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**BEFORE THE HEARING EXAMINER FOR THE CITY OF BELLEVUE**

In the Matter of an Application for	)	
Preliminary Plat Approval for	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW,</b>
<b>GOLDENWOOD SUBDIVISION</b>	)	<b>AND DECISION</b>
	)	
To create 17 lots and associated tracts	)	<b>File Nos. 14-124438 LL &amp; 14-124437 LO</b>
on 5.82 acres at 3736 163d Avenue SE	)	<b>AAD 15-64</b>
_____	)	

**SUMMARY**

**1. Decision.** The application is approved, subject to conditions. The conditions include the features of the settlement of an accompanying appeal.

**2. Description.** Barry Margolese, Goldenwood LLC, has applied for approval of a subdivision of 5.82 acres, located adjacent to the north side of Interstate 90, on a single parcel zoned R-5 in the Eastgate subarea. Access to the site is to be from the north on a private road forming an extension of 163d Avenue SE. A Critical Areas Land Use Permit and a Determination of Non-Significance (DNS) were issued administratively.

The subdivision will consist of 17 building lots, three native growth protection area (NGPA) tracts, three access tracts, and three tracts for stormwater and road infrastructure. The neighborhoods to the north and east of the project are developed with single family residences, also zoned R-5. The property to the west is zoned R-15 and contains an existing apartment complex.

The site is generally rectilinear in shape. Steep slope critical areas form a ravine in the middle of the site. A stream runs down the ravine. To avoid the critical areas as much as possible, the lots are clustered along the west and south property lines. Only four lots and the stormwater tract are located east of the road. Forty-four percent of the site (2.58 acres) containing critical areas and buffers are to be protected from future development.

The vast majority of stormwater will be detained within an underground vault. Discharge from the vault will be into the stream and will eventually make its way to Lake Sammamish. Standard urban utilities are available to the site and have the capacity to handle the proposed

1 development. Traffic generated will not warrant mitigation except for payment of impact fees  
2 and installation of standard road improvements within the site. Each lot can be developed  
3 without the need for a variance. The project as, conditioned, meets the code requirements for a  
4 Preliminary Conservation Subdivision.

5 **3. Procedure.** The application was filed on February 12, 2014. Notice of the  
6 application was made in the manner required by law on March 13, 2014. A public meeting was  
7 held on March 20, 2014. Comments received focused on traffic, drainage, environmental  
8 hazards and stream/stormwater. These concerns were thoroughly addressed by Staff in its  
9 review and report.

10 The construction of the road will be the primary cause of all critical areas disturbance.  
11 The modifications proposed were administratively approved, consistent with the Critical Areas  
12 Ordinance. Environmental review under the State Environmental Policy Act (SEPA) resulted in  
13 the issuance of a Determination of Non-Significance (DNS) on May 28, 2015. An appeal of  
14 these two administrative approvals was settled by the parties and the conditions of the settlement  
15 are reflected in the conditions of approval herein.

16 The public hearing was held after due notice on June 18, 2015, with a hearing session on  
17 the appeals scheduled for late July. However, on July 8, 2015, upon notice that appellants and  
18 the applicant had resolved their differences, the Examiner issued an order cancelling the July  
19 hearing session and undertaking to issue a decision within 10 days. On July 9, 2015, the City  
20 provided a letter in general approve the settlement. This letter has been included in the record.

21 At the hearing, the City was represented by Reilly Pitman, Associate Planner, and  
22 Catherine Drews, Legal Planner. Duana Kolouskova, Attorney at Law, represented the  
23 applicant. Jacqueline Rudasics appeared pro se for the appellants. Testimony was heard from  
24 the City and the applicant and his consultants. Public testimony was presented by four citizens.

25 The following exhibits were admitted:

26 (Unnumbered) The City's official file

27 (1) Hard copy of City's Power Point presentation.

28 (2) Email from Steve Rudasics to Reilly Pittman, dated June 18, 2015.

29 (3) Email of Reilly Pittman to Jackie Rudasics, dated June 17, 2015.  
30

1 (4) Photographs showing proximity of proposed plat to the residence at 16419 SE 39th  
2 Place and other homes in the vicinity.

3 (5) Preliminary Storm Drainage Report for Goldenwood prepared by Core Design, Inc.

4 (6) Email of Barry Margolese to Jackie Rudasics and Phyllis Nilson, dated June 27,  
5 2015, setting forth plat modifications the Applicant tentatively agrees to, with a drawing attached  
6 entitled "Goldenwood, Neighborhood Amendment."

7 (7) Email from Reilly Pittman to Barry Margolese, dated June 29, 2015, responding to  
8 the tentative settlement.

9 (8) Letter from Steve and Jackie Rudasics to Hearing Examiner, dated July 6, 2015,  
10 setting forth conditions proposed for incorporation into the Examiner's decision.

11 (9) Email from Duana Kolouskova, Attorney at Law, to Margolese and the Rudasics,  
12 dated July 6, 2015, stating that the settlement conditions proposed could be fulfilled.

13 (10) Letter from Catherine Drews, Legal Planner, to Hearing Examiner, dated July 9,  
14 2015, providing the City's comments on the Rudasics' proposal.

15 Exhibits 5 through 10 were added to the record after the hearing. Based on the record, the  
16 following is entered:

17 **FINDINGS OF FACT**

18 1. The factual matters set forth in the foregoing Summary are adopted by the Examiner  
19 as findings.

20 2. The project site is undeveloped. It is primarily covered with forest. The slope is from  
21 south to north, away from I-90. The stream within the ravine is a Type N- Stream which drains  
22 to the north away from the freeway. Steep slopes of 40 percent or greater form the sides of the  
23 ravine. Approval is subject to the Conservation Subdivision requirements because a portion of  
24 the property is within the Critical Areas Overlay District.

25 3. The Conservation Subdivision provisions allow reduction of required lot area setbacks  
26 and provides alternative calculation of lot coverage and impervious surface in order to  
27 consolidate development away from critical areas. The requirements and dimensions for this  
28 type of subdivision are met by the project.

29 4. The majority of modifications of critical areas and buffers will result from the  
30 proposed private access road and its construction. Road access onto the site will require

1 modification of steep slopes. The proposed road will cross the stream in a culvert in the  
2 southerly portion of the site. The crossing is located as far upstream as possible to avoid the  
3 steep ravine. Much of the area proposed for disturbance through creation of the road will  
4 become future residential lots. A road is an allowed use in a critical area.

5 5. Some of the residential lots and the private storm drainage tract/ system require  
6 modifications to critical areas and buffers. There will be a setback reduction on lots 9, 10 and 15-  
7 17 and the private road culvert and wells. These modifications are justified through a critical  
8 areas report. The lots have been configured and reduced in size as much as possible consistent  
9 with feasible access. Development is to be located in the most buildable areas. The project  
10 avoids most of the steep slopes. Overall slope stability will not be impacted compared to the  
11 undeveloped condition.

12 6. Because of the topography, any project built on this property would require  
13 modification of critical areas and buffers. After the modifications proposed here, the site will  
14 retain 82 percent of the critical areas and buffers existing prior to development. The areas  
15 remaining undisturbed will be placed into Native Growth Protection Area tracts. No critical  
16 areas or buffers in adjacent neighboring properties will be affected or modified.

17 7. After development, temporarily impacted areas will be restored. Mitigation planting  
18 will be conducted to offset impacts to the stream and slope buffers. The buffers to be enhanced  
19 are presently degraded with Himalayan blackberry and other invasive species. A final mitigation  
20 plan will be required as part of plat clearing and grading.

21 8. The project as proposed meets the criteria for a Critical Areas Land Use Permit  
22 (LUC 20.30P.140) and such a permit has been administratively approved. Incorporated into this  
23 approval is a decision to allow some encroachment into the structure setback. The approval  
24 modifies steep slopes and slope buffers, and modifies a stream buffer for storm drainage, access,  
25 and residential development.

26 9. Type III perimeter landscaping is proposed on the west and south property lines.  
27 Street trees and landscaping will also be installed.

28 10. Stormwater detention for most of the property will be provided through detention  
29 vaults. Outflow will be metered so as not to exceed predevelopment rates. The private storm  
30 drainage tract, located near the north central portion of the property, will provide open space for

1 use of subdivision residents. The system will outfall to the onsite stream near the north boundary  
2 of the property. Due to grades stormwater from a small area of the private road will be directed  
3 to the storm system in the existing neighborhood to the north. The Utility department  
4 determined that the proposed system is feasible.

5 11. Review of the project by the Transportation Department found that the project will  
6 generate 17 new pm peak hour trips, a number which does not warrant mitigation, except for  
7 payment of traffic impact fees and installation of standard street improvements within and  
8 adjacent to the site. The private road within the site must be a minimum paved width of 20 feet  
9 from curb to curb and conform with design manual requirements. A sidewalk at least five feet  
10 wide is required.

11 12. The environmental impacts of the project were reviewed under the State  
12 Environmental Policy Act (SEPA) and a Determination of Non-Significance (DNS) was issued  
13 on May 28, 2015. The record does not support a finding that there is a reasonable likelihood of  
14 more than a moderate adverse impact on environmental quality from the proposal.

15 13. The Preliminary Plat decision criteria are as follows (LUC 20.45A.130):

- 16 (1) The preliminary plat makes appropriate provisions for, but not limited to, the  
17 public health, safety and general welfare; for open spaces, drainage ways, streets,  
18 sidewalks, alleys, and other public ways, water supplies, sanitary waste, parks,  
19 playgrounds, sites for schools and schools grounds; and  
20 (2) The public use and interest is served by the platting of the subdivision; and  
21 (3) The preliminary plat appropriately considers the physical characteristics of  
22 the proposed subdivision site; and  
23 (4) The proposal complies with all applicable provision of the Land Use Code,  
24 BCC Title 20, the Utility Codes, BCC Title 24, the City of Bellevue Development  
25 Standards and Chapter 58.17 RCW; and  
26 (5) The proposal is in accord with the Comprehensive Plan, BCC Title 21; and  
27 (6) Each lot in the proposal can reasonably be developed in conformance with  
28 current Land Use Code requirements without requiring a variance, however,  
29 request for modifications to the requirements of Part 20.25H, where allowed  
30 under the provisions of that Part, may be considered together with an application  
for a plat so long as the resulting lots may each be developed without individually  
requiring a variances; and  
(7) All necessary utilities, streets or access, drainage and improvements are  
planned to accommodate the potential use of the entire property.

1           14. The Staff Report analyzes the proposal against these criteria and determines that, as  
2 conditioned, the project will be consistent with them. The Hearing Examiner concurs in this  
3 analysis and adopts the same. The Staff Report is by this reference incorporated herein as  
4 though fully set forth.

5           15. At the public hearing, four members of the public testified. One of these was  
6 downstream property owner concerned with downstream drainage problems. The applicant  
7 provided ample evidence to show that development of the proposed plat will adequately control  
8 storm flows and will not add to such problems downstream as may exist.

9           16. The other three testifying members of the public were neighbors and owners of  
10 property in the Kensington Crest subdivision along the eastern boundary of the plat, adjacent to  
11 Goldenwood Lots 13 and 14. They were concerned with the closeness of potential homes on  
12 those lots to their existing homes at 16419 (Rudasics), 16421 (Nilsons) and 16423 (Daniel  
13 Lillybridge) SE 39th Place. They were also concerned with the handling of access from  
14 Goldwood plat to the paved bikeway that parallels I-90 along the new plat's southern boundary.  
15 One of those testifying was Jackie Rudasics, who with her husband, had filed an appeal prior to  
16 the hearing.

17           17. The appeal apparently challenged the administrative decisions to issue a Critical  
18 Areas Land Use Permit and to issue a Determination of Non-Significance under SEPA. A  
19 separate hearing session was to be held for these appeals, but this session was cancelled after the  
20 parties advised that they had reached a settlement. The settlement of the appeal addressed the  
21 issues raised by the adjacent property owners at the hearing. This settlement, as understood by  
22 the Examiner, is reflected in added conditions or changes in Staff-recommended conditions of  
23 approval for the plat.

24           18. Making sense of the settlement requires understanding the current situation relating  
25 to access from neighboring pre-existing subdivisions to the paved bikeway along I-90. There is  
26 an existing 15-foot wide City-owned easement on the Goldenwood property which provides  
27 access to the bikeway. It is a graveled path running north-south about 150 feet along the east  
28 border of the site. It is bounded on both sides with fencing. At its northern end, this path  
29 borders the Nilson property and a few feet of the Rudasics property. At this terminus, it is  
30 connected to a separate east-west easement through the adjacent driveways of the Nilsons and

1 Rudasics which provides an access way to and from SE 39th Place. As a result of prior  
2 litigation, there is a gate (door) at the entrance from the east-west easement to the north-south  
3 path, providing the means to restrict access to owners within nearby subdivisions.

4 19. The testimony of Jackie Rudasics and Phyllis Nilson revealed concern about the  
5 public use of the access easement on their properties. They strongly urged that measures be  
6 taken to discourage residents of the new Goldenwood subdivision using that easement to gain  
7 access to SE 39th Place.

8 20. The settlement addressed matters raised by the Appellants. The Examiner has  
9 determined that it should also address concerns of the other two neighbors on the west boundary  
10 of Kensington Crest. As implemented hereby three principal plat changes are directed: (1) The  
11 setback of houses to be built on Lots 13 and 14 of Goldenwood from the existing lots in  
12 Kensington Crest will be increased to 20 feet. (2) The entry from Goldenwood to the north-south  
13 path leading to the I-90 bikeway will be moved south of the east-west easement doorway by  
14 about 30 feet. (3) The 15 feet bordering the eastside of Goldenwood Lot 14 will be placed  
15 within a Native Growth Protection Easement (NGPE) which will, in part, overlay the existing  
16 north-south path and will also extend to the northern boundary of the Rudasics lot.

17 21. In addition to the above, conditions of approval will call for maintaining the trees and  
18 foliage along the north-south path in essentially the present condition. The parties will be  
19 required to enter a separate agreement to allow the Rudasics to access the new NGPE for  
20 purposes of maintaining or augmenting the existing vegetation.

21 22. Finally, the Goldenwood developers will record a restrictive covenant at the time of  
22 final Plat recording binding all owners of Goldenwood lots. The covenant will prohibit  
23 Goldenwood lot owners from using the east-west easement to access SE 39th Place. A sign  
24 advising of this prohibition will be placed in an appropriate location.

25 23. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### 26 **CONCLUSIONS OF LAW**

- 27
- 28 1. The Hearing Examiner has jurisdiction of this proceeding. LUC 20.25.015.
  - 29 2. The appeals of the Critical Areas Land Use Permit and the SEPA DNS have been  
30 resolved.
  3. The requirements of the Critical Areas Overlay District and of SEPA have been met.

1 LUC Part 20.25H, Chapter 43.21C RCW.

2 4. As conditioned, the plat meets the requirements for a Conservation Subdivision. LUC  
3 20.45A.060.

4 5. As conditioned, the plat meets the decision criteria for approval of a Preliminary Plat.  
5 LUC 20.45A.130.

6 6. Any finding herein which may be deemed a finding is hereby adopted as such.

7 **CONDITIONS**

8  
9 The following conditions incorporate restrictions and limitations for both the Critical  
10 Areas Land Use Permit and the Preliminary Plat Approval.

11 **A. GENERAL CONDITIONS**

12 **The following conditions apply to all phases of development.**

13 **1. Variance Restriction**

14 Approval by the City of this plat is a determination that each lot can be reasonably  
15 developed in conformance with the Land Use Code in effect at the time of this approval  
16 without requiring a variance. No future variance application will be accepted. Land  
17 Use Code 20.4513.130.A.6

18 **2. Obtain Permits**

19 The applicant shall obtain all other permits for infrastructure, utilities, building and  
20 other improvements. No construction may commence until the appropriate permit is  
21 issued. Land Use Code 20.30P

22 **3. Construction Hours**

23 Noise related to construction is allowed from 7:00 a.m. to 6:00 p.m. Monday through  
24 Friday and 9:00 a.m. to 6:00 p.m. on Saturday. Exceptions to the construction noise hours  
25 limitation contained in the Noise Control Code MAY be granted pursuant to BCC  
26 9.18.020C.1 when necessary to accommodate construction which cannot be undertaken  
27 during exempt hours. Prolonged exposure to noise created by extended hour construction  
28 activity is likely to have a significant impact on inhabitants of surrounding residential  
29 properties during the proposed timeline for construction. In order to minimize detriment  
30 on residential uses in the immediate vicinity of the project, the Contractor shall not rely on  
City issuance of a blanket exemption from the Noise Control Code during the construction  
period. Allowances for short term work outside of normal construction hours shall be  
limited and will be reviewed on a case by case basis to verify necessity and ensure  
appropriate noise mitigation is utilized to protect surrounding uses and properties.  
Written requests for exemption from the Noise Control Code must be submitted two  
weeks prior to the scheduled onset of extended hour construction activity. Such request  
shall include a noise analysis prepared by a noise consultant, including



1 recommendations for achieving the noise limitations of the Noise Ordinance for new  
2 residential construction. Bellevue City Code 9.18.040

#### 3 **4. Geotechnical Recommendations**

4 The project shall be constructed per the recommendations of the geotechnical  
5 engineer as found in the submitted geotechnical report revised August 20, 2014 or  
6 as amended as needed in the future. Land Use Code 20.30P.140

#### 7 **5. Tree Protection Requirements**

8 To mitigate adverse impacts to nondisturbed areas and trees to be retained during  
9 construction, conformance with. BMP T101 for tree protection is required which  
10 includes:

- 11 • Clearing limits shall be established at the limit of nondisturbed areas and for  
12 retained trees within the developed portion of the site, outside of drip lines. Six-  
13 foot chain link fencing with driven posts, or an alternative approved by the Clear  
14 and Grade Inspector, shall be installed at the clearing limits prior to initiation of  
15 clearing and grading.
- 16 • No excavation or clearing should be performed within drip lines of retained  
17 trees, except as specifically approved on plans. All such work shall be done by  
18 hand to avoid damage to roots and shall be done under the supervision of an  
19 arborist approved by the city.

20 Land Use Code 20.20.520, Bellevue City Code 23.76.060

#### 21 **6. Utilities**

22 Utility Department approval of the preliminary plat application is based on the  
23 conceptual design only. Changes to the site layout may be required to accommodate  
24 the utilities after utility engineering is approved. The water, sewer, and storm drainage  
25 systems shall be designed per the current City of Bellevue Utility Codes and Utility  
26 Engineering Standards. Utilities Department design review, plan approval, and field  
27 inspection is performed under the Utility Developer Extension Agreement (UE) and  
28 Utilities Permit Processes. All connection charges will be due with the Developer  
29 Extension Agreement prior to issuance of the permit. Bellevue City Code 24.02,  
30 24.04, 24.06

### **B. CONDITIONS PRIOR TO ISSUANCE OF ANY PLAT ENGINEERING/CLEAR AND GRADE PERMIT:**

#### **1. Right of Way Use Permit**

The applicant is required to apply for a Right of Way Use Permit before the issuance of  
any clearing and grading, building, foundation, or demolition permit. In some cases,  
more than one Right of Way Use Permit may be required, such as one for hauling and  
one for construction work within the right of way. A Right of Way Use Permit regulates  
activity within the city right of way, including but not limited to the following:

- Designated truck hauling routes.
- Truck loading and unloading activities.
- Hours of construction and hauling.
- Continuity of pedestrian facilities.
- Temporary traffic control and pedestrian detour routing for construction activities.
- Street sweeping and maintenance during excavation and construction.
- Location of construction fences.
- Parking for construction workers.
- Construction vehicles, equipment, and materials in the right of way.
- All other construction activities as they affect the public street system.

In addition, the applicant shall submit for review and approval a plan for providing pedestrian access during construction of this project. Access shall be provided at all times during the construction process, except when specific construction activities such as shoring, foundation work, and construction of frontage improvements prevents access. General materials storage and contractor convenience are not reasons for preventing access.

Bellevue City Code 14.30

**2. Site (Civil Engineering) Plans**

A site civil engineering plan produced, stamped, and signed by a qualified engineer must be approved by the City prior to clear and grading permit approval. The design of all street frontage improvements, sidewalk, and private road improvements must be in conformance with the Americans with Disabilities Act, the Transportation Development Code, the Transportation Department Design Manual, and any other requirements stated in this Staff Report. The final civil engineering plans must include all details necessary for construction of all transportation-related features, including the private road, box culvert, safety rails, retaining walls, driveway connections, the sidewalk, the pedestrian / bicycle connection to the 1-90 bike path, and traffic signs or other minor traffic revisions as needed, including off-site. Bellevue City Code 14.60; Transportation Department Design Manual

**3. No Parking and Sprinklers**

These conditions shall be noted on the Clear & Grade plans before permit issuance.

- All roadways that are 24 foot wide shall have parking on one side only. The other side shall be posted and marked "Fire Lane-No Parking" per Bellevue Standards.
- The 20 foot wide road for the turnaround shall be posted and marked on both sides "Fire Lane-No Parking" per Bellevue Standards.
- The access road exceeds 12% so all homes shall be sprinklered per NFPA 13D. International Fire Code 503.3, and 503.2.7

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**4. Final Landscaping Plan**

A final plat landscaping plan is required for all landscaping outside of the critical area planting to be submitted which includes specific plant quantities and species in the plant schedule. Land Use Code 20.45A.130

**5. NGPA Fencing and Signage**

The site plan submitted as part of the plat infrastructure permits shall depict split rail or other fencing on the perimeter of all NGPA tracts. One sign denoting the area is protected is required to be placed adjacent to every residential lot or spaced every 100 feet where fencing does not abut a residential lot. Signage and fencing will be verified during Land Use inspection of the landscaping and mitigation planting under the clearing and grading permit. Land Use Code 20.25H.030

**6. Disturbance in NGPA from Storm Drainage Outfall**

The storm drainage outfall is required to avoid causing removal of significant trees within the NGPA tract. The placement above ground should aid this but boring under the steep slope or other methods should be utilized to avoid disturbance. The arborist is required to review the construction plans for the outfall to provide any recommendations for tree avoidance on an alignment plan submitted with the permit plans. If trees are found to be damaged by the construction additional mitigation planting will be required. Land Use Code 20.30P.140

**7. Installation Performance Sureties for Mitigation Planting**

An installation performance surety is required based on 150 percent of the installed cost of mitigation planting. The amount of the surety is determined by a cost estimate submitted as part of the clearing and grading permit for plat infrastructure. The installation surety will be released upon successful Land Use inspection of the planting. Land Use Code 20.30P.160

**8. Maintenance Surety and 5-Year Monitoring**

A maintenance surety for the mitigation planting is required based on the cost estimate for mitigation planting which includes all costs associated with maintenance and monitoring for 5 years for monitoring, maintenance activity, plant replacement, contingencies. The amount of the surety is determined by a cost estimate submitted as part of the clearing and grading permit for plat infrastructure. The maintenance surety will be released upon successful completion of the 5-year maintenance and monitoring period and inspection by Land Use. Land Use Code 20.30P.160, 20.25H.240

**9. Final Mitigation Plan**

The submitted mitigation plan is considered a conceptual mitigation plan. A final mitigation plan is required to be submitted as part of future clearing and grading permits which will document any changes since this plan was created, correct typos, and address the following:

- Specify planting details on species, quantity, spacing, and plant size which must be at least 9 to 12 feet on center for trees, 4 to 6 feet on center for shrubs, and 2 feet spacing for ground covers.
- Ensure plant quantity is sufficient to achieve a minimum density and area coverage which should for each 1,000 square feet should generally achieve 8 trees, 30 shrubs, and 285 ground covers.
- The final plan shall show areas of restoration for temporary construction disturbance separately from project mitigation planting.
- Provisions for temporary irrigation of vegetation for first two years of establishment.
- Provide a cost estimate to carry out the mitigation and required monitoring for five years.

Land Use Code 20.30P.140

**10. Hold Harmless Agreement**

The applicant shall submit a hold harmless agreement in a form approved by the City Attorney which releases the City from liability for any damage arising from the location of improvements within a critical area buffer in accordance with LUC 20.30P.170. The hold harmless agreement is required to be recorded with King County prior infrastructure permit issuance. Land Use Code 20.30P.170

**C. PRIOR TO FINAL PLAT APPROVAL**

**1. Final Plat Document**

The face of the final plat document must include a clear statement that the internal road, sidewalk, pedestrian / bicycle connection, and all associated retaining walls, drainage facilities, culverts or bridges, railings, and all related features are privately owned and must be maintained by the homeowners at the homeowners' expense, including the connection to the existing end of 163rd Avenue SE within City right of way.

The private road shall not be gated or obstructed and must remain open at all times for emergency and public service vehicles. A note to this effect shall be placed on the face of the final plat document.

Bellevue City Code 14.60.100, and 130

The final plat shall show the entrance from Goldenwood to the public pedestrian /bicycle easement connecting to the I-90 bike path. This entrance shall be at a location at least 30 feet south of the existing gate adjacent to the north end of the easement."

The final plat document shall show a Native Growth Protection Easement covering the eastern 15 feet of Lot 14.

1 The final plat document shall show a building setback of 20 feet from the east  
2 property line on Lots 13 and 14. This setback is to be 5 feet from the western  
3 boundary of the easements along these lots.

## 4 **2. Transportation Infrastructure Improvements**

5 All street frontage and infrastructure improvements shown in the final engineering  
6 plans or required by city codes and standards must be either completed prior to  
7 approval of the final plat or provided for with a financial assurance device.  
8 Completion of the top lift of asphalt and all other transportation infrastructure items  
9 prior to completion of the homes associated with the development is allowed.  
10 Improvements must be approved by the Transportation Department inspector  
11 before they are deemed complete.

12 Land Use Code Section 20.40.490 allows a developer to obtain final plat approval prior  
13 to finishing improvements with provision of an acceptable financial assurance device  
14 equivalent to 150% of the cost of unfinished infrastructure improvements. Provision of  
15 such an assurance device requires completion of the improvements by the developer  
16 within two years of final plat approval. Installation of improvements that would  
17 negatively affect safety if left unfinished may not be delayed through use of a financial  
18 assurance device. Partial reductions of the financial assurance device will not be  
19 approved except in special circumstances, determined in advance, such as phased  
20 projects. Financial assurance devices must be written on forms approved by the  
21 Transportation Department and backed by a financial institution acceptable to the  
22 Transportation Department.

23 Items to be completed or provided for by a financial assurance device prior to final  
24 plat approval include at least the following:

- 25 • The new private road, including the sidewalk, turnaround, and connection to the  
26 existing end of 163rd Avenue SE shall be constructed to meet appropriate design  
27 standards.
- 28 • As feasible, driveway landings on sloping approaches are not to exceed a 10%  
29 slope for a distance of 20 feet approaching the back edge of sidewalks.  
30 Driveway grades must be designed to prevent vehicles from bottoming out due  
to abrupt changes in grade.
- The cross slope of the street turnaround shall not exceed 8%.
- The sidewalk shall be ADA compliant.
- A public pedestrian / bicycle route shall be provided through the site providing  
access to the 1-90 bike trail.
- A public pedestrian / bicycle route shall be installed through the site providing  
access to the 1-90 bike trail, consistent with details described above under  
Transportation Infrastructure Improvements.
- The retaining walls, box culvert, railings, and related fixtures shall be completed  
per approved building and engineering plans.

1 Bellevue City Code 14.60.100, 110, 130, 150, 170, 181, 190, 210, 230, 240, 241;  
2 Transportation Department Design Manual

3 **3. Pavement Restoration**

4 Near the development site 163rd Avenue SE is presently classified as a no-cut street.  
5 Permission to cut the paved surface of a no-cut street can be granted by the City's right  
6 of way manager, if no feasible alternative exists. If the developer cannot avoid cutting  
7 into the existing paved surface of 163rd Avenue SE, then the developer must contact  
8 the right of way manager prior to final plat approval. The right of way manager will  
9 determine whether grant approval for street cutting and will determine what pavement  
10 restoration will be required. Bellevue City Code 14.60.250; Design Manual Design  
11 Standard #23

12 **4. Survey Pipe Monuments**

13 Permanent pipe monuments shall be set along the street centerline at all intersections,  
14 curve tangent points, and cul-de-sac radius points. Said pipe monuments shall be a  
15 Bertsen A130 Aluminum Standard Monument (30" long), or equivalent, together with  
16 standard iron casting case and cover. These materials and specifications are shown in  
17 City of Bellevue Standard Drawing DEV-12 (Cap Detail **B**). Locations of such  
18 monuments must be shown on the final plat map. LUC 20.45A.030; RCW 58.17.240

19 **5. Impervious Surface**

20 The maximum impervious surface coverage for each lot is required to be shown on  
21 the final plat. The impervious surface coverage based on the gross site area is also  
22 required to be shown and must be less than 50 percent. Land Use Code 20.45A.060

23 **6. Native Growth Protection Areas**

24 Tracts C, F, and G are to be labeled as Native Growth Protection Area tracts on the  
25 final plat. The following note is required to be placed on the final plat:

26 **NATIVE GROWTH PROTECTION AREA (NGPA) TRACT**

27 **DEDICATION OF NATIVE GROWTH PROTECTION AREAS (NGPA)**  
28 **ESTABLISHES, ON ALL PRESENT AND FUTURE OWNERS AND USERS**  
29 **OF THE LAND, AN OBLIGATION TO LEAVE UNDISTURBED ALL TREES**  
30 **AND OTHER VEGETATION WITHIN THE AREA, FOR THE PURPOSE OF**  
**PREVENTING HARM TO, PROPERTY AND ENVIRONMENT, INCLUDING**  
**BUT NOT LIMITED TO CONTROLLING SURFACE WATER RUNOFF AND**  
**EROSION, MAINTAINING SLOPE STABILITY, BUFFERING AND**  
**PROTECTING PLANTS AND ANIMAL HABITAT, EXCEPT, FOR THE**  
**REMOVAL, OF DISEASED OR DYING VEGETATION WHICH PRESENTS**  
**A HAZARD OR IMPLEMENTATION OF AN ENHANCEMENT PLAN**  
**REQUIRED OR APPROVED BY THE CITY. ANY WORK, INCLUDING**  
**REMOVAL OF DEAD, DISEASED, OR DYING VEGETATION, IS SUBJECT**  
**TO PERMIT REQUIREMENTS OF THE CITY OF BELLEVUE CODES. THE**  
**OBLIGATION TO ENSURE THAT ALL TERMS OF THE NGPA ARE MET IS**  
**THE RESPONSIBILITY OF THE OWNERS OF LOTS 1 THROUGH 17. THE**

1 **CITY OF BELLEVUE SHALL HAVE THE RIGHT, BUT NOT THE**  
2 **OBLIGATION, TO ENFORCE THE REQUIREMENTS, TERMS, AND**  
3 **CONDITIONS OF THIS RESTRICTION BY ANY, METHOD AVAILABLE**  
4 **UNDER LAW. Land Use Code 20.45A.060**

5 **7. Native Growth Protection Easement**

6 A 15 foot strip along the eastern boundary of Lot 14 shall be placed within a Native  
7 Growth Protection Easement (NGPE), labeled as such on the final plat. The NGPE shall  
8 be the subject of a management plan designating such future management responsibilities  
9 and limitations as the City chooses to impose. The Applicant and the City shall enter into  
10 an agreement with the Rudasics, present owners of property adjacent to Lot 14 on the  
11 east, allowing the Rudasics to access the NGPE to augment or maintain the existing  
12 vegetation there, consistent with the management plan.

13 **8. Restrictive Covenant/Sign**

14 Prior to final plat recording, the Applicant shall record a restrictive covenant prohibiting  
15 owners of Goldenwood lots from using the easement for access to the I-90 bike trail as a  
16 means of access to SE 39th Place. This restriction shall be noted on the final plat. A sign  
17 advising of this limitation shall be placed in an appropriate location.


18 **9. Maintenance of Easement Connecting to I-90 Bike Path.**

19 The easement providing access to the I-90 bike path shall be maintained in essentially its  
20 present condition. No trees or foliage bordering this route shall be cut or pruned without  
21 prior City approval.

22 **DECISION**

23 The Preliminary Plat for Goldenwood (14-124437-LO) is approved, subject to the  
24 conditions set forth above. The appeal of Steven and Jacqueline Rudasics of the Critical Areas  
25 Land Use Permit and the SEPA Determination of Non-Significance is dismissed.

26 **DONE**, this 22nd, day of July 2015.

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29 Wick Dufford, Hearing Examiner

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**NOTICE OF RIGHT TO APPEAL**  
(Pursuant to Resolution No. 5097)

**RIGHT TO APPEAL-TIME LIMIT**

A person who submitted written comments to the Director prior to the hearing, or submitted written comments or made oral comments during the hearing on this matter, may appeal the decision of the Hearing Examiner to the Bellevue City Council by filing a written appeal statement of the Findings of Fact or Conclusion being appealed, and paying any appeal fee, no later than 14 calendar days following the date that the decision was mailed. The appeal must be received by the City Clerk by **5:00 p.m. on August 5, 2015.**

**TRANSCRIPT OF HEARING-PAYMENT OF COST**

An appeal of the Hearing Examiner's decision requires the preparation of a transcript of the hearing before the Hearing Examiner. Therefore, the request for appeal must be accompanied by an initial deposit of \$100. Should the actual cost be less the amount of the deposit, any credit due shall be reimbursed to the appellant. Should the cost for transcript preparation be more than the deposit, the appellant will be additionally charged.

**WAIVER OF TRANSCRIPTION FEE**

Upon request, the City Clerk will waive transcription fees upon submission by an appellant of the following documentation: a) an affidavit stating that the appellant's net financial worth does not exceed \$20,000; b) an affidavit stating that the appellant's annual income does not exceed \$5,200; c) a brief statement of the issues sought to be reviewed; d) a designation of those parts of the record the party thinks are necessary for review; e) a statement that review is sought in good faith.

The transcription fee waiver is available to individuals over eighteen (18) years of age and is not available to corporations, companies, partnerships, or any business, enterprise, community club or and social recreational organization.