

**BEFORE THE CITY OF REDMOND
HEARING EXAMINER**

In the Matter of the Application of)	
)	LAND-2014-02307
)	
Mike Walsh, on behalf of)	Terrene 132nd Preliminary Plat
Terrene at RH 132nd LLC)	
)	
For Approval of a Preliminary Plat)	FINDINGS, CONCLUSIONS,
)	AND DECISION
_____)	

SUMMARY OF DECISION

The request for approval of a preliminary plat to subdivide 6.55 acres of land into 22 lots to be developed with 20 single-family homes and one duplex is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request

Mike Walsh (Applicant) requested approval of a preliminary plat to subdivide 6.55 acres of land into 22 residential lots. The subject property is located at 11016 132nd Ave NE, Redmond, WA 98052 in Redmond, Washington.

Hearing Date

The Redmond Hearing Examiner conducted an open record hearing on the request on August 3, 2015. On the record at hearing, arrangements were made for the submission of additional information from Planning Staff after adjournment, which was timely submitted not later than August 7th as Exhibit 1 Attachments 33, 34, 35, 36, and 37 and Exhibit 6. The record was held open through August 14th for Applicant response to the City's post-hearing submittals and to public comment submitted at hearing; however, the Applicant submitted no response. The record closed on August 14, 2015, rendering a decision date of August 28, 2015.¹

Testimony

At the open record hearing, the following individuals presented testimony under oath:

Sarah Vanags, Planner, City of Redmond
Steven Fischer, Redmond Development Review Planning Manager
Jim Streit, P.E. Sr. Utility Engineer, City of Redmond
Paulette Norman, City of Redmond Transportation and Engineering
Kevin Rech, Terrene Homes, Applicant Representative
Todd Oberg, Blueline, Applicant Representative

¹ During the hearing, the Examiner incorrectly noted the due date as August 31, 2015, on which date the instant document was issued.

Vicki Orrico, Attorney for the Applicant
Bridgit Agabra
Rew Adams
Lily McKee
Lydia Bagwell
Bill Kotsogean
Alison Jones
Wilma Manchester

Exhibits

At the open record hearing the following exhibits were admitted in the record:

1. Revised Technical Committee Report to the Hearing Examiner, with the following attachments:
 1. General Application Form
 2. Project Contact Form
 3. Vicinity Map
 4. Zoning Map
 5. SEPA Application Form
 6. Completeness Letter
 7. Public Notice Site Plan
 8. Public Notice Tree Preservation Plan
 9. SEPA Environmental Checklist
 10. Notice of Application and Certificate of Publishing
 11. Notice of Public Hearing and Certificate of Posting
 12. Plan Set
 13. Critical Area Report
 14. Stormwater Outfall Geotechnical Report
 15. Green House Gas Emissions Worksheet
 16. Tree Health Assessment
 17. Landmark Tree Exception Request
 18. Tree Exception Approval Letter
 19. Title Report
 20. Traffic Study
 21. Stormwater Report
 22. Computation Worksheet

23. Neighborhood Meeting Notice
24. Haney Sewer Response
25. Public Comment
26. Coversheet
27. Fire Plan
28. Landscape Plan
29. Open Space Plan
30. Transportation Plan
31. Tree Preservation Plan
32. Utility Plan
33. Applicable City of Redmond Comprehensive Plan Policies
34. Sarah Vanags memorandum regarding schools, dated August 5, 2015
35. Final Grading Plan, prepared by Blueline June 3, 2015
36. Final Tree Preservation Plan, prepared by Blueline June 3, 2015
37. Final Plan Cover Sheet, prepared by Blueline June 3, 2015
2. Planning Staff's PowerPoint presentation
3. Additional Public Comments, including:
 - a. Jeff and Lauri Sandorus, dated July 29, 2015
 - b. Tamme Head, July 24, 2015
 - c. Dolores Kelley, dated August 2, 2015
 - d. Nicole Brown, July 28, 2015
4. Comment letter from Linda Pruit, dated August 3, 2015
5. Updated landscaping plan showing pedestrian connection easement
6. City of Redmond General Sewer Plan
7. Comments from Rew Adams
8. Information submitted by Lydia Bagwell
9. Email from Thang Nguyen, City of Kirkland Transportation Engineer, dated December 22, 2014

Upon consideration of the testimony and exhibits submitted, the Hearing Examiner enters the following findings and conclusions:

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FINDINGS

1. The Applicant requested approval of a preliminary plat to subdivide 6.55 acres of land into 22 residential lots containing 20 single-family detached homes and one duplex. The subject property is located at 11016 132nd Ave NE, Redmond, WA 98052 in Redmond, Washington.² *Exhibit 1; Exhibit 1, Attachments 1, 12, Attachments 12, and 27.*
2. The preliminary plat application was determined to be complete on May 26, 2015. *Exhibit 1, Attachment 6.*
3. The subject property is located in the Willows/Rosehill Neighborhood. City of Redmond Comprehensive Plan policies applicable to the proposal have the following effects: allow new development where there are adequate public facilities and services; encourage sustainable development; provide flexibility through development regulations to promote efficient use of buildable land; promote a mix of housing for all income levels; provide incentives to minimize costs to the developer to provide affordable housing; require development to be designed to respect the natural features of the neighborhood; and ensure that new single-family dwellings have living space as the dominant feature of the street elevation. *Exhibit 1, page 3; Exhibit 1, Attachment 33.*
4. The subject property is zoned R-4. *Exhibit 1, page 3.* The purpose of the R-4 zone is to:

[Provide] for primarily single-family residential neighborhoods on lands suitable for residential development with an allowed base density of four dwellings per gross acre. This designation provides for stable and attractive suburban residential neighborhoods that have a full range of public services and facilities. To complement the primarily residential nature of these zones, some nonresidential uses are allowed.

Redmond Zoning Code (RZC) 21.08.060.A.
5. The subject property is comprised of four tax parcels developed with three single-family residences and appurtenances, surrounded by existing medium density single-family residential development. The existing structures and ground cover would be removed. The subject property is directly adjacent to City limits abutting RSX 7-zoned parcels within the jurisdictional limits of the City of Kirkland to the west. To the north and south, the site borders R-4 zoned properties in Redmond, with the Conover Cottages community to the north. A power line transmission corridor and trail are adjacent to the east. *Exhibit 1, pages 3-4; Exhibit 1, Attachments 3, 4, and 21.*
6. For the 4.29 acres of the site with R-4 zoning, up to 17.16 dwelling units are allowed. For the 2.26 acres of R-1 zoned property, the project would be allowed another two units, but with transferred from other R-1 zoned parcels, the plan set notes that an additional 3.39 units are allowed, resulting in 20.55, or 21 units. The affordable housing bonus

² The subject property is located in Section 34, Township 26 North, Range 5 East, W.M.; also known as Tax Parcel Nos. 3426059046/9087/9100/9093. *Exhibit 1, Attachments 1 and 13.*

allows another two units, for a grand total of 23 allowed units. The proposal would develop 20 detached dwelling units and one duplex, for a total of 22 dwelling units. *Exhibit 1, page 3; Exhibit 1, Attachment 37.*

7. Pursuant to RZC 21.20.020-.030, all new single-family residential developments of ten units or greater in the Willows/Rosehill Neighborhood are required to provide ten percent of proposed units as affordable housing. In the instant application, the minimum number of affordable housing units required is two. Consistent with this requirement the Applicant proposes to develop two affordable housing units as one duplex on zero lot line Lots 6 and 7. The affordable housing provisions allow one bonus market-rate unit for each affordable housing unit and two bonus market-rate units for each low cost affordable housing unit, for a maximum bonus of two dwelling units in this case. However, the proposal would only make use of one of the bonus units. *Exhibit 1, pages 3, 10; Exhibit 1, Attachment 37; RZC 21.20.020 et seq.*
8. The Green Building and Green Infrastructure incentive program, established at RZC 21.08.330, provides incentives to implement green building and infrastructure development techniques in residential developments to reduce development impacts. The incentive program establishes a list of sustainable development techniques for which points are awarded, as well as the incentives toward which points may be utilized. The instant proposal would provide 30% native vegetation, earning a total of two points. The Applicant proposes to apply those two points towards the lot size reduction incentive, thereby reducing the required minimum lot size for all lots by 15%. *Exhibit 1, page 6.* With the lot reduction incentive the required average lot area is reduced from 7,000 square feet to 5,950 square feet. The proposed lots would average 5,992 square feet. *Exhibit 1, pages 2, 6-7; Exhibit 1, Attachment 37.*
9. All proposed lots have been designed to satisfy applicable bulk dimensional standards of the R-4 zone as modified by the green building incentives program (including minimum lot size, lot width circle, setbacks, minimum building separation, etc.). Compliance with the City's architectural standards would be reviewed at the time of building permit application. *Exhibit 1, pages 4-5; Exhibit 1, Attachments 12 and 37.*
10. Topographically, the western portion of the site is relatively flat. The eastern portions of the site contains slopes and ravines near the northern and southern property boundaries. According to a professionally prepared wetland and stream delineation report, the site contains no wetlands or streams and there are none within 200 feet of the site. *Exhibit 1, Attachment 13.* The steep slopes and ravines in the eastern portion of the site are up to 40% in grade and are greater than 10 feet in height, which meets Redmond's critical areas ordinance definition of landslide hazard areas. *RZC 21.64.060.A.1.b(vii).* The steep slopes are must be provided a buffer at least 50 feet in width, unless a qualified professional demonstrates through technical studies that the reduction would adequately protect the proposed and surrounding development from the critical landslide hazard. *RZC 21.64.060.B.2 and B.3.* The Technical Committee report makes the assertion that a steep slope setback of 15 feet has been approved, as recommended by the project geotechnical engineer and upheld by an independent peer review. This geotechnical

review is not in the record provided. The proposal would place the entire steep slope area together with the required buffer into a permanently protected critical areas tract (Tract 999) of 106,450 square feet occupying the majority of the eastern portion of the site. *Exhibit 1, page 17; Exhibit 1, Attachment 37.*

11. Redmond Zoning Code 21.72 requires that all healthy landmark trees and 35 percent of all healthy significant trees be retained.³ The health of existing trees on the subject property was assessed by a professional arborist who prepared a report dated revised February 11, 2015. According to the report, there are 458 trees six inches in diameter breast height (dbh) or greater which classifies them as significant. Of these, 23 were found to be in poor health or structural condition and would not be retained. Of the net 435 trees, 28 measure 30 inches dbh or greater, classifying them as landmark. In Tract 999, east of the buildable envelope, 198 trees, including six landmark trees, would be retained undisturbed. Within the buildable area, there are 260 significant trees, including 22 landmark trees. Of these, one landmark tree would be retained undisturbed and one landmark and four significant trees would be retained but potentially impacted. The remaining 254 trees in the buildable area would be removed. Of the net 435 trees, the Applicant proposes to retain 199, eight of which are landmark trees, for a total retention of 43.3% of the healthy, significant trees on site, in excess of the 35% retention minimum requirement. The Applicant applied for, and obtained Department of Planning and Community Development approval of, a landmark tree exception request for the 20 landmark trees proposed to be removed (RZC 21.72.090). A total of 234 significant trees would be removed. The tree replacement requirement for the landmark trees is three replacement trees for each tree removed, and the tree replacement requirement for the other significant trees is one replacement tree for each tree removed, for a total of 294 replacement trees. The Applicant submitted a landscaping plan that incorporates the replacement trees in the design. *Exhibit 1, Attachments 16, 17, 18, 28, and 36.*
12. The City's open space requirements (RZC 21.08.170.L) may be satisfied on a lot-by-lot basis or on a combined development-wide and lot-by-lot basis. If provided on a lot-by-lot basis, the minimum required open space in the R-4 zone is 20% of the total lot area. If common open space is provided, the open space on individual lots may be reduced to 10% of the lot area, provided the remaining required open space is provided in common areas, with at least 25% of the required open space outside of critical areas. The subject property is comprised of a total of 285, 441 square feet of area. The instant proposal would set aside 135,008 square feet, or approximately 47% of the total site area, as common open space in Tract 998 (Stormwater Detention/Open Space, 9,919 square feet) and Tract 999 (Sensitive Areas, 106,450 square feet), and 18,639 square feet in lot by lot or other open space. Tract 998 would provide active recreational opportunities. *Exhibit 1, Attachments 29 and 37; RZC 21.08.170.*

³ Pursuant to RZC 21.78, landmark trees are those that are greater than 30 inches in diameter at breast height and significant trees are those that are between six and 30 inches in diameter at breast height.

13. The zoning code requires new subdivisions to provide landscaping along the perimeter of the site to soften the transition between new and existing residences when the new dwellings are directly adjacent to developed lots or can be viewed from public streets or park areas. *RZC 21.08.180*. The proposal includes perimeter and interior landscaping, with a landscape buffer along the west, north, and south site boundaries, which partially abut existing single-family homes (north and south) and 132nd Ave NE (west). The east boundary of the property contain Tract 999 and remain densely forested. Active recreational open space in Tract 998 would include open lawn area. *Exhibit 1, page 8; Exhibit 1, Attachment 28*.
14. Access to the subdivision would be from a new internal cul-de-sac road (NE 110th Place) off of 132nd Avenue NE. All proposed lots would access directly onto the new internal street. No direct access to 132nd Avenue would be allowed. Because 132nd Avenue NE is within the jurisdictional boundaries of the City of Kirkland, frontage along 132nd Avenue NE would be required to meet current City of Kirkland Standards, which include asphalt paving 22 feet from centerline to face of curb with appropriate tapers, type A-1 concrete curb and gutter, 4.5-foot wide planter strips, five-foot wide concrete sidewalk, storm drainage, street lights, street trees, street signs and underground utilities including power and telecommunications. The new internal road would be required to meet current City of Redmond standards, which include asphalt paving 14 feet from centerline to face of curb with appropriate tapers, type A-1 concrete curb and gutter, five-foot wide planter strips, five-foot concrete sidewalks, storm drainage, street lights, street trees, street signs and underground utilities including power and telecommunications. The Technical Committee determined that the proposed street system complies with the Redmond Neighborhood Plan in the Comprehensive Plan, and recommended conditions to ensure the road improvements comply with the City's street standards. *Exhibit 1, pages 11, 14; Exhibit 1, Attachment 12*.
15. The Applicant submitted a Level 1 Traffic Assessment. The traffic assessment concluded that the proposal would generate 207 weekday daily trips, including 21 weekday PM peak hour trips. The Applicant submitted a transportation concurrency application to the City of Redmond and would be required to pay transportation impact fees. The purpose of these fees is to fund a portion of the City's Transportation Facility Plan, the projects in which are intended to maintain, provide, and improve mobility in Redmond. *Exhibit 1, Attachment 20; RZC 21.52.010; RMC 3.10*.
16. The proposed lots would connect to municipal water and sewer service. Water service would require a developer extension of the City water system through the plat and to each lot. Sewer service would require a developer extension of the City sewer system as follows: install new 8-inch diameter PVC sanitary sewer main in the new road and in 20-foot wide easements as shown on the drawings prepared by the Blueline Group dated June 3, 2015. One of the easements exists on the property to the north of this site. The City indicated that any work done in this easement area would require restoration to better or equal conditions than exist prior to construction. Lots 8 through 11 would require grinder pumps with individual force mains and gravity connections to the new

main. All new utilities would be installed underground. *Exhibit 1, pages 15 and 16; Exhibit 1, Attachment 32.*

17. Stormwater runoff from the developed portion of the site is proposed to be collected, detained, and treated in a stormwater vault to be developed in Tract 998 before discharge to an on-site dispersion system at an existing natural discharge location. According to the professionally prepared geotechnical stormwater outfall report, the proposed discharge would not result in adverse downstream impacts. The stormwater system and vault must be designed in accordance with the requirements of the Washington State Department of Ecology's Stormwater Management Manual for Western Washington and the City of Redmond Technical Notebook. *Exhibit 1, Attachments 14 and 21.*
18. The submitted materials included a Fire Plan, which detailed the radius at the cul-de-sac terminus to show compliance with emergency vehicle access requirements. *Exhibit 1, Attachment 27.* The proposal was reviewed for compliance with Fire Code requirements by the Fire Department. The Fire Department recommended project approval subject to conditions that require each dwelling unit to be sprinklered and appropriate fire access information (road name and lot addresses) be provided. These conditions were incorporated into the Applicant's submitted Fire Plan. *Exhibit 1, page 18.*
19. School aged residents of the proposed plat would be served by Mark Twain Elementary, Rosehill Middle, and Lake Washington High School. Both the middle and high schools are approximately two miles from the site within the City of Redmond, meaning the school district would bus those students. Mark Twain Elementary is located within one mile of the site in the City of Kirkland; one mile is the typical walking radius from a school. Impacts of the new lots on capacity of these schools would be mitigated by payment of per lot school impact fees in accordance with Redmond Municipal Code (RMC) 3.10. *Exhibit 1, Attachment 34.*
20. The proposed internal street would be provided sidewalks to City of Redmond standards, and the project would install frontage improvements along 132nd Avenue NE consistent with City of Kirkland road standards. Regarding the requirement of RZC 21.74.030.B.8 that proposed plats provide safe walking conditions for students who walk to and from school, Planning Staff testified that there may not be a continuous "safe walk" route from the site to Mark Twain Elementary; however, Staff submitted the position that Redmond has no authority to require the Applicant to install infrastructure within the Kirkland City limits. Further, City of Kirkland did not request any such improvements. Regarding pedestrian facilities generally, the Technical Committee requested that the plat be conditioned to require provide a 20-foot access easement across the flag to Lot 8 for future pedestrian connection to the Conover Cottages to the north. The Applicant has agreed to provide this easement although as of the time of hearing, pedestrian access permission had not been granted to the proposal by Conover Commons. *Exhibit 1, pages 12, 14, and 19; Exhibit 9; Vanags Testimony; Bagwell Testimony.*
21. The City of Redmond Technical Committee acted as lead agency for review of the project's environmental impacts under the State Environmental Policy Act (SEPA), and

issued a determination of non-significance (DNS) through the Optional DNS process on June 9, 2015. The SEPA comment period ended June 30, 2015. *Exhibit 1, Attachment 10; Exhibit 1, pages 7-8.*

22. The Technical Committee, comprised of staff from the Planning, Public Works, and Fire Departments, reviewed the complete application and supporting materials for compliance with City regulations and the Comprehensive Plan. The Technical Committee recommended project approval subject to conditions. *Exhibit 1, pages 13-21.*
23. Notice of the August 3, 2015 open record public hearing on the application was posted on-site and at City Hall and the Redmond Library, published in the *Seattle Times*, and mailed to surrounding property owners within 500 feet of the site on June 9, 2015. *Exhibit 1, page 7; Exhibit 1, Attachment 10.*
24. During the written public comment period prior to the public hearing, six surrounding property owners expressed concerns regarding the following:
 - That the public utility easement for a sewer connection that the Terrene 132nd Subdivision is proposing, cannot and was not intended to support the capacity of more than three additional homes.
 - The disruption during construction to connect the sewer line. Specifically that adjacent cottage owners' yards and driveways that are within the easement may be dug up in-order to complete the sewer connection.
 - Additional traffic congestion along 132nd Avenue due to the new subdivision.
 - The removal of a large quantity of mature trees to be replaced with significantly smaller and younger trees and the displacement of birds and animals during construction due to noise and tree removal.

Exhibit 1, Attachment 24.

25. At hearing, several members of the public appeared to include their concerns in the record, as follows.

Removal of more than 50% of the mature site trees and replacement with immature trees, or fees to be paid in lieu of replacement, is not consistent with Redmond's claim of being a "green" city. *Agabra Testimony.*

A member of the original development team for Conover Commons submitted a letter stating that future connection of additional sewer was not considered at the time the Conover Commons was built. Had it been considered, appropriate pipe sizes and connections would have been provided per Department of Ecology standards. What happened instead was that Conover Commons extended a small single-family sewer line to the three residences to the south with older septic systems that were failing, as a courtesy, to allow those three residences to connect to sewer in the future. According to the letter, conversations with Redmond Utility Staff at the time

indicated that if future development occurred on the southern properties, utilities would be extended through the power transmission corridor to the east. *Exhibit 4.*

Property owners in adjacent Conover Commons noted strenuous objection to the proposed sewer easement access through their adjacent property, off-site to the north. Specific concerns include: interruption to sidewalk, driveway, shared garden areas, open space, parking, and up to seven individual residence accesses during construction; damage to existing improvements from excavation; concern that future sewer repairs would again disrupt and damage improvements within their plat; the concern that fill surrounding the completed sewer line could be prone to liquefaction in the event of seismic activity; disagreement that the sewer was intended or has capacity to handle the increased load from the 22 new dwellings; disagreement that this is the best route for the sewer to take; upset that the sewer line route has been chosen to protect wildlife habitat in the steep slope area rather than focusing on protection of people habitat in existing, developed, beloved yards and homes; that the proposed and possible repeat future disruption of yards and common areas would negatively impact property values in Conover Commons; that existing traffic congestion is already of concern, and the project would make it worse; and that the proposal should not be allowed to interrupt the quiet enjoyment of adjacent private properties. Neighbors expressed the opinion that even if the proposed sewer extension is “all on the up and up by the letter of the law”, still Conover Commons bears the worst of the detriment and gets no benefit as the Applicant is not offering anything that would compensate for the disruption they will experience. *Testimony of Rew Adams; Exhibit 7; McKee Testimony; Bagwell Testimony; Exhibit 8; Jones Testimony; Manchester Testimony; Exhibit 1, Attachment 25.*

Many of the public comments submitted focused on the impacts to the front yard of Conover Commons resident Patti Marsh, who is 81 and has been diagnosed with terminal lung cancer. Some of the plants that would be removed for the sewer extension came with her from her former family home. Gardening is her pastime and pleasure. The comments opined that destruction of her garden during this trying time in her personal life seems unfair at the least and hazardous to her health, if not cruel. *Exhibit 1, Attachment 25; Bagwell Testimony; Exhibit 8; Jones Testimony; Manchester Testimony.*

Other concerns raised by neighbors included: the fact that had they known this sewer project had the potential for arising and interrupting their peaceful enjoyment, they would not have purchased their properties; the heavy traffic along the walk route to Mark Twain Elementary, which would be increased by this project’s traffic; *Testimony of Rew Adams; McKee Testimony; Bagwell Testimony; Exhibit 8; Jones Testimony; Manchester Testimony.*

The neighbor who owns both parcels in the cutout along the north property boundary (one containing his residence, the other vacant) testified that his wife’s health is poor and that emergency vehicles must be provided with access to his residence during construction. For the same reason, their property cannot have interruptions in utility

and communications services. He requested a six-foot privacy fence at the shared property boundary and requested to be allowed both to retain the existing two driveway cuts and to develop a third driveway cut along his frontage. *Kotsogean Testimony*.

26. In response to public comment, City Staff offered the following responses. As proposed, the project exceeds the minimum requirements of Redmond's tree preservation ordinance. The Applicant is required to replace 294 trees, and the city code does not require them to be replaced on-site. Payment of a fee in lieu of tree planting is allowed by code. Regarding heavy traffic on 132nd Avenue NE, the right-of-way is in the City of Kirkland, which agency was consulted and provided all plans to review. Kirkland did not request any mitigation aside from frontage requirements. Staff acknowledged that there would be gaps in the safe walk route to Mark Twain Elementary and reiterated that Redmond lacks authority to require construction of off-site improvements outside the City limits, and that all requirements for safe walk routes within Redmond boundaries are met. Regarding the two lots in the cutout along the north site boundary, access during construction would be required to be maintained. Each residence is allowed to have only one curb cut. Regarding access to lots and improvements in Conover Commons, the contractor would work with the neighborhood on access points and City of Redmond inspectors would be on-site during construction to ensure access is safely provided. The City encouraged the Applicant to provide advance notice of any unavoidable blockages to allow affected parties to make arrangements. Should neighboring property owners feel that construction is interfering with their rights, their recourse would be to contact Redmond's lead construction inspector and/or code enforcement authorities. Contact information is available on the City's website. Regarding impacts to off-site landscaping improvements, the Applicant is required to bond for all landscaping and to return the site to pre-construction conditions. There was some testimony regarding the fact that some plants in the areas to be affected are not allowed within sewer easements; those plants would not be able to be replaced in kind. However, all interrupted landscaping outside of designated easements would be required to be replaced in kind. Regarding whether the Applicant is legally allowed to access the public sewer in the easement in the development to the north, the record contains an opinion from the City Attorney which indicates that the language of the recorded sewer easement intended to and did grant a utility easement to the City of Redmond. The sewer easement note on the face of the Conover Commons plat did not limit the easement in any way to any particular lot or service area, which results in the legal presumption that the easement was intended to allow for sanitary sewer service to any lot or area of the City's choice. Extension of public sewer through the easement is consistent with the City's general sewer plan. After construction, the sewer line would be dedicated to and maintained by the City of Redmond, making them public improvements not intended for the specific benefit of the instant plat proposal. *Vanags Testimony; Exhibit 9; Norman Testimony; Exhibit 1, Attachment 24; Streit Testimony; Exhibit 6*.
27. In response to public comment, the Applicant representative offered the following comments. Due to the steepness of the eastern end of the site, extension of sewer to the subject property from within Redmond is most feasible from the sewer easement route

proposed. Unfortunately, there is no less invasive way to access the sewer at that point because directional boring requires staging areas that would not fit within the easement. Access to the residence adjacent to the south would move throughout the construction period but would be maintained constantly. The only utility outage anticipated would be during the actual time of disconnecting old and connecting new utilities. During the construction period, the developed would continue to work with all adjacent parcel owners on access and seek their input on having a plan in place to make construction as minimally invasive as possible. There would be several times when continuous communication would be required to accomplish this, and the developer is willing to do this. The Applicant has agreed to the requirement to replace all affected landscaping and improvements in kind. It is the Applicant's intention to be a steward and a good neighbor. *Rech Testimony.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is authorized to conduct open record hearings and issue decisions on Type III permits, including preliminary plat permit applications, pursuant to RZC 21.76.050.C, Table 21.76.050B, and RZC 21.76.060.F.

Subdivision Criteria for Review

Pursuant to RZC 21.74.030.B.1, the Examiner shall approve an application for subdivision if findings can be entered showing the following criteria are satisfied:

- 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.

RZC 21.74.030.B.2 states that lack of compliance with the criteria set forth in subsection (1) of this section shall be grounds for denial of a proposed subdivision or short subdivision, or for the issuance of conditions necessary to more fully satisfy the criteria.

Conclusions Based on Findings

1. As conditioned, the proposal complies with the general criteria applicable to all land use permits, which include in relevant part consistency with the City's development regulations, the Comprehensive Plan, and SEPA. The proposal would satisfy the City's tree retention/replacement standards, critical areas standards, open space and landscaping standards, and affordable housing requirements, and would utilize code-established incentives for sustainable development techniques. The proposed street and sewer connections are consistent with the Comprehensive Plan. An optional SEPA determination of non-significance was issued for the project. *Findings 1, 3, 7, 8, 11, and 12.*
2. As conditioned, the proposal conforms to the requirements of the R-4 zone. The housing density proposed is within the allowed range, considering the Affordable Housing bonus. The proposed lots satisfy the dimensional standards of the zone as modified through the Green Building and Green Infrastructure Incentive Program. Open space is to be provided in Tracts 998 and 999 as well as on the individual lots. Perimeter landscaping is provided to soften the transition between existing and proposed residential development. *Findings 4, 6, 7, 8, and 9.*
3. As conditioned, the proposal is consistent with the requirements of RZC 21.74, which include the Green Building and Green Infrastructure Incentive Program, and requirements for easements, utilities, and streets. *Findings 2, 8, 21, and 23.*
4. As conditioned, the proposal makes adequate provision for streets. Based on the evidence presented, the project's compliance with the City's concurrency requirements and payment of transportation impact fees would adequately mitigate the traffic impacts of the development. The proposed street connection is consistent with the City's transportation plan. *Findings 14, 15, and 20.*
5. The proposed sewer connection is called out on the City's General Sewer Plan and is allowed by the language of the sewer easement recorded on the property to the north. Understandably, neighbors are concerned about impacts to Conover Commons as a whole and particularly impacts to Ms. Patti Marsh's property. The record contains moving appeals to fairness and compassion, and the instant decision maker was moved by both Ms. Marsh's situation and her neighbors' valiant efforts at defending her interests. However, Washington courts have made it clear that hearing examiners lack the authority

to base decisions on equity or compassionate grounds.⁴ To the extent that the proposed sewer extension can be conditioned to satisfy all applicable City regulations, including those regarding restoration after construction, the Applicant is entitled to connect to the existing sewer easement. Questions of whether the language of the recorded easement was in error (whether the true intention of the easement was to limit the connection to the three existing residences) are outside the scope of the instant plat permit proceeding as well as outside the jurisdiction of the City's quasi-judicial decision makers. As conditioned, the proposal would be adequately served by water, stormwater, sewer, and all other utilities. *Findings 16, 17, 24, 25, 26, and 27.*

6. As conditioned, the proposal makes adequate provision for parks, recreation, and playgrounds. The open space in Tract 998 would provide recreational opportunities. The large open space Tract 999 would provide for habitat and passive/viewing opportunity enjoyment. The Applicant would be required to comply with the City's impact fee ordinance (RMC 3.10), which establishes a park impact fee. *Finding 12 and 19.*
7. As conditioned, the proposal makes adequate provision for schools and school grounds. The project would pay a per-lot school impact fee to be used by the Lake Washington School District to address capital needs. *Finding 19.*
8. As conditioned, the proposal makes all possible provisions for sidewalks and safe walking conditions within City limits for students and other plat residents. The project would provide sidewalks along all internal streets and along the frontage of the exterior street. *Findings 15 and 20.*
9. As conditioned, the proposal serves the public interest and makes appropriate provisions for the public health, safety, and welfare. The residences would contain fire sprinklers in accordance with Fire Department requirements. No impacts to off-site properties in the vicinity or to the steep slopes on-site are anticipated due to stormwater management in compliance with City standards. The project would be required to pay fire, park, school, and transportation impact fees per RMC 3.10. *Findings 4, 5, 6, 8, and 10; RMC 3.10.*
10. Geotechnical considerations were identified, and all hazards and limitations to development have been considered in the design of streets and lot layout. In this case the steep slopes and required buffer would be permanently protected in Tract 999. *Findings 10 and 17.*

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⁴ "[Hearing examiners] are creatures of the legislature without inherent or common-law powers and may exercise only those powers conferred either expressly or by necessary implication." *Chaussee v. Snohomish County Council*, 38 Wn. App. 630, 636 (1984).

DECISION

Based on the preceding findings and conclusions, the approval of a preliminary plat to subdivide 6.55 acres of land into 22 lots to be developed with 20 single-family homes and one duplex is **GRANTED** subject to the conditions below.

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 1-6	06/05/2015	<i>and as conditioned herein.</i>
SEPA Checklist	05/26/2015	<i>and as conditioned herein.</i>
Conceptual Landscaping Plan	06/05/2015	<i>and as conditioned herein.</i>
Conceptual Lighting Plan	06/05/2015	<i>and as conditioned herein.</i>
Proposed Tree Retention Plan	06/05/2015	<i>and as conditioned herein.</i>
Certificate of Concurrency	05/26/2015	<i>and as conditioned herein.</i>
Stormwater Design	05/26/2015	<i>and as conditioned herein.</i>

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

Development Engineering - Transportation and Engineering

Reviewer: Andy Chow, P.E., Engineer

Phone: 425-556-2740

Email: kachow@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 easement, granted to the City of Redmond, along all right-of-way including Road A.
 - (b) 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 132nd AVE 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) A strip of land 2-feet wide abutting the existing 132nd AVE NE street right-of-way to the City of Kirkland.
- (c) A strip of land 50-feet wide and cul-de-sac showing as Road A in Transportation Plan prepared by Blueline dated on 6/3/2015.
(Code Authority: RZC 21.52.030 (G); RMC 12.12)

b. Construction Restoration. In order to mitigate damage due to trenching and other work on 132nd AVE NE, the asphalt street shall be planed, overlaid, and/or patched, as determined by the Development Engineering Division.
(Code Authority: RMC 12.08; Redmond Standard Specifications and Details)

c. Street Frontage Improvements

- i. The frontage along 132nd AVE NE must meet current City of Kirkland Standards which include asphalt paving 22 feet from centerline to face of curb with appropriate tapers, type A-1 concrete curb and gutter, 4.5 feet wide planter strips, 5 feet 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:
 - 4 inches HMA Class ½" PG 64-22
 - 5 inches Asphalt Pavement C1.E
 - 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; 21.17.010 (F); RMC 12.12; RZC Appendix 3)
- ii. The frontage along Road A must meet current City Standards which include asphalt paving 14 feet from centerline to face of curb with appropriate tapers, type A-1 concrete curb and gutter, 5 feet wide planter strips, 5 feet wide concrete sidewalks, 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:
 - 7 inches HMA Class ½" PG 64-22
 - 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; 21.17.010 (F); RMC 12.12; RZC Appendix 3)
- iii. 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 and Details Manual. The project is located along a state route, therefore WSDOT approval of the channelization plan is also required.

(Code Authority: RZC 21.52.030 (F); RZC Appendix 3; Standard Specifications and Details Manual; RCW 47.24.020)

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

- 132nd AVE NE along frontages (City of Kirkland)
- Road A on both sides

(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 Terrene at 132nd AVE NE site plan prepared by Blueline.

(Code Authority: RZC 21.52.030 (E); Appendix 3)

ii. Direct access to 132nd AVE NE will not be permitted. This restriction shall be indicated on the face of the civil plans and other final documents.

(Code Authority: RZC 21.52.030 (E))

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

(Code Authority: RZC 21.17.020)

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, Transportation 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/ConnectingRedmond/resources/IllumManual.asp>

(Code Authority: RZC 21.52.030 (F); Appendix 3)

2. Development Engineering – Water and Sewer

Reviewer: Jim Streit, P.E., Sr. Utility Engineer

Phone: 425-556-2844

Email: jstreit@redmond.gov

a. Water Service. Water service will require a developer extension of the City of Redmond water system as follows: install new 8-inch ductile iron water main in Road "A" as shown on the drawings prepared by the Blueline Group dated June 3, 2015. 1-inch diameter water meters are also to be installed for each new lot as shown on the drawings prepared by the Blueline Group dated June 3, 2015.

(Code Authority: RZC 21.17)

- b. Sewer Service.** Sewer service will require a developer extension of the City of Redmond sewer system as follows: install new 8-inch diameter PVC sanitary sewer main in Road “A” and in 20-foot wide easements as shown on the drawings prepared by the Blueline Group dated June 3, 2015. One of the easements exists on the property to the north of this site and any work done in this area requires restoration to better or equal conditions that exist before work commences. Side sewers for each new lot will be connected to the new main as shown on the drawings prepared by the Blueline Group dated June 3, 2015. Lots 8 through 11 will require grinder pumps with individual force mains and gravity connections to the new main.

(Code Authority: RZC 21.17)

- c. Easements.** Easements shall be provided for all water and sewer improvements as required in the Design Requirements for Water and Sewer System Extensions. 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.

(Code Authority: RZC Appendix 3)

- d. Backflow Preventors:** Backflow preventors shall be used in the water supply system in accordance with City, State, and Federal requirements. (Code Authority: RMC 13.10)

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 2-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. Limit to three lots sharing a common private conveyance pipe routing roof runoff to the municipal storm system.
- iv. Discharge from the storm detention vault will be an HDPE pipe staked to surface over the designated steep slope to an on-site dispersion system. The storm pipe routing will minimize disturbance to the steep slope.
- v. The project will contact the Olympic Pipeline Company to notify them of the proposed land use and construction. Address the requirements in RZC 21.26 Hazardous Liquid Pipelines for notification,

(Code Authority: RMC 15.24.080)

b. Water Quality Control

- i. Basic water quality treatment shall be provided in a publicly maintained wet vault. Treatment is required for the 6-month, 24 hour return period storm.

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

- 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.

A steep slope setback of 15 feet has been approved, as recommended by the project geotechnical engineer and upheld by an independent peer review.

The storm vault lid will act as a turn-around location for the municipal vector truck.

The storm vault lid shall support the weight of the loaded vector truck.

(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 flood plain.

(Code Authority: RZC 21.64.010 and 20D.140.40)

- g. Landscaping.** No project specific limitations.

(Code Authority: RZC 21.64.060 (C))

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: Scott Turner, Assistant Fire Marshal

Phone: 425-556-2273

Email: sturner@redmond.gov

The current submittal is generally adequate for LAND-2014-02307 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. Site Plan Condition – Road A will be names and and all houses will receive addresses in the civil process.
- b. Fire Protection Plan - All houses shall be equipped with NFPA 13D sprinkler systems.
(Code Authority: RMC 15.06; RZC Appendix 3, RFD Standards, RFDD&CG)

5. Planning Department

Reviewer: Sarah Vanags, Associate Planner

Phone: 425-556-2426

Email: svanags@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
NE 110 th Pl	Chanticleer Pear	30'
132 nd Ave NE	Autumn Brilliance	30'

(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. **Final Critical Areas Report.** A final Critical Areas Report must be submitted with the civil construction drawings or building permit if civil construction drawings are not required.
(Code Authority: RZC 21.63, Appendix 1)
- d. **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))

- e. **Pedestrian Easement.** Applicant is required to provide a 20' access easement across the flag to lot 8 for future pedestrian connection to the Conover Cottages to the north.

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 21.52:	Transportation Standards
RZC 21.40.010(E):	Design Requirements for Parking Facilities
RZC 21.54:	Utility Standards
RMC 12.08:	Street Repairs, Improvements & Alterations
RMC 12.12:	Required Improvements for Buildings 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):	Site Construction Drawing Review
RZC 21.76.020(H)(6):	Preconstruction Conference
RZC 21.76.020(H)(7):	Performance Assurance
RZC Appendix 3:	Construction Specification and Design Standards for Streets and Access
City of Redmond:	Record Drawing Requirements, Version 10-2005 (2005)
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 2000.

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, Issue No. 5 (2007)
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 Appendix 1:	Critical Areas Reporting Requirements

Building

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

DECIDED August 31, 2015.

By:



Sharon A. Rice
City of Redmond Hearing Examiner

Note: 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 (detailed at RZC 21.76.060.M.2.a) may appeal this decision by filing the appropriate appeal form along with the required fee no later than 5:00 pm on the tenth business day following the expiration of the reconsideration period. See RZC 21.76.060.M for further detail on appeal requirements.