

**EXHIBIT A**  
**TECHNICAL COMMITTEE REPORT**

MEMO TO: Sharon Rice, Hearing Examiner

FROM: Technical Committee

DATE: October 6, 2015

PREPARED BY: Heather Maiefski, Associate Planner (425) 556-2437

SUBJECT: ADMINISTRATIVE APPEAL (LAND-2015-01759) FOR THE  
APPROVAL OF THE NOURI 3-LOT SHORT PLAT (LAND-2014-  
01980)

REQUEST: The appellants are appealing the Notice of Decision of the Short Plat  
application.

HEARING DATE: October 21, 2015

**EXHIBIT B**

**ATTACHMENTS**

1. Vicinity Map
2. Legal Description
3. Notice of Application/Certificate of Public Notice dated June 11, 2015
4. Notice of Decision dated August 12, 2015
5. Appeal Form Submitted by Kim Yates, Randy Brown, et al dated August 26, 2015
6. Hearing Notice
7. Public Comments
8. Signed Petition
9. Scott Sherrow Letter dated July 27, 2015
10. Email from Heather Maiefski to Grazing dated August 7, 2015
11. Plan Set dated June 1, 2015
12. Civil Tree Retention Plan dated September 2, 2015
13. Arborist Report prepared by Shoffner Consulting dated September 29, 2014
14. Tree Exception Request #1 and #2 prepared by Pace Engineers dated February 25, 2015
15. Tree Exception Approval Letter
16. Civil Tree Retention Plan with Drip Lines of Trees 6 & 7 dated August 26, 2015

## **BACKGROUND**

**Appellant:** Kim Yates, Randy Brown, et al\* (Appeal File LAND-2015-01759)  
13301 NE 75th Street  
Redmond, WA. 98052

\*Sandra Eisert, Charles Reichle, John Buckingham, Elizabeth Limback, Roderick Smith, Leah Ngoche, Luis Ulloa, Patricia Thompson, Ean Chhay, Dennis Berri, Andrew Cameron, Touch Lim, Virgil Lee Whiteside, Jasrat Dange, Kevin and Desiree Gwerder, Rohan Phillips, and Michael and Loucinda Anderson.

**Project**

**Applicant:** Hamid Nouri  
13231 NE 40<sup>th</sup> St  
Bellevue, WA. 98005

**Short Plat Application Date:** June 02, 2015, File LAND-2014-01980

**Appeal Date:** Yates, Brown, et al: August 26, 2015

**Hearing Date:** October 21, 2015

**Location:** The proposed project is located at 7502 132nd Avenue NE (Parcel 7419700010 and 1025059200) (See Attachment 1, Vicinity Map).

**Parcel Size:** The total area of the site is approximately 0.5 acres (22,169 sq.ft.)

**Legal Description:** See Attachment 2, Legal Description.

**Neighborhood:** The proposed project is within the Grass Lawn Neighborhood as identified within the Comprehensive Plan Map N-GL-1.

**Land Use Designation:** The subject property is located within the Single-Family Urban Designation which is to provide for low to moderate-density residential neighborhoods on lands suitable for urban development. These goals are further defined in the Comprehensive Plan Policies LU-34.

**Zoning Designation:** The property under consideration for this development application is zoned six dwellings per gross acre (R-6).

**Surrounding Land Use and Zoning:** The site currently contains a single-family residence and associated structures. There are several large, mature trees on the property. Surrounding land use and zoning is as follows:

<u>Zoning</u>	<u>Land Uses</u>	
North:	R-6	Single-Family Urban
East:	R-6	Single-Family Urban
South:	R-6	Single-Family Urban
West:	RSX 7.2	Low Density Residential

**Access:** Vehicle access for this site is currently from NE 75th Street. The site fronts on NE 75th Street, and is bound on the west by 132nd Avenue NE. The proposed short plat would have vehicle access for all lots directly off of NE 75th Street.

**Public Notice:** Requirements for public notice are contained in the Redmond Zoning Code. Public notice was given as follows:

**Notice of Application:** The Notice of Application was mailed on June 11, 2015 and the mailing procedures in RZC 21.76.080(B) were followed to provide a 21-day comment period. (See Attachment 3: Notice of Application/Certificate of Public Notice dated June 11, 2015).

**Notice of Decision:** The notice was sent to the developer and all Parties of Record for the project on August 12, 2015 (See Attachment 4: Notice of Decision dated August 12, 2015). The Notice of Decision procedures in RZC 21.76.080(G) were followed to provide a 14-day appeal period. The appeal period for the decision ended on August 26, 2015. One appeal was submitted signed by 21 appellants (See Attachment 5: Appeal Form Submitted by Kim Yates, Randy Brown, et al dated August 26, 2015).

**Notice of Pre-Hearing Conference:** On September 21, 2015 a pre-hearing conference was held to clarify the issues on appeal as well as clarification of the order of operations during proceedings.

**Notice of Public Hearing:** Notice of the hearing was mailed to the appellants and the project applicant on October 6, 2015. (See Attachment 6: Hearing Notice).

## **BACKGROUND**

On November 4, 2014 an application was filed through the PREP process for the Nouri Short Plat, as a five lot short plat located at 7502 132nd Avenue NE. The proposed development consists of two contiguous parcels (parcel 7419700010 and 1025059200). The larger parcel is currently developed with one single-family residence and associated structures and the adjacent smaller parcel is vacant.

A neighborhood meeting was held on February 19, 2015 in which seven residents attended. There were several questions regarding hooking up to sewer, sewage smells downhill and how is the stormwater going to be handled. Concerns with existing stormwater and flooding of neighboring properties was also a discussion item. Other questions included what size sewer pipe is proposed and where is it planned to go and how much future capacity can the existing sewer handle.

On June 2, 2015 the formal application was filed for the Nouri Short Plat, as a five lot short plat to include two duplexes and one single-family home. The Notice of Application was sent to all residents within a five hundred foot radius of the subject site on June 11, 2015 and was posted on the subject site as well as at the library and the City Hall. The public comment period ended on July 2, 2015 (See Attachment 3: Notice of Application/Certificate of Public Notice dated June 11, 2015).

Six public comments were received during the 21-day public comment period including but not limited to tree retention, open space, density, housing type, stormwater concerns, pedestrian safety, sewer capacity concerns, etc. (See Attachment 7: Public Comments). On June 28, 2015 a petition was also submitted signed by 29 residents in opposition to this project (See Attachment 8: Signed Petition).

After the City's initial review of the project, it was discovered that the current Redmond Zoning Code *RZC 21.08.260(3)(a)(i)* is not consistent with the Grass Lawn neighborhood policy N-GL-11 in the Comprehensive Plan which states:

"Allow the same number of dwelling units for duplexes, triplexes or fourplexes on a proposed site as the allowed number of detached single-family dwelling units for the zone in which the site is located, exclusive of any bonuses allowed on the site."

The City notified the applicant of this error on July 17, 2015 and with this finding late in the process the applicant agreed to reduce the number of dwellings and formally requested in a letter prepared by Scott Sherrow with PACE Engineers, Inc. dated July 27, 2015 (See Attachment 9: Scott Sherrow Letter dated July 27, 2015) that the City of Redmond approve the proposal with the condition that the proposed housing units be reduced from five (5) to three (3). By reducing the proposed unit count, the project is in conformance with the City of Redmond's Comprehensive Plan policy N-GL-11 for the Grass Lawn Neighborhood limiting the number of housing unit density to the underlying R-6 zone.

The Nouri Short Plat received final approval as a 3-Lot Short Plat for 1 single-family home on each lot. On August 7, 2015 the City notified the main point of contact (known as Grazing in email correspondence) who initiated the petition during the public comment period of the updated approval to the short plat. A response was received by Ms. Eisert (See Attachment 10: email from Heather Maiefski to Grazing dated August 7, 2015 and email from Sandra Eisert to Heather Maiefski dated August 7, 2015) that the neighbors received the correspondence from the City with the updated approval.

A Notice of Decision approving the project as a 3-Lot Short Plat with a condition that each lot will contain a detached single-family home was issued on August 12, 2015. (See Attachment 4: Notice of Decision and Attachment 11: Plan Set dated June 1, 2015). During the 14-day appeal period of this decision, the City of Redmond received one single appeal signed by 21 adjacent property owners. (See Attachment 5: Appeal Form Submitted by Kim Yates, Randy Brown, et al dated August 26, 2015). The City held a pre-hearing conference on September 21, 2015 with two of the 21 appellants.

## **JURISDICTION**

The City of Redmond issued the Notice of Decision, approving the Short Plat on August 12, 2015 for the Nouri 3-Lot Short Plat (See Attachment 4: Notice of Decision). During the 14-day appeal period of this decision, the City of Redmond received one single appeal signed by 21 adjacent property owners. (See Attachment 5: Appeal Form Submitted by Kim Yates, Randy Brown, et al dated August 26, 2015). The appeal process outlined in Section 21.76.060(I) of the Redmond Zoning Code establishes that the Hearing Examiner shall hear all appeals of Type II Permits such as Short Plats.

In accordance with RZC Section 21.76.060(I), Appeal of Type II Decisions, the appellant is required to specify the basis of their appeal. An appeal must be based on an error of law or fact, procedural error, or new evidence which could not have been reasonably available at the time of the public hearing or consideration of approval. The appellant must provide: 1) facts demonstrating that they were adversely affected by the decision, 2) a concise statement identifying each alleged error and the manner in which the decision fails to satisfy the applicable decision criteria, 3) the specific relief requested, and 4) any other information reasonably necessary to make a decision on the appeal. The appellants have provided a basis for appeal consistent with these regulations (See Attachment 5: Appeal Form Submitted by Kim Yates, Randy Brown, et al dated August 26, 2015).

## **BURDEN OF PROOF**

The burden of proof for demonstrating that the City's conditional approval of the Nouri Short Plat proposal was in error lies on the appellants, as outlined in Hearing Examiner's Rules, Burden of Proof.

## **APPELLANT'S BASIS FOR APPEAL**

The appellants have appealed the Short Plat approval conditions based upon the following assertions:

### **A. Kim Yates, Randy Brown, et al Appeal (LAND-2015-01759)**

- 1) Tree protection purpose was not met - RZC 21.72.010.A.1,2,6;
- 2) Landmark Tree Exceptions without required application - RZC 21.72.060, A.2; RZC 21.72.090 A;
- 3) Site Design Standards are not met - RZC 21.72.060, B.1.a through f;
- 4) Public notification was incomplete and failed to disclose tree removal plan;
- 5) Tree retention requirements of 35% is not being met - RZC 21.72.060;
- 6) Stormwater Management drawings are obsolete - current drawings not yet provided, rendering approval premature;
- 7) Condition of approval 3.c states that the project would generate less than 5,000 square feet

of pollution generating impervious surfaces, but no plan has been submitted so this cannot be determined; and

8) No conveyance system is provided on the down-gradient property line, nor any management for downstream properties.

### **RELIEF SOUGHT BY APPEAL**

The appellants are seeking the following relief through this appeal:

#### **A. Kim Yates, Randy Brown, et al Appeal**

- 1) Developer should resubmit application for new design development and public notice should be made in accordance with all legal requirements.
- 2) Provide Public Notification (as originally required) and substantive opportunity for comment and appeal.
- 3) Landmark trees, significant trees and stands of trees should be preserved.
- 4) Require that the design as directed by code must accommodate the tree retention requirements.
- 5) Reject the current tree removal plan.
- 6) Revoke the approved Landmark Tree Exception.
- 7) Retain a minimum of 35% of significant trees.
- 8) Revoke the Technical Committee Short Plat Notice of Decision and require the developer to submit plans for development and review.
- 9) Provide Public Notification (as originally required) and substantive opportunity for public input, comment and appeal.
- 10) Protect down-gradient property owners from water runoff from this project.
- 11) Indemnify down-gradient property owners if City's plan does not work.
- 12) Create and install Storm Water Management systems in the Grass Lawn Quadrant of the City as provided to other areas of the City, before or as part of the significant development expected.

### **ANALYSIS**

The following is an analysis regarding the assertions raised by the appellant.

- 1. Assertion:** Tree Protection Purpose RZC 21.72.010(A)(1) to avoid the removal of stands of trees and significant trees in order to maintain the quality of Redmond's urban environment was not met. The tree removal plan for this development does exactly the opposite. It allows for the removal of the stands of trees and all the significant trees.

**Staff Response:** *RZC 21.72.060(A)(1) establishes the allowed minimum requirement of 35 percent tree retention for all new developments. When determining the 35 percent tree retention for a development RZC 21.72.010(A)(1) encourages that this is met by avoiding the removal of stands of significant trees.*

*The approved tree retention plan meets the tree retention requirement by retaining 37 percent of all significant trees on the site. Six out of a total of sixteen significant trees have been identified as retained trees. Also the approved tree retention plan provides for the protection of a stand of healthy trees located within a designated Open Space Tract along the eastern most part of the site. (See Attachment 11: Sheet C8.0 within the Plan Set for the Tree Retention Plan).*

*The applicant is currently going through the civil construction review process and with the recent civil drawing plan set the applicant is now proposing to retain two additional landmark trees located within Tract B (See Attachment 12: Civil Tree Retention Plan) for a total tree retention of 50 percent.*

*The Nouri Short Plat complies with the tree retention code provisions.*

- 2. Assertion:** Tree Protection Purpose RZC 21.72.010(A)(2) to protect stands of trees and significant trees to the maximum extent possible in the design of new buildings, roadways and utilities was not met. The tree removal plan removes the trees to accommodate the building design; it does not modify the design and placement of structures to retain and protect the trees.

**Staff Response:** *The purpose section of the code as identified in RZC 21.72.010 is able to be achieved by meeting the 35 percent tree retention requirement as identified in RZC 21.72.060(A)(1) which requires that in all new developments 35 percent of all significant trees shall be retained. When determining the 35 percent tree retention for a development, RZC 21.72.010(A)(2) encourages that this is met by protecting stands of trees and significant trees to the maximum extent possible in the design of new buildings, roadways and utilities.*

*Stands of trees and significant trees have been protected to the maximum extent possible in the design of new buildings, roadways and utilities by retaining trees within a cluster located and protected within an Open Space Tract (Tract B) and while exceeding the tree retention requirements of thirty-five percent at time of approval. (See Attachment 11: Sheet C8.0 within the Plan Set for the Tree Retention Plan).*

- 3. Assertion:** Tree Protection Purpose RZC 21.72.010(A)(6) to preserve the aesthetic, ecological and economic benefits of forests and tree covered areas in Redmond, which include the following were not met.

- a. Providing varied and rich habitats for wildlife;
- b. Absorbing greenhouse gas emissions;
- c. Moderating the effect of winds and temperatures;
- d. Stabilizing and enriching the soil;
- e. Slowing runoff from precipitation and reducing soil erosion;
- f. Improving air quality;

- g. Improving water quality;
- h. Masking unwanted sound;
- i. Providing visual relief and screening buffers;
- j. Providing recreation benefits;
- k. Enhancing the economic value of developments; and
- l. Providing a valuable asset to the community as a whole.

The tree removal plan removes or allows removal of all but one evergreen tree (Douglas Fir). It only definitively requires the protection of the one Douglas Fir, 3 Bitter Cherry (a weed tree) and one nursery specimen Evergreen Magnolia. The removal of the large native evergreen trees is in exact opposition to the stated goals of RZC 21.72.010(A)(6).

**Staff Response:** *The appellants have quoted a portion of the purpose statement from the Tree Protection code. The purpose section of the code as identified in RZC 21.72.010 is able to be achieved by meeting the 35 percent minimum tree retention requirement as identified in RZC 21.72.060(A)(1). This section of code requires that all new developments retain a minimum of 35 percent of all of the healthy significant trees. By meeting the 35 percent tree retention, and other aspects of this section of code, the applicant is meeting the purpose of the code. Additionally, by having a requirement to preserve 35 percent of all significant trees on the site, the aesthetic, ecological and economic benefits of forests and tree covered areas in Redmond are able to be preserved.*

*The Tree Retention Plan identifies four Bitter Cherry trees, one Evergreen Magnolia and one Douglas Fir tree to be retained. (See Attachment 11: Sheet C8.0 within the Plan Set for the Tree Retention Plan). The Tree Retention code requires that 35 percent of all significant trees be retained. Per the definitions in the RZC 21.78 a Significant Tree is any healthy tree six inches in diameter at breast height. The City doesn't consider Bitter Cherry trees to be "weed trees" and allows these trees to be counted towards tree retention requirements as they fit within the definition of Significant Tree. Further, the City of Redmond Tree Retention code does not have a category or definition for "weed tree."*

*Currently the applicant has begun the Civil Construction Review process for the 3-Lot Short Plat and two additional Landmark Trees (Tree's 9 and 11) have now been identified as retained trees as opposed to impacted trees. Tree #9 is a 34" Douglas Fir and Tree #11 is a 30" Douglas Fir. See Attachment 12: Civil Tree Retention Plan for the revised Tree Retention Plan as part of the Civil Construction Review. There are now a total of 8 trees to be retained out of a total of 16 significant trees for a total tree retention percentage of 50 percent. All the retained trees except for the Evergreen Magnolia are Native trees to the Northwest and each tree provides benefits as listed in RZC 21.72.010(A)(6)(a-l).*

*Staff does not have the authority to require an applicant to exceed the measure of retention or place additional constraints by species than which is explicitly stated within the Redmond Zoning Code.*

- 4. Assertion:** Tree Protection Standards RZC 21.72.060(A)(1) in all new developments, including additions to existing non-single-family buildings and parking areas, a minimum of 35 percent of all significant trees shall be retained. Trees that are located within Native Growth Protection Areas, critical areas, and their associated buffers as provided in RZC 21.64, Critical Areas, or that have otherwise been designated for protection shall not be removed. Exceptions to this standard shall be requested and reviewed in accordance with RZC 21.72.090, Exceptions.

This project's tree removal plan, does not retain 35% of all significant trees. In fact it only retains 6 trees of the 19 identified trees, a 31.6% retention rate. Of which, one tree is an evergreen Douglas Fir, one a nursery specimen (small 8", smallest caliper on the site, non-native) and four trees are Bitter Cherry (weed trees, 8", smallest caliper on the site). Other trees are called out as "impacted" and can be removed at will. The minimum requirement and the spirit of the ordinance is not met.

**Staff Response:** *Per the definitions in the RZC 21.78 a Significant Tree is any healthy tree six inches in diameter at breast height. There are a total of 19 trees that have been identified on the subject site. Three of these trees have been identified as being in poor condition per the Certified Arborist Report which do not count towards the tree retention requirement as they are not considered healthy trees (See Attachment 13: Arborist Report).*

*The approved tree retention plan meets the tree retention requirement by retaining 37 percent of all significant trees on the site which exceeds the tree retention requirement of 35 percent (See Attachment 11: Sheet C8.0 within the Plan Set for the Tree Retention Plan). Six out of a total of sixteen significant trees have been identified as retained trees for this site.*

*Trees identified as "impacted" trees do not count towards the "retained" or "saved" tree calculations. Any tree that is identified as an impacted tree can be removed with prior approval by the project planner. Any **landmark** tree (any healthy significant tree 30" or greater at breast height) that is identified as an impacted tree cannot be removed without an exception request being requested and approved first. If any landmark trees are removed without an exception requested being approved first, penalties will be assessed for each landmark tree removed. During the preliminary review process, two landmark trees (Tree #9 and Tree #11) and two significant trees (Tree #8 and Tree #14) have been identified as impacted "retained" trees which don't count towards tree retention due to their impacted status even though they are planned to be retained. All trees are subject to re-evaluation during the Civil Construction Review process.*

*The applicant is currently going through the Civil Construction Review process and is now proposing to retain Tree #9 (34" Douglas Fir) and Tree #11 (30" Douglas Fir) two additional landmark trees (previously identified as impacted trees) located within Tract B for a total tree retention of 50 percent (See Attachment 12: Civil Tree Retention Plan). This is described further in the City's response to Assertion #3 above.*

5. **Assertion:** Tree Protection Standards RZC 21.72.060(A)(2) Landmark trees shall not be removed unless an exception has been applied for and granted.

The landmark tree exception was not applied for in compliance with RZC 21.72.090 and should not have been granted and/or should have been revoked.

**Staff Response:** *Two exception requests were applied for on February 25, 2015 in compliance with RZC 21.72.090 for Trees 6 and 7 (See Attachment 14: Tree Exception Request #1 and #2). Both of these exception requests were granted on March 23, 2015 (See Attachment 15: Tree Exception Approval). Any Tree Exception Request that has been granted can be re-evaluated during the Civil Construction Review process so there is no need for the City to revoke an exception approval for the removal of landmark trees during the preliminary approval process. Even after the original proposal changed from a 5-Lot Short Plat (with two duplexes and one single-family home) to a 3-Lot Short Plat, the Tree Exception Request is still valid due to the large drip lines which extend into a large portion of the site which would completely eliminate Lot 3 (previously Lots 4 & 5). (See Attachment 16: Civil Tree Retention Plan with Drip Lines of Trees 6 & 7). Also the drip lines and their 5-foot setbacks from the drip lines of both these trees extend into the frontage improvements required by the City for this plat.*

6. **Assertion:** Where exceptional conditions exist that prevent full compliance with RZC 21.72.060, Tree Protection Standards, and/or RZC 21.72.080, Tree Replacement, the applicant may request an exception. A request for any exception shall be submitted in writing by the property owner for consideration by the Administrator, and shall accompany the application for a permit reviewed under this section. The written request shall fully state all substantiating facts and evidence pertinent to the exception request, and include supporting maps or plans. The Administrator may also require the recommendation of a certified arborist in reviewing an exception request.

Exceptional conditions do not exist that prevent full compliance with RZC 21.72.060 or RZC 21.72.080. The request did not fully state all substantiating facts and evidence pertinent to the exception request, nor did it include supporting maps or plans. This is fact as the plans for this development are not even drawn at this time. The old plan was significantly changed. (Duplexes were not allowed), 5 lots became 3. The single family residential design is not even complete, let alone submitted. The plan that was submitted did not have the tree locations located properly.

**Staff Response:** *Two exception requests were applied for on February 25, 2015 in compliance with RZC 21.72.090 for Trees 6 and 7 (See Attachment 14: Tree Exception Request #1 and #2). Both of these exception requests were granted on March 23, 2015 (See Attachment 15: Tree Exception Approval).*

*Even after the original proposal changed from a 5-Lot Short Plat (with two duplexes and one single-family home) to a 3-Lot Short Plat, the Tree Exception Request is still valid due to the large drip lines which extend into a large portion of the site which would completely eliminate Lot 3 (previously Lots 4 & 5) (See Attachment 16: Civil Tree Retention Plan with Drip Lines of Trees 6 & 7). Additionally, the drip lines and their 5-foot setbacks from the drip lines of both these trees extend into the frontage improvements required for this plat.*

**7. Assertion:** Exception Criteria. An exception shall not be granted unless criteria B.1, B.2, B.3 and B.4 of this subsection are satisfied:

1. The exception is necessary because:

- a. There are special circumstances related to size, shape, topography, location, or surroundings of the subject property; or
- b. Strict compliance with the provisions of this code may jeopardize reasonable use of property; or
- c. Proposed vegetation removal, replacement, and any mitigating measures proposed are consistent with the purpose and intent of the regulations; or
- d. The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity; or
- e. The strict compliance with the provisions of this code would be in conflict with the increased density of urban centers and result in development that would be inconsistent with the adopted vision for the neighborhood.

None of these criteria are evident. The exception is not necessary as defined by RZC 21.72.090 B.1 a, b, c, d, or e.

**Staff Response:** *The diameter of the dripline for Tree Number Six is 40 feet and 44 feet for Tree Number Seven. These drip lines extend into a large portion of the site which would completely prohibit Lot 3 from development (previously Lots 4 & 5) (See Attachment 16: Civil Tree Retention Plan with Drip Lines of Trees 6 & 7). Also the drip lines and their 5-foot setbacks from the drip lines of both these trees extend into the frontage improvements required for this plat.*

*The exception request letters (See Attachment 14: Tree Exception Request #1 and #2) state that the reason for granting the approval is necessary because there are special circumstances related to the size and shape of the property (depth of property is approximately 67 feet and the drip lines are 40 and 44 feet) and strict compliance with the provisions of this code would jeopardize reasonable use of the property by severely impacting the buildable area for lots 4 and 5 (now lot 3). These criteria are in conformance to the allowed standards outlined in RZC 27.72.090(B)(1). These exceptions were granted based on the site conditions of the property. Changing the project from a 5-lot short plat to a 3-lot short plat does not alter the need or conditions for the approval.*

*Regarding items a-e as listed above in the Appellant's assertion, the Applicant is not obligated to prove that each criterion (a-e) has been met. The Redmond Zoning Code requires that only one of the criteria be met. The Applicant has proven in their Tree Exception Request letter that more than one of the criteria has been met justifying the need for the exception approval. (See Attachment 14: Tree Exception Request #1 and #2).*

**8. Assertion:** Site Design Standards are not met. RZC 21.72.060(B) Site improvements shall be designed and constructed to meet the following standards:

Site improvements shall be designed to protect trees with the following characteristics, functions, or location, with priority given to protection according to the following items, arranged from most important to least important:

- a. Existing stands of healthy trees;
- b. Trees providing habitat value, such as riparian habitat;
- c. Trees having a significant land stability function;
- d. Trees adjacent to public parks and open space;
- e. Trees within the required yard setbacks or around the site perimeter; and
- f. Trees that have a screening function or provide relief from glare, blight, or commercial or industrial harshness.

Currently the site design is non-existent. Based on the design the City staff is working from and by which the decision letter was based, the site improvements were not designed to protect trees at all, but rather the opposite. In the original presented design, existing trees are to be removed to accommodate development. There is no accommodation for retention of native trees in the design or protection of the stand of healthy trees, or to provide habitat value, provide land stability (water retention) save trees within setbacks or around the site perimeter, and the screening from sun and noise will be eliminated.

**Staff Response:** *Five of the six trees to be retained on the site are located within protected Tract B and one of the six trees to be retained is located within protected Tract A. Two Open Space Tracts (Tract A) and (Tract B) have been incorporated into the design of the short plat to allow for trees to be retained and protected within the Open Space Tracts. The RZC 21.72.060(B) identifies a set of criteria arranged from most important to least important with the most important priority given to the protection of existing stands of healthy trees. The approved tree retention plan (See Attachment 11: Sheet C8.0 within the Plan Set for the Tree Retention Plan) provides for the protection of a stand of healthy trees located within a designated Open Space Tract along the eastern most part of the site. The approved tree retention plan meets the highest priority as listed in the code.*

*The applicant is currently going through the Civil Construction Review process and with the recent civil drawing set the applicant is now proposing to retain two additional landmark trees (Tree #9 is a 34" Douglas Fir and Tree #11 is a 30" Douglas Fir) which are both*

*located within Tract B as well (See Attachment 12: Civil Tree Retention Plan) for a total tree retention of 50 percent.*

**9. Assertion:** Public notification was incomplete and failed to disclose tree removal plan per RZC 21.76.080(B)(3) Mailed Notice requirements. The mailed notification was incomplete. The preliminary tree preservation plan was not provided in the mailed notification. It was not provided until 8/20/2015, after the decision, and then only to Kim Yates by request and only after discovery it existed. Several additional required documents are also omitted from the notification to the public. Public notice of application and request for public comment.

**Staff Response:** *The preliminary tree preservation plan was provided in the mailed notification. Please refer to the last page of Exhibit 3 for the Notice of Application/Certificate of Public Notice dated June 11, 2015 which was mailed to each resident within a 500-foot radius of the subject site.*

**10. Assertion:** Tree Retention requirement of 35% is not being met. This project's tree removal plan, does not retain 35% of all significant trees. In fact it only retains 6 trees of the 19 identified trees, a 31.6% retention rate - of which, one tree is an evergreen Douglas Fir, one a nursery specimen (small 8", smallest caliper on the site, non-native) and four trees are Bitter Cherry (weed trees, 8", smallest caliper on the site). Other trees are called out as "impacted" and can be removed at will. The minimum requirement and the spirit of the ordinance is not met. As per Article II Citywide Regulations, RZC 21.32 Landscaping, the directive is to "promote the aesthetic character of the City and its neighborhoods, encouraging the use of native plant species by their retention...and the reduction of erosion and storm water runoff."

**Staff Response:** *The tree protection standards require that 35 percent of all significant trees shall be retained. Per the definitions in the RZC 21.78 a Significant Tree is any healthy tree six inches in diameter at breast height. The RZC does not distinguish between tree species. The applicant has proposed to retain 37 percent (6 of the healthy trees on the site) which exceeds the tree retention requirement of 35 percent.*

*The trees that have been identified as impacted trees can be removed if during the Civil Construction Review process it's determined that they cannot be retained and the applicant has received formal advance approval by the project planner. The two Landmark trees (Tree #9 and #11) which had been identified as impacted trees through the preliminary review cannot be removed without an exception request being approved. The applicant has not submitted an Exception Request nor has the City approved for Tree #'s 9 and 11 to be removed.*

*The applicant is currently going through the Civil Construction Review process and with the recent civil drawing set the applicant is now proposing to retain two additional Landmark trees, Tree #9 (34" Douglas Fir) and Tree #11 (30" Douglas Fir) for a total tree retention of 50 percent (See Attachment 12: Civil Tree Retention Plan).*

**11. Assertion:** Submitted drawings are obsolete. Current drawings have not yet been provided. Thus, assumptions for approval X. Conditions of Approval, A. Site specific Conditions of Approval, 3. Public Works – Stormwater/Clearing and Grading of the Technical Committee Short Plat Notice of Decision is premature.

**Staff Response:** *The project drawings were approved in the PREP review, an optional review process whereby City staff work with the development team in building a complete and code-compliant proposal prior to submitting an application for Land Use. The project is reviewed for feasibility and for inclusion of all items on the Submittal Checklist as part of the PREP review. The drawings were approved as all items in the Checklist had been addressed. Conditions of Approval for a project do not require that the project re-submit plans due to any changes those conditions might cause in the plans. Any changes are reviewed in the next process, the Civil Review.*

*The PREP review does not review the engineering aspect of the proposal as this is done in the next step of the process. Therefore, the project does not go through the rigorous review of checking the calculations and assumptions or for adherence to the Stormwater Management Technical Notebook until the next step, the Civil Review. During Civil Construction Review the project and calculations will be reviewed for items such as infiltration rate and design, detention, water quality, emergency overflow, and conveyance.*

**12. Assertion:** X Conditions of Approval, A. Site specific Conditions of Approval, 3 c. Water Quality Control of the Technical Committee Short Plat Notice states that the project creates less than 5,000 square feet of pollution-generating impervious surface. No plan has been submitted, so this cannot be determined at this time.

**Staff Response:** *The approved plans in the PREP review showed the pollution-generating impervious surface on several plan sheets including the Site Plan, Transportation Plan, and Utility Plan. The Stormwater Report included an exhibit showing the amount of New Pollution-generating Impervious Surface as 1,482 Square Feet, and a total Pollution-generating Impervious Surface area of 4,182 Square Feet. Projects containing a total of 5,000 Square Feet or more of Pollution-generating Impervious Surface area are required to provide water quality. If during the next step in the process, the Civil Construction Review, additional roadway improvements are required of the project such as half-street improvements, and as a result the quantity of Pollution-generating Impervious Surface increases to 5,000 Square Feet or more, water quality will be required of the project.*

**13. Assertion:** There is no conveyance system on the adjacent down-gradient property line, nor a plan for adjacent down-gradient water management as required; or emergency overflow management. Site testing in a year of significant drought is not good strategic planning for a management system for the future.

**Staff Response:** *The proposal's plan for adjacent down-gradient water management is to either infiltrate runoff onsite or release runoff to the existing storm system in NE 75<sup>th</sup>*

*Street. The project does not propose to release runoff to the adjacent down-gradient property in the approved plans. The on-site runoff, including the roofs, will be routed to drywells located on site. The driveway, sidewalk, planter strip, and roadway improvements to NE 75<sup>th</sup> Street will be routed to the existing stormwater piped conveyance system located in NE 75<sup>th</sup> Street.*

*Currently the existing home is served by a splash block for roof runoff and all stormwater runoff appears to sheet flow easterly across the east property line passing through several adjacent residential lots to the east until it enters an open ditch at 134<sup>th</sup> Avenue NE. The project attempts to eliminate the runoff from the property to the adjacent properties by infiltration and conveying stormwater to the existing storm system; thereby improving the existing condition.*

*The design and engineering of the infiltration system will be reviewed in the next step of the process, the Civil Review, to ensure that 100 percent of the runoff is infiltrated without overflow. The project will also be reviewed to check that the project will convey up to the 100-year storm without exceeding the capacity of the pipes or causing water to overflow the system. The review of the infiltration will not be based on one year of rainfall; instead, infiltration is set up in a hydrologic model and tested with the last 40 years of storm data for the region.*


### **STAFF RECOMMENDATION**

Prior to the public hearing and based on the analysis included in this report, the Technical Committee recommends the Hearing Examiner deny the appeals (LAND-2015-01759) of the Short Plat Approval (File LAND-2014-01980) for the Nouri 3-Lot Short Plat.

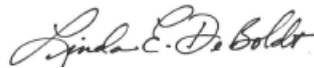
### **CONCLUSIONS IN SUPPORT OF THE STAFF RECOMMENDATION**

- The Preliminary Tree Retention Plan as approved provides for 37 percent tree retention. This exceeds the 35 percent tree retention requirement for healthy significant trees on the site which meets the Tree Protection Purpose (RZC 21.72.010(A)(1),(2),(6)).
- The RZC 21.72.060(2) allows for Landmark trees to be removed when an exception request has been applied for and granted. Two exception requests were applied for on February 25, 2015 in compliance with RZC 21.72.090 for Tree's 6 and 7 (See Attachment 14: Tree Exception Request #1 and #2) and the exception request were granted on March 23, 2015 (See Attachment 15: Tree Exception Approval).

- The Site Design Standards as established in the Tree Protection Standards (RZC 21.72.060(B)) identifies a set of criteria arranged from most important to least important with the most important priority given to the protection of existing stands of healthy trees. The approved tree retention plan (See Attachment 11: Sheet C8.0 within the Plan Set for the Tree Retention Plan) provides for the protection of a stand of healthy trees located within a designated Open Space Tract along the eastern most part of the site. The approved tree retention plan meets the highest priority as listed in the code.
- The Public Notification was complete and disclosed the tree removal plan as the last sheet in the mailed notice that went out per the requirements in RZC 21.76.080(B)(3)(a) (See Attachment 3: Notice of Application/Certificate of Public Notice).
- The 35 percent tree retention requirement established in the Tree Protection Standards (RZC 21.72.060(A)(1) has been met by retaining 37 percent of the healthy significant trees on the site per approved Tree Retention Plan.
- Water Quality as established in Redmond Municipal Code (RMC 15.24.080(2)(d) has been met by the plans demonstrating that the project does not have 5,000 square feet or more of pollution-generating impervious surface area.



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