



City of Tacoma  
Hearing Examiner

August 23, 2019

Northwest Vintage Homes LLC  
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(Electronic & Interoffice Mail Delivery)

**Re: HEX2019-019 (LU19-0053)**

**Applicant: Northwest Vintage Homes LLC**

Dear Parties,

In regard to the above reference matter, please find enclosed a copy of the Hearing Examiner's Findings of Fact, Conclusions of Law, and Decision entered on August 23, 2019.

Sincerely,

Louisa Legg  
Office Administrator

Enclosure (1): Findings, Conclusions, and Decision

Cc: Electronic Mail Delivery

Pierce County Assessor-Treasurer, Commercial Dept./Darci Brandvold ([dbrandv@co.pierce.wa.us](mailto:dbrandv@co.pierce.wa.us))  
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Eastside Neighborhood Council/Lynette Scheidt ([enact@live.com](mailto:enact@live.com))

**OFFICE OF THE HEARING EXAMINER**

**CITY OF TACOMA**

**PRELIMINARY PLAT DECISION**

**APPLICANT:**

Northwest Vintage Homes LLC, a Washington limited liability company (the “Applicant” or “NVH”), as the current record owner of the Subject Property (defined below), is the applicant for the present preliminary plat request (the “Plat”). NVH was represented at the hearing by Contour Engineering LLC, through Stephen Bridgefurd, acting as agent for NVH. For purposes of this Decision, the defined terms “NVH” and “Applicant” also include any employees, agents, and/or contractors of the Applicant in regard to conditions and compliance issues set forth below.

**FILE NO.:** HEX 2019-019 (LU19-0053)

**SUMMARY OF REQUEST:**

A request to subdivide four parcels of real property totaling approximately 1.88 acres into fourteen (14) single-family residential lots, with private roadways, and utilities. Thirteen (13) of the lots will be small-lot single-family lots with accompanying regulatory design standards.<sup>1</sup>

**LOCATION:**

The proposed Plat is located in East Tacoma generally at the address of 1315 East 52nd Street — and is comprised of Pierce County Tax Parcel Nos. 0320222090, 2965000050, 0320226037 and 0320226037 (collectively the “Subject Property” or the “Site”). The Site is currently zoned R-2 Single-Family Dwelling District.

**DECISION:**

The Plat is approved subject to conditions contained herein.

**PUBLIC HEARING:**

After reviewing the Planning and Development Services Department’s (“PDS”) Preliminary Report (the “PDS Report”) on the Plat, and examining available information on file with the

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<sup>1</sup> Small-lot single-family residential lots are those that are allowed in the R-2 District that do not meet standard minimums for lot width (50 foot average) and/or lot area (5,000 square feet). New Small Lots that are smaller than the applicable standard minimum lot dimensions in Section 13.06.100.D, shall be allowed, without variance, in the R-1, R-2, R-2SRD, HMR-SRD, R-3, R-4, R-4-L and R-5 Districts, subject to the Small Lot standards of that section, and provided that all new dwellings meet the design standards in Section 13.06.145.E. R-2 District Small-lots are between 5,000 and 4,500 square feet and/or between 50 and 35 feet in width and are subject to the design requirements found in Section 13.06.145.E. The small-lots proposed in the Plat fall within those ranges. *Harrington Testimony; Tacoma Municipal Code (“TMC”) 13.06.145.*

**ORIGINAL**

application, the Hearing Examiner conducted a public hearing on the application on July 25, 2019. The hearing record closed the same day when the City's corrected Staff Report (Ex. C-1) and the pre-application scoping notes (Ex. C-10) were filed with the Hearing Examiner's office.

**TESTIMONY:**

**For the City:**

John Harrington, Principal Planner, PDS

**For the Applicant:**

Stephen Bridgeford of Contour Engineering for NVH  
Ralph Cook of NVH.

No members of the public testified at the hearing.

**FINDINGS, CONCLUSIONS, AND DECISION:**

**FINDINGS OF FACT:**

1. Contour Engineering LLC, on behalf of NVH, filed an application for approval of a preliminary plat for a residential subdivision (again, the "Plat" or also "Cooks Landing") which would divide the Subject Property into fourteen (14) single family dwelling lots, ranging in size from just over 4,600 square feet to 7,885 square feet. Thirteen (13) of the proposed residential lots will average 4,773 square feet in size, achieving a net density in the Plat of approximately 7.34 dwelling units per acre. *Harrington Testimony; Ex. C-1, Ex. C-2, Ex. C-9.*

2. Five of the new lots<sup>2</sup> will front on East 52nd Street (Lots 9~13). The remaining proposed new home Sites (Lots 1~8) will front on Tract A—a private access road and utility corridor. All lots will have access off of a new 20-foot wide alley tract that is paved and curves to the north at its west end and connects with a newly created Tract A private access road forming a horseshoe loop from East N Street. There will be no parking on the north side of the Tract A access road, and signage is required to reflect the same in order for emergency vehicle access and solid waste vehicle access to be preserved into Cooks Landing. East 52nd Street and East N Street, on the perimeter of the Plat, will be required to be improved with 28-foot-wide paved surface and curb, gutter and sidewalk. The darker shaded areas in the Utility Plans (*Ex. C-3 and Ex. C-9*) on the existing streets are where the new asphalt improvements will be required. *Harrington Testimony; Ex. C-1~ Ex. C-3, Ex. C-9.*

3. An example, potential development buildout footprint is shown on Lot 10 of the Preliminary Plat Map as an example. This buildout example assumes a 20-foot front yard setback, 5-foot side yard setback and a 5-foot side and rear setback for a 500 square foot garage which could include a second story detached accessory dwelling unit (DADU) that would not exceed 25 feet in height. DADUs are not counted in residential density calculations. *Harrington Testimony; Ex. C-2, Ex. C-9.*

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<sup>2</sup> And the existing home that is to remain and become Lot 14



4. New street trees are required in the Plat - one in the front yard of each lot. There is a potential conflict on the planting of these trees on the lots that face the Tract A private access road where the proposed Utility Plan shows water lines and roof drains. This potential conflict will need to be resolved prior to finalization of the Plat. The Applicant has indicated to staff that the water lines and roof drains can run in non-linear lines to facilitate open areas for trees. Additionally, the Applicant indicated that pipe sleeves can possibly be used in tight areas to prevent damage from tree roots. *Harrington Testimony; Ex. C-1~Ex. C-3, Ex. C-9; TMC 13.06.06.145.*

5. The only address currently associated with the Subject Property is 1315 East 52nd Street, which is where a house currently sits in the approximate center of the Site. This house will be removed as part of development of the Plat. Significant development has taken place in and around the Subject Property over time. There are a number of subdivisions of varying vintages in the vicinity of the Site. The most recent of these is the 34-lot Rehe subdivision north of the Site which covers approximately 4.8 acres of land. The smallest lot in the Rehe Plat is 5,018 square feet and the overall net density is 7.08 units per acre. The houses in the subdivision were built in 2011-2012. The lots in Rehe Plat range from 5,300-8,300 square feet for the development of single-family residences. The proposed thirteen (13) new lots in the Plat are between 4,600 and 4,800 square feet in size with an overall net density of 7.34 units per acre. South of the Site, a new 94-lot Planned Residential Development (the Heritage Gardens PRD) with small-lot single family and townhouse lots was approved in December 2018. The PRD included a modification from R-2 to R-2 PRD. The overall net density for the Heritage Gardens PRD is 10.51 units per acre. A final plat has not yet been processed for the Heritage Gardens PRD. *Harrington Testimony; Ex. C-1, Ex. C-2, Ex. C-9.*

6. The proposed Cooks Landing subdivision is generally consistent with the existing subdivision pattern in the surrounding area, as well as with the characteristics and density for R-2 zoned property. *Harrington Testimony; Ex. C-1, Ex. C-9.*

7. The Site is comprised of four (4) mostly rectangular shaped parcels totaling 1.88 acres in area, with 160 feet of frontage on East N Street and 239 feet of frontage on East 52nd Street. The Site extends approximately 298 feet north of East 52nd Street to the south boundary of the Rehe subdivision, and extends approximately 320 west of East N Street to the east boundary of a large 33,000 square foot single-family residential lot. The existing house in the southwest corner of the Site that will remain on newly created Lot 14. The second house and outbuildings currently present at 1315 East 52nd Street, located near the center of the Site, will be removed in the development process, as mentioned above. East 52nd and East N Streets are both 60-foot wide local access roads with a paved width of 28 feet on East 52nd Street and an 18-foot wide gravel surface on East N Street. Neither street is improved with curb, gutter and sidewalk adjacent the Site at present. The Site slopes gently downhill from west to east from about 332 feet of elevation to about 320 feet at East N Street (just under 4% slope) and is covered with grasses, shrubs and trees, aside from the two existing houses. *Harrington Testimony; Ex. C-1, Ex. C-2, Ex. C-9.*

8. The Site and surrounding area were originally zoned R-2 Single-Family Dwelling District beginning in 1953. As mentioned, the Heritage Gardens PRD was rezoned to R-2 PRD in December 2018. The map in Exhibit C-1 at page 5 shows the Site outlined in red in the midst

of large yellow area zoned R-2. Property fronting East Portland Avenue to the east of the Subject Property is zoned R-3 Two-Family Dwelling District. The Salishan PRD is located east of Portland and north of East 51st Street and is zoned R-4 PRD. The proposed lot sizes for Cooks Landing, proposed residential density, and single-family dwelling land use are all permitted within the R-2 zoning as will be modified by the small-lot, single-family development regulations found at TMC 13.06.145. *Harrington Testimony; Ex. C-1, Ex. C-9.*

9. The land use designation for most of the Site under the One Tacoma Comprehensive Land Use Plan (the “Comp Plan”) is Single-Family Residential, with a small portion of the northeastern corner being in Multiple-Family (Low Density). The real property on Pipeline Road is designated as a Parks and Open Space. East of Pipeline Road is a segment of Neighborhood Commercial and Multi-Family Residential (High Density). The proposed lot sizes, residential density and single-family dwelling land uses are supported within the Comp Plan designations for the Site. *Harrington Testimony; Ex. C-1,*

10. Sanitary and storm sewer, water and power utilities run parallel to the Site in both adjacent streets. There will be extensions of the water and power lines into the new subdivision from East N Street for the lots fronting the Tract A access road. Existing power lines on East N Street are underground. The lots fronting East 52nd Street will access the lines within that right-of-way. The proposed sanitary sewer plan is to provide an east-west collector in the new alley tract for the 13 new small-lots. Storm water generated by the Plat will be conveyed to a private system. This system will have to be engineered to the approval of the City of Tacoma Planning and Development Services’ Site Development Section. The Site Development Engineer reviewing the proposal indicated that an approved plan may require the loss of a lot(s) to fit the proper drainage system in the plat. *Harrington Testimony; Ex. C-1, Ex. C-3, Ex. C-9.*

11. The nearest Pierce Transit bus stops are approximately 650 feet from the Site on East Portland Avenue for Routes 41 and 54. Route 41 provides service to the Tacoma Mall Transit Center (“TC”), 72nd Street TC, Tacoma Dome Station, and Commerce Street TC. Route 54 provides services to the 72nd Street TC and the Tacoma Mall TC via Portland Ave. and South 38th Street. The Transit Priority Network includes the East Portland Ave. arterial. *Harrington Testimony; C-1.*

12. Educational facilities that will serve K-12 students living in Cooks Landing (with distance and direction from the Site) are: Sheridan Elementary (.6 miles - West), First Creek Middle School (.3 miles - East) and Lincoln High School (2.1 miles - Northwest). Existing recreational fields and parks within approximately ½ mile of the Subject Property include: the two nearby schools, Blueberry Park, Cloverdale Park, and the new Eastside Community Center/Playground. *Harrington Testimony; C-1.*

13. The Plat, as submitted, has been prepared in accordance with the standards for new subdivisions set forth at Tacoma Municipal Code (TMC) 13.04.100. *Harrington Testimony; Ex. C-1.*

14. The Plat has been reviewed by City departments and divisions, and relevant governmental agencies, and utility providers. None objected to approving the Plat; however, numerous conditions concerning utilities, access, public safety and construction techniques have

been recommended. With minor clarifications and questions in testimony, the Applicant indicated no objection to the recommended conditions. *Harrington Testimony, Bridgeford Testimony, Cook Testimony; Ex. C-1.*

15. Public notice of the Plat application and public hearing was mailed to owners of record and/or taxpayers of record for property within 1,000 feet of the Site, and notice of the hearing was published in the News Tribune. In addition, public notice signs were posted on the Site referencing the proposed subdivision on May 17, 2019. Notice of the application was also posted on the City's Internet website. *Harrington Testimony; Ex. C-1.*

16. City staff received two comments via telephone calls. The first was a neighbor, from north of the Site with an East 51st Street address, who was concerned generally about a new subdivision and specifically about the number and size of the lots. A second neighbor, across East N Street, was concerned about the condition of East N Street and school walking routes for the children attending nearby schools (First Creek Middle School to the east and Sheridan Elementary School to the west. No members of the public testified at the hearing. *Harrington Testimony; Ex. C-1.*

17. Pursuant to the State's SEPA Rules *WAC* 197-11-800 and the City of Tacoma's Environmental Code (*TMC* 13.12), the Environmental Official has reviewed this project and determined the project is exempt from SEPA review requirements having less than 20 new residential lots proposed. *Harrington Testimony; Ex. C-1, Ex. C-9.*

18. The PDS Report, as entered into the record as Exhibit 1, accurately describes the proposal, general and specific facts about the Site, applicable sections of the Comp Plan, and applicable regulatory codes. The PDS Report is incorporated herein by reference as though fully set forth. However, to the extent that anything in the PDS Report conflicts with the contents of this Decision, this Decision shall control.

19. Any conclusion of law below, which may be more properly deemed or considered a finding of fact, is hereby adopted as such.

#### **CONCLUSIONS OF LAW:**

1. The Hearing Examiner has jurisdiction over this matter pursuant to *TMC* 1.23.050.B.1 and *TMC* 13.04.100.D. The Applicant bears the burden of proving by a preponderance of the evidence that its request for preliminary plat approval conforms to applicable requirements for approval. *TMC 1.23.070.C.*

2. The requirements of SEPA have been, or will be met, by the City's having reviewed the Plat application and determining that it is exempt from the requirements of SEPA.

3. Under *TMC* 13.04, the applicant for a preliminary plat is required to demonstrate consistency with the following criteria:<sup>3</sup>

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<sup>3</sup> Numbering of these subsections is maintained the same as in the *TMC*.



1. Appropriate provisions are made for the public health, safety, and general welfare, and for open spaces; stormwater management; streets or roads; alleys; other public ways; bicycle circulation; transit stops; potable water supplies; sanitary wastes; parks and recreation; playgrounds; schools and school grounds; and all other relevant facilities, including sidewalks and other planning features which assure safe walking conditions for students who walk to and from school and for transit patrons who walk to bus stops or commuter rail stations.
2. The public use and interest will be served by the platting of such subdivision and dedication as set forth by the Comprehensive Plan and other Adopted City Ordinances, manuals, design specifications, plans, goals, policies, and guidelines.

*TMC 13.04.100.D.1-2.* “Approval of the preliminary plat is a tentative approval and does not constitute final acceptance of the plat.” *TMC 13.04.100.D.2.* Much of the compliance required in granting the preliminary approval comes later through the plat finalization process, and even in the actual process of developing the Subject Property in accordance with all required conditions.

Compliance with TMC 13.04.100.D.1: “Appropriate Provisions...”:

4. The Plat’s proposed infrastructure and amenities, as augmented by the various requirements set forth in the Conditions of approval below, combined with the existing infrastructure and amenities in and around the Subject Property will be sufficient to serve the future residents of Cooks Landing. As a result, the Examiner concludes that the requirements of TMC 13.04.100.D.1 are met. *See FoF 2, 4, 7, and 10~12.*

Compliance with TMC 13.04.100.D.1: Public Use and Interest, Consistency with the Comp Plan and other Adopted City Ordinances, Manuals, Design Specifications, Plans, Goals, Policies, and Guidelines:

5. The Plat and intended development of the Subject Property are consistent with existing zoning and Comp Plan designations. Development of the Subject Property in compliance with the conditions set forth below, both during the process leading to final plat approval, and during the actual development of the Subject Property will insure that the requirements of TMC 13.04.100.D.2 are met.

Compliance with TMC 13.04.120 through .230:

6. There is a good deal of subject matter overlap in the listed items that a preliminary plat must make appropriate provisions for in TMC 13.04.100.D.1 and the requirements set forth in TMC 13.04.120 through .230. The PDS Report addresses these issues as did testimony at the hearing. Again, many of the “requirements” of these sections find the majority of their compliance in the actual development complying with the conditions of approval set forth herein below. It should also be noted here that many of these “requirements” in Sections .120-.230 are

not absolute, being conditioned with language like “In general,”<sup>4</sup> “Whenever feasible,”<sup>5</sup> and “In cases where...is impractical...”<sup>6</sup> The Examiner concludes that, where absolute, the requirements of TMC 13.04.120 through .230 are met, or will be met, through the development proceeding as set forth in the application and the proposed Plat map, as addressed in the PDS Report, and as testified to at the hearing. In cases where there is flexibility in the “requirements” of these sections arising from the language of that section, the development of the Plat, as conditioned herein, meets the intent of the TMC sufficiently.

### **CONDITIONS:**

“Conditions” set forth below are derived primarily from the PDS Report, other submissions in the record, and testimony from the hearing. Most of the conditions below have significantly more to do with compliance issues related to the Applicant’s intended residential development of the Subject Property after subdivision than being precursors to approving the Plat on a preliminary basis. As such, the conditions are not set forth herein as conditions precedent to *approving* the preliminary Plat, but rather are on-going *compliance* conditions of the subdivision of the Subject Property and the residential development that will follow.

As set forth at FoF 18 above, the PDS Report is incorporated herein by reference. Some of the more general language from section K. of the PDS Report (“Recommendation and Conditions of Approval”) is not repeated here. Such omission does not mean that, if the Subject Property is developed as intended, that the Applicant should not still reference helpful language from the PDS Report as guidance for its development process, and it also does not mean that some of these very general “conditions” *will not* apply to the development of the Subject Property. They are simply not made express conditions here at this preliminary stage. Many of these omissions are not worded as conditions in the PDS Report in any event, and serve more of an informational role.

To the extent that any express language in the PDS Report conflicts with the language in this Decision, this Decision shall control. Omission of language from the PDS Report in this Decision does not constitute a conflict.

Approval of the preliminary Plat does not release the Applicant from state or other permitting requirements for subsequent development of the Subject Property, nor does anything in this Decision take precedence over application of, and compliance with, the TMC. *See Usual Condition 2 below.*

Now therefore, the preliminary Plat of Cooks Landing is approved subject to the following conditions:

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<sup>4</sup> TMC 13.04.180

<sup>5</sup> TMC 13.04.190.

<sup>6</sup> TMC 13.04.160.



1. BUILDING AND LAND USE

- a. Any future development of the residential lots shall be consistent with the R-2 Single-Family Dwelling District (TMC 13.06.100), the small-lot, single-family development standards (TMC 13.06.145) and all other applicable sections of the Tacoma Municipal Code.
- b. Development of the subdivision and lots will further comply with the approved lot subdivision plat design and landscape standards in TMC 13.06.502.
- c. Easements for all utilities and roof drains will need to be shown on final plat map.
- d. Construction shall meet applicable building codes at the time building permit submittals are deemed complete.
- e. The following statements shall be inked on the final plat map:
  - i. The improvements required for the subdivision shall be maintained as designed and constructed, and approved by the City of Tacoma.
  - ii. The maintenance and repair, and associated costs, of all required improvements in the private road and alley tracts, and any drainage and utilities improvements within the subdivision shall be shared equally with the taxpayers of Lots 1 thru 13 (lot 14 exempt).
  - iii. The taxpayer of each of Lots 1-13 shall pay 1/13 of the tax assessments for the Private access and utility tracts in the subdivision. This amount shall be added to yearly tax bill for the taxpayer of each lot.
- f. Buildings to be removed shall be removed under demolition permits prior to final plat application.

2. STORM AND SANITARY SEWERS

- a. Development of the Plat shall comply with all applicable requirements contained in the City of Tacoma Stormwater Management Manual (sometimes referred to herein as the "SWMM"), Side Sewer and Sanitary Sewer Availability Manual, Tacoma Municipal Code 12.08, Tacoma Municipal Code 2.19, Tacoma Municipal Code 10.14, Tacoma Municipal Code 10.22 and the Right-of-Way Design Manual in effect at time of vesting land use actions, building or construction permitting.
- b. Any utility construction, relocation, or adjustment costs shall be borne by the Applicant.

**The following conditions shall be met prior to application for Final Plat:**

- c. Private storm easements shall be provided across any parcels that private storm sewers must cross to serve parcels which do not have direct access to a public storm main. The easements appear to be shown on the preliminary plan.
- d. Private storm easements shall be provided across any parcels that private storm sewers must cross to serve parcels which do not have direct access to a public storm main. The easements appear to be shown on the preliminary plan.

- e. A Covenant and Easement Agreement shall be required for all projects with private storm drainage systems.
- f. Per conversations with the Applicant, the Site Review Group understands that the alley shown on the preliminary plat map is proposed to be a private access tract; although the Applicant indicated at the hearing that it would like to keep open the possibility of a public dedication. An easement is required for the proposed public sanitary sewer extension. The easement shall be granted to the City of Tacoma and be prepared by the City of Tacoma Public Works, Real Property Services Division (RPS”). The recording numbers shall be on the final plat. Once the utility location on the Site is approved by the City, the Site Review Group shall coordinate with RPS to prepare the easement for recording prior to final plat during the work order process.

**The following conditions/statements shall be inked on the Final Plat Site plan, prior to recording. The statements and conditions may be modified after submittal of a preliminary stormwater and/or sewer utility plan. Additional conditions may be required after submittal of a preliminary stormwater and/or sewer utility plan prior to final plat.**

- g. A preliminary utility plan dated 3/8/2019 was approved by the Site Review Group under permit number LU19-0053. Additional permits and approvals are required for construction.
- h. A work order for frontage improvements and associated utilities was approved by the Site Review Group under permit number WOXX-XXXX. Additional permits and approvals are required for onSite construction.
- i. A Site development permit for onSite grading and associated utilities was approved by the Site Review Group under permit number SDEVXX-XXXX. Additional permits and approvals are required for onSite stormwater management BMPs.
- j. This plat contains a private storm drainage system. Private storm drainage systems are the sole responsibility of the owners, successors, and assignees of all lots being served by the private storm drainage system. Responsibility includes, but is not limited to, constructing, maintaining, and allowing City inspection of the private storm system in accordance with a separately recorded covenant and easement document.

Covenant and Easement Recording No. \_\_\_\_\_

- k. This plat contains private storm easements. No permanent structures shall be erected within the private easement areas. Permanent structures shall mean any concrete foundation, concrete slab, wall, rockery, pond, stream, building, deck, overhanging structure, fill material, tree, recreational sport court, carport, shed, private utility, fence, or other Site improvement that restricts or unreasonably interferes with the need to access or construct utilities in said easements. Permanent structures shall not mean improvements such as flowers, ground cover and shrubs less than 3 feet in height, lawn grass, asphalt paving, gravel, or other similar Site improvements that do not prevent the access of men, material, and machinery across, along, and within the said easement area.

- l. This plat contains a public sanitary sewer easement. No permanent structures shall be erected within the public easement area unless specifically approved in writing by the City of Tacoma Director of Public Works. Permanent structures shall mean any concrete foundation, concrete slab, wall, rockery, pond, stream, building, deck, overhanging structure, fill material, tree, recreational sport court, carport, shed, private utility, fence, or other Site improvement that restricts or unreasonably interferes with the City of Tacoma's access to install, construct, inspect, maintain, remove, repair, and replace public storm and/or sanitary sewer utilities in said easement. Permanent structures shall not mean flowers, ground cover and shrubs less than 3 feet in height, lawn grass, asphalt paving or gravel improvements that do not prevent the access of men, material, and machinery across, along and within the said easement area. Land restoration by the City within the said easement area due to construction or maintenance, shall mean planting grass seed or grass sod, asphalt paving and gravel unless otherwise determined by the City of Tacoma.

Public Easement Recording No. \_\_\_\_\_

- m. If the actual stormwater improvements installed vary from those on the preliminary utility plan so that the recorded Covenant and Easement Agreement does not reflect actual constructed improvements, an additional Covenant and Easement Agreement shall be developed, signed by the property owner and the City, and recorded by the property owner.
- n. Final design of the stormwater facilities may require modifications to the lot layout and/or a reduction in number of available building lots. Building permits for each lot shall be approved by the Site Review Group prior to construction.
- o. Construction on any and all lots, including public and private roads and alleys, is limited to the hard surface as provided within the approved Stormwater Site Plan under permit SDEVXX-XXXX. If additional hard surfaces beyond that approved under the previously noted permits are created, additional stormwater mitigation may be required. If stormwater mitigation differs from that approved under the previously noted permits, additional review by the Site Review Group is required and will include evaluation of all lots created as part of this plat.

**The following conditions are advisory comments applicable to future building and development permits associated with this proposal:**

- p. All stormwater shall be managed in compliance with the City of Tacoma Stormwater Management Manual (SWMM).
- q. The Applicant shall review SWMM Minimum Requirements #1-10 and comply with all applicable requirements.
- r. Per Minimum Requirement #5, projects that meet or exceed the SWMM thresholds shall employ, where feasible and appropriate, On-Site Stormwater Management BMPs to infiltrate, disperse, and retain stormwater runoff on site to the maximum extent feasible. On-Site Stormwater Management BMPs include: Roof Downspout Control BMPs, Dispersion of all impervious surfaces, and Soil Quality BMPs. If drainage cannot be



managed on-Site, it shall be conveyed to the City storm system in accordance with the Stormwater Management Manual and Public Works Design Manual.

- s. Preliminary review of the submitted engineering documents suggests that the Applicant intends to collect and convey drainage from the Site. The Applicant is cautioned that downstream capacity needs to be proven per Table 1-1 of the SWMM and List #2 must still be satisfied. Even though the Lower Puyallup watershed is exempt from flow control, the project may need to meet infrastructure protection if downstream capacity is not available. The project may need to manage on-Site if it is feasible per the SWMM, regardless of whether downstream capacity is available.
- t. It appears that the Applicant is proposing to provide water quality devices, but the exact design may need to be modified. It is not acceptable to mingle private and public runoff together in the same facility, as is apparently shown with the private alley. It is also not acceptable to have connections between public catch basins. Each public catch basin must tie to a manhole. This will alter the water quality design from what is shown on the preliminary plan.
- u. Private stormwater facilities are required to be located in a separate tract, easement, or private roadway with appropriate easements to benefit contributing parcels for private facilities per the City of Tacoma Stormwater Management Manual, Volume 3, Chapter 13.
- v. All public stormwater facilities shall be located in right-of-way or a tract dedicated to the City of Tacoma or easement per City of Tacoma Stormwater Management Manual Volume 3 Chapter 13.
- w. Coverage under the NPDES Construction General Permit is required for any clearing, grading, or excavating that will disturb more than one acre of land, per the Washington State Department of Ecology (Ecology). Contact Ecology's Office of Regulatory Assistance at 1-800-917-0043 to determine if any additional requirements are necessary. Additional information is also available online at <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. City approval does not release the Applicant from state or other permitting requirements.
- x. City permit records indicate the existing residence at 1315 East 52nd Street is connected to public sewer to the west along the approximate path of the proposed public main extension. This existing sewer shall be removed and the public system modified as needed to prevent infiltration of water and soil into the system.

### 3. PROTECTION OF ADJACENT PROPERTIES

With the development of the project, the Applicant/Developer shall be responsible for adverse impacts to other property abutting the project. The project shall be designed to mitigate impacts including, but not limited to, discontinuities in grade, abrupt meet lines, access to driveways and garages, and drainage problems. Slopes shall be constructed with cuts no steeper than 1-1/2:1, and fills no steeper than 2:1, except where more restrictive criteria is stipulated by the soils engineer. When encroaching on private property, the project engineer shall be responsible to obtain a construction permit from the property owner. The

design shall be such that adverse impacts are limited as much as possible. When they do occur, the project engineer shall address them.

- a. Coverage under the NPDES Construction General Permit is required for any clearing, grading, or excavating that will disturb more than one acre of land, per the Washington State Department of Ecology (Ecology). Contact Ecology's Office of Regulatory Assistance at 1-800-917-0043 to determine if any additional requirements are necessary. Additional information is also available online at <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. City approval does not release the Applicant from state or other permitting requirements.

#### 4. STREETS, DRIVEWAYS AND SIDEWALKS

**The following conditions shall be met prior to application for Final Plat:**

- a. East N Street abutting the Site shall be improved to Public Works Standards including a minimum width of 24 feet of pavement with cement concrete curb and gutter and sidewalks on the project side of the street, and may include additional planter strips depending on Public Works standards in effect at the time of permitting. The minimum pavement section (thickness) shall meet City Design Standards at time of submittal. The street improvements shall include necessary drainage, and any additional unsuitable foundation excavation material must be removed as directed by the City Engineer. The alignment of the street improvements shall be per Tacoma standard plan DR-04.
- b. East 52nd Street abutting the Site shall be improved to Public Works Standards including pavement widening with cement concrete curb and gutter and sidewalks on the project side of the street, and may include additional planter strips depending on Public Works standards in effect at the time of permitting. The minimum pavement section (thickness) shall meet City Design Standards at time of submittal. The street improvements shall include necessary drainage, and any additional unsuitable foundation excavation material must be removed as directed by the City Engineer. After review of the preliminary engineering drawings, it appears that the most appropriate alignment for the street improvements would be to match those improvements nearest the project on the west side. The street is constructed at an offset alignment. The alignment shown on the preliminary plan does not match the improvements to the west and this discrepancy will need to be resolved in the final plat.
- c. The type, width, and location of all driveway approaches serving the lots shall be approved by the City Engineer.
- d. Private accessways shall be constructed to Public Works Standards per Table 4-6 of the Right-of-Way Design Manual.
- e. All cuts in to public streets shall be restored in accordance with the City's Right-of-Way Restoration Policy.
- f. Streetlights are required on East N Street and East 52nd Street per notes from the associated pre-application record PRE18-0378. Site review noted that no streetlights are shown on the preliminary civil plan.

- g. A Work Order permit will be required. A licensed professional civil engineer must submit the street plans for review and approval following the City's work order process. To initiate a work order, apply online at TacomaPermits.org.

5. TRAFFIC ENGINEERING

The following comments and conditions are consistent with the Tacoma Right-of-Way Design Manual, Transportation Master Plan Goals and Policies to "prioritize the movement of people and goods via modes that have the least environmental impact and greatest contribution to livability in order to build a balanced transportation network that provides mobility options, accessibility, and economic vitality for all across all neighborhoods." It is also consistent with policies 2.3 Improve Safety, 2.4 Promote Health, 2.5 Traffic Calming Measures, 3.1 Complete Streets/Layered Network, 3.2 Green Hierarchy, 3.6 Street System Design, 3.7 Special Needs of Transportation Users, 3.9 Pedestrian Facilities, 3.10 Bicycle Facilities, 3.18 Roadway Capacity, and 6.3 20-Minute Neighborhoods.

- a. Per TMC 10.13.06.050 and TMC 10.14, access for all lots shall be from the rear (alley tract) to minimize pedestrian conflicts.
- b. Sidewalks shall be installed along the perimeter and frontage of lots in the Plat.
- c. No parking signs will be required along the north side of Tract A to facilitate emergency and solid waste vehicle access.
- d. Streetlighting along East N Street and East 52nd Street will be required. Streetlights are recommended on private roads.

6. TACOMA POWER

- a. The required relocation of the two poles in the East 52nd Street right-of-way will be at the Applicant/developer's expense. They most likely need to be moved just north of the back of curb as moving them to the north side of sidewalk would put too large of an angle in the overhead lines. One of the poles has existing underground facilities on it that will need to be rerouted to the new pole location. There appears to be underground communications on the pole that would need to be rerouted as well.
- b. Tacoma Power has two potential layout options for bringing power services into the Plat. The first option would be to do a line extension from East N St down East 51st St and set a few transformers to feed Lots 1-8. This would require the 10' utility easement along the north edge of these lots (at the back of sidewalk) to be dedicated to Tacoma Power and cable/phone/gas only. The roof drains and water lines cannot run in the easement parallel to Tacoma Power's facilities. Lots 9-13 could be fed underground from the existing pole line on East 52nd Street. The second option would be to do a line extension from E N St down the north edge of the alley and take a 10' easement adjacent to the north edge of the alley pavement. This would require the roof drains/roof drain easement on Lots 1-3 to be relocated outside of the Tacoma Power easement. Please contact Jeff Rusler with Tacoma Power New Services Engineering at (253)502-8309 or jrusler@cityoftacoma.org to discuss and determine power and easement locations.
- c. Easements must be shown on the face of the Plat Mylar for Tacoma Power, Communications, Natural Gas and Cable Television Companies and specifically name



Tacoma Power as Grantee within any easement provision and/or dedications. Easements should include/comply with the following:

- Show a designated 10-foot utility easement on the Plat parallel to all road rights-of-way. This is only necessary where power will be installed based on the scenarios discussed above.
  - Show a 5-foot easement parallel to all side lot lines at the front 15 feet of each lot.
  - If there are flag lots, the stem or driveway section shall be designated as a utility easement.
  - Drainage, dry wells, storm/sewer systems, bio-swales, sidewalks or permanent structures shall not be installed in the 10-foot utility easement.
  - Utility easement shall not have greater than 2 percent slopes.
  - Extend all sewer stubs to the property side beyond the 10-foot utility easement.
  - Show building setbacks from the property line.
- d. The following statement is required to be inked on the final plat map:

EASEMENT PROVISIONS

A PERPETUAL EASEMENT WITH A RIGHT OF ENTRY AND CONTINUED ACCESS IS HEREBY RESERVED FOR AND GRANTED TO THE CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, LIGHT/WATER DIVISION (D.B.A. TACOMA POWER/WATER AND CLICK! NETWORK), ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND PRIVILEGE TO CONSTRUCT, MAINTAIN, OPERATE, ALTER, REPAIR AND REPLACE UNDERGROUND/ABOVEGROUND UTILITIES INCLUDING, BUT NOT LIMITED TO, ELECTRIC AND COMMUNICATIONS WIRES, CABLE, CONDUIT, SERVICE AND DISTRIBUTION WIRES, PAD MOUNTED TRANSFORMERS, VAULTS, JUNCTION BOXES, SWITCHES AND APPURTENANT EQUIPMENT IN, OVER, UNDER, ALONG AND ACROSS THE REAL PROPERTY HEREIN DESCRIBED UPON THE RECORDING OF THIS PLAT. THE LOCATION OF THESE "TACOMA POWER" EASEMENTS ARE SHOWN ON THE FACE OF THIS PLAT AND THE EASEMENT DIMENSIONS ARE SHOWN ON SHEETS \_\_\_\_\_ OF THIS PLAT.

TACOMA POWER NOTES

1. LONGITUDINAL WET UTILITIES, SUCH AS DRAINAGE, DRY WELLS, STORM/SEWER SYSTEMS, BIO-SWALES AND SIDEWALKS OR PERMANENT STRUCTURES SHALL NOT BE INSTALLED IN THE 10-FOOT UTILITY EASEMENT, LATERAL CROSSINGS ARE PERMITTED.
2. UTILITY EASEMENT SHALL HAVE NO GREATER THAN 2% SLOPES PERPENDICULAR TO THE ROAD RIGHTS-OF-WAY.
3. EXTEND ALL SEWER STUBS AND ROOF DRAINS TO THE PROPERTY SIDE, BEYOND THE 10-FOOT UTILITY EASEMENT. NO CLEAN-OUTS SHALL BE PLACED IN THE UTILITY EASEMENT.

4. NO BUILDING, INCLUDING EAVES, SHALL BE CONSTRUCTED WITHIN 8 FEET OF A TRANSFORMER.

5. ANY RELOCATION OF TACOMA POWER'S FACILITIES WILL BE DONE AT THE CUSTOMER'S EXPENSE.

7. TACOMA WATER

- a. Two existing 3/4" services with a 5/8" meters currently provides service to the existing houses from a 6" CI water main in East 52nd Street. An 8" DI water main in East N Street is also available to provide service to this project. Calculated pressure is approximately 64 psi.
- b. The existing 3/4" service to the existing house at 1313 East 52nd Street is shown as remaining. The other existing 3/4" service to the existing house at 1315 East 52nd Street is shown as to be torn down. This water service may be used for one of the new lots or will need to be retired.
- c. If the fire marshal requires a fire hydrant at the end of Tract A, extension of a permanent water main will be required and shall be constructed by private contract. The Applicant/developer of the privately financed project will be responsible for all costs and expenses incurred by Tacoma Water for preparation of plans and specifications, construction inspection, testing, flushing, sampling of the mains, and other related work necessary to complete the new water main construction to Tacoma Water standards and specifications. The engineering charge for the preparation of plans and specifications will be estimated by Tacoma Water. The Applicant/developer will be required to pay a deposit in the amount of the estimated cost. The actual costs for the work will be billed against the Applicant/developer's deposit. The new mains will be installed by and at the expense of the Applicant/developer. The Applicant/developer will be required to provide a 20-foot wide easement over the entire length of the water main, fire hydrant, service laterals and meters. The Applicant/developer's Professional Land Surveyor shall prepare and submit the legal description of the easement to Tacoma Water for review and processing. Prior to construction, a second deposit in the estimated amount for construction inspection, testing, and sampling will be due to Tacoma Water. Upon completion of the project, the Applicant/developer will either be refunded the unused amount of the deposit or billed the cost overrun. Approximate design time is ten weeks. Contact Jesse Angel at (253) 502-8280.

Private contract timeline:

- Four to six (4-6) weeks to begin design.
  - An additional 4-6 weeks to complete design.
- d. City ordinance 12.10.045 requires a separate water service and meter for each parcel/lot. Customer will be required to prove that property side pipes have been separated.
  - e. New water services and meters will be placed directly in front of each parcel where possible. Prior approval by Tacoma Water is required for other non-typical locations. Water services for proposed Lots 9 through 13 will be off of East 52nd Street Proposed Lot 14 has an existing service from East 52nd Street Proposed Lots 1 through 8 will be

located at the intersection of Tract A and East N Street or from a new water main in Tract A. Tract A will be required to provide utility easements for property-side water pipe from the meter location to each lot or a water main easement if a new water main is installed.

- f. Existing water meter to subject parcels may be utilized by the owner provided size requirements for intended use are adequate, as approved by Tacoma Water. Tacoma Water shall review proposed plans prior to final approval. Contact the Tacoma Water Permit Counter at (253) 502-8247 with any questions.
- g. If fire sprinklering, contact the Tacoma Water Permit Counter at (253) 502-8247 for policies related to combination fire/domestic water service connections.
- h. New water services will be installed by Tacoma Water after payment of the Service Construction Charge and the Water Main Charge. New meters will be installed by Tacoma Water after payment of the System Development Charge.
- i. New services install timeline:
  - Two (2) weeks to complete estimating.
  - An additional 4-6 weeks to install service once payment is received.
- j. If a new fire hydrant is required at a location with an existing water main, the hydrant will be installed by Tacoma Water after payment of an installation charge.
- k. If existing water facilities need to be relocated or adjusted due to street improvements for this proposal they will be relocated by Tacoma Water at the owner's expense.
- l. Sanitary sewer mains and side sewers shall maintain a minimum horizontal separation of ten feet (10') from all water mains and water services. When extraordinary circumstances dictate the minimum horizontal separation is not achievable, the methods of protecting water facilities shall be in accordance with the most current State of Washington, Department of Ecology "Criteria For Sewage Works Design".
- m. For utilities other than sanitary sewer, the proposed facilities shall have a minimum horizontal separation of five feet (5') and vertical separation of twelve inches (12") from Tacoma Water facilities.

8. FIRE PROTECTION

The fire hydrant shown on the preliminary utility plan must be relocated so that it is within 200 feet of the dead end of Tract A. A turnaround meeting fire apparatus standards must be provided at the dead-end of Tract A.<sup>7</sup>

9. SOLID WASTE

Garbage and recycling will be serviced at the curb in front of each parcel. Containers must have 4 feet clearance between them. TMC 12.09.040.

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<sup>7</sup> The Applicant indicated at the hearing that the Tacoma Fire Department ("TFD") had negated this requirement. Without confirmation from TFP, the Examiner is unable to remove this requirement, however. The parties are certainly free to discuss code complaint alternatives on the way to finalizing the Plat.



10. REAL PROPERTY SERVICES

- a. Submit form of deed proposed to transfer third party property required for the plat as proposed.
- b. Power of Attorney (POA) for third party property transfer approved by City of Tacoma Legal (Steve Victor) 04/08/2019.
- c. Vacation of East 51st Street right-of-way is required as RPS preferred alternative. Please be advised that the Street Vacation process takes 9 months to a year on average to complete. The foregoing notwithstanding, the intended vacation area is public right-of-way and can be used for that purpose until vacated. Until such time as existing barriers to vacation are removed, the Applicant shall be responsible for improvement and maintenance of the public right-of-way area together with the rest of Tract A.
- d. Deed transferring portion of East 51st Street right-of-way, which will otherwise attach to third party parcels after vacation required.

11. TACOMA-PIERCE COUNTY HEALTH DISTRICT

All grading and filling of land must utilize only clean soil as defined by Environmental Health Code, Chapter 12, Solid Waste Handling Standards. All other materials, including waste concrete and asphalt, are defined to be solid waste and approval must be obtained through the Tacoma-Pierce County Health Department prior to filling. Please contact David Bosch at (253) 798-6574 for further information.

12. MISCELLANEOUS

- a. Prior to obtaining building or grading permits, the Applicant shall contact the appropriate City departments to make the necessary arrangements for all required improvements. The required departmental approvals shall be acquired from, but not necessarily limited to, Tacoma Power (253-502-8292), Tacoma Water (253-502-8740), and PDS Site Development (253-591-1317).
- b. The basis of bearing for the final plat shall conform to the City of Tacoma grid system. Coordinates for all lot corners and angle points shall be submitted with the final plat on the NAD 83 WASHINGTON STATE PLANE South Zone Grid System. The final plat shall be drawn to a scale of 1"=100' unless, prior to submittal, written approval for a different scale is granted in writing by the Public Works Department. Mylar size shall be 18 inches by 24 inches.
- c. The final plat shall be submitted with a section breakdown from the land surveyor. The final plat shall agree with and be compatible with existing facilities and rights-of-way within the area.
- d. Per *TMC* 13.04, rebar shall be installed at all lot corners. Plat monuments shall be set at all perimeter boundary locations and street monuments shall be set in all necessary locations meeting the approval of the City Engineer.
- e. The final plat shall incorporate lot/block numbers and a house numbering system to the approval of the City Engineer.

- f. As part of the final plat submittal, a “100 feet to the inch” scaled final plat map shall be provided to Planning and Development Services.
- g. If improvements required prior to final plat approval are not constructed prior to final plat approval, such improvements shall be bonded for or an assignment of funds given meeting the approval of the City Attorney to guarantee that all required improvements will be designed and constructed. This is required if the Applicant wishes to proceed with the final plat prior to the physical construction of those conditions. If conditions are to be bonded for, the Applicant shall post the necessary bond at the time of, or prior to filing for final plat approval, and the following warning statement shall be incorporated on the plat map page, or additional page, of the final plat:

**WARNING:** Purchasers of the lots herein are advised that the City of Tacoma holds certain financial guarantees to insure completion of certain improvements and utilities, including but not limited to sanitary, road and storm facilities, power, water and street lights. Purchasers are advised that building permits may not be issued until these improvements are completed. Should these improvements/utilities not be completed, the City of Tacoma reserves the right to enter the property to complete these improvements and to seek reimbursement via the aforementioned financial guarantees or through other remedies at law, and the property grantor, heirs, owners, executors, successors or assigns shall save the City harmless from any damage that may be suffered by said re-entry and construction upon said premises.

- h. Building setback variances for lots created by this subdivision may not be approved by the City. Therefore, the owner/Applicant should plan ahead to develop lots that have dimensions that will allow construction of homes without the need for variances. This shall include the Applicant's foresight to provide for required driveway grades, topography, future sidewalk installation, necessary cuts and fills, soil bearing and geotechnical constraints, drainage courses, etc.
- i. The property owner is encouraged to establish contact with the neighborhood council for the area.
- j. Should any evidence of archaeological material be uncovered during the course of the project, all work in the vicinity shall cease and the City of Tacoma Historic Preservation Officer, as well as the Puyallup Tribe of Indians Historic Preservation Office, shall be contacted.

**Special Note:** The Applicant shall understand that it is its/their responsibility to closely review the Zoning and Platting sections of the *TMC* and, specifically, the "Final Plat Procedure," Chapter 13.04.100. This is to alert the proponent that if specific dates are not met and if specific items are not filed on time with the appropriate departments their plat will become null and void.

**USUAL CONDITIONS:**

- 1. The decision rendered herein is based upon representations made and exhibits, including development plans and proposals, submitted at the hearing conducted by the Hearing Examiner. Any substantial change(s) or deviations(s) in such development plans, proposals,

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND DECISION**

or conditions of approval imposed shall be subject to the approval of the Hearing Examiner and may require additional hearings.

2. The approvals granted herein are subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such law, regulations, and ordinances is a condition precedent to the approval granted herein and is a continuing requirement of such approvals. By accepting these approvals, the Applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinance. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, and ordinances, the Applicant shall promptly bring such development or activities into compliance.

**DECISION:**

The requested preliminary plat is approved subject to the conditions set forth above.

**DATED** this 23rd day of August, 2019.

  
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**JEFF H. CAPELL, Hearing Examiner**



## **NOTICE**

### **RECONSIDERATION/APPEAL OF EXAMINER'S DECISION**

#### **RECONSIDERATION TO THE OFFICE OF THE HEARING EXAMINER:**

Any aggrieved person or entity having standing under the ordinance governing the matter, or as otherwise provided by law, may file a motion with the Office of the Hearing Examiner requesting reconsideration of a decision or recommendation entered by the Examiner. A motion for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the Examiner's decision/recommendation, not counting the day of issuance of the decision/recommendation. If the last day for filing the motion for reconsideration falls on a weekend day or a holiday, the last day for filing shall be the next working day. The requirements set forth herein regarding the time limits for filing of motions for reconsideration and contents of such motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed with the Office of the Hearing Examiner or do not set forth the alleged errors shall be dismissed by the Examiner. It shall be within the sole discretion of the Examiner to determine whether an opportunity shall be given to other parties for response to a motion for reconsideration. The Examiner, after a review of the matter, shall take such further action as he/she deems appropriate, which may include the issuance of a revised decision/recommendation. (*Tacoma Municipal Code* 1.23.140)

## **NOTICE**

### **APPEAL TO SUPERIOR COURT OF EXAMINER'S DECISION**

Pursuant to the Official Code of the City of Tacoma, Section 1.23.160, the Hearing Examiner's decision may be appealable to the Superior Court for the State of Washington. Any court action to set aside, enjoin, review, or otherwise challenge the decision of the Hearing Examiner will likely need to be commenced within 21 days of the entering of the decision by the Examiner, unless otherwise provided by statute.