



1 In addition to the ownership issue, there are a few other outstanding issues that will have to be worked  
2 out administratively. Since general vehicular access is no longer authorized across Tract H, there  
3 may be outstanding street standard compliance issues that apply to the existing access road. From  
4 staff testimony at the hearing, it appears that the current access road may not comply with some  
5 currently adopted street standards. The existing road may very well not be subject to current standards  
6 because it may qualify as a legal nonconforming use. The administrative record was not developed  
7 to address this issue, as there is no information in the record on what approvals the road and existing  
8 home acquired and what development standards applied at the time of approval. The conditions of  
9 approval leave it to staff to work out whether there are any remaining compliance issues with the  
10 existing road. If compliance issues do exist the applicant will have to acquire administrative  
11 modifications, waivers or variances as necessary to move forward to final plat approval.

12 At the hearing concerns were expressed about the use of Tract G as an access tract to the proposed  
13 short subdivision. This decision only approves Tract H for access. If the applicant wishes to use  
14 Tract G for access, that would be considered an amendment to the subdivision approved by this  
15 decision that would have to be processed accordingly by City staff.

## 16 **II. TESTIMONY**

17 *Note: This "Testimony" section of this decision is only provided as a convenience to readers as a  
18 summary of the concerns and comments raised by hearing parties. Nothing in this summary should be  
19 construed as a finding or conclusion made by the examiner. No assurances are made as to accuracy.  
20 For an accurate rendition of hearing testimony, reference should be made to the hearing recording  
21 available at Renton City Hall.*

22 Clark Close, Renton planner, summarized the proposal.

23 Fire Chief Mark Peterson testified that a house fire had occurred on the project site and the fire  
24 department was only able to get one fire truck onto the property. The fire truck became enveloped in  
25 smoke along with all responders and crews performing first aid. The existing road is too narrow and  
26 too steep. The proposed access through Tract H is 16 feet and that access will be difficult because  
the trucks are eight feet wide. Access will be difficult, but will be acceptable if the homes are  
sprinklered. Access is necessary for both fire and medical assistance. Chief Peterson noted that space  
for emergency vehicle turn-around would also be necessary. The examiner inquired whether a  
hammerhead was being proposed. Clark Close noted that there was space for emergency vehicles to  
turn around, but no hammerhead was being proposed. Chief Peterson noted he would have to consult  
with his staff to determine whether the existing space for turn-around would be sufficient. The  
examiner noted he may condition the project to require a hammerhead as deemed necessary by the  
fire department.

1 The examiner inquired of staff as to how the project was able to comply with RMC 4-6-060(J), which  
2 requires at least one lot served by a shared driveway must abut public right of way. Mr. Clifford  
3 stated that Lot 28 of the Winsper division (the project site) in conjunction with Lot 38 meets this  
requirement, as Lot 38 has public road frontage.

4 In response to examiner questions, Mr. Close noted that the new minimum width for shared driveways  
5 (which didn't apply in the first Valley Vue application) is 20 feet.

6 In response to examiner questions about the safety of the narrow access tract, Ian Fitz-James, City of  
7 Renton development engineer, testified that the primary concerns regarding safety in the first Valley  
8 Vue application were over the access tract to the east, Tract G. The access tract to be used by this  
9 project, Tract H, has more separation from adjoining homes. The other access tract also needed  
10 construction easements because it is sloped and needs retaining walls. The subject access road is flat  
and no easements would be required from adjoining neighbors. Vanessa Dolbee, planning manager,  
11 also noted that the number of lots, and hence trips, has been greatly reduced since the original  
12 application and also the width standard has been changed since the original application as well, from  
13 26 feet to the current 20 feet.

14 Mary Klaas-Schultz, neighbor, testified that the geotech report conclusions are based upon a different  
15 project. The proposal is not a development, it's a lot split. She noted that the access to the Winsper  
16 subdivision was originally 25% grade, just like the Talbot access to the proposal. Consequently, the  
17 applicant should be able to grade his current access from Talbot just as the Winsper developer did.  
18 The existing Talbot access has been used for 70 years. The existing access road should be improved  
19 to its full 12-foot width. She noted that the current access was wide enough for fire trucks to access  
20 the property, the problem was the lack of a turn-around and parking. The existing road is 8-10 feet  
wide but it can be widened to 12 feet. The Talbot Road access is the most direct route. The proposed  
21 access requires fire access through a high density neighborhood through an access tract sandwiched  
22 between two homes. The currently existing road only spans 274 and 739 feet respectively from Talbot  
23 to the existing homes. The proposed access would require fire trucks to travel 1,702 and 1,575 feet  
24 respectively from Talbot to the existing homes. Ms. Klaas-Schultz noted that the prior application  
25 had been denied because there was only five-foot separation from adjoining homes and this provided  
26 insufficient space for vehicle course correction. She noted that this condition hasn't changed in the  
new application. She noted that her living room will be located only a few feet from cars travelling  
on the access tract.

21 Virginia Klaas, neighbor, argued that Tract H, the proposed access from Winsper, had a covenant that  
22 provided it would only be deeded to the owner of Lot 28 when King County approved development  
23 of Lot 28, the project site. The application is a lot split, not a development. Lot 28 will be undisturbed.  
24 She noted that neither proposed lot abuts public right of way as required by RMC 4-6-060(J). Ms.  
25 Klaas also noted that the "disturbance limits" identified in project exhibits extended onto her lot and  
26 would damage her drainage system and extends onto her driveway and living room. A six-foot fence  
is right on her property line and she's not removing it for this project. Ms. Klaas also argued that  
RMC 4-4-080 requires driveways to be located five feet or more from side property lines. Ms. Klaas  
also pointed out that the staff report incorrectly identifies the proposal fronts onto S. 32<sup>nd</sup> Place. She

1 asserts that the applicant is proposing no frontage on S. 32<sup>nd</sup> Place since the lots front the access tract,  
2 not S. 32<sup>nd</sup> Place.

3 Bruce Truong, neighbor, submitted a petition of 25 people opposed to the project. He noted that the  
4 disturbance plan encroached onto private property. He noted that the proposed drainage was to use  
5 the drains on Winsper, but these already flood during heavy rainstorms. He noted that in a prior fire  
6 response incident in Winsper the fire truck had difficult turning onto his street.

7 In response to examiner questions, Virginia Klaas noted that the disturbance zones depicted in the  
8 power points come from the civil plans submitted to the City.

9 Sharon Gangwish, neighbor, noted she lives next to Access Tract G. She noted that the easement is  
10 sloped 15% and any driveway would require cutting into the slope 5 feet and require a retaining wall.  
11 She noted that the original application had been denied because this retaining wall work would have  
12 adversely affected the foundation of her home. Despite this finding, Mr. Dees in November, 2015  
13 still proposed the use of Tract G. The SEPA report then concluded that only access along Tract H  
14 was required. Ms. Gangwish wanted to know if this guaranteed that there would be no access through  
15 Tract G. She wanted some assurance that Tract G could not be used for access in the future.

16 Luz Chan, neighbor, testified she opposes the project because it's not consistent with city code.

17 Mary Lou Hanley, neighbor, testified that she opposes the project.

18 Byron Gangwish, neighbor, testified that he opposes the proposal, especially for safety concerns.

19 Mike Luu, neighbor, testified that he opposes the proposal.

20 Lilly Luu, neighbor, testified she opposes the proposal.

21 Andrea Smith, neighbor, strongly opposes the project due to safety and drainage concerns.

22 Laura Kiel, KOMO radio host, testified she was interested in seeing how homeowners and regulators  
23 work together to develop a community. She was curious about how many variations are allowed on  
24 a project. She wanted to know why bother about adopting regulations if unlimited modifications are  
25 allowed. She noted that the investment in a home is usually a person's biggest investment and that  
26 the homeowners rely upon the regulators to maintain the integrity of the development standards.

27 Jerome Jaeb, neighbor, stated he rejects the application. He noted there are several inconsistencies in  
28 the City's project documents and it was difficult to access the application due to a change in project  
29 name. He identified five code violations: (1) RMC 4-6-060 provides that the driveway cannot be  
30 longer than 200 feet – he noted that the actual distance to the house is 284 feet; (2) one of the lots  
31 using the driveway must have 50 feet of frontage on public right of way; (3) the driveway must be  
32 more than five feet from adjoining property lines; (4) the maximum width of a driveway can't exceed  
33 more than 40% of the frontage; and (5) there must be maintenance assured for the easement.

1 Wayne Dong, neighbor, testified he opposes the project.

2  
3 Carl Kaminki, neighbor, testified that any more traffic on S. 32<sup>nd</sup> St. would be a hazard. Nobody yields when going on to S. 32<sup>nd</sup> St.

4 Rhodora Darang, neighbor, strongly opposes the development. She has three young children that  
5 plats on Smithers. Additional traffic would be detrimental to them.

6 Bruce Wicks, neighbor, testified that he opposes the project.

7 Laura Rastelli, neighbor and president of Winsper Homeowner's Association ("HOA"), noted that  
8 the HOA has not been approached with assuming any responsibility for assuming responsibility for  
9 project wetlands and she doesn't believe the HOA should have any such responsibility.

10 Clark Close clarified that the disturbance limit is identified in Ex. 7. He also noted that the project is  
11 exempt from drainage review. Mr. Close also noted that there have been numerous code changes  
12 since the last application. The length of the driveway is to the lot and not the home. The five-foot  
13 setback is not applicable to shared driveways, it only applies to driveways to single-family lots.

14 In response to examiner questions, Mr. Fitz-James clarified that the disturbance zone was not an  
15 accurate representation. The disturbance area is limited to the driveway and utility improvements.  
16 No encroachment will actually occur on the adjoining lots. Brianne Bannwarth, City of Renton  
17 Development Engineering Manager, testified that the primary reason for the second access is to  
18 accommodate emergency access. The length of the substandard existing access road is too long  
19 (exceeds 150 feet) for adequate fire access. In response to examiner questions, Ms. Bannwarth said  
20 it would be acceptable to the City to limit Tract H to emergency access. Chief Peterson noted it would  
21 also be acceptable to put a fire gate at the access point. Mr. Close noted that a secondary access is  
22 required by City code because one of the homes is located more than 200 feet from Talbot Road. Mr.  
23 Close stated that staff would be open to a condition limiting Tract H to emergency access in  
24 conjunction with a modification to the 200 foot-requirement for Talbot. Mr. Close noted that if Tract  
25 H is limited to emergency access it would have to be improved with a hard surface. Ms. Bannwarth  
26 clarified that the if improvements are limited to creating a hard surface to Tract H that stormwater  
requirements would not be triggered – however if a hard surface turnaround is required that would  
trigger stormwater review. Ms. Bannwarth opined that the small amount of impervious surface added  
to Tract H would not generate enough additional stormwater to be of any concern to the downstream  
properties.

23 Rory Dees, applicant, noted that the property could have been developed with 14 lots if it weren't for  
24 the access problems. Typically lot splits don't even go to the hearing examiner. He noted that the  
25 home purchasers should have been aware of the potential development of and access to Lot 28 when  
26 they bought their lots. He also wanted to be able to only use the hydrant on Talbot.

1 **III. EXHIBITS**

2 The 26 exhibits of page 2 of the staff report were admitted into the record during the hearing.  
3 The following exhibits were also admitted during the hearing:

- 4 Ex. 27: Staff power point.
- 5 Ex. 28: City of Renton core maps, located at City’s website
- 6 Ex. 29: Google maps of project site.
- 7 Ex. 30: Klaas-Schultz power point and written materials.
- 8 Ex. 31: Virginia Klaas power point, written materials and access easement.
- 9 Ex. 32: Truong power point and written materials.
- 10 Ex. 33: Sharon Gangwish power point.

11 **IV. FINDINGS OF FACT<sup>1</sup>**

12 **Procedural:**

- 13 1. Applicant. RAD Holdings, LLC.
- 14 2. Hearing. A consolidated hearing on the preliminary plat application and modification request was held on June 28, 2016 in the Renton City Council meeting chambers in Renton City Hall.

15 **Substantive:**

16 3. Project Description. The applicant has applied for approval of a two lot short subdivision and a street modification. The site is 99,994 square feet (2.3 acres) and is located at 3106 and 3112 Talbot Rd S (APN: 302305-9028), adjacent to Winsper Division No. 1 subdivision. There are two (2) single family residences (3106 and 3112) located on this parcel that gain access to the site from Talbot Road S. The proposed short plat would subdivide the parcel into two (2) residential lots, leaving both existing houses undisturbed, and one (1) Native Growth Protection Tract (Tract A). The two proposed residential lots are 41,970 SF (Lot 1) and 40,200 SF (Lot 2) with an average lot size of 41,085 SF. The residential density is 0.96 dwelling units per net acre. Access to the new residential lots is proposed via a 16-foot wide driveway from S 32nd Pl through

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23  
24 <sup>1</sup> The Findings of Fact include some applications of City legal standards that would normally be considered to be conclusions of law. Legal standards are applied when they are construed as legislative standards of adequacy, such as street standards for the adequacy of streets or critical area regulations for the adequacy of critical area protection. In the absence of compelling evidence to the contrary, conformance to directly applicable City legal standards is considered to establish adequacy of infrastructure/mitigation and adequacy of mitigation.

1 Winsper Division No. 1 Subdivision (Tract H) via the 24-foot wide dedicated ingress/egress  
2 easement area.

3 There are 142 significant trees on the site and the applicant is proposing to retain all of the original  
4 trees. The eastern portion of the site is comprised of established forest with a Category III wetland that  
5 extends off-site to the east and south. No impacts to critical areas onsite are proposed. The application  
6 is also requesting a street modification from the required half-street frontage improvements along S  
7 32nd Pl, along the access tracts, to maintain the existing improvement condition of the neighborhood.  
8 The applicant has submitted a Critical Areas Study and a Geotechnical Engineering Study with the  
9 application.

10 4. Surrounding Area. The subject site is surrounded on all sides by single family residential  
11 development zoned R-8.

12 5. Adverse Impacts of Proposed Street Modification. As conditioned by this decision, there are  
13 no significant adverse impacts associated with the proposal. Since the two homes on the project site  
14 have already been constructed, the primary impacts of concern are those associated with the use and  
15 development of Tract H as an access point. Those issues are addressed in Finding of Fact No. 6,  
16 addressing adequacy of infrastructure.

17 The only critical areas on the project site are wetlands and steep slopes. As the applicant proposes no  
18 new construction in the steep slopes, no steep slope mitigation is necessary. Wetland impacts can still  
19 occur as a result of residential use of the project site, so the staff report has made recommendations that  
20 are implemented by this decision that protect the wetlands in conformance to the City's critical area  
21 regulations. The applicant submitted a Critical Areas Study prepared by Acre Environmental  
22 Consulting, LLC (dated September 4, 2013, revised dated November 23, 2015; *Exhibit 11*). According  
23 to the report, the wetland is located in the eastern portion of the subject site and extends off-site to the  
24 east and south. This wetland exhibits a minimum of human related physical alteration, and therefore,  
25 meets the criteria for a Category III wetland with moderate habitat scores (5 to 7 points). A Category III  
26 wetland with moderate habitat function receives a minimum 100 foot (100') standard buffer from the  
delineated edge (RMC 4-3-050G.2). In order to preserve and protect the wetland and its associated  
buffer, the applicant is proposing to establish a Native Growth Protection Easement for the Category III  
wetland and its associated 100-foot buffer area within Tract A. Pursuant to the City's critical areas  
ordinance, this decision requires that the applicant provide a wood, split-rail fence with wetland signage  
along the west boundary of the wetland.

6. Adequacy of Infrastructure/Public Services. As conditioned, the project will be served by  
adequate/appropriate infrastructure and public services, as would be expected since no new dwelling  
units will be constructed. Infrastructure/services are more specifically addressed as follows:

- 1 A. Water and Sewer Service. The site is served by the City of Renton for both water and sewer.
- 2
- 3 B. Police and Fire Protection. Police and fire service would be provided by the City of Renton.
- 4 Police and fire service staff have concluded they have sufficient resources to serve the
- 5 proposal. Fire impact fees will be collected during building permit review to pay for
- 6 proportionate share fire system improvements. The fire chief persuasively testified that the
- 7 existing access from Talbot Road is insufficient for fire access, since its eight to ten-foot
- 8 width is insufficient to accommodate the eight-foot wide fire apparatus vehicles used for
- 9 emergency response. The project site also has no emergency turn-around, which is
- 10 required by City fire code standards for driveways of the length of the project site. In order
- 11 to remedy the situation, the applicant proposes use of Tract H for fire access. The Fire
- 12 Chief found this proposed access to be appropriate, in conjunction with the sprinklering of
- 13 the dwelling units at the project site. City planning staff testified that there was sufficient
- 14 space at the project site to provide for fire apparatus turn-around, but the Fire Chief was
- 15 unable to confirm whether this undeveloped space was sufficient for fire access needs. The
- 16 conditions of approval will require that provision for turn-around be provided as required
- 17 by City fire access standards.
- 18
- 19 C. Drainage. The City's stormwater standards, primarily adopted as the 2009 King County
- 20 Surface Water Design Manual and City amendments thereto, assures that there will be no
- 21 adverse impacts to surrounding properties caused by stormwater discharge resulting from
- 22 the development. As testified by Public Works staff, those stormwater standards require
- 23 no stormwater improvements because the proposed addition of impervious surface, limited
- 24 to the paving of Tract H, is not sufficient to trigger any stormwater analysis or
- 25 improvements. As confirmed by Public Works staff, the amount of impervious surface
- 26 will not create any flows that are significant enough to adversely affect neighboring
- properties. There was no expert testimony to the contrary on this issue.
- D. Parks/Open Space. No park impact fees are required by City standards because no new
- residential development is being proposed. Beyond park impacts fees, City standards don't
- require any parks or open space mitigation for R-8 developments.
- E. Streets. As conditioned, the proposal provides for adequate/appropriate streets. The
- primary point of contention for this application was the applicant's proposed use of Tract
- H for a secondary access point to the proposed subdivision. It is determined that Tract H
- should be limited to emergency access only.
- There are two primary reasons for determining that Tract H must be limited to emergency
- access. First, use of Tract H for a shared driveway violates RMC 4-6-060(J)(1)(a), which
- requires that at least one of the lots using the access point must front public right of way

1 with at least 50 feet. City staff contend that this standard is met because Lot 38 of the  
2 Winsper subdivision, which abuts the shared driveway, has street frontage. However, Lot  
3 38 doesn't use Tract H for access. As shown in aerial photographs, Lot 38 has direct  
4 driveway access to 32<sup>nd</sup> Ave. RMC 4-6-060(J)(1)(a) expressly provides as follows:

5 *When Permitted: Shared driveways may be allowed for access to four (4)*  
6 *or fewer residential lots, provided:*

7 *a. At least one of the four (4) lots abuts a public right-of-way with*  
8 *at least fifty (50) linear feet of property; and...*

9 The standard above requires that at least one of "the (4) lots" must abut public right of  
10 way. As noted in the preceding sentence of the standard, those "(4) lots" are the lots that  
11 have access to a shared driveway. Lot 38 doesn't use Tract H for access, therefore it  
12 cannot be used to satisfy the right of way frontage requirement.

13 The second reason is safety. As noted in by project opponents during the hearing, it is  
14 significant that in the original application for a nine lot division of the project site, it was  
15 determined that the use of Tracts G and H would serve as a safety hazard due to proximity  
16 of adjoining houses one either side of each tract. Public works staff had testified in the  
17 hearing on the original application that there was insufficient space in both access tracts  
18 for vehicles to correct and/or adjust vehicular movement without colliding into the  
19 adjoining homes. The homes on either side of Tract H are only about five feet from the  
20 property lines of the tract. When asked to address whether this safety issue has changed  
21 since the original application, public works staff focused on the fact that the original  
22 application involved access from both Tract G and Tract H and that Tract G necessitated  
23 retaining walls that would encroach into adjoining private property. The current  
24 application is only using Tract H for access. Tract H is flat and won't need retaining walls.  
25 The planning manager also pointed out that there would be less vehicular trips because the  
26 number of lots was reduced from 9 to 2. Except for the reduction in traffic, there is  
nothing to suggest that the current application has resolved the safety concerns raised in  
the nine-lot application. More importantly, public works staff made no express  
determination that the safety problems caused by the proximity of adjoining homes was  
no longer a concern. Consequently, it cannot be concluded that more likely than not the  
proposed access from Tract H would not create a safety problem.

As determined in Finding of Fact No. 5(B), Tract H does have to be used as an emergency  
access point for the proposal. The net result is that the applicant may have to acquire  
modifications, waivers or variances to street standards that might apply to the currently  
existing internal access road. If the currently existing residential development and access  
was approved by a City of Renton or King County development permit, it appears more  
likely that the access point qualifies as a protected nonconforming structure under Chapter

1 4-10 RMC and that no modifications, waivers or variances would even be required<sup>2</sup>. The  
2 answer to that legal question might depend upon whether or not the street standards that  
3 applied when the existing road was approved would have differed if the applicant had  
4 applied for a two lot short plat at the time instead of building or other permits that may  
5 have approved the road. Those issues are left to the applicant and staff to work out  
6 administratively. Whether or not a modification, waiver or variance would be required  
7 for the existing access road, the use of Tract H for general vehicular access as proposed  
8 does not provide for adequate or appropriate infrastructure because of its safety issues and  
9 because it clearly violates the street frontage requirements of RMC 4-6-060(J)(1)(a).

10 F. Parking. As determined by staff, sufficient area exists, on each lot, to accommodate  
11 required off street parking for a minimum of two vehicles per dwelling unit as required by  
12 City code.

13 G. Schools. The proposal will be served by adequate/appropriate school facilities. No  
14 additional students would be generated by the proposed short subdivision. The emergency  
15 access route could be used as an alternative route from the site to a school bus stop located  
16 at Talbot Road South. Concrete sidewalks are available from S 32<sup>nd</sup> Place to the bus stop.  
17 Therefore, there are safe walking routes to the school bus stops.

## 18 CONCLUSIONS OF LAW

19 1. Authority. RMC 4-7-070(H)(5) provides that the Administrator may refer a short plat  
20 application to the hearing examiner for a public hearing if the Administrator determines that there are  
21 sufficient concerns by area residents to warrant a public hearing. The Administrator has so referred  
22 the subject short subdivision application to the hearing examiner.

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23 <sup>2</sup> Note that although the existing access road may not be subject to current street standards as a nonconforming  
24 structure, this status does not protect it from the need for secondary emergency access. As outlined in the Conclusions  
25 of Law, secondary emergency access is required as a result of the “public safety” and “appropriate” provision for  
26 streets criteria imposed by RMC 4-7-070(H)(3) and RCW 58.17.110. Compliance with applicable development  
standards will generally be sufficient to establish compliance with the more general “public safety” and “appropriate”  
subdivision standards. However, when compelling evidence is presented that applicable development standards are  
not sufficient, the more general subdivision criteria may be used to fill in the gap. In this case the direct evidence on  
public safety presented by the Fire Chief in conjunction with the newly adopted standards constituted sufficiently  
compelling evidence that the street standards that may apply via the nonconforming structure status of the existing  
access was insufficient to provide for appropriate streets or public safety.

1 2. Zoning/Comprehensive Plan Designations. The project site is zoned Residential 8 dwelling  
2 units per net acre (R-8). The comprehensive plan map land use designation is Residential Single  
Family (RSF).

3 **PRELIMINARY SHORT PLAT**

4 3. Review Criteria. RMC 4-7-070 governs the criteria for preliminary review. Applicable  
5 standards are quoted below in italics and applied through corresponding conclusions of law.

6 **RMC 4-7-070(A):** *A subdivision shall be consistent with the following principles of acceptability:*

7 *1. Legal Lots: Create legal building sites which comply with all provisions of the City Zoning Code.*

8 *2. Access: Establish access to a public road for each segregated parcel.*

9 *3. Physical Characteristics: Have suitable physical characteristics. A proposed plat may be denied*  
10 *because of flood, inundation, or wetland conditions. Construction of protective improvements may be*  
11 *required as a condition of approval, and such improvements shall be noted on the final plat.*

12 *4. Drainage: Make adequate provision for drainage ways, streets, alleys, other public ways, water*  
13 *supplies and sanitary wastes.*

14 4. The criterion is met. As to compliance with the Zoning Code, Finding 22 of the staff report is  
15 adopted by this reference. As demonstrated in Finding 22, the proposed building sites comply with the  
16 Zoning Code. Existing access currently exists from each proposed lot to Talbot Road, which is a  
17 public road. As determined in Finding of Fact No. 5 of this decision, as conditioned the proposal is  
18 consistent with the City's critical area regulations so it is concluded that the lot is physically suitable  
19 for development as the City's critical areas ordinance covers all of the physical characteristics  
identified in the criterion above. As determined in Finding of Fact No. 6, the proposal makes adequate  
provision for all of the infrastructure improvements identified in the criterion above.

20 **RMC 4-7-070(H)(3): Approval:** *If the Administrator finds that the proposed plat makes appropriate*  
21 *provisions for the public health, safety, and general welfare and for such open spaces, drainage ways,*  
22 *streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools*  
23 *and school grounds and all other relevant facts and that the public use and interest will be served by*  
*the proposed short plat, then it shall be approved. The applicant shall be notified in writing of the*  
*decision.*

24 5. The criterion is met. The proposal makes adequate provision for public health, safety, and  
25 general welfare because it complies with all applicable development standards as outlined in the staff  
26 report while at the same time not creating any adverse impacts on adjoining properties as determined

1 in Finding of Fact No. 5. A key determination in this finding on public safety, however, is that  
2 secondary emergency access is necessary to provide adequate access to fire and medical response  
3 apparatus. As determined in Finding of Fact No. 6, the proposal provides for adequate infrastructure  
improvements as required by the criterion above.

4 One issue raised by project opponents is that the Winsper Homeowner's Association currently owns  
5 Tract H and it has no obligation to grant ownership rights to Tract H to the applicant until  
6 "development" necessitating the access has been approved. Project opponents argue that the proposed  
7 short subdivision is not development and hence the tract does not have to be conveyed. Even if the  
8 short subdivision is not considered development, development has in fact been approved in the form  
9 of the building permits for the two homes and access is now necessitated for that approval by the terms  
10 of this decision. Regardless, the examiner does not have authority to adjudicate the ownership rights  
11 to Tract H. See *Halverson v. Bellevue*, 41 Wn. App. 457 (1985). The conditions of approval of this  
12 decision provide that no final plat may be issued (and hence no lots subdivided) until the applicant  
13 shows proof of emergency access rights across Tract H. In short, the subdivision will never be finally  
14 approved by this decision unless and until the applicant acquires emergency access rights across Tract  
15 H.

## 12 V. DECISION

13  
14 The proposed two lot short subdivision is approved subject to the following conditions:

15  
16 1. The SEPA responsible official shall issue a revised SEPA addendum that provides for  
17 consistency with the terms of this decision. If the SEPA responsible official determines in its  
18 independent discretion that revisions needed for consistency are not consistent with SEPA, the official  
19 shall file a request for reconsideration so that this decision may be revised accordingly.

20 2. Tract H shall be developed for emergency access only along with a gate that prevents general  
21 vehicular access from 32<sup>nd</sup> Pl. The emergency access shall conform to applicable fire access standards  
22 as modified by the authority of the Fire Chief and other personnel with appropriate administrative  
23 jurisdiction. To the extent compatible with emergency access improvements, a pedestrian pathway  
24 shall be included across Tract H to the extent necessary as determined by planning staff to provide safe  
25 walking conditions to and from school bus stops. The applicant shall supply proof of emergency access  
26 rights across Tract H prior to final plat approval to the Current Planning Manager. The final plat shall  
depict Tract H as emergency access only.

3. An emergency turn-around shall be added to the project site as found necessary by the Fire  
Chief to conform to applicable fire standards.

4. The applicant shall provide landscaping within Tract H that visually screens the shared  
driveway within Tract H from the abutting residential properties. A final detailed landscape plan shall

1 be submitted to and approved by the Current Planning Project Manager prior to construction permit  
2 issuance.

3 5. The applicant shall provide a permanent four-foot (4') to six foot (6') tall fence outside the  
4 shoulders of the Tract H emergency access. The applicant shall coordinate with the neighboring  
5 property owners prior to construction. The fence shall maintain compliance with height and vision  
6 clearance sections of the code. A fencing detail, location and cross section shall be identified on the  
7 final landscaping plan. The final detailed landscape plan shall be submitted to and approved by the  
8 Current Planning Project Manager prior to construction permit issuance.

9 6. The applicant shall install a wood, split-rail fence with wetland signage along the west boundary  
10 of Category III wetland buffer. The fence (with signage) shall be constructed prior to recording the  
11 final short plat. The final landscape plan shall include all specifications for fencing and signage and  
12 shall be submitted to, and approved by, the Current Planning Project Manager prior to engineering  
13 permit approval.

14 7. Prior to final plat approval the applicant shall acquire modifications, waivers or variances as  
15 deemed necessary by the Current Planning Manager to establish conformance of the existing internal  
16 access road with applicable street standards. The Current Planning Manager may determine that the  
17 existing access road is not subject to some or all currently adopted street standards because the road  
18 qualifies as a legal nonconforming use subject to the provisions of Chapter 4-10 RMC.

19 DATED this 11<sup>th</sup> day of July, 2016.

20   
21 Phil A. Olbrechts

22 City of Renton Hearing Examiner

23 **APPEAL RIGHTS AND VALUATION NOTICES**

24 RMC 4-8-080 provides that the final decision of the hearing examiner is subject to appeal to the  
25 Renton City Council. RMC 4-8-110(E)(14) requires appeals of the hearing examiner's decision to  
26 be filed within fourteen (14) calendar days from the date of the hearing examiner's decision. A  
request for reconsideration to the hearing examiner may also be filed within this 14 day appeal period  
as identified in RMC 4-8-110(E)(13) and RMC 4-8-100(G)(9). A new fourteen (14) day appeal  
period shall commence upon the issuance of the reconsideration. Additional information regarding

1 the appeal process may be obtained from the City Clerk's Office, Renton City Hall – 7th floor, (425)  
2 430-6510.

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