



1 much the proposal exceeds minimum requirements, Ms. Marrero noted that the amount of  
2 open space proposed by the applicant is a little more than what is required by PRD  
3 standards. The applicant is including a sport court, benches, a picnic table and pedestrian  
4 pathways, all of which are not required by City code. The plat isn't within walking  
5 distance to any schools, but there are safe walking conditions to the bus stop, which is on  
6 134<sup>th</sup>. The internal sidewalks connect to the sidewalks on 134<sup>th</sup>.

7 In response to examiner questions, Tom Gathman, from Monroe Public Works, noted that  
8 intersection improvements identified in the Applicant's traffic study are included in the  
9 City's six-year transportation improvement plan, funded by the City's impact fees.

10 Ry McDuffy, applicant representative, noted that the applicant is also doing perimeter  
11 landscaping that isn't required by code. The open space trail connects to the internal  
12 sidewalks. The perimeter landscaping is on the west and east sides. Southside perimeter  
13 landscaping is also provided, but is required by code.

14 Linda Carlston, HOA president of Trombley Hill, noted the project was discussed in her  
15 HOA meeting the night before. The project is a matter of concern for Trombley Hill  
16 residents because Trombley Hill adjoins the project site. Trombley Hill has 117  
17 homeowners. HOA members are concerned about drainage because they already have  
18 drainage and erosion issues at the project site. Water bubbles up from Rainier Ave. SE.  
19 The project site has grass to absorb the rainwater and there are still drainage problems.  
20 The project site is uphill. One person's basement has already flooded. The HOA also  
21 wants to make sure that impact fees will be adequate to address parking and traffic  
22 impacts. Traffic improvements are years out. Traffic improvements should be built  
23 concurrently with new development. Another development project resulted in damage to  
24 someone's fence and Trombley wants to make sure that doesn't happen again.

25 Tom Gathman, Monroe Public Works, noted that he's added two recommended conditions  
to the staff report that go beyond the City's comprehensive stormwater regulations to  
address stormwater concerns. Recommended Condition No. 3 requires that construction  
plans directly address subsurface flows and in particular any interference with these  
subsurface flows by new construction. Recommended Condition No. 4 prohibits surface  
waters from crossing the west property line as much as reasonably possible. Trombley is  
protected by this condition. In response to examiner questions, Mr. Gathman confirmed  
that City regulations already prohibit development from increasing or altering off-site  
stormwater flows. Condition 4 goes beyond existing stormwater standards in prohibiting  
existing flows from flowing into Trombley. There is no time frame yet for the intersection  
improvements identified in the staff report. The 191<sup>st</sup> Ave extension to Kelsey is still  
several years out and will cost 2.2 million dollars. The 191<sup>st</sup> Ave extension was not  
factored into the Applicant's traffic analysis. If the 191<sup>st</sup> Ave Extension is constructed, it  
may preclude the need for the intersection improvements. The intersection improvements  
are only composed of putting in a four way stop, which is not expensive and will likely be  
done if the 191<sup>st</sup> improvements are not made.

1 In rebuttal, Mr. McDuffy noted that the fence damage had nothing to do with this project.  
2 He also clarified that the project site has a storm drainage easement across the east side of  
3 Trombley but that the Applicant currently has no plans to use it. Ms. Carlston noted that  
4 Trombley can't take any more drainage and can't handle the drainage it currently has. Mr.  
5 Gathman noted that the Trombley easement had both a subsurface pipe and a surface  
6 channel. The surface channel has been compromised. The pipe is still there. If it becomes  
7 necessary to use the easement, stormwater would likely be channeled by a trench.

## 8 EXHIBITS

9 Exhibits 1-14 in the "List of Exhibits" attached to the November 15, 2017 staff report  
10 were admitted into the record during the November 16, 2017 hearing. The staff power  
11 point presentation was admitted as Exhibit 15.

## 12 FINDINGS OF FACT

### 13 Procedural:

- 14 1. Applicant. The applicant is TK Development, Inc., 708 Rosario Place NE  
15 Renton, WA 98059.
- 16 2. Hearing. The examiner held a hearing on November 16, 2017 at 10:30 am at the  
17 Monroe City Hall in the Council Chambers.

### 18 Substantive:

- 19 3. Site Proposal/Description. The applicant is requesting preliminary plat and planned  
20 residential development ("PRD") approval to subdivide 4.91 acres into 26 lots. The project  
21 site is located at 18516 134th Street SE, Monroe, WA 98272. The applicant is also  
22 proposing a tract ("Tract 999") for open space and stormwater detention that will have an  
23 area of approximately 0.55 acres (approximately 23,815 square feet). The subject site  
24 contains an existing single-family residence and detached garage. The existing structures  
25 are proposed to be demolished. Conceptual street improvements, clearing and grading, and  
installation of all utilities (sewer, water, storm, power, gas, telephone, cable and  
telecommunications, etc.) have been reviewed for compliance with the development  
standards in the applicable sections of the Monroe Municipal Code, as well as other  
pertinent documents adopted by reference in the code. Frontage improvements, including  
pavement, curb, gutter, planters, and sidewalks, will be required along internal access roads  
and 134th Street SE adjacent to the project site.
4. Characteristics of the Area. The project area is surrounded by single-family residential  
development on all sides. R4 zoned residential development is located to the north,  
UR9600 to the south and east and SR15000 to the west.
5. Adverse Impacts. As conditioned, there are no adverse impacts associated with the  
development. As determined in Finding of Fact No. 6 the proposed subdivision will be

1 served by adequate infrastructure. The SEPA review concluded that the proposal will not  
2 create any significant adverse environmental impacts. The SEPA Responsible Official  
3 issued a Determination of Nonsignificance on August 4, 2017. The City's SEPA  
4 Determination was not appealed. Pertinent impacts are addressed more specifically below.  
5 Pertinent impacts are addressed below and as to each it is determined that impacts are fully  
6 mitigated. No other significant impacts are reasonably anticipated from the administrative  
7 record.

8 A. Critical Areas. There are no critical areas on the project site.

9 B. Compatibility. The plat maps, Ex. 3, show that the project currently has  
10 significantly smaller lots than surrounding uses to the south, west and east. Zoning  
11 to the west and east provides for lower density development whereas the zoning to  
12 the south is at a higher density. The higher density of the project is off-set by  
13 perimeter landscaping along the east and west sides as required by MMC  
14 18.10.140. The property to the north is buffered by 134<sup>th</sup> St NE as well as street  
15 trees. The property to the south, which is zoned for a higher density, is buffered  
16 by the recreational tract. Given that the surrounding uses are all the same as the  
17 proposed use, that all infrastructure impacts are fully mitigated as outlined in  
18 Finding of Fact No. 6 (most notably traffic and stormwater) and that the differences  
19 in density are buffered by landscaping, it is determined that the proposed use is  
20 compatible with surrounding development.

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

25 A. Water and Sewer Service. The City of Monroe will provide water and sewer service.  
As noted at page 11 of the staff report, there is sufficient capacity available in the  
City's public water and sanitary sewer system to serve the proposed subdivision. All  
lots will connect to the City's water and sewer system. Sanitary sewer and water lines  
will be constructed in the proposed public rights-of-way in accordance with the City's  
Public Works Design and Construction Standards.

B. Fire and Police Protection Snohomish County Fire District No. 7 will provide fire  
protection. The City of Monroe Police Department will provide police protection.  
Neither the fire district nor the police chief cited any concerns when they reviewed the  
proposal.

C. Drainage. The City's stormwater regulations and the conditions of approval adopted  
by this decision assure that the proposal will provide for adequate drainage.

As part of the civil plan review process, the applicant will install improvements to the  
stormwater system. Stormwater management will be designed to meet the  
requirements of the Department of Ecology Storm Water Management Manual for

1 Western Washington (2005) as administered by the City Engineer. The Manual  
2 requires an engineered analysis of predicted stormwater flows and requires that  
3 stormwater facilities be designed to assure that off-site stormwater volumes and  
4 velocities are not greater than pre-development conditions. In response to these  
5 requirements, the Applicant has prepared a drainage report, Ex. 11, that identifies the  
6 facilities necessary to comply with the requirements of the Manual. The drainage  
7 report proposes the construction of a stormwater detention vault to be located in the  
8 recreational tract of the project. The proposed detention system will provide detention  
9 in the vault and water quality will be provided in a Contech Filter System downstream  
10 of the vault.

11 In addition to requiring compliance with the City's stormwater standards,  
12 recommended conditions 3 and 4 of the staff report, adopted by this decision, require  
13 a detailed disclosure and evaluation of impacts to subsurface flows and prohibit  
14 surface waters from crossing the west property line into the adjoining Trombley Hills  
15 development as much as reasonably possible. As previously noted, the City's  
16 stormwater regulations already prohibit any increases in off-site stormwater flows.  
17 The City's recommended conditions of approval, to which the applicant did not object,  
18 go beyond this and require the applicant to reduce pre-development off-site flows to  
19 the west to the extent reasonably possible. In short, with adoption of the staff  
20 recommended conditions of approval the adjoining Trombley Hills development may  
21 see reduced stormwater flows from current conditions as a result of the development.

22 D. Parks/Open Space. The proposal provides for adequate parks and recreation. The  
23 proposed subdivision provides a private neighborhood park within the development.  
24 Tract 999 (23,815 sq. ft.) will contain a 5' asphalt path, a bench, picnic table, and a  
25 sport court (Exhibit 14). Maintenance of the park and recreation tract shall be the  
responsibility of the homeowner's association.

Impacts to the City park and recreation system from the anticipated additional public  
park users will be mitigated. In accordance with the City's park impact mitigation fees  
established under MMC Chapter 20.10, impact fees require a standard fee amount per  
dwelling unit as a condition of residential development within the city. Park impact  
fees shall be paid in accordance with MMC 20.10. Park impact fees shall be based on  
the fee amount in effect at the time of payment.

E. Schools. Impacts to the Monroe Public Schools and the Snohomish School District in  
the form of additional students are addressed through mitigation programs. The City  
of Monroe has adopted the Monroe and Snohomish School District 2016 - 2021  
Capital Facilities Plan, and imposes impact fees for schools in accordance with the  
plan and MMC Chapter 20.07. School mitigation fees require a standard fee amount  
per dwelling unit as a condition of residential development within the city. School  
impact fees are based on the amount in effect at the time of payment.

RCW 58.17.110(2) requires the City to make a finding that the proposed subdivision  
assures "*safe walking conditions for students who only walk to and from school.*"

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Students will be bussed from the development to Park Place Middle School and Monroe High School by the Monroe School District. Most grade school students will be bussed to Chain Lake Elementary School. The public streets created within the subdivision generally include sidewalks on all sides of the street where residential lots front public roadways as well as a sidewalk along the property frontage adjacent to the south of 134th Street SE.

F. Streets and Traffic. The proposal provides for adequate transportation infrastructure as follows:

1. Congestion/Capacity. Roads serving the proposal marginally meet the City’s level of service (“LOS”) standards, which is essentially the standards the City Council has set for acceptable levels of congestion. One of the intersections affected by the proposal, the Chain Lake road/Rainier View intersection, will operate at LOS below the adopted standard with or without the project by 2026, unless a multi-million dollar road project is completed by then. There is no assurance that the road project will be completed anytime within the next six years. However, since the proposal is not responsible for lowering LOS below adopted levels and its impacts will arguably be reasonably mitigated by some traffic improvements funded by traffic impact fees, it is concluded that the proposal satisfies the City’s level of service requirements.

The staff report notes that the applicant’s level of service analysis shows that all of the study intersections in the TIA are anticipated to operate within acceptable level of service thresholds. This position is debatable. According to the applicant’s traffic study, Ex. 13, p. 3, the City’s adopted level of service standard is LOS D<sup>1</sup>. As shown at page 11 of that study, the Chain Lake/Rainier View intersection will operate at LOS F in 2026 with or without the project. Some four way stop sign improvements identified in the traffic analysis for that intersection will only succeed in reducing the level of service to LOS E, which still fails to comply with City adopted level of service standards. Mr. Gathman testified that the City Council has approved an extension of 191st Ave, which apparently will improve the level of service of the intersection to LOS B, but there is no assurance that these improvements will be completed within the next six years. There is also no assurance that the four way stop improvements will be done in the next six years. The four way stop improvements will be funded by the City’s traffic impact fees

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<sup>1</sup> Table 4.04 of the City’s Comprehensive Plan identifies the LOS for arterials as D for street corridors, not intersections as asserted in the Applicant’s traffic study. As noted in Table 4.04, delays are to be measured as an average within an entire corridor “*rather than at individual intersections.*” However, it does appear from the record that the Chain Lake/Rainier View intersection probably has worse congestion than most other points along the Chain Lake corridor so use of the intersection instead of the corridor does not appear to favorably skewer the Applicant’s traffic analysis.

1 and there is no deadline set for their installation. However, it appears likely that  
2 the improvements will be installed in the near future given Mr. Gathman's  
3 testimony that the cost of adding a couple stop signs are nominal. This is why the  
4 introduction to this decision presumes the stop signs will be installed.

5 The City and applicant apparently take the position that the proposal is consistent  
6 with the City's LOS standards because the proposal will not be the cause of the  
7 LOS violation at the Chain Lake road/Rainier View intersection. State law requires  
8 that projects may not be approved if the development:

9 *...causes the level of service on a locally owned transportation  
10 facility to decline below the standards adopted in the transportation  
11 element of the comprehensive plan, unless transportation  
12 improvements or strategies to accommodate the impacts of  
13 development are made concurrent with the development. These  
14 strategies may include increased public transportation service,  
15 ride-sharing programs, demand management, and other  
16 transportation systems management strategies. For the purposes of  
17 this subsection (6), "concurrent with the development" means that  
18 improvements or strategies are in place at the time of development,  
19 or that a financial commitment is in place to complete the  
20 improvements or strategies within six years.... (emphasis added).*

21 RCW 36.70A.070(6)(b).

22 As previously noted, the Chain Lake/Rainier View intersection will operate at  
23 LOS F or E by 2026 with or without the proposal. Consequently, the proposal  
24 does not "cause" the LOS of the intersection to be reduced below adopted  
25 levels. Further, the impacts of the proposal on the intersection will be at least  
partially mitigated by the installation of four way stop improvements. Since  
those improvements are funded by traffic impact fees as opposed to the  
developer, they cannot be considered to exclusively mitigate the impacts of the  
proposal as opposed to other development projects. However, that is the most  
that can be reasonably done to mitigate impacts to the Chain Lake/Rainier  
View intersection.

At the hearing the president of the Trombley Hill Homeowner's Association  
argued that traffic improvements necessary to maintain level of service should  
be built concurrently with development. This point is well taken, but can't be  
reconciled with the City's limited financial resources to fund traffic  
improvements. Had the City been able to accurately pinpoint what  
development will cause the Chain Lake/Rainier View intersection to fall below  
LOS D, it would have had to deny approval of that project in addition to every  
other subsequent project that jeopardized the LOS. However, the City cannot  
indefinitely deny development projects without incurring takings liability to  
property owners. *See Tahoe-Sierra Preservation Council v. Tahoe Regional*

1 *Planning Agency, 535 US 302 (2002).* The Washington State Growth  
2 Management Act also requires the City to allow development at “urban”  
3 densities. *See RCW 36.70A.110(1).* Under these circumstances, if the City  
4 were forced to meet its LOS standard for the Chain Lake/Rainier View  
5 intersection within the next six years it would have to either pay the millions  
6 in dollars necessary for the 191<sup>st</sup> Ave. improvements or reduce its adopted LOS  
7 to E or F. With limited funds available, the only available solution is to reduce  
8 adopted LOS.

9 Impacts to the City’s transportation system are also mitigated through the  
10 collection of traffic mitigation fees. In accordance with the City’s traffic impact  
11 mitigation fee program as established under MMC Chapter 20.12. Impact fees  
12 require a standard fee amount per dwelling unit as a condition of residential  
13 development within the City. Traffic impact fees shall be paid in accordance  
14 with MMC Chapter 20.12 and shall be based on the amount in effect at the  
15 time of payment. Frontage improvements and paving, including curb, gutter,  
16 sidewalk, and street trees shall be installed along all public streets within the  
17 subdivision in accordance with the City’s Public Works Design and  
18 Construction Standards.

19 2. Access. Access to the subdivision is proposed via 134th Street SE. Internal  
20 access to individual lots will be provided by a new public road. As described  
21 above, the width of a proposed right-of-way will be 60 feet. The proposed  
22 right-of-way configuration accommodates two 10-foot wide drive aisles, 8-  
23 foot wide parking lanes, 7-foot wide planter strips, and 5-foot wide sidewalks.  
24 Staff have determined that these public road sections are in conformance with  
25 the City’s Public Works and Design Construction Standards.

26 3. Frontage/Internal Roads. The proponent shall dedicate right-of-way for streets  
27 as shown on the proposed preliminary plat map. Frontage improvements,  
28 including curb, gutter, sidewalk and street trees shall be provided for all streets  
29 within the subdivision. Frontage improvements along 134th Street SE include  
30 curb and gutter, a landscape strip with street trees, and a five (5) foot wide  
31 sidewalk along the entire length of the property frontage. Traffic control  
32 devices and street signs shall be installed prior to final plat approval, and all  
33 public roads within the subdivision shall be constructed in accordance with the  
34 City’s Public Works Design and Construction Standards and installed by the  
35 developer to the satisfaction of the City prior to final plat approval.

36 7. Better Design. The proposal provides for better design than a typical subdivision by  
37 virtue that the proposed open space tract includes a sport court, benches, a picnic table and  
38 pedestrian pathways, all of which are not required by City code. Since the proposed PRD  
39 is relatively modest in size, all of these recreational facilities are within walking distance  
40 of all of the proposed lots. The proposal also provides for 415 square feet of open space  
41 in excess of the minimum required for PRDs under MMC 18.84.080(A)(1). The PRD

standards themselves also require numerous amenities not otherwise required for subdivisions, such as perimeter landscaping and open space.

## CONCLUSIONS OF LAW

### Procedural:

1. Authority of Hearing Examiner. MMC 21.50.120 provides that the Examiner shall hold hearings and final decisions on applications for preliminary plat and PRD approval.

### Substantive:

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

3. Review Criteria and Application. Subdivision criteria are specifically governed by MMC 17.12.030(H). PRD standards are governed by MMC 18.84.080. 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.

### Subdivision Criteria

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

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

1 4. The criterion is met. Adequate provisions are made for infrastructure and there are  
2 adequate public services available as determined in Finding of Fact No. 6. Beyond  
3 infrastructure and public service needs, the project adequately provides for the public  
4 health, safety and general welfare because there are no significant adverse impacts  
5 associated with the proposal as determined in Finding of Fact No. 5 and the proposal serves  
6 to satisfy the City's obligations to accommodate its growth population targets assigned by  
7 Snohomish County under the Growth Management Act, Chapter 36.70C RCW. The project  
8 is consistent with the comprehensive plan because the proposed densities are within the 3-  
9 5 dwelling units per acre assigned to the low density single-family residential  
comprehensive plan land use designation. The project is more than 200 feet from any  
shoreline of the state or associated wetland and is, therefore, not subject to the jurisdiction  
of the Shoreline Management Act. The site is not in a floodplain. The proposal meets all  
applicable level of service standards and will be served by adequate and appropriate  
infrastructure as determined in Finding of Fact No. 6.

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

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

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

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

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

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

23 *a. Potable water;*

24 *b. Wastewater;*

*c. Storm water drainage;*

*d. Police and fire protection;*

*e. Parks and recreation;*

*f. Arterial roadways; and*

*g. Public schools.*

25 *If the development results in a level of service lower than those set forth in the*  
*comprehensive plan, the development may be approved if improvements or strategies to*

1 raise the level of service above the minimum standard are made concurrent with the  
2 development, subject to the requirements of Chapter 20.06 MMC.

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

6 5. The criterion is met. As noted in Finding of Fact No. 6, the proposal does not lower level  
7 of service standards for public services below adopted levels and the proposal will be  
8 served by adequate and appropriate public infrastructure and services. The proposal is  
9 consistent with the comprehensive plan as determined in Conclusion of Law No. 4. As  
10 conditioned, there are no significant adverse impacts associated with the proposal as  
11 determined in Finding of Fact No. 5. Since there are no significant adverse impacts  
12 associated with the proposal and the proposal helps to accommodate GMA required growth  
13 targets, the proposal is beneficial to public health, safety and welfare and is in the public  
14 interest. The streets required for dedication are necessary to provide safe access to the lots  
15 proposed by the subdivision and are, therefore, needed to mitigate the effects of the  
16 proposal. As the dedicated right of way is limited to frontage and interior road  
17 improvements, it is considered proportional to the impacts created by the development.  
18 Staff have assessed compliance of the subdivision against all applicable zoning code  
19 requirements as detailed in the staff report and found no inconsistencies. As no  
20 inconsistencies are apparent from the record, it is concluded that the proposal is consistent  
21 with the zoning code.

### 22 PRD Criteria

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

25 *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,*



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

3 10. All the interior roads ultimately connect to exterior public roads.

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

6 11. The open space of the PRD is integrated into the PRD design via connection of open  
7 space trails to PRD sidewalks.

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

9 12. The PRD is compatible with adjacent development as determined in Finding of Fact  
10 No. 5.

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

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

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

18 14. For the reasons identified in Finding of Fact No. 5, the proposal is harmonious and  
19 appropriate in design, character and appearance with surrounding development.

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

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

24 **MMC 18.84.120(K):** *Each phase of the PRD, as it is completed, shall contain the required*  
25 *parking spaces, open space, recreation facilities, landscaping, and utility area planned*  
*for that phase.*

1 18. Compliance with the amenities proposed in the PRD shall be required for final PRD  
2 approval as required by MMC 18.84.070(C).

3 19. Density Bonus. The applicant proposes 6 lots beyond the maximum number  
4 authorized by the R4 zoning district (26 lots instead of the maximum 20). The applicant  
5 is entitled to these additional lots by operation of MMC 18.84.080(K)(2), which authorizes  
6 a 30% density bonus if specified standards are met.

7 MMC 18.84.080(K)(1) provides that the maximum density of a PRD is based on the  
8 underlying density calculation found in MMC 18.10.010(B) for single-family units/lots.  
9 MMC 18.10.010(B) provides that to calculate the number of possible dwelling units in the  
10 R4 zone, the gross<sup>3</sup> acreage must be multiplied by four, resulting in 19.64 units for the  
11 proposal.

12 The maximum number of lots permitted without the 30% bonus is 15.71. MMC  
13 18.84.160(A) provides that in the R4 zone,  
14 “*the total number of permitted units*” shall be the “*result of the multiplication of the*  
15 *developable acreage by the maximum dwelling units per acre permitted under the zoning*  
16 *district for planned residential developments.*” (emphasis added). MCC 18.84.140 defines  
17 “developable acreage” as “gross acreage x 0.8.” The developable acreage of the project  
18 site is, therefore, 4.91 acres x 0.8 = 3.928 acres. The number of allowed units is then 3.928  
19 developable acres x 4 = 15.712 units.

20 MMC 18.84.080(K)(2) authorizes a 30% density bonus if the requirements of MMC  
21 18.84.080(G)-(J) are met. These standards are met by the proposal such that the proposal  
22 qualifies for the 30% density bonus. The six additional lots proposed by the applicant are  
23 within the maximum density bonus (six maximum) and are thus an authorized part of the  
24 proposal. Page 8-9 of the staff report identifies how the proposed PRD satisfies the  
25 requirements of MMC 18.84.080(G)-(J). However, MMC 18.84.080(G), (H) and (J)  
impose several design standards that are not addressed at this level of review, such as

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21 <sup>3</sup> In contrast, MMC 18.84.160(A) provides that in the R4 zone,  
22 “*the total number of permitted units*” shall be the “*result of the multiplication of the*  
23 *developable acreage by the maximum dwelling units per acre permitted under the*  
24 *zoning district for planned residential developments.*” (emphasis added). MCC  
25 18.84.140 defines “developable acreage” as “gross acreage x 0.8.” These “net  
developable” acreage provisions directly conflict with the “gross acreage”  
requirements of MMC 18.10.010(B). The MMC 18.10.010(B) provision is construed  
to supersede the conflicting MMC 18.84.160(A) provision for purposes of density  
bonus calculations because MMC 18.10.010(B) is directly referenced by MMC  
18.84.080(K)(1) for determining base units for purposes of density bonus calculations.

1 façade and modulation specifications for residences, design of outdoor light fixtures  
2 heating and cooling equipment noise standards and locations of trash receptacles. The  
3 conditions of approval require that these design features be addressed during building  
4 permit review.

### 5 **DECISION**

6 The proposed preliminary plat and PRD are found to be consistent with all applicable  
7 development regulations for the reasons identified in the Conclusions of Law above and  
8 are approved, subject to the following conditions:

- 9 1. All improvements shall be constructed in accordance with the approved preliminary  
10 plat map with the date stamp of October 25, 2017. Minor modifications of the plans  
11 submitted, as described in MMC 18.84.210 (e.g. BLA or reduction in total number  
12 of lots), may be approved by the Community Development Director or his/her  
13 designee if the modifications do not change the Findings of Fact or the Conditions  
14 of Approval.
- 15 2. Final engineering drawings depicting the street improvements, water and sewer  
16 improvements, and drainage design shall be submitted to the City's Public Works  
17 Director for final review and approval before issuance of any grading permits. The  
18 street, water and sewer, and drainage improvements shall be designed in accordance  
19 with the City's most current Public Works Design and Construction Standards.
- 20 3. The civil construction plans shall provide detailed information on the collection and  
21 routing of subsurface flows anticipated to be present during the rainy season in the  
22 seam between the shallow surficial soils and the very dense glacial till as identified  
23 in the geotechnical report submitted for the plat. Special attention and construction  
24 details shall be provided to the routing of subsurface flows intercepted by the  
25 construction of rockeries or walls necessary for a terraced grading plan for house  
construction.
4. The grading and drainage plans shall be designed to prevent, as much as reasonably  
possible, surface waters from crossing the west property boundary line. It shall be  
the perpetual responsibility of the plat HOA to maintain the facilities installed to  
accomplish this function.
5. The project shall implement all of the applicable recommendations contained in the  
following technical reports submitted to the City:
  - a) Storm Drainage Report, prepared by Joseph M. Smeby, PE, dated October 2016,  
revised September 2017 (Exhibit 11).
  - b) Geotechnical Report, prepared by Liu & Associates, dated September 12, 2017  
(Exhibit 12).

1 c) Traffic Report, prepared by GTC, dated March 2017 (Exhibit 13).

2 **CLEARING AND GRADING**

3 6. A comprehensive erosion and sedimentation control plan to ensure appropriate on-  
4 site and off-site water quality control shall be developed and implemented for all  
5 construction activities. The Best Management Practices outlined in the 2005 DOE  
6 Stormwater Management Manual for Western Washington shall be incorporated  
7 into the design. At a minimum, the plan shall include the following elements:

- 8 a) Exposed soils shall be stabilized and protected with straw, hydro-seeding or other  
9 appropriate materials to limit the extent and duration of exposure;  
10 b) Disturbed areas shall be protected from storm water runoff impacts through the use  
11 of silt fence. Other means of filtration of storm water runoff and for limiting  
12 erosion/sedimentation such as check dams, and sediment traps may be required and  
13 are recommended.

14 c) Clearing and grading activities shall not be performed in the winter-wet season when  
15 soils are unstable.

16 **STORM DRAINAGE IMPROVEMENTS**

17 7. The stormwater detention design and stormwater discharge shall utilize the Best  
18 Management Practices of the 2005DOE Stormwater Management Manual for  
19 Western Washington.

20 8. Stormwater pollution prevention measures shall be employed per the approved  
21 Stormwater Pollution Prevention Plan and as necessary to ensure appropriate on-  
22 site and off-site water quality control. Site runoff during construction shall be  
23 handled and treated as to quantity and quality impacts by utilizing Best Management  
24 Practices, as defined in the 2005 DOE Stormwater Management Manual for Western  
25 Washington.

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

**ROAD IMPROVEMENTS**

10. The developer shall dedicate right-of-way for streets, as shown on the approved  
preliminary plat map. Rights-of-way noted for dedication to the City on the plat  
map (Exhibit 3) shall be dedicated prior to final plat approval.

11. 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 prior to final plat application.

**LANDSCAPING**

12. Street trees shall be included in the street planter strips 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 Planning Department. 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.

1 13. Irrigation is required for all street trees and newly planted vegetation within the  
2 right-of-way and within Tracts (where applicable and required by the City). The  
3 applicant shall submit an irrigation plan prior to construction for review and  
4 approval by the City.

5 **FIRE**

6 14. The following requirements shall be adhered to during construction and completed  
7 before occupancy of any structure in accordance with the 2015 International Fire  
8 Code:

- 9 • Fire hydrants shall be provided in accordance with city standards and the direction  
10 of the Fire Marshal
- 11 • Fire Hydrants shall be installed as per fire flow and spacing requirements specified  
12 for the type of development with regards to distances to structures;
- 13 • Fire hydrants shall be equipped four- (4) inch quarter-turn Storz adapters;
- 14 • An access route, for fire fighting apparatus, must be provided at the start of  
15 construction. Minimum access route requirements include a 20' width, 13'6"  
16 vertical height clearance, and the ability to support a load up to 75,000 pounds;
- 17 • All buildings must be addressed visibly and legibly from the road. When buildings  
18 are not visible from the street, appropriate provisions must be made to identify  
19 clearly which road or drive serves the appropriate address including private roads.
- 20 • No parking signs are required as directed by the Fire Marshal for all street with a  
21 width less than 32' and within turnaround areas.

22 **FEES**

23 15. Prior to approval of the final plat, the developer shall submit an acceptable warranty  
24 surety to warrant all required public improvements, installed, against defects in labor  
25 and 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 Public Works Director. The surety shall be  
submitted to and approved by the City of Monroe and executed prior to final plat  
approval.

16 16. Park, Traffic and School impact fees assessed in accordance with MMC Chapters  
17 20.07, 20.10 and 20.12 shall be required and paid at the rate in effect at the time of  
18 building permit issuance.

19 17. The water system capital improvement charge, in accordance with MMC Section  
20 13.04.025, shall be required and paid prior to building permit issuance.

21 18. The wastewater system capital improvement charge, in accordance with MMC  
22 Section 13.08.270, shall be required and paid prior to building permit issuance.

23 **FINAL PLAT**

24 19. Prior to Final Plat submittal, all improvements shall be installed, inspected, and  
25 approved by the City of Monroe 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  
Community Development Director or Public Works Director if the modifications do  
not change the Preliminary Plat Findings of Fact or Conditions of Approval.

20. All lot corners shall be installed with rod and cap or other City-approved survey  
method prior to Final Plat approval.

- 1 21. All existing and proposed easements and maintenance agreements shall be clearly  
shown and labeled on the final plat.
- 2 22. The following note shall appear on the face of the Final Plat Map: “The  
3 Homeowners Association is responsible for maintaining, in a uniform manner, all  
landscaping and irrigation within all commonly owned Tracts and easements.”
- 4 23. The following Waiver of Claims for Damages Statement shall appear on the face of  
5 the Final Plat Map: “This dedication includes conveyance of roads, tracts, utility and  
6 storm drainage infrastructure, and other areas of right-of-way intended for public  
7 use and/or ownership as shown on or otherwise referenced by the plat. The [insert  
8 name here] hereby waives all claims against the City of Monroe and/or any other  
9 governmental authority for damages which may occur to the adjacent land as a result  
10 of the construction, drainage and maintenance of such facilities and improvements.”
- 11 24. If the final plat contains dedication of land for public purposes, it shall contain the  
12 following statement:  
13 “Know all men by these presents that (name of developer) do hereby declare this plat  
14 and dedicate to the public forever all roads and ways and other public property  
15 shown hereon, and the use thereof for any and all public purposes, with the right to  
16 make all necessary slopes for cuts and fills, and the right to continue to drain the  
17 roads and ways over and across any lot or lots, where water might take a natural  
18 course, in the original reasonable grading of the roads and ways shown hereon.  
19 Following original reasonable grading of roads and ways hereon, no drainage waters on  
20 any lot or lots shall be diverted or blocked from their natural course so as to  
21 discharge upon any public road rights-of-way, or to hamper proper road drainage.  
22 Any enclosing of drainage waters in culverts or drains or rerouting thereof across  
23 any lot as may be undertaken by or for the owner of such lot shall be done by and at  
24 the expense of such owner, but only after approval by the city engineer.”
- 25 25. The following shall be shown on the recording block section of the plat map: “Refer  
to Auditor Recording Number.”
26. The final plat shall provide space for the approving signatures of the community  
development director, city engineer and the mayor, and the city clerk shall attest the  
signatures.
27. The title block on the final plat map shall have the names of all the legal owners of  
the property named on the plat and the name of the surveyor/engineering firm which  
prepared the final plat map.
28. An Auditor’s Certificate shall be shown on the final plat map.
29. The following are required to be shown on the face of the final plat map:
- Surveyor Certificate;
  - Correct legal description of all lots as set out in Chapter 58.17 RCW;
  - Owners Statement;
  - All new easement(s) over the property, their legal description(s) and associated  
dedication block(s);
  - Recording block/Certification blocks for City approval;
  - North arrow;
  - Certification of Payment of Taxes and Assessments;
  - Auditor’s Certificate; and

- The survey control scheme, monumentation, basis of bearing and references.

## MISCELLANEOUS

30. Preliminary plat approval shall be effective for a maximum time period of five years upon which a final plat that meets all conditions of the preliminary plat approval must be submitted, in accordance with MMC 17.12.020(A).
31. The developer shall apply to the Snohomish County Auditor at 3000 Rockefeller Avenue, Everett, WA 98201-4060 for a plat name reservation certificate and furnish the City with a copy of the approved reservation certificate at the time of final plat submittal.
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 paper copy of the final plat to the Snohomish County Assessor's at 3000 Rockefeller Avenue, Everett, WA 98201-4060 with a segregation letter for land segregation and property tax review.
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. Construction noise is not allowed between the hours of ten (10) p.m. and seven (7) a.m.
38. All signs shown on the approved plans for the subdivision are for illustrative purposes only. Pursuant to Monroe Municipal Code 18.80, a sign permit must be obtained for the placement of any non-exempt signage. Application for that sign permit shall include an approved site plan specifying the location of all signs.
39. The developer shall submit housing plans and elevation drawings concurrent with building permit submittal demonstrating compliance with the housing and other standards of MMC 18.84.080(G), (H) and (J).
40. The developer and contractor shall attend a pre-construction meeting with City staff to discuss expectations and limitations of the project permit before starting the project.

Dated this 5th day of December 2107.

  
Phil A. Olbrechts

City of Monroe Hearing Examiner

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**Appeal Right and Valuation Notices**

MMC 21.50.120 provides that the final decision of the Hearing Examiner is subject to appeal to superior court. Appeals of final land use decisions to superior court are governed by the Land Use Petition Act (“LUPA”), Chapter 36.70C RCW. LUPA imposes short appeal deadlines with strict service requirements. Persons wishing to file LUPA appeals should consult with an attorney to ensure that LUPA appeal requirements are correctly followed.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.