

**BEFORE the HEARING EXAMINER for the
CITY of LYNNWOOD**

DECISION

FILE NUMBER: PLT-003561-2016

APPLICANT: Phoenix Development, LLC
ATTN: Lyle Landrie
16108 Ash Way, Suite 201
Lynnwood, WA 98087

TYPE OF CASE: Preliminary subdivision (*Leawood Heights*)

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: APPROVE subject to conditions

DATE OF DECISION: May 2, 2016

INTRODUCTION ¹

Phoenix Development, LLC (Phoenix) seeks preliminary approval of *Leawood Heights*, a 16-lot single-family residential subdivision of a 4.35 acre site, owned by Anderson Living Trust (Anderson) and Echelbarger Investments, LLC (Echelbarger), which is zoned RS-8. (Exhibits 1 – 3; 8 ²)

Phoenix filed the preliminary subdivision application on February 16, 2016. (Exhibits 2; 3) The Lynnwood Community Development Department (CDD) deemed the application to be complete on March 21, 2016. (Exhibit 21)

The subject property is located at 19022 36th Avenue W.

The Lynnwood Hearing Examiner (Examiner) viewed the subject property on April 28, 2016.

The Examiner held an open record hearing on April 28, 2016. CDD gave notice of the hearing as required by the Lynnwood Municipal Code (LMC). (Exhibits 17; 18)

¹ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.
² Exhibit citations are provided for the reader's benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner's Recommendation is based upon all documents in the record.

The following exhibits were entered into the hearing record during the hearing:

- Exhibit 1: Departmental Staff Report
- Exhibits 2 - 20: As enumerated in Exhibit 1 at pp. 3 and 4
- Exhibit 21: Letter of Completeness, March 1, 2016

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner's knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

FINDINGS OF FACT

1. The major issue of concern to most citizens who participated in the open record hearing was impact on the area's street network, especially on 190th Place SW.

The major streets in the area are 188th and 196th Streets SW (about equidistant to the north and south, respectively, from the subject property) and 40th and 36th Avenues W. (Exhibit 11, Fig. 2 following p. 4) 188th Street SW is an east-west minor arterial leading to the Alderwood Mall which is located a short distance to the east of 36th Avenue W. 36th Avenue W is a 5-lane minor arterial with the center lane being a combination of two-way-left-turn and planted median. (Exhibit 11, p. 4; testimony; official notice: Comprehensive Plan, Fig. T-5, p. 5.40)

The 40th and 36th Avenues W intersections at 188th and 196th Streets SW are signalized. (Official notice: Comprehensive Plan, Fig. T-6, p. 5.41) The only traffic control on 40th Avenue W between 188th and 196th Streets SW is a three-way stop at 190th Place SW which was apparently installed to deter southbound drivers from speeding to "catch some air" as they crest a vertical curve in the street just north of that three-legged intersection. (Testimony)

190th Place SW is a two-lane street which extends easterly from 40th Avenue W to terminate as a temporary dead-end at the west boundary of the subject property. It currently serves 13 single-family residences. (Exhibits 3, Sheet 2 of 3; 11, pp. 1 and 4)

191st Place SW is a local through street between 40th and 36th Avenues W. Its intersection with 36th Avenue W has limited turning movements: Southbound right turns in are not permitted, nor are eastbound left turns out. One citizen opined that this arrangement has worked quite well to prevent cut-through traffic. (Exhibits 3, Sheet 2 of 3; 19; official notice)

2. The subject property consists of two rectangular parcels which together form a larger rectangle approximately 308 feet (north-south) by approximately 616 feet (east-west), containing 189,656 square feet (SF)/4.35 acres. The subject property fronts on 36th Avenue W along its entire east side; 190th Place SW dead-ends against its west property line. The northern two-thirds of the subject

property (Parcel A) is owned by Anderson and is undeveloped. The southern third (Parcel B) is owned by Echelbarger and contains a single-family residence and accessory building(s) ³ located about 150 feet from 36th Avenue W. (Exhibit 3)

3. The subject property is bordered on the north by the approved but as yet undeveloped subdivision of *Heritage Estates* and the developed *Amini* plat; on the south by nine lots, eight of which are within the *Highlynn View* plat; and on the west by two lots and the stub end of 190th Place SW in *Avon Park*. The Colony Park office complex lies across 36th Avenue W from the subject property. (Exhibits 3, Sheet 2 of 3; 11, p. 4 and Fig. 4 following p. 8)
4. On June 1, 2011, following an “informal public meeting,” the undersigned recommended to the City Council that it approve the *Heritage Estates* preliminary subdivision application. ⁴ *Heritage Estates* is a subdivision of approximately six acres into 26 lots for single-family residences. The *Heritage Estates* site extends easterly from 40th Avenue W along the north side of 189th Place SW (a dead-end street much like 190th Place SW) and then expands to the south to abut the Anderson property as described above. The approved street pattern will upgrade 189th Place SW to current standards and extend it to temporarily dead-end at the north line of the Anderson property. The Examiner’s Recommendation indicates that City Staff expected that the street end would eventually be connected to 190th Place SW or extended to intersect 36th Avenue W. (Official notice)
5. The *Highlynn View* lots (as well as the lots in *Parkwood Addition* to the west) are served by 191st Place SW. (Exhibit 3, Sheet 2 of 3)
6. The plat design which is before the Examiner contemplates an extension of 190th Place SW through the subject property to a full intersection with 36th Avenue W. A public street stub to the north property line will connect with the stub in *Heritage Estates*. ⁵ Two short, private access tracts (Proposed Tracts 997 and 998) will provide access to five of the 16 proposed lots. All existing structures on the subject property will be removed. (Exhibits 1, p. 11; 3; 7)

The proposed plat has been designed using the lot size averaging provisions of LMC 21.42.210(C). The standard minimum lot area in the RS-8 zone is 8,400 SF. [LMC 21.42.200, Table 21.42.02] The minimum allowed lot size in a lot size averaged subdivision is 7,560 SF. [LMC 21.42.200(C)(1)] The proposed lots range in size from 7,692 SF to 9,450 SF. (Exhibit 6) The maximum area in an individual lot that can be credited for lot size averaging is 10,500 SF. [LMC 21.42.200(C)(2)] The

³ Exhibit 3 depicts only one accessory building; some witnesses referred to more than one accessory building. The difference is immaterial to the Decision.

⁴ The LMC at that time had a different review and approval process for preliminary subdivisions: The Examiner held an “informal public meeting” after which he submitted a written recommendation to the City Council; the City Council then held a pre-decision open record hearing after which it made a decision on the application. (Official notice)

⁵ Phoenix’s project engineer coordinated the proposed design with the engineer for *Heritage Estates* to ensure a satisfactory street connection. Phoenix’s engineer stated that construction plans are currently being prepared for *Heritage Estates*, an indication that construction of that subdivision is anticipated in the near future. (Testimony)

average lot size, calculated in accordance with LMC 21.42.200(C) is approximately 8,421 SF. (Exhibit 6) All proposed lots meet the bulk regulations of the LMC. (Exhibits 1; 3; 6)

7. The subject property's elevation drops from 488 – 500 feet along its west boundary to 444 – 446 feet along 36th Avenue W. Thus, the maximum elevation drop across the site is about 56 feet. The grade change is not uniform: Most of the grade change occurs across the western third and eastern quarter of the subject property with the central portion of the site relatively flat. The slopes in the western and eastern portions of the site fall in the 10% – 12% range. No regulated critical areas exist on the subject property. (Exhibits 1, p. 7. § IX; 3, Sheet 2 of 3)
8. An ISA Certified Arborist describes the site as follows:

This site appears to have been neglected for many years, and is heavily overgrown with invasive species (Himalayan blackberries) and weak pioneer species of trees (red alder, cottonwood, black locust, poplar, willow and Bittercherry). ...

Climax species (Western red cedar, Douglas firs, etc.) on the site have been neglected as well, and many are in poor condition. The site appears to have been used for many years as both a dump site for the neighborhood, and areas have been used as homeless habitats.

(Exhibit 4, p. 22)

9. The site contains 185 trees of which 96 meet the City's definition of a "significant tree".⁶ Of those 96, only 41 are considered healthy. (Exhibit 4, p. 1)

Chapter 17.15 LMC does not require retention of any minimum number or percentage of trees on a development site. The chapter requires that when significant trees are removed from a development site, the developer must replace those trees at a specified ratio or a fee-in-lieu of replacement must be paid to the City.

Because of the site's slopes, substantial terracing of the lots is proposed. Terracing will result in retaining walls along much of the south property line up to nine feet high to retain fills and along the north property line to retain cut banks. The retaining walls will stair-step down, lot-by-lot as they go from west to east. Phoenix plans to use a "Lock-n-Load" style block wall system in which the blocks have an architectural treatment on their exposed faces. (Exhibit 7, Sheet 3 of 5; testimony)

The terracing will necessitate removal of all trees from the subject property. (Exhibit 7, Sheet 5 of 5)

⁶ A "significant tree" is "any tree that is at least six inches in D.B.H. [diameter at breast height], and not" one of the species listed in the first quoted paragraph, above. [LMC 17.05.080(A)]

The ISA Certified Arborist submitted a report to the City for all significant trees as required by LMC 17.15.080. The report states that 132 replacement trees will be needed based on the requirements in LMC 17.50.080 and .090. (Exhibit 4) Phoenix proposes to plant 132 replacement trees. The LMC does not require that new subdivisions be screened from view by trees or a “greenbelt.” (Exhibits 1, p. 2; 4, p. 1)

10. The record contains evidence that appropriate provisions have been made for drainage (Exhibits 1, p. 9; 5; 7); streets and roads (Exhibits 1; 7; testimony); potable water supply (Exhibits 1, p. 9; 7, Sheet 3 of 5); sanitary wastes (Exhibits 1, p. 9; 7, Sheet 3 of 5); and safe walking conditions for children who walk to school (Exhibit 1, p. 9). City regulations do not require open space tracts in subdivisions. (Exhibit 1, p. 9) Open space in the form of yards on the individual lots will be provided. The plat design does not require alleys or other public ways. (Exhibit 3) Transit stops were not requested. The City does not assess park or school impact fees. (Exhibit 1, p. 9)
11. The City’s SEPA Responsible Official “determined that this proposal is SEPA exempt”. (Exhibits 1; 13; testimony)
12. CDD concludes, based upon its analysis of the application, that the proposal complies with all criteria for approval subject to imposition of a number of conditions. (Exhibit 1; recommended conditions listed on pp. 11 and 12)
13. Phoenix concurs with CDD’s analysis and has no objection to the recommended conditions. (Testimony)
14. In addition to one comment letter (Exhibit 19) a number of neighborhood residents participated in the open record hearing. By and large those participants oppose making 190th Place SW a through-street because they believe it will lead to cut-through Mall traffic trying to avoid signals on 188th Street SW. Other stated concerns are the extent of proposed tree clearing, the wetness of the area, and the loss of wildlife habitat currently provided by the site. (Exhibit 19; testimony)
15. The City Traffic Engineer testified that the City has a “very mature [traffic calming] program” in place to address cut-through traffic and other related problems throughout the City. He said that the most successful way to employ traffic calming measures is to identify specific problems in the field and then design a solution for the identified problem. (Testimony)

The City requested that Phoenix design the plat with a through-street through *Leawood Heights* with full turning movements at 36th Avenue W, in part to improve emergency vehicle access in the area. The traffic analysis performed by Phoenix’s consultant demonstrates that, with some minor adjustment to the center medians in 36th Avenue W, the 36th Avenue W/190th Place SW intersection will function successfully without creating problems for the business traffic from Colony Park across 36th Avenue W. (Exhibit 11; testimony)

One of the recommended conditions of approval requires the developer to install curb “bulb-outs” on 190th Place SW where required by the City Traffic Engineer. (Exhibit 1, p. 12, Recommended Condition 2(8)) The City Traffic Engineer testified that if those do not adequately deter cut-through traffic, the neighborhood can request that the City implement additional traffic calming measures. (Testimony)

16. Phoenix’s engineer testified that drainage from the eastern end of current 190th Place SW is discharged from a pipe onto the subject property. Phoenix’s proposed drainage plan contemplates tying that pipe into the *Leawood Heights* drainage conveyance system and routing its flows through the *Leawood Heights* stormwater detention vault (in Proposed Tract 999) before discharging it into the City’s drainage system in 36th Avenue W. (Testimony)
17. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK ⁷

The Examiner is legally required to decide this case within the framework created by the following principles:

Authority

A preliminary subdivision is a Process I application which requires an open record hearing before the Examiner. The Examiner makes a final decision on the application which is subject to the right of reconsideration and appeal to Superior Court. [LMC 1.35.100, .168, and .175 and LMC 19.15.010(A)]

Review Criteria

The review criteria for preliminary subdivisions are set forth at LMC 19.20.035:

- A. The preliminary plat shall conform to ... the following factors as they now exist or as they may be amended:
 1. The goals, policies and objectives of the Lynnwood comprehensive plan;
 2. The Lynnwood comprehensive parks and recreation plan;
 3. The Lynnwood zoning code;
 4. The standards of [Title 19 LMC] and Chapter 58.17 RCW;
 5. The Lynnwood comprehensive street and arterial plan;
 6. The standards of LMC Title 17, Environment;
 7. The Lynnwood water system comprehensive plan;
 8. The Lynnwood comprehensive flood and drainage management plan, and Chapter 13.40 LMC, Drainage Plans;
 9. The compatibility of the plat to the existing neighborhoods;

⁷ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

10. Other plans and programs as the City of Lynnwood may adopt.

B. A proposed subdivision and dedication shall not be approved unless the hearing examiner makes written findings that:

1. appropriate provisions are made for, but not limited to:
 - a. the public health, safety, and general welfare;
 - b. open spaces, drainage ways, streets, roads, alleys, other public ways and transit stops;
 - c. potable water supplies, and sanitary wastes;
 - d. parks and recreation, playgrounds, schools and school grounds;
 - e. all other relevant facts, including sidewalks and other planning features that assure safe walking conditions.
2. the public use and interest will be served by the platting of such subdivision and dedication.
3. the proposed subdivision and dedication is in conformity with the Lynnwood zoning code and land use controls.

A “consistency determination” is also required for every project application. A consistency determination follows four steps set forth at LMC 1.35.070. Consistency criteria are:

1. Type of land use permitted at the site, including uses that may be allowed under certain circumstances if decision criteria are met;
2. Density of residential development (if applicable); and,
3. Availability and adequacy of public facilities (for those facilities identified in the Comprehensive Plan, if the Plan or the City’s development regulations provide for funding of these facilities).

[LMC 1.35.070(A)]

Vested Rights

Subdivision and short subdivision applications are governed by a statutory vesting rule: such applications “shall be considered under the subdivision or short subdivision ordinance, and zoning or other land use control ordinances, in effect on the land at the time a fully completed application ... has been submitted” [RCW 58.17.033]

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [LMC 1.35.155 and 19.20.035(A)]

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS OF LAW

1. The subject property is designated (SF-1) and zoned (RS-8) for single-family residential development at roughly five dwelling units per acre. That is an urban density which is entirely appropriate in an incorporated city. Wildlife presently living on the site will, most likely, be lost. That loss is a direct result of the City Council's legislative decision to urbanize this area. Urbanization is, generally speaking, incompatible with most wildlife species habitat, especially for animals such as deer, bear, coyote, etc. The legislative decision to designate and zone the area for urbanization amounts to a conscious legislative choice of human habitat over wildlife habitat. That legislative choice is not debatable in the context of this (or any other quasi-judicial) application. [RCW 36.70B.030 and/or .040]
2. A central fact of this case is that none of the opponents argued that the current proposal fails to comply with any adopted standard applicable to the design of subdivisions or that it fails to comply with any of the criteria for approval. One could argue that since the record contains no challenge to standard or criteria compliance, the objections are without merit. But the undersigned declines to so summarily dismiss the neighbors' concerns.
3. The neighbors' fundamental objection is to making 190th Place SW a through street. While the opponents presented anecdotal testimony of current cut-through attempts and fear that a through street will lead to even more such trips once drivers learn that the street actually goes through to 36th Avenue W, they presented no data-driven analysis of the magnitude of either the current situation or of the feared future.

City staff (Fire Marshal, Public Works, CDD) believe that a through connection will benefit both the general public as well as emergency responders. All technical evidence demonstrates that such a connection will not create unacceptable levels of service on the street system. And, as City staff pointed out during the hearing, when a motorist reaches 36th Avenue W, he/she will discover that without a traffic signal at that intersection, left turns to go to the Mall via 190th Place SW will be less than convenient.

An additional consideration: 190th Place SW is a temporary dead-end street, it is not a permanent cul-de-sac. As a temporary dead-end, it was always expected that it would be extended at some time in the future.

4. The undersigned understands the neighbors' concerns. But the evidence in this record does not support forcing a different design on Phoenix and City staff. The City Traffic Engineer as much as committed the City to respond positively to neighborhood requests for further traffic calming steps if, after the street connection is open for use, experience indicates that reality is worse than currently expected by the City.
5. The City has an adopted tree retention regulation [Chapter 17.15 LMC], but that regulation does not mandate preservation of any particular number or percentage of trees on a development site. The chapter's purpose is, among other things, to preserve existing trees. [LMC 17.15.030(A)] But, purpose statements in ordinances are not regulatory. "Declarations of policy in an act, although without operative force in and of themselves, serve as an important guide in determining the intended effect of the operative sections." [*Hearst v. Hoppe*, 90 Wn.2d 123, 128, 580 P.2d 246 (1978)] However, a decision maker cannot ignore regulatory provisions by looking to purpose statements. [*Cox v. Lynnwood*, 72 Wn. App. 1, 7, 863 P.2d 578 (1993)] The adopted regulations allow every tree on a development site to be removed. The adopted regulations require replacement of trees that are not retained at a specified ratio or payment of a fee-in-lieu of retention. [LMC 17.15.090, .110(D), .120(D), and .120(E) and Chapter 3.104 LMC]

The adopted regulations require issuance of an administrative permit before tree cutting occurs. [LMC 17.15.100] Clearing a site for development requires an administrative Class II tree removal permit. [LMC 17.15.120] The adopted regulations provide guidance for the administrative official to use when reviewing a Class II tree removal permit application. [LMC 17.15.130] Those regulations will have to be followed before any trees are cut on the subject property. The Examiner has no authority to issue such permits.⁸ Therefore, substantive conclusions regarding tree removal would be inappropriate in the present context.

6. One witness urged that the application be denied so that the site could remain a wooded site for the esthetic and environmental benefit of the neighborhood. It would not be legal to deny an application that meets all required criteria for approval solely to preserve the site for the enjoyment of others. This is private property and its owner(s) have just as much right to develop it in accordance with adopted regulations as did the owners of *Amini*, *Highlynn View*, *Parkwood Addition*, and *Avon Park*.
7. The Examiner has expressed concerns in previous preliminary subdivision decisions (*e.g.*: *Arianna Place* (PLT-003243-2015), *Applegate Division II* (PLT-002851-2015)) about high retaining walls along the perimeter of subdivision sites. Both of those cases resulted in imposition of a condition that read essentially as follows: "The developer shall provide some sort of architectural treatment to the proposed segmented block wall(s). In addition, the developer shall plant evergreen climbing vines, of types and spacing recommended by a licensed landscape architect, along the bases of those wall(s)." That condition will be added here to protect the public use and interest of the abutting property owners.

⁸ The Examiner hears appeals from administrative decisions rendered under Chapter 17.15 LMC. [LMC 17.15.200]

8. The analysis set forth in the Staff Report (Exhibit 1) demonstrates that the proposal, as designed, meets the standards referenced in LMC 19.20.035(A).
9. The evidence which has been summarized in the Findings of Fact, above, demonstrates that the proposal meets the criteria for approval set forth in LMC 19.20.035(B).
10. *Leawood Heights* passes the “consistency” test: Single-family residences are a permitted use in the RS-8 zone which applies to the subject property; the proposed density is within the range allowed by the applicable zone; adequate public utilities are available to serve the 16 (15 new) proposed lots.
11. The recommended conditions of approval as set forth in Exhibit 1 are reasonable, supported by the evidence, and capable of accomplishment with the following changes:
 - A. Recommended Condition 1. The preliminary grading, road, utility, and tree retention plans within Exhibit 7 are plans which have informed the Examiner’s decision making in this case. It is appropriate, therefore, that Exhibit 7 be included in this condition as a supporting preliminary plan set.
 - B. Recommended Conditions 2(2) and 2(9). Both of these conditions require formal notification that Road B may extend to the north to serve the abutting property. The record indicates that preliminary subdivision approval of that property has been received and that construction of that subdivision may be shortly forthcoming. If the street in that subdivision is under construction or has been constructed when *Leawood Heights* is recorded, neither of the required notices would be necessary. A clause to that effect will be added to each of these conditions.
 - C. Recommended Condition 2(6). The second and third sentences in this condition are statements of fact which provide justification for the condition, not condition statements. They are unnecessary and will be omitted.
 - D. A few minor, non-substantive structure, grammar, and/or punctuation revisions to Recommended Conditions 1, 2(1), and 2(3) – 2(8) will improve parallel construction, clarity, and flow within the conditions. Such changes will be made.
12. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, the testimony and evidence submitted at the open record hearing, and the Examiner's site view, the Examiner **APPROVES** the preliminary subdivision of *Leawood Heights* **SUBJECT TO THE ATTACHED CONDITIONS**.

Decision issued May 2, 2016.

\s\ John E. Galt (Signed original in official file)

John E. Galt
Hearing Examiner

HEARING PARTICIPANTS⁹

Mark Villwock
Cris Halbert
Gary Karns
Donna Matsuoka
Arnold Kay
Paul Coffelt

Chanda Emery
Charles Craig
Michael Wojack
Charles Croke
Paul Krauss
Dale McIntosh

⁹ The official Parties of Record register is maintained by the City's Hearing Clerk.

NOTICE of RIGHT of RECONSIDERATION

This Decision is final subject to the right of any party of record to file with the Community Development Department a written request for reconsideration within seven calendar days following the issuance of this Decision in accordance with the procedures of LMC 1.35.168. Any request shall specify the error of law or fact, procedural error, or new evidence which could not have been reasonably available at the time of the hearing conducted by the Examiner which forms the basis of the request. See LMC 1.35.168 for additional information and requirements regarding reconsideration.

NOTICE of RIGHT of APPEAL

This Decision is final subject to the right of a party of record (See LMC 1.35.148.) with standing, as provided in RCW 36.70C.060, to file a land use petition in Superior Court in accordance with the procedures of LMC 1.35.175. Any appeal must be filed within 21 days following the issuance of this Decision. See LMC 1.35.175 for additional information and requirements regarding judicial appeals.

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| <p>The following statement is provided pursuant to RCW 36.70B.130: “Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.”</p> |
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CONDITIONS OF APPROVAL
PLT-003561-2016
LEAWOOD HEIGHTS

This Preliminary Subdivision is subject to compliance with all applicable provisions, requirements, and standards of the Lynnwood Municipal Code, standards adopted pursuant thereto, and the following special conditions:

1. Exhibit 3 shall be the approved preliminary plat; Exhibit 7 shall be the approved preliminary supporting plans. Minor revisions to approved preliminary plats are allowed pursuant to LMC 19.25.005(B).
2. Prior to final plat approval, the Developer shall meet all conditions and requirements and provide all improvements which include:
 - 1) The final plat shall graphically and/or textually note the following access restrictions: Lots 1 and 10 shall share access from Tract 997; Lots 8 and 9 shall only have access from Road B; Lots 5, 6, and 7 shall only have access from Tract 998.
 - 2) The Developer shall install a permanent sign at the stub-end of Road B indicating that the street may be extended into the adjoining parcel when that land is subdivided; PROVIDED, that if the subdivision and street on the adjoining parcel are under construction or have been completed at the time this plat is recorded, this condition shall be moot. The text, design and method of installation shall be subject to approval by the City's Public Works Director.
 - 3) Pursuant to LMC 19.35.020(A)(7), Lots 5, 6 and Tract 999 shall include a minimum 10-foot-wide landscape buffer strip that shall be installed along the front property line at 36th Avenue West. The buffer strip shall be the property owners' responsibility to maintain. The strip shall be designated on the plat as follows: *"This strip is reserved for screening. The placement of any structure hereon is prohibited."* Care shall be taken to alleviate sight obstruction at the intersection. Where appropriate, the Developer shall install low maintenance landscaping utilizing different textures and colors of plant species as part of this proposal. If installing segmented block walls, the Developer shall provide some sort of architectural treatment to those retaining walls. A landscape architect shall have the authority to certify that the species of trees and plants that are selected are appropriate and that the design of the landscaping plan will fulfill City code requirements.
 - 4) Road A and Road B as shown on Exhibit 3 shall be dedicated to the City of Lynnwood upon recording of the plat.

- 5) The Developer shall pay traffic impact fees prior to the issuance of the building permits. There will be a credit for the existing residence.
- 6) Full unrestricted access will be provided into the subdivision from 36th Avenue West. During construction plan review, City staff shall determine the final configuration of the channelization on 36th Avenue West that will involve removal of some or all of the median landscape island in the vicinity of the new subdivision intersection to meet LOS requirements.
- 7) Access tracts to Lots 1, 4, 5, 6, and 7 shall be designated as fire lanes and marked accordingly.
- 8) The Developer shall provide curb extensions (bulb-outs) per City standards along 190th Place SW in locations determined by the City's Traffic Engineer to address traffic calming.
- 9) The Developer shall record a notice of the planned extension of Road "B" as part of the record of the subdivision PROVIDED, that if the subdivision and street on the adjoining parcel are under construction or have been completed at the time this plat is recorded, this condition shall be moot.
- 10) The Developer shall provide some sort of architectural treatment to the proposed segmented block wall(s) along the perimeter of the site which retain fill. In addition, the developer shall plant evergreen climbing vines, of types and spacing recommended by a licensed landscape architect, along the bases of those wall(s).