



CITY OF REDMOND

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

**FINDINGS, CONCLUSIONS AND DECISION
APPROVING
ROSE HILL SUBDIVISION**

FILE NUMBERS: LAND-2016-00146 & LAND-2016-00837
PR-2015-01177

APPLICANT: MS. BARBARA ROGERS
BENCHMARK COMMUNITIES
150 120TH AVE NE, SUITE 200
BELLEVUE, WA 98005
APPLICANT'S REPRESENTATIVE: MR. JEREMY FEBUS, KPFF CONSULTING ENGINEERS

PARCEL NUMBERS: 0315059103 AND 0325059071

LOCATION: PART OF THE WILLOWS/ROSE HILL NEIGHBORHOOD, BOUND ON THE WEST BY 138TH AVE NE, ON THE NORTH BY NE 100TH STREET, ON THE EAST BY AN EXISTING OFFICE COMPLEX, AND ON THE SOUTH BY AN EXISTING GUN CLUB AND FIRING RANGE FACILITY, KNOWN AS THE "INTERLAKE SPORTING ASSOCIATION."

APPLICATIONS: TO SUBDIVIDE A VACANT 13.1-ACRE SITE INTO A 29-LOT SINGLE-FAMILY PLAT, INCLUDING TWO AFFORDABLE HOUSING UNITS WITH ASSOCIATED INFRASTRUCTURE, STORMWATER DRAINAGE FACILITIES AND OPEN SPACE. BECAUSE THE APPLICANT PROPOSES RIGHT-OF-WAY IMPROVEMENTS WITHIN A PORTION OF A STEEP SLOPE ON THE SITE, THIS MATTER ALSO INCLUDES AN APPLICATION TO APPROVE AN ALTERATION OF A GEOLOGIC HAZARD AREA.

REVIEW PROCESS: PRELIMINARY PLAT, TYPE III (RZC 21.76); AND ALTERATION OF GEOLOGIC HAZARD AREA, TYPE III (RZC 21.76), BOTH REQUIRING A DECISION BY THE HEARING EXAMINER

SUMMARY OF DECISION: *APPROVED*, SUBJECT TO CONDITIONS

DATE OF DECISION: NOVEMBER 2, 2016

I. INTRODUCTION

Applicant, Benchmark Communities, seeks preliminary subdivision approval of the Rose Hill Preliminary Plat, a 29-lot single-family residential subdivision on a 13.1-acre site. This matter also includes an application to approve an Alteration of a Geologic Hazard Area, because the applicant proposes right-of-way improvements within a portion of a steep slope on the site.

II. CONTENTS OF RECORD

Exhibits:

The following exhibits were admitted into the record for this matter. Exhibits 1 through 6, with all attachments, were submitted to the Examiner and/or admitted into the record during the public hearing on October 17, 2016. City staff requested additional time to submit Exhibit 7, the City's Density Calculations. That item was transmitted to the Examiner and parties of record on or about October 18, 2016, and is now included as part of the Record.

Exhibit 1. Technical Committee Report to the Hearing Examiner, including Recommendation of Approval, subject to conditions, with the following Attachments, referenced in this Decision as "Ex. 1.1, 1.2, 1.3" etc.

Attachment 1- Letter dated 08/11/16, re: Determination of Complete Application;

Attachment 2- General Application Form;

Attachment 3- SEPA Application Form;

Attachment 4- Vicinity Map;

Attachment 5- Plan Set;

Attachment 6- Notice of Application, Certification of Public Notice, list of addresses provided notice, and illustration depicting Mailing Area for notices;

Attachment 7- Notice of Application Public Comment Letters, with some responses provided by staff and applicant representatives;

Attachment 8- SEPA Environmental Checklist, reflecting 8/23/16 as "Date of Review";

Attachment 9- SEPA Public Comment Letters;

Attachment 10- Neighborhood Meeting Notice;

Attachment 11- Notice of Public Hearing and Certificate of Posting;

Attachment 12- SEPA DNS, Certificate of Posting (NOTE: No one appealed the SEPA DNS issued for the pending applications, *Testimony of Mr. Sticka*);

Attachment 13- Traffic Study;

Attachment 14- Stormwater Report;

Attachment 15- Utility Plan;

Attachment 16- Critical Area Report;

Attachment 17- Geotechnical Report;

Attachment 18- Preliminary Tree Preservation Plan;

Attachment 19- Letter approving Applicant's Tree Exception Request; and

Attachment 20- Lake Washington School District Six-Year Capital Facilities Plan, for 2015-2020, adopted June 1, 2015.

Exhibit 2. Power Point Presentation, copy of slides presented by staff at the Public Hearing on October 17, 2016;

Exhibit 3. Public Comment Letter, submitted on behalf of the Interlake Sporting Association, owner of the property immediately south of the proposed plat, sharing an estimated 800-foot common boundary, by attorney J. Richard Aramburu, dated October 17, 2016;

Exhibit 4. Public Comment Letter, from Robert and Mary McCowan, owners of a property located to the west of the proposed plat, alleging that 138th Ave. N.E. is not a dedicated public street, that there is a 15-foot easement for ingress/egress by the Interlake "Gun Club", and expressing concern that the developer should not be able to use the McCowan's property. Exhibit also includes staff communications with the McCowans, and a response from the applicant's attorney, Ms. Orrico, stating that "all of the proposed improvements within Benchmark's Application are on Benchmark's property or within the public right-of-way; there is no work proposed on your property.";

Exhibit 5. Memorandum to the Hearing Examiner, from Debby Wilson, City of Redmond Real Property Manager, dated October 17, 2016, providing summary of City

property research, which indicates that the applicant is currently unable to demonstrate ownership of all the land areas proposed to be subdivided, specifically a 17.5-foot wide portion of land along the western side of the proposed plat and a 30-foot wide portion of land along the east side of the proposed plat. Ms. Wilson notes that the City has requested additional documentation from the applicant supporting ownership, or Applicant's right to the lands not addressed in the submitted title reports, and that "Without such additional documentation, acceptance of the easements and dedications would not be supported" citing to RCW 58.17.165. The Exhibit is 10 double-sided pages, with copies of Schedule A and Legal Descriptions from Applicant's Title Reports, Real Property Staff Notes, and Deeds;

- Exhibit 6. Corrections requested by Staff, with agreement by the applicant, to limited portions of the Technical Committee Report;
- Exhibit 7. Density Calculations for the proposed plat, submitted without objection, and as directed by the Examiner at the public hearing; the one-page memo is dated and was received by the Examiner after the hearing, on October 18, 2016; and
- Exhibit 8. Sign-in sheet for October 17, 2016 public hearing.
- Exhibit 9. a) Pre-hearing request to cancel hearing submitted by the City and Applicant's initial objection, both dated 09/20/16;
b) Examiner's Request for responses from parties, citing to authority or reasons supporting or opposing delay, dated 09/21/22;
c) Responses from the parties, both dated 09/22/16; and
d) the Examiner's decision denying request to cancel hearing, dated 09/22/16.

Testimony/Comments: The following persons were sworn and provided testimony under oath¹ at the open-record public hearing:

1. Ben Sticka, Planner for the City of Redmond, primary staff assigned to the matter;
2. Min Luo, Senior Transportation Engineer for the City of Redmond;
3. Debbie Wilson, Real Property Manager for the City of Redmond;
4. Jeremy Febus, KPFF Consulting Engineers, Applicant Representative;
5. Vicki Orrico, Johns Monroe Mitsunaga Kolouskova, PLLC, Applicant's attorney;
6. Bob McCowan, local resident, owns property to the west of the proposed plat, authored letter included as part of Exhibit 4;
7. Gary Sagara, local resident, owns property to the west of the proposed plat;
8. Richard Aramburu, Aramburu & Eustis, LLP, attorney for the Interlake Sporting Association ("ISA"), which owns property to the south of the proposed plat; and
9. Robert Jaeger, President of the Interlake Sporting Association.

¹ *Note: ISA's attorney, Mr. Aramburu, was present at the public hearing, where he provided comments and clarified several items discussed at the hearing, as an advocate, but not as a sworn witness. Any factual statements relied upon in reaching this decision were based on testimony made under oath by other witnesses, including Mr. Jaeger, who appeared in person, and responded to several fact-questions posed by his attorney, Mr. Aramburu.

III. APPLICABLE LAW

Jurisdiction.

Under applicable provisions of the Redmond Municipal Code, of which the Redmond Zoning Code is a part, a preliminary subdivision² application is reviewed and a final city decision is made by the Hearing Examiner as a Type III, Quasi-Judicial approval process. See RZC 21.74.030(E)(1)(Preliminary Subdivisions are to follow Type III review procedures); RZC 21.76.050(B) and (C) (listing of process type for various permits and decisions); RZC 21.76.060(F)(Technical Committee generates recommendation to Hearing Examiner); and RZC 21.76.060(J)(Hearing Examiner process for Type III matters).

Consistent with RZC 21.76.060(F), the City's Technical Committee shall make a recommendation to the Hearing Examiner on all Type III reviews, which shall be based on the decision criteria for the application set forth in the RZC, and shall include any conditions necessary to ensure consistency with the City's development regulations. Based upon its analysis of the application, the Technical Committee may recommend approval, approval with conditions or with modifications, or denial.

Prior to the hearing in this matter, the Examiner received the Technical Committee's written recommendation of approval for the pending applications, subject to proposed conditions. *Ex. 1, Technical Committee Report to the Hearing Examiner, Recommending Approval with Conditions, for hearing on October 17, 2016.*

Preliminary Plat Decision Criteria.

The City's decision criteria for preliminary plat approval is substantially similar to state subdivision mandates found in RCW 58.17.110(2)³ and reads as follows:

RZC 21.74.030(B) Decision Criteria for Approval of Preliminary Subdivisions.

- 1. Each proposed short subdivision, binding site plan, unit lot subdivision, and preliminary subdivision shall be reviewed to ensure that:*

² In this Decision, preliminary plat and preliminary subdivision mean the same thing, and use of one term should be read to apply to the other to the extent anyone views the terms to have distinct meanings, which for the purposes of this Decision, they do not.

³ "A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. []" RCW 58.17.110(2).

- a. *The proposal complies with the general criteria applicable to all land use permits set forth in RZC 21.76.070.B, Criteria Applicable to All Land Use Permits;*
 - b. *The proposal conforms to the site requirements for the zoning district in which the property is located;*
 - c. *The proposal conforms to the requirements of this chapter;*
 - d. *The proposed short subdivision, binding site plan, unit lot subdivision, or preliminary subdivision:*
 - i. *Makes adequate provision for streets, roads, alleys, other public ways, and transit stops as required by this chapter; and the proposed street system conforms to the City of Redmond Transportation Master Plan and Neighborhood Street Plan, and is laid out in such a manner as to provide for the safe, orderly, and efficient circulation of traffic;*
 - ii. *Will be adequately served with water, sewer, storm drainage, and other utilities appropriate to the nature of the subdivision or short subdivision;*
 - iii. *Makes adequate provision for parks, recreation, and playgrounds, as required by this chapter;*
 - iv. *Makes adequate provision for schools and school grounds;*
 - v. *Makes adequate provisions for sidewalks and other planning features that meet the requirements of this chapter and that provide safe walking conditions for students who walk to and from school;*
 - vi. *Serves the public interest and makes appropriate provisions for the public health, safety, and welfare.*
 - e. *Geotechnical considerations have been identified, and all hazards and limitations to development have been considered in the design of streets and lot layout to assure streets and building sites are on geologically stable soil, considering the stress and loads to which the soil may be subjected.*
2. *Lack of compliance with the criteria set forth in section B.1 above shall be grounds for denial of a proposed short subdivision, binding site plan, unit lot subdivision, or preliminary subdivision, or for the issuance of conditions necessary to more fully satisfy the criteria.*

Review criteria for requested Alteration of a Geologic Hazard Area.

Under RZC 21.76.050(B), an application for “Alteration of Geologic Hazard Areas” is also subject to the City’s Type III review process, requiring an open record hearing and decision by the Hearing Examiner. Under RZC 21.64.060(D)(1), “[t]he City shall approve, condition, or deny proposals in a geologically hazardous area as appropriate based upon the effective mitigation of risks posed to property, health, and safety. The objective of mitigation measures shall be to render a site containing a geologically hazardous site as safe as one not containing such hazard. Conditions may include limitations of proposed uses, modification of density, alteration of site layout, and other appropriate changes to the proposal. Where potential impacts cannot be effectively mitigated, or where the risk to public health, safety and welfare, public or private property, or important natural resources is significant notwithstanding mitigation, the proposal shall be denied.”

RZC 21.76.050(D)(2) provides that development shall be prohibited in landslide hazard areas except in limited circumstances, including those present in the pending application, where the applicant proposes construction of certain right-of-way improvements, which must satisfy the criteria and process set forth in RZC 21.76.070.E, re: Alteration of Geologic Hazard Areas.

The City's review criteria for the pending "Alteration of Geologic Hazard Areas" application is found in RZC 21.76.070(E), and reads as follows:

Alteration of Geologic Hazard Areas.

1. Purpose. The purpose of this section is to provide for the construction of streets and/or utilities that are identified on an adopted City plan, where no reasonable alternative to locating in a Landslide Hazard Area exists.
2. Scope. An Alteration of Geologic Hazard Areas is an exception for streets and utilities identified in an adopted plan as of October 1, 1997, such as the Comprehensive Plan, Capital Facility Plan, Transportation Improvement Plan, or Utility Facility Plan, from strict adherence to RZC 21.64, Critical Areas *Regulations*, as the chapter relates to Landslide Hazard Areas.
3. Decision Criteria.
 - a. There must be no reasonable alternative to locating in a Landslide Hazard Area. Alternative locations which would avoid impact to the Landslide Hazard Area must be shown to be economically or functionally infeasible.
 - b. A geotechnical evaluation must be conducted to identify the risks of damage from the proposal, both on-site and off-site, and to identify measures to eliminate or reduce risks. The proposal must not increase the risk of occurrence of the potential geologic hazard.
 - c. Impacts shall be minimized by limiting the magnitude of the proposed construction to the extent possible, any impacts must be eliminated or mitigated by repairing, rehabilitating, restoring, replacing, or providing substitute resources consistent with the mitigation and performance standards set forth in RZC 21.64.010.L and 21.64.010.M.

Consolidated Approval Process.

Under RZC 21.76.050(E), where the Zoning Code requires more than one land use permit or approval for a given development, all land use applications (except Type I applications) may be submitted for review collectively according to the consolidated review process established by such section. Accordingly, public notices, staff reviews, and the public hearing process for both pending applications have been consolidated into this single review process, addressed in this Decision.

Burden of Proof, Preponderance of the Evidence.

As explained in RZC 21.76.060(J)(3), the Hearing Examiner shall approve an application or approve with modifications if the applicant has demonstrated that the proposal complies with the applicable decision criteria of the RZC. The applicant bears the burden of proof and must demonstrate that a preponderance of the evidence supports the conclusion that the application

merits approval or approval with modifications. In all other cases, the Hearing Examiner shall deny the application. RZC 21.76.060(J)(3).

The burden of proof for demonstrating that the application is consistent with the applicable regulations is on the applicant. The project application must be supported by proof that it conforms to the applicable elements of the City's development regulations and the Comprehensive Plan, and that any significant adverse environmental impacts have been adequately addressed. *See* RZC 21.76.070(B)(3)(c).

Finally, any decision to approve or deny a preliminary plat must be supported by evidence that is substantial when viewed in light of the whole record. RCW 36.70C.130(1)(c).

IV. ISSUE PRESENTED

Whether a preponderance of evidence in the Record demonstrates that the applicant has satisfied its burden of proof to meet the criteria for preliminary plat approval and the criteria for Alteration of Geologic Hazard Areas?

Short Answer: Yes, and yes.

V. FINDINGS of FACT

Upon consideration of all the evidence, testimony, codes, policies, regulations, and other information contained in the Record, the undersigned Examiner issues the following findings, conclusions and Decision approving the preliminary plat, subject to conditions, as set forth below.

1. Any statements in previous or following sections of this document that are deemed findings are hereby adopted as such, and are incorporated herein by this reference.

2. In this matter, the applicant, Benchmark Communities, seeks two connected approvals – one, a preliminary subdivision application, and the other, an authorization called an “alteration of geologic hazard areas” application.

3. ***Procedural Background.***

3A. At some point in the months prior to August of 2016, the applicant submitted materials to apply for approval of the pending 29-lot single-family residential subdivision on a 13.1-acre site that is located in the Willows/Rose Hill neighborhood. The Plan Set Cover Sheet, included as part of the Record as page one of *Exhibit 1.5*, is dated August 9, 2016. The Transpogroup Phase 2 Traffic Impact Analysis is dated June 6, 2016. (*Ex. 1.13, page 1*). On April 13, 2014, a neighborhood meeting occurred to discuss the proposed plat (*Testimony of Mr. Sticka, Ex. 2, at page 4 “Background”*). The applicant's attorney's initial response to the City's pre-hearing

request to cancel the hearing claims that the applicant submitted materials as early as January of this year to obtain City staff's review and concurrence. (*Ex. 9*).

3B. In any event, on August 11, 2016, the City issued its Determination of Complete Application for the pending approvals. *Ex. 1.1, Determination of Complete Application*.

3C. Shortly thereafter, at some point in late August of this year, the City Clerk's Office tentatively scheduled a hearing for the pending applications to occur on October 17, 2016.

3D. Before the Clerk's Office issued formal public notices for the public hearing, the designated City staff person coordinating review of the pending applications, City Planner, Ben Sticka, submitted a memo, dated September 20, 2016, to the City Clerk asking that the Hearing Examiner "withdraw" both the Preliminary Plat (LAND-2016-00146) and Alteration of a Geologic Hazard Area (LAND-2016-00837) applications from the October 17, 2016 agenda⁴. (*Ex. 9*). In requesting cancellation of the hearing, City staff raised concerns that title reports and property records submitted by the applicant were not sufficient to demonstrate ownership or property interests needed to lawfully confirm dedication of right-of-way as depicted on site plans for the plat, including without limitation a 17.5-foot strip along the proposed plat's western boundary, where 138th Ave. NE frontage improvements would be required, as the access route to the new plat from NE 100th Street.

3E. When the staff request to cancel the hearing and the applicant's initial response opposing delay (both dated September 20, 2016) were both brought to the Examiner's attention on September 21, 2016, the Examiner issued a short order which the City Clerk directed to applicant and city representatives, requesting that both parties provide written citations to authority and/or reasons supporting or opposing cancellation of the hearing. (*Ex. 9*). Both parties provided timely responses on September 22nd. *Id.* City staff directed attention to the city code provision which explains that any division of land permitted by the RZC shall be adequately served by streets, sidewalks, trails and access prior to the time of occupancy, recording, or other land use approval. *See* RZC 21.17.010.

3F. The applicant's attorney opposed cancellation, by offering the following analysis which continues to be relevant when considering approval of the pending plat application (*Ex. 9*):

The frontage road in question, 138th Avenue NE, is classified as a rustic street which according to RZC Appendix 2.A.2(Table 3) requires a 52-foot ROW. Applicant negotiated a 30-foot (more than half) dedication with the City to meet half-street improvements. Applicant is proposing to dedicate 30-feet of frontage ROW because it believes there is no formally dedicated ROW at this time. If the 17.5-feet in question were somehow found to not be part of the property after all, then Applicant would dedicate the additional 12.5-feet from Applicant's property, for a total of the mandatory 30 feet. Therefore, whether this 17.5-feet is currently excepted for road and utilities is ultimately irrelevant as it will be formally dedicated by this plat. In either case, there is no change to the resulting road or plat geometry.

⁴ Copies of the City's request to cancel the hearing, the applicant's initial objection to delay, the Examiner's request for responses supporting or opposing same, the parties' responses, and the Examiner's Decision denying the cancellation request, all transmitted to/from the Examiner and the parties via the City Clerk's Office in accord with city practices, shall be maintained by the City Clerk as part of the official file for this matter. The Examiner has accepted these items into the record as a collection of materials, identified as Exhibit 9.

Should Applicant have to dedicate the additional 12.5 feet from its property, it would not change the application overall, because it still meets the required density calculations. The maximum allowed density is 5DU per gross acre in the RIN zone (RZC 21.08.070A), and the plat has an allowed maximum yield of 54 units. We are proposing 29 units. If the 17.5 foot area were excepted, the gross site area would decrease by 12,758 square feet, which in turn would reduce the maximum yield by 1 unit. The proposed unit would still be well below the maximum allowed. While this would reduce the maximum allowed unit count, it does not affect the actual number of units in the Applicant's proposal. The unit count proposed in the Application and all impacts which are a factor of unit count would not change.

3G. On September 22, 2016, after considering input from City staff and the applicant, the Examiner denied the staff-request to cancel the hearing. (Ex. 9). On the same day, the City Clerk's Office issued its Certification of Public Notice for the public hearing on this matter. (Ex. 1.11, Notice of Public Hearing, Letter from Clerk's Office re: Notice of Public Hearing, Certification of Public Notice, and list of addresses receiving copies of public notice by mail).

3H. Based on the record, it appears as though the parties now agree that the pending application vested under development regulations that will permit the plat application to move forward. On September 28, 2016, staff issued and the Examiner received electronic copies of the City's Technical Committee Report, recommending approval of the pending applications, subject to conditions. (Ex. 1).

3I. The public hearing for this matter took place on October 17, 2016. As noted above, the Examiner received evidence and sworn testimony from city staff, applicant representatives, and members of the public, on various aspects of the proposed plat. At the hearing, City staff requested additional time to submit written density calculations for the plat, which were received on October 18th, now included in the Record as *Exhibit 7*. Mr. Arambaru requested that the Examiner withhold issuing any decision and continue the hearing until such time as the applicant is able to clarify ownership of the strip of land along the plat's western border, where 138th Ave. NE is reflected on site plans. The Examiner took the request under advisement, and announced that he would review relevant resources and determine if the Record is sufficient to reach a decision by October 19th. On October 19th, the Examiner informed the Clerk's Office that the hearing would not be continued and that the record was closed. This Decision is now in order, and has been issued within 10 business days from the date on which the parties were informed that the record was closed.

Technical Committee Report and Recommendation of Approval.

4. The City of Redmond Technical Committee is comprised of staff from different departments and disciplines who analyze project applications for compliance with City codes and regulations. Based on this analysis, the Technical Committee provides responses, conclusions, and recommendations to the Hearing Examiner. For this matter, the Technical Committee report is included in the Record as *Exhibit 1*, with hundreds of pages of attachments, described above. Under city codes referenced above, the Hearing Examiner conducts a public hearing to review the Technical Committee's analysis and recommendations on the Preliminary Plat and Alteration of Geologic Hazard Areas, Type III applications. In addition, the Examiner received public

testimony regarding the proposal. Based upon the Technical Committee’s recommendations and testimony received at the public hearing, the Hearing Examiner must issue a Decision, to approve, approve with conditions, or deny the pending Preliminary Plat and Alteration to Geologic Hazard Areas, Type III applications.

5. The Technical Committee Report begins with the following remarks:

“The Technical Committee has found the proposal to be in compliance with the Redmond Zoning Code (RZC), Redmond Comprehensive Plan, Redmond Municipal Code, and State Environmental Policy Act (SEPA). However, the Technical Committee has also found there to be a discrepancy between the applicant’s description of the property boundaries and the property records the City has received to date. In particular, title reports and statutory warranty deeds for this property “except out” the western 17.5 feet and the eastern 30.0 feet of the property. Therefore, the applicant shall provide documentation of ownership for these areas, as a condition of the Technical Committee’s approval of this preliminary plat proposal and for any subsequent approvals related to the property’s development.”

6. The Technical Committee Report and recommendation of approval, (*Ex. 1, as modified by stipulated Exhibit No. 6*), includes a number of specific findings and conditions that establish how the combined preliminary plat application and geologic hazard area alteration satisfies provisions of applicable law, is consistent with the city’s Comprehensive Plan, and is designed or conditioned to comply with applicable development standards and guidelines. The Examiner finds that the Technical Committee Report, and the extensive professional reports and studies attached thereto, and testimony by city staff, stands unchallenged through the open record hearing process as credible, convincing, un rebutted, and substantial evidence establishing that the proposed applications, as conditioned, satisfy applicable review criteria, including without limitation, those addressing: public notice; SEPA; landscaping; Tree Protection; critical areas; alteration of geologic hazard areas; affordable housing; transportation; stormwater; utilities; and limited code deviations approved by administrative staff under authority granted in city codes referenced in the Technical Report.

7. During the public hearing, and in written comments received after issuance of the Technical Committee Report, no one credibly challenged any of the analysis, findings, or recommended conditions of approval contained in the Report with sufficient evidence or legal authority that would serve as a basis to deny the requested approvals. The only points of contention, where there were understandable differences of opinion, involved the boundary issues and potential right-of-way dedication along 138th and the potential effects of the neighboring gun-shooting sports facility, known as the Interlake Sporting Association property to the south of the proposed plat.

Zoning, Site Conditions, and Density Calculations.

8. The subject site consists of two tax parcels of undeveloped land, as identified on the front page of this Decision. The site contains the following critical areas: steep slopes, wetlands and a stream. The site slopes generally from west to east. (*Ex. 1, and 1.5, Plan Set*).

9. The proposal is located within the Willows/Rose Hill Neighborhood. The project is bound on the west by 138th Ave NE and the north by NE 100th Street. East of the project is an existing office complex. South of the site is a gun club and firing range facility, which is known as the “Interlake Sporting Association”. North and west of the subject site are existing single-family residences. *(Ex. 1, and 1.5; Site Visit)*.

10. The total site area for the two parcels is 13.1 acres. *(Exs. 1, 1.2, and 1.5)*

11. The project site lies within two zoning districts, the R-1 (Single-Family Constrained Residential) and RIN (Residential Innovative) Single-Family Urban Residential zoning districts. R-1 is only applicable to environmentally critical areas. The proposed developed area of the site is subject to the requirements of the RIN zoning. The site requirements for the RIN zone are listed in RZC 21.08.070. The Technical Report, at page 5, summarizes how the proposal meets or exceeds all of the site requirements for the RIN (Residential Innovative) Single-Family Urban Residential zone, and notes that building related dimensional requirements will be reviewed and verified for compliance at the time of building permit issuance. *(Ex. 1)*.

12. The proposal complies with, or will comply as conditioned herein or at the time of building permit review, to all applicable Residential Architectural, Site and Landscape Design Standards, and Willows/Rose Hill Neighborhood Standards. *(Ex. 1, pages 5-7)*.

13. During the public hearing, the applicant’s representative, Mr. Febus, kindly directed the Examiner’s attention to the fine print on Sheet C-1.1 of the Plan Set for the project *(Ex. 1.5)*, where a Project Summary, with residential density calculations, is provided. As reflected on Sheet C-1.1 of *Exhibit 1.5*, the applicant believes that the maximum/minimum density calculations for the 13.1 acre site is: 54 max/ 11 min. The City’s density calculations, reflected in Mr. Sticka’s post-hearing memo marked as *Exhibit 7*, is slightly more generous: 54.96 max/11.79 min. The pending application is well-below the maximum allowable density, and comfortably above the minimum, with 29 proposed residential units in the subdivision.

14. Given the wide-difference between the maximum density figures allowed on the site, and the relatively small number of proposed units (29), the potential changes in total site area which could arise prior to or at the time of Final Plat Approval, i.e. after all property boundaries and rights-of-way or easements are confirmed, created, dedicated, or modified in compliance with city codes and/or conditions of approval issued as part of this Decision, will have no material effect on whether the proposed plat is within applicable density limits. There is no dispute that sufficient square footage exists on the project site to accommodate the type of boundary modifications that could result, without dropping the maximum density cap to some figure remotely close to the current 29 units. *(See Ex. 9, Applicant’s Response opposing request to cancel the hearing)*. The applicant correctly summarized the situation as follows: “*If the 17.5 foot area [along 138th] were excepted, the gross site area would decrease by 12,758 square feet, which in turn would reduce the maximum yield by 1 unit. The proposed unit would still be well below the maximum allowed. While this would reduce the maximum allowed unit count, it does not affect the actual*

number of units in the Applicant's proposal. The unit count proposed in the Application and all impacts which are a factor of unit count would not change." Id.

SEPA.

15. The State Environmental Policy Act (SEPA) requires applicants to disclose potential impacts to the environment as a result of their project. The Environmental Checklist submitted by the applicant adequately discloses anticipated environmental impacts as a result of this project. City of Redmond codes and regulations, including those contained within the Zoning Code, Streets and Sidewalks, Water and Sewer, and Building and Construction Codes adequately mitigate for these anticipated environmental impacts. Therefore, a Determination of Non-Significance (DNS) was issued for this project on September 8, 2016. (*Exhibit 1, page 9; Ex 1.8, Environmental Checklist; Ex. 1.12, SEPA DNS issued for the project, noting comment deadline of 09/22/16, and appeal deadline of 10/06/16*).

16. Only two written comments were received during the SEPA comment period, and neither of those comments presented any evidence or convincing reasons why the project should not be approved if conditioned to comply with applicable development regulations. Staff responded to each comment, and provided the applicant an opportunity to do so as well. (*Ex. 1, page 8; Ex. 1.9, SEPA Comments*).

17. In its written comment letter submitted into the record at the public hearing, the Interlake Sporting Association ("ISA") suggested that the Environmental Checklist for the project might be inaccurate, because it failed to list potential "noise" from the gun club operations that may affect the project. (*See Ex. 3*). The applicant's representatives generally responded by noting that noise code compliance for gun club operations rested with the ISA, not the subdivision applicant. The ISA letter notes that, "*as a fully licensed shooting sports facility, ISA is exempt from provisions of the City of Redmond Noise Ordinance, RMC Chapter 6.36. Specifically, RMC 6.36.050(A)(2)(c) provides that "sounds created by the discharge of firearms of authorized shooting ranges" are exempt from the noise ordinance during daytime hours.*" Thus, the ISA comment letter observes: "*The discharge of some firearms may exceed noise standards set forth in Chapter 6.36 for residential areas.*"

18. Based on the ISA's failure to submit written comments before expiration of the SEPA comment period, and subsequent failure to appeal the DNS issued for this project, the SEPA determinations issued for this project stand unchallenged, as issued. (*See Ex. 1.9, no SEPA Comment letter from ISA*).

19. However, the ISA comments are well-taken, and present a real-life consideration that future residents may want to factor into their decision to live in the proposed subdivision. It is a classic case of "buyer beware". All neighborhoods have their unique issues, for instance, some have traffic problems, others might be prone to bad smells from a nearby farm or business operation, others have bad soils or rocks that are hard to build on or around, and others have ugly, rundown structures on surrounding sites. In this instance, the Examiner observed clear signage on

the ISA property, noting the presence of shooting activities that could cause noise, or similar disturbances. Future homeowners and residents would be well-served if they do their research and become familiar with the area, and their existing neighbors. Some buyers may not have a problem, as the Examiner noted there are currently several homes located along 138th. Some people may work all day, when the noise-code exemptions might apply, so the ISA operations may not bother them. The Record for this matter includes the ISA comments. This Decision and the Record, including the ISA comment letter (*Exhibit 3*), are public records that any prospective buyer, financial institution or other interested party can read as they see fit. Beyond that, the Examiner declines the ISA request to impose a condition of approval requiring the applicant to disclose the existence of the ISA and its operations by distributing a copy of Ex. 3 to each prospective purchaser of a lot within the proposed Rose Hill Subdivision.

20. It is worth noting that the proposal includes perimeter landscaping, along the site's southern boundary, which is adjacent to the existing gun club facility, which satisfies the buffering and landscaping requirements found in RZC 21.08.180. (*Ex. 1, page 9; Ex. 1.5, Plan Set*).

21. Again, no one submitted an appeal of the SEPA DNS issued for this matter by the deadline, which was October 6, 2016. (*Testimony of Mr. Sticka, Ex. 1, page 1*). The SEPA DNS issued for the project stands unchallenged, as issued.

Public Hearing and Site Visit.

22. As noted elsewhere, the open-record public hearing for this matter took place on October 17, 2016, wherein the undersigned Examiner presided, and all persons wishing to provide comments were heard, providing testimony under oath.

23. The Examiner visited the site of the proposed project, and the surrounding road network, on the day of the hearing. The Examiner's personal observations validated information in the Traffic Study issued for the project (*Ex. 1.13*), essentially confirming that 100th is an increasingly busy street, due to ongoing development along the corridor, and that intersections will continue to experience more pressure as new units are developed. However, the Transpo Report observes that the City of Redmond operations standard is LOS D or better, and that the 132nd/100th intersection will operate at LOS E in the future (2019), either with or without the proposed plat at issue in this Decision. Even after a thorough Signal Warrant Analysis, the Transpo Report concludes that "with-project" traffic volumes will not be high enough to support installation of a signal device at 132nd/100th. Transpo concluded that mitigation beyond payment of transportation impact fees is not necessary for the proposed Rose Hill plat. (*Ex. 1.13, at page 6*).

24. At the hearing, Mr. Sticka summarized and addressed a number of topics, including without limitation, affordable housing requirements for the project site, tree retention requirements, zoning requirement for the RIN district, comments received and responses, and the staff recommendations of approval for both applications based on applicable review criteria. (*Testimony of Mr. Sticka; Exhibit 2*).

25. Ms. Luo addressed the purpose of the Alteration of the Geologic Hazard Area and the reduced roadway width where the steep slope drops down to the east of 138th Ave. Ms. Luo credibly explained how the proposed design will minimize impacts on the steep slope, but still provide a sufficient right-of-way prism for vehicular travel and pedestrians.

26. Ms. Wilson, the City's Real Property Manager, generally summarized information provided in her memo included in the record as *Exhibit 5*. She noted that the applicant will need to provide additional documentation supporting vested ownership, or other rights, to certain lands not addressed in title reports included as part of the applicant's application materials. Without such items, the city will not be in a position to accept easements or dedications of such property, as required by RCW 58.17.165. Mr. McCowen and Mr. Sagara, who each own properties located to the west of the proposed plat along 138th, both testified that they own portions of the existing 138th driving surface, which Mr. Sticka noted was 26.5 feet wide. They made reference to discussions with Benchmark representatives who expressed an interest in acquiring certain rights, but that nothing materialized. Mr. Febus confirmed that some discussions occurred, noting purchase values were mentioned. Mr. Aramburu spoke on behalf of the neighboring Interlake gun club, as noted elsewhere in this Decision. Mr. Jaeger, the President of the Interlake Sporting Association, testified that he has used 138th to access the Interlake facility since the 1980s, and that the membership for the Interlake shooting range has been about 400 throughout that time period. Ms. Oreco, the applicant's attorney, stated that she believed the contested portion of 138th may already be a public right-of-way, under RCW 36.75.080.

27. The Examiner notes that the burden rests entirely upon the applicant to provide necessary information, or to obtain administrative adjustments to the final engineering designs for the project, in order to satisfy all applicable right-of-way dedication or easement requirements imposed as part of this Decision. This could entail many things, including without limitation one or more of the following: additional research, more complete title reports, property acquisition by the applicant, a quiet title action pursued by the applicant, or adjustments to the plat boundaries in a manner roughly summarized by Applicant's attorney in *Exhibit 9*. Failure to do so could result in the applicant's inability to obtain Final Plat Approval within the statutory period that this preliminary plat is valid.

28. During the public hearing, the applicant representatives accepted the City's recommendations and proposed conditions of approval, without objection. The Examiner notes that the recommended and final conditions issued as part of this Decision include very specific conditions to assure that easements and dedications are all in order before construction gets underway on the site. (*See Condition "a", re: Easements and Dedications, under Conditions to be Reflected on the Civil Construction Drawings ["Easements and dedications shall be provided for City of Redmond review and approval at the time of construction drawing approval and finalized for recording prior to issuance of a building permit."]; and (a)(ii)(d) in the same section, requiring proper documentation to confirm that the full 30 foot strip of land to be dedicated along the west side of the plat along 138th is owned by the developer.*)

29. The Technical Report and testimony of City witnesses constitutes credible and substantial evidence supporting staff's recommendation of approval and the proposed conditions of approval.

30. During the review process, no one presented credible or convincing evidence or testimony sufficient to rebut the City's determination that the proposed plat meets applicable development standards and comprehensive plan policies.

31. Except as modified in this Decision, all findings, and statements of fact contained in the Technical Committee Report (Exhibit 1, as modified by Exhibit 6), are incorporated herein by reference as Findings of the undersigned hearing examiner.⁵

32. The record establishes that the City satisfied its SEPA review process through compliance with applicable review and notice procedures.

The Preliminary Plat Application satisfies applicable approval criteria.

33. The Record contains substantial evidence to demonstrate that, as conditioned, appropriate provisions have been made in the proposed subdivision to satisfy the following review criteria for Preliminary Plat approval⁶:

- A. As conditioned, the proposed plat complies with the general criteria applicable to all land use permits, including without limitation consistency with applicable provisions of the City's development regulations, Comprehensive Plan, and SEPA. The Examiner finds that the Technical Committee Report, and the extensive professional reports and studies attached thereto, and testimony by city staff, stands unchallenged through the open record hearing process as credible, convincing, and substantial evidence establishing that the proposed plat, as conditioned, satisfies applicable review criteria, including without limitation, those addressing: public notice; SEPA; landscaping; Tree Protection; critical areas; alteration of geologic hazard areas; affordable housing; transportation; stormwater; utilities; and limited code deviations approved by administrative staff under authority granted in city codes referenced in the Technical Report.
- B. As conditioned, the proposal conforms to the requirements of the RIN zoning requirements, that apply to the proposed developed areas of the project site. *Previous Findings; Ex. 1, page 5, item III.*
- C. The proposal conforms to the requirements set forth in RZC 21.74, RZC 21.76, and submittal requirements on file in the Planning Department. The proposal conforms to the applicable subdivision regulations and procedures [RZC 21.74.030(B) and 21.76.050]. The subdivision application was deemed complete on August 11, 2016 and

⁵ For purposes of brevity, only certain Findings from the Technical Committee Report are highlighted for discussion in this Decision, and others are summarized, but any mention or omission of particular findings should not be viewed to diminish their full meaning and effect, except as modified herein.

⁶ RZC 21.74.030(B)(1) and RCW 58.17.110(2).

fulfilled all applicable submittal requirements on file with the Planning Department at the time of submittal.

- D. i. The proposed street system conforms to the City of Redmond Arterial Street Plan and Neighborhood Street Plans, and is laid out in such a manner as to provide for the safe, orderly and efficient circulation of traffic. Specifically, the proposal conforms to the Willows/Rose Hill neighborhood plan within the Comprehensive Plan. The site will be accessed via two access points from 138th Avenue NE, which is the street west of the proposed development. The street layouts including the locations and width provide a safe and orderly traffic circulation. The Traffic Study indicates the following: The proposed development is anticipated to generate approximately 276 new daily vehicle trips with 22 new trips generated during the AM peak hours and 29 new trips generated during the PM peak hours.
- ii. The proposed preliminary subdivision will be adequately served with City approved water and sewer, and other utilities appropriate to the nature of the subdivision. The proposed preliminary subdivision will be adequately served with City approved water and sewer facilities and other appropriate utilities as demonstrated on the approved plan set.
- iii. The proposed preliminary subdivision will be adequately served with parks, recreation and playgrounds appropriate to the nature of the subdivision. The proposed preliminary subdivision will be adequately served with City approved parks, recreation, playgrounds and open-space as demonstrated on the approved plan set. The proposal sets aside 379,940 square feet of open space areas and provides 33,929 square feet of recreational space within the open space provided.
- iv. The proposed preliminary subdivision will be adequately served with City approved schools and school grounds appropriate to the nature of subdivision. The proposed preliminary subdivision will be conditioned to pay school impact fees prior to building permit issuance, and the LWSD Capital Facilities report included in the Record as Ex. 1.20 confirms that adequate facilities are available, and that the school district uses impact fees to help address demand presented by new developments, such as the proposed plat.
- v. The proposed preliminary subdivision will be adequately served with City approved sidewalks and safe walking conditions for students who walk to and from school appropriate to the nature of the subdivision. The proposed subdivision will be served by Twain Elementary (0.90 miles away), Rose Hill Middle School (1.8 miles away) and Lake Washington High School (2.9 miles away). Bus transportation is provided to all schools at bus stops between 0.01 and 0.30 miles from the development.
- vi. The layout of lots, and their size and dimensions take into account topography and vegetation on the site in order that buildings may be reasonably sited, and that the least disruption of the site, topography and vegetation will result from development of the

lots. The layout of the lots, and their size and dimensions take into account the topography and vegetation. The plat sets aside almost 380,000 sq.ft. of undisturbed Open Space, and the proposed plat retains over 60% of existing significant trees on the site, which is far above the 35% minimum tree retention requirement.

- E. 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. The Environmental Checklist and the Critical Areas Report provided information related to hazards and limitation to development. The subject site contains steep slopes, a Class III Wetland and a Class IV Stream. The subject site plan identifies all critical areas and their required buffers. The applicant has utilized buffer averaging to ensure that a portion of the wetland buffer will not be located within the 40-foot access easement and the wetland will remain protected.

34. Based on all evidence, exhibits and testimony in the record, the undersigned Examiner specifically finds that the proposed plat, as conditioned below, makes appropriate provision for the considerations detailed in applicable law, and that the public use and interest will be served by the proposed plat and associated improvements. The Examiner finds that, as conditioned, the proposed plat serves the public interest and makes appropriate provisions for the public health, safety, and welfare. Evidence supporting this finding includes without limitation the requirement that the applicant will pay fire, school, and transportation impact fees, as provided in RMC 3.10. The Technical Committee Report, and the extensive professional reports and studies attached thereto, and testimony by city staff, stands unchallenged through the open record hearing process as credible, convincing, and substantial evidence establishing that the proposed application, as conditioned, satisfies applicable review criteria, including without limitation, those addressing: public notice; SEPA; landscaping; Tree Protection; critical areas; alteration of geologic hazard areas; affordable housing; transportation; stormwater; utilities; and limited code deviations approved by administrative staff under authority granted in city codes referenced in the Technical Report.

The Application for Alteration of Geologic Hazard Areas satisfies the City's approval criteria.

35. The Record contains substantial evidence to demonstrate that, as conditioned, appropriate provisions have been made in the proposed subdivision to satisfy the following review criteria for approval of the requested Alteration of Geologic Hazard Areas⁷:

- a. ***No Reasonable Alternative.*** The nature of the plat, with 138th Ave NE running along the site's western boundary, where a steep slope abuts a portion of the existing road pavement, presents a situation not caused by the applicant. The slope is already there. Requiring access via some other point is not feasible, as the Examiner observed during the site visit. Shifting the roadway downhill to the east would present even greater impacts to the steep slope. As part of the proposed plat, City development requirements mandate half-street improvements on the east side of 138th Ave NE. As noted in the Technical Committee Report, a 15-foot pavement width will be used for

⁷ RZC 21.76.070(E)(3).

the half-street improvement along the project frontage on 138th Avenue NE. Alternative road locations shifted to the west, i.e. somewhere outside the geologic hazard area, would require condemnation or acquisition of neighboring privately-owned property outside of public right-of-way. Due to this constraint, it is functionally infeasible to avoid disturbing the steep slope area. However, the impact is being minimized as indicated in item “c”, discussed below;

b. ***Geotechnical Evaluation.*** As required by city codes, the applicant submitted a geotechnical analysis regarding the proposed Alteration, which was reviewed and approved by the City. The report is included in the Record as *Exhibit 1.17*. The geotechnical engineering report was prepared by Associated Earth Sciences, Inc., and reflects the signature Matthew A. Miller, a Washington-licensed Professional Engineer, and Frank S. Mocker, a Washington-licensed Geologist. The geotechnical report explains that there is no increased risk from the project if the report’s design recommendation is followed. No one challenged any of the findings or recommendations made in the geotech report. The Technical Committee Report indicates that the civil plans for the proposed plat were prepared in accordance with the recommendations of the geotechnical report. (*Ex. 1, page 12*); and

c. ***Impacts shall be minimized.*** As required by city codes, impacts caused by any geologic hazard area alteration must be minimized by limiting the magnitude of the proposed construction to the extent possible and any impacts must be eliminated or mitigated by repairing, rehabilitating, restoring, replacing or providing substitute resources consistent with the mitigation and performance standards set forth in RZC 21.64.010.L and 21.64.010.M. In order to minimize the impacts on the adjacent steep slopes, a modified, narrowed road section was proposed by the applicant and approved by the City adjacent to the steep slope area. 138th Avenue NE improvements are subject to the City’s “Rustic Road Standard” which requires 15 feet of roadway width (including a three-foot concrete ribbon, a landscape swale and a five-foot sidewalk). This road standard is met along the project frontage except for the area of interaction with the Geologic Hazard Area where the City allowed for a nine-foot reduction in road width through the removal of the landscape swale and construction of a vertical curb and gutter and six-foot concrete sidewalk. A concrete retaining wall with fall-protection at the top makes up the grade separation from the back of the sidewalk to the existing grade. Therefore, the half-street improvement section adjacent to the steep slope area has been modified and narrowed down by nine feet compared to the required standard road cross section in order to minimize alteration of the adjacent steep slopes. The narrowed half street improvement section will provide a 15-foot travel lane, a vertical curb and a six-foot sidewalk without a drainage swale, whereas the standard half street cross section would require a 15-foot travel lane, a 10-foot drainage swale and a five-foot sidewalk. (*Ex. 1, page 12; Testimony of Ms. Luo; Ex. 2, illustrations of modified half-street improvement design adjacent to the steep slope on 138th Ave NE*).

VI. CONCLUSIONS of LAW

1. Based on the Findings as summarized above, the undersigned examiner concludes that the proposed plat conforms to all applicable zoning and land use requirements and appropriately

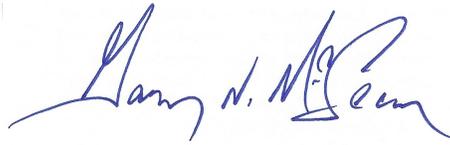
mitigates adverse environmental impacts. Upon reaching such findings and conclusions as noted above, the preliminary plat meets the standards necessary to obtain approval by the City.

2. The request for approval of an Alteration to Geologic Hazard Areas is supported by the Geotechnical Report, included in the Record as *Exhibit 1.17*, and credible testimony and evidence in the record demonstrating how the requested Alteration is necessary because there is no reasonable alternative to locating certain right-of-way improvements along the project frontage along 138th Avenue NE, where it is adjacent to a steep slope. The plat has been designed in accord with recommendations provided in the required Geotechnical Report, and the roadway prism along 138th has been adjusted so as to appropriately minimize impacts to the steep slope. The Alteration request meets all criteria necessary to obtain approval by the City.
3. The Technical Committee Report recommended conditions of approval that were accepted by the applicant without objection. These conditions are reasonable, supported by the evidence, and capable of accomplishment.
4. Any Finding or other statements in previous or following sections of this document that are deemed Conclusions are hereby adopted as such.

VII. DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, evidence presented through the course of the open record hearing, all materials contained in the contents of the record, and the Examiner's site visit, the undersigned Examiner APPROVES the Rose Hill Preliminary Subdivision and the Alteration of Geologic Hazard Areas applications, subject to the attached Conditions of Approval as recommended by the City's staff, accepted by the Applicant during the public hearing, and adopted herein.

DECIDED: November 2, 2016.



Gary N. McLean
Hearing Examiner Pro-Tem for the City of Redmond

CONDITIONS OF APPROVAL

**ROSE HILL PRELIMINARY SUBDIVISION
FILE NO. LAND-2016-00146
AND ALTERATION OF GEOLOGIC HAZARD AREAS APPLICATION
FILE NO. LAND-2016-00837**

General

- A. Preliminary plat approval shall be null and void if any condition enumerated herein is not satisfied.
- B. As provided in RCW 58.17.140 and RZC 21.74.030(E)(4)(a), a final plat meeting all applicable requirements must be submitted to the city for approval within five years of the date of preliminary plat approval.
- C. No construction or site development activities related to the plat may be undertaken until the land-use and engineering approvals become effective, and the City and other regulatory authorities with jurisdiction issue applicable permits.
- D. The applicant shall comply with all professional report conclusions and recommendations submitted in connection with the preliminary plat and engineering reviews, as approved and or amended by the City.
- E. Applicant shall be responsible for consulting with state and federal agencies, and tribal entities with jurisdiction (if any) for applicable permit or other regulatory requirements. Approval of a preliminary plat does not limit the applicant’s responsibility to obtain any required permit, license or approval from a state, federal, or other regulatory body. Any conditions of regulatory agency permits/licenses shall be considered conditions for this project.
- F. The final engineering plans and final plat shall conform to all applicable provisions of the Redmond Municipal Code and the Conditions of Approval herein.

A. Site Specific Conditions of Approval

The following table identifies those materials that are approved with conditions as part of this decision.

Item	Date Received	Notes
Plan Set, [pages 1-49]	8/09/16	<i>and as conditioned herein.</i>
SEPA Checklist	8/22/16	<i>and as conditioned herein and as conditioned by the SEPA threshold determination on September 8, 2016.</i>
Conceptual Landscaping Plan	4/22/16	<i>and as conditioned herein.</i>
Conceptual Lighting Plan	6/06/16	<i>and as conditioned herein.</i>
Proposed Tree Retention Plan	4/22/16	<i>and as conditioned herein.</i>
Stormwater Design	8/09/16	<i>and as conditioned herein.</i>

The following conditions shall be reflected on the Civil Construction Drawings, unless otherwise noted:

1. Development Engineering - Transportation and Engineering

Reviewer: Min Luo, Senior Transportation Engineer

Phone: 425-556-2881

Email: mluo@redmond.gov

- a. Easements and Dedications.** Easements and dedications shall be provided for City of Redmond review at the time of construction drawing approval and finalized for recording prior to issuance of a building permit. The existing and proposed easements and right-of-way shall be shown on the civil plans. Prior to acceptance of the right(s) of way and/or easement(s) by the City, the developer will be required to remove or subordinate any existing private easements or rights that encumber the property to be dedicated.

i. Easements are required as follows:

- (a) 10-foot wide sidewalk and utilities, granted to the City of Redmond, along all right-of-way on the east side of 138th Avenue NE.
- (b) 10-foot wide sidewalk and utilities, granted to the City of Redmond, along all right-of-way on both sides of NE 97th Street.
- (c) 10-foot wide sidewalk and utilities, granted to the City of Redmond, along all right-of-way on both sides of NE 98th Street.
- (d) 18-foot public access easement, granted to the City of Redmond, as shown in Tract B in the Site Plan prepared by KPFF, dated August 9, 2016.
- (e) At the time of construction, additional easements may be required to accommodate the improvements as constructed.

ii. Dedications for right-of-way are required as follows:

- (a) New right-of-way lines joining at the intersection of NE 100th Street/138th Avenue NE shall connect with a 25-foot radius, or with a chord, that encompasses an equivalent area. The area formed by this radius or chord shall also be dedicated as right-of-way.
- (b) New right-of-way lines joining at the intersection of NE 97th Street/138th Avenue NE shall connect with a 25-foot radius, or with a chord, that encompasses an equivalent area. The area formed by this radius or chord shall also be dedicated as right-of-way.
- (c) New right-of-way lines joining at the intersection of NE 98th Street/138th Avenue NE shall connect with a 25-foot radius, or with a chord, that encompasses an equivalent area. The area formed by this radius or chord shall also be dedicated as right-of-way.
- (d) A strip of land 30 feet wide measured from the centerline of the existing 138th Avenue NE to the east shall be dedicated as right-of-way. However, prior to this dedication, the applicant shall provide documentation to the City that the full 30 feet of land is owned by the current property owner. Information that the City has received to date does not provide sufficient information to demonstrate that the applicant has the property rights to grant the required dedication. It appears that 17.5 feet of this strip may not be owned by the property owner due to language in title reports and deeds that

“except out” the western 17.5 feet of property and eastern 30.0 feet from property descriptions. Please provide information that demonstrates current ownership of these strips of land. See attached title reports and deeds for supporting information.

- (e) A strip of land 46 feet wide shown as NE 98th Street in the Site Plan prepared by KPFF, dated August 9, 2016 shall be dedicated as right-of-way.
- (f) A strip of land 52 feet wide shown as NE 97th Street in the Site Plan prepared by KPFF, dated August 9, 2016 shall be dedicated as right-of-way.

(Code Authority: RZC 21.74.020(C); RZC 21.74.020(G); RZC 21.74.020(I); RZC 21.52.030(G); RMC 12.12)

- b. Construction Restoration.** In order to mitigate damage due to trenching and other work on 138th Avenue NE and on NE 100th Street, the asphalt street shall be grinded, overlaid, and/or patched, as determined by the Development Engineering Division.
(Code Authority: RMC 12.08; Redmond Standard Specifications & Details; RZC 21 Appendix 2-A.8.e)

c. Street Frontage Improvements

- i. The frontage along 138th Avenue NE on the narrowed section must meet current City Standards, which include asphalt paving 15 feet from centerline to face of curb with appropriate tapers, type A-1 concrete curb and gutter, 6 feet wide concrete sidewalk and safety railing, low maintenance concrete support wall, storm drainage, street lights, street trees, street signs and underground utilities including power and telecommunications. The minimum pavement section for the streets shall consist of:

- Seven-inches HMA Class ½” PG 64-22
- Four-inches of 1-1/4 inch minus crushed rock base course per WSDOT Standard Spec 9-03.9(3)
- Subgrade compacted to 95% compacted maximum density as determined by modified Proctor (ASTMD 1557)
- Street crown 2% sloped to drain system

(Code Authority: RZC 21.52.030; RZC 21.17.010; RMC 12.12; RZC 21 Appendix 2; Redmond Standard Specifications & Details)

- ii. The frontage along 138th Avenue NE on the standard section must meet current City Standards, which include asphalt paving 12 feet, three-foot thickened edge concrete ribbon curb, 10-foot drainage swale, five-foot wide concrete sidewalk, storm drainage, street lights, street trees, street signs and underground utilities including power and telecommunications. The minimum pavement section for the streets shall consist of:

- Seven inches HMA Class ½” PG 64-22
- Four inches of 1-1/4 inch minus crushed rock base course per WSDOT Standard Spec 9-03.9(3)
- Subgrade compacted to 95% compacted maximum density as determined by modified Proctor (ASTMD 1557)
- Superelevated 2% sloped to drain system

(Code Authority: RZC 21.52.030; RZC 21.17.010; RMC 12.12; RZC 21 Appendix 2; Redmond Standard Specifications & Details)

iii. The new NE 97th Street must meet current City Standards, which include asphalt paving 22 feet, three-foot thickened edge concrete ribbon curb on each side, 10 feet drainage swale on one side and five feet planter on the other side, 5 feet wide concrete sidewalk on each side, storm drainage, street lights, street trees, street signs and underground utilities including power and telecommunications. The minimum pavement section for the streets shall consist of:

- Seven-inches HMA Class ½” PG 64-22
- Four-inches of 1-1/4 inch minus crushed rock base course per WSDOT Standard Spec 9-03.9(3)
- Subgrade compacted to 95% compacted maximum density as determined by modified Proctor (ASTMD 1557)
- Superelevated 2% sloped to drain system

(Code Authority: RZC 21.52.030; RZC 21.17.010; RMC 12.12; RZC 21 Appendix 2; Redmond Standard Specifications & Details)

iv. The new NE 98th Street must meet current City Standards, which include asphalt paving 25 feet, three-foot thickened edge concrete ribbon curb on each side, five feet planter on each side, five feet wide concrete sidewalk on one side, storm drainage, streetlights, street trees, street signs and underground utilities including power and telecommunications. The minimum pavement section for the streets shall consist of:

- Seven-inches HMA Class ½” PG 64-22
- Four-inches of 1-1/4 inch minus crushed rock base course per WSDOT Standard Spec 9-03.9(3)
- Subgrade compacted to 95% compacted maximum density as determined by modified Proctor (ASTMD 1557)
- Street crown 2% sloped to drain system

(Code Authority: RZC 21.52.030; RZC 21.17.010; RMC 12.12; RZC 21 Appendix 2; Redmond Standard Specifications & Details)

v. The public access easement shown in Tract B must meet current City standard, which include asphalt paving 14 feet and two feet of gravel on each side. The pavement section including seven-inches HMA Class ½” PG 64-22 and subgrade compacted to 95% maximum density and appropriate access crown as shown in the Transportation Plan prepared by KPFF dated August 9, 2016 is acceptable.

(Code Authority: RZC 21.52.030; RZC 21.17.010; RMC 12.12; RZC 21 Appendix 2; Redmond Standard Specifications & Details)

vi. ADA ramp requirements:

Curb ramps for persons with disabilities are required to all new curb construction at the intersection of NE 100th Street/138th Avenue NE, NE 97th Street/138th Avenue NE and NE 98th Street/138th Avenue NE.

(Code Authority: RCW 35.68.075; RZC 21-A.21.a)

vii. A separate 40-scale channelization plan may be required for any public street being modified or constructed. The plan shall include the existing and proposed signs, striping and street lighting and signal equipment for all streets adjacent to the site and within at least 150 feet of the site property line (both sides of the street). The plan shall conform to the requirements in the City of Redmond Standard Specifications & Details.

(Code Authority: RZC 21.52.030(F); RZC 21 Appendix 2; Redmond Standard Specifications & Details; RCW 47.24.020)

viii. Sidewalks constructed to City standards are required at the following locations:

- Five feet of sidewalk on the standard section and 6 feet of sidewalk on the narrowed section along 138th Avenue NE
- Five feet sidewalk on each side of NE 97th Street.
- Five feet sidewalk on one side of NE 98th Street.

(Code Authority: RZC 21.10.150; 21.17.010 (F); 21.17.010; RMC 12.12)

d. Access Improvements

i. The type and location of the proposed site accesses are approved as shown on the Rose Hill Subdivision site plan prepared by KPFF on August 9, 2016.

(Code Authority: RZC 21.52.030(E); RZC 21 Appendix 2)

ii. Direct access from individual lots to 138th Avenue NE will not be permitted. This restriction shall be indicated on the civil plans and other final documents.

(Code Authority: RZC 21.52.030(E); RZC 21 Appendix 2)

e. Underground Utilities. All existing aerial utilities shall be converted to underground along the street frontages. All new utilities serving the development shall be placed underground.

(Code Authority: RZC 21.17.020; RZC 21 Appendix 2 – A.11)

f. Street Lighting. Illumination of the street(s) along the property frontage must be analyzed to determine if it conforms to current City standards. Streetlights may be required to illuminate the property frontage. Luminaire spacing should be designed to meet the specified criteria for the applicable lamp size, luminaire height and roadway width. Contact Paul Cho, Traffic Operations at (425) 556-2751 with questions. The street lighting shall be designed using the criteria found in the City's Illumination Design Manual which can be accessed at:

<http://www.redmond.gov/development/CodesAndRules/StandardizedDetails>

(Code Authority: RZC 21.52.030(F); RZC 21 Appendix 2)

g. Safe Walking Route(s). The Redmond Zoning Code requires that safe pedestrian linkages be provided between new developments and existing neighborhoods and public facilities. The proposed short subdivision is within a 1-mile walking radius of the Mark Twain Elementary School. A short section (approximately 320 linear feet) east of 134th Avenue NE on the north side of NE 100th Street is required to be improved with an all-weather surface interim walkway. An interim walkway(s) shall be four feet wide, constructed of asphalt or concrete. The interim walkway must be constructed prior to occupancy of any house.

(Code Authority: RCW 58.17.060; RZC 21.17.010(F)(2); RZC 21.52.030; RZC 21.74.020(I))

2. Development Engineering – Water and Sewer

Reviewer: Zheng Lu, Senior Utility Engineer

Phone: 425-556-2844

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- a. **Water Service.** Water service will require a developer extension of the City of Redmond water system as follows: Connect to the existing water system at NE 100th Street and 138th Avenue NE. Extend an eight-inch main south in 138th Avenue NE to the south property line of the proposed subdivision. Extend eight-inch water mains in both NE 98th Street and NE 97th Street. All water mains shall be designed in accordance with the City of Redmond Design Requirements, Water and Wastewater Developer Extensions.
(Code Authority: RZC 21.17)
- b. **Sewer Service.** Sewer service will require a developer extension of the City of Redmond sewer system as follows: Connect to the existing sewer in NE 100th Street at the NE corner of the proposed subdivision. Extend an 8-inch sewer through proposed Tract C to proposed Tract B with an approximate invert of 204 feet. Construct a sewer access road from the end of the existing sewer access road approximately 400 feet. This extends the sewer access road at least 50 feet farther than shown on the proposed preliminary plat. Construct a turnaround suitable for a city vector truck extending north from the end of the existing sewer access road in the existing 140th Avenue NE right-of-way. From the existing location in Tract B above extend an eight-inch sewer westerly in the proposed Tract B access road to NE 98th Street and then continue in NE 98th Street to the west side of 138th Avenue NE. From the existing location in Tract B above extend an eight-inch sewer southerly to the proposed Tract B access road then westerly in the access road to NE 97th Street. Then continue in NE 97th Street to the east [corrected from Original, which read “west”] side of 138th Avenue NE. All sewer mains shall be designed in accordance with the City of Redmond Design Requirements, Water and Wastewater Developer Extensions.
- c. **Easements.** Easements shall be provided for all water and sewer improvements as required in the Design Requirements for Water and Sewer System Extensions. Public easements for the water and sewer mains shall be provided for City of Redmond review at the time of construction drawing approval. Offsite easements must be recorded prior to construction drawing approval. Water and Sewer improvements shall be shown on the face of the final short subdivision and granted through the final short subdivision document. Specific required easements include, but are not limited to:
 - i. 20 feet wide water main easement, granted to the City of Redmond, through proposed Tract B. [Removed from Original: “along Need to resolve right of way ownership issues to finish this”]
 - ii. 20 feet wide sewer main easement, granted to the City of Redmond, through proposed Tract C and Tract B.
 - iii. 20-foot wide sewer access road easement in Tract C and Tract B.(Code Authority: RZC 21.74.020, Appendix 3)
- d. **Sewer System Study.** As part of or in preparation for environmental documents for the project, an engineering report/sewer plan shall be prepared in accordance with Chapter 173-240 WAC. This report shall describe the sewer trunks and collectors needed to serve the project and other tributary areas. The engineering document will need to be adopted by the

City as part of its Utility Master Planning, either by Zoning Code Amendment or Technical Committee approval, as appropriate. The engineering document will need to be reviewed and approved by the applicable State and local agencies.

(Code Authority: RZC 21.17, WAC 173-240)

Condition Applies: Civil Construction

- e. **Permit Applications.** Water meter and side sewer applications shall be submitted for approval to the Development Engineering Utility Division. Permits and meters will not be issued until all improvements are constructed and administrative requirements are approved. Various additional guarantees or requirements may be imposed as determined by the Utilities Division for issuance of meters and permits prior to improvements or administrative requirements being completed. All reimbursement fees shall be paid prior to sale of water and side sewer permits.
(Code Authority: RMC 13.08.010, 13.12)
- f. **Reimbursement Fees:** Reimbursement fees for connection of sewer are required in the amount of \$34,994.24. These fees are due prior to the sale of water and side sewer permits for this project.
(Code Authority: RMC 13.12.120)

3. Development Engineering – Stormwater/Clearing and Grading

Reviewer: Jeff Dendy, Senior Engineer

Phone: 425-556-2890

Email: jdendy@redmond.gov

- a. **Water Quantity Control:**
 - i. Stormwater discharges shall match the developed discharge duration to the predeveloped duration for the range of predeveloped discharge rates from 50% of the two-year peak flow up to the full 50-year flow. Detention shall be provided in a publicly maintained vault.
 - ii. Provide for overflow routes through the site for the 100-year storm.
 - iii. The storm vault discharge will be via a buried storm pipe leading down the slope to a more gentle grade where a spreader swale will discharge the flow to continue the historic drainage pattern to the east.
 - iv. The storm vault access road must meet the design criteria listed in the Redmond Clearing, Grading, and Stormwater Management Technical Notebook Section 8.6.9.1 “Maintenance Access”. Criteria includes having a minimum inside turn radius of 40 feet.
 - v. The storm vault access road must meet the City of Redmond Standard Detail DG11 “Stormwater Facility Access Road”.

(Code Authority: RMC 15.24.080)(2)(d), Stormwater Technical Notebook, Issue No. 6.)
- b. **Water Quality Control**
 - i. Basic water quality treatment shall be provided in a publicly maintained wet-vault. Treatment is required for the six-month, 24-hour return period storm.

(Code Authority: RMC 15.24.080)(2)(c))
- c. **Easements.** Easements will be required for any public stormwater conveyance systems on private property. Easements shall be provided for City of Redmond review at the time of

construction drawing approval and finalized for recording prior to issuance of a building permit or issuance of water meter or side sewer permits. The existing and proposed easements shall be shown on the civil plans. Prior to acceptance of the easement(s) by the City, the developer will be required to remove or subordinate any existing private easements or rights that encumber the property to be dedicated.

(Code Authority: RMC 15.24.080(2)(i))

d. Clearing and Grading.

In order to mitigate potential impacts to critical landslide hazard areas, all buildings shall be set back from the top/bottom of slope areas a minimum distance of 15 feet as recommended by Associated Earth Sciences, Inc. in their slope stability analysis dated 01/29/2016. This analysis was peer reviewed and supported by a third-party reviewer.

The top/bottom of the slope and slope setback shall be field surveyed and verified (located by bearing and distance) on the short subdivision document.

City Code allows public roadways to lie within steep slope areas if the road is included in a transportation plan. The work on 138th Avenue NE has been determined to meet the requirements that permit it to lie within a steep slope and / or its buffer. The steep slope has been subject to a stability analysis and found stable.

Retaining walls built for the benefit of Lots must be placed on the private property, instead of in adjacent tracts or public right-of-way.

(Code Authority: RMC 15.24.080)

e. Temporary Erosion and Sediment Control (TESC).

- i. Rainy season work permitted October 1st through April 30th with an approved Wet Weather Plan.

(Code Authority: RMC 15.24.080)

f. Floodplain Management. The project does not lie within a designated FEMA flood hazard zone.

(Code Authority: RZC 21.64.010 and 21.64.040)

g. Landscaping. No project specific conditions, all standard conditions apply.

(Code Authority: RZC 21.32)

h. Department of Ecology Notice of Intent Construction Stormwater General Permit.

Notice of Intent (NIO) must be submitted to the Department of Ecology (DOE) at least 60 days prior to construction on a site that disturbs an area of one acre or larger. Additional information is available at: www.ecy.wa.gov/pubs/0710044.pdf.

(Code Authority: Department of Ecology Rule)

4. Fire Department

Reviewer: Trung Duong, Deputy Fire Marshal

Phone: 425-556-2256

Email: tduong@redmond.gov

The current submittal for LAND-2016-00146 is generally adequate for Approval, but does not fully represent compliance with all requirements. The following conditions are integral to the approval and shall be complied with in Civil Drawings, Building Permit Submittals, Fire Code Permit submittal, and/or other applicable processes:

- a. Provide a five-inch Storz adapter on existing hydrant on Ne 100th St. if not presently provided.
- b. Homes on all lots shall be provided with a Residential Fire Sprinkler system installed in accordance with RFD Standard 5.00 and NFPA 13D
- c. Addressing for lots will be determined during the Coordinated Civil Review Process. (Code Authority: RMC 15.06; RZC Appendix 3, RFD Standards, RFDD&CG)

5. Planning Department

Reviewer: Ben Sticka, Planner

Phone: 425-556-2470

Email: bsticka@redmond.gov

- a. **Street Trees.** The following street trees are required to be installed in accordance with RZC Section 21.32.090. The minimum size at installation is 2 ½-inch caliper.

Street	Species	Spacing
138 th Avenue NE	Acer Rubrum ‘Bowhall’	30 feet on-center
97 th and 98 th Street	Pyrus Calleryana ‘Chanticleer’	30 feet on-center

(Code Authority: RZC 21.32.090)

- b. **Tree Preservation Plan.** A Tree Preservation Plan depicting all significant and landmark trees required to be preserved as part of the site development must be provided with the civil construction drawings. A plan showing the location of preserved trees and containing protection language approved by the City shall be shown on the face of the deed or similar document and shall be recorded with the King County Department of Records and Elections. (Code Authority: RZC 21.72.060 (D) (2))
- c. **Disclosure.** The applicant shall disclose the location of the Interlake Sporting Association within the purchase agreement for all homes proposed for sale within the Rose Hill subdivision.
- d. **Final Critical Areas Report and Enhancement Mitigation Plan.** A final Critical Areas Report must be submitted with the civil construction drawings or building permit if civil construction drawings are not required. All required enhancement and mitigation must be shown on the civil construction drawings. This includes any required planting, signage, fencing, wetland or stream enhancement, etc. that is required in the report. (Code Authority: RZC 21.63, Appendix 1)
- e. **Critical Areas Recording.** The regulated critical area and its associated buffer(s) must be protected by an NGPE or placed in a separate tract where development is prohibited. Proof

of recording must be submitted to the City prior to issuance of a Certificate of Occupancy on the site.

(Code Authority: RZC 21.64.010(L), 21.64.010(J); RMC 15.24.080(2)(i))

B. Compliance with City of Redmond Codes and Standards

This approval is subject to all applicable City of Redmond codes and standards, including the following:

Transportation and Engineering

RMC 6.36:	Noise Standards
RZC 21.74:	Land Division Regulations
RZC 21.52:	Transportation Standards
RZC 21.54:	Utility Standards
RMC 12.08:	Street Repairs, Improvements & Alterations
RMC 12.12:	Required Improvements for Building and Development
RMC 12.16:	Highway Access Management
RZC 21.76.100(F)(9)(c):	Nonconforming Landscaping and Pedestrian System Area
RZC 21.76.020(G):	Civil Construction Drawing Review
RZC 21.76.020(H)(6):	Preconstruction Conference
RZC 21.76.020(H)(7):	Performance Assurance
RZC Appendix 2:	Construction Specification and Design Standards for Streets and Access
City of Redmond:	Record Drawing Requirements, July 2015
City of Redmond:	Standard Specifications and Details (current edition)

Water and Sewer

RMC 13.04:	Sewage and Drainage
RMC 13.08:	Installing and Connecting Water Service
RMC 13.10:	Cross-Connection and Backflow Prevention
RZC 21.17.010:	Adequate Public Facilities and Services Required
RZC Appendix 4:	Design Requirements for Water and Wastewater System Extensions
City of Redmond:	Standard Specifications and Details (current edition)
City of Redmond:	Design Requirements: Water and Wastewater System Extensions - January 2012.

Stormwater/Clearing and Grading

RMC 15.24:	Clearing, Grading, and Storm Water Management
RZC21.64.060 (C):	Planting Standards
RZC 21.64.010:	Critical Areas
RZC 21.64.040:	Frequently Flooded Areas
RZC 21.64.050:	Critical Aquifer Recharge Areas
RZC 21.64.060:	Geologically Hazardous Areas
City of Redmond:	Standard Specifications and Details (current edition)
City of Redmond:	Stormwater Technical Notebook, 2012

Department of Ecology: Stormwater Management Manual for Western Washington
(revised 2005)

Fire

RMC 15.06: Fire Code
RZC Appendix 3: Construction Specification and Design Standards for Streets
and Access
City of Redmond: Fire Department Design and Construction Guide 5/6/97
City of Redmond: Fire Department Standards

Planning

RZC 21.58-21.62 Design Standards
RMC 3.10 Impact Fees
RZC 21.32, 21.72: Landscaping and Tree Protection
RZC 21.34: Exterior Lighting Standards
RMC 6.36: Noise Standards
RZC 21.40: Parking Standards
RCZ 21.64: Critical Areas
RZC 21.44: Signs
RZC 21.48 Transfer of Development Rights (TDRs)

Building

2012 International Building Codes (IBCs)
2012 Uniform Plumbing Code
2012 International Residential Code (IRC)

Request for Reconsideration – Any party of record may file a written request with the Hearing Examiner for reconsideration within 10 business days of the date of the Hearing Examiner’s decision. The request shall explicitly set forth alleged errors of procedure, law, or fact. No new evidence may be submitted in support of or in opposition to a request for reconsideration. The Hearing Examiner shall act within 10 business days after the filing of the request for reconsideration by either denying the request or issuing a revised decision. The decision on the request for reconsideration and/or the revised decision shall be sent to all parties of record. RZC 21.76.060(J)(6).

Appeal – Type III decisions of the Hearing Examiner may be appealed to the City Council in a closed record appeal proceeding as provided in RZC 21.76.060(M). Any party with standing may appeal this Decision by filing the appropriate appeal form containing the required content and any applicable fee no later than 5:00 p.m. on the tenth business day following the expiration of the reconsideration period. See RZC 21.76.060(M) and other applicable city code provisions for further detail on appeal requirements.