

RESOLUTION NO. 2008-20

**A RESOLUTION DENYING THE APPEAL OF THE HEARING EXAMINER'S DECISION FOR THE SAN JUAN HILL PRELIMINARY PLAT APPLICATION AND DENYING THE STREET VACATION PETITION FOR THOSE RIGHTS-OF-WAY ASSOCIATED WITH THE PLAT.**

**WHEREAS**, the Bellingham Hearing Examiner held a hearing on May 23, 2007 and February 13, 2008 on the application of Pacific Crest Partners, LLC for approval of the San Juan Hill Preliminary Plat, together with requests for a variance from street standards and street construction and the vacation of existing rights-of-way within the plat; and

**WHEREAS**, the Hearing Examiner issued Findings of Fact, Conclusions of Law and Order in the case on March 13, 2008 under Order No. HE-06-PL-069 for both the San Juan Hill Preliminary Plat and the associated street vacation petition; and

**WHEREAS**, the Hearing Examiner approved the plat with conditions and recommended denial of the street vacation petition; and

**WHEREAS**, on March 26, 2008, Pacific Crest Partners filed a timely appeal of the Hearing Examiner's decision with the Bellingham City Council; and

**WHEREAS**, on June 9, 2008, City Council held a closed record hearing to consider Pacific Crest Partners' appeal of the Hearing Examiner's decision for the San Juan Hill Preliminary Plat application and the street vacation petition to vacate various portions of rights-of-way within the boundaries of the proposed plat; and

**WHEREAS**, at the conclusion of the closed record hearing, City Council voted to deny the appeal of the Hearing Examiner's decision for the San Juan Hill Preliminary Plat application and the street vacation petition for those rights-of-way associated with the plat.

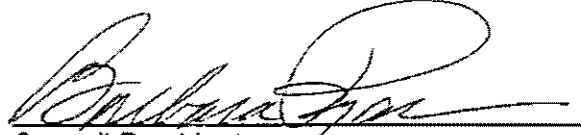
**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM:**

1. The City Council adopts the Hearing Examiner's Findings of Fact, Conclusions of Law, and Order, attached as Exhibit A, as its Findings of Fact, Conclusions of Law, and Order;
2. The City Council adopts the Hearing Examiner's recommendation regarding Pacific Crest Partners' street vacation petition for those rights-of-way associated with the San Juan Hill Preliminary Plat and denies the street vacation petition; and

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270

3. The City Council denies Pacific Crest Partners' appeal of the Hearing Examiner's decision for the San Juan Hill Preliminary Plat application.


PASSED by the Council this 14th day of July, 2008.

  
\_\_\_\_\_  
Council President

APPROVED by me this 24<sup>th</sup> day of July, 2008.

  
\_\_\_\_\_  
Mayor

ATTEST:   
\_\_\_\_\_  
Finance Director

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Office of the City Attorney

City of Bellingham  
City Attorney  
210 Lottie Street  
Bellingham, Washington 98225  
360-778-8270

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# EXHIBIT A

**THE HEARING EXAMINER OF THE CITY OF BELLINGHAM  
WHATCOM COUNTY, WASHINGTON**

<b>IN RE:</b>	<b>HE-06-PL-069</b>
<b>PACIFIC CREST PARTNERS LLC, Applicant San Juan Hill</b>	<b>FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER</b>
<b>SUB2006-00033, VAR2007-00003, VAR2008-00001 &amp; VAC2007-00001 / Preliminary Plat</b>	<b>DAWN STURWOLD, HEARING EXAMINER</b>

THIS MATTER came before the Bellingham Hearing Examiner for hearing on the 23<sup>rd</sup> day of May 2007 and the 13<sup>th</sup> day of February 2008 on the application of Pacific Crest Partners, LLC for approval of the Preliminary Plat of San Juan Hill, together with requests for a Variance from street standards and street construction and the Vacation of existing rights-of-way within the plat.

Testimony was received from Kathy Bell and Kim Spens, Planning and Community Development Department; Martin Kjelstad and Brent Baldwin, Public Works Department; Bob Libolt and Tim Potts, Applicant's representatives; Todd Fischer, 4209 Adams Avenue; Doug Angell, 13713 218<sup>th</sup> Avenue NE, Woodinville; Doug Campbell, 1401 Astor Street; and Dave Edelstein, 2200 Division Street.

In addition to the Bellingham Municipal Code and Comprehensive Plan, the following documents were considered as part of the record: See Exhibit List.

The hearing was continued at the conclusion of testimony on February 13, 2008 until February 27, 2008 only for the purpose of allowing additional submission of

1 written arguments. No additional substantive evidence was permitted, and none was  
2 considered. A traffic analysis by Gibson Traffic Consultants containing new  
3 substantive information was submitted on February 27, 2008, too late to be included in  
4 the Record. In the Applicant's February 27, 2008 submission, the Applicant for the first  
5 time requests deletion of Tract B and Bennett Avenue Vacation from the plat. These  
6 requests were submitted after close of the record for new information and may not be  
7 considered at this time.

8 A pre-hearing conference was held on January 10, 2008 for the discussion of  
9 procedural issues

#### 11 I. FINDINGS OF FACT

12 1. Pacific Crest Partners, LLC applied for Preliminary Plat approval for property  
13 located south of Adams Avenue, east of 44<sup>th</sup> Street, north of the Samish Heights  
14 subdivision and west of the easterly City boundary. The property consists of  
15 approximately 23 acres.

16 2. The subject property is located in Area 5 of the Samish Neighborhood. This  
17 area is designated Residential Single, Detached, Cluster, 20,000-square feet overall  
18 cluster density. Special Conditions include clearing, view, minimize impervious  
19 surfaces and traffic. A Prerequisite Consideration is development of a comprehensive  
20 stormwater drainage plan for the area.

21 3. The property includes lots and blocks within the Union Addition to Sehome, an  
22 older "paper plat" that remains undeveloped.

23 4. The parcel is irregularly shaped, with a number of parcels owned by others  
24 located adjacent to the Applicant's parcel and between the subject property and 44<sup>th</sup>  
25 Street and Adams Avenue, the primary access routes to the site.

26 5. The City of Bellingham Parks Department owns the property to the east of the  
27 subject parcel, across undeveloped Katie Street.

- 1 6. Douglas Angell and the Douglas Angell Trust own the 40-acre parcel to the  
2 north of the subject property, north of Adams Avenue. Proposed San Juan Boulevard  
3 and a new 46<sup>th</sup> Street arterial will run through this property.
- 4 7. The proposed plat lies over portions of existing undeveloped streets, including  
5 45<sup>th</sup>, 46<sup>th</sup>, and 47<sup>th</sup> Streets and the alleys between streets. The Applicant proposes to  
6 vacate these streets and alleys. Streets serving the plat, in different alignments than the  
7 existing rights-of-way, will be dedicated to the City.
- 8 8. The Applicant proposes to divide the property into 52 single-family lots, ranging  
9 in size from 5,579 square feet to 17,378 square feet.
- 10 9. The proposal also includes open space and stormwater tracts. Stormwater  
11 facilities are proposed in the southwesterly quarter of the site. Open space tracts are  
12 located primarily along the western and eastern boundaries of the site and the central  
13 portion of the parcel north of the principal internal access road.
- 14 10. Access to the subject property is from Adams Avenue, west of 40<sup>th</sup> Street. 44<sup>th</sup>  
15 Street will be developed from Adams Avenue to the southwestern corner of the parcel  
16 to provide access into the proposed plat. Portions of 45<sup>th</sup>, 46<sup>th</sup> and 47<sup>th</sup> Streets, and the  
17 alley between 46<sup>th</sup> and 47<sup>th</sup> Street, will be developed to serve the lots in the plat.
- 18 11. 46<sup>th</sup> Street is designated as an arterial that will ultimately connect Governor  
19 Road to the south to San Juan Boulevard to the north.
- 20 12. The proposed alignment for San Juan Boulevard is located north of Adams  
21 Avenue. Contribution to the development of San Juan Boulevard is a prerequisite  
22 consideration for the property lying north of Adams and Fielding Avenues but not for  
23 the parcels to the south, including the subject property.
- 24 13. The proposal includes a request for a Variance from street standards to allow the  
25 grade of the new arterial, 46<sup>th</sup> Street, to exceed 9%, up to a maximum of 15%. The  
26 topography underlying the proposed 46<sup>th</sup> Street right-of-way is steep, with grades  
27 exceeding 9% in some sections  
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1 14. The Applicant also requests that it not be required to construct Adams Avenue  
2 to the east of 44<sup>th</sup> Street. Adams Avenue is currently undeveloped east of 44<sup>th</sup> Street.

3 15. The Applicant requested that Tract B, abutting the 45<sup>th</sup> Street right-of-way south  
4 of Adams Avenue, and not contiguous with the rest of the plat, be removed from the  
5 application.

6 16. A Temporary Certificate of Transportation Concurrency was issued for the  
7 proposal on September 25, 2006, reserving capacity on 40<sup>th</sup> Street, Elwood Avenue and  
8 Lincoln Street arterials for the development.

9 17. A Mitigated Determination of Non-Significance was issued for the proposal on  
10 December 6, 2007. The MDNS is *HE Exhibit 2-10* in the February 13, 2008 submittal  
11 and is incorporated herein by reference.

12 18. The subject property contains wetlands, particularly in the western portion of the  
13 site. The proposal includes a fill of approximately .16 acres of wetland. A Critical  
14 Areas Permit was issued on January 25, 2008 to allow wetland and buffer impacts of the  
15 proposed development with mitigation. Most of the wetlands will remain undisturbed.

16 19. The total land area of the parcel, including existing rights-of-way, is  
17 approximately 957,572 square feet. Excluding Tract B the parcel contains  
18 approximately 942,932 square feet. This is sufficient land area for 47 lots at 20,000  
19 square feet per unit cluster density.

20 20. The Applicant requests bonus density of five lots in exchange for the dedication  
21 of an additional 10% open space.

22 21. The Applicant submitted a Petition for the Vacation of the rights-of-way within  
23 the parcel. The Petition lacks the requisite signatures required by RCW 35.79.

24 22. City-owned properties have been included in the proposed plat in Lots 17, 18,  
25 26 and 27. The Applicant proposes an exchange of Tract M, as shown on the proposed  
26 plat map, for these city-owned parcels.

27 23. Requirements for cluster subdivisions are set forth in BMC 18.32. The cluster  
28 option may be utilized if the development's design addresses special conditions,  
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1 prerequisite considerations and significant environmental elements identified in the  
2 Neighborhood Plan; it is compatible with the existing topography and preserves natural  
3 resources; connecting links between existing parks and open spaces are provided along  
4 streams, ridgelines, ravines, shorelines, hillsides and wooded areas whenever possible;  
5 and at least 15% of the total site area is set aside as open space. Reduced lot standards  
6 are permitted in cluster developments. Other provisions of Title 18 specifying  
7 subdivision standards are also applicable to cluster subdivisions.

8 24. BMC 18.32.050 allows a density bonus of up to 15% in a cluster subdivision if  
9 the development provides at least 15% additional open space that is not otherwise  
10 restricted from development by environmental regulations.

11 25. BMC 18.28.040 provides that all existing streets adjacent to a subdivision shall  
12 be brought to no less than the "three-quarter" standard specified in BMC 13.04 and that  
13 all new streets and alleys within the subdivision shall be of the width and quality to  
14 meet the full standards of the City.

15 26. BMC 18.28.190 provides that all subdivisions are required to be connected to an  
16 accepted City street.

17 27. The criteria for a Variance from subdivision requirements are set forth in BMC  
18 18.48.010. The Applicant for a Variance must show that the literal enforcement of the  
19 requirement would involve difficulties or result in an undesirable plat due to unusual  
20 shape, exceptional conditions, geological problems, environmental constraints or other  
21 extraordinary situation or condition in connection with a specific property; or that  
22 granting the Variance would result in better lot design; and that granting the Variance  
23 would not be unduly detrimental to the public welfare or injurious to property or  
24 improvements in the vicinity.

25 28. City staff has recommended approval of the subdivision and the Variance.  
26 allowing the grade of the new arterial to exceed 9%, subject to the conditions set forth  
27 in the staff report.  
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- 1 29. Comment was received from one resident of Adams Avenue who expressed  
2 concern regarding construction traffic and the potential for speeding motorists on that  
3 street.
- 4 30. Comment was also received from the property owners to the north and west of  
5 the site. Douglas Angell and his representative commented that this development  
6 should be required to participate in the construction of San Juan Boulevard, a future  
7 arterial which will run through Mr. Angell's property.
- 8 31. The property owner to the west of the site expressed concern regarding some of  
9 the recommended conditions, including housing design restrictions and procedural  
10 requirements for the development.
- 11 32. The Applicant objected to a prior interpretation of the Planning Director  
12 calculating density for the site excluding the land area of existing rights-of-way and to  
13 the requirement that a Critical Areas Permit be approved prior to approval for the  
14 subdivision.
- 15 33. No appeal of the Critical Areas Permit was filed.
- 16 34. The staff recommendation for approval of the development includes calculation  
17 of density to include the land area of the existing rights-of-way that will be vacated as  
18 part of the proposal.
- 19 35. Adams Avenue adjacent to Tract A can be constructed without undue difficulty,  
20 although its construction may impact wetlands. This street is the only feasible access  
21 for properties located on 45<sup>th</sup> Street south of Adams Avenue, including property owned  
22 by the Applicant, so it is likely that it will eventually be constructed at least to 45<sup>th</sup>  
23 Street. Depending upon the timing of development, Adams Avenue east to 45<sup>th</sup> Street  
24 could provide a connection for the plat through the Angell property to San Juan  
25 Boulevard. As proposed, the plat would have only one access point, 44<sup>th</sup> Street at  
26 Adams Avenue. Additional access points are dependent upon the extension of other  
27 streets such as 46<sup>th</sup> or 47<sup>th</sup> Streets to the north or south, or Adams Avenue to the east.  
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29 The requirement for development of adjacent streets only requires the Applicant to  
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1 develop its proportionate share of the road infrastructure surrounding and serving the  
2 plat. Granting a Variance to the Applicant would be detrimental to the interests of the  
3 public and other properties in the vicinity who would be required to provide the  
4 improvements adjacent to the subject property in order to continue the orderly  
5 development of the transportation system to serve all of the property in the area. A  
6 delay in the development of Adams Avenue east of 44<sup>th</sup> Street may be appropriate if an  
7 equitable mechanism for ensuring the participation of the Applicant in the cost of future  
8 development is available. The Applicant has not demonstrated that the criteria for a  
9 Variance from the street construction requirement have been met.  
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## 11 II. CONCLUSIONS OF LAW

- 12 1. Subdivisions are governed by the provisions of RCW 58.17 and BMC Title 18.
- 13 2. Preliminary Plat determinations are made by the Hearing Examiner pursuant to  
14 BMC 2.56 and 21.10.120.
- 15 3. The Applicant objects to a prior interpretation of the Planning Director  
16 regarding the calculation of density, however, the Application filed for the subject  
17 development was consistent with the interpretation. The revised proposal, which is  
18 supported by the Planning and Community Development Department, is consistent with  
19 the method of density calculation favored by the Applicant. The disputed interpretation  
20 is not currently at issue in this proceeding.
- 21 4. Inclusion of land area of existing rights-of-way in the calculation of maximum  
22 density on a parcel, as has occurred in this proposal, may be appropriate when those  
23 rights-of-way must be vacated prior to final plat approval.
- 24 5. Whether a Critical Areas Permit must be processed prior to approval of a  
25 Preliminary Plat is not properly before the Hearing Examiner. In this matter the Critical  
26 Areas Permit was issued and no appeal was taken.
- 27 6. The development site is not subject to the Prerequisite Consideration for the  
28 development of San Juan Boulevard. That requirement is imposed on Area 4 of the  
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1 Samish Neighborhood, but not on Area 5 in which this property is located. The Angell  
2 property includes land within Areas 4 and 5.

3 7. The proposed development is subject to Transportation Impact Fees, which  
4 include fees to partially fund San Juan Boulevard. San Juan Boulevard is included in  
5 the City's 2008 – 2013 Transportation Improvement Program.

6 8. The Hearing Examiner does not have the authority to earmark transportation  
7 impact fees attributable to a development for specific transportation projects.  
8 Allocation of these fees is determined by the City Council and the Capital facilities  
9 plans.

10 9. The Angells argue that the Applicant should be required to pay a proportionate  
11 share of the costs to construct the 46<sup>th</sup> Street arterial off-site. The Applicant is required  
12 to construct its proportionate share of 46<sup>th</sup> Street through and adjacent to the site.  
13 Development north of the site will be required to extend the street to the north.

14 10. BMC 18.28.040 requires that all existing streets adjacent to a subdivision be  
15 brought to no less than three-quarter standard unless a Variance is granted pursuant to  
16 BMC 18.48.010.

17 11. Subject to the conditions set forth below the proposed plat makes appropriate  
18 provisions for drainage, streets and other public ways, sewers, water, parks,  
19 playgrounds, schools and other relevant features necessary to serve the public interest.

20 12. Subject to the conditions set forth below the proposed plat makes adequate  
21 provisions for the public health, safety and welfare.

22 13. As conditioned below the proposed plat is consistent with the BMC and the  
23 Comprehensive Plan.

24 14. Any Finding of Fact that should be denominated a Conclusion of Law shall be  
25 deemed to be a Conclusion of Law. Any Conclusion of Law that should be  
26 denominated a Finding of Fact shall be deemed to be a Finding of Fact.  
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### 29 III. ORDER

1           The Preliminary Plat of San Juan Hill is approved, contingent upon the Vacation  
2 of the underlying rights-of-way, and subject to the conditions set forth below. A  
3 Variance from required street standards is granted to allow the grade of an arterial street  
4 to exceed 9%, as provided below. The street vacation petition is recommended for  
5 denial due to inadequacy of the Petition and revision of the proposal. A valid Petition  
6 for vacation of the existing rights-of-way underlying the plat is required.  
7

#### 8 GENERAL REQUIREMENTS

- 9 1.       The Plat shall be generally as shown on *Exhibit A* attached hereto, and as  
10 described in the revised materials submitted in support of the application, except as  
11 otherwise required in this Order. Tract B shall not be included within the plat, or in the  
12 calculation of density or open space.  
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14 2.       The plat shall contain no more than 47 single-family residential lots, provided  
15 that an additional five lots may be included if the conditions for bonus density are  
16 satisfied, as provided below.  
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18 3.       Preliminary plat approval is contingent upon the vacation of the existing rights-  
19 of-way underlying the proposed lots and tracts. The Applicant shall proceed  
20 expeditiously to properly petition for the vacation of these rights-of-way. Vacation of  
21 the rights-of-way is within the sole discretion of the Bellingham City Council and  
22 subject to such conditions as it shall determine.  
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24 4.       Inclusion of property currently owned by the City of Bellingham within the plat  
25 is contingent upon the transfer of such property by the City to the Applicant, pursuant to  
26 such process as is determined appropriate by the City. If this property is not transferred  
27 to the Applicant prior to or concurrently with final plat approval the maximum number  
28 of lots and open space requirements shall be recalculated accordingly.  
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30 5.       Each lot shall contain at least 4,000 square feet in area and shall comply with the  
requirements of BMC 18.32.040E.

1 6. Development of the property shall be consistent with the provisions of the  
2 Bellingham Municipal Code except that a Variance is granted to allow the grade of the  
3 46<sup>th</sup> Street arterial through the plat to exceed 9%, up to a maximum of 15%, subject to  
4 the conditions set forth below.

5 7. Heavy equipment work shall be limited to the hours between 7:00 a.m. and 7:00  
6 p.m.

7 8. Impact fees for transportation, schools and parks shall be paid in accordance  
8 with Bellingham Municipal Code requirements. Nothing contained herein shall be  
9 construed to be an agreement or order to limit or restrict the application of any impact  
10 fee provisions adopted by the City to the property or to grant credit or exemption for or  
11 from the fees otherwise due pursuant to BMC provisions at the time of development.

12 9. Vacation of the rights-of-way underlying the plat shall be approved prior to  
13 application for land disturbance or submission of construction drawings.

14 10. The City may not accept building permit applications for lot development until  
15 the plat has received final approval and it has been recorded with the Whatcom County  
16 Auditor.

17 11. Preliminary plat approval shall expire as provided in BMC 18.16.010.

18 12. Minor amendments to the plat or modifications necessary to comply with this  
19 Order may be approved by the Technical Review Committee as provided in BMC  
20 18.20.020.  
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23 ENVIRONMENTAL

24 13. Development of the property shall comply with all conditions imposed by the  
25 MDNS (SEP2006-00031).

26 14. Development of the property shall comply with all conditions of Critical Areas  
27 Permit(s) issued by the City applicable to the property.  
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1 PUBLIC INFRASTRUCTURE

2 15. All streets, alleys and other rights-of-way serving the plat, as shown on the  
3 attached *Exhibit A*, and as may be required by conditions of the street vacation  
4 approval, shall be dedicated to the City.

5 16. Street grades shall be consistent with BMC 13.04 provided that the arterial grade  
6 may exceed 9%, as necessary, up to a maximum of 15%, provided the final engineered  
7 street design includes a surface treatment that meets or exceeds AASHTO standards, as  
8 determined by the City Engineer, for those street sections that exceed 9%.

9 17. Adams Avenue shall be constructed to three-quarter standard of a 28-foot street  
10 across the frontage of Tract A, provided that an alternative roadway section may be  
11 approved by the Public Works Department as necessary to minimize potential impacts  
12 to the wetlands. The construction of Adams Avenue may be deferred until such time as  
13 the City or another property owner undertakes the extension of the street beyond the  
14 Applicant's property, if deemed appropriate by the Public Works Director, provided an  
15 equitable mechanism for ensuring the Applicant's participation in the street extension is  
16 agreed upon.

17 18. 44<sup>th</sup> Street shall be constructed to three-quarter of a 28-foot street abutting the  
18 plat, terminating at Lot 4 as shown on *Exhibit A* and the intersection with the new  
19 access street into the plat. Retaining walls to reduce slopes and/or environmental  
20 impact may be considered provided the location and design of the walls accommodates  
21 full standard street construction and does not restrict access to adjacent properties.

22 19. 46<sup>th</sup> Street shall be constructed to full standard of a 32-foot Collector arterial  
23 within the plat and three-quarter of this standard adjacent to the plat. 46<sup>th</sup> Street shall be  
24 located, aligned and designed so that it can reasonably be extended to the north and  
25 south to connect with Governor Road and San Juan Boulevard consistent with the City's  
26 Comprehensive Plan, standards and requirements. Engineering analysis shall be  
27 provided demonstrating the feasibility of street extension from the chosen alignment, to  
28 the satisfaction of the City Engineer.  
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1 20. Katie Street (48<sup>th</sup> Street) shall be constructed to three-quarter standard of a 28-  
2 foot street in a 60-foot right-of-way adjacent to the plat, connecting to an accepted street  
3 to provide legal and functional access to Tracts L and M, unless the street is vacated or  
4 consolidated with City park property on both sides of the right-of-way through  
5 dedication of Tracts L and M. If Tracts L and M are dedicated to the City access to an  
6 improved street for these tracts should be provided through the plat unless alternate  
7 access is available through contiguous park property.

8 21. All streets internal to the plat, other than the arterial street, shall be constructed  
9 across the full frontage of each lot and tract to full City standard of a 28-foot street or a  
10 22-foot street with parking pockets.

11 22. All streets abutting the plat, except as otherwise provided in this Order, shall be  
12 constructed to three-quarter City standard of a 28-foot street across the full frontage of  
13 each abutting lot or tract.

14 23. Alleys within the plat shall be dedicated with a 20-foot width and constructed to  
15 City alley standard.

16 24. Vehicular access to 46<sup>th</sup> Street to and from individual lots is prohibited. This  
17 restriction shall be shown on the face of the plat. Vehicular access to lots shall be  
18 approved by the Public Works Department.

19 25. Sidewalks shall have a minimum width of five feet.

20 26. Vertical curbs are required.

21 27. Street improvements shall be designed and installed in accordance with plans  
22 and specifications approved by the Public Works and Fire Departments.

23 28. All utilities, including public water and sewer, electrical, gas, phone, and cable,  
24 shall be installed in accordance with plans and specifications approved by the Public  
25 Works Department. Full abutment of utilities is required unless the Public Works  
26 Department determines that they need not fully abut the last lot served. All utilities  
27 shall be installed underground.  
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1 29. Lots located at an elevation greater than 600 feet require a higher water pressure  
2 zone than currently exists on the site. A proposed Upper Yew Reservoir will eventually  
3 serve the upper lots. These lots shall be served with public water by a connection to the  
4 Upper Yew Reservoir or, as a temporary measure until such connection is made, by an  
5 alternative system that will adequately increase pressure and is approved by the Public  
6 Works Department. A pump station may be considered an alternative and allowed if:

7 a) the Applicant bears full financial responsibility for the construction of any alternative  
8 system; b) the pump station is located on private property at an elevation that is capable  
9 of providing both domestic and fire flow; c) the facility provides an emergency back-up  
10 power source; and d) the Applicant provides financial surety for the removal of the  
11 pump station when the connection to the Upper Yew Reservoir is installed. Operation  
12 and maintenance of the building and pumps would be provided by the City after  
13 acceptance by the City of the pump station and until connection to the Upper Yew  
14 Reservoir.  
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16 30. The water main in 46<sup>th</sup> Street shall be a 12-inch diameter transmission line. All  
17 other mains shall have an 8-inch diameter.

18 31. Street lights and street signs shall be installed in accordance with a plan  
19 approved by the Public Works Department. Lighting adjacent to the wetland areas shall  
20 be shielded to minimize spillover and shall be located as far as possible from the  
21 preserved wetland areas.

22 32. A clearing and grading plan for the property, including rights-of-way, shall be  
23 submitted and approved concurrent with or prior to approval of civil drawings for the  
24 infrastructure.

25 33. A Stormwater Site Plan (SSP) shall be submitted for review and approval of the  
26 Planning and Public Works Departments concurrent with civil drawings for the  
27 necessary infrastructure. The SSP shall include mitigation for stormwater quality to a  
28 standard compliant with the 2005 Washington State Department of Ecology's  
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1 Stormwater Management Manual and BMC 15.42, and as approved by the Planning and  
2 Public Works Departments.

3 34. The design for any retaining wall supporting public or private infrastructure  
4 constructed of concrete or block material exposed greater than two feet above grade  
5 shall be submitted for review and approval of the Public Works Department. Concrete  
6 walls shall be finished with a material that will hide form panel seams and tie holes and  
7 be designed to blend visually with the site. Any block wall shall be textured.  
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9 **LANDSCAPING**

10 35. A landscaping plan that includes all required mitigation plantings, street trees,  
11 and stormwater plantings shall be submitted for review and approval of the Planning  
12 Department concurrent with civil drawings for the plat.

13 36. Landscaping shall be installed in accordance with the approved plan.

14 37. Street trees shall be provided at the rate of two trees per lot and dispersed evenly  
15 along the street frontages.

16 38. Bonding may be accepted in lieu of installation of street trees for a time period  
17 of no more than one year, due to seasonal restrictions.  
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20 **OPEN SPACE**

21 39. At least 15% of the total site area shall be set aside as open space to satisfy  
22 cluster requirements.  
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24 **DENSITY BONUS**

25 40. A density bonus of no more than five lots may be earned by setting aside an  
26 additional 10% of the total site area as open space, including, but not limited to, the  
27 dedication of Tract L. The additional open space provided to earn a density bonus must  
28 not be otherwise restricted from development by environmental regulations. Land area  
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1 dedicated to or exchanged with the City as compensation for right-of-way vacations or  
2 land acquisition will not qualify as open space for purposes of earning a density bonus.

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4 **GENERAL PLAT REQUIREMENTS**

- 5 41. Monumentation shall be provided as required in BMC 18.28.180.  
6 42. Grouped, locking mailboxes shall be installed.  
7 43. The following shall be noted on the face of the plat:  
8 a) Setback requirements consistent with BMC 18.32.040(5).  
9 b) A statement that the use of any portion of an unimproved right-of-way  
10 by a residential lot is prohibited.  
11 c) Dedication of all rights-of-way and easements necessary to support the  
12 plat.  
13 d) Reservation of a seven-foot wide easement adjacent to public rights-of-  
14 way for utility purposes.  
15 e) A statement that all lots are subject to the conditions set forth in the  
16 Order approving the Preliminary Plat.  
17

18  
19 **FIRE DEPARTMENT REQUIREMENTS**

- 20 44. All streets and lots shall satisfy minimum fire apparatus access, loading and  
21 turnaround requirements. An access, turnaround and fire hydrant placement plan shall  
22 be submitted for review and approval of the Fire Department. All water supply system  
23 specifications and hydrant spacing shall be in accordance with the BMC and Fire  
24 Department standards.  
25 45. Any Fire Code requirement for sprinklers in homes imposed as a result of plat or  
26 infrastructure design or location and known prior to recording of the plat shall be shown  
27 on the face of the plat.  
28  
29  
30

1 COMPLETION REQUIRED PRIOR TO FINAL PLAT APPROVAL

2 46. The requirements of Conditions Nos. 15 – 45 shall be completed and accepted  
3 by the City prior to final plat approval, except as otherwise stated. Financial surety in  
4 lieu of completion may be accepted in accordance with BMC 18.28.020.  
5

6 LOT DEVELOPMENT REQUIREMENTS

7 47. Individual lot development shall comply with BMC development standards for  
8 single-family residences.

9 48. Minimum setbacks shall be:

10 a) Front: 15 feet measured from the property line abutting a right of way or  
11 edge of access easement. A minimum of 20 feet shall be provided from the back  
12 of a sidewalk to any garage face.

13 b) Side: five feet measured from a property line and zero feet along the  
14 common property line for attached lots.

15 c) Side on Flanking Street: 10 feet measured from property line.

16 d) Rear: 15 feet measured from property line.  
17

18 49. Tandem parking and required parking shall be allowed in the front yard setback.  
19 All required parking shall be located on site. Two parking spaces are required for each  
20 lot.

21 ENTERED this 13<sup>th</sup> day of March 2008.  
22

23  
24 BELLINGHAM HEARING EXAMINER

25  
26 

27 Dawn Sturwold  
28