	7	0	1
Control Delay (s)	11.6	12.6	0.4	0.5
Lane LOS	B	B	A	A
Approach Delay (s)	11.6	12.6	0.4	0.5
Approach LOS	B	B		

Intersection Summary			
Average Delay	2.8		
Intersection Capacity Utilization	35.0%	ICU Level of Service	A
Analysis Period (min)	15		

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The Transpo Group

Wood Trails-Montevallo EIS — 2008 With Proposed Action- AM Peak Hour

5: NE 195th St & 156th St NE — 3/2/2007

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations		⇕			⇕			⇕			⇕	
Sign Control		Stop			Stop			Free			Free	
Grade		0%			0%			0%			0%	
Volume (veh/h)	7	0	18	30	0	9	7	134	20	9	345	1
Peak Hour Factor	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96
Hourly flow rate (vph)	7	0	17	31	0	9	7	140	21	9	359	1
Pedestrians												
Lane Width (ft)												
Walking Speed (ft/s)												
Percent Blockage												
Right turn flare (veh)												
Median type		None			None							
Median storage veh)												
Upstream signal (ft)												
pX, platoon unblocked												
vC, conflicting volume	553	554	360	560	544	150	360			160		
vC1, stage 1 conf vol												
vC2, stage 2 conf vol												
vCu, unblocked vol	553	554	360	560	544	150	360			160		
tC, single (s)	7.1	6.6	6.2	7.2	6.6	6.3	4.2			4.1		
tC, 2 stage (s)												
tF (s)	3.5	4.0	3.3	3.5	4.1	3.4	2.3			2.2		
p0 queue free %	98	100	98	92	100	99	99			99		
cM capacity (veh/h)	438	438	689	419	427	871	1176			1413		

Direction, Lane #	EB 1	WB 1	NB 1	SB 1
Volume Total	24	41	168	370
Volume Left	7	31	7	9
Volume Right	17	9	21	1
cSH	567	487	1176	1413
Volume to Capacity	0.04	0.09	0.01	0.01
Queue Length 95th (ft)	3	6	0	0
Control Delay (s)	11.4	13.3	0.4	0.3
Lane LOS	B	B	A	A
Approach Delay (s)	11.4	13.3	0.4	0.3
Approach LOS	B	B		

Intersection Summary			
Average Delay	1.6		
Intersection Capacity Utilization	33.1%	ICU Level of Service	A
Analysis Period (min)	15		

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The Transpo Group

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2: NE 202nd St & 155th St NE

Movement						
Lane Configurations						
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	10	18	26	382	278	16
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Hourly flow rate (vph)	11	20	28	415	300	17
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type	None					
Median storage veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	780	309	317			
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	780	309	317			
tC, single (s)	6.4	6.2	4.1			
tC, 2 stage (s)						
tF (s)	3.5	3.3	2.2			
p0 queue free %	97	97	98			
cM capacity (veh/h)	358	736	1248			

Direction, Lane #						
Volume Total	30	443	317			
Volume Left	11	28	0			
Volume Right	20	0	17			
cSH	535	1248	1700			
Volume to Capacity	0.06	0.02	0.19			
Queue Length 95th (ft)	4	1	0			
Control Delay (s)	12.1	0.7	0.0			
Lane LOS	B	A				
Approach Delay (s)	12.1	0.7	0.0			
Approach LOS	B					

Intersection Summary			
Average Delay	0.9		
Intersection Capacity Utilization	50.4%	ICU Level of Service	A
Analysis Period (min)	15		

3: NE 201st St & 156th St NE

Movement						
Lane Configurations						
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	6	12	19	407	287	7
Peak Hour Factor	0.89	0.89	0.89	0.89	0.89	0.89
Hourly flow rate (vph)	7	14	21	457	322	8
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type	None					
Median storage veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	828	326	330			
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	828	326	330			
tC, single (s)	6.4	6.2	4.1			
tC, 2 stage (s)						
tF (s)	3.5	3.3	2.2			
p0 queue free %	98	98	98			
cM capacity (veh/h)	336	719	1235			

Direction, Lane #						
Volume Total	29	479	330			
Volume Left	7	21	0			
Volume Right	0	0	8			
cSH	823	1235	1700			
Volume to Capacity	0.04	0.02	0.19			
Queue Length 95th (ft)	2	1	0			
Control Delay (s)	12.2	0.5	0.0			
Lane LOS	B	A				
Approach Delay (s)	12.2	0.5	0.0			
Approach LOS	B					

Intersection Summary			
Average Delay	0.8		
Intersection Capacity Utilization	45.0%	ICU Level of Service	A
Analysis Period (min)	15		

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Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations		⇶			⇶			⇶			⇶	
Sign Control		Stop			Stop			Free			Free	
Grade		0%			0%			0%			0%	
Volume (veh/h)	73	5	6	14	0	5	22	414	20	6	281	8
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Hourly flow rate (vph)	9	5	7	17	0	6	25	470	23	6	319	9
Pedestrians												
Lane Width (ft)												
Walking Speed (ft/s)												
Percent Blockage												
Right turn flare (veh)												
Median type		None			None							
Median storage veh)												
Upstream signal (ft)												
pX, platoon unblocked												
vC, conflicting volume	678	678	324	679	672	482	328			493		
vC1, stage 1 conf vol												
vC2, stage 2 conf vol												
vCu, unblocked vol	673	676	324	679	672	482	328			493		
tC, single (s)	7.1	6.5	6.2	7.1	6.5	6.2	4.1			4.1		
tC, 2 stage (s)												
tF (s)	3.5	4.0	3.3	3.5	4.0	3.3	2.2			2.2		
p0 queue free %	97	98	99	93	100	99	98			99		
cM capacity (veh/h)	268	281	722	258	284	586	1237			1076		

Direction, Lane #	EB 1	WB 1	NB 1	SB 1
Volume Total	23	123	518	334
Volume Left	9	17	25	6
Volume Right	7	0	23	9
cSH	302	300	1237	1076
Volume to Capacity	0.08	0.41	0.02	0.01
Queue Length 95th (ft)	4	5	1	0
Control Delay (s)	16.5	18.0	0.8	0.2
Lane LOS	C	C	A	A
Approach Delay (s)	16.5	18.0	0.8	0.2
Approach LOS	C	C		

Intersection Summary	
Average Delay	1.3
Intersection Capacity Utilization	45.1% ICU Level of Service A
Analysis Period (min)	15

Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations		⇶			⇶			⇶			⇶	
Sign Control		Stop			Stop			Free			Free	
Grade		0%			0%			0%			0%	
Volume (veh/h)	7	0	9	15	0	5	17	444	25	5	292	7
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92	0.92
Hourly flow rate (vph)	8	0	10	16	0	5	18	483	27	5	317	8
Pedestrians												
Lane Width (ft)												
Walking Speed (ft/s)												
Percent Blockage												
Right turn flare (veh)												
Median type		None			None							
Median storage veh)												
Upstream signal (ft)												
pX, platoon unblocked												
vC, conflicting volume	871	879	321	875	869	496	325			510		
vC1, stage 1 conf vol												
vC2, stage 2 conf vol												
vCu, unblocked vol	871	879	321	875	869	496	325			510		
tC, single (s)	7.1	6.5	6.2	7.1	6.5	6.3	4.1			4.1		
tC, 2 stage (s)												
tF (s)	3.5	4.0	3.3	3.5	4.0	3.4	2.2			2.2		
p0 queue free %	97	100	99	91	100	99	98			99		
cM capacity (veh/h)	257	283	724	256	278	582	1229			1050		

Direction, Lane #	EB 1	WB 1	NB 1	SB 1
Volume Total	17	22	528	330
Volume Left	8	16	18	5
Volume Right	10	5	27	8
cSH	414	296	1229	1050
Volume to Capacity	0.04	0.07	0.02	0.01
Queue Length 95th (ft)	3	5	1	0
Control Delay (s)	14.1	18.1	0.4	0.2
Lane LOS	B	C	A	A
Approach Delay (s)	14.1	18.1	0.4	0.2
Approach LOS	B	C		

Intersection Summary	
Average Delay	1.0
Intersection Capacity Utilization	44.3% ICU Level of Service A
Analysis Period (min)	15

EXHIBIT 86
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EXHIBIT 129
PAGE 1 OF 6

The Transpo Group

MEMORANDUM

Date:	April 5th, 2007	**TG:**	04007.00
To:	Rich Hill, McCullough Hill, PS		
From:	Michael Swenson, The Transpo Group		
cc:	Loree Quade, Phoenix Development		
Subject:	Wood Trail/Montevallo - Review of Public Comments		

This memorandum provides responses and additional analysis related to issues raised at the March 15, 2007 public hearing by Roger Mason, representing the Concerned Neighbors of Wellington (CNW). Based on the testimony provided by Mr. Mason, the four primary issues raised include the following:

- Analysis of local roads providing access to Wood Trails
- Risk assessment of local roads (NE 195th St/NE 198th St/NE 201st St/NE 202nd St
- Sight distance analysis of the local road connections with 156th Avenue NE
- Actual Traffic Growth

Analysis of Local Roads Providing Access to Wood Trails

Included in both the draft and final environmental impacts statements prepared by The Transpo Group and Perteet Engineering, respectively, is a comprehensive analysis of the existing conditions; including a review of traffic operations, safety, and geometrics.

One issue raised by Mr. Mason is the existing sight distance deficiencies along the four local roadways providing access to the site. These roadways include NE 195th Street, NE 198th Street, NE 201st Street, and NE 202nd Street. This condition was acknowledged early on based on citizen comment. A detailed analysis of this condition was included in the DEIS and also included in Appendix T-5 of the FEIS.

As noted by Mr. Mason, there are several driveways along each of these four roadways that are located within the sight distance deficient zone. When considering the impacts to these locations, resulting from the increased level of traffic, it is important to consider the existing accident history and the forecast traffic volumes. The percent increase in traffic does not necessarily equal the increase in risk potential.

As with any increase in traffic, there exists the potential for an increase in the risks of accidents along these four roads. The accident data presented in the FEIS (Table 3.5-

4) shows that there is little to no accident history on the four access roads. Based on the minor increase in peak hour volumes and the past accident history, it is our opinion that the risk is low for an increase in accident potential.

In order to fully eliminate the existing deficiency, significant and costly road improvements would be required. This would undoubtedly impact the driveway locations and provide challenges with respect to grade as the road would be dropped in elevation. In this light, full elimination of the existing deficiency by the developer would not be proportional, as the cost and disruption of doing so would not be reasonable when balanced against the low risk for increase in accident potential.

Given that there is some, albeit low, potential increase in risk, there are several reasonable mitigation measures that can be considered through the design process with the City Engineer. As required through SEPA, the project is required to mitigate its impacts on the adjacent road system. In this case, the project applicant would be responsible to mitigate the increased risk that would result from the increased traffic levels. The increased risk at these sight deficient areas could be mitigated through localized road improvements. For example these improvements could include minor road widening, construction of dedicated pedestrian walkways, advance warning signs, and traffic calming measures. The installation of traffic calming measures along these streets has a precedent in the City, as traffic calming measures were installed on 152nd Avenue NE north of the crest of the vertical curve that does not accommodate the required sight distances. The traffic calming measures installed include signing and small speed bumps on the outside wheel paths.

Risk Assessment of Local Roads

Mr. Mason provided a detailed risk assessment of the potential for collisions along the four access roads in Table 5 (page 9 of 19) of the Transportation section of the CNW submittal. The results of his risk assessment indicated that with the proposed action, the risk potential will double along NE 195th Street, increase by 36 percent along NE 198th Street, increase by 53 percent along NE 201st Street, and increase by 56 percent along NE 202nd Street. As noted in Table 5, the risk factors applied to both the frequency and severity are based on engineering judgment and not a standard methodology.

As described in the previous section, when considering the future potential for accidents, it is important to note the historical trends as well as the increase in hourly volumes, relative to the capacity of the road. Based on these factors we believe the risk for future conflicts to be low. That being said, the applicant could construct improvements along the four access roads within the sight deficiency areas that would reduce the risk potential for collisions and offset the impacts associated with the increased traffic.

Sight Distance Analysis of the Local Road Connections with 156th Avenue NE

A sight distance analysis was conducted by Transpo staff to verify the results reported by Mr. Mason in Table 7 of the CNW submittal. Based on the analysis conducted by Mr. Mason, all four local roads are deficient with respect to the minimum entering sight distance recommendations. The notes identified in Table 7 indicate that the measurements were taken from the stop signs on the minor street approaches. The methodology outlined in A Policy on Geometric Design of Highways and Streets, 2004, published by American Association of State Highways and Transportation Officials (AASHTO) indicate that the measurements be taken from a point 14 feet back from the traveled way (A Policy on Geometric Design of Highways and Streets, 2004, published by AASHTO, page 657). AASHTO states that "The vertex (decision point) of the departure sight triangle on the minor road should be 4.4 m or 14.5 feet back fro the edge of the major traveled way" The manual goes on to state that field observations have shown vehicles stopping as little as 6.5 feet from the edge of the traveled way. As noted, the methodology used by Mr. Mason is different from the methodology highlighted in AASHTO, which is also the City of Woodinville's standard.

In general, stopping sight distance is the distance necessary to enable a motorist to stop before reaching a stationary object in its path. In contrast, entering sight distance is the distance necessary for a motorist to enter the traffic stream without causing traffic on the major street to reduce its travel speed. By definition, substandard stopping sight distance can affect traffic safety while substandard entering sight distance can affect traffic operations. A Policy on Geometric Design of Highways and Streets, 2004, published by AASHTO provides guidance and further definition of both the entering and stopping sight distance criteria. AASHTO is also referenced in the City of Woodinville's road standard as the applicable criteria.

A sight distance analysis was conducted at four intersections along 156th Avenue NE. The intersections include 156th Avenue NE / NE 202nd Street, 156th Avenue NE / NE 201st Street, 156th Avenue NE / NE 198th Street, and 156th Avenue NE / NE 195th Street. The posted speed along 156th Avenue NE is 35 mph, thus a design speed of 45 mph was used to calculate the stopping sight distance (SSD) and the entering sight distance (ESD). Sight distance standards were based upon the AASHTO. This includes the methodology used to measure the entering and stopping as well as the numerical requirements themselves.

Entering sight distance measurements were performed on the minor street approaches (NE 202nd Street, NE 201st Street, NE 198th Street, and NE 195th Street) with the decision point measured 14 feet from the edge of the major street travel way (156th Avenue NE). The driver height at the decision point was measured at 3.5 feet.

Stopping sight distance measurements were performed on the major street (156th Avenue NE) with the object located on 156th Avenue NE at each minor street approach. The driver height was measured at 3.5 feet and the object height was

measured at 2 feet. Table 1 summarizes the results of the stopping and entering sight distance analyses.

Table 1. Sight Distance Analysis along 156th Avenue NE

Entering Sight Distance	Measured[1]	AASHTO Standard	Standard Met?
NE 202nd Street			
RT to 156th Ave NE	560'	430	Yes
LT to 156th Ave NE	640	500	Yes
NE 201st Street			
RT to 156th Ave NE	600'	430'	Yes
LT to 156th Ave NE	490'[3]	500'	No
NE 198th Street			
RT to 156th Ave NE	550'[4]	430'	Yes
LT to 156th Ave NE	385'	500'	No
NE 195th Street			
RT to 156th Ave NE	600	430'	Yes
LT to 156th Ave NE	>600	500'	Yes
Stopping Sight Distance	**Measured[1]**	**Standard**	**Standard Met?**
NE 202nd Street			
To the North	>400'	360'	Yes
To the South	>400'	360'	Yes
NE 201st Street			
To the North	>400'	360'	Yes
To the South	>400'	360'	Yes
NE 198th Street			
To the North	>400'	360'	Yes
To the South	>400'	360'	Yes
NE 195th Street			
To the North	>400'	360'	Yes
To the South	>400'	360'	Yes

1 Rounded to nearest five feet; approximated based on field measurement
2 Based on 45 mph design speed
3. Could be improved with the removal of vegetation
4. Although mailboxes exist in the sight triangle, drivers can see beyond the mailboxes to the value reported.

Based on the analysis prepared by Transpo and highlighted in Table 1, all locations meet the entering sight distance requirements accept for the left-turn from NE 201st Street and the left-turn from NE 198th Street.

When addressing the issue of deficient entering sight distance, AASHTO offers the following guidance on page 655.

> *"Sight distance is also provided at intersection to allow the drivers of stopped vehicles a sufficient view of the intersecting highway to decide when to enter the*

intersecting highway or to cross it. If the available sight distance for an entering or crossing vehicle is at least equal to the appropriate stopping sight distance for the major road, then the drivers have sufficient sight distance to anticipate and ***avoid collisions****. However, in some cases, this may require a major-road vehicle to stop or slow to accommodate the maneuver by a minor-road vehicle. To enhance traffic operations intersection sight distances that exceed stopping sight distances are* ***desirable*** *along the major road."* ***(emphasis added)***

Since in the case of both NE 201st Street and NE 198th Street the stopping sight distances are met, cars traveling along 156th Avenue will have adequate time to stop when a vehicle pulls out. Thus, while there may be some impact on travel speeds along NE 156th Avenue as vehicles pull out from either NE 201st Street or NE 198th Street, the intersection and turning movements are still considered safe based on AASHTO guidelines.

As noted in Table 1, the required 360 feet of stopping sight distance is met at all locations assuring that the access points can operate safely.

Actual Traffic Growth

Transpo has reviewed the discussion and analysis provided by Mr. Mason with respect to the actual growth rates occurring on NE 156th Avenue. We have identified two errors associated with his analysis. The first error relates to his calculation of a 16 percent annual growth rate, while the second, is his misunderstanding relative to the methodology used to establish the future baseline traffic volumes.

First, the data used by Mr. Mason to establish a 16 percent annual growth rate is based on just two traffic counts separated by only 20 months. However, it is general practice for professional transportation engineers, when establishing a growth rate, to utilize more than just two data points. The use of two data points will not address anomalies that can be caused by construction, accidents, or special events that could be ongoing. Such anomalies can skew results. In the case of Mr. Mason's calculation, it appears that this skewing has in fact occurred. For example, the analysis prepared by TSI for Costco, referenced by Mr. Mason, notes that caution should be used when interpreting the 16 percent growth rate identified, due to construction activity on SR 9. That construction artificially could have increased the traffic growth rate at the measured streets.

Secondly, Mr. Mason's discussion of the 2.5 percent annual growth rate is misleading. He is correct in his quotation of Section 3.5.1.3 Traffic Volumes. For purposes of establishing 2006 volumes 2004 traffic counts, data was increased at an annual rate of 2.5 percent. What has been excluded from his discussion is the methodology used to develop future baseline volumes. Per the direction of City staff, the baseline traffic volumes were developed by applying a 2.5 percent annual growth rate as well as the traffic associated with approved, but not yet constructed development projects. In total, 18 pipeline projects were included in the analysis (Section 3.5.2.2 Proposed Action Traffic Volumes). Based on comments received on the DEIS, Perteet included

traffic associated with the Costco development within the FEIS. With the inclusion of the annual growth rate and the pipeline projects, a comparison of the 2006 traffic volumes and the 2008 baseline traffic volumes at the NE 203rd Street/156th Avenue showed a 16 percent increase in traffic volumes along 156th Avenue. This equates to an annual growth rate of approximately 8 percent during the study horizon year of 2006 to 2008.

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Transportation Specialists
Focused on Mobility

The Transpo Group

April 26, 2007

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PAGE 14 OF 22

TG: 04007.00

Mr. Rich Hill
McCullough Hill, PS
701 Fifth Avenue, Suite 7220
Seattle, Washington 98104

SUBJECT: WOOD TRAILS/MONTEVALLO RESPONSE TO ADDITIONAL REVIEW COMMENTS

Dear Rich:

This letter has been prepared in response to additional issues raised by the public during the last public hearing (April 5, 2007), as well as information presented by the Concerned Neighbors of Wellington (CNW). This letter briefly addresses the following points:

- Video of queuing at 156th Avenue/Woodinville-Duvall Road
- Analysis of Local Roads Providing Access to Wood Trails (CNW)
- Sight Distance Analysis of the Local Road Connections on 156th Avenue NE (CNW)
- Actual Traffic Growth (CNW)

Video of queuing at 156th Avenue/Woodinville-Duvall Road

Transpo staff was in attendance the night of the April 5, 2007 hearing while the video was played. Since no information was presented as to the traffic volumes that coincided with the video observations, it is difficult to provide a direct comparison between the two analyses and explain why the results are different. The process by which the queuing analysis was conducted for the FEIS included traffic counts, queue observations, and the development of a calibrated traffic model. This process was approved by City staff and is described in detail on page 3.5-18 of the FEIS with additional information on the calibration methodology presented in Appendix O. While the results of the baseline (without-project) analysis may have differed due to the time gap between the initial study prepared by the FEIS and the observations presented by CNW, the general impacts of the project would remain the same. As noted on page 3.5-57 of the FEIS the increase in queue length for the right and left-turns are one car. If in fact the southbound left-turn queue length does exceed the storage provided today, the expected increase in the southbound queue length on 156th Avenue would be two cars during the weekday AM peak period. Given the existing queue lengths and the conditions as noted in the video presented by the CNW, this increase would not be considered significant.

Analysis of Local Roads Providing Access to Wood Trails

As presented by City staff on April 5th, the City will be imposing a condition that requires that measures be taken to reduce the risk potential within the sight distance deficient zones, that results

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from the increase in traffic. The previous memorandum (April 5, 2007) prepared by Transpo identified several measures which could be implemented that would focus on controlling/reducing speeds which would reduce the sight distance needed, or providing advance notification associated with the deficient zone. The mitigation measures proposed are common and implemented in other areas where sight distance issues exist and reprofiling of roads are not an option. As noted in the added conditions of approval, the City Engineer has the final authority on what is required and it is presumed that the City will implement the measures that are necessary to maintain the current risk level.

Sight Distance Analysis of the Local Road Connections on 156th Avenue

While additional analysis of the entering sight distance calculations were presented by CNW, the general conclusions of that analysis did not differ from that reported by Transpo. When considering the entering sight distance, there is subjectivity with respect to the location of "obstructions" and the definition of these objects. It is not unlikely that two observers would produce two different results. The entering sight distances were not "surveyed" by Transpo, but were based on field measurements conducted with observers and field measuring devices. The analysis by CNW presents additional information on the entering sight distance measurements and concludes that two locations; NE 201st Street and NE 198th Street do not meet the desirable entering sight distance values. Even though the calculations provided by CNW and Transpo differ, the conclusions made in Transpo's April 5, 2007 memo with respect to NE 201st Street and NE 198th Street are the same.

CNW makes reference to the stopping sight distance for a right turn from NE 198th Street. Stopping sight distance is a measurement provided for 156th Avenue, so it is unclear how the conclusion reached in the CNW was made. The analysis conducted by Transpo (April 5, 2007 memorandum) identified that all four access road intersections meet the stopping sight distance requirements. This was validated by Perteet; as the conclusions of their analysis presented at the April 5, 2007 hearing resulted in the same conclusion.

Actual Traffic Growth

As noted in Transpo's April 5, 2007 memorandum we did not disagree with the 16 percent increase in traffic noted in the study prepared by Costco; that is the results of the counts performed. We simply question the use of that figure as a basis for long-term growth projections. Typically jurisdictions default to a general background growth rate in the 2.5 percent range. Woodinville staff requested that we go one step beyond and include traffic from approved projects in Snohomish County. In the April 5, 2007 Transpo provided an overview of the methodology used to develop future traffic volumes. As noted in that memorandum, while a 2.5 percent growth rate was applied to the background traffic, traffic associated with pipeline traffic volumes were also provided. That methodology resulted in an annual growth rate of approximately 8 percent per year. When equating the 16 percent increase for a 15 month period to a 12 month rate, a 12 percent growth rate is derived. Thus, the true difference in growth rate assumptions equates to approximately 4 percent per year. Based on existing traffic volumes, the difference in 4 percent per year equates to only 50 vehicles over a two year period.

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The Transpo Group

If you have additional questions or need further clarification on any of these items, please do not hesitate to call.

Sincerely,
The Transpo Group, Inc.

Michael J. Swenson, P.E., P.T.O.E.
Senior Transportation Engineer

MJS/

04007 wood trails\$eis analysis\wp\cnw additional comments.doc

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CITY OF WOODINVILLE
DEVELOPMENT SERVICES

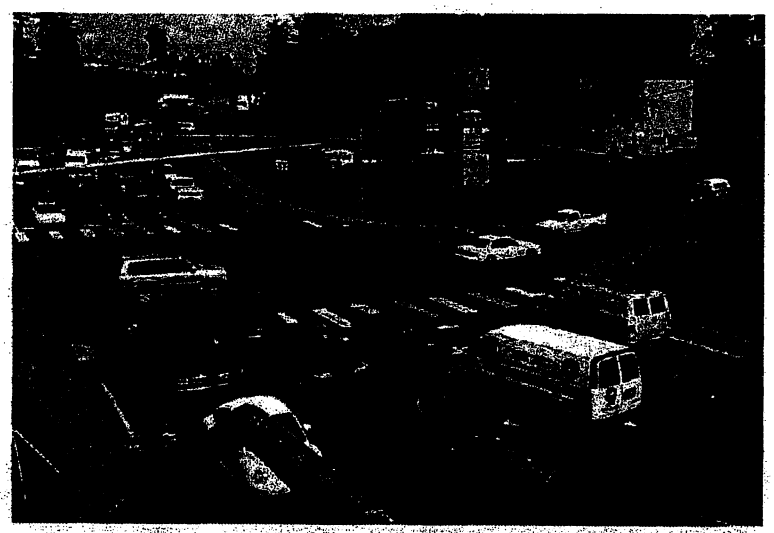
APPENDIX L

Exhibit 144

Perteet CD

Available for review at City of Woodinville's Development Services's counter

City of Woodinville



April 5, 2007

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Transportation Impacts of Wood Trails and Montevallo

- Historic and Future Traffic Counts
- Stopping Sight Distance *vs.* Entering Sight Distance
- Accident History and Rates in Project Area

EXHIBIT 144
PAGE 2 OF 20

Traffic Counts

Collection of existing traffic patterns and characteristics in order to predict future traffic conditions

- **ADT Counts:** 3-day, 24-hr volumes, direction of travel, speeds
- **Turning Counts:** Movements at intersections during 2-hrs of AM and/or PM (Peak Hour)

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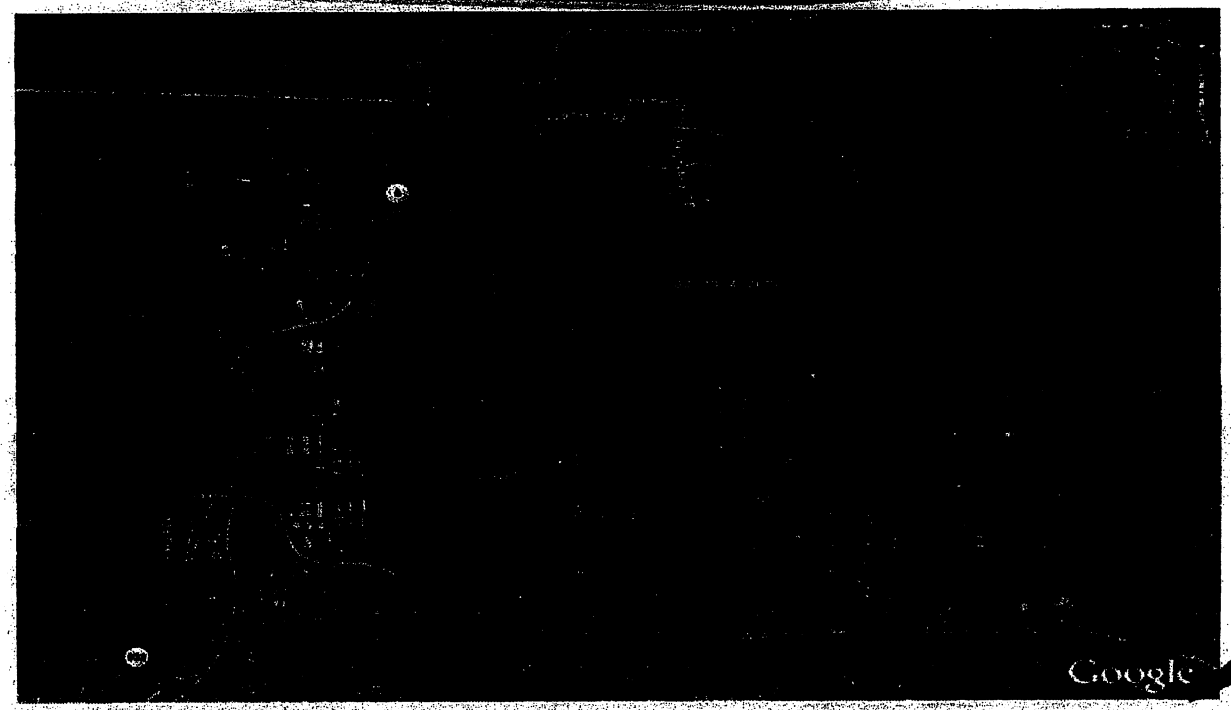
PAGE 3 OF 20

Location of ADT Counts



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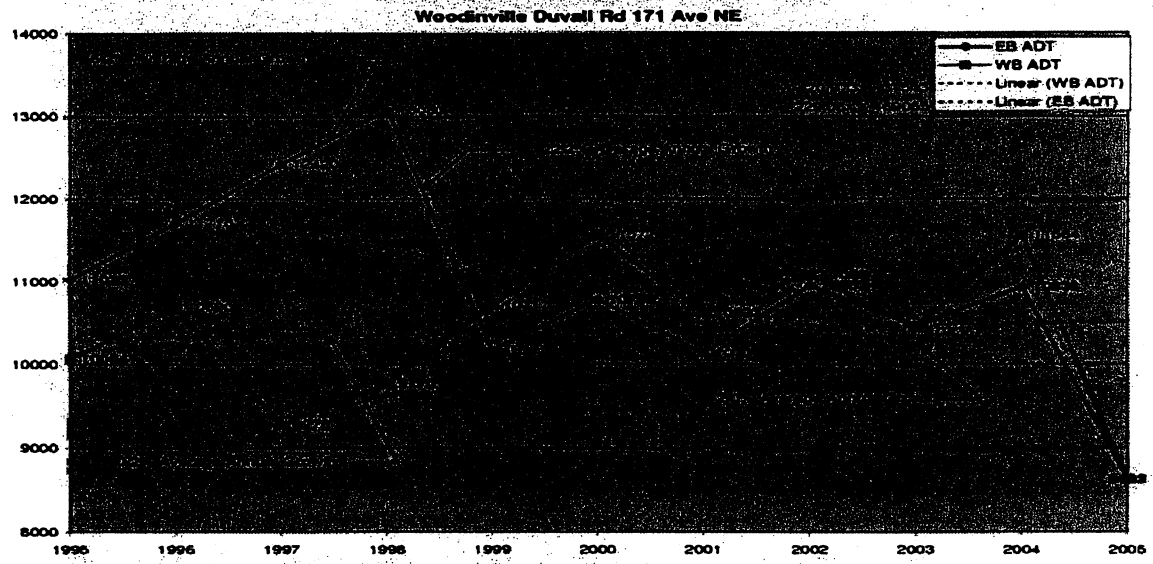
Historc ADT and Growth Rates on Woodinville – Duvall Road at 171st Ave. NE



Source: King County

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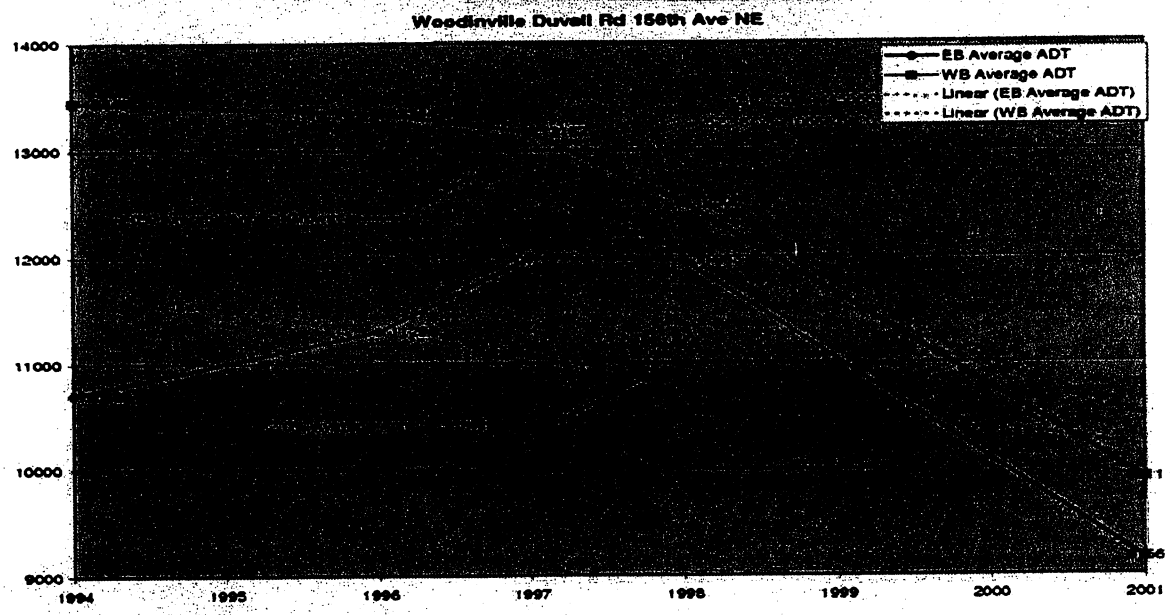
Historic ADT and Growth Rates on Woodinville – Duvall Road at 156th Ave. NE



Source: City of Woodinville & King County

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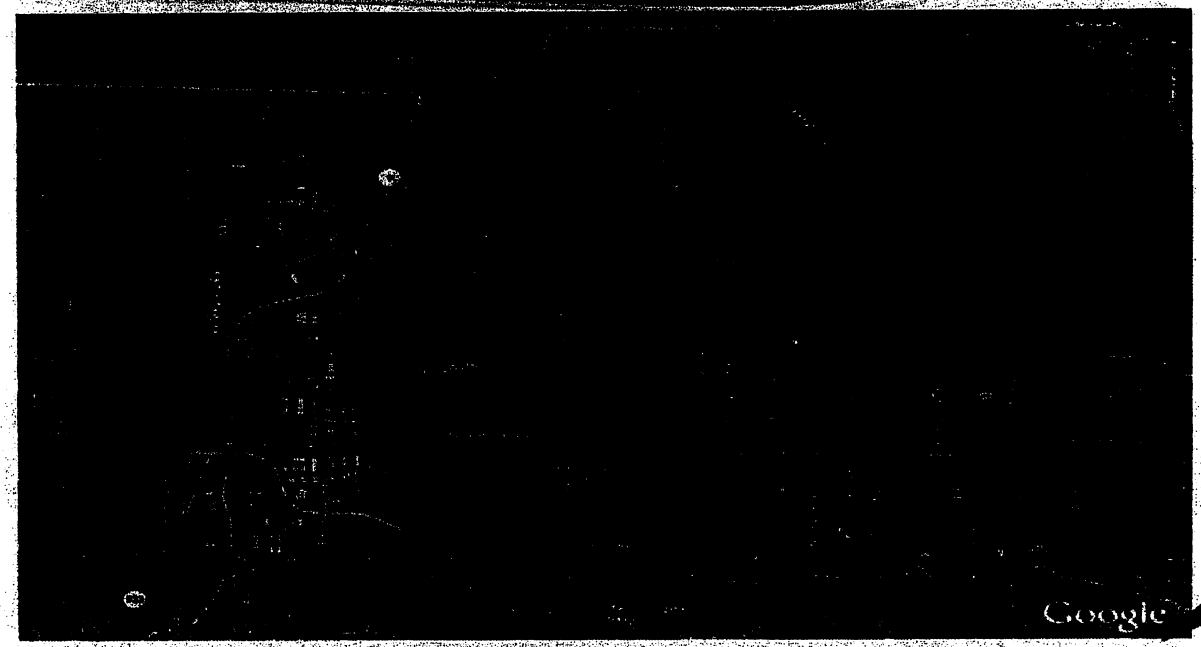
Location of ADT Counts



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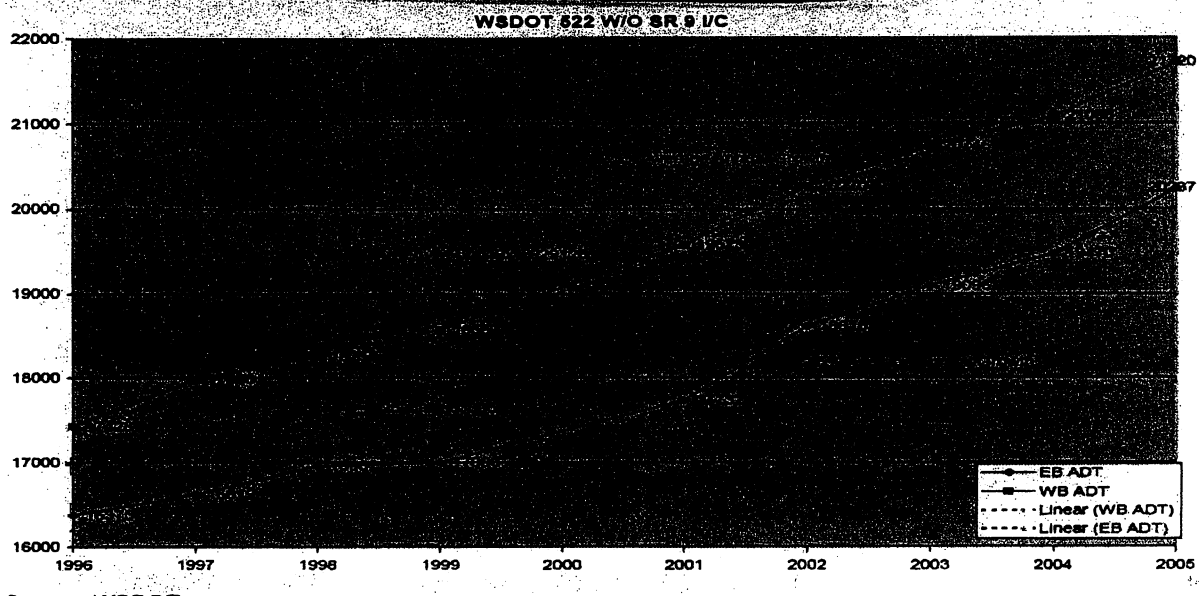
Historic ADT and Growth Rates on SR 522



Source: WSDOT

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Historic Growth as Shown by ADT *vs.* PSRC

- Historic ADT ***Long-Term Rates*** of +5.8 to -4.0 % per year
- PSRC 2.5% per year is based on population and employment growth
- Due to variability of ADT growth rates, historically the use of PSRC rate has proven to be the most reliable

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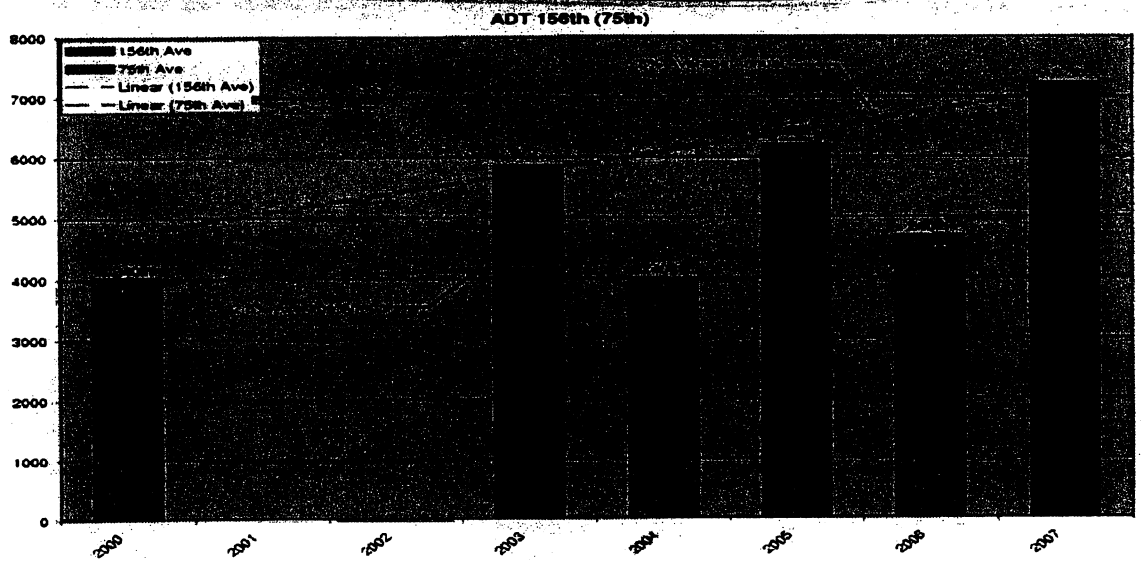
Historic ADT and Growth Rates on 156th Ave. NE



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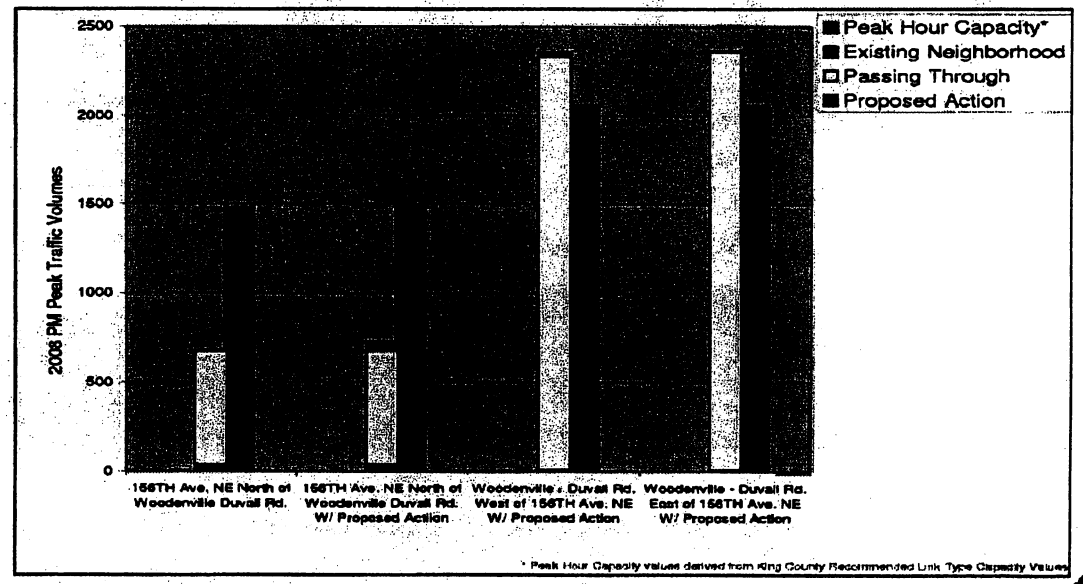
Source: City of Woodinville, Costco Study, & Snohomish Co.

Project Trips Compared to Existing Neighborhood and Background Traffic, and Roadway Capacity



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Stopping Sight Distance (Safety) vs. Entering Sight Distance (Operational)

City uses AASHTO Standards as required by RCW 35.78.030

US Customary

Design speed (mph)	Brake reaction distance (ft)	Braking distance on level (ft)	Stopping sight distance Calculated (ft)	Stopping sight distance Design (ft)
15	55.1	21.6	76.7	80
20	73.5	38.4	111.9	115
25	91.9	60.0	151.9	155
30	110.3	86.4	196.7	200
35	128.6	117.6	246.2	250
40	147.0	153.6	300.6	305
45	165.4	194.4	359.8	360
50	183.8	240.0	423.8	425
55	202.1	290.3	492.4	495
60	220.5	345.5	566.0	570
65	238.9	405.5	644.4	645
70	257.3	470.3	727.6	730
75	275.6	539.9	815.5	820
80	294.0	614.3	908.3	910

Exhibit 3-1. Stopping Sight Distance

US Customary

Design speed (mph)	Stopping sight distance (ft)	Intersection sight distance for passenger cars Calculated (ft)	Intersection sight distance for passenger cars Design (ft)
15	80	165.4	170
20	115	220.5	225
25	155	275.6	280
30	200	330.8	335
35	250	385.9	390
40	305	441.0	445
45	360	496.1	500
50	425	551.3	555
55	495	606.4	610
60	570	661.5	665
65	645	716.6	720
70	730	771.8	775
75	820	826.9	830
80	910	882.0	885

Exhibit 9.55 Design Intersection Site Distance – Case B1 – Left Turn from Stop

Note: Intersection sight distance shown is for a stopped passenger car to turn left onto a two-lane highway with no median and grades 3 percent or less. For other conditions, the time gap must be adjusted and required sight distance recalculated.

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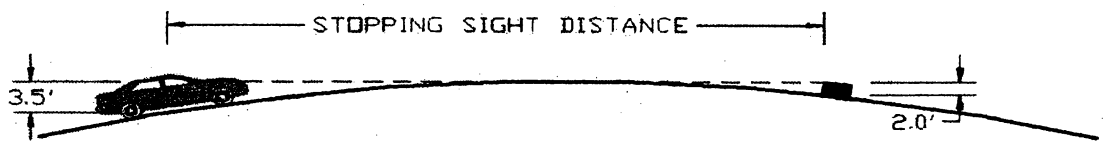
Stopping Sight Distance



AASHTO 45 MPH DESIGN SPEED
SSD = 360 FT LEVEL GRADE

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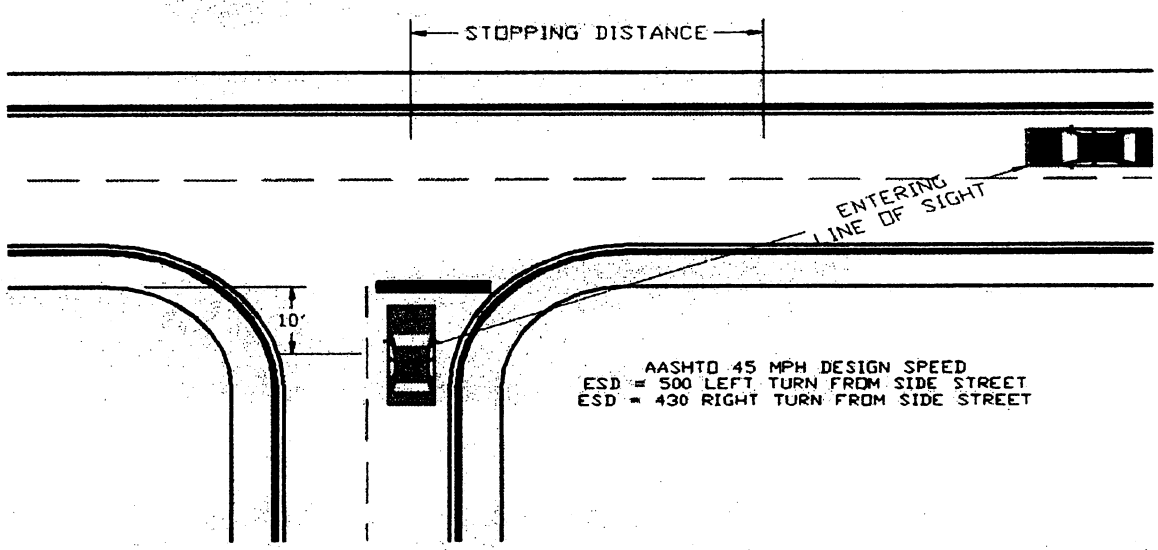
Entering Sight Distance



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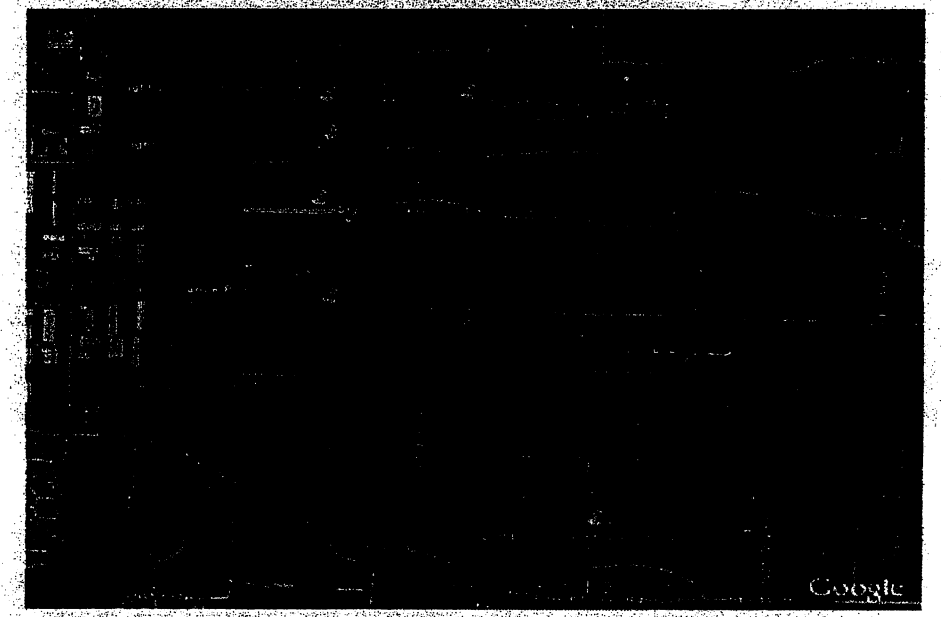
Existing Sight Distance Problem Areas



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Area History of Accidents

[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
156th Avenue NE/NE 203rd Place	0	0	0.00	0.0
156th Avenue NE/NE 202nd Street	0	0	0.00	0.0
156th Avenue NE/NE 201st Street	0	0	0.00	0.0
156th Avenue NE/NE 198th Street	0	0	0.00	0.0
156th Avenue NE/NE 195th Street	0	1	0.20	0.08
156th Ave NE/NE Woodinville-Duvall Rd	10	5	3.00	0.31
NE Woodinville-Duvall Rd/NE Woodinville Way	10	3	2.60	0.25
NE Woodinville-Snohomish Rd/NE 195th St	37	9	9.20	0.78
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
156th Avenue NE: NE 195th Street to NE 203rd Place	2	0	0.40	Vehicle in ditch Vehicle struck pole
NE 202nd Street: 156th Avenue NE to Western Terminus	1	0	0.20	Vehicle struck pole
NE 201st Street: 156th Avenue NE to Western Terminus	1	0	0.20	Collision at private driveway
NE 198th Street: 156th Avenue NE to Western Terminus	0	0	0	None
NE 195th Street: 156th Avenue NE to Western Terminus	0	0	0	None

1. Data provided by City of Woodinville Staff
2. Accidents per million entering vehicles at the intersection (MEV); ADT estimated as being ten times PM peak TEV.
3. Intersections occurring either mid-block along these roadways, or at non-study intersections.

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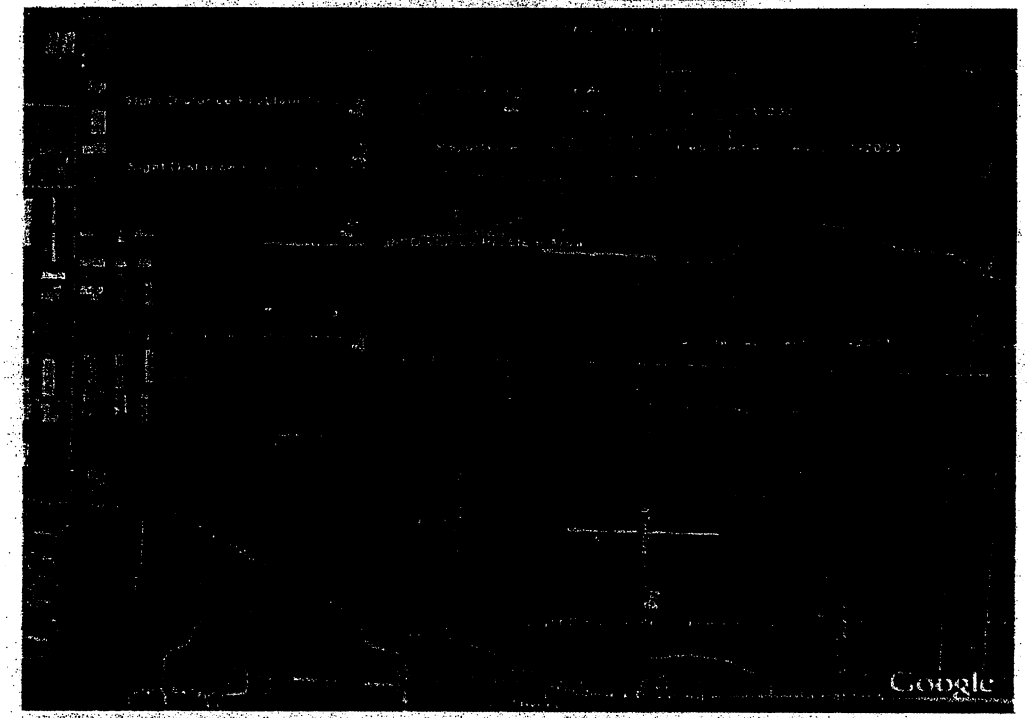
2001 to 2005 Accident History



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Transportation Engineering Conclusions

- Minor traffic impacts due to Proposed Action none of which exceed the City's adopted LOS of "E"
- There are several Stopping Sight Distance problem locations that can be mitigated with improvements

EXHIBIT 144
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Recommended Condition of Approval Addressing Sight Distance Problems

"Any potential increase in risk to safety attributed to the Proposed Action's increase in traffic is to be offset by a proportional increase in safety provided by the construction of roadway and / or pedestrian safety improvements. Potential improvements may include lane delineations, lane widening and / or turn lane(s) at defined locations, pedestrian improvements at defined locations, raised curbing, and additional signage.

"The appropriateness of any proposed roadway and / or pedestrian safety improvement must be determined solely by the City Engineer and shall be determined in light of access locations, and vertical and horizontal roadway geometrics."

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Time for Questions

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APPENDIX M

EXHIBIT 131
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Earth Solutions NW LLC

PREPARED FOR

PHOENIX DEVELOPMENT, INC.

EXHIBIT 131
PAGE 2 OF 12

April 5, 2007

ADDENDUM REPORT
GEOLOGIC HAZARDS
PROPOSED WOODTRAILS PROJECT
WOODINVILLE, WASHINGTON

ES-0067

Earth Solutions NW, LLC
2881 – 152nd Avenue Northeast, Redmond, Washington 98052
Ph: 425-284-3300 Fax: 425-284-2855
Toll Free: 866-336-8710

EXHIBIT 131
PAGE 3 OF 12

Earth Solutions NW LLC

- Geotechnical Engineering
- Construction Monitoring
- Environmental Sciences

April 5, 2007
ES-0067

Phoenix Development, Inc.
16108 Ash Way, Suite 201
Lynnwood, Washington 98087

Attention: Mr. Bob Vick

Subject: Addendum Report
Geologic Hazards
Response to Neighborhood Concerns
Proposed Woodtrails Project
Woodinville, Washington

Reference: Earth Solutions NW, LLC
Addendum Geotechnical Report
ES-0067, dated August 1, 2005

Earth Consultants, Inc.
Addendum Geotechnical Engineering Report
E-10683, dated February 14, 2005

Earth Consultants, Inc.
Geotechnical Engineering Study
E-10683, dated June 9, 2004

Dear Mr. Vick:

Earth Solutions NW, LLC (ESNW) has prepared this letter addressing issues raised by the community regarding geologic hazards. We would like to emphasize, however, the planned development as currently proposed is feasible from a geotechnical standpoint. There has been no evidence presented that refutes the findings and conclusions of the geotechnical report and subsequent addendum reports. The City of Woodinville, and their experts, in applying their code requirements, and as part of developing the Final Environmental Impact Statement (FEIS) for the project has determined the geotechnical reports meet the applicable code requirements.

Landslide Hazard Areas

Landslide Hazard Areas are defined by the City of Woodinville Code (WMC 21.24.290) as areas potentially subject to landslides based on a combination of geologic, topographic, and hydrologic factors. The code indicates that areas potentially subject to landslides may include, but are not limited to the following:

> (i) Areas of historic failures, such as areas designated as quaternary slumps, earthflows, mudflows, lahars, or landslides on maps published by the U.S. Geological Survey or Department of Natural Resources;
> (ii) Areas with all three of the following characteristics:
> (A) Slopes steeper than 15 percent; and
> (B) Hillsides intersecting geologic contacts with a relatively permeable sediment overlying a relatively impermeable sediment or bedrock; and
> (C) Springs or ground water seepage;
> (iii) Areas that have shown movement during the Holocene epoch (from 10,000 years ago to the present) or that are underlain or covered by mass wastage debris of that epoch;
> (iv) Areas potentially unstable because of rapid stream incision, stream bank erosion, and undercutting by wave action;
> (v) Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding; and
> (vi) Any area with a slope of 40 percent or steeper and with a vertical relief of 10 or more feet except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and measured by averaging the inclination over at least 10 feet of vertical relief.

The upland areas of the Woodtrails site where development is proposed are not a landslide hazard area, and development as proposed is feasible from a geotechnical standpoint. This conclusion is based on the following:

- Subsurface explorations including 45 test pits and two borings confirm the presence of soils that exhibit a high degree of soil strength and resistance to landslide activity. Experts within the geological community may debate over the exact boundaries between geologic units within the Woodtrails site. However, soil strength characteristics, a key to any geotechnical evaluation of landslide potential, are the most important measure (when combined with a knowledge of the geologic setting). Reference to the soil relative density (medium dense, dense, very dense) reported in the geotechnical reports, as well as the Standard Penetration Blow Count data obtained from the soil borings (which provides a measure of soil strength characteristics) demonstrate the high strength characteristics of the soils.

- As part of the geotechnical reports (referenced at the beginning of this letter) a total of 29 sieve analysis tests were conducted on samples collected at the test sites for purposes of classifying the soils. Throughout the site where development is proposed, sieve analyses classify the soils as silty sand, silty sand with gravel and silt. The silt content (defined as the percent of the sample passing the #200 sieve) ranged from approximately 15 to 75 percent. None of the tested samples, which were selected from varying depths within the test sites, classified as a "clean" sand that would meet the definition of a "relatively permeable sediment" (see above WMC 24.21.290 ii B). The absence of "relatively permeable sediment" was further confirmed in the original June 9, 2004 geotechnical report, where it is concluded that infiltration is generally not feasible at the site (see ECI Geotechnical Engineering Study E-10683, dated June 9, 2004). For the referenced geotechnical study to conclude otherwise, site specific geotechnical analysis would need to establish the presence of permeable sediments on a wide scale throughout the site.

- Important map resources that are used as a tool in performing an overall geotechnical engineering assessment of landslide potential were also utilized. These resources alone should not be relied on, but combined with site specific engineering analysis provide a more thorough and complete overall assessment of landslide hazards. The map resources included the Geologic Map of the Bothell Quadrangle, Minard 1985, Composite geologic map of the Sno-King Area, Booth, D.B., Cox, B.F., Troost, K.G. and Shinel, S.A., University of Washington, Seattle Area Geologic Mapping Project, 2004 and Chapter 12 Woodinville Comprehensive Plan, Figures A13-1 and A13-3, Critical Areas and Sensitive Geologic Areas In Woodinville. These map resources do not identify landslide hazards on the subject site.

- Aerial photographs provided an additional resource in evaluating the overall site stability and history of past developments. Consistent with map resources, aerial photographs are another tool, that when combined with site specific engineering analysis, provide a more thorough and complete overall assessment of landslide hazards. The aerial photographs, dating back to 1936, do not reveal evidence of large scale landslide activity on the site.

- The site was thoroughly traversed on two occasions by the undersigned in the company of the geological expert representing the City of Woodinville. Site observations of this nature are another component of an overall assessment of landslide hazards, and combined with site specific engineering analysis, as well as map and aerial photos, provide a more thorough and complete overall assessment of landslide hazards. The site observations yielded no evidence of conditions that suggest the site is inherently unstable, or that large scale landslide activity is ongoing and persistent throughout the site. This is not surprising given the high strength characteristics of the soils observed at the test pit and boring exploration sites.

- Another important component of any thorough geotechnical evaluation of landslide hazards is a recognition of adjacent developments and their position relative to the site. The addendum geotechnical study for the project (Earth Consultants, Inc., E-10683, dated February 14, 2005) identified an adjacent property immediately west and abutting the west property line of the Woodtrails site. The geotechnical report prepared by Nelson Couvrette and Associates (1999) for this property located at 20250 – 144th Avenue Northeast, describes dense to very dense (high strength characteristic) soils throughout the site. The report describes these soils as glacial drift (Qvd) deposits. This property is positioned within and along the base of the slope areas that comprise the westerly portions of the Woodtrails site. In 2000, the undersigned was engaged by the developer/contractor to perform geotechnical services during the excavation phase of the project. The 16 to 18 foot deep building excavation within the hillside along the margins of the Woodtrails site revealed very dense (high strength characteristic) silty sand with gravel soils. The soil conditions observed by the undersigned were consistent with the subsurface characterization provided in the Nelson Couvrette report. The very dense (high strength characteristic) soils observed during the excavation for the 20250 – 144th Avenue Northeast development are consistent with soil conditions observed throughout the Woodtrails site. These soils, exhibiting high strength characteristics, are not prone to landslide activity, and it is not surprising that the Woodtrails site and adjacent industrial areas are recognized as stable and not mapped as landslide deposits.

- The Final Environmental Impact Statement (FEIS) for the Woodtrails site concludes that there is a low susceptibility to large-scale and deep-seated landslide activity at the site (p. 3.1-14 of the FEIS).

With respect to the City of Woodinville Sustainable Development report, the authors conclude that the Hillside Drainages (part of which contains the Woodtrails site) should be characterized as a landslide hazard area. The report, however, bases this recommendation on the worst case geologic condition and worst case infiltration and slope stability analysis. Given these worst case assumptions, the authors specify that site specific studies should be required to refute or confirm the presence of hazards on a case by case basis (see p. 16 of the Hydrogeologic Analysis prepared by Golder Associates, Inc., for the Sustainable Development Report).

Given the findings of the site specific studies, the Woodtrails site exhibits good stability and soil strength characteristics. Numerous studies and an Environmental Impact Statement have addressed the site conditions and stability. These studies have all concluded that the site is stable, and development as planned is appropriate. Given the level of site specific study and the overall consensus that the site is stable, the Woodtrails site does not meet the definition of a landslide hazard area.

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Erosion Hazard Areas

As indicated in the referenced geotechnical reports, the Soil Survey of King County identifies Alderwood Gravelly Sandy Loam deposits throughout the site and surrounding areas. These deposits are characterized as AgC 6 to 15 percent slopes and AgD 15 to 30 percent slopes. The Soil Survey of King County characterizes the erosion potential of AgC soils as moderate, and the erosion potential of AgD deposits as severe. The City of Woodinville Municipal Code (21.24.290.2a) classifies an erosion hazard area as those areas identified by the U.S. Department of Agriculture's Natural Resources Conservation Service or identified by a critical area special study as having a severe to very severe erosion potential.

The various maps delineating areas of erosion potential are important resources and helpful tools in evaluating the erosion susceptibility of a site. From a geotechnical perspective, use of these map resources combined with site specific investigation and a knowledge of the proposed development activities provides a more thorough evaluation of a potential erosion hazard. With respect to the proposed Woodtrails development, the upland areas of the site (mapped as both AgC – moderate and AgD – severe) exhibit little evidence of widespread erosion and instability. Based on the geotechnical studies and FEIS prepared for the site, combined with multiple site visits to observe conditions, the erosion hazard throughout these upland areas can largely be characterized as moderate. The absence of severe erosion as evidenced by widespread areas of soil displacement, sedimentation, or deep rutting is the primary basis for this conclusion. The 40 percent or steeper portions of the site, which in our opinion would be characterized as having a severe erosion potential, also show little evidence of widespread erosion.

Given our understanding that the building sites will be located outside the limits of the 40 percent or steeper slopes, and provided Best Management Practices (BMP's) are utilized during site development activities, soil erosion can be managed such that impacts will be negligible. The FEIS (page 3.1-18) emphasizes that BMP's are required during site development, and concludes that short-term impacts to soils and overall site stability should be negligible. The FEIS also indicates that BMP's would be used to cover and stabilize soils during construction, and to manage runoff, minimizing sediment transport. Based on the observations of the undersigned and involvement during the subsurface investigations, there is no evidence of widespread areas of erosion that exist throughout the planned development areas. Additionally, through the use of BMP's during development activities, impacts to the site, steep slope areas, and neighboring sites will be negligible.

Seismic Hazards

The Woodinville Municipal Code (WMC 21.24.290.2c) defines seismic hazard areas as areas subject to severe risk of damage as a result of earthquake-induced ground shaking, slope failure, settlement, surface rupture, or soil liquefaction. With respect to soil liquefaction and related settlements, the referenced geotechnical reports (Earth Consultants, Inc. E-10683, dated June 9, 2004 and Earth Consultants, Inc. E-10683, dated February 14, 2005) conclude that the site has a low susceptibility to liquefaction. The medium dense to very dense soil deposits encountered at the site are not prone to liquefaction. With respect to earthquake induced slope failure, the above referenced geotechnical report (Earth Consultants, Inc. E-10683, dated February 14, 2005) provides an assessment of estimated peak ground accelerations (PGA) at the site, given the maximum considered earthquake (2 percent probability of exceedence in 50 years). The report concludes that earthquake induced deep seated slope movements are not anticipated due to the very dense glacial deposits underlying the site, as demonstrated by the test pit and boring data.

With respect to ground shaking, the subject property is no more susceptible to earthquake induced damage than any adjacent or nearby development. Amplification of long period ground motions, which generally is a concern for important structures located over deep alluvial deposits, is not applicable because the planned development is located in an area of competent glacial deposits.

With respect to surface rupture, there is no documented evidence that surface ruptures or associated scarp features exist on the site. A relatively recent study titled Holocene Fault Scarps And Shallow Magnetic Anomalies Along The Southern Whidbey Island Fault Zone Near Woodinville, Washington (Sherrod, Blakely, Weaver, Kelsey, Barnett and Wells – USGS Open File Report 2005-1136, March 2005) studied a hypothesized southeastward extension of the South Whidbey Island Fault Zone (SWIFZ). One conclusion of the study is that strong evidence suggests that two fault strands in the Maltby-Woodinville area slipped multiple times in the Holocene (present day to approximately 11,500 years ago). The study also concludes that the overall hazards posed by the SWIFZ remain in question. Although it is the opinion of the undersigned that the above referenced SWIFZ report is an important study, evidence sufficient to characterize the subject site as a seismic hazard area in accordance with WMC 21.24.290.2c does not exist.

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Stormwater Facility

As currently proposed, a stormwater facility will be constructed along the west side of the Woodtrails property. Limited alterations to the steep slopes in the area of the stormwater facility will occur. The extent of the alteration has not been completely defined at this time, as the stormwater facility is still in the conceptual stages of design. Nevertheless, an increased level of geotechnical investigation was committed to the overall area of the proposed stormwater facility. Two borings were drilled at the toe and top of the slope bordering the east side of the planned facility. Multiple deep test pit excavations were also completed. The results of these subsurface investigations support the conclusion that the soils exhibit a high degree of strength, and that alterations to the existing slope in the form of newly graded permanent slopes can be completed without compromising stability. This conclusion with respect to stability was provided as part of the addendum geotechnical report submitted for the project (ESNW, ES-0067, dated August 1, 2005).

With respect to alterations of geologically hazardous areas, the observed and documented soil strength characteristics are such that alterations to the steep slope adjacent to the planned stormwater facility will not increase the threat of the geological hazard to adjacent properties beyond predevelopment conditions; will not adversely impact other critical areas; and can be 'esigned so that the hazard to the project is eliminated or mitigated to a level where there is no ,easonable chance of harm to the project or its associated land use (WMC 21.24.300). During final engineering and development, the planned facility will need to meet the performance standards specified in WMC 21.24.310.1c (Design Standards).

Critical Area Study

As defined in the Woodinville Municipal Code (WMC 21.24.130 – Contents of Critical Area Special Study) the following shall apply:

The critical area special study shall be in the form of a written report and shall contain the following, as applicable:

- Using the best available science, identification and characterization of all sensitive areas on or encompassing the development proposal site;
- Using the best available science, assessment of the impacts of any alteration proposed for a critical area or buffer, assessment of the impacts of any alteration on the development proposal, other properties and the environment, and/or assessment of the impacts to the development proposal resulting from development in the critical area or buffer;
- Studies, which propose adequate mitigation, maintenance, monitoring and contingency plans and bonding measures;
- A scale map of the development proposal site; and
- Detailed studies, as required by the Planning Director.

It is our opinion that the level of study completed for the Woodtrails project more than satisfies the Critical Area Study requirements specified above. This reporting includes the three geotechnical studies referenced at the beginning of this report, a geotechnical report prepared by an expert representing the City of WoodInville and an Environmental Impact Statement.

Buffer Reduction

The original geotechnical engineering study (Earth Consultants, Inc. E-10683, dated June 4, 2004) specified a minimum building foundation setback of 25 feet from the top of existing slopes that are 40 percent or steeper. This specified setback considers a ten foot building lot line buffer distance from the top of 40 percent slopes, and a minimum building foundation setback of 15 feet from the edge of the buffer. The Woodinville Municipal Code (WMC 21.24.310.1c.ii) specifies that the buffer distance can be reduced to a minimum of 10 feet when a qualified professional demonstrates to the satisfaction of the Planning Director that the reduction will adequately protect the proposed development, adjacent developments and uses and the subject critical area. As demonstrated in the referenced geotechnical reports and subsurface investigations, the overall site exhibits good stability and high soil strength characteristics. Given these characteristics, a buffer reduction, as specified above and in accordance with the provisions of the code is appropriate.

Also, as stated in the above referenced geotechnical engineering study, in some cases the minimum building foundation setback from the ten foot buffer may be reduced to five feet. This setback distance would need to be confirmed by the geotechnical engineer on a case by case basis.

Groundwater Recharge

The FEIS (p. 3.2-28) concludes that groundwater recharge on the site is limited by glacial till (relatively impervious sediments) near the surface of the site. The findings of the geotechnical reports and related sieve analysis data support this conclusion. Relatively permeable soils, or soils conducive to infiltration, were not widely encountered throughout the site. It is recognized that the planned development and creation of impervious surfaces would cause a minor shift in the volume of water exiting the site in the form of groundwater. However, the FEIS concludes that the impact of this shift on groundwater would be insignificant.

We trust the above statements have clearly addressed the issues raised by the community.

Sincerely,

Earth Solutions NW, LLC

RAYMOND A. COGLAS
STATE OF WASHINGTON
38018
REGISTERED
PROFESSIONAL ENGINEER

4/5/07

7-29-2008

Raymond A. Coglas, P.E.
Principal

COPY

April 25, 2007
ES-0067

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Earth Solutions NW LLC

- Geotechnical Engineering
- Construction Monitoring
- Environmental Sciences

Phoenix Development, Inc.
16108 Ash Way, Suite 201
Lynnwood, Washington 98087

Attention: Mr. Bob Vick

Subject: Response to CNW Comments
Woodtrails Hearing - Exhibit 161
Geologic Hazards and Faulting

Reference: Earth Solutions NW
Addendum Report
Geologic Hazards
ES-0067, dated April 5, 2007

CNW Comments
Geologic Hazards and Faulting
Section 3, Exhibit 161
Section 6, Exhibit 161

Earth Solutions NW, LLC
Addendum Geotechnical Report
ES-0067, dated August 1, 2005

Earth Consultants, Inc.
Addendum Geotechnical Engineering Report
E-10683, dated February 14, 2005

Earth Consultants, Inc.
Geotechnical Engineering Study
E-10683, dated June 9, 2004

Dear Mr. Vick:

Earth Solutions NW, LLC (ESNW) has prepared this letter responding to comments recently submitted as part of the Woodtrails rezone public hearing. Comments presented by the Concerned Neighbors of Wellington (CNW) in Sections 3 and 6 of Exhibit 161 addressing geologic hazards and faulting are addressed in this letter.

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CITY OF WOODINVILLE
DEVELOPMENT SERVICES

2881 152nd Avenue NE • Redmond, WA 98052 • (425) 284-3300 • FAX (425) 284-2855 • Toll Free (866) 336-8770

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Subsurface Characterization

The CNW response to the referenced Addendum Report prepared by ESNW concludes that the subsurface data collected at the site is insufficient for evaluating landslide hazards at the site. The absence of deep explorations is one reason cited by the author of the CNW comments. However, the comments prepared by CNW fail to acknowledge the deep boring data collected at the site. The deepest boring was drilled to a depth of approximately 49 feet, well below the level of any proposed excavation. The standard penetration blow count data collected at the boring sites was extremely valuable in the overall assessment of soil strength characteristics and landslide hazards. In essence the deep boring data confirm the presence of highly competent, very dense and stable glacial deposits (conditions revealed throughout the site at the test pit locations).

The CNW comments also do not recognize that four deep test excavations were completed at the base of the steep slope areas. From a geotechnical standpoint, characterization of soil conditions at the base of a slope is extremely important in evaluating deep seated landslide potential. These test sites were excavated to depths of approximately 20 to 22 feet. Consistent with soil conditions encountered throughout the entire site, very dense and competent soil conditions highly resistant to landslide activity were also encountered at the deep excavation sites.

There will always be some debate within the geotechnical and geological community over what level of subsurface exploration is sufficient for reasonable characterization of a property. The unique (or not so unique) characteristics of the proposal and the level of certainty or understanding of geologic conditions and geotechnical properties possessed by the designer will largely dictate the level of exploration. With respect to the extremely competent glacial deposits that exist throughout the Woodtrails site, the soil strength characteristics and inherent stability are generally well understood. Subtle (or not so subtle) variation of soil types within the glacial deposits as a whole are generally inconsequential to the designer if it is determined that such variations will have no bearing on the stability of the site. Undoubtedly, given the complex nature of the subsurface, variation and boundaries between soil types throughout the glacial deposit could be evaluated with a high degree of accuracy through an extensive program of subsurface explorations. Such an endeavor would be an inefficient use of resources for a development such as Woodtrails, where more than sufficient data suitable for a reasonable characterization of subsurface conditions has been acquired.

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Landslide Hazards

The landslide hazard at the Woodtrails site has been thoroughly evaluated through the subsurface explorations, site reconnaissance work, geologic map and aerial photograph review and evaluation of soil characteristics on adjacent sites. The city of Woodinville geology expert and the authors of the FEIS took no exception to the level subsurface exploration and overall conclusions of the geotechnical studies that development of the site as proposed is feasible from a geotechnical standpoint. Contrary to the conclusions of the CNW comments, the Woodtrails site is not located within an identified or mapped landslide hazard area. As previously concluded by the undersigned, the upland areas of the Woodtrails site where development is proposed do not meet the definition of a landslide hazard area as defined in WMC 21.24.290 (2) (b) (ii). As supported by the sieve analysis data, the surface soil deposits possess a sufficient amount of fines (silt content) such that the WMC 21.24.290 (2) (b) (ii) definition is not satisfied.

It is acknowledged that the residential building lots should maintain an appropriate setback distance from the 40 percent slopes, and as stated in the initial geotechnical engineering study (Earth Consultants, Inc. E-10683, dated June 9, 2004) a minimum ten foot buffer should be maintained between the building lot line and the top of the 40 percent slopes. This reduced buffer distance is justified given the high degree of stability and soil strength characteristics exhibited throughout the site. Woodinville Municipal Code WMC 21.24.310 (1) (a) (ii) provides a provision for a reduced buffer distance when a qualified professional demonstrates to the satisfaction of the Planning Director that the reduction will adequately protect the proposed development, adjacent developments and uses and the subject critical area.

Erosion Hazards

The CNW comments challenge the conclusion of the referenced Addendum Report that the absence of observable widespread erosion is sufficient for supporting a conclusion that the erosion hazard throughout the upland areas of the site is moderate. In fact, the presence of highly compact soils throughout the upland areas of the site would also support the conclusion that the erosion hazard is moderate. Realistically, any exposed earth surface, whether it be flat or sloping has some susceptibility to erosion. The fact remains, however, that erosion can be managed. Properly engineered erosion control measures are very effective, and when appropriately implemented will reduce the hazard to an acceptable level. It is the experience of the undersigned that the conscientious and responsible developer committed to temporary and permanent erosion control measures will be successful in mitigating the hazard, in any setting. In any case, the Department of Ecology requires weekly monitoring of erosion control measures during construction by an erosion control specialist. For the Woodtrails project, weekly monitoring in accordance with the Department of Ecology standards would be a requirement.

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Additional CNW Comments

The CNW Comments refer to the Nelson Geotechnical conclusion that past roadway cuts may have contributed to slope instabilities, and therefore additional slope instability is likely to occur as a result of the proposed development activity. The CNW Comment, however, neglects to recognize that the instability referred to by Nelson Geotechnical occurred along the drainage well to the north of the development area. Additionally, the CNW Comments do not acknowledge the conclusion of Nelson Geotechnical that the effects of past onsite disturbances appear to have been relatively minor. The FEIS also concludes that given the level of prior manmade disturbances, a greater degree of instability would be present if the site was not inherently stable.

The CNW Comments challenge the statements in the ESNW Addendum Report regarding conclusions made in the City of Woodinville Sustainable Development report. It is acknowledge that the recommendations in the Sustainable Development report are based on the worst case infiltration and slope stability analysis. The fact remains, however, that the Sustainable Development report concludes that site specific studies should be required to refute or confirm the presence of hazards on a case by case basis. These site specific studies have been completed for the Woodtrails site, and have concluded that the site is stable and development as proposed is feasible.

Faulting

We have reviewed the additional fault information provided in Section 6 Exhibit 161. Based on our review of this information, it is still our conclusion that there is no documented evidence that surface ruptures or associated scarp features exist on the site. Moreover, the study Holocene Fault Scarps And Shallow Magnetic Anomalies Along The Southern Whidbey Island Fault Zone (SWIFZ) Near Woodinville, Washington concludes that the overall hazards posed by the SWIFZ remain in question. The above mentioned report has been attached to this letter.

We trust this response to the CNW Comments meet your current needs. If you have any questions or if additional information is needed, please call.

Sincerely,

EARTH SOLUTIONS NW, LLC

4/26/07

Raymond A. Coglas, P.E.
Principal

Attachment: USGS – Open File Report 2005-1136
Holocene Fault Scarps And Shallow Magnetic Anomalies Along The Southern Whidbey Island Fault Zone (SWIFZ) Near Woodinville, Washington

EXPIRES 7/29/2008

APPENDIX N

Sustainable Development Study – R-1 Zone: Executive Summary

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Sustainable Development Study – R-1 Zone: Executive Summary

Prepared for:

City of Woodinville

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PAGE 2 OF 80

Prepared by:

Jones & Stokes
11820 Northup Way, Suite E300
Bellevue, WA 98005
Contact: Lisa Grueter
425/822-1077

And
City of Woodinville Development Services Department

January 2007
Revised February 2007

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This document should be cited as:
Jones & Stokes and City of Woodinville Community Development Department. 2007. Sustainable Development Study – R-1 Zone: Executive Summary. February. (J&S.) Bellevue, WA. Prepared for City of Woodinville.

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Attachments

Attachment	Report Name	Prepared By:
Attachment A: Environmental Report	City of Woodinville Sustainable Development Project: R-1 Area Environmental Report	Steward & Associates and City of Woodinville
Attachment A: Appendix A	Hydrogeologic Analysis for City Of Woodinville Sustainable Development Program and Preliminary Assessment of Hillside Drainages Infiltration	Golder Associates, Inc.
Attachment A: Appendix B	Lake Leota Analysis for City Of Woodinville Sustainable Development Program	C. Michael Falter, Ph.D
Attachment A: Appendix C	City of Woodinville R-1 Zone Wetland Inventory C-1 Woodinville Additional Wetland Reconnaissance Survey C-2. Woodinville Wetland Survey C-3. Citizen Advisory Panel Supplied Map	C-1 Jones & Stokes C-2. Cooke Scientific C-3. Citizens Advisory Panel
Attachment A: Appendix D	Woodinville Sustainable Development Study	Perteet Inc.
Attachment B: Neighborhood Character in the R-1 Zone Report	Neighborhood Character in the R 1 Zone, City of Woodinville	City of Woodinville Development Services Department
Attachment C: Transportation Report	Transportation, City of Woodinville	City of Woodinville, Development Services Department, Perteet Inc.
Attachment D: Capital Facilities and Utilities Report	Capital Facilities and Utilities in the R-1 Area	City of Woodinville Community Development Services Department
Attachment E: Moratorium Ordinances	Moratorium Ordinances 419, 424, and 427	City of Woodinville
Attachment F: Other Information/Errata	Reserved for added or corrected information by various authors as appropriate	Various Authors

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Sustainable Development Study: R-1 Zone Executive Summary

Issue

The City of Woodinville determined that a review of zoning densities needed to occur on lands currently classified as R-1, where the minimum size for new parcels is one unit per acre. Under current Woodinville Municipal codes, the R-1 zone density can be increased to R-4 only upon approval of a rezone. R-1 to R-4 in the Woodinville's Comprehensive Plan is considered Low Density. This document is called the Sustainable Development Study and includes four individual studies: environmental, neighborhood character, transportation, and capital facilities. The study was initiated after a Moratorium was established to limit development until the results of the study were available. The Moratorium is anticipated to end in March 2007.

The residential zones in the city make-up approximately 60% of the city's 3,500 acres, with the R-1 zone encompassing approximately 30% or 1,100 acres. One of seven major neighborhoods, the R-1 neighborhood is located on the northeastern uplands of the city (see Figure ES-1), and is referred to as the Leota and Wellington Neighborhoods. R-4, R-6, R-8, and five multifamily residential designations comprise the remainder of the city's residential area.

Viewed in the abstract, R-1 zoning has been inconsistent with past decisions by the Central Puget Sound Growth Management Hearings Board (Board) regarding minimum urban densities, but recent Court and Board decisions indicate that such densities are not necessarily required in all urban areas as an absolute rule. The Board and related case law guide decisions where densities may be allowed other than those the Board considers "compact urban." In addition, the GMA calls for ensuring "the vitality and character of established residential neighborhoods," and past Board decisions have explicitly authorized lower urban densities when they provide added or necessary protection for critical areas that are **large in scope, complex in structure and function, and of a high rank order.** (These criteria are known as the "*Litowitz* test," following the name of the plaintiff in the case where they were first identified[1].) Factors used in supporting lower densities are the same as those evaluated in this Sustainable Development Study:

- Environmental – what levels of density can the land support and maintain and protect important critical areas?

[1] *Litowitz v. Federal Way*, CPSGMHB Case No. 96-3-005 (July 22, 1996).

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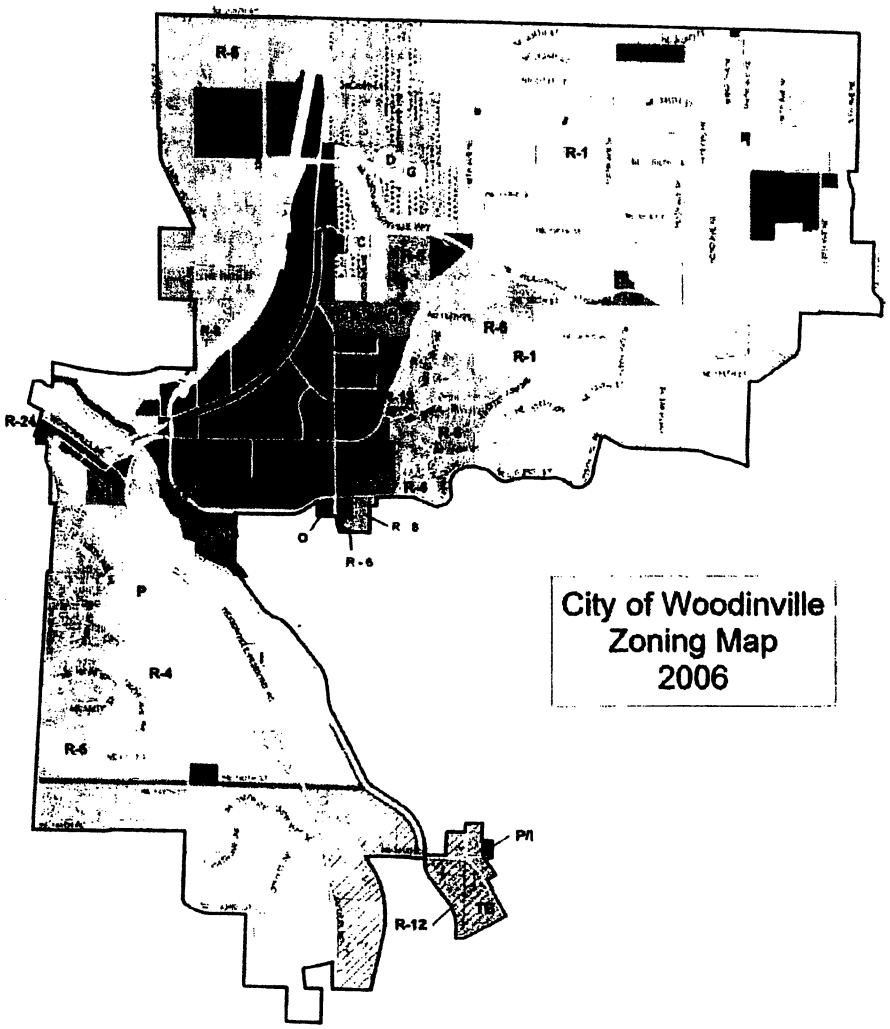

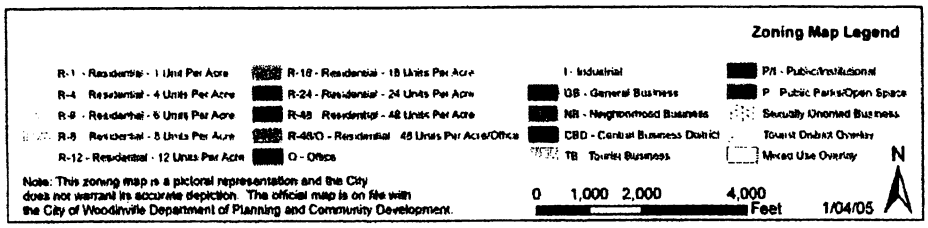

Figure ES-1. Zoning Map

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- Neighborhood Character – what areas of the R-1 zoned land have a distinct character that requires recognition through zoning?
- Transportation – how would growth at different densities affect transportation systems?
- Capital Facilities and Services – are infrastructure systems and public services capable of growth at different densities?

In addition to the above, the following are relevant contextual factors that must be evaluated when determining densities and are specifically discussed in the neighborhood character report of this study:

- The percentage of the overall land in the City where lesser densities may be permitted,
- Whether the City is meeting its assigned growth target, the City's overall average density, what density and designations are applied to undeveloped/unplatted areas of the City, and whether, overall, the City's planning record indicates that it is meeting its obligations under the Growth Management Act (GMA).

The Sustainable Development Study examines each individual factor, and then based on a range of these factors, provides zoning alternatives/options for consideration by City decision-makers. Four options are proposed in this study. Policy and code amendments will be prepared supporting the City's preferred option. Such policy and code amendments could include adding environmental, design, road, and capital facility based development standards.

Introduction and Background

The City of Woodinville is one of thirty-nine cities in King County and is adjacent to Snohomish County's boundary. In 2002, the City compared its demographics to King County as a whole and several Eastside and other nearby cities. Compared with Seattle, Mill Creek, Bothell, Kirkland, Redmond, Bellevue, and Issaquah, the City had the largest household size, the most population under age 19, the least growth between 1990 and 2000, and the smallest population. The City, since its inception has promoted the desire to maintain a "Northwest Woodland Character," identifying that desire in numerous places, including its Comprehensive Plan goals, Land Use LU-1, Community Design Goal CD-2, and Environmental Goal ENV-6. Houses in the R-1 zone are mostly homes built in the 1960's through the 1980's on large lots, but in other R-zoned areas they are newer homes on smaller lots.

Growth Management Act Goals

The GMA established 13 goals for the comprehensive planning process. Per RCW 36.70A.020, the following goals are not listed in order of priority and shall be used exclusively for the purpose of guiding the development of comprehensive plans and development regulations:

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- **Urban growth.** Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- **Reduce sprawl.** Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- **Transportation.** Encourage efficient multi-modal transportation systems that are based on regional priorities and coordinated with county and city comprehensive plans.
- **Housing.** Encourage the availability of affordable housing to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.
- **Economic development.** Encourage economic development throughout the state that is consistent with adopted comprehensive plans; promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons; promote the retention and expansion of existing businesses and recruitment of new businesses; recognize regional differences impacting economic development opportunities; and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.
- **Property rights.** Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.
- **Permits.** Applications for both state and local government permits should be processed in a timely and fair manner to ensure predictability.
- **Natural resource industries.** Maintain and enhance natural resource-based industries, including productive timber, agricultural and fisheries industries. Encourage the conservation of productive forestlands and productive agricultural lands, and discourage incompatible uses.
- **Open space and recreation.** Retain open space, enhance recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks and recreation facilities.
- **Environment.** Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.
- **Citizen participation and coordination.** Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.
- **Public facilities and services.** Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.
- **Historic preservation.** Identify and encourage the preservation of lands, sites and structures that have historical or archaeological significance.

Of particular interest in the R-1 study are goals to reduce sprawl, protect the environment, and provide housing choices.

Growth Management and Urban Densities

In 1995, the Central Puget Sound Growth Management Hearings Board established a "general rule" of four net dwelling units per acre as a minimum density for urban areas under the GMA. Calling this standard a "bright line," the Board stated:

> Any residential pattern at that density, or higher, is clearly compact urban development and satisfies the low end of the range required by the Act. Any larger urban lots will be subject to increased scrutiny by the Board to determine if the number, locations, configurations and rationale for such lot sizes complies with the goals and requirements of the Act, and the jurisdiction's ability to meet its obligations to accept any allocated share of County-wide population. Any new residential land use pattern within a UGA [Urban Growth Area] that is less dense is not a compact urban development pattern, constitutes urban sprawl, and is prohibited.

The next year, the Central Board identified the criteria it would use to determine whether environmental factors could justify a lower density in urban areas:

> The Board holds that when environmentally sensitive systems are large in scope (e.g. a watershed or drainage sub-basin), their structure and functions are complex and their rank order value is high, a local government may also choose to afford a higher level of protection by means of land use plan designations lower than 4 du [dwelling units]/acre.

These criteria have come to be known as "the *Litowitz* test," following the name of the plaintiff in the case. The criteria have not changed, nor have they been substantially clarified, under subsequent Growth Board decisions. This leaves many important details somewhat ambiguous. Watersheds and drainage sub-basins can be identified across a wide range of sizes, from a large river system like the Columbia River to an individual wetland or small stream. To some degree, the structure and functions of nearly all natural systems are complex. The meaning of "rank order value" is also unclear and depends on scale. A particular stream or wetland, for example, could rank of high importance within a small jurisdiction or small drainage basin but of much less importance when considered at larger geographic scales. Nevertheless, it is clear that critical areas that are not of high relative value within the larger natural systems in the surrounding vicinity or within an individual jurisdiction would be unlikely to pass the *Litowitz* test.

In a later case, *Fuhriman v. Bothell,* the Board acknowledged "a possible expansion of *Litowitz* analysis," where lower densities might be allowed to protect critical areas that do not, strictly speaking, meet the *Litowitz* test. It noted that critical areas that are linked hydrologically could have "unique geologic or topographical features that would also require the additional level of protection of lower densities in those limited geologically hazardous landscapes." Such areas might, for example, provide sources of cool water for streams and rivers, wildlife habitat, and other ecological

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functions. The Board has never explicitly addressed whether it would support reduced densities solely to reduce the public safety threat of geologic hazards, which generally can be addressed through other means (e.g., setbacks, vegetation retention, appropriate stormwater management, and site-specific conditions on development).

Complicating this legal context further, in 2005 the Washington State Supreme Court held that the Growth Boards do not have the legal authority to set "bright line" rules that are not contained within the GMA. And, it suggested that local conditions, such as the existence of private covenants restricting density, could be taken into account by local governments in planning under the GMA. In March 2006, a King County Superior Court judge cited this Supreme Court ruling in voiding a Central Board decision against the City of Normandy Park, where the City had adopted a GMA plan which retained the existing zoning which is generally well below four units per acre. Judge Bruce Hilyer found that, both under the Supreme Court case and under his own independent reading of the GMA, Growth Boards do not have the authority to impose "bright line" rules of their own construction, heightened scrutiny tests, or uniform minimum residential densities. Judge Hilyer emphasized that, under the GMA, deference must be given to a local government's decision regarding appropriate urban densities, based on local circumstances. The fact that the City's plan met its growth allocations and that the City had no UGA appear to have been among key factors in the Normandy Park case.

Several parties have appealed and asked the Supreme Court to accept direct review of Judge Hilyer's decision. Thus, it is not absolutely certain what criteria might be applied to judge the validity of Woodinville's R-1 zoning, should it be challenged to the Central Board or the courts. It is worth noting, however, that the GMA provides for a "broad range of discretion" in local planning. The Act's housing goal explicitly promotes "a variety of residential densities and housing types, and encourage[s] preservation of existing housing stock." (RCW 36.70A.020(4)) The Act also calls for housing elements in local Comprehensive Plans that ensure "the vitality and character of established residential neighborhoods" (RCW 36.70A.070(2)).

While there may be less certainty about urban and rural densities, the GMA goals that must be balanced remain. By reviewing a range of important planning issues – environmental, neighborhood character, transportation, and capital facilities – the City intends to achieve a balance of GMA goals appropriate to local conditions in Woodinville.

Growth Targets

In addition to meeting GMA goals, the City must plan for its fair share of population growth in accordance with GMA provisions. Under the King County population allocation process performed under the GMA, the City of Woodinville is required to provide up to 1,869 new housing units by the year 2022. In an extensive public process, the City has strategically evaluated where and how it could locate its population growth with the goal of preserving its woodland community character. The City did this through creation of a Central Business District zone for the downtown, which allows a base density of 36 units per acre, up to a maximum of 48 units per acre. With development standards that

encourage high density housing and transit- oriented design, the City's buildable land analysis shows that the City has sufficient capacity under its current zoning to accommodate at least 1,947 new housing units, 78 more than are needed to meet its 2022 population allocation (see Attachment B for more information). Therefore, during review of the R-1 zone, the primary concern is protecting critical areas without concern for the City's ability to meet its growth forecast.

Public Participation

Another GMA goal involves ensuring public participation. To that end, a citizen's advisory panel was appointed. In addition, the Planning Commission conducted meetings. *As of February 20, 2007,* the following meetings have been conducted:

CAP Meetings

- July 12, 2006: Discussion of Issues & Scope of Work; Develop Tentative Meeting Schedule
- July 19, 2006: Introduction of Subject Experts; Technical Expert Presentations; Stormwater, Hydrogeology, Limnology, Other
- August 2, 2006: Legal Issues; Technical Experts Continued; Data Needs; Critical Areas Definitions; Goals Discussion
- August 23, 2006: Goals Discussion; Data Needs; Critical Areas; Neighborhood Character
- September 6, 2006: Discussion Of One Sentence Purpose of Being a Member; Continuation of Goals Discussion
- September 14, 2006: Continuation Of Goals Discussion
- September 19, 2006: Continuation of Goals Discussion
- October 12, 2006: Environmental Studies Presentation, Consultants; Miscellaneous; Continuation of Goals Development; Transportation Issues Mailed
- November 15, 2006: Draft Environmental Report Presentation; CAP Final Goals and Policies Recommendation
- December 27, 2006: Draft Environmental Report Status; Housing-Neighborhood Character Study; Comp. Plan & Regulatory Amendment Strategies
- January 3, 2007: Draft Environmental Report Status; Housing-Neighborhood Character Study; Comp. Plan & Regulatory Amendment Strategies
- January 10, 2007: Open House Sustainable Development
- January 18, 2007: Open House Sustainable Development: Schedule Of Sustainable Development Project: Housing-Neighborhood Character Study: Other Reports of Project
- January 24, 2007: Review Draft Sustainable Development Report with Consultants
- January 30, 2007: Review Draft Sustainable Development Report

Planning Commission Meetings

- June 7, 2006: Appointment of CAP Members
- August 16, 2006: Status Report On Environmental Studies
- September 20, 2006: Status Report On Sustainable Development
- November 15, 2006: Joint Meeting With CAP & Consultants Re: Environmental Report
- January 3, 2007: Comprehensive Plan, Zoning Code And Regulatory Amendment Proposal Discussion
- January 18, 2007: Open House Sustainable Development
- January 24, 2007: Joint Meeting with CAP and Consultants; Review Draft Sustainable Development Report
- January 31, 2007: Public Hearing
- February 14, 2007: Public Hearing and Deliberation

The City Council is conducting additional public meetings and hearings through March 2007. Please see www.ci.woodinville.wa.us for more information.

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Analysis

Table ES-1 outlines the reports prepared and used for this Study. Each report is summarized below and in Table ES-2. In addition, each report is provided as an attachment to this Executive Summary.

Table ES-1. Report Preparation Matrix

Attachment	Report Name	Prepared By:
Attachment A: Environmental Report	City of Woodinville Sustainable Development Project: R-1 Area Environmental Report	Steward & Associates and City of Woodinville
Attachment A: Appendix A	Hydrogeologic Analysis for City Of Woodinville Sustainable Development Program and Preliminary Assessment of Hillside Drainages Infiltration	Golder Associates, Inc.
Attachment A: Appendix B	Lake Leota Analysis for City Of Woodinville Sustainable Development Program	C. Michael Falter, Ph.D
Attachment A: Appendix C	City of Woodinville R-1 Zone Wetland Inventory C-1. Woodinville Additional Wetland Reconnaissance Survey C-2. Woodinville Wetland Survey C-3. Citizen Advisory Panel Supplied Map	C-1 Jones & Stokes C-2. Cooke Scientific C-3. Citizens Advisory Panel
Attachment A: Appendix D	Woodinville Sustainable Development Study	Perteet Inc.
Attachment B: Neighborhood Character in the R-1 Zone Report	Neighborhood Character in the R 1 Zone, City of Woodinville	City of Woodinville Development Services Department
Attachment C: Transportation Report	Transportation, City of Woodinville	City of Woodinville Public Works Perteet Inc.
Attachment D: Capital Facilities and Utilities Report	Capital Facilities and Utilities in the R-1 Area	City of Woodinville Development Services Department
Attachment E: Moratorium Ordinances	Moratorium Ordinances 419, 424, and 427	City of Woodinville
Attachment F: Other Information/Errata	Reserved for added or corrected information by various authors as appropriate	Various Authors

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Environmental

Two critical areas in the R-1 zone appear to meet the *Litowitz* test that allows for lower densities in urban areas to protect large scope, complex and high rank order critical areas – Cold Creek and Lake Leota. These two critical areas are linked: the Lake Leota basin is the primary headwaters for Cold Creek. The outlet stream of Lake Leota is, in fact, Cold Creek, but for the majority of time the lake does not flow out through this stream, but instead discharges into groundwater, which reaches Cold Creek through seeps and springs to the east of the R-1 zone. Cold Creek's unusual reliance on groundwater is why it provides a steady flow of cold, clean water to the Bear Creek system downstream. Bear Creek is a large producer of naturally spawned salmon for a stream its size in western Washington, and, according to the Environmental Report, Cold Creek plays a very important role in that. The Lake Leota basin comprises approximately 40% of the entire R-1 zone (see Figure ES-2 for a map of drainage basins in the R-1 zone).

The Environmental Report (Attachment A) recommends that the **Lake Leota basin** is best suited for lower densities that preserve and protect Lake Leota and Cold Creek. For the most part, R-1 is expected to produce the best results. The report also mentions a number of other recommendations for the lake's protection, including stormwater and channel improvements upstream, continuance of the current no-engine rule for boats, best management practices for lakeside property owners and others in the wider lake basin, improvements in monitoring, and changes in how the lake's outlet is controlled. For the long-term, the Environmental Report recommends a lake management plan.

In the **School Basin**, which drains directly to Cold Creek and is immediately east of the Lake Leota Basin, the Environmental Report recommends extensive use of low-impact development regulations (LID) and improved mapping of streams and wetlands, to help protect the creek. The basin does not require the need for R-1 densities.

In the **Upper Woodin Creek Basin** in the southwestern portion of the R-1 zone, the Environmental Report identifies geologic hazard areas that require specific engineering and geotechnical protection. In addition and where appropriate, careful use of LID (which, if inappropriately constructed, could destabilize hazard areas) could provide beneficial effects. In the **Golf Course Basin,** and **the Hillside Drainages Basin**, which ultimately flow to Little Bear Creek, and in the Upper Woodin Creek Basin, the Environmental Report recommends tightlining stormwater in fuse-welded pipe (e.g. HDPE pipe) near geologic hazards to below areas of instability. The Environmental Report also includes a hydrogeologic modeling of a worst-case scenario to determine how the geologic hazards in both of these areas may be affected by stormwater infiltration and what setback would be required if the worst case actually existed. Such infiltration might provide benefits to Lake Leota but could increase potential threats to these hazards. The southwest portion of the Upper Woodin Creek basin has complex, steep terrain that would best be served by lesser density, but the upper flatter portion of the basin could allow for greater density. (See Figure ES-3 for a topography map based on LIDAR imaging; note that the red boundary identifies the areas of 15% slopes or greater.)

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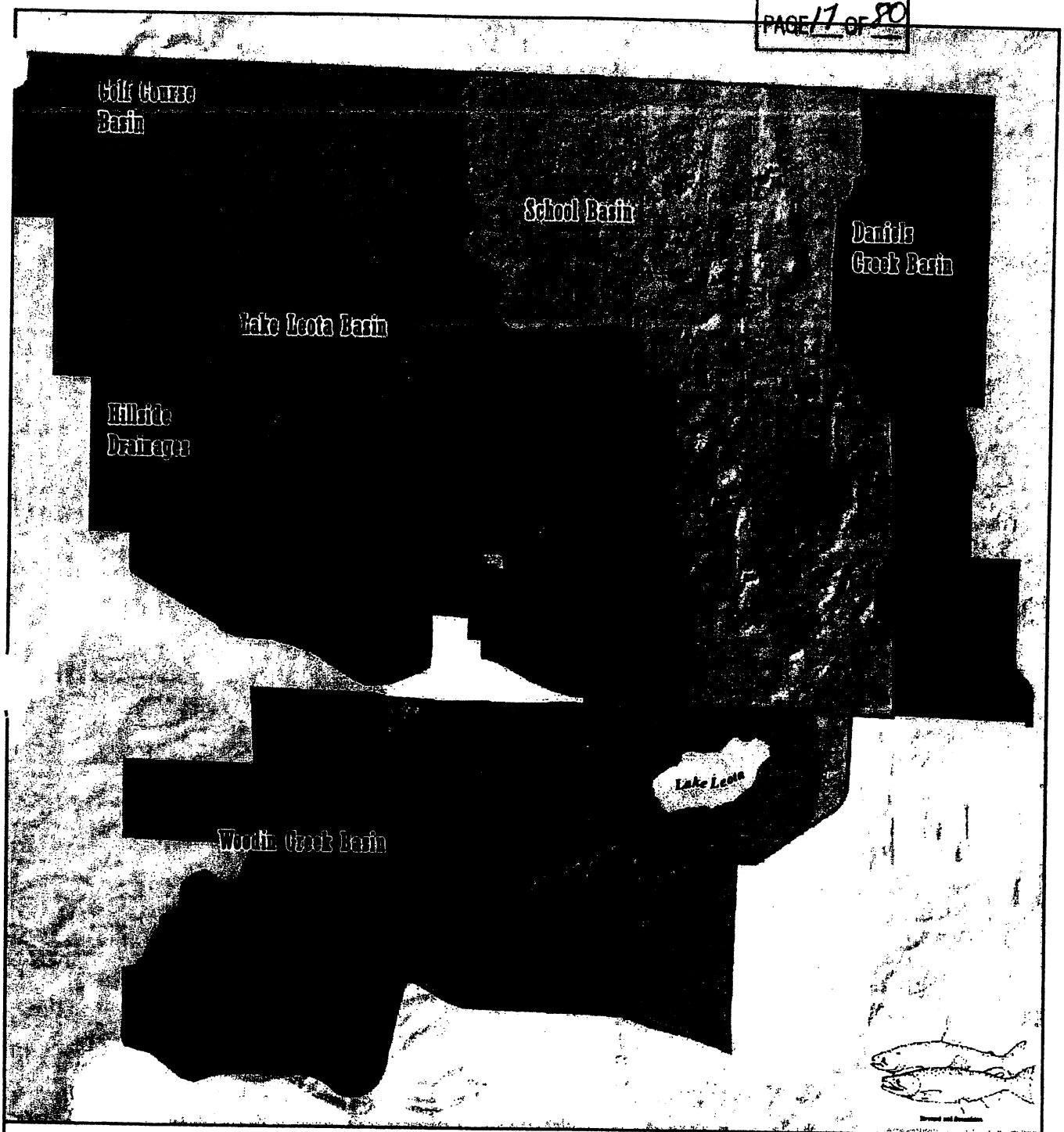

Figure ES-2. Woodinville Drainage Areas

Drainage areas

- Hillside Drainages
- School Basin
- Daniels Creek Basin
- Woodin Creek Basin
- Lake Leota Basin
- Golf Course Basin
- R-1 boundary
- Waterbodies

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City of Woodinville

Figure SS-3. 2004 Topography of the City of Woodinville, Revision 2

Legend

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Based on environmental factors, the conclusions of this study differ for different areas of the R-1 zone, primarily because of complex patterns of surface water drainage and groundwater flow and the special needs to protect Leota Basin and Cold Creek that cannot be accomplished by the standard requirements of the city's Critical Areas Ordinance. The data collected for this study has been used to determine a broader planning level analysis that identifies whether or not different zoning densities could improve the protection of important critical areas in the city. Taking into account that individual developments are required to protect on-site critical areas such as streams, wetlands, steep slopes, aquifer recharge areas, and others by complying with the Woodinville Municipal Code, Critical Areas Ordinance, Chapter 21.24, the conclusions of this study determined that Lake Leota and Cold Creek required additional protection through decreased densities. In summary, the Environmental Report finds that one particular basin encompassing much of the R-1 zone area, the Lake Leota Basin, meets the CPSGMHB *Litowitz* criteria allowing for additional environmental protection through zoning densities. Other implementing development regulation measures are recommended in other basins to protect environmental quality.

Neighborhood Character

Based on urban design principles, 12 theoretical neighborhoods were identified and evaluated for distinct neighborhood characteristics in the "Neighborhood Character in the R-1 Zone Report" found in Attachment B. These conceptual neighborhoods are identified on Figure ES-4 and below:

- **Northwest Wellington.** The neighborhood is heavily wooded, has excellent spatial order and building texture, cohesive circulation, and is visually cohesive in terms of buildings, block patterns, and streets that together crisply define neighborhood boundaries.
- **Southwest Wellington.** Accessibility and lot configuration largely define this neighborhood. External access is limited, which makes for an enclave-like place. The wooded setting adds immensely to a sense of place.
- **North Wellington.** With few exceptions, this neighborhood is defined by its location in a physiographic plain and by the degree of road connectivity. External accessibility also defines boundaries and encloses the neighborhood.
- **Central Wellington.** There is only one major access into this neighborhood, NE 195th Street. Other minor roads connect from different directions and are closed off or dead end. Central Wellington is somewhat more defined by adjacent neighborhoods than it is unto itself.
- **South Wellington.** This area is commonly accessed off of 156th Avenue NE. It contains many unimproved or private roads that are the result of short plat activity. Its boundaries, similar to those of Central Wellington, are easily defined by adjacent neighborhoods.
- **Northeast Wellington.** This is a neighborhood defined primarily by the constricted nature of access. There is only one way in and one way out via 168th Avenue NE. It is further isolated by school property occupying the major portion of its southern extremity.

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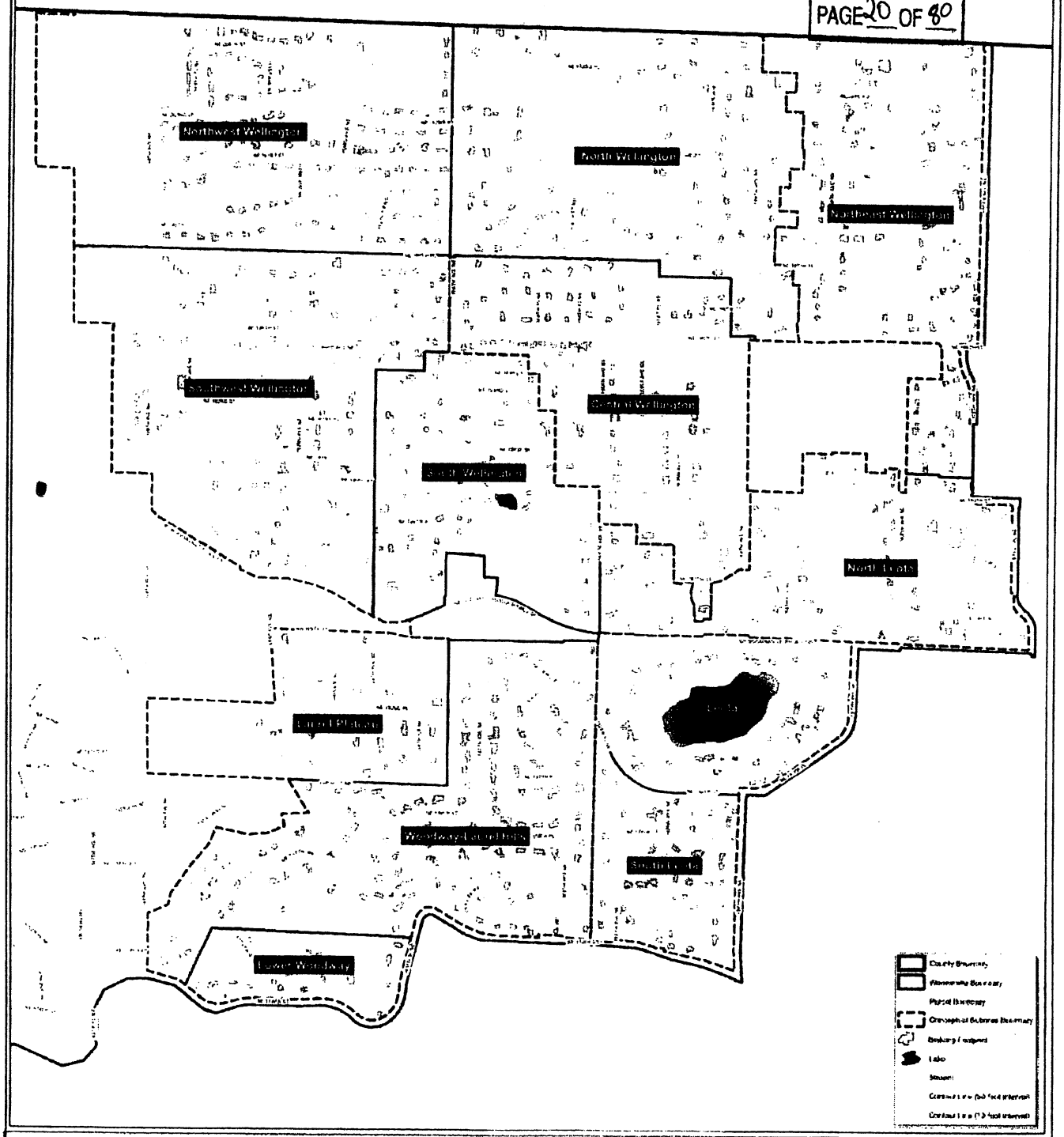

Figure ES-4 Conceptual Subareas

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- **North Leota.** North Leota is characterized by its adjacency to Woodinville-Duvall Road and by its broad range of lot sizes. There is no connectivity in any sense of the term, but this neighborhood occupies the greatest extent of the Leota outwash plain niche.
- **Leota.** This neighborhood is the best defined in the study area. Common views, common access, lot configuration enclosure, and wooded nature make this one of Woodinville's most distinct places.
- **South Leota.** This is a well-defined neighborhood, all on an even grade, facing northeast, shaded in the afternoon, wooded slope. Political boundaries and transportation network provide strong elements to boundary definition.
- **Laurel Plateau.** Terrace-flat topography defines this neighborhood. Steep slopes and formal subdivision boundaries confine this area into one neighborhood.
- **Woodway-Laurel Hills.** This neighborhood predominantly consists of two formal subdivisions that have similar street networks and topography. Ridge and slope topography characterize its common physiographic niche, and its richly manicured landscape amidst tall woods creates a common definitive sense of place.
- **Lower Woodway.** This neighborhood located in the southwest fringe of the study area has common access off of NE 173rd Street. Steep slopes are common throughout. Its identity is defined by its adjacency to its neighbor and by its isolation because of topography and access limitations.

Each neighborhood was evaluated by methods of character identification that included visual surveys and overlay mapping iterations of human-made, physical, and environmental phenomena. See the Neighborhood Character Report (Attachment B) for details. This analysis was performed with the intent of identifying neighborhood character and validating its importance as a vital element in certain neighborhoods of Woodinville.

Based on the evaluation, the Neighborhood Character report identifies five neighborhoods with distinctive character that could be diminished if redevelopment occurred within them at different than existing densities, whether lower or higher:

- Northwest Wellington
- Southwest Wellington
- North Wellington
- Leota
- Woodway-Laurel Hills

These five neighborhoods were recommended to receive "neighborhood character recognition" through maintaining existing common density in the neighborhood. The neighborhood analysis concluded that neighborhood character has an important place along with environment, transportation, and capital facilities in the Woodinville R-1 Area.

Transportation

The R-1 study area was reviewed for transportation conditions; please see Attachment C. Results show the majority of the roadways within the R-1 zone were developed under King County prior to the City's incorporation. With the exception of newer roads constructed under the City's design requirements, the local streets in the R-1 zone do not meet the City's road cross-section standards. Under the Fire Department Access standard, requiring a minimum paved width of 20 feet, only a few short sections of roadways do not meet this standard.

Future road improvements, for the arterial and collector classified roads, have been identified in the City's long-range capital improvements program (CIP) and will be systematically reviewed and considered for improvements. It is likely improvements will be performed in several phases along each of these classifications of roadways and as need dictates and development warrants. On local streets, these are likely to occur under special projects (such as a special district for sidewalks) or under development mitigation.

The 156th Avenue NE corridor in the R-1 area was used to review operational projections for LOS at public road intersections. Using a very conservative traffic circulation model (with 50% of the existing R-1 zone redeveloping at a higher density, an annual growth of 2.5%, and assuming no road improvements) the analysis identified two intersections that would exceed the City's adopted LOS E by 2028. At both locations, the LOS could be brought back into compliance with widening improvements within the existing public right-of-way. The analysis assumptions included the Institute of Transportation Engineers (ITE) Trip Generation manual, 7th edition. It is an international guideline used by traffic engineers and other professionals who are responsible for meeting mobility and safety needs.

For vehicle capacity, both the City's "Low-Density" and "High-Density" road standards, provide the same vehicle trip capacity. If additional capacity were needed, due to physical restrictions within the roadway (such as the need to address a narrow road section), adequate right-of-way currently exists to allow for any needed improvement to address deficiencies.

Several local streets, and one minor arterial, have been identified with vertical sight distance conditions. These instances are under review by the City for possible mitigation measures. Road grades within the entire R-1 zone are all within the City's acceptable standards (under 15%).

Pedestrian and bike facilities are very limited within the entire R-1 zone area. Only Woodinville-Duvall Road has designated shared pedestrian and bike facilities along both sides of the roadway. Most of the developments following incorporation of the City (in 1993) do provide pedestrian facilities. However, these make up a very small portion of the R-1 zone. Of the remaining streets, it is estimated that less than 20% have any type of pedestrian facility and travel by non-motorized means must utilize the edge of the pavement or shoulder area.

In summary, transportation conditions can be mitigated under different densities, and transportation is not a distinguishing factor in the R-1 study. However, one area in the southwest portion of the Upper

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Woodin Creek Basin, with particularly difficult terrain for transportation improvements, may be a candidate for less density (pers. com. Mick Monken, Public Works Director, January 19, 2007).

Capital Facilities

A range of capital facilities and services are evaluated in the Capital Facilities report (see Attachment D). Results are similar for all R-1 zoned areas for police and fire services, schools, and water services. Differences are found in relation to sewer services as described below.

- **Police and Fire Services.** Projected increases in housing units due to zoning ranging from R-1 to R-4 would not affect response time for the police and fire service providers. Population and housing increases may require additional personnel and facilities (vehicles), but response time is not expected by increases in density, unless access is restricted.
- **Schools.** Student populations are currently in the decline and an excess capacity exists in the R-1 area; therefore, increasing density would not create an effect on schools.
- **Water.** Increases in R-1 area zoning to R-4 over buildable parcels, would result in an increase in demand for 4,312 gallons per day in the entire study area, considered by Water District officials to have no major impact to the current capacity of supply or facilities.
- **Sewer.** The western portion of the R-1 zone has gravity access to the existing sewer facilities and is physically better suited for R-4 zoning. The eastern area of the basin is more difficult to serve due to severe grade changes that would involve pump stations and major expenses. The Capital Facilities report indicates that the eastern portion is better suited for lower densities only as it relates to sewer until such time as sewer facility economics becomes feasible. Figure ES-5 identifies the "break" between the areas more easily sewered than those areas less easily sewered at the present time.

Overlay of All Study Topics

Based on each individual study topic, the following results were found:

- **Environmental:** Two critical areas in the R-1 zone appear to meet the *Litowitz* test that allows for lower densities in urban areas to protect large scope, complex and high rank order critical areas – Cold Creek and Lake Leota. These two critical areas are linked: the Lake Leota basin is the primary headwaters for Cold Creek. Applying these environmental study results alone, this would mean that R-1 zoning is an appropriate application in the Lake Leota Basin in addition to existing critical areas regulations. Other implementing development regulation measures are recommended in other basins to protect environmental quality. The Lake Leota basin appears on Figure ES-2 in green shading, and is also identified in Figure ES-6. A zoning option that focuses on the environmental results alone is presented later in this report – Figure ES-8 illustrates R-1 zoning for the Lake Leota Basin. See Attachment A for more information.

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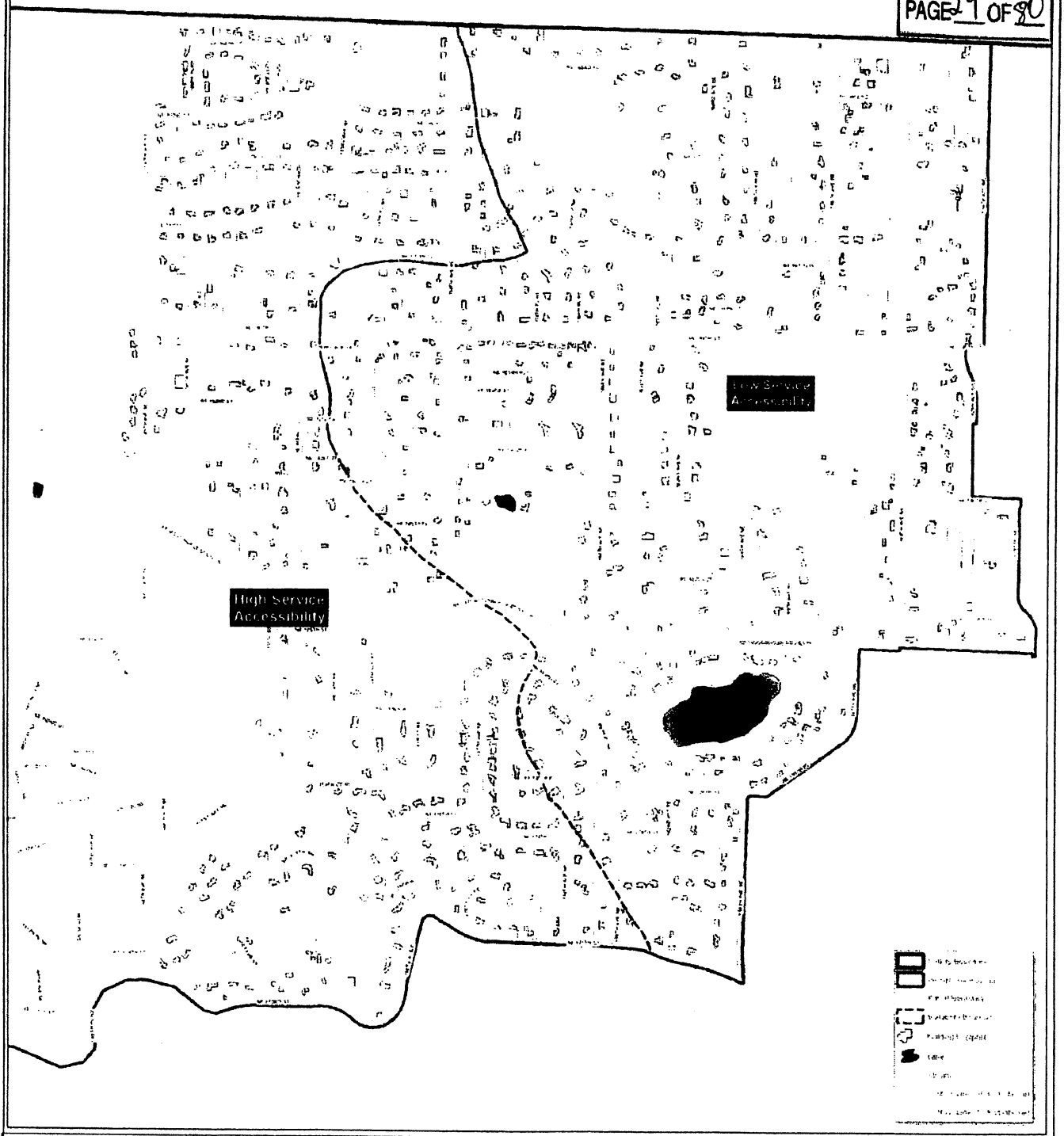

Figure ES-5

Sewer Service Accessibility

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- **Neighborhood Character:** Based on the evaluation, the Neighborhood Character report identifies five neighborhoods with distinctive character that could be diminished if redevelopment occurred within them at different than existing densities, whether lower or higher: Northwest Wellington; Southwest Wellington; North Wellington; Leota; and Woodway-Laurel Hills. These five neighborhoods were recommended to receive "neighborhood character recognition" through maintaining existing common density in the neighborhood. These neighborhoods are identified on Figure ES-4 as well as highlighted on Figure ES-6. If considering the Neighborhood Character analysis by itself, the densities that would help maintain existing common density patterns vary in the five neighborhoods from R-1, R-2 and R-3. See Attachment B, Figure 19, for more information.

- **Transportation:** Transportation conditions can be mitigated under different densities, and transportation is not a distinguishing factor in the R-1 study. However, one area in the southwest portion of the Upper Woodin Creek Basin, with particularly difficult terrain for transportation improvements, may be a candidate for less density. Figure ES-6 illustrates the portion of the Upper Woodin Creek Basin where the slope system would likely inhibit more transportation improvements.

- **Capital Facilities:** Generally, public safety (police and fire services), school services, and water services can accommodate additional growth under R-1 or R-4 densities. The western portion of the R-1 zone has gravity access to the existing sewer facilities and is physically better suited for R-4 zoning. The eastern area of the basin is more difficult to serve due to severe grade changes that would involve pump stations and major expenses. The Capital Facilities report indicates that the eastern portion is better suited for lower densities only as it relates to sewer until such time as sewer facility economics becomes feasible. Figure ES-5 identifies the "break" between the areas more easily sewered than those areas less easily sewered at the present time. Figure ES-6 also shows sewer accessibility in conjunction with the other environmental, neighborhood, and transportation conclusions.

Figure ES-6 presents an overlay map showing environmental basins, neighborhood subareas identified as having high character, an area where future transportation improvements would be more difficult due to complex steep slopes, and areas where sewer service is more or less accessible. The zoning options presented below emphasize one or more of the four topics – environmental, neighborhood character, transportation, and capital facilities.

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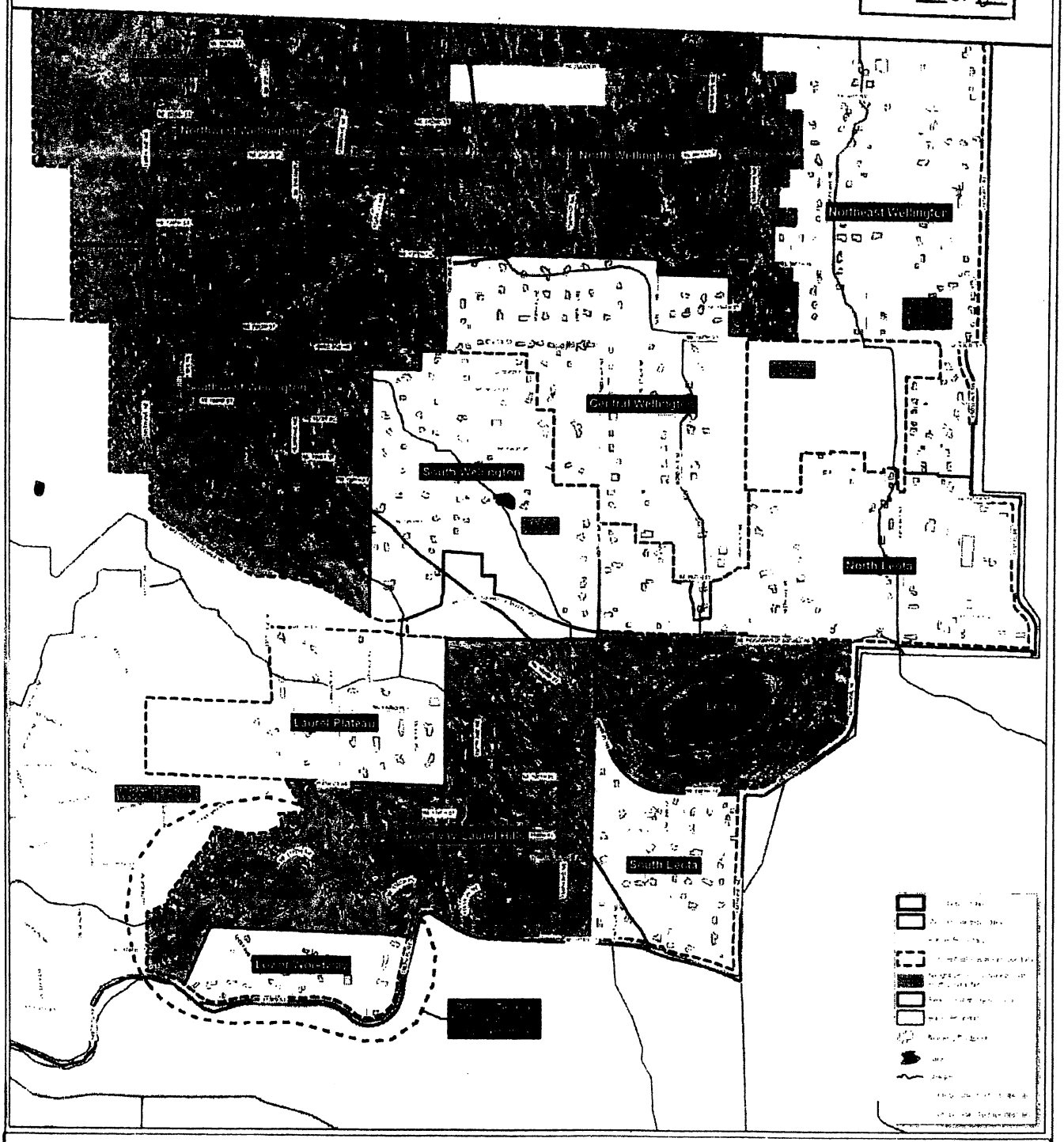

Figure ES-6. Composite Basin, Neighborhood Subarea, Transportation and Sewer Suitability Map

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Table ES-2. Sustainable Development Report Summary Matrix

Location/Boundary	Environmental	Neighborhood Character	Transportation	Capital Facilities	Summary
Lake Leota Basin	Conclusions: ▪ R-1 zoning provides substantial, long-term environmental benefits not solely achieved by requirements of the Critical Areas Ordinance. ▪ Even if increased density is necessary to provide sewer service, there would be a net environmental benefit directly surrounding the lake. ▪ Require Low-Impact Development (LID) as part of stormwater regulations throughout basin. LID performs best at lower densities. Technical Findings: ▪ Lake Leota and Cold Creek meet *Litowitz* criteria; lake is part of Cold Creek headwaters which flows to Bear Creek, high spawning tributary in Western Washington. ▪ Lake is at risk of accelerating eutrophication; which would worsen with increased development density. ▪ Lake is growing shallower, becoming more polluted. ▪ Trends pose long-term risks to Cold Creek, Bear Creek system. ▪ Goal: minimize eroded sediments from stormwater entering lake. ▪ Reducing net nutrient inputs by replacing septic systems directly adjacent/around lake with sewer would probably be positive even if accompanied by other impacts on water quality from increased density. ▪ Septic systems should be upgraded to increase nutrient removal. ▪ Limited Steep Slopes – per mapping ▪ Wildlife – no protected species documented, many birds and mammals exist in an urban setting.	Contains all or part of the following conceptual neighborhood sub-areas: ▪ Northwest Wellington ◄ ▪ Southwest Wellington ◄ ▪ North Wellington ◄ ▪ Central Wellington ▪ South Wellington ▪ Leota ◄ ▪ South Leota ▪ Woodway-Laurel Hills ◄ ◄= identified for neighborhood character recognition through zoning measures A description of the sub-areas follows: ▪ Northwest Wellington: The neighborhood is heavily wooded, has excellent spatial order and building texture, cohesive circulation, and is visually cohesive in terms of buildings, block patterns, and streets that together crisply define neighborhood boundaries. ▪ Southwest Wellington: Accessibility and lot configuration largely define this neighborhood. External access is limited, which makes for an enclave-like place. The wooded setting adds immensely to a sense of place. ▪ North Wellington: With few exceptions, this neighborhood is defined by its location in a physiographic plain and by the degree of road connectivity. External accessibility also defines boundaries and encloses the neighborhood. ▪ Central Wellington: There is only one major access into this neighborhood, NE 195th Street. Other minor roads connect from different directions and are closed off or dead ends. Central Wellington is somewhat more defined by adjacent neighborhoods than it is unto itself. ▪ South Wellington: This area is commonly accessed off of 158th Avenue NE. It contains many unimproved or private roads that are the result of short plat activity. Its boundaries, similar to those of Central Wellington, are easily defined by adjacent neighborhoods. ▪ Leota: This neighborhood is the best defined in the study area. Common views, common access, lot configuration enclosure, and wooded nature make this one of Woodinville's most distinct places. ▪ South Leota: This is a well-defined neighborhood, all on a hillside grade, facing northeast, shaded in the afternoon, wooded slope. Political boundaries and transportation network provide strong elements to boundary definition. ▪ Woodway-Laurel Hills: This neighborhood predominantly consists of two formal subdivisions that have similar street networks and topography. Ridge and slope topography characterize its common physiographic niche, and its richly manicured landscape amidst tall woods creates a common definitive sense of place.	▪ North of NE Woodinville-Duvall Road (System A): Roads have asphalt pavement with some areas of gravel shoulders and a mixture of open ditch or open shoulder drainage. The layout is typically long block sections with some gentle curves. Only a very small portion of streets in this area have curb and gutter or sidewalk sections. Internal circulation is possible in the northwesterly and northeasterly neighborhoods. Some vertical sight distance conditions have been identified in this area in the northwesterly neighborhoods. ▪ South of NE Woodinville-Duvall Road (System C): The general characteristics of these roads are asphalt pavement with some areas of paved shoulders along one side and a mixture of open ditch or open shoulder drainage. No streets were identified in this area to have curb and gutter of sidewalk sections. Internal circulation is fair. No sight distance concerns have been identified in this area. ▪ Intersection Levels of Service 188th Ave NE: 158th Avenue NE at NE 198th Street and NE 195th Street would exceed adopted levels of service. However, it is likely that the LOS can be improved by the addition of turn lanes on both the arterial and local roadways and/or by the installation of a traffic control device such as a 4 way stop. Both NE 195th and NE 198th have sufficient right-of-way to allow for the lane widening.	▪ The western edge of the Lake Leota Basin has gravity access to the existing sewer facilities and may be physically suitable for R-4 zoning. ▪ The eastern area of the basin is more difficult to sewer due its location, which would involve pump stations and major expense. The eastern portion should remain at R-1, until such time as sewer facility economics become feasible.	▪ R-1 zoning appropriate for environmental protection, and meets *Litowitz* test. ▪ Five neighborhoods have high commonality and are recommended for neighborhood character recognition; the dominant density in these neighborhoods would be kept consistent. ▪ Transportation system would be somewhat impacted with higher density, but can be mitigated. Neutral issue for zoning. ▪ Western edge of basin has greater ability to be sewered at R-4 densities due to gravity flow.

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Location/Boundary	Environmental	Neighborhood Character	Transportation	Capital Facilities	Summary
School Basin	Conclusions: ▪ R-1 zoning benefits Cold Creek, but with minimal effect on its most important attributes; maintaining low density in this part of R-1 Zone is not as important as in Lake Leota Basin. ▪ R-4 could have negative impact without LID. ▪ Emphasis in this area is requiring LID through stormwater performance standards for new development. This provides greatest benefit at lower densities but, ironically, they may be more important at higher densities, where the potential impacts to downstream resources would be greater without such extra effort. Technical Findings: ▪ Surface water from basin drains to Cold Creek; provides relatively small contribution to Cold Creek flows. ▪ Groundwater drains west, bypassing Cold Creek. ▪ Stormwater impacts have little effect on contribution of cold, steady summer flows downstream. ▪ Cold Creek remains important system to protect in its own right, supporting five salmon species. ▪ Limited Steep Slopes – per mapping ▪ Wildlife – no protected species documented, many birds and mammals exist in an urban setting.	Contains all or part of the following conceptual neighborhood sub-areas: ▪ North Wellington ◄ ▪ Northeast Wellington ▪ Central Wellington ▪ North Leota ◄= identified for neighborhood character recognition through zoning measures A description of the sub-areas follows: ▪ North Wellington: With few exceptions, this neighborhood is defined by its location in a physiographic plain and by the degree of road connectivity. External accessibility also defines boundaries and encloses the neighborhood. ▪ Northeast Wellington: This is a neighborhood defined primarily by the constricted nature of access. There is only one way in and one way out via 188th Avenue NE. It is further isolated by school property occupying the major portion of its southern extremity. ▪ Central Wellington: There is only one major access into this neighborhood, NE 195th Street. Other minor roads connect from different directions and are closed off or dead ends. Central Wellington is somewhat more defined by adjacent neighborhoods than it is unto itself. ▪ North Leota: North Leota is characterized by its adjacency to Woodinville-Duvall Road and by its broad range of lot sizes. There is no connectivity in any sense of the term, but this neighborhood occupies the greatest extent of the Leota outwash plain niche.	▪ North of NE Woodinville-Duvall Road (System A): Roads have asphalt pavement with some areas of gravel shoulders and a mixture of open ditch or open shoulder drainage. The layout is typically long block sections with some gentle curves. Only a very small portion of streets in this area has curb and gutter or sidewalk sections. Internal circulation is possible in the northeasterly neighborhoods including part of the School Basin area.	▪ The basin is more difficult to sewer due to its location, which would involve pump stations at major expense.	▪ R-4 possible with environmental mitigation such as stormwater management. ▪ R-2 appropriate for neighborhood character recognition in North Wellington; a range of R densities (2 to 4) identified in other sub-areas. ▪ Lesser transportation network exists, but standards in place for development will address growth at any level including R-4. Neutral issue for zoning. ▪ Grade change and associated sewer cost limit higher densities at this time.
Daniels Creek Basin	Conclusions: ▪ R-1 zoning provides minor benefits to Daniels Creek, minimal benefits to Bear Creek system. ▪ LID would provide some benefit, but lower priority than elsewhere. Technical Findings: ▪ Surface water from area is small part of Daniels Creek basin; groundwater drains to west. ▪ Cottage Lake alternates impact of Daniels Creek Basin on rest of Bear Creek system. ▪ Limited Steep Slopes – per mapping ▪ Wildlife – no protected species documented, many birds and mammals exist in an urban setting.	Contains all or part of the following conceptual neighborhood sub-areas: ▪ Northeast Wellington ▪ North Leota ◄= identified for neighborhood character recognition through zoning measures A description of the sub-areas follows: ▪ Northeast Wellington: This is a neighborhood defined primarily by the constricted nature of access. There is only one way in and one way out via 188th Avenue NE. It is further isolated by school property occupying the major portion of its southern extremity. ▪ North Leota: North Leota is characterized by its adjacency to Woodinville-Duvall Road and by its broad range of lot sizes. There is no connectivity in any sense of the term, but this neighborhood occupies the greatest extent of the Leota outwash plain niche.	▪ North of NE Woodinville-Duvall Road, East of 184th Avenue NE (System B): The general characteristics of these roads are asphalt pavement with some areas of gravel shoulders and a mixture of open ditch or open shoulder drainage. The layout is typically long straight aligned block sections. Only a very small portion of streets in this area has curb and gutter or sidewalk sections. Internal circulation is possible but is poor as there is only one route possible in all cases without having to enter onto a major arterial. One vertical sight distance concern has been identified in this area.	▪ The basin is more difficult to sewer due to its location, which would involve pump stations at major expense. The area should remain at R-1, until such time as sewer facility economics becomes feasible.	▪ R-4 possible with environmental mitigation. ▪ No conceptual neighborhood sub-areas identified for neighborhood character recognition; R-4 density possible. ▪ More limited access options, but internal circulation possible including R-4. Neutral issue for zoning. ▪ Grade change and associated sewer cost limit higher densities at this time.

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Location/Boundary	Environmental	Neighborhood Character	Transportation	Capital Facilities	Summary
Upper Woodin Creek Basin	Conclusions: ▪ R-1 zoning provides some protection to geologic hazards, minor benefits to Woodin Creek. ▪ Stormwater management is key to protecting geologic hazard areas; fuse-welded tightlines (e.g. HDPE pipe) for discharge of stormwater. ▪ Infiltration near slopes would threaten geologic hazard areas. ▪ Sewer service is needed for densities greater than R-1, to prevent slope instabilities and groundwater contamination. ▪ LID would provide some downstream benefit to Woodin Creek, but infiltration should be prohibited within 50' from top of slope, and within 50-500 feet should be thoroughly reviewed and supported by geotechnical reports and approved by the city. Technical Findings: ▪ Woodin Creek probably does not meet *Litovitz* criteria, especially above fish blockages. ▪ R-1 area is relatively small part of basin. ▪ Native Growth Protection Easements (NGPEs) provide valuable protection that remains regardless of zoning. ▪ Geologic hazards are common and significant. ▪ HDPE fuse-welded tightlines and tanks or vaults, not ponds, should be adequate to protect slopes from adjacent stormwater. ▪ Groundwater surcharge from increased infiltration or denser septic discharges would pose risk to geologic hazards; infiltration should be prohibited within 50' from top of slope, and within 50-500 feet should be thoroughly reviewed and supported by geotechnical reports and approved by the city. ▪ Large underdeveloped parcel may have geologic hazards and wetland, is headwaters of North Tributary. ▪ Wildlife – no protected species documented, many birds and mammals exist in an urban setting.	Contains all or part of the following conceptual neighborhood sub-areas: ▪ Laurel Plateau ▪ Woodway-Laurel Hills ◄ ▪ Lower Woodway ◄= Identified for neighborhood character recognition through zoning measures A description of the sub-areas follows: ▪ Laurel Plateau: Terrace-flat topography defines this neighborhood. Steep slopes and formal subdivision boundaries confine this area into one neighborhood. ▪ Woodway-Laurel Hills: This neighborhood predominantly consists of two formal subdivisions that have similar street networks and topography. Ridge and slope topography characterize its common physiographic niche, and its richly manicured landscape amidst tall woods creates a common definitive sense of place. ▪ Lower Woodway: This neighborhood located in the southwest fringe of the study area has common access off of NE 173rd Street. Steep slopes are common throughout. Its identity is defined by its adjacency to its neighbor and by its isolation because of topography and access limitations.	▪ **South of NE Woodinville-Duvall Road (System C):** The general characteristics of these roads are asphalt pavement with some areas of paved shoulders along one side and a mixture of open ditch or open shoulder drainage. The terrain has gentle to moderate (hill slope) grade changes. Some grades in this section appear to be at the 15% grade slope standard. The layout is typically long block sections with gentle to moderate curve sections. No streets were identified in this area to have curb and gutter of sidewalk sections. Internal circulation is fair. No sight distance concerns have been identified in this area. ▪ **Southwest portion of basin:** One area in the southwest portion of the Upper Woodin Creek Basin, with particularly difficult terrain for transportation improvements, may be a candidate for less density due to sloped terrain adjacent to the roadway making it less feasible to be improved.	▪ The basin has gravity access to the existing sewer facilities and may be physically suitable for R-4 zoning.	▪ R-4 possible with environmental mitigation. ▪ R-2 appropriate for neighborhood character recognition in Woodway-Laurel Hills; up to R-4 possible in other sub-areas. ▪ Except in southwest part of basin, lesser transportation network exists, but standards in place for development will address growth at any level including R-4. The southwest portion of basin, with particularly difficult terrain for transportation improvements, may be a candidate for less density. ▪ Basin has greater ability to be sewered at R-4 densities.
Hillside Drainages	Conclusions: ▪ R-1 zoning provides some protection to geologic hazards, minor benefits to Little Bear Creek. ▪ Stormwater management is key to protecting geologic hazard areas; fuse-welded tightlines (e.g. HDPE pipe) for discharge of stormwater. ▪ Infiltration near slopes would threaten geologic hazard areas. ▪ Sewer service is needed for densities greater than R-1, to prevent slope instabilities and groundwater contamination. ▪ LID would provide some downstream benefit to Little Bear Creek, but infiltration should be prohibited within 50' from top of slope, and within 50-500 feet should be thoroughly reviewed and supported by geotechnical reports and approved by the city; ▪ Other forms of LID still encouraged. Technical Findings: ▪ Hillside Drainages are relatively small part of Little Bear Creek basin flows. ▪ HDPE tightlines would be adequate to protect slopes from adjacent stormwater. ▪ Groundwater or perched water surcharge from increased infiltration or denser septic discharges would pose risk to geologic hazards. ▪ Along the northwestern portion of the basin, a large undeveloped	Contains all or part of the following conceptual neighborhood sub-areas: ▪ Northwest Wellington ◄ ▪ Southwest Wellington ◄ ◄= Identified for neighborhood character recognition through zoning measures. A description of the sub-areas follows: ▪ Northwest Wellington: The neighborhood is heavily wooded, has excellent spatial order and building texture, cohesive circulation, and is visually cohesive in terms of buildings, block patterns, and streets that together crisply define neighborhood boundaries. ▪ Southwest Wellington: Accessibility and lot configuration largely define this neighborhood. External access is limited, which makes for an enclave-like place. The wooded setting adds immensely to a sense of place.	▪ **North of NE Woodinville-Duvall Road (System A):** Roads have asphalt pavement with some areas of gravel shoulders and a mixture of open ditch or open shoulder drainage. The layout is typically long block sections with some gentle curves. Only a very small portion of streets in this area has curb and gutter or sidewalk sections. Internal circulation is possible in the northwesterly neighborhoods. Some vertical sight distance conditions have been identified in this area in the northwesterly neighborhoods	▪ Majority has gravity access to the existing sewer system facilities and may be physically suitable for R-4 zoning.	▪ R-4 possible with environmental mitigation. ▪ R-1 and R-2 appropriate for neighborhood character recognition in Northwest and Southwest Wellington. ▪ Lesser transportation network exists, but standards in place for development will address growth at any level including R-4. Neutral issue for zoning. ▪ Basin has greater ability to be sewered at R-4 densities.

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Location/Boundary	Environmental	Neighborhood Character	Transportation	Capital Facilities	Summary
	forested hillslope runs north-south, connecting to a large vegetated area in the adjacent golf course to the north and an industrial area below. Although there are no documented protected species (threatened, endangered) in this area, the area provides a place for urban species to forage, nest, drink and move into adjacent open areas. Pileated woodpeckers are a "State Candidate" species without specific or designated protection, and are not expected to be impacted by future development. The industrial area and highway, limit the ability to support wildlife species that are not tolerant of substantial human disturbance.				
Golf Course Basin	Conclusions: ▪ R-1 zoning provides some protection to geologic hazards, minor benefits to Little Bear Creek, helps minimize erosion in Golf Course Creek; ▪ Stormwater management is key to protecting geologic hazard areas; fuse-welded tightlines (e.g. HDPE pipe) for discharge of stormwater; ▪ Infiltration near slopes would threaten geologic hazard areas; ▪ Sewer service is needed for densities greater than R-1, to prevent slope instabilities and groundwater contamination; ▪ LID, especially in headwaters of basin, could provide significant benefits to Golf Course creek; Infiltration should be prohibited within 50' from top of slope, and within 50-500 feet should be thoroughly reviewed and supported by geotechnical reports and approved by the city. Technical Findings ▪ Golf Course Basin is relatively small part of Little Bear Creek basin flows. ▪ HDPE tightlines would be adequate to protect slopes from adjacent stormwater. ▪ Groundwater or perched water surcharge from increased infiltration or denser septic discharges would pose risk to geologic hazards. ▪ Golf Course creek may be perennial, provides important source of water for wildlife in area. ▪ Golf Course creek carries high sediment load from eroding ravine, which could be exacerbated by development in headwaters area without stormwater management focused on minimizing erosive discharges.	Contains all or part of the following conceptual neighborhood sub-areas: ▪ Northwest Wellington ◄ ◄= Identified for neighborhood character recognition through zoning measures. A description of the sub-areas follows: ▪ Northwest Wellington: The neighborhood is heavily wooded, has excellent spatial order and building texture, cohesive circulation, and is visually cohesive in terms of buildings, block patterns, and streets that together crisply define neighborhood boundaries.	▪ North of NE Woodinville-Duvall Road (System A): Roads have asphalt pavement with some areas of gravel shoulders and a mixture of open ditch or open shoulder drainage. The layout is typically long block sections with some gentle curves. Only a very small portion of streets in this area has curb and gutter or sidewalk sections. Internal circulation is possible in the northwesterly neighborhoods. Some vertical sight distance conditions have been identified in this area in the northwesterly neighborhoods	▪ Area has gravity access to the existing sewer system facilities and may be physically suitable for R-4 zoning.	▪ R-4 possible with environmental mitigation. ▪ R-1 and R-2 appropriate for neighborhood character recognition in Northwest and Southwest Wellington. ▪ Lesser transportation network exists, but standards in place for development will address growth at any level including R-4. Neutral issue for zoning. ▪ Basin has greater ability to be sewered at R-4 densities.

Location/Boundary	Environmental	Neighborhood Character	Transportation	Capital Facilities	Summary
Multiple Basins	• No wetlands in the R-1 zone are of a high rank order; few, if any, could be argued to be large in scope or complex in structure and function. • No stream within the R-1 zone beside Cold Creek is of a high rank order. Woodin Creek, while arguably large in scope (at least within the City's jurisdiction) and complex in structure and function, does not support fish in the R-1 zone and supports very few spawning salmon downstream. • Increased density in the R-1 zone would likely have only small impacts on all affected streams beside Cold Creek. These impacts could be further minimized by appropriate stormwater management and mitigation. The portions of the R-1 zone that drain to these other streams (including Little Bear Creek, Woodin Creek, and Daniels Creek—an upper tributary of the Bear Creek system) is small relative to their overall basins. Moreover, existing NGPEs in the upper basin of the stream most potentially impacted, Woodin Creek, would significantly reduce potential downstream impacts. • Protection of geologically hazardous areas in and adjacent to the R-1 zone depends primarily on proper development practices and stormwater management, not maintenance of R-1 zoning. • To the extent that critical aquifer recharge areas within the R-1 zone are threatened by contamination, the greatest current threat is from inadequate or poorly maintained septic systems. This threat would increase with more dense development on septic systems, but would decrease or be eliminated by development accompanied by sewers serving new and existing development.\ • Wildlife – no protected species documented, many birds and mammals exist in an urban setting.		• The majority of the roadways within the R-1 zone were developed under King County development standards prior to the City's incorporation. With the exception of newer roads constructed under the City's design requirements, the local streets in the R-1 zone do not meet the City's road cross-section standards. • Under the Fire Department Access standard, requiring a minimum paved width of 20 feet, only a few short sections of roadways do not meet this standard. • Future road improvements, for the arterial and collector classified roads, have been identified in the City's long range Capital Improvement Program and will be systematically reviewed and considered for improvements. • On local streets, improvements are likely to occur under special projects (such as a special district for sidewalks) or under development mitigation. • Two intersections on 159th Street would exceed the City's adopted LOS E by 2028 assuming R-4 development levels (conservative estimates). At both locations, the LOS can be brought back into compliance with widening improvements within the existing public right-of-way. • In regard to vehicle capacity, both the City's "Low Density" and "High Density" road cross-section standard provide the same vehicle trip capacity. If additional capacity were needed, due to physical restrictions within the roadway, such as the need to address a narrow road section, adequate right-of-way current exists to allow for any needed improvement to address any deficiencies. • Several local streets, and one minor arterial have been identified with vertical sight distance condition. These are currently being taken under review by the City for possible mitigation measures. • Road grades within the entire R-1 zone are all within the City's acceptable standards (under 15%). • Pedestrian and bike facilities are very limited within the entire R-1 zone area. Only Woodinville-Duvall Road has designated shared pedestrian and bike facilities along both sides of the roadway. Most of the developments following incorporation of the City (in 1993) do provide pedestrian facilities. However, these make up a very small portion of the R-1 zone. Of the remaining streets, it is estimate that less than 20% have any type of pedestrian facility and travel by non-motorize means must use the edge of the pavement or shoulder area.	• Police and Fire Services: projected increases in housing units due to zoning changes from R-1 to R-4 would not affect response time for the department. Population and housing increases may require additional personnel and facilities (vehicles), but response time is not usually affected by increases in density, unless access is restricted. • Schools: Suitability for R-4, due, in part, to minor projections in student population that may result from R-4 density increases in the R-1 area, and due to the District's ability to charge impact fees. • Water: Increases in R-1 area zoning to R-4 over buildable parcels, would result in an increase in demand for 4,312 gallons per day in the entire study area, considered by Water District officials to have no major impact to the current capacity of supply or facilities.	

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Density Options

Based on the environmental, neighborhood character, transportation, and capital facilities reports, a range of zoning options for the R-1 study area were prepared for Planning Commission, City Council, and public review:

- R-1 Only – Retains existing R-1 zoning for entire study area without the option for R-4 (or could have option R1(a): No Action with allowance for rezone to R-4);
- R- *Litowitz* (Based on current Growth Management Hearings Board Decisions) – Retain R-1 zoning only for the Lake Leota Basin. R-4 zoning surrounding Leota drainage basin;
- R- Multiple Factors – Combination of R-1, R-2 and R-4 zoning based upon the combination of the *Litowitz* test, neighborhood character analysis to ensure the vitality and character of existing residential areas, transportation and capital facilities; and
- R-4 Only – R-4 zoning for the entire study area.

Figures 7 through 10 present the options. A summary of the effects of each option is provided in Table ES-3. Each option considers the four study topics differently as described in the table.

After a Planning Commission public hearing on January 31 and February 14, 2007, the Planning Commission recommended that R-1 be retained in the study area and that development regulations be considered regarding infill development, including but not limited to, density transfers to downtown, and shadow platting to ensure the ability to develop to greater densities in the future if warranted. The City Council will consider the Planning Commission recommendations together with the above options at public meetings and a hearing as well.

City of Woodinville

Sustainable Development Project

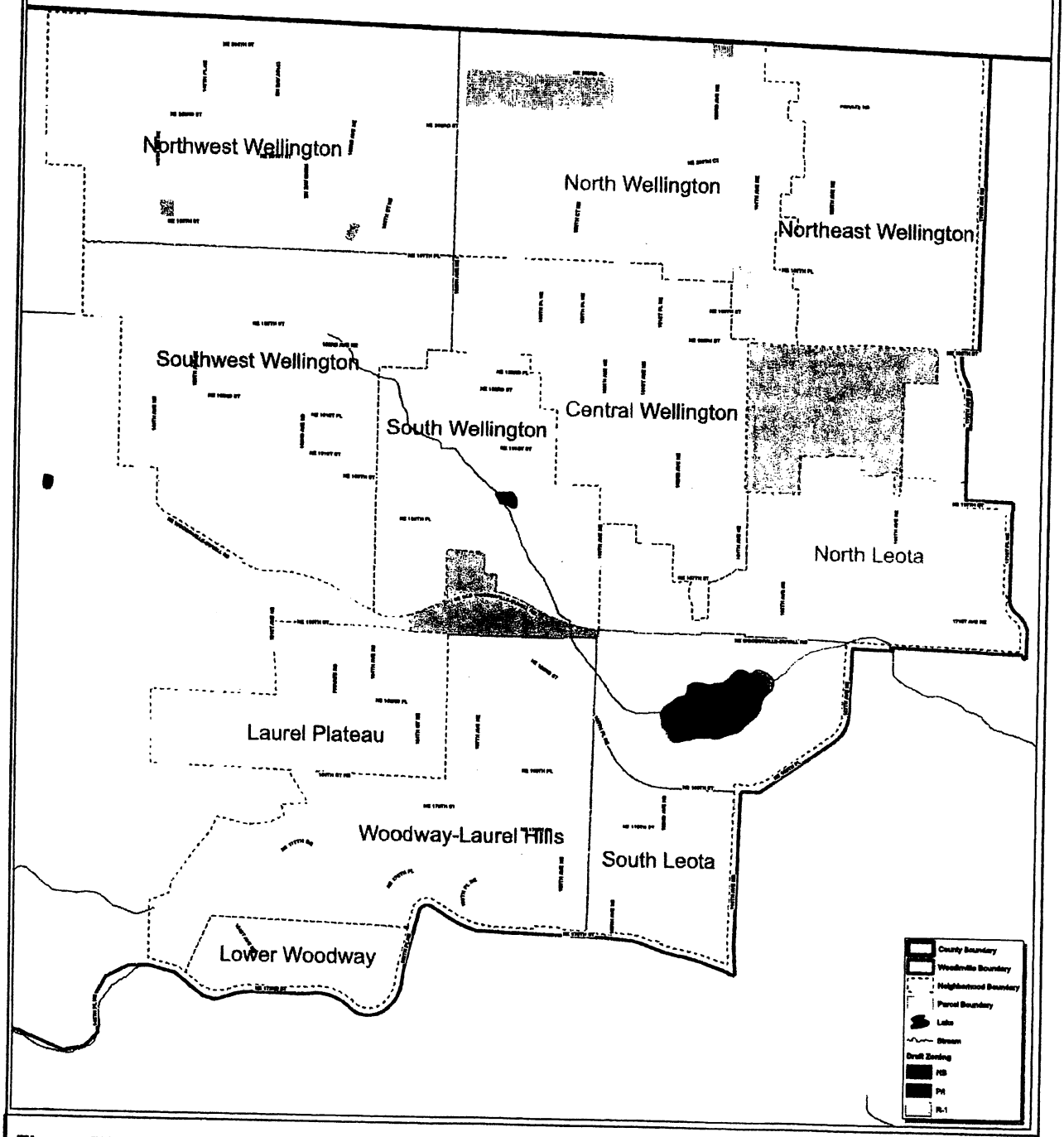

Figure ES-7. Zoning Option 1
All R-1

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City of Woodinville

Sustainable Development Project

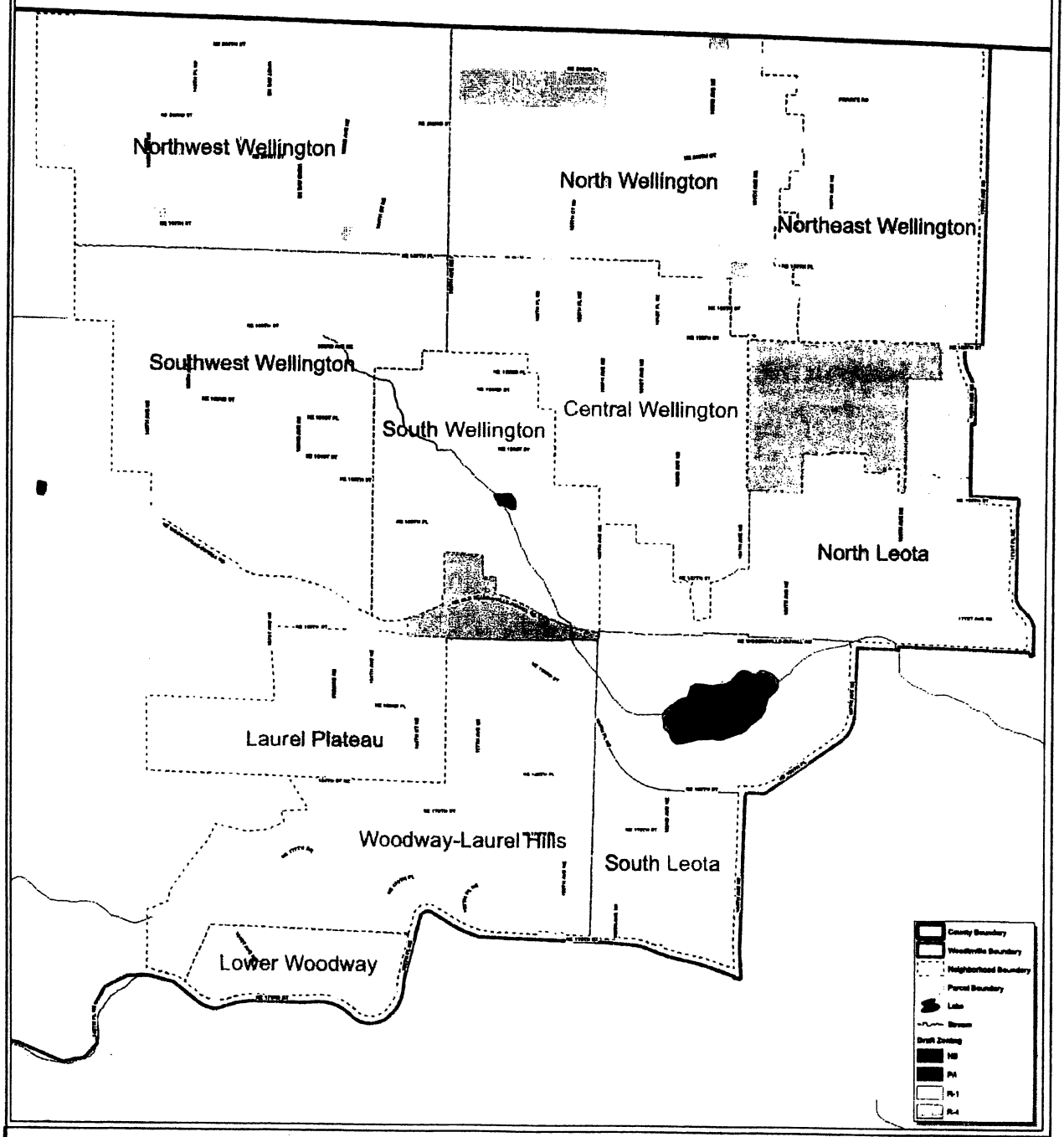

Figure ES-8. Zoning Option 2
R-Litowitz

0 500 1,000
Feet

City of Woodinville

Sustainable Development Project

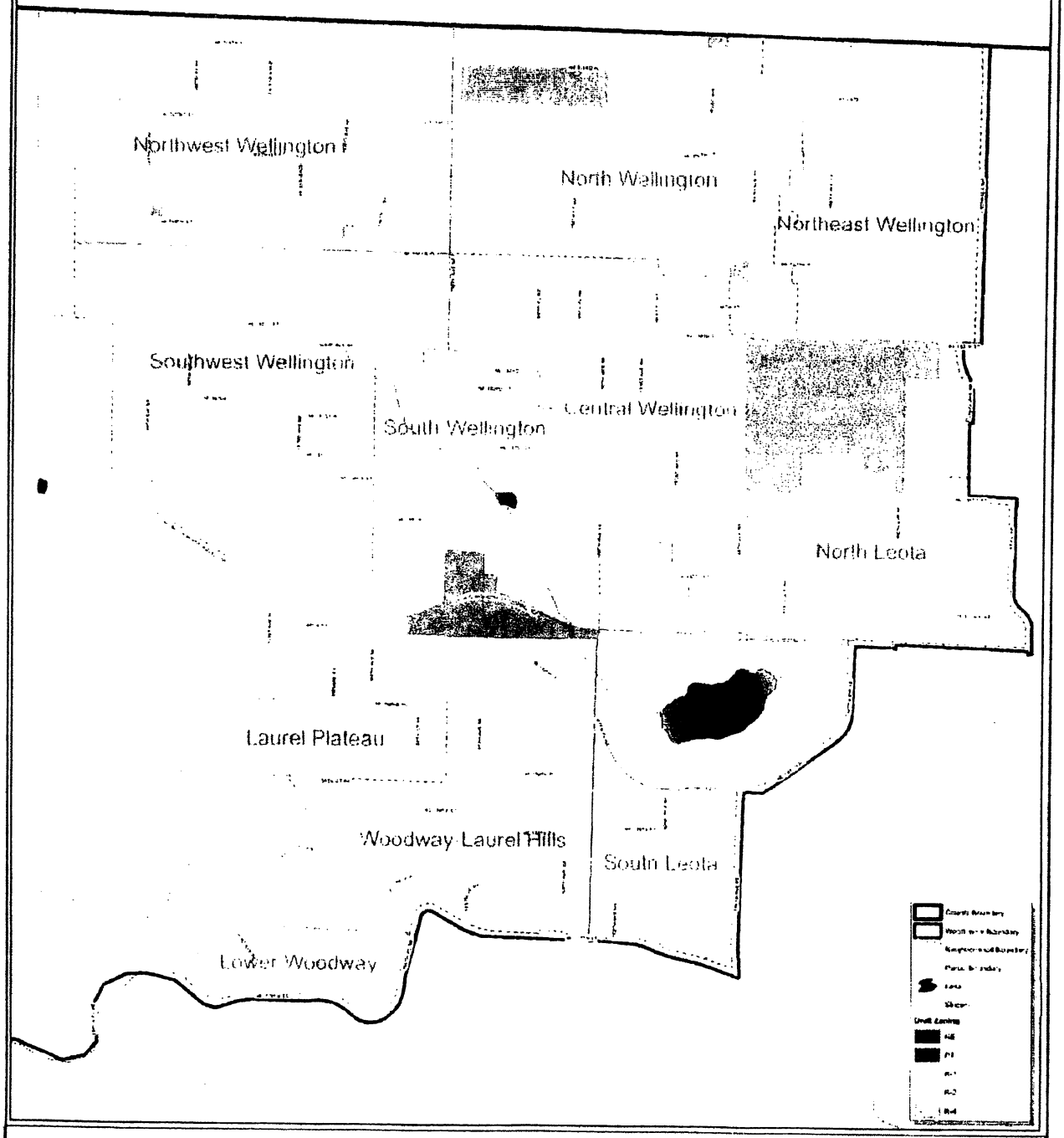

Figure ES-9. Zoning Option 3
R-Multiple Factors

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City of Woodinville

Sustainable Development Project

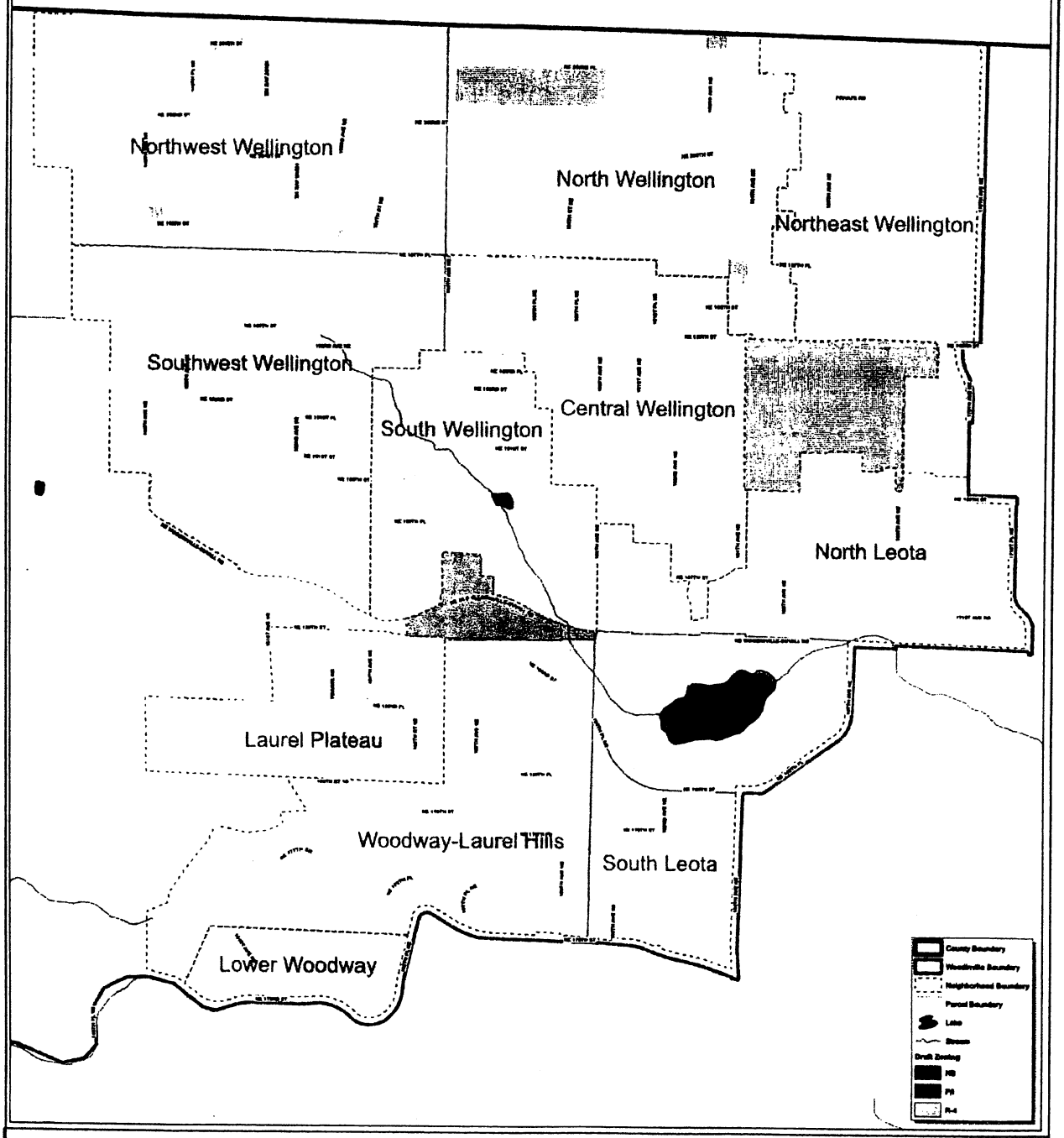

Figure ES-10. Zoning Option 4
All R-4

0 500 1,000
Feet

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Table ES-3. RESIDENTIAL DENSITY OPTIONS TABLE

OPTIONS	R-1 Only	R-1 Litowitz (Based on current Growth Management Hearings Board Decisions)	R-1 Multiple Factors	R-4 Only
DESCRIPTION	Retains existing R-1 zoning for entire study area without the option for R-4. (or could have option R1(a): No Action with allowance for rezone to R-4)	Retain R-1 zoning only for the Lake Leota Basin. R-4 zoning surrounding Leota drainage basin.	Combination of R-1, R-2 and R-4 zoning based upon the combination of the *Litowitz* test, neighborhood character analysis to ensure the vitality and character of existing residential areas, transportation and capital facilities.	R-4 zoning for the entire study area
EFFECT OF OPTION				
Environmental	Has the least impact on Cold Creek & Lake Leota	Recognizes the most environmental critical element within the study area that meets *Litowitz* test (large in scope, complex structure and functions, and high rank order): Lake Leota and Cold Creek. Requires consideration of lower densities beyond Critical Areas regulations. Other critical areas in other basins – wetlands, geologic hazard areas, fish and wildlife habitat do not meet *Litowitz* criteria, but continue to be protected by Critical Areas regulations.	Lake Leota Basin would be protected at R-1 density, with a relatively small exception in the upper basin. That area has high neighborhood character and already has an existing common density of R-2; therefore, the small area was identified for R-2.	Could have the most impact on Cold Creek & Lake Leota. Engineering and critical areas regulatory requirements would mostly mitigate impacts to the environment in all other areas.

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OPTIONS	R-1 Only	R-Litowitz (Based on current Growth Management Planning Council Decisions)	R-Multiple Factors	R-4 Only
Neighborhood Character*	No Change	In the Leota Basin, the current existing density is mostly R-1 to R-2. And the majority of the neighborhoods in the basin have lower neighborhood character commonality. Therefore, the Basin would remain nearly the same and therefore the neighborhood character the same. Outside the basin, R-4 could change the neighborhood character, because the high commonality areas would not be maintained.	The 5 high-order neighborhood character areas outside the Leota Basin were maintained under this option, with two exceptions: in the southwest portion of Woodway-Laurel Hills (some of the Woodin Creek Basin), where R-1 rather than R-2 would be most appropriate. Although the geologically hazardous area in the Woodin Creek basin is not identified as meeting the *Litowitz* criteria, there is a complex steep slope system, and associated constraints to future road improvements, making future development less feasible.	Does not recognize neighborhood character analysis.
Transportation	No Change	Transportation operation impacts can be mitigated under different density scenarios with one exception in SW corner of the study area.	Transportation operation impacts can be mitigated under different density scenarios with one exception in SW corner of the study area.	Transportation operation impacts can be mitigated under different density scenarios with one exception in SW corner of the study area.
Public Facilities	Police & Fire Service: Zoning density changes from R-1 to R-4 would not affect response time for police and fire service providers. Public safety services are neutral factors for purposes of this review. Schools: Student populations are currently in the decline. R-1 could perpetuate the decline. Water Service: R-1 zoning would not impact water service. Sanitary Sewer Service: Sewers would not be required for R-1. In addition, the western portion of the R-1 area has gravity access.	Police & Fire Service: Zoning density changes from R-1 to R-4 would not affect response time for police and fire service providers. Public safety services are neutral factors for purposes of this review. Schools: Student populations are currently in the decline and excess capacity exists. The R-4 zoning densities surrounding the Leota Basin could slow the decline in student population. Water Service: Buildout to R-1 in the basin and R-4 surrounding would not appreciably impact water	Police & Fire Service: Zoning density changes include a range of densities and would not affect response time for police and fire service providers. Public safety services are neutral factors for purposes of this review. Schools: Student populations are currently in the decline and excess capacity exists. Zoning densities would not impact the schools. Water Service: Buildout in the multiple factor option would not appreciably impact water service. Sanitary Sewer Service: The	Police & Fire Service: Zoning density changes from R-1 to R-4 would not affect response time for police and fire service providers. Public safety services are neutral factors for purposes of this review. Schools: Student populations are currently in the decline and excess capacity exists. Zoning densities could improve conditions Water Service: Buildout to R-4 would not appreciably impact water service. Sanitary Sewer Service: The western portion of the R-1 area has

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	Economic feasibility would likely have an effect on providing sewer in the eastern portion.	service. Sanitary Sewer Service: Sewers would not be required in the Leota Basin (see exception directly surrounding the Lake). Economic feasibility would likely have an effect on providing sewer in the R-4 area outside the Leota.	western portion of the R-1 area has gravity access to existing sanitary sewer facilities and is physically better suited for R-4 zoning. The eastern portion is better suited for lower densities only until such time that it becomes economically feasible to provide pump stations to this area. The eastern portion of the study area is identified for R-4 zoning because of the lack of environmental constraints and high order neighborhood character. Sewer service did not outweigh other factors. R-4 densities would be phased in when service is available.	gravity access to existing sanitary sewer facilities and is physically better suited for R-4 zoning. The eastern portion is better suited for lower densities only until such time that it becomes economically feasible to provide pump stations to this area. The eastern portion of the study area is identified for R-4 zoning due to this option's focus as the upper density range approach. R-4 densities would be phased in when service is available.

Note: *The existence of covenants may further support neighborhood character conclusions.

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APPENDIX O

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FOCUS - 27 of 32 DOCUMENTS

CORRINE R. HENSLEY, Petitioner, v. CITY OF WOODINVILLE, Respondent

Case NO. 96-3-0031

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON

1997 GMHB LEXIS 354

February 25, 1997

JUDGES: Edward G. McGuire, AICP, Board Member; Joseph W. Tovar, AICP, Board Member; Chris Smith Towne, Board Member

OPINION:

[*1]
FINAL DECISION AND ORDER

I. PROCEDURAL HISTORY

On August 29, 1996, the Central Puget Sound Growth Management Hearings Board (the **Board**) received a Petition for Review from Corrine R. Hensley (**Hensley**). The matter was assigned Case No. 96-3-0031. Hensley challenges the City of Woodinville's (the **City**) Ordinance 157 (the **Ordinance**) adopting a comprehensive plan (the **Plan**), alleging that it violates provisions of the Growth Management Act (the **GMA** or the **Act**).

On October 1, 1996, the Board held a prehearing conference, and on October 8, 1996, entered its Prehearing Order, setting forth the issues to be determined, a schedule for motions and briefing, and a date for the hearing on the merits. On October 11, 1996, the Board issued its Order Modifying Case Schedule, changing the deadlines for filing motions to supplement the record and preliminary exhibit lists. On November 22, 1996, the Board issued its Order on Motion to Supplement and Second Order Modifying Case Schedule and Statement of Issues.

On November 25, 1996, the Board received Hensley's Prehearing Brief and Motion to Take Notice (**Hensley's PHB**), with exhibits. The Motion concerned [*2] an amendment to Snohomish County County-wide Planning Policy (**CPP**) DG-2 (Attachment A).

On December 9, 1996, the Board issued its Third Order Modifying Case Schedule, changing the hearing date to January 9, 1997.

On December 16, 1996, the Board received Respondent City of Woodinville's Prehearing Brief (**Woodinville's PHB**), with exhibits.

On January 3, 1997, the Board received Petitioner's Reply to Respondent's Prehearing Brief (**Hensley's Reply**).

On January 9, 1997, the Board held a Hearing on the Merits at its Seattle Office. Present were Board members Joseph W. Tovar, Edward G. McGuire, and Chris Smith Towne.

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presiding officer. Corrine R. Hensley appeared *pro se*, and the City was represented by Dawn L. Findlay. Also present for the City were Wayne Tanaka and Stephanie Cleveland. Court reporting services were provided by Cynthia LaRose of Robert H. Lewis & Associates, Tacoma.

II. FINDINGS OF FACT

The City of Woodinville is situated in north King County, east of Interstate Highway 405; its northern boundary abuts Snohomish County. Incorporated on March 31, 1993, its 1995 population was 9,614. Exhibit (**Ex.** [*3]) Core Document (**CD**) F; Woodinville Supplemental (**Supp.**) Ex. 1, at 3 (City of Woodinville's Prehearing Brief in *Sky Valley v. Snohomish County [Sky Valley]*, CPSGMHB Case No. 95-3-0068 (**City's Sky Valley PHB**)). The city limits contains an area of 6.1 square miles. Office of Financial Management, Forecasting Division, *Washington State 1995 Data Book* 287 (1995).

On June 28, 1995, the Snohomish County Council adopted Ordinance 94-125, enacting its GMA Comprehensive Plan (**Snohomish County Plan**).

The Snohomish County Plan did not designate an Urban Growth Area (**UGA**) for the Maltby area of south Snohomish County. *See* City's Sky Valley PHB, at 16.

The City has not entered into an Interlocal Agreement for GMA planning with Snohomish County. Woodinville's PHB, at 27.

The City appealed Snohomish County's (the **County**) comprehensive plan (the **County's Plan**), requesting UGA designation for the Grace Urban Area portion of the Maltby Industrial Area. Originally, Case No. 95-3-0060, consolidated with *Sky Valley*.

On November 27, 1996, the Snohomish County Council adopted Amended Ordinance 96-073, establishing a UGA for the unincorporated Maltby [*4] Industrial Area. Woodinville's PHB, Supp. Ex. 2.

The City's Comprehensive Plan Final Environmental Impact Statement (**FEIS**) was issued on January 17, 1996. Ex. CD H.

Woodinville adopted its Plan on June 24, 1996, by passing Ordinance 157. Ex. CD F (Plan); Ex. CD I (Ordinance).

The Plan contains three planning area boundaries: the City limits, the Woodinville Planning Area (**WPA**), and the Woodinville Survey Area (**WSA**). Ex. CD F, Fig. 1-1, 1-2.

The WPA is a thirty-six square-mile area bounded on the west by Interstate Highway 405, on the north by Maltby Road in Snohomish County, on the east by Avondale

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Road NE, and on the South by NE 124th and NE 122nd. The WPA is the area that the City anticipates will have some influence on the City's growth and development over the twenty-year planning period. Ex. CD F, Chapter 1, at 3 and Fig. 1-1.

The seven square-mile WSA includes all land within the City limits, as well as an area east of the Sammamish River (East Valley) in King County, and the Grace industrial area lying wholly within Snohomish County. The WSA was used to determine the carrying capacity and growth allocation [*5] needs as required by the Act. The WSA is divided into nine neighborhoods: Grace; The Wedge; North Industrial; Leota; Town Center; West Ridge; Valley Industrial; East Valley; and Tourist District. Ex. CD F, Chapter 1, at 3 and Fig. 1-2.

The Leota neighborhood is in the eastern portion of the city lying north of NE 175th Street, east of 148th Avenue, and west of 170th Avenue NE, and abutting the county line to the north. Ex. CD F, Chapter 1, Fig. 1-2.

The Plan graphically displays hydrologic areas (floodplains, wetlands, streams, and the Bear Creek Basin eastern boundary) for the WPA, and an accompanying chart describes the geographic extent of those areas. The text, under the heading The Natural Environment, further describes the areas. Ex. CD F, Chapter 1, at 12-16 and Fig. 1-5.

The Capital and Public Facilities element of the Plan discusses surface water management, and notes that:

> Completed basin planning affecting the Woodinville Planning Area has been limited to the Bear Creek Basin Plan. This is a multi-jurisdictional study which has developed a management policy and capital improvement plan for the basin. A portion of the Woodinville Planning Area is located within [*6] the cottage Lake and Bear/Evans sub-basins.
>
> Along with the other affected agencies in the region, the City of Woodinville will participate in any future river system planning for the Sammamish River and basins within the service area. These plans might identify programs or capital projects necessary to project or restore aquatic habitat and water quality, prevent flooding, or correct storage and conveyance deficiencies. Until these basin or river system plans are adopted, the City will work to maintain the existing surface water system in accordance with local, state, and federal regulations. Ex. CD F, Chapter 10, at 1-2.

Goal U-4 of the Utilities element provides that:

> A watershed approach should be taken to surface water management, with responsibility shared among the counties and affected jurisdictions. This approach should emphasize prevention of water quality degradation through education programs and implementation of Best Management Practices to reduce pollution entering surface waters.

Eleven policies, U-4.1 through 4.11, provide more detailed analysis of that approach. Ex. CD F, Chapter 11, at 4-5.

III. MOTIONS [*7]. TO SUPPLEMENT AND STRIKE

Hensley asks the Board to take official notice of amended Policy UG-2 of the CPPs. The City asks the Board to take official notice of County Ordinance 96-073, establishing the Maltby UGA. The Board will take official notice of amended CPP Policy UG-2 and Ordinance 96-073. The Board will also take official notice of the *Sky Valley* findings of fact related to the Maltby UGA.

The Board denies Hensley's request to strike references by the City to the Maltby annexation petition. *See* Hensley's Reply, at 2.

The City's Supplemental Exhibit 1, City's Sky Valley PHB, is admitted.

IV. ABANDONED ISSUES

The Board's Prehearing Order reminds parties that issues not briefed will be deemed to have been abandoned. Hensley has not briefed Legal Issues 2 and 4. Also, at the hearing on the merits, Hensley conceded abandonment of these issues. **The Board holds that Hensley has abandoned Legal Issues 2 and 4.**

V. DISCUSSION AND CONCLUSIONS

A. LEGAL ISSUE NO. 1

Did the City violate RCW 36.70A.110(1), (2) and .040(3)(c) by designating an urban growth area (UGA) boundary differing from the boundary established by a county?

[*8]

Woodinville is located within King County. The City's northern border abuts the Snohomish County line. Snohomish County Ordinance 96-073 designated a UGA for the Maltby Industrial Area (**Maltby UGA**) in response to the Board's remand order in *Sky Valley*, Finding of Fact 6. The Maltby UGA abuts Woodinville. Woodinville, in its Plan, has planned for an area in unincorporated Snohomish County, a portion of which includes part of the Maltby UGA. Ex. CD F, Fig. 1-1, 1-2, 3-1, 3-2, and 3-3.

Hensley claims that Woodinville has violated the GMA by designating a UGA (the **Grace area**) that is outside of its city limits, and that is outside of Snohomish County's designated Maltby UGA. Hensley's PHB, at 5. Woodinville argues that it has only proposed this UGA and that it is appropriate to plan for the Grace area because residents within this area intend to annex to the City. Woodinville's PHB, at 2-4.

In designating UGAs, a county shall consult with the cities within its boundaries, and cities may propose the location of UGAs. RCW 36.70A.110(2); WAC 365-195-335(2). It is the county's duty to designate UGAs; cities have no authority to designate UGAs. RCW 36.70A.110(1); *see also*, [*9] *Agriculture for Tomorrow v. City of Arlington [AFT]*,

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CPSGMHB Case No. 95-3-0056, Final Decision and Order (Feb. 13, 1996), at 19; *and* RCW 36.70A.040(3)(c). Even if Woodinville intended to designate a UGA extending beyond the boundaries of the Maltby UGA designated by Snohomish County, and even if the City and County agreed to such designation in an interlocal agreement, only the County is authorized by the GMA to take such action, not the City.

The Board holds that while a city may propose a UGA and consult on its designation, a city has no authority to designate UGAs under the Act.

Conclusion No. 1

Woodinville has not violated the requirements of RCW 36.70A.110(1), (2), or .040(3)(c) by proposing a UGA boundary different than the UGA established by the County, and in undertaking certain planning actions for the unincorporated areas external to the designated UGA.

B. LEGAL ISSUE NO. 2

Did the City violate RCW 36.70A.040(2), (3)(b) and (d), and .060 by adopting a Plan for portions of a UGA within a county in which the city is not located?

Hensley did not brief or argue Legal Issue 2. At the hearing [*10] on the merits, Petitioner conceded that it had abandoned Legal Issue 2, therefore the Board will not consider it further.

Conclusion No. 2

Hensley has abandoned Legal Issue 2.

C. LEGAL ISSUE NO. 3

Did the City violate RCW 36.70A.070(1) by failing to provide in the land use element of its Plan a review of drainage, flooding, and storm water run-off in the area and nearby jurisdictions?

Each comprehensive plan must include a land use element. RCW 36.70A.070(1) provides in part:

> *Where applicable, the land use element shall review drainage, flooding, and storm water run-off in the area and nearby jurisdictions* and provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound. (Emphasis added.)

The Board has found this statutory provision applicable where a floodway and 100-year flood areas are within a city's planning area. *See AFT*, at 27. In the present case, the City's Plan shows that part of the Sammamish River floodplain and a portion of the Bear Creek Basin boundary are located within the City's planning area. Ex. CDF at Chapter

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1, Figure 1-5. Therefore, RCW 36.70A.070(1)'s requirement to review drainage, flooding, and storm water run-off is applicable to Woodinville's Plan. The Board must now determine what this requirement is.

The Act does not define review; however, the dictionary definition of review is:

> 1. To study or examine again. 2. To consider retrospectively. 3. To examine with an eye to correction or criticism. *Webster's II New Riverside University Dictionary* 1006 (1988).

Therefore, in the context of RCW 36.70A.070(1), shall review requires jurisdictions to examine drainage, flooding, and storm water run-off. Section 070(1)'s subsequent language and provide guidance also suggests that this examination be with an eye to correction or criticism. The Board does not read 070(1) as necessarily requiring jurisdictions to conduct new studies to adequately review; the required review can be accomplished by considering studies already completed and by referencing these studies in the land use element of the plan. Jurisdictions must review the area and nearby jurisdictions. This language reflects the fact that drainage, flooding, and storm water run-off are [*12] watershed basin concerns that are not confined by political or planning boundaries.

In addition to containing a review, the land use element of a comprehensive plan must provide guidance for corrective actions to mitigate or cleanse those discharges that pollute waters of the state, including Puget Sound or waters entering Puget Sound. As Petitioner has not alleged that the Plan fails to provide guidance, the Board need not address whether the Plan provides the required guidance.

Hensley's argument addresses the question of whether Woodinville's Plan contains the review of drainage, flooding, and storm water run-off that is required by .070(1). Petitioner claims that, although the Plan includes some goals and policies that apply to the Grace area, it contains no review of drainage, flooding, or storm water run-off for that area. Hensley's PHB, at 9.

In response, the City identifies a number of policies in its Plan that it asserts provide the required review. Woodinville PHB, at 11-13. The City cites several policies of the Plan's Land Use element as evidence of that review. These policies address future actions: LU-5.2 provide incentives; LU-5.3 work with; LU-5.5 protect; LU-5.6 [*13] enhance and protect; LU-5.10 study; LU-5.12 maintain. *See* Finding of Fact 14. While these cited policies evince the City's intent to address the protection of natural systems in the future, these policies do not provide evidence of the review required by .070(1). The City also argues that the Plan discusses surface water drainage issues in the Capital and Public Facilities chapter of the Plan. *See* Findings of Fact 14 and 15. This capital facilities element states that the Bear Creek Basin Plan has been completed, but that the Sammamish River basin has yet to be studied. Although the Bear Creek Basin Plan may provide adequate review of the Bear Creek basin, there is no evidence in the

record that the remainder of the City's drainage, flooding, and storm water run-off has been reviewed.

Woodinville's Plan does not contain an examination of drainage, flooding, and storm water run-off with an eye to correction or criticism; the Plan does not contain the review required by RCW 36.70A.070(1). **The Board holds that the City has not complied with the requirements of RCW 36.70A.070(1) because it has failed to provide in its land use [*14] element any indication that it reviewed drainage, flooding, and storm water run-off in the area and nearby jurisdictions.**

Conclusion No. 3

The City's Plan does not meet the requirements of RCW 36.70A.070(1) because it fails to provide a review of drainage, flooding, and storm water run-off in the area and nearby jurisdictions in its land use element. Upon remand, the City will be directed to do so.

D. LEGAL ISSUE NO. 4

Did the City violate RCW 36.70A.110(2) by including in its Plan certain areas outside its UGA?

Hensley did not brief or argue Legal Issue 4. At the hearing on the merits, Petitioner conceded that it had abandoned Legal Issue 4, therefore the Board will not consider it further.

Conclusion No. 4

Hensley has abandoned Legal Issue 4.

E. LEGAL ISSUE NO. 5

Does the Plan, specifically LU-1, LU-2, LU-3.6, LU-3.7, LU-12.1, Sections 3.3, 3.4, 3.4.1, Future Land Use Map, Section 3.5, Appendix T-1, T-1.2, T-2, T-2.1, Tables, and CF-3, CF-3.1, CF-4, Tables, violate the coordination and consistency requirements of RCW 36.70A.070(1), (3)(e), (6), (6)(c)(iii), (d) and (e)?

Hensley argues that certain Plan provisions are inconsistent, [*15] in violation of RCW 36.70A.070. A comprehensive

plan shall be an internally consistent document and all elements shall be consistent with the future land use map (FLUM). RCW 36.70A.070. More specifically, the GMA provides that the capital facilities element must include a requirement to ensure that the land use element, capital facilities plan element, and financing plan within the capital facilities plan element are coordinated and consistent. RCW 36.70A.070(3)(e).

The Board interprets internal consistency to mean that [plan] provisions are compatible with each other . . . In other words, one provision may not thwart another. *West Seattle Defense Fund v. City of Seattle*, CPSGMHB Case No. 94-3-0016, Final

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Decision and Order (April 4, 1995), at 26. The question in the present case is whether there are provisions in the City's Plan that are incompatible, and thus thwart, other provisions in the Plan.

However, before answering this question, the Board must first address the GMA context of the challenged Plan provisions. One of the fundamental premises of the Act is that UGAs are to be designated with sufficient land and densities [*16] to accommodate the urban area portion of the projected twenty years of countywide population growth. RCW 36.70A.110(2). In making these UGA determinations, counties are to include the cities within the county UGAs, and have the duty and the authority to allocate population to the cities. *Edmonds v. Snohomish County*, CPSGPHB Case No.-93-3-0005, Final Decision and Order (Oct. 4, 1993), at 23, 28. The county, as to the unincorporated portions of the UGA, and the cities, as to their respective portions of the UGA, then have a duty to adopt comprehensive plans that accommodate that allocated growth over the twenty-year life of their plans, including the provisions of public facilities and services.

The principle that jurisdictions must accommodate urban growth is supported by several goals of the Act. RCW 36.70A.020(12) provides:

> *** *Ensure* that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards. (Emphasis added.)

The Board reads goals 1 and 2, and the other requirements [*17] of the Act, to direct cities to adopt FLUMs that show an urban pattern of growth over the twenty-year life of the plan. However, the GMA recognizes the importance of timing in accommodating urban growth. The Board reads Goal 12, and the requirements of RCW 36.70A.070(3) regarding capital facilities, to give cities the discretion to decide *which specific areas* of the city will be provided with public facilities and services to support development where and when such public facilities and services will be available, within the twenty-year planning horizon. Read together, these provisions of the Act clearly direct cities to plan for accommodating the allocated growth, including the provision of urban services, within the twenty-year planning period.

The Board holds that the Act creates an affirmative duty for cities to accommodate the growth that is allocated to them by the county. This duty means that a city's comprehensive plan must include: (1) a future land use map that designates sufficient land use densities and intensities to accommodate any population and/or employment that is allocated; and (2) a capital facilities element that ensures that, over the twenty-year life of [*18] the plan, needed public facilities and services will be available and provided throughout the jurisdiction's UGA.

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The Board has previously held that that which is urban (i.e., exhibits a land use pattern that meets the definition of urban growth RCW 36.70A.030(14)) should be municipal (i.e., within an incorporated city). *City of Poulsbo v. Kitsap County*,

CPSGPHB Case No. 92-3-0009, Final Decision and Order (April 6, 1993), at 22. The corollary is that which is municipal must be urban, which *is* to say, must generally have residential densities at 4 du/acre or higher. The Act is clear in providing that urban governmental services are to be available and provided in urban areas. This is in keeping with the role of cities as the primary providers of urban governmental services (RCW 36.70A.110(4) and .210(1)) and the GMA's planning goals to encourage development in urban areas where adequate facilities exist or can be provided in an efficient manner and to reduce the inappropriate conversion of undeveloped land into sprawling, low-density development. RCW 36.70A.020(1) and (2). Simply stated, Woodinville may not engender or perpetuate a [*19] near-term land use pattern (one-acre lots) that will effectively thwart long-term (beyond the twenty-year planning horizon) urban development within its boundaries. *See Robison v. Bainbridge Island*, CPSGMHB Case No. 94-3-0025, Final Decision and Order (May 3, 1995), at 30. Also, encouraging a pattern of new one-acre lots constitutes sprawl. *See Bremerton v. Kitsap County*, CPSGMHB Case No. 95-3-0039, Final Decision and Order (Oct. 6, 1995), at 49.

The Board has previously stated that the only absolute consequence of including within urban areas a net residential density below 4 du/acre is that the plan will be subject to increased scrutiny for justification. *Benaroya v. City of Redmond*, CPSGMHB Case No. 95-3-0072, Final Decision and Order (March 25, 1996), at 33. In scrutinizing the City of Federal Way's Plan, the Board held that adequate justification could arise where environmentally sensitive systems are large in scope, their structure and functions complex, and their rank order high. *Litowitz v. City of Federal Way*, CPSGMHB Case No. 96-3-0005 (July 22, 1996), at 12. Here, Hensley has focused the Board's scrutiny on the Woodinville Plan's use of 1 du/acre densities [*20] in the Leota neighborhood, an area which comprises a significant part of the City's land mass. Finding of Fact 12. No evidence or argument was presented by Woodinville that there was an environmental justification for such a widespread pattern of one-acre lots. Instead, the City points to Policy LU-3.6 to argue that, in effect, lack of service capacity serves as justification for a FLUM with densities significantly below 4 du/acre. The Board disagrees with the City.

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With this background, the Board now addresses Legal Issue 5. Hensley argues that at least three Plan provisions are inconsistent: the designation of the Leota Neighborhood as Low Density Residential (1-4 du/acre); Plan Goal U-3; and Plan Policy LU-3.6. Goal U-3, in the Utilities chapter of the Plan, provides:

> Require connection to the wastewater system when development or subdivision of land occurs, only for land that has a density greater than one unit per acre, except when the connection is not feasible. Ex. CD F, chapter 11, at 4.

Policy LU-3.6 provides:

> Allow densities higher than one dwelling unit per acre only when adequate services and facilities are available [*21] to serve the proposed development. Ex. CD F, Chapter 3, at 3.

The Act requires that urban services be made available and provided within UGAs. Generally, this means that cities will make available and provide those urban services. Therefore, to comply with the Act, Plan Goal U-3 must be read to mean that sewer service, an urban governmental service, will be provided throughout the City, except in those unusual circumstances where land is developed at a density of 1 du/acre or less. Goal U-3 recognizes the economic efficiency of providing sewer service only to those lots greater than 1 du/acre; this efficiency is encouraged by the Act. Because the Act requires that cities make available and provide urban services throughout their UGAs, the Board cannot construe Goal U-3 to perpetuate an inefficient pattern of one-acre lots. For the Board to conclude otherwise would sanction the inappropriate conversion of undeveloped land into sprawling low-density development, which would effectively thwart long-term urban development within the City's boundaries. *See* RCW 36.70A.020(2).

In light of this interpretation of Goal U-3, **the Board holds that LU-3.6 is inconsistent with Goal U-3. [*22] Policy**

LU-3.6 allows densities greater than 1 du/acre only where adequate services and facilities are available. This policy reads as though new development cannot exceed 1 du/acre unless sewer service is available -- this is inconsistent with Goal U-3 and the intent of the Act.

Conclusion No. 5

Policy LU-3.6 is inconsistent with Goal U-3, therefore, the Plan is internally inconsistent in violation of RCW 36.70A.070(1). Policy LU-3.6 will be remanded with instructions for the City to bring the Plan into compliance.

F. LEGAL ISSUE NO. 6

Did the City violate RCW 36.70A.070(2)(c) by failing to identify sufficient land for housing needs and/or to make adequate provisions for existing and projected needs of all economic segments of the community?

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The GMA mandates that comprehensive plans contain a housing element. RCW 36.70A.070(2) provides that this housing element must:

> identify sufficient land for housing, including, but not limited to, government-assisted housing, housing for low-income families, manufactured housing, multifamily housing, and group homes and foster care facilities, and . . .
>
> make[] adequate provisions [*23] for existing and projected needs of all economic segments of the community.

Hensley asserts that the City's plan . . . does nothing to identify how many, where, and financing available to the City to assist families in need, special needs, and other low income families. Hensley's PHB, at 16. Hensley argues that, although Policy H-1.1 allows manufactured housing and mobile home parks, the Plan violates .070(2) because the FLUM does not specifically identify where manufactured housing and mobile home parks are to be located. Hensley's PHB, at 15-16.

The City argues that the Plan identifies sufficient land for housing: Woodinville has provided enough land zoned at higher densities (> 12 dwelling units/acre) for all low income and moderate income households anticipated for the City of Woodinville by King County in the countywide policies. Woodinville's PHB, at 21 (quoting Ex. CD F, Chapter 4, Section 4.1). Hensley has not shown that the Plan provisions cited by the City do not identify sufficient land for housing as required by RCW 36.70A.070(2).

In addition, Hensley argues that Plan Policy H-3.3 is in conflict with Plan Goal H-3. Hensley's PHB, at 16. Policy H-3.3 provides:. [*24]

> Support development of housing that serves local residents and is located elsewhere on the Eastside.

Goal H-3 provides:

> To provide housing opportunities in Woodinville for people with special needs.

Hensley asserts that if the City is supporting special needs housing only outside of the City, then opportunities in Woodinville cannot be provided for people with special needs. The City points out that Policy H-3.3 is but one of several policies contained within Goal H-3. The City also points out that CTED's recommendations for meeting the

requirements of the Act's housing element include recognition that in some cases, it may be appropriate for a jurisdiction to provide assistance for the location of affordable housing elsewhere. Woodinville's PHB, at 22 (quoting WAC 365-195-310(2)(f)) (emphasis omitted).

While Petitioner shows the desirability of having the County and City work together, it is not required by the Act. **The Board holds that Petitioner has not met its burden to**

show, by a preponderance of the evidence, that the City has failed to identify sufficient land for housing needs or to make adequate provisions [*25] for existing and projected needs of all economic segments of the community.

Conclusion No. 6

Petitioner has not met its burden to show, by a preponderance of the evidence, that the City has failed to comply with RCW 36.70A.070(2)(c) by failing to identify sufficient land for housing needs or to make adequate provisions for existing and projected needs of all economic segments of the community.

G. LEGAL ISSUE NO. 7

Does the Plan, specifically Chapter One, Introduction; Chapter Two, Overview of Policies and Guidelines - Comparison; Chapter Three, Land Use Policies including future land use map; Chapter Eight, Community Design; Chapter Nine, Transportation; Chapter Ten, Capital and Public Facilities; and Chapter Eleven, Utilities, violate RCW 36.70A.100, requiring the City's Plan to be coordinated and consistent with the comprehensive plans of adjacent jurisdictions?

RCW 36.70A.100 provides:

> The *comprehensive plan* of each county or city that is adopted pursuant to RCW 36.70A.040 *shall be coordinated with, and consistent with,* the *comprehensive plans* adopted pursuant to RCW 36.70A.040 of other *counties or cities* with which the county or city [*26] has, in part, common borders or related regional issues. (Emphasis added.)

Section 100 requires coordination and consistency among *comprehensive plans*. The burden rests on a petitioner to identify those provisions of the challenged comprehensive plan that are uncoordinated or inconsistent. To do this, Hensley must identify the provision in the City's Plan and explain how it is uncoordinated with or inconsistent with a provision in the another jurisdiction's comprehensive plan.

Hensley complains that the City has not entered into an interlocal agreement with Snohomish County regarding the implementation of the GMA. Hensley's PHB, at 18-19. From a GMA perspective, such an agreement could establish a forum for discussion and coordination and would therefore be desirable. However, such an agreement is not required by the Act. Hensley also complains that the Plan is without coordination with

citizens and jurisdictions adjacent to the City. Hensley's PHB, at 19-20. However, RCW 36.70A.100 requires that comprehensive plans be coordinated and consistent; this provision does not require a jurisdiction's comprehensive plan to be coordinated [*27] with the desires of citizens living adjacent to the jurisdiction. Furthermore, Hensley has not identified specific provisions of the City's Plan that conflict with specific provisions of the County's Plan or the plan of another jurisdiction.

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Hensley asserts that the record contains almost no evidence of communication between Snohomish County and Woodinville and that this deficiency demonstrates uncoordinated planning. Hensley's PHB, at 22-23. Hensley also offers several other examples of uncoordinated and inconsistent planning. However, most of these examples are not plan-to-plan comparisons. Again, Hensley has not shown how the City's Plan is uncoordinated or inconsistent with the County's Plan in violation of RCW 36.70A.100.

The only plan-to-plan comparison offered by Petitioner is a comparison of how the City's FLUM and the County's FLUM describe an area of land within Snohomish County and outside of Woodinville's city limits. Hensley's PHB, at 23-36. Hensley offers five specific examples to show that the County and City FLUM's are uncoordinated and inconsistent. Hensley alleges that:

> the City's FLUM shows UGA boundaries within the County that are not shown on the County's [*28] FLUM;
>
> the City's FLUM shows an area as Public/Institutional where the County's FLUM shows the area as a mineral land site;
>
> the City's FLUM shows a certain area as low density residential where the County's FLUM shows the area as rural conservation;
>
> the City's FLUM shows a certain area as industrial where the County's FLUM shows the area as residential RC; and
>
> the City's FLUM includes Low Density Residential of up to 4 du/acre where the County's FLUM includes Low Density Residential of 4-6 du/acre.

A city may plan for areas outside of its city limits if it chooses to do so; however, such planning has no GMA effect. *See AFT*, at 8-9. The only planning of consequence, for implementation purposes, is the City's planning within its city limits. Even if the City of Woodinville and Snohomish County had an interlocal agreement regarding the unincorporated area outside the city limits, as Hensley urges, it would have no GMA effect unless and until the County designated the UGA. Clearly, the planning in this area must be coordinated and consistent between the jurisdictions. However, even in this situation, unless and until the area was annexed to the City, the area would be subject [*29] to the County's jurisdiction.

Nonetheless, to evaluate the coordination and consistency requirements of .100, it is necessary to compare the City's Plan within its city limits to the County's Plan for areas adjacent to the City. The City's FLUM shows industrial land, immediately south of the

County's Maltby UGA. The County's FLUM shows urban industrial land in the Maltby UGA immediately north of the City's industrial land. Contrary to Hensley's allegations, a comparison of the two FLUMs does not reveal lack of coordination and consistency.

The Board holds that Petitioner has not met its burden to show, by a preponderance of the evidence, that the City's Plan is not coordinated and consistent with plans of adjacent jurisdictions as required by RCW 36.70A.100.

Conclusion No. 7

Petitioner has not met its burden to show, by a preponderance of the evidence, that the City's Plan is not coordinated and consistent with plans of adjacent jurisdictions in violation of RCW 36.70A.100.

V. ORDER

Having reviewed and considered the above-referenced documents, having considered the arguments of the parties, and having deliberated [*30] on the matter, the Board orders:

> The City of Woodinville is **in compliance** with the requirements of the Growth Management Act, **except**:

The Land Use element does not provide a review of drainage, flooding, and storm water run-off in the area and nearby jurisdictions. The Land Use element is **remanded** to the City with direction to provide the required review by reference or other means consistent with the Act as interpreted by the Board's holdings and conclusions above.

Land Use Policy LU-3.6 is **remanded** to the City with instructions to delete or amend it consistent with the Act as interpreted by the Board's holdings and conclusions above.

Pursuant to RCW 36.70A.300(1)(b), the Board directs the City to comply with this Final Decision and Order no later than 5:00 p.m. on Friday, August 22, 1997. The City shall provide the Board with an original and three copies of a Statement of Compliance indicating what steps it took to comply with this Order and serve a copy on Petitioner, by 5:00 p.m. on Friday, August 29, 1997.

So ORDERED this 25th day of February, 1997.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Edward G. McGuire, AICP
Board Member

Joseph [*31] W. Tovar, AICP
Board Member

Chris Smith Towne
Board Member

Note: This Final Decision and Order constitutes a final order as specified by RCW 36.70A.300 unless a party files a Petition for Reconsideration pursuant to WAC 242-02-830.