

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 634

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, APPROVING THE SUBDIVISION AND FINAL PLAT KNOWN AS CANHTAN TA.

WHEREAS, on October 10, 2006, application was vested to the King County code for the preliminary approval of a subdivision known as Canhtan Ta; and

WHEREAS, on March 30, 2009, King County Hearing Examiner, issued the Findings, Conclusions, and Decision for preliminary approval of the Canhtan Ta Subdivision, No. L06P0019, subject to a number of conditions; and

WHEREAS, pursuant to Ch. 58.17 RCW and the Interlocal Agreement Between The City of Burien and King County Relating to Processing of Building Permits and Land Use Applications, the King County Department of Permitting and Environmental Review has reviewed the final plat of Canhtan Ta Subdivision and determined it to comply with all terms and conditions of preliminary plat approval and all applicable zoning and subdivision code requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURIEN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1: Findings. The City Council makes the following findings:

A. The Findings, Conclusions, and Decision of the King County Hearing Examiner attached hereto as Exhibit A are hereby adopted and incorporated herein by this reference.

B. The Final Plat for the Canhtan Ta Subdivision, as determined by King County, complies with all terms and conditions of preliminary plat approval and all applicable zoning and subdivision code requirements.

Section 2: Approval. The City Council hereby approves the Canhtan Ta Subdivision and Final Plat, subject to all terms and conditions set forth in the attached Exhibit A.

Section 3: Severability. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the

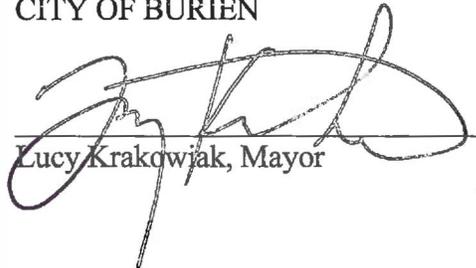
validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4: Savings. The enactments of this ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this ordinance.

Section 5: Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 21ST DAY OF MARCH, 2016, AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 21ST DAY OF MARCH, 2016.

CITY OF BURIEN



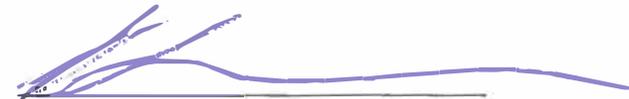
Lucy Krakowiak, Mayor

ATTEST/AUTHENTICATED:



Monica Lusk, City Clerk

Approved as to form:



Soojin Kim, City Attorney

Filed with the City Clerk: *March 21, 2016*
Passed by the City Council: *March 21, 2016*
Ordinance No. 634
Date of Publication: *March 24, 2016*

March 30, 2009

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**
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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L06P0019**
Proposed Ordinance No. **2009-0083**

CANHTAN TA SUBDIVISION
Preliminary Plat Application

Location: 12010—26th Avenue South, Seattle

Applicant: **CanhTan Ta**
5324—32nd Avenue South
Seattle, Washington 98118

King County: Department of Development and Environmental Services (DDES)
represented by Fereshteh Dehkordi
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-7173
Facsimile: (206) 296-7051

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions (modified)

EXAMINER PROCEEDINGS:

Hearing Opened:	March 17, 2009
Hearing Continued for administrative purposes:	March 17, 2009
Hearing Closed:	March 17, 2009

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

MAIN FILE COPY

ISSUES AND TOPICS ADDRESSED:

Surface water drainage, minimum lot dimensions, minimum density, cul-de-sac configuration, traffic, stream classification.

SUMMARY:

A subdivision of 16 lots in the urban area is approved, subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:**1. General Information:**

Developer:	CanhTan Ta 5324 32nd Avenue S Seattle, Washington 98118
Engineer:	American Engineering Corporation 4032 148th Avenue NE Redmond, Washington 98052
Location:	12010 26th Avenue S
STR:	SE 09-23-04
Zoning:	R-12
Acreage:	1.89 acres
Number of Lots:	16
Density:	12 du/acre
Lot Size:	Ranges from 2,520 to 3,368 sq.ft
Proposed Use:	Residential
Sewage Disposal:	Val Vue Sewer District
Water Supply:	King County Water District No 20
Fire District:	Fire District 11
School District:	Highline School District
Application Vesting Date:	October 10, 2006

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's (LUSD) preliminary report to the King County Hearing Examiner for the March 17, 2009, public hearing are found to be correct and are incorporated herein by this reference. The LUSD staff recommends approval of the application, subject to conditions.
3. The adjacent property to the south is proposed to be developed in the near future. The owner of that property has requested that a single surface water detention facility and discharge conveyance system be constructed for the two developments, if feasible. Both properties and King County could benefit from a single surface water detention facility, through lower construction costs, less land dedication and lower maintenance costs. However, development of the subject property should not be delayed, unless agreed to by the owners of both properties.

An option to develop with a joint facility, if approved by King County and both property owners, can be provided for in the conditions for final plat approval.

4. All lots within the proposed subdivision are required to have a feasible building area that meets required lot width and setback requirements. To accomplish this, and to meet the minimum density requirement of the zoning code, it may be necessary for two or more lots to be developed with "zero lot line" ("townhouse") improvements. Alternatively or in addition, it may be necessary to move the permanent cul-de-sac to the south, to provide greater depth for proposed Lots 9 and 10, and/or the minimum density required for this property may be subject to re-computation, taking into consideration the slopes that exist on the property.
5. The traffic report provided by the applicant indicates that approximately 16 peak hour trips will be generated by the proposed development during the morning and afternoon peak hours. This is slightly more than one additional trip every four minutes on 26th Avenue S. This small increase in neighborhood traffic will have almost no impact on traffic movements or safety in the vicinity.

Urban improvements (curb, gutter and sidewalk) will be constructed on the property's frontage along 26th Avenue S and on the internal street within the plat, except for that portion of the south side of the internal street where future widening is anticipated to occur with development of adjacent properties to the south. The improvement of the plat's frontage on 26th Avenue South shall be to the subcollector standard.

6. The applicant contests the designation of the offsite stream to the east as a type "N" aquatic area. The stream designation may affect the extent of the buffers required for offsite drainage improvements to be constructed for the discharge of storm water from this development. The final determination of the stream classification can occur at the time of engineering plan review.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare, and for open spaces, drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreation, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable and proportionate requirements necessary to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed revised preliminary plat submitted by the applicant on March 24, 2008, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.
5. The developer should have the option of participating in a joint surface water detention and discharge facility with the adjacent property to the south, if the developers of both properties

elect to do so, if surface water variances are obtained, and if engineering approval is granted by DDES. This option should not hinder the developer of the subject property from proceeding with a single facility serving the subject property if the developer of this property prefers to do so.

6. Minor lot modifications and other adjustments should be permitted to authorize "zero lot line" development and relocation of the permanent cul-de-sac to the south (with a temporary cul-de-sac contained entirely within the subject property, if necessary) to assure that 16 buildable lots are created. All approved lots should allow for reasonable construction that meets lot width and minimum setback requirements. Recomputation of the minimum lot requirement should also be permitted, at the option of the applicant, if it can be demonstrated that non-buildable areas exist within the subject property that may affect the required minimum density for this development.
7. Classification of the offsite stream to the east can be deferred to the time of engineering plan submittal and review. The determination by the DDES sensitive areas staff should consider any analysis provided by the applicant when the final determination is made.

DECISION:

The proposed subdivision of CahnTan Ta, as revised and received March 24, 2008, is granted preliminary approval, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-12 zone classification. All lots shall meet the minimum dimensional requirements of the R-12 zone classification and shall be generally as shown on the face of the approved preliminary plat. Minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services (DDES), including designation of lots for "zero lot line development" and movement of lot lines. Other appropriate minor revisions by DDES may include relocation of the permanent cul-de-sac further south on the subject property, possibly incorporating a portion of the adjacent property to the south, with delineation of a temporary cul-de-sac wholly within the subject property, if necessary.
4. The existing 15-foot wide sanitary sewer easement (Recording no. 9204301673) encumbering Lots 15 and 16 shall be relinquished. Otherwise, the two lots may be combined to provide for a suitable lot. Lots 9 and 10 must demonstrate that building setback requirements of R-12 can be met. The applicant may provide a recomputation of the minimum density on the subject property, if necessary, demonstrating that the plat meets the minimum density requirements of the zoning code, subject to DDES review and approval. Such recomputation is necessary only in the event the final configuration proposes fewer than 16 lots.
5. The applicant shall obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code. See attachment no. 3.
6. Final plat approval shall require full compliance with drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as

shown on the preliminary approved plat. The following conditions represent portions of the code. Requirements shall apply to all plats.

- a. Drainage plans and analysis shall comply with the 2005 King County Surface Water Design Manual (KCSWDM) and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
7. The following conditions specifically address drainage issues for this particular plat:
- a. The applicant is proposing Level III Flow Control and Enhanced Basic Water Quality in accordance with the 2005 KCSWDM. The drainage facilities shall be designed and constructed in accordance with the requirements of the 2005 KCSWDM.
 - b. An offsite drainage conveyance improvement and drainage easement across the adjoining parcel to the east (Parcel no. 0923049460) is required. A letter of intent to provide a drainage easement has been obtained from the property owner, see Attachment no. 2. This improvement shall be constructed in general conformance with the Grading and Storm Drainage plan received March 24, 2008; unless otherwise approved by DDES.
 - c. To implement the required Best Management Practices (BMPs) for treatment of storm water, the final engineering plans and technical information report (TIR) shall clearly demonstrate compliance with all applicable design standards. The requirements for BMPs are outlined in Chapter 5 of the 2005 KCSWDM. The design engineer shall address the applicable requirements on the final engineering plans and provide all necessary documents for implementation. The final recorded plat shall include all required covenants, easements, notes, and other details to implement the required BMPs for site development.
 - d. The applicant shall have the option, jointly with the owner of the adjacent property to the south, to propose a joint surface water detention facility and discharge, to serve both properties, subject to obtaining required surface water drainage variances and approval by the DDES review engineer.
8. The proposed subdivision shall comply with the Critical Areas Ordinance as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of critical areas and their buffers

(e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.

Preliminary plat review has identified the following issues which apply to this project. All other applicable requirements for critical areas shall also be addressed by the applicant.

- a. A possible type "N" aquatic area (stream) is located to the east and just off the site. The 65-foot required setback does not fall within the site. If the building setback line (BSBL) extends into the subject property, it shall be shown on all engineering plans and the recorded plat. The final determination of the classification of the aquatic area and extent of the buffer and setback shall be made at the time of review and approval of the final engineering plans. The developer's analysis of the aquatic area shall be considered by DDES in making its final determination of the stream classification.
 - b. The outfall energy dissipater for the drainage convenience system shall not be constructed within the stream channel. The outfall shall be located as far from the channel as possible. The engineering plans shall be reviewed and approved by the Critical Areas staff prior to the approval of the engineering plans.
 - c. Impacts to streams and/or work within the ordinary high water mark may require approval/permits from other review agencies such as the State Department of Fish and Wildlife. It will be the applicant's responsibility to obtain approvals from other review agencies and submit the approvals/permits during engineering review.
 - d. Prior to construction or clearing activities the eastern property edge and/or edge of buffer shall be clearly marked with orange construction fencing or similar, and shown on the engineering plans. The fencing shall remain in place until all clearing or construction is completed.
 - e. Any work or clearing within the stream buffer may require a re-vegetation plan. This will be determined by Critical Area staff during the review of the engineering plans.
9. The following road improvements are required for this subdivision to be constructed according to the 1993 KCRS:
- a. South 120th Place shall be fully-improved to urban subaccess street standards, with a permanent turnaround bulb as shown in the preliminary plat dated March 24, 2008 to serve Lots 7 through 12, except as follows:
 - Across the exception parcel addressed at 12016 26th Avenue South (Parcel ID 025700-0001), these improvements shall include a minimum 20-foot roadway with curb and gutter on the south side of South 120th Place, and curb, gutter and sidewalk across the northerly (plat) side of the roadway.
 - East of proposed Lot 15, South 120th Street shall be improved to the urban half-street standard (the subaccess street classification for horizontal and vertical alignment and as approved by L06V0095), with a minimum 20-feet of pavement. The crown in the roadway shall be set at a point 12 feet south of the north curb line. (The future widening: 4 feet of pavement, in addition to concrete curbs, gutters and sidewalks is expected to occur in conjunction with the subdivision of Tax Lot 025700-0009.)

- It should be noted that a pre-application meeting, filed under DDES permit no. A08P0055, was held for this abutting parcel. Relocation of the cul-de-sac bulb so that the permanent cul-de-sac extends onto the adjacent property to the south may be approved, with a temporary cul-de-sac entirely within the subject property in the event the subject property is recorded prior to the final plat of the adjacent property to the south.
 - The Applicant has proposed to construct concrete sidewalk across the frontage of proposed Lots 15 and 16.
- b. 26th Avenue South shall be improved to the urban subcollector street standard, from South 120th Place to South 120th Street (across the frontage of proposed Lot 1), including appropriate pavement edge transitions to the north and south. These improvements shall include 28-feet of pavement as measured from the existing curb on the west side of the street.
- Both curb returns (the northeast – abutting proposed Lot 1, and the southeast – abutting the exception parcel at 12016 -26th Avenue South) shall be fully-improved: curb and gutter and sidewalk, in conformance with the 1993 KCRS, together with ADA-compliant ramps in accordance with the King County Road Engineer's memorandum dated July 13, 2007.
- c. Any proposed joint use driveways or private access tracts shall be improved per Section 3.01 and 2.09 of the KCRS. These Tracts shall be owned and maintained by the Lot owners served.
 - d. A road variance (KC File L06V0095) for intersection spacing along 26th Avenue South, and vertical alignment of the internal street, is approved for this site. All conditions of approval for this Variance shall be met prior to approval of the engineering plans.
 - e. There shall be no direct vehicular access to or from 26th Avenue South from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
 - f. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, 50 percent of the impact fees due for the plat shall be assessed and collected

immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

13. The proposed 2,762 square-foot Tract B for recreation space is suitable and shall be improved consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, finished grade (less than 5 percent) and general improvements. The recreation plan shall be consistent with the approved engineering plans.
 - b. The recreation/landscape plan shall be prepared by a landscape architect and in accordance with KCC21A.16. The final recreation plan shall be submitted with appropriate fee for review and approval prior to the engineering plans approval.

A 4-foot tall split fence shall be provided around the perimeter of the recreation tract. Fence may be combined with landscaping to provide for a safe and pleasant recreation space.
 - c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
 - d. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation tract.
14. Street trees shall be provided as follows:
 - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along the frontage road and the on-site road. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 2007 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners or the homeowners association or other workable organization unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.

- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
15. The proposed plat shall comply with the requirements of KCC 16.82 including the significant tree retention as required by 16.82.156. A significant tree retention/replacement plan shall be submitted with the engineering plans.

ORDERED this 30th day of March, 2009.


James N. O'Connor
King County Hearing Examiner *pro tem*

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before April 13, 2009*. If a notice of appeal is filed, the original and six copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before April 20, 2009*. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the council.

MINUTES OF THE MARCH 17, 2009, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L06P0019.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Fereshteh Dehkordi, Bruce Whittaker and Kristen Langley, representing the Department; Rob Stewart, representing the Applicant, and Troy Schmeil, Patricia Glines and Canhtan Ta, the Applicant.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services (DDES) file no. L06P0019
- Exhibit No. 2 DDES Preliminary Report, dated March 17, 2009
- Exhibit No. 3 Application for Land Use Permits received October 10, 2006
- Exhibit No. 4 State Environmental Policy Act (SEPA) checklist dated September 22, 2006
- Exhibit No. 5 SEPA Determination of Non-Significance dated February 2, 2009
- Exhibit No. 6 Affidavit of Posting indicating a posting date of November 10, 2006; received by DDES on November 15, 2006
- Exhibit No. 7 Preliminary plat map dated March 24, 2008
- Exhibit No. 8 Assessor map
- Exhibit No. 9 Preliminary Technical Information Report by American Engineering Corporation dated October 15, 2006 and revised December 27, 2007
- Exhibit No. 10 Traffic Report by Gibson Traffic Consultants dated May 4, 2007
- Exhibit No. 11 Certificate of Transportation Concurrency issued September 18, 2006
- Exhibit No. 12 Geotechnical Engineering Report by GEO Group Northwest, Inc. dated December 21, 2007
- Exhibit No. 13 Draft letter of intent for off-site easement received January 13, 2008
- Exhibit No. 14 Road variance decision, KC File L06V0095 dated July 24, 2007

JNOC:vsm
L06P0019 RPT