

1 **BEFORE THE HEARING EXAMINER FOR THE CITY OF MONROE**

2 Phil Olbrechts, Hearing Examiner

3

RE: Garibaldi Preliminary Plat & PRD PDPRD2018-02	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION
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6 **SUMMARY**

7 Garibaldi Lake LLC requests preliminary plat and planned residential development
8 (PRD) approval for subdividing 17.85 acres into 90 lots at 13624, 13424, 13704, and
9 13802 Chain Lake Road. The Hearing Examiner recommends Council approval of the
10 preliminary plat and PRD subject to conditions.

11 As outlined in past PRD recommendations, case law requires that the City Council
12 make the final decision on PRD applications that involve increases in density. This is
13 because authorizing an increase in density over the underlying zoning is considered a
14 legislative act. The Applicant for this application seeks a PRD density bonus to
15 increase the number of units authorized by the underlying R4 zoning district from 71
16 units to 90 units.

17 PRD regulations require numerous design concessions to qualify for a density bonus.
18 A key requirement is that the PRD design be “*better than that resulting from traditional
19 development and provides a net benefit to the city.*” See MMC 18.84.120b. The
20 proposed PRD provides meets this objective, more so than most of the other PRDs
21 reviewed in the past. Most significantly, the proposed PRD includes almost 50% more
22 open and recreational space than that required as a minimum for PRDs. PRD
23 regulations require a minimum of 64,260 square feet of parks and open space for the
24 proposed PRD. The Applicant proposes 91,938 square feet. Granted, 66,467 square
25 feet of that space is within a PSE easement. However, that PSE space would not have
to be developed for recreational use in a standard subdivision. The Applicant’s
preliminary landscape plan shows the easement area developed with a winding trail,
perimeter landscaping and picnic tables. The proposal also includes some landscaping
tracts located at the entrance to the project site and other focal points that add to the
aesthetics of the overall project.

Ten neighbors in the adjoining Eaglemont subdivision signed a petition expressing
concern over view, light and noise impacts. Eaglemont appears to be a development
of similar density to the proposal that was subject to the same PRD standards when it
was approved.

The Eaglemont petitioners assert that the proposed homes will block views of the
Cascades. The petitioners have presented some useful diagrams, Ex. 9A, that show the
extent of view obstruction. Regardless, the Eaglemont views are not protected by any
City regulations. The City’s development standards authorize 35-foot building height

1 in the R4 district. The PRD does not exceed the height limit. In the absence of any
2 specific view protection standards, the City does not have the legal authority to limit
development due to view impacts².

3 The neighbors' concern over light is primarily from car headlamps. Those impacts are
4 also depicted in diagrams included within Ex. 9A. Those headlamp impacts are
5 mitigated as much as reasonably practicable, with perimeter landscaping already
6 required of the Applicant and the wall of homes proposed as part of the PRD. Noise
impacts are regulated by the City's noise regulations, specifically MMC 6.04.055.
7 There is nothing in the record to suggest that the proposal will generate any level of
noise that is not typically associated with single-family development.

8 **ORAL TESTIMONY**

9 A computer-generated transcript has been prepared of the hearing to provide an
10 overview of the hearing testimony. The transcript is provided for informational
11 purposes only as Appendix A. Since the transcript is computer generated, it is not
100% accurate, but does provide a good indication of what was discussed during the
hearing.

12 **EXHIBITS**

13 Exhibits 1-18 in the "Hearing Examiner Exhibit List" were admitted into the record
14 during the hearing.

15 **FINDINGS OF FACT**

16 **Procedural:**

17 1. Applicant. The Applicant is Garibaldi Lake, LLC, 1010 Market Street, Kirkland,
18 WA 98033.

19
20 ² The only City subdivision/PRD criterion that could conceivably be construed as requiring protection
21 of views is MMC 17.12.030(H), which broadly requires protection of public health, safety and welfare.
22 Even if this provision could be construed as applying to protection of private views, it is not specific
23 enough to justify any view protection measures. An ordinance violates due process if its terms are so
24 vague that persons of common intelligence must necessarily guess at its meaning and differ as to its
25 application. *See Anderson v. Issaquah*, 70 Wn. App. 64, 75 (1993). In the area of land use, when
assessing a vagueness challenge a court looks not only at the face of the ordinance but also at its
application to the person who has sought to comply with the ordinance and/or who is alleged to have
failed to comply. Id. Persons of common intelligence would be hard-pressed to all agree that limiting
building height or development in this case to protect private views is necessary to protect public health,
safety and welfare.

1 2. Hearing. The Examiner held a virtual Zoom hearing on December 30, 2021 at
10:00 am, Webinar ID No. 867 7247 3016.

2 **Substantive:**

3 3. Site Proposal/Description. Garibaldi Lake requests preliminary plat and planned
4 residential development approval for subdividing 17.85 acres into 90 lots at 13624,
5 13424, 13704, and 13802 Chain Lake Road. Frontage improvements, including
6 pavement, curb, gutter, planters, and sidewalks, will be required along internal access
7 roads and Chain Lake Road. The project site contains four single-family residences
8 and accessory buildings, all of which will be demolished. The site has a fairly regular
and moderately steep grade from higher elevations in the northwest corner sloping
downward toward the south and east boundaries. There is a steeper portion in the very
southeast corner of the site that slopes southeast.

9 4. Characteristics of the Area. The project site is surrounded with land zoned R4 and
10 developed with single-family homes.

11 5. Adverse Impacts. There are no adverse impacts associated with the development.
12 A SEPA Determination of Non-Significance (DNS) was issued on December 6, 2021
(Exhibit 10). Pertinent impacts are addressed as follows:

13 A. Critical Areas. The proposal will not adversely affect critical areas.

14 The site contains one wetland (Wetland A) and one stream. The Applicant has
15 prepared a critical areas report, Ex. 18, that classifies and delineates these critical
16 areas. The wetland is rated as a City of Monroe Category III wetland per Monroe
17 Municipal Code (MMC) §20.05.080 that requires a standard buffer of 75 feet. The
18 stream is typed as a Type 5 water reflecting its narrow channel width and lack of
19 fish, including salmonids. MMC §20.05.090.D.6 requires a 50-foot standard buffer
20 for Type 5 streams. Portions of the standard buffer will be impacted and/or reduced
21 by required development improvements, which will be mitigated by buffer
22 averaging that will involve buffer replacement with enhancement. The remainder
23 of the buffers and the stream and wetlands themselves are protected within a
separate common open space tract. According to the staff report, the stream is not
subject to the City's shoreline jurisdiction under the Shoreline Management Act,
Chapter 90.58 RCW. As mitigated, the critical areas report concludes that the
proposal will result in no net loss of critical area functions and values compared to
existing conditions and will result in a net gain of buffer area. City staff have
reviewed the proposal for conformance to the City's critical areas regulations and
have found it adequate for preliminary plat review.

24 The Washington Department of Fish & Wildlife (WDFW) Priority Habitat and
25 Species (PHS) database indicates no protected species or habitat on or adjacent to
the project site. The nearest salmonid-bearing stream is more than ½ mile to the
southeast.

1 The Applicant also had a geotechnical report prepared, Ex. 15, that assessed the site
2 for geologically hazardous areas. None were found to be present.

3 The staff report identified that there are no floodplains located at the project site.

4 The staff report did not identify aquifer recharge areas. However, single-family
5 developments rarely involve any activity that threatens the water quality of aquifer
6 recharge areas. The geotechnical report identifies the possibility of perched
7 seepage but does not identify any excavation activity that could adversely affect an
8 aquifer.

9 B. Compatibility. The proposal is compatible with surrounding development.
10 All surrounding development is zoned R4, the same as the project site. Photo 1b
11 of Ex. 9-A shows that the proposal is of the same or similar density as the adjoining
12 Eaglemont development to the west. Open space tracts and Chain Lake Road
13 separate the project site from development to the east. Aerials in the critical areas
14 report show that the homes on the adjoining homes to the north are on large lots
15 with a large degree of separation from the homes to the project perimeter.

16 In a petition, Ex. 9A, Eaglemont neighbors to the west raised concerns about view
17 impairment, light and noise. The impacts are addressed in the Summary section of
18 this Decision, incorporated by this reference as if set forth in full.

19 6. Adequacy of Infrastructure/Public Services. The project will be served by adequate and
20 appropriate infrastructure and public services. All applicable level of service standards for
21 services and facilities are met as identified at page 6 of the staff report. Adequacy is more
22 specifically addressed as outlined below:

23 A. Water and Sewer Service. The proposal provides for adequate and appropriate water
24 and sewer service. The City of Monroe will provide water, sewer and stormwater
25 service. As noted in the staff report, there is sufficient capacity available in the
26 City's public water and sanitary sewer system to serve the proposed subdivision.
27 All lots will connect to the City's water and sewer system. Sanitary sewer and water
28 lines will be constructed in the proposed public rights-of-way in accordance with
29 the City's Public Works Design and Construction Standards.

30 B. Fire and Police Protection. The proposal provides for adequate and appropriate
31 fire and police protection. Fire protection will be provided by Snohomish Regional
32 Fire and Rescue. Police protection will be provided by the City of Monroe Police
33 Department. Neither the Fire District nor the police chief cited any concerns when
34 they reviewed the proposal.

35 C. Drainage. The proposal provides for adequate and appropriate stormwater
36 controls. The Applicant has prepared a preliminary storm drainage report, Ex. 16,
37 that proposes a preliminary stormwater conveyance system that Public Works staff
38 has found to comply with the City's stormwater standards. Specifically, the
39 proposed stormwater controls have been designed to comply with the requirements

1 of the Department of Ecology Storm Water Management Manual for Western
2 Washington (2014). Those standards require off-site flows and velocities not
3 exceed the pre-developed, forested conditions of the project site. Hydrologic
4 modelling is employed to identify the stormwater controls necessary to meet this
5 standard. The Storm Water Management Manual also imposes rigorous standards
6 for maintaining acceptable levels of water quality.

7 **To meet the standards of the Storm Water Management Manual, the preliminary storm drain report proposes to collect on-site runoff and convey it to one of two stormwater detention vaults prior to release. The north vault will release mitigated flows through a level spreader to the on-site wetland. The south vault will release mitigated flows to an existing catch basin in the Chain Lake Road right-of-way. Surface runoff will be collected by roof drains, roadway and yard inlets, and a system of below grade pipes on the site. Final stormwater design will have to meet the approval of Public Works staff prior to final plat approval.**

10 D. Parks/Open Space. The proposal provides for adequate and appropriate parks
11 and open space by exceeding applicable PRD parks and open space standards.

12 The proposal provides four private neighborhood parks/tracts within the
13 development. Tracts 990, 993, and 995 (66,461 sq. ft.) will provide active and
14 passive recreation and will contain a soft surface trail, picnic tables, and benches.
15 Tract 996 will have a play structure (Exhibit 12) and brings the total amount of
16 parks and recreational space for the project to 91,938 square feet. Maintenance of
17 the park, recreation, open space areas and critical areas Tract 999 shall be the
18 responsibility of the homeowner's association.

19 Pursuant to MMC 18.84.080(A)(1), a PRD located within the R4 zone must
20 dedicate a minimum area of 900 square feet of usable park and recreational open
21 space per base dwelling unit. The Applicant proposes 90 single-family residential
22 lots. Based on the 71.4 allowed base units by the R4 zone for 17.85 acres, a
23 minimum useable open space dedication of 64,260 square feet is required (1.48
24 acres). As previously noted, the proposal provides for 91,938 square feet of open
25 space, which significantly exceeds the minimum requirement. Pursuant to MMC
18.84.080(I)(2), "*[a]ll park and recreational usable open space shall be three-fourths acre or larger.*" Tracts 990, 993, and 995, as contiguous tracts separated by internal roads, provides a useable open space with an area greater than three-fourths of an acre.

26 Park impact fees mitigate against demand created for the City's park system. In
27 accordance with MMC Chapter 3.52, park impact fees require a standard fee
28 amount per dwelling unit as a condition of residential development within the city.

1 Park impact fees shall be paid in accordance with MMC 3.52. Park impact fees
2 shall be based on the fee amount in effect at the time of payment.

3 E. Schools. Impacts to the Monroe Public Schools and the Snohomish School
4 District in the form of additional students are addressed through mitigation
5 programs. The City of Monroe has adopted the Monroe and Snohomish School
6 Districts' 2020 - 2025 Capital Facilities Plan and imposes impact fees for schools
7 in accordance with the plan and MMC Chapter 3.50. School impact fees require a
8 standard fee amount per dwelling unit as a condition of residential development
9 within the city. School impact fees are based on the amount in effect at the time of
10 payment.

11 RCW 58.17.110(2) requires the City to make a finding that the proposed
12 subdivision assures "*safe walking conditions for students who only walk to and*
13 *from school.*" Students will be bussed from the development to Park Place Middle
14 School and Monroe High School by the Monroe School District. Most grade school
15 students will be bussed to Chain Lake Elementary School. The public streets
16 created within the subdivision generally include sidewalks on all sides of the street
17 where residential lots front public roadways as well as a sidewalk along the property
18 frontage adjacent to Chain Lake Rd.

19 F. Streets and Traffic. Access to the subdivision is proposed via Chain Lake Road,
20 a collector street providing primary access to the US-2, SR-203 and the commercial
21 areas of Monroe. The four local streets within the project will be public, with Road
22 A providing a direct connection to Chain Lake Road, Road D providing a secondary
23 emergency access to Chain Lake Road, and Roads B and C providing internal
24 circulation within the plat. With the exception of two approved deviation requests,
25 the design of the roads is in general conformance with the City's standards for local
access roads. The plat includes four private access roads/tracts that are all less than
or equal to 150-feet in length. The overall roadway layout is a direct response and
consideration of the challenging site topography, critical areas, and 100-foot-wide
PSE easement, all of which place constraints and limits on the developable areas of
the site.

The Applicant will dedicate right-of-way for streets as shown on the proposed
preliminary plat map. Frontage improvements, including curb, gutter, sidewalk and
street trees shall be provided for all public streets within the subdivision. Frontage
improvements along Chain Lake Road include curb and gutter, a landscape strip
with street trees along the entire length of the property frontage. Construction of a
ten-foot-wide bike/pedestrian trail along the frontage on Chain Lake Road is
nearing completion as a previously approved City capital improvement project
unrelated to the development of this property. Traffic control devices and street
signs shall be installed prior to final plat approval, and all public roads within the
subdivision shall be constructed in accordance with the City's Public Works Design

1 and Construction Standards and installed by the developer to the satisfaction of the
2 City prior to final plat approval.

3 Based on the Traffic Impact Analysis, prepared by Gibson Traffic Consultants, Inc.,
4 dated August 2021 (Exhibit 17), the development is anticipated to generate
5 approximately 64 AM peak-hour trips and 85 PM peak-hour trips. The level of
6 service analysis shows that all of the study intersections in the TIA are anticipated
7 to operate within acceptable level of service thresholds.

8 Impacts to the City's transportation system are mitigated through the collection of
9 traffic mitigation fees. In accordance with the City's traffic impact fee program
10 under MMC Chapter 3.54, impact fees require a standard fee amount per dwelling
11 unit as a condition of residential development within the City. Traffic impact fees
12 will be paid in accordance with MMC Chapter 3.54 and shall be based on the
13 amount in effect at the time of payment.

14 7. Superior Design. The PRD provides superior design for the reasons identified in
15 the Summary section of this Decision. The proposal also provides for superior
16 perimeter landscaping by virtue of its landscaping tract located at the entrance to the
17 project, as well as the perimeter landscaping for Tract 996, located at the southwest
18 corner of the project site. The Applicant also provides a ten-foot landscaping strip
19 along the western perimeter of the PRD where it borders the Eaglemont subdivision.
20 The staff report notes that this landscaping is required by MMC 18.10.140. However,
21 this ten-foot strip is only required for PRDs where they abut "*a standard subdivision
22 or different zoning district.*" The Eaglemont subdivision is within the same zoning
23 district as the proposal. It's unclear from the record, but based upon prior PRD
24 recommendations, the adjoining Eaglemont division appears to also be a PRD and
25 hence is not a "standard subdivision." If that is the case, MMC 18.10.140 did not in
fact require the 10-foot perimeter and it would then qualify as an additional "superior"
perimeter landscaping amenity.

18 CONCLUSIONS OF LAW

19 Procedural:

20 1. Authority of Hearing Examiner. MMC 22.84.060(B) provides that the Examiner
21 shall hold hearings and make final decisions on applications for preliminary plat
22 approval. The MMC currently does not identify the review process for PRDs because
23 PRDs were repealed by Ordinance No. 005/2019 on May 1, 2019. According to the
24 staff report, the Applicant vested its application on January 7, 2019, prior to the repeal
25 of PRD regulations. This is undisputed. However, vesting only applies to substantive
standards such as PRD review criterion, and not to procedural standards. *See Graham
Neighborhood Ass'n v. F.G. Associates*, 162 Wn. App. 98 (2011). Immediately prior
to the repeal of PRD standards, MMC 21.50.120 (which was repealed by Ordinance
No. 005/2019) provided that PRDs and subdivisions were subject to final approval by
the Hearing Examiner subject to appeal to superior court. Hearing examiners have no

1 authority to ignore or invalidate city ordinances, so while MMC 21.50.120 remained in
2 effect, staff and the hearing examiner treated hearing examiner PRD decisions as final
subject to appeal to superior court.

3 Unfortunately, MMC 21.50.120 likely was not valid to the extent that it required
4 Examiner PRD decisions to be final when those decisions granted a density bonus to a
5 PRD applicant, as the applicant is requesting in this case. This is because such density
6 bonuses are rezones by the courts, which can only be adopted by the City Council as
7 an ordinance. The legal effect of approving a planned unit development that involves
8 a density bonus is an act of rezoning. *See Citizens for Mount Vernon*, 133 Wn.2d 861,
9 874-75 (1997). As a rezone, a PRD is a legislative act that can only be approved by
10 the City Council. *Lutz v. Longview*, 83 Wn. 2d 566 (1974), overruled on other grounds,
11 *Yim v. City of Seattle*, 451 P.3d 694 (2019). In the absence of any ordinance that
12 currently authorizes a hearing examiner to issue final decisions on PRD applications,
it will be presumed that City Council intent is to have its permitting process
implemented in a manner consistent with state law. The *Lutz* court considered the
planned unit development of that case to be a rezone because it authorized an increase
in density over the applicable base zoning. As reasoned in the *Lutz* decision, only the
legislative body is empowered to adopt a zoning map and ordinance under the zoning
authority granted by RCW 35A.63.100. 83 Wn. App. at 570. As a code city, Monroe
is also subject to RCW 35A.63.100.

13 The *Lutz* PRD decision was made by a planning commission, but there is little doubt
14 that the same holding would apply to hearing examiner decisions. RCW 35A.63.170
15 outlines the land use authority that city councils can delegate to hearing examiners.
16 RCW 35A.63.170(2)(c) expressly states that “[e]xcept in the case of a rezone,” the
17 permitting decisions delegated to examiners may be given the effect of a final decision
of the legislative body. *Lutz* and its progeny hold that PRD decisions changing density
or use of the applicable base zone are rezones. Consequently, hearing examiners have
no authority to render final decisions for such PRDs by RCW 35A.63.170.

18 The only remaining issue on Examiner authority in this case is whether the Applicant’s
19 subdivision application should be consolidated with the Examiner’s PRD application
20 to the City Council. Chapter 22.84 MMC doesn’t directly address this issue because it
21 doesn’t contemplate any review process that involves a recommendation from the
22 hearing examiner to the City Council. However, RCW 35.70B.060(3) requires local
23 permitting systems to give applicants the option of requesting consolidated review.
24 Further, consolidation would provide the most efficient means of review. If the subject
25 subdivision application was considered a final Examiner decision, it would have to be
formally amended if the City Council were to find that the subdivision proposal needed
to be changed to satisfy PRD criteria. For these reasons, the Applicant’s subdivision
proposal will be consolidated with its PRD proposal and both proposals will be
forwarded to the City Council as a hearing examiner recommendation.

Substantive:

1 2. Zoning and Comprehensive Plan Designation. The project site is zoned Residential
2 4 Dwelling Units Per Acre (R4). The Comprehensive Plan land use designation is Low
Density Single Family Residential.

3 3. Review Criteria and Application. Subdivision criteria are specifically governed by
4 MMC 17.12.030(H). PRD standards are governed by MMC 18.84.080. As noted in
5 Conclusion of Law No. 1, Chapter 18.84 is currently repealed but was vested to the plat
6 application under review prior to its repeal. In addition, MMC 21.50.030(C) imposes
standards that apply to all development reviewed by the Hearings Examiner.
Applicable code provisions are quoted below in italics and applied through
corresponding Conclusions of Law.

7 **Subdivision Criteria**

8 **MMC 17.12.030(H):** ... *The hearing authority shall inquire into how the public interest*
9 *of future residents of the preliminary plat are to be served by the subdivision and its*
10 *dedications. It shall determine if provisions are made to protect the public health, safety*
11 *and general welfare by the provision of open spaces, drainage ways, streets, alleys,*
12 *other public ways, water supplies, sanitary waste, parks, playgrounds, sites for schools*
13 *and school grounds and shall consider all other relevant facts and determine whether*
the public interest of the future residents of the subdivision will be served by the
dedications therein:

- 14 *1. The hearing authority shall consider if the proposed subdivision conforms to the*
comprehensive plan and the Shoreline Master Program;
15 *2. The hearing authority shall consider the physical characteristics of a proposed*
subdivision site and may recommend disapproval of a proposed plat because of
16 *improper protection from floods, inundation or wetland conditions;*
17 *3. All identified direct impacts must be mitigated or meet concurrency as set forth*
in MMC Title 20.

18 4. The criterion is met. Adequate provisions are made for infrastructure and there are
19 adequate public services available as determined in Finding of Fact No. 6, all of which
20 meet the City's level of service standards. Beyond infrastructure and public service
21 needs, the project adequately provides for the public health, safety and general welfare
22 because there are no significant adverse impacts associated with the proposal as
23 determined in Finding of Fact No. 5 and the proposed infill serves to satisfy the City's
24 obligations to accommodate its growth population targets assigned by Snohomish
25 County under the Washington State Growth Management Act, Chapter 36.70A RCW.
The project is consistent with the comprehensive plan as outlined in the staff report and
also for the reason that the proposal provides for residential development with design
features that assure its compatibility with surrounding residential uses. As determined
in Finding of Fact No. 5A, the proposal is not within the City's shoreline jurisdiction
and is in conformance with the City's critical area regulations, which adequately
protects the on-site wetland and stream.

1 **MMC 21.50.030(C): Required Findings.** *In drafting a recommendation, the hearing*
2 *examiner shall address the following, as required in the findings of fact:*

3 *1. The development is consistent with the comprehensive plan and meets the*
4 *requirements and intent of this code.*

5 *2. The development makes adequate provisions, if appropriate, for open space,*
6 *drainage ways, streets and other public ways, transit stops, water supply, sanitary*
7 *wastes, parks and recreation facilities, playgrounds, sites for schools and school*
8 *grounds.*

9 *3. The development adequately mitigates impacts identified under Chapters 17.12,*
10 *18.84, and 20.04 MMC, and the sensitive area guidelines adopted by resolution.*

11 *4. The development is beneficial to the public health, safety and welfare and is in*
12 *the public interest.*

13 *5. The development does not lower the level of service on the following public*
14 *facilities and services below the minimum standards established within the*
15 *comprehensive plan:*

16 *a. Potable water;*

17 *b. Wastewater;*

18 *c. Storm water drainage;*

19 *d. Police and fire protection;*

20 *e. Parks and recreation;*

21 *f. Arterial roadways; and*

22 *g. Public schools.*

23 *If the development results in a level of service lower than those set forth in the*
24 *comprehensive plan, the development may be approved if improvements or*
25 *strategies to raise the level of service above the minimum standard are made*
concurrent with the development, subject to the requirements of Chapter 20.06
MMC.

6. The area, location, and features of land proposed for dedication are a direct
result of the development proposal, are reasonably needed to mitigate the effects of
development, and are proportional to the impacts created by the development.

5. The criterion is met. As noted in Finding of Fact No. 6, the proposal does not lower level of service standards for public services below adopted levels. As conditioned, there are no significant adverse impacts associated with the proposal as determined in Finding of Fact No. 5. Since there are no significant adverse impacts associated with the proposal and proposed infill help to accommodate GMA required growth targets, the proposal is beneficial to public health, safety and welfare and is in the public interest. The streets required for dedication are necessary to provide safe access to the lots proposed by the subdivision and are, therefore, needed to mitigate the effects of the proposal. As the dedicated right of way is only necessary because of the proposed development and will be almost entirely and exclusively used by vehicles accessing or departing the proposed subdivision, the required right of way is proportional to the impacts created by the development.

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PRD Criteria

MMC 18.84.120(A): *The city shall⁷ approve a preliminary development plan if the plan meets the following criteria:*

A. The PRD is in accordance with the comprehensive plan; and

6. As previously concluded, the PRD is consistent with the comprehensive plan.

MMC 18.84.120(B): *The PRD accomplishes a development that is better than that resulting from traditional development and provides a net benefit to the city. A net benefit to the city may be demonstrated by the following:*

- 1. Conservation of natural features and sensitive area,*
- 2. Placement, style or design of structures,*
- 3. Recreational facilities,*
- 4. Interconnected usable open space,*
- 5. Provision of other public facilities,*
- 6. Aesthetic features and harmonious design, and*
- 7. Energy-efficient site design and/or building features.*

7. The criterion is met. As determined in Finding of Fact No. 7, the PRD provides for superior design over that which would be required of a standard subdivision. It accomplishes this through provision of significantly more open space than required of both subdivisions and PRDs and also through extra landscaping as well. The open space is also of high quality and centrally located with trails, picnic tables and landscaping.

At the hearing staff also mentioned that the Applicant will be submitting housing elevations as another example of superior design. While this is not required of standard

⁷ Curiously, MMC 18.84.120(A) mandates approval of a PRD without reference to compliance with MMC 18.84.080, which sets additional requirements for PRDs. The staff report contains a detailed analysis of compliance with MMC 18.84.080. Although compliance with MMC 18.84.080 is arguably not required for approval of the PRD given the “shall” language of MMC 18.84.120(A), it is concluded as a matter of law that the PRD complies with MMC 18.84.080 for the reasons identified in the staff report. Further, satisfying the requirements of MMC 18.84.080 is construed as a pre-requisite for a determination that the PRD provides for superior design, as mandated by MMC 18.84.120(B).

1 subdivisions, the PRD regulations already require inclusion of housing site standards.
2 *See* MMC 18.84.080a. Since the housing elevations are arguably required to comply
3 with minimum PRD standards, they are not construed as qualifying as part of the
4 “*better than that resulting from traditional development*” standard quoted above. To
meet the “better than” standard, a PRD must provide design features that exceed
minimum PRD standards. Otherwise, the “better than” standard would be rendered
superfluous and meaningless.

5 **MMC 18.84.120(C):** *The PRD will be served by adequate public facilities including*
6 *streets, fire protection, water, storm water drainage, and sanitary sewer for acceptable*
7 *waste controls, as demonstrated by the submittal and review of plans for such facilities*
as described under MMC 18.84.060; and

8 8. The criterion is met. As determined in Finding of Fact No. 6, the proposal is served
9 by adequate public facilities as required by the criterion above.

10 **MMC 18.84.120(D):** *The proposed landscaping within the PRD’s perimeter is*
11 *superior to that normally required by the city; and*

12 9. The criterion is met. The perimeter landscaping is superior for the reasons
13 identified in Finding of Fact No. 7.

14 **MMC 18.84.120(E):** *At least one major circulation point is functionally connected to*
15 *a public right-of-way; and*

16 10. The criterion is met. All the interior roads ultimately connect to Chain Link Road.

17 **MMC 18.84.120(F):** *The open space within the PRD is integrated into the design of*
18 *the project rather than an isolated element; and*

19 11. The criterion is met. The open space of the PRD is excellently integrated into the
20 overall project design. The bulk of the open space, in the PSE easement, is located in
21 the interior of the project and connected to a large critical area tract, which in turn is
only separated from two large landscaping tracts by interior roads, which in turn is
separated from another open space tract by another interior road. Sidewalks ultimately
connect all interior lots to the open space.

22 **MMC 18.84.120(G):** *The PRD is compatible with the adjacent development; and*

23 12. The criterion is met. The PRD is compatible with adjacent development for the
24 reasons identified in Finding of Fact No. 5B.

25 **MMC 18.84.120(H):** *Undeveloped land adjoining the PRD may be developed in*
coordination with the PRD; and

13. There is no proposal for coordinated planning and the criterion above doesn't mandate any such proposal.

MMC 18.84.120(I): *The PRD is harmonious and appropriate in design, character and appearance to the existing or intended character of development in the immediate vicinity; and*

14. The criterion is met. For the reasons identified in Finding of Fact No. 5B, the proposal is harmonious and appropriate in design etc. with surrounding development. The extensive amount of open space and superior landscaping amenities further enhances the compatibility of the proposal.

MMC 18.84.120(J): *Roads, streets and sidewalks, existing and proposed, comply with the standards and requirements of this chapter and the Monroe Municipal Code; and*

15. The criterion is met. City public works staff have reviewed the plat drawings and found the proposed design for streets and sidewalks to be consistent with applicable City standards.

DECISION

The proposed preliminary plat and PRD are found to be consistent with all applicable development regulations for the reasons identified in the Conclusions of Law. It is recommended that the City Council approve the preliminary plat and PRD applications subject to the following conditions:

1. All improvements shall be constructed in accordance with the approved preliminary plat map (Exhibit 3). Minor modifications of the plans submitted, as described in MMC 22.68.040(G), may be approved by the Community Development Director or his/her designee if the modifications do not change the Findings of Fact or the Conditions of Approval.

2. Final engineering drawings depicting the street improvements, water and sewer improvements, and drainage design shall be submitted to the City's Public Works Director for final review and approval before issuance of any grading permits. The street, water and sewer, and drainage improvements shall be designed in accordance with the City's most current Public Works Design and Construction Standards.

3. The project shall implement all of the applicable recommendations contained in the following technical reports submitted to the City:

a. Preliminary Storm Drainage Report, prepared by CPH Consultants, dated September 17, 2021 (Exhibit 16).

b. Geotechnical Report, prepared by Terra Associates, Inc, dated December 14, 2018 and Memorandum dated September 16, 2021 (Exhibit 15).

1 c. Traffic Report, prepared by Gibson Traffic Consultants, Inc., dated August
2 2021 (Exhibit 17).

3 **CLEARING AND GRADING**

4 4. A comprehensive erosion and sedimentation control plan to ensure
5 appropriate on-site and off-site water quality control shall be developed and
6 implemented for all construction activities. The Best Management Practices
7 outlined in the 2014 DOE Stormwater Management Manual for Western
8 Washington shall be incorporated into the design. At a minimum, the plan shall
9 include the following elements:

- 10 a. Exposed soils shall be stabilized and protected with straw, hydro-seeding
11 or other appropriate materials to limit the extent and duration of exposure;
12 b. Disturbed areas shall be protected from storm water runoff impacts
13 through the use of silt fence. Other means of filtration of storm water
14 runoff and for limiting erosion/sedimentation such as check dams, and
15 sediment traps may be required and are recommended.
16 c. Clearing and grading activities shall not be performed in the winter-wet
17 season when soils are unstable.

18 5. Any wells located on the site shall be decommissioned prior to clearing and
19 grading.

20 **STORM DRAINAGE IMPROVEMENTS**

21 6. The stormwater system design and stormwater discharge shall utilize the
22 Best Management Practices of the 2014 DOE Stormwater Management Manual
23 for Western Washington.

24 7. Stormwater pollution prevention measures shall be employed per the
25 approved Stormwater Pollution Prevention Plan and as necessary to ensure
appropriate on-site and off-site water quality control. Site runoff during
construction shall be handled and treated as to quantity and quality impacts by
utilizing Best Management Practices, as defined in the 2014 DOE Stormwater
Management Manual for Western Washington.

8. The developer shall obtain a General Construction Stormwater NPDES
Permit from the WA Department of Ecology (DOE) prior to beginning
construction.

ROAD IMPROVEMENTS

9. Frontage improvements, including curb, gutter, sidewalk, street trees, and
traffic control devices shall be provided for all streets within the subdivision; shall
be constructed in accordance with the City's most current Public Works Design
and Construction Standards; and are to be installed by the developer to the
satisfaction of the City Engineer prior to final plat application.

CRITICAL AREAS

10. The project shall implement all of the applicable recommendations contained in the Critical Areas Study and Conceptual Mitigation Plan, prepared by Talasaea Consultants, Inc., dated March 4, 2021.

11. The applicant shall apply the applicable wetland protection requirements (physical and administrative) of MMC 20.05.070 Protection and mitigation measures (repealed) or its current equivalent MMC 22.80.080 including fencing and signage.

UTILITIES

12. PUD - Cost of any work, new or to upgrade, existing facilities that are required to connect this proposed development to the District electric system shall be in accordance with the applicable District policies. The District policy requires the developer to provide a 10-foot easement and an 8-foot clearance between any building/structures and transformers/switch cabinets upon its property for underground electrical facilities that must be installed to serve the proposed development.

LANDSCAPING

13. Street trees shall be provided per the approved landscape plan. Street trees shall be planted when a street frontage is fully owner occupied and as directed by the City of Monroe. The City will coordinate tree plantings to the most favorable time of the year for plant survival. All street frontage landscaping/irrigation improvements shall be bonded until such time that housing construction is completed and bonded work may be completed without risk of construction damage.

14. Irrigation is required for all street trees and newly planted vegetation. The applicant shall construct said irrigation system as consistent with a City-approved irrigation plan prior to construction.

FIRE

15. The following requirements shall be adhered to during construction and completed before occupancy of any structure in accordance with the 2018 International Fire Code:

- a. Fire hydrants shall be provided in accordance with city standards and the direction of the Fire Marshal
- b. Fire Hydrants shall be installed as per fire flow and spacing requirements specified for the type of development with regards to distances to structures;
- c. Fire hydrants shall be equipped with four (4) inch quarter-turn Storz adapters;
- d. An access route, for firefighting apparatus, must be provided at the start of construction. Minimum access route requirements include a 20' width,

13'6" vertical height clearance, and the ability to support a load up to 75,000 pounds;

- e. All buildings must be addressed visibly and legibly from the road. When buildings are not visible from the street, appropriate provisions must be made to identify clearly which road or drive serves the appropriate address including private roads.
- f. No parking signs are required, as directed by the Fire Marshal, for all streets and access tracts with a width less than 32' and within turnaround areas.

FEES

- 16. Prior to approval of the final plat, all landscaping associated with the plat shall require the submittal of an acceptable warranty surety to warrant all required landscaping improvements against defects in labor materials for a period of 24 months after acceptance of those improvements by the City. The warranty amount shall be equal to fifteen (15) percent of the costs of the improvements, as determined by the Zoning Administrator.
- 17. Prior to approval of the final plat, the developer shall submit an acceptable warranty surety to warrant all required public improvements, installed, against defects in labor and materials for a period of 24 months after acceptance of those improvements by the City. The warranty amount shall be equal to ten (10) percent of the costs of the improvements, as determined by the Public Works Director. The surety shall be submitted to and approved by the City of Monroe and executed prior to final plat approval.
- 18. School, park, and traffic impact fees assessed in accordance with MMC Chapters 3.50, 3.52, and 3.54, respectively, shall be required and paid at the rate in effect at the time of building permit issuance.
- 19. The water system capital improvement charge, in accordance with MMC Section 13.04.025, shall be required and paid prior to building permit issuance.
- 20. The wastewater system capital improvement charge, in accordance with MMC Section 13.08.272, shall be required and paid prior to building permit issuance.

FINAL PLAT

- 21. Prior to Final Plat submittal, all improvements shall be installed, inspected, and approved by the City Engineer per the approved plans. All improvements shall be constructed in accordance with the approved engineering plans and preliminary plat map. Minor modifications of the plans submitted may be approved by the Zoning Administrator if the modifications do not change the Preliminary Plat Findings of Fact and/or Conditions of Approval.
- 22. All lot corners shall be installed with rod and cap or other City-approved survey method prior to Final Plat approval.

1 23. All existing and proposed easements and maintenance agreements shall be clearly
2 shown and labeled on the final plat.

3 24. The following note shall appear on the face of the Final Plat Map: “The
4 Homeowners Association is responsible for maintaining, in a uniform manner, all
landscaping and irrigation within all commonly owned Tracts and easements.”

5 25. As this plat includes a dedication, the following Waiver of Claims for Damages
6 Statement shall appear on the face of the Final Plat Map:

7 *This dedication includes conveyance of roads, tracts, utility and storm drainage*
8 *infrastructure, and other areas of right-of-way intended for public use and/or*
9 *ownership as shown on or otherwise referenced by the plat. The [insert name*
10 *here] hereby waives all claims against the City of Monroe and/or any other*
11 *governmental authority for damages which may occur to the adjacent land as a*
12 *result of the construction, drainage and maintenance of such facilities and*
13 *improvements.*

14 26. If the final plat contains dedication of land for public purposes, it shall contain
15 the following statement:

16 *Know all men by these presents that (name of developer) do hereby declare this*
17 *plat and dedicate to the public forever all roads and ways and other public*
18 *property shown hereon, and the use thereof for any and all public purposes, with*
19 *the right to make all necessary slopes for cuts and fills, and the right to continue*
20 *to drain the roads and ways over and across any lot or lots, where water might*
21 *take a natural course, in the original reasonable grading of the roads and ways*
22 *shown hereon.*

23 *Following original reasonable grading of roads and ways hereon, no*
24 *drainage waters on any lot or lots shall be diverted or blocked from their natural*
25 *course so as to discharge upon any public road rights-of-way, or to hamper*
proper road drainage. Any enclosing of drainage waters in culverts or drains or
rerouting thereof across any lot as may be undertaken by or for the owner of such
lot shall be done by and at the expense of such owner, but only after approval by
the city engineer.

26 27. The final plat shall provide space for the approving signatures of the zoning
27 administrator, city engineer, and the mayor. The city clerk shall attest the
28 signatures.

29 28. The title block on the final plat map shall have the names of all the legal owners
30 of the property named on the plat and the name of the surveyor/engineering firm
31 which prepared the final plat map.

32 29. An Auditor’s Certificate shall be shown on the final plat map.

33 30. The following are required to be shown on the face of the final plat map:
34 d. Surveyor Certificate;

- e. Correct legal description of all lots as set out in Chapter 58.17 RCW;
- f. Owners Statement;
- g. All new easement(s) over the property, their legal description(s) and associated dedication block(s);
- h. Recording block/Certification blocks for City approval;
- i. North arrow;
- j. Certification of Payment of Taxes and Assessments;
- k. Auditor's Certificate; and
- l. The survey control scheme, monumentation, basis of bearing and references.

MISCELLANEOUS

- 31. Preliminary plat approval shall be effective for no longer than the maximum time allowed pursuant to MMC 22.68.040(A)(5)(c).
- 32. If applicable, at the time of final plat submittal the developer shall submit a group mailbox plan, approved by the U.S. Post Office, to the Planning Department for final addressing.
- 33. Mail routes, including mailbox types and locations, shall be approved by the Postmaster prior to construction.
- 34. The developer shall submit a copy of the final plat to the Snohomish County Assessor's at 3000 Rockefeller Avenue, Everett, WA 98201-4060 for recording.
- 35. All construction equipment, building materials, and debris shall be stored on the applicant's property, out of the public right-of-way. In no case shall the access to any private or public property be blocked or impinged upon without prior consent from the affected property owners and the City of Monroe.
- 36. If at any time during clearing, grading and construction the streets are not kept clean and clear, all work will stop until the streets are cleaned and maintained in a manner acceptable to the Public Works Director.
- 37. Pursuant to MMC 6.04.055(B)(1), construction noise is not allowed between the hours of eight p.m. and seven a.m., Monday through Friday, and between the hours of eight p.m. and nine a.m., Saturday, Sunday, and legal holidays.
- 38. All signs, if any, shown on the approved plans for the subdivision are for illustrative purposes only. Pursuant to Monroe Municipal Code 22.50, a sign permit must be obtained for the placement of any non-exempt signage. An application for a sign permit shall include an approved site plan specifying the location of all signs.
- 39. The developer and contractor shall attend a pre-construction meeting with City staff to discuss expectations and limitations of the project permit before starting construction.

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40. The developer shall provide the City with a bill of sale for all public improvements associated with the plat construction transferring ownership to the City. However, such transfer of ownership shall not relieve the developer of warranty obligations as defined in the MMC and the City's Public Works Design and Construction Standards.

41. All retaining walls shall be designed and constructed prior to final plat approval.

Dated this 15th day of January 2022.

Phil Olbrechts

City of Monroe Hearing Examiner

Appendix A

April 1, 2021 Hearing Transcript

Garibaldi -- Preliminary Plat and PRD PDPRD2018-02

Note: This is a computer-generated transcript and contains numerous errors. It is provided only as a convenience for those wishing to have a general idea of what testimony was presented during the permit hearing. For those in need of an accurate rendition of hearing testimony, a recording of the hearing is available from the City Clerk's Office.

Phil Olbrechts:

...With their phone number, in case, some of you are having problems connecting, you can call Ms. Shaw, and we'll figure out one way or another to make sure that you're heard, and your comments get in the record. Once we receive all the public comments, we'll go back to staff rebuttal. That'll be a chance for Ms. Marrero to answer any questions and present rebuttal evidence if necessary. And then the applicant's matter of due process gets the final word, and we should likely be done with the hearing today.

Phil Olbrechts:

So all testimony will have to be taken under oath. So when it's your turn to speak, I'll have you raise your hand, and swear and affirm you're going to tell the truth. Then if you want to get a copy of the decision, once it's issued, be sure to let us know what your email address is, if you have an email address, or your physical address, if you don't, and we'll make sure that that decision gets to you.

Phil Olbrechts:

Now by state law, I'm only allowed to consider evidence that's presented today. That's your testimony that you provide as well as any exhibits that are entered into the record. And oh, shoot. I don't. That's right, I don't have it. Ms. Shaw, do you have an exhibit list that you can post at this point on this case?

Kim Shaw:

I do. Yes.

Phil Olbrechts:

Yeah. Why don't we do that?

Kim Shaw:

Okay.

Phil Olbrechts:

I don't seem to know where I put mine.

Kim Shaw:

Share screen.

Phil Olbrechts:

Okay. And then, Ms. Shaw, if you could scroll down a little bit. We just see the first four. There we go. Yeah. These are all the documents I received. Is it just Stein exhibits or do we have-

Kim Shaw:

No, there's-

Phil Olbrechts:

Oh, okay. Oh, quite a few. Yeah.

Kim Shaw:

Yeah.

Phil Olbrechts:

All right. So you can see right there. We have 18 exhibits, and Ms. Shaw, I believe these are at the city's website as well. Right? The public can access.

Kim Shaw:

Yes. Most of them are. Correct.

Phil Olbrechts:

Okay. All right. And just a quick summary of the documents that we have. We have the staff report, which goes into detail over how the preliminary plat criteria have been applied to this particular case, and why it meets staff's recommendation for approval, vicinity map, the plat maps, and Ms. Shaw, we have public comments, and Ms. Shaw, if you could scroll down to the next there. We have the SEPA review, that's the environmental review to determine that all environmental impacts have been adequately mitigated, a landscape plan, road plans. There are a couple deviation requests, storm drainage, traffic report, which assesses traffic impacts and wetlands.

Phil Olbrechts:

So at this point, if any of you have any objections to the entry of those documents in the record, and that would just be based in terms of you don't find the documents relevant, or they're not authentic. I mean, if you dispute the contents of the document, you'll have a chance to talk about that during public comment or after the comment. But if you object on the basis of relevancy or authenticity, I need you to raise your virtual hand now. That's the hand at the bottom of your screen, and let's see, Ms. Shaw, do we have any takers here, anyone objecting or raising their hand?

Kim Shaw:

Let me see.

Phil Olbrechts:

Oh, here I can see the participants too. Yeah. I don't see any objections. So I will go ahead and admit the Exhibits one through 18, and Ms. Shaw, could you scroll back to the beginning, I just want to make sure that Exhibit one is the staff report.

Kim Shaw:

Yes.

Phil Olbrechts:

Okay, good. The staff report's in there. All right. Then we're set at this point. Ms. Shaw, you can stop screen, and let's move on to Ms. Marrero. Ms. Marrero, if you could raise your right hand, do you swear, affirm, to tell truth, nothing but the truth in this proceeding?

Anita Marrero:

I do.

Phil Olbrechts:

Okay, great. Go ahead.

Anita Marrero:

Okay. I'm just going to pull up my PowerPoint. Okay. For the record, my name is Anita Marrero, Senior Planner with the city of Monroe. I'll be presenting the Garibaldi preliminary plat plan, residential development application.

Anita Marrero:

This is showing the location of the project site. It is comprised of five parcels. So we have 1, 2, 3, 4 and this larger parcel here, 5. It's located off of Chain Lake Road. To the north of this project, there are two residential developments under construction Cascade Ridge and Woods Creek Highlands. Also, to the north is East End Cove and to the northeast is East End Cove development. Then to the west of that project is the Eaglemont development. And then immediately adjacent to the larger parcel here, are single family residences, as well as to the south, there are also some single family residences.

Anita Marrero:

Okay. The applicant and owner is Garibaldi Lake LLC. The contact is Matt Hough, from CPH Consultants. The location of the project site is 13624, 13424, 13704 and 13802 Chain Lake Road. The total acreage of the project is 17.5 acres. And the proposal is for 90 lots. The site, oh, sorry, the subject site contains single family residences and accessory buildings that will be demolished. There is an unclassified stream located with a Category Three wetland and the stream wetland and associated a critical area of buffers will be protected in a separate native growth protection easement. The application was oops, just sorry, I have a lot of things going on here. The application was based on the R4 zoning standards and PRD standards.

Anita Marrero:

This is the preliminary plat map. The project will have access off of Chain Lake Road. There are four internal public roads proposed and four private road tracks. Road F will service as the secondary emergency access. This is the park and recreation open space map, and it is showing a tract 996, which will encompass a playground and benches. And then we have tract 990, 993, and 995, and those are incorporated into what is referred to as the Central Park area. This is for passive and active recreation, and it has a proposed soft surface trail along with park benches and picnic tables. This map also shows tract 999, which is the native growth protection easement.

Anita Marrero:

This project was reviewed under the PRD criteria. The development was determined to meet the city's goals of conservation and natural areas and provisions of recreational facilities. The site will be serviced by adequate public facilities and streets, and is compatible with adjacent developments. The park and recreation open space tracts are integrated into the design of the project and are not isolated. There is a 10 foot landscape buffer between this project and the southern single family, residential parcels to the south of this project. A PRD or Planned Residential Development is different than a Standard Preliminary Plat in that is required to meet the criteria of a PRD and also to provide park and recreation open space. The project is providing more than what is required at 91,938 square feet.

Anita Marrero:

The city received public comments, which are contained in Exhibit nine. There's also a petition that was signed by the adjacent Eaglemont neighborhood. And the applicant's response to these public comments is also provided in Exhibit nine. Most of the comments were regarding views, lighting, noise and density. These were addressed in the staff report.

Anita Marrero:

So for a PRD, you are afforded a 30% density bonus, if you meet the PRD criteria, which this project has. It is located in the single family residential zoning district, R4, which allows single family developments. Views. To address the views, there is a height limit for the houses at 35 feet. And there are also design standards that this project needs to meet. Those will be looked at, at the building permit review process. Lighting. Lighting from this project is not going to be any different than any other single family developments in the neighborhood. Noise. There will be initial construction noise, which will be limited to Monday through Friday 7:00 AM to 8:00 PM, weekends and holidays from 9:00 AM to 8:00 PM. After that, the noise that this development will incur is similar to the surrounding neighborhoods and is not inconsistent with what is going around in the single family neighborhoods.

Anita Marrero:

Based on the findings of facts and conclusions of law detailed in the staff report, staff recommends that the Hearing Examiner approve the Garibaldi preliminary plat plan residential development subject to the conditions of preliminary approval. I am available for questions. And also we do have Tom Gathmann, Senior Engineer with the city, that can also answer questions about traffic, streets or any other engineering questions. Thank you.

Anita Marrero:

Hi, Kim, can you still hear us?

Kim Shaw:

I can, yes.

Anita Marrero:

I don't know about Phil Olbrechts.

Kim Shaw:

Let's see. Phil Olbrechts, can you hear us? Hmm. Okay. Let me see. Okay. His microphone's not working, so he's going to call in.

Anita Marrero:

Okay.

Kim Shaw:

So I'm wondering, I'm going to pause.

Phil Olbrechts:

Yeah, this is totally independent of my video problem. I think I dropped my laptop yesterday and that affected the microphone. Okay. Just a couple quick questions, Ms. Marrero. First of all, there was a public comment about water pressure. Did you look into that at all? Somebody who works at PUD had mentioned that they found there was low water pressure in the area.

Anita Marrero:

I think, can Tom answer that question?

Tom Gathmann:

This will not change. There are large water lines in Chain Lake Road, and this ties to other water lines. So it should not change the water pressure. It won't get better, but it shouldn't get worse either. And I can't tell you specifically what the water pressure is right now. I did not investigate that. And I wasn't aware that that was a major concern. I know there was a concern with Eaglemont seven at the top of the hill with water pressure, but this is considerably further down the hill in elevation. So it should be considerably better than it was up there. That's about all I can say it won't be worse, but it won't be better either.

Phil Olbrechts:

Okay. All right. Thank you, Mr. Gathmann. Can you still hear me?

Kim Shaw:

Yes,

Phil Olbrechts:

Oh, okay. Next question, Ms. Marrero, is I asked this of all the PRDs. I think the PRD standards require a better design. And could you summarize how this design is better? It goes beyond the critical area requirements and any other requirements that already apply to preliminary plats? I know there's a lot more extra open space. It looks like somewhere between 20,000 and 30,000 square feet. Anything else that makes this a better superior design?

Anita Marrero:

Just the fact that there are design standards associated with the housing elevation, so that's something that's different than a standard preliminary plat. Along with, they also are providing extra landscaping tracts as well.

Phil Olbrechts:

Okay, great. Thank you, Ms. Marrero. All right. Let's move on to applicant comments at this point. Is there anyone from the applicant team that would like to say something right now?

Matt Hough:

Mr. Examiner? My name is Matt Hough.

Phil Olbrechts:

Oh, there you are. Let me swear you in real quickly. Mr. Hough, just raise your right hand. Do you swear, affirm to tell the truth, nothing but the truth in this proceeding?

Matt Hough:

I do.

Phil Olbrechts:

Okay, great. Go ahead.

Matt Hough:

My name is Matt Hough. Last name is H-O-U-G-H. I'm with CPH Consultants. I'm the Project Civil Engineer, but also the Lead Land Use Consultant for the applicant. We've been with the project since its inception, which was some time ago, and have worked pretty closely with the city in terms of coming up with a site plan that achieves all of the necessary public work standards, but also some unique challenges on the site, which include the critical areas along Chain Lake Road.

Matt Hough:

We have a large Puget Sound Energy corridor that you see on the exhibit that Ms. Marrero had. It shows us park space and quite a bit of topographic relief on the site. So it's been a challenge, but it's been a cooperative effort between us to be able to provide you with the project that we have that does meet city standards. We do have two road standard deviations that have been approved. Those were primarily driven by the site topography as well as the other critical areas and utility challenges. The result of which is also a reduction in the overall impervious area for the projects that would typically be required with the standard room sections. So in terms of another standard for the PRD standard, that would also be the contribution to that.

Matt Hough:

Other than that, I guess I'm available for any questions that you may have, or the public may have on behalf of the applicant.

Phil Olbrechts:

Okay. Thank you, Mr. Hough. All right. Let's at this point, move on to public comments and Ms. Marrero and Mike, can people still hear me? I just want to make sure.

Anita Marrero:

Yes.

Phil Olbrechts:

Nod your head. Oh, great. Okay. Perfect. All right. So at this point, Ms. Shaw, what's your phone number in case people are unable to connect? Ms. Shaw?

Kim Shaw:

I was muted. Sorry about that. My phone number is (360) 913-7290.

Phil Olbrechts:

Okay. So if any of you have a problem connecting, go ahead and call Ms. Shaw. We'll figure out how to get your comments in. At this point, if any of you want to say anything, if you could just raise your virtual hand, just click on the virtual hand by your name, and then we'll call on you. We'll get you unmuted and make sure you can say something at this point. Okay. We see Polly Jones, and Ms. Shaw, can you unmute Ms. Jones and give her a chance to talk here?

Kim Shaw:

Yes.

Phil Olbrechts:

Okay, Ms. Jones, can you hear us? Oh, Paul Jones, sorry. Mr. Jones? Oh, you're muted again.

Kim Shaw:

Ask to unmute.

Phil Olbrechts:

It's Ms. Shaw.

Kim Shaw:

Yes.

Phil Olbrechts:

Okay. There we go. Unmute. I still have on my attendee list, it says that he or she is muted.

Kim Shaw:

Huh? And I, there we go.

Phil Olbrechts:

There we go. Okay.

Paul Jones:

Is that better?

Phil Olbrechts:

Okay. All right.

Kim Shaw:

Yes.

Phil Olbrechts:

Yeah. We hear you now. Okay. Mr. Jones, let me swear in real quick. Do you swear, affirm to tell the truth, nothing but the truth in this proceeding?

Paul Jones:

Yes, I do.

Phil Olbrechts:

Oh, great. Okay, go ahead.

Paul Jones:

Yeah. Say, I'm a homeowner in Eaglemont, adjacent to the development, and we have some concerns that the views that we have of the Cascade Mountain Range will, in fact, be obstructed by the new development and the homes that are on there. Is there any thought of just putting single level homes along that western border?

Phil Olbrechts:

Okay. I'll let the applicant answer that when we get back to applicant comments.

Paul Jones:

Oh, okay. And then yeah, with environmental protection report that I read most recently, it indicated that there wouldn't be any light detriments and just the way the roads because of the incline lights will, in fact, be shining, car lights at night will be, in fact, shining into a number of the homes. There's about seven Eaglemont homes that would be affected by that, and I don't know if there's anything that can be done about that. But the other concern that we have is, of course, during the initial development phase with not only noise, but with the typical prevailing winds that dust is going to blow into our homes and properties. Is there anything being done to mitigate that?

Phil Olbrechts:

Okay. And again, I'll let the staff and applicant answer those questions when they get back to their portion. And if they're not adequately answered, just raise your hand, and we'll make sure we get that information to you.

Paul Jones:

Okay. Well, thank you.

Phil Olbrechts:

Okay. Thank you, Mr. Jones. All right. Anyone else at this point want to say anything? Again, just raise your virtual hand. If you'd like to participate, this is your one chance today to get your comments in. Again, Ms. Shaw, could you share your phone number in case people are having problems and be sure to unmute yourself, Ms. Shaw.

Kim Shaw:

Yes. My phone number is (360) 913-7290.

Phil Olbrechts:

Okay, great. All right. Thank you. All right, let's take it back then to Ms. Marrero. There are a couple questions asked. I think the height limit, that's probably more appropriate for the applicant, but there's something mentioned about dust control. And also, I recall from public comments, there were concerns raised about rodent control. I mean, would you see maybe a condition recommending some kind of rodent assessment or mitigation to be done to address the situation? It does seem like the uses that are currently at the site may create something of a little rat problem that you see that's a greater than normal associated with this type of situation.

Anita Marrero:

Yes. So I did address that comment during when this application initially came into the city. I talked to the person that made that comment. And it's regarding, there's a horse stable that's on the bigger parcel that I showed on the vicinity map. And when I talked to the applicant, it was my understanding that that was being addressed or it has already been addressed. But I can let either Matt answer that question, or I know we have Melanie on the line, too.

Phil Olbrechts:

Okay. Okay. Anything else you want to add at this point?

Kim Shaw:

Excuse me, Mr. Hearing Examiner. We do have another participant that's raised their hand.

Phil Olbrechts:

Right.

Kim Shaw:

Okay.

Phil Olbrechts:

Yeah. Yeah. I thought it, Mr. James, and it looks like Mr. Jones wants to make a comment again as well. So let's start with Mr. James if we could unmute him.

Kim Shaw:

Okay.

Phil Olbrechts:

But we've got him muted now.

Kim Shaw:

Nope, no, I asked.

Phil Olbrechts:

There he is. Okay. All right, Mr. James, can you hear me? Mr. James? We're not hearing you for some reason. You're showing as connected. Hmm. You know what's going on, Kim? Because at least on my attendee list, he is not shown as muted.

Kim Shaw:

Yeah. It looks like, oh, it says he will be rejoining the webinar as a panelist, which I did promote him to panelists.

Phil Olbrechts:

Okay.

Kim Shaw:

But let's see. Okay.

Phil Olbrechts:

Now he's showing as muted as a panelist.

Kim Shaw:

Yes. So ask to unmute. Oops.

Phil Olbrechts:

Okay. Now he-

Kim Shaw:

There we go.

Phil Olbrechts:

Okay. Mr. James? Mr. James, are you there?

Mr. James:

Hello? I can hear you. Can you hear me?

Phil Olbrechts:

Yeah.

Mr. James:

Okay, great. Thank you.

Phil Olbrechts:

Raise your right hand, Mr. James, do you swear to tell the truth, nothing but the truth in this proceeding? You do.

Mr. James:

Yes, I do.

Phil Olbrechts:

Okay, go ahead. All right.

Mr. James:

Yeah. I just wanted to reiterate what Mr. Jones had said, because of the topography and where the plots of lands are. If they are constructing close to that 35 foot maximum height, they're definitely blocking any views of the Cascades from our first floor, and they are probably blocking a good amount of the views of the Cascades from the second floor.

Phil Olbrechts:

Okay. All right. Thank you, Mr. James. And let's jump back to Mr. Jones. Kim, if you could get Mr. Jones back on.

Kim Shaw:

Yes.

Phil Olbrechts:

He's currently shown as muted.

Kim Shaw:

I think we have just some issues of delay here. Whoops.

Paul Jones:

Oh, I don't know if you can hear me. I see I didn't lower my hand, which I'll do right now. I don't have any further questions. Sorry.

Kim Shaw:

Okay. Thank you. So Mr. Jones is fine. Hello?

Anita Marrero:

I think Phil Olbrechts's muted.

Matt Hough:

Phil Olbrechts's muted.

Anita Marrero:

Yeah.

Phil Olbrechts:

Oh, okay. All right. Okay. Ms. Marrero, did you have any final comments before we move on?

Anita Marrero:

Oh yeah. Yes. So to address dust control. The site will make every effort to keep the dust control on site. And I don't know if Matt has any other as a response to that as well.

Matt Hough:

I can add to that too.

Phil Olbrechts:

Okay. All right. Go ahead, Mr. Hough.

Matt Hough:

I guess I'll start with that one. We will be submitting final engineering drawings. They actually were pre-submitted several weeks back. That'll be the point in time when we get into detailed erosion and sediment control, and it'll have a detailed sequencing for construction, as well as what provisions we're doing for dust control, as well as runoff, just runoff during construction while the site is not fully stabilized. So that'll all be worked through the final engineering drawings, and it'll all be done in accordance with both the city's and the Department of Ecology Standards. And do you want me to respond to the other ones that were-

Phil Olbrechts:

Yeah. Uh-huh (affirmative). Yeah.

Matt Hough:

Okay. In terms of the lights impacting the sites, I believe the SEPA checklist makes reference to lighting being typical of a residential subdivision. There'll be street lights, there'll be vehicular lights. They'll be consistent with the other subdivisions, both recent and historic that are in the same neighborhoods. So it'll be residential houses, lot sizes similar. So in terms of spacing between the buildings, and as we've said, the topography of the site is part of the challenge of the development that I think we've accommodated. We're meeting all of the below the road grade maximums.

Matt Hough:

So there's always the potential for headlight intrusion, but topographically and I understand the concerns that the neighbors have about the views, but these houses won't be single story. From a market standpoint, it's not practical. The preliminary grading, at least, shows that we will be in some areas lowering grade at that west boundary, which will facilitate some of the height or view impact. But as the SEPA checklist says, there will be a change in view. Currently the adjacent properties to the west have a view over pasture and some maintained residential areas and some forest, and that will change. The site is being developed in accordance with the zoning as a residential subdivision.

Matt Hough:

It's the same zoning and the same PRD provisions that were used by Eglemont next door, when it developed as it has. So there will be a change in views. And I think we have done what we can to try to mitigate that, but at the same time, we're developing it to the standards of the city and for the zoning designation.

Phil Olbrechts:

Okay. Anything else Mr. Hough before we wrap it up today?

Matt Hough:

That's what I have on my list here.

Phil Olbrechts:

Okay. Perfect. All right. Well, I will go ahead and close the hearing then. And Ms. Marrero, just to confirm, this is a final decision appealable to Superior Court, is that right in the city of Monroe for preliminary plats and PRDs?

Anita Marrero:

It is, but this is similar to the Cascade Ridge decision where I believe you made a recommendation to the City Council with the City Council having the final decision.

Phil Olbrechts:

Okay. Yeah, yeah. That, why I was asking. Because I think that the code says it's a final decision, but case law says, if you vary the density, you need to get City Council to buy off on it.

Anita Marrero:

Correct.

Phil Olbrechts:

So I want to make sure that's the process we were going to be using again, because I would make the same recommendation again.

Anita Marrero:

Yes.

Phil Olbrechts:

So yeah, just so the public knows the City Council will be making the final decision, but by state law, the City Council is not allowed to consider new information. Their review would be limited to the record that we developed today.

Phil Olbrechts:

I'll also say if anyone has had trouble connecting, you're sitting there and you don't have a good internet connection, or you just have not been able to figure out how to be heard today, that kind of issue. Go ahead and call Ms. Shaw, and she'll give you her email address and then email in your comments before 5:00 PM tomorrow. And I'll let the staff and applicant respond to them, and they'll be made part of the record. Ms. Shaw's phone number again is (360) 913-7290.

Phil Olbrechts:

Also, if you want a copy of my recommendation to the City Council, when I issue it, go ahead and give a call to Ms. Shaw, give her, preferably, your email address. I'd like to distribute the decisions by email,

but if you wanted hard copy mailed, I think the city will accommodate that as well. Just let me and Ms. Shaw know what your contact information is, and we'll be sure to get you a copy of that decision.

Phil Olbrechts:

Again, I apologize for a few of the technical issues we had today, but we still managed to get all the information in, and that's the most important part. I have a couple weeks or 10 business days to issue my recommendation, so that decision will be coming out here shortly. I hope everyone has a great New Year, and that will it for today.

Anita Marrero:

Mr. Examiner?

Phil Olbrechts:

Oh yeah. Mm-hmm (affirmative).

Kim Shaw:

And Matt Hough has-

Phil Olbrechts:

Matt, go ahead.

Matt Hough:

Sorry. I didn't hear if you closes the hearing. There was one item I didn't address.

Phil Olbrechts:

Oh yeah, go ahead.

Matt Hough:

Sorry. The rodents?

Phil Olbrechts:

Oh yeah, yeah, please, yes, please do.

Matt Hough:

Subsequent to when that comment came through, there was a fire on the property, and the stable burned down. That has all been cleaned up since then. And we have a different tenant in the rental unit as well. So I just wanted, I guess, put that on the record as well that I think any issues that may have occurred due to livestock and others wouldn't be the same condition that's out there today.

Phil Olbrechts:

Okay. When did the fire occur?

Matt Hough:

Oh, I believe it was 19, seeing if Melanie's going to text me the actual date. I don't recall. It was right around the time of that comment actually.

Phil Olbrechts:

Sorry. Right around the time of what?

Matt Hough:

When the comment came in, it was shortly after.

Phil Olbrechts:

Oh, I see. Okay. Okay. Perfect. Okay. Great. All right, well thank you again. And I think with that, we're done for the day. Again, have a great New Year, everybody.

Matt Hough:

All right, Happy New Year.

Anita Marrero:

Thank you.

Kim Shaw:

Thank you.