

**OFFICE OF THE HEARING**  
**EXAMINER, CITY OF TACOMA**  
**PRELIMINARY PLAT AND**  
**CRITICAL AREAS VERIFICATION**  
**PERMIT FINALIZATION DECISION**

**APPLICANT:** ARK PROJECT LLC (herein, the “Applicant”).

**FILE NO.:** HEX 2022-007 (LU22-0024).

**SUMMARY OF REQUEST:**

1) To subdivide 4.25 acres of land into 31 single-family residential lots, with a new public roadway, utilities, site drainage, and an access tract/private road extension; and 2) to finalize a critical areas verification permit (the “CAVP”).

**LOCATION:**

The real property sought to be subdivided and subject to the CAVP is located generally at the street address of 1628 South 80th Street, consisting of tax parcels 0320322211, 0320322209, 0320322210, 0320322287, 0320322090, and 0320322089 (herein, the “Site” or the “Subject Property”).

**DECISION:**

The Plat is preliminarily approved, subject to conditions as set forth herein below. The CAVP is hereby approved and finalized.

**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 application, the Hearing Examiner conducted a public hearing on the application on July 14, 2022.<sup>1</sup> At the conclusion of the hearing, the Applicant requested additional time to further assess the late entry configuration for the plat shown in Slide 11 of Exhibit 12 and the City’s recommended conditions regarding access to the proposed Plat at the south end of the Site and the related extension of South Asotin Street. The Applicant messaged that it was comfortable moving forward with the Slide 11 configuration on Friday July 22, 2022, and confirmed that in a brief status conference on Monday July 25, 2022.

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<sup>1</sup> The hearing in this matter was conducted virtually using Zoom teleconferencing with both internet and telephonic access at no cost.

**TESTIMONY:**

**For the City:**

John Harrington, Principal Planner, PDS Land Use

**For the Applicant:**

Stephen Bridgeford, P.E., Senior Land Planner, Contour Engineering LLC

Brett Allen, P.E., Principal Engineer, Contour Engineering LLC

**Members of the Public:**

April Smith

Andrea Haug

**FINDINGS, CONCLUSIONS, AND DECISION:**

**FINDINGS OF FACT:**

1. Ark Project LLC (the “Applicant”) is seeking preliminary plat approval of a 31-lot single-family residential subdivision to be created from the six mostly undeveloped parcels in and around 1628 South 80th Street, having the tax parcel designations of 0320322211, 0320322209, 0320322210, 0320322287, 0320322090, and 0320322089 (the “Site” or the “Subject Property”). The Subject Property totals approximately 4.25 acres in area, and is located in South Tacoma, within the South Tacoma Neighborhood Council area. *Ex. 1, Ex. 12; Harrington Testimony, Bridgeford Testimony, Allen Testimony.*

2. The proposed subdivision, is named “Patterson Estates” (hereafter referred to simply as the “Plat”)<sup>2</sup> and its proposed 31 single-family residential lots average 4,560 square feet in area with a minimum lot size of 3,645 square feet and a maximum area of 6,847 square feet. Nearly all proposed lots are small, single-family lots.<sup>3</sup> The density for the proposed plat would be approximately 9.55 dwelling units per gross acre. The proposed public and private roadways do not figure into net density. *Id.*

3. The Applicant originally submitted the configuration of the Plat shown on page 2 of Exhibit 1 for consideration and approval. Due to a number of City concerns regarding that configuration, and presumably after the hearing had already been scheduled and noticed to the public, the Applicant submitted the revised configuration shown on Slide 11 of Exhibit 12. Before the close of the hearing, the City indicated that it wanted this newer, revised configuration to be the one considered by the Examiner in this Decision. As referenced above, after being given some additional time post-hearing to examine right-of-way availability to the south of the Subject Property, the Applicant agreed to have the Slide 11 of Exhibit 12 configuration be “the one.” As a result, all references to “the Plat” herein are to the Slide 11 of Exhibit 12 configuration. *Ex. 1, Ex. 12; Harrington Testimony, Bridgeford Testimony, Allen Testimony.*

4. The lots created will have access off of a new 52-foot wide paved public cul-de-sac road

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<sup>2</sup> The Plat is, of course, only proposed at this point and only preliminarily approved herein. The Plat will not be referred to as proposed in every reference hereafter as that is to be understood. “The Plat” refers to the Exhibit 12 Slide 11 configuration unless otherwise expressly indicated.

<sup>3</sup> The PDS Report indicated all lots except Lot 18 are small. This may have changed with the change in Plat configuration. Regardless, all small lots will have to comply with development regulations applicable thereto.

(the “Plat Road”). The Plat Road will intersect with South 80th Street and effectively be a southward extension of South Asotin Street, which currently only runs north from South 80th Street. The Plat Road will run from the north entrance of the subdivision and extend south 500<sup>4</sup> plus feet to a cul-de-sac. The Plat makes use of one short private road extension eastward from the main public road to provide access to two lots (25 and 29) on the east side of the subdivision. Additional right-of-way will be dedicated at the northwest corner of the subdivision becoming part of South 80th Street between South Alaska Street and South Asotin Street. The Plat Road will be improved with a 28-foot-wide paved road surface and concrete curb, gutter and sidewalk. There will be sidewalk extensions to the lots with access off the private road tract (Tract A). It is the City’s intention, with the Applicant’s acquiescence, that the cul-de-sac not be permanent, only being in place until South Asotin Street can be extended farther southward beyond the Plat. At present, South 80th Street is a 60-foot wide local access road with a paved surface width of 29 feet. There is curb and gutter, but no sidewalk on this street, and it dead-ends west of South Asotin Street and becomes an informal trail traversing a hillside that drops 58 feet over a length of 270 feet to the east line of South Alaska Street. *Id.*

5. The Site and much of the immediately surrounding area have been zoned “R-2” Single-Family Dwelling District since 1953, with the inception of the City’s zoning code. West of the Site and east of South Hosmer Street and west of South Alaska Street, are a number of more intensive zones, with the more intensive zoning designations fronting South Hosmer Street, and less intensive zones backing up to R-2 (low-scale residential) lots fronting South Alaska Street. These include C-2 General Community Commercial District, M-1 Light Industrial District, R-4L-PRD Low Density Multi-family Dwelling District with Planned Residential District Overlay, R-4L, and R-3 Two-Family Dwelling District PRD. *Id.*

6. The Subject Property is located in the South Tacoma Groundwater Protection District (“STGPD”) overlay. This overlay district has regulations to protect groundwater areas that recharge municipal water wells from commercial and industrial businesses that store and use significant quantities of potentially hazardous materials. The STGPD restrictions have no effect on the single-family residential uses proposed by the Plat. *Harrington Testimony; Ex. 1, Ex. 12.*

7. The proposed lot sizes, residential density and intended single-family dwelling land use are permitted within the R2-STGPD zoning. Because of the lot sizes, however, compliance with small-lot single-family site development and building design regulations will be required. *Id.*

8. The irregularly shaped 4.25 acre Site is comprised of three large parcels where the new lots and roads will go, and three small parcels in the South 80th Street corridor that will mostly be dedicated and added to that right-of-way. The Subject Property is bordered on the north by South 80th Street, on the west by existing residential lots that front on South Alaska Street, on the east by lots fronting South Ainsworth Avenue and extending south to the south line of South 82nd Street. There is an existing single-family residence on the Subject Property that will be removed along with any other existing out-buildings. Most of the Site is relatively flat with a slight slope downhill to the west. At the west side of the Site, the slope becomes steep down into the rear yards of the residences fronting South Alaska Street. *Id.*

9. The largest currently existing parcel making up the Subject Property is the result of several

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<sup>4</sup> The 500-foot estimate is presumably taken from the original plat configuration in the record first at page 2 of Exhibit 1. Because the cul-de-sac has been moved farther south in the Plat configuration considered in this Decision, the reference is “500 plus feet.”

parcels and lots, both platted and not, having been combined in a boundary line adjustment (BLA 2022-01-06-5006) after a short plat vacation (LU20-0261) on the east-northeast corner of the Subject Property. Easements in the vacated short plat were relinquished. There are two additional large parcels on the southeast side of the Site, as well as the three small lots on the northwest side of the Site that will ultimately be largely dedicated as right-of-way added to South 80th Street, as mentioned above. Many other lots in the vicinity of the Site have never been formally platted, however, the lots adjacent to the Subject Property's south boundary have been to some degree. There are five short plats in the area, three of which retained easements for a future southward extension of South Asotin Street. Lots 3 and 4 of SP 75-244 rely on a future extension of South Asotin Street for lot frontage. Farther south, there are easements for the northward extension of a sanitary sewer line. There are two large landlocked parcels in the area south of the Plat and another large parcel that is adjacent to the east of those that front on South Ainsworth Avenue. One possible street extension alignment could have South Asotin Street running south through this property and then turning east to South Ainsworth Avenue in the South 83rd Street alignment. *Id.*

10. The Tacoma Municipal Code<sup>5</sup> discourages dead-end, cul-de-sac street designs, but such may be unavoidable here, at least until the extension of South Asotin Street is able to be completed. This extension would allow the Plat and Plat Road to comply with the TMC without needing a special exception and will provide a necessary second fire apparatus access to the Plat. This second fire apparatus access can be provided using the South Asotin Street extension reservations in the three short plats to the south, which would allow extension of the Plat Road south to an intersection with the fire apparatus road for the McDonald short plat (SP 78-266) and the Schanz short plat (SP 79-0167). The 20-foot wide fire access connects the South Asotin Street corridor to South Ainsworth Avenue. The south-area short plats required a City approved fire turnaround in the South Asotin Street corridor where it intersects with the short plat access road. *Id.*

11. The land use designation for the Site under the One Tacoma Comprehensive Land Use Plan<sup>6</sup> is Low-Scale Residential, which fits with the proposed use. The properties to the west of the Site toward Interstate-5 have more intensive designations such as Light Industrial, General Commercial and Mid-Scale Residential Mixed Use Center. The proposed lot sizes, residential density and single-family dwelling land use are supported within the Low-scale residential designation that has a density range of 6-12 dwelling units per net acre. *Id.*

12. The predominant land uses immediately surrounding the Subject property are single-family residences. Single-family residence subdivision lots in the area have estimated values ranging from \$354,200 to \$571,000 according to Zillow. The net density of the single-family residential lots surrounding the Site is 5.56 dwelling units per acre (39 SFR on 7.01 acres). The proposed net density in the Plat is 9.60 dwelling units per acre (31 SFR on 3.23 acres), which is 73% greater than surrounding lots.

13. Sanitary sewer, storm sewer, water and power lines are present at the intersection of South 80th and South Asotin Streets at the north end of the Plat. All these utilities can be extended into the Plat within the Plat Road to provide necessary services to the proposed lots. A new fire hydrant was intended for installation at the northwest corner of the original cul-de-sac, and will still be installed somewhere in that general vicinity. *Id.*

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<sup>5</sup> "TMC" is the commonly used acronym for the Tacoma Municipal Code.

<sup>6</sup> The One Tacoma Comprehensive Land Use Plan is referred to hereafter as the "Comp Plan."

14. The nearest Pierce Transit bus stop is for the Route 48 Sheridan/South M Street bus .25 miles east of the Site at the intersection of South Sheridan Avenue and South 80th Street. South Sheridan Avenue is on the Transit Priority Network. This bus cycles every 30 minutes during peak service between the Lakewood Transit Center – Zone J and the Commerce Street Transfer Area in downtown Tacoma. Pierce Transit submitted no comments or concerns regarding the Plat. The City indicated that the existing transportation facilities should be sufficient to serve residents of the Plat. *Id.*

15. Directional cement concrete curb ramps will be constructed at the intersection of South 80th Street and South Asotin Street, the entrance to the Plat. Ramps will be installed on the (northwest, northeast and southeast) corners of the intersection and align with current Tacoma and ADA standards. The Plat Road will have sidewalks fronting all lots. *Id.*

16. Educational facilities that will serve K-12 students living in the Plat (with distance and direction from the Site) are as follows: Birney Elementary (.4 miles - NE), Baker Middle School (.7 miles - east) and Mount Tahoma High School (2.9 miles - west). There were no comments or concerns submitted by the Tacoma School District regarding the Plat. The City indicated that the existing school facilities should be sufficient to serve residents of the Plat. *Id.*

17. Tacoma Metro Parks facilities within a mile of the Site include Harmon Playground .5 miles east on South 80th Street and Wapato Lake Park .6 miles north of the Site. Metro Parks submitted no comments or concerns regarding the Plat. The City indicated that the existing park facilities should be sufficient to serve residents of the Plat. *Id.*

18. The proposed subdivision is within the South End Neighborhood Council area. Information regarding the Plat was emailed to the Neighborhood Council chair. The South Wapato Neighborhood Safe Streets Group was given a presentation about the Plat on July 6, 2022 at Birney Elementary School by PDS and City traffic engineering staff. There were no comments submitted by the South Tacoma Neighborhood Council for the Plat.<sup>7</sup> *Id.*

19. A critical areas verification permit (the “CAVP”) was done to verify the existence—or confirm the absence, as the case may be—of critical areas on the Site. In this case, under the CAVP, the Site was evaluated for the presence of wetlands, Fish and Wildlife Habitat Conservation Areas (Biodiversity Areas/Corridors) and Geological Hazardous Areas pursuant to the City’s Critical Areas Preservation code found at TMC 13.11 (the “Critical Areas Code”). The Applicant’s consultant, Habitat Technologies, provided the City with a Joint Aquatic Resource Permit Application (JARPA) and a copy of its Critical Area Assessment, Wetland Report, dated August 18, 2020, and revised October 5, 2020 (the “Assessment”) as part of the CAVP process. The Assessment concluded that there are no wetlands or buffers on the Site and that the Site does not meet the requirements for a Biodiversity Area or Biodiversity Corridor. The City’s Senior Environmental Specialist, Karla Kluge, conducted a visit to the Site on March 17, 2022 to verify the analysis and conclusions presented in the Assessment. Kluge concluded that the Assessment was correct that there are no wetlands or wetland buffers on the Site and that there are no Biodiversity Areas or Biodiversity Corridors present on the Subject Property. Both the Assessment and the City’s Technical Memorandum (dated June 28, 2022) appear to be thorough and inclusive of all necessary considerations. No contrary evidence was presented in the record. *Harrington Testimony; Ex. 1, Exs. 3~5, Ex. 12.*

20. The Site does fall under a Critical Area designation for steep slopes (25%-40% slope)

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<sup>7</sup> Andrea Haug, who testified at the hearing, is a currently serving officer with the South Tacoma Neighborhood Council, however.

along the north 250 feet on the west side of the Site. These steep slopes exist along the entire west side of the Site and are shown in the contour lines of the map at page 5 of Exhibit 1, indicating a 40-foot rise from South Alaska Street to the west side of the Plat. The Applicant provided a Geotechnical Engineering Report identifying Hazardous Geological Areas as defined within the Critical Areas Code. During the review of the Plat, PDS' Geotech Engineer recommended conditions for addressing the steep slopes, and those are included below as appropriate. *Harrington Testimony; Ex. 1, Ex. 7, Ex. 12.*

21. Two members of the public (as listed above) offered testimony during the public testimony/comment portion of the hearing. The commenters expressed concerns about the City's notice, both in regard to the street address used and the placement of yellow notice signs, and about environmental issues with the Subject Property such as their concern over bird species that they believe exist on the Subject Property. The Examiner does not find any material defect in the City's notice. The environmental issues are beyond the Examiner's jurisdiction, in large part here because a SEPA analysis was previously performed, and its appeal period passed prior to the hearing.

22. As just mentioned, pursuant to the State's SEPA Rules (*WAC* 197-11) and the City of Tacoma's Environmental Code (*TMC* 13.12), the Plat and CAVP were considered under required environmental analysis. SEPA review is required for sites that propose over 20 new single-family residential lots. After its review, the City issued a Determination of Nonsignificance (DNS) threshold determination on June 16, 2022. *TMC* 13.12.820.B.1.c specifies a 14-day appeal period for the threshold determination. The project notice postcard indicated that a DNS for the project was likely. No timely-filed appeals of the DNS were received prior to the hearing. *Harrington Testimony; Ex. 1, Exs. 3 and 4.*

23. The PDS Report, entered into the record as Exhibit 1, is generally accurate in its description of the Plat, 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. Likewise, any information in the PDS Report that refers exclusively to the original configuration of the Plat is superseded by the Applicant's election to have the Slide 11 of Exhibit 12 configuration be reviewed here.

24. 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 the applicable requirements for that approval. *TMC* 1.23.070.C.

2. The preponderance of the evidence standard requires "that the evidence establish the proposition at issue is more probably true than not true."<sup>8</sup> The preponderance of the evidence standard is at the low end of the spectrum for burden-of-proof evidentiary standards in the U.S. legal system, and

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<sup>8</sup> *Mohr v. Grant*, 153 Wn.2d 812, 822, 108 P.3d 768 (2005) (plurality opinion); *In re Pers. Restraint of Schley*, 191 Wn.2d 278, 286-287, 421 P.3d 951, 957 (2018).

is not particularly difficult to meet.<sup>9</sup>

3. An applicant is entitled to rely on and benefit from all evidence presented at the hearing, and admitted into the hearing record, regardless of the source

4. The requirements of SEPA have been met by the City's having reviewed the Plat application and issuing the DNS. On-going SEPA compliance will be achieved through the final plat and any development of the Plat complying with the mitigation requirements of the DNS, as well as those set forth herein. *FoF 22*.<sup>10</sup>

5. Under TMC 13.04.100.D, "The preliminary plat shall not be approved unless it is found that:

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.<sup>11</sup>

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*. [Emphasis added.]

The approval criteria set forth at TMC 13.04.100.D.1 are conjunctive, not disjunctive. In other words, "appropriate provisions" must be made for all items in the list except where otherwise expressly noted.<sup>12</sup>

6. Compliance with TMC 13.04.100.D.1; "Appropriate Provisions are made for...": -

The Findings of Fact set forth above, as supplemented by the PDS Report and official hearing record, show that the criteria from TMC 13.04.100.D.1 have been generally met, either through the intended (and required as conditions to the approval herein) provision of new facilities as the Subject Property is developed, or through existing facilities being sufficient to satisfy the requirements of TMC 13.04.100.D.1.<sup>13</sup> The required items are examined in turn now as follows:

**(a) Public health, safety, and general welfare.** The Applicant and the City's evidence indicated that the Plat can be developed safely. The Plat itself present no discernible safety issues beyond appropriately dealing with the slopes to the west of the Subject Property as development occurs. If the Plat complies with all City recommended

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<sup>9</sup> *In re Custody of C.C.M.*, 149 Wn. App. 184, 202-203, 202 P.3d 971, 980 (2009); *Mansour v. King County*, 131 Wn. App. 255, 266, 128 P.3d 1241, 1246-1247 (2006).

<sup>10</sup> FoF stands for "Finding of Fact."

<sup>11</sup> Numbering of these subsections is maintained the same as in the TMC text.

<sup>12</sup> For example, within this otherwise conjunctive list, adequate provision may be made for "streets or roads" as a subcategory and not both.

<sup>13</sup> It is not unusual for some of the TMC 13.04.100.D criteria to be met by existing facilities.

conditions (*Ex. 1, Section K as adopted and tailored somewhat here at Conclusion 12 below*), it can be safely developed in compliance with the TMC and all applicable safety regulations. The City's environmental review addressed additional public health, safety and general welfare issues and determined that the Plat and its later intended development will not impact these areas in any materially negative way.

In addition, the development of the Subject Property, after its subdivision, adds housing to a short supply and expensive market in Tacoma, where more affordable housing is in great need. This adds to the overall general welfare of our community helping to meet this criteria. As such, the Examiner concludes that these criteria are met.

**(b) Stormwater management.** While it is not entirely clear how the Applicant will meet City storm water requirements, City facility capacity concerns have been addressed, and the Applicant has been advised that on-site retention facilities may be needed, which could result in a loss of lots. Compliance with City and state storm water requirements is essential. Applicable Washington case law allows for this criterion to be met at this stage so long as regulatory compliance is later achieved.<sup>14</sup>

**(c) Open space.** Yard open space will be required in the individual lots in the Plat in keeping with Comp Plan Policy DD-4.8, and parks and open spaces are within a reasonable distance from the Subject Property to consider this criterion met. *FoF 17.*

**(d) Streets or roads; alleys; or other public ways; bicycle circulation.** The Plat Road will provide sufficient access to the proposed homes. If built to City standards, the right-of-way related criterion are met. The Plat Road and sidewalks will also provide for adequate bicycle circulation. *FoF 4 and 10.*

**(e) Transit stops.** As found above, there is a Pierce Transit bus stop providing service on the Transit Priority Network within reasonable walking distance of the Plat that comes at reasonable intervals. This criterion is met. *FoF 14.*

**(f) Potable water supplies; sanitary wastes.** All utilities necessary to service the Plat are present in areas adjacent to the Plat presently and can (and will need to) be extended through the Plat to serve the homes developed. This criterion is met through availability and will be further met as the Plat is developed. *FoF 13.*

**(g) Parks and recreation, playgrounds.** Adequate park, recreation and playground facilities are available within a reasonable distance from the Subject Property. This criterion is met. *FoFs 16 and 17.*

**(h) Schools and schoolgrounds.** Existing public educational facilities are available and adequate to serve the development proposed by the Plat. As set forth above, these include Birney Elementary, Baker Middle School, and Mount Tahoma High School. *See FoF 16.*

**(i) Sidewalks; other safe walking features.** Sidewalks will be provided along the Plat

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<sup>14</sup> *Topping v. Pierce Cty. Bd. of Comm'rs*, 29 Wn. App. 781, 630 P.2d 1385 (1981) (“Matters which are specified by regulation or ordinance need not be considered unless conditions or infirmities appear or exist which would preclude any possibility of approval of the plat.”) There is no indication that the Plat will have absolutely no path to storm water compliance.



Road and Tract A. Additional pedestrian facilities will be provided at the entrance to the Plat. These criteria appear to be met by the Plat as proposed and conditioned. *FoF 4 and 15*

7. Compliance with TMC 13.04.100.D.2; Public Use and Interest Served, Consistency with the Comp Plan and other Adopted City Ordinances, Manuals, Design Specifications, Plans, Goals, Policies, and Guidelines:

The proposed Plat and the intended residential development of the Subject Property are consistent with the existing R-2 Single-Family Dwelling District in which the Subject Property currently sits. In almost all other ways, the proposed preliminary Plat and development are consistent with the public use and interest, as that is embodied in the goals and policies of the Comp Plan and the City's development regulations, as set forth in the PDS Report. The City cited to a number of Comp Plan goals and policies that are advanced by the Plat and its later development in Section G. of the PDS Report. The Examiner agrees with the City's assessment.

If ultimately granted final approval, the Plat will add to the current supply of housing in the City, a supply which is overtaxed at present resulting in significantly high market prices, as already alluded to above. The City's recommended conditions (many which will be included in the final approval process for the Plat), together with on-going monitoring by PDS and other City staff will combine to ensure that the Plat meets the part of this requirement dealing with City Ordinances, manuals, design specifications, and plans. Therefore, the Examiner concludes that the requirements of TMC 13.04.100.D.2 are, or will be met in the further unfolding of the final approval process, and in the Applicant's compliance with conditions of development.

8. Compliance with TMC 13.04.120 through .230:

In addition to the TMC 13.04.100.D.1 criteria just analyzed, TMC 13.04.110 provides that:

The general requirements and minimum standards of design and development set forth in Sections 13.04.120 to 13.04.230, inclusive, of these regulations, and the City's Comprehensive Plan, Subarea Plans, and applicable ordinances, manuals, design specifications, plans and guidelines in Section 13.04.120, are hereby adopted as the minimum requirements and standards to which a subdivision plat, including short subdivision, must conform for approval. However, the minimum standards found in Sections 13.04.120 to 13.04.230 may be waived as part of a subdivision/short subdivision decision upon a finding by the Hearing Examiner or Director that unique circumstances exist that make the strict application of the standards unreasonable.

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. Often, many of the "requirements" of these sections find the majority of their compliance in the actual development complying with the conditions of approval and these TMC sections.

Many of the "requirements" set forth in sections .120~.230 are not absolute, being conditioned with language like "In general,"<sup>15</sup> "Whenever feasible,"<sup>16</sup> and "In cases where...is impractical..."<sup>17</sup> The

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<sup>15</sup> TMC 13.04.180.

<sup>16</sup> TMC 13.04.190.

<sup>17</sup> TMC 13.04.160.

Examiner concludes that, where absolute, the requirements of TMC 13.04.120 through .230 are met, or will be met, through the development of the Plat proceeding as set forth in the application, as addressed in the PDS Report and at the hearing, and as the City's recommended conditions are imposed in any ultimate approval. In cases where there is flexibility in these sections arising from the language of any given section, the Plat and its intended development, as conditioned herein, meets the intent of the TMC sufficiently. Specifically, these TMC sections and their requirements are complied with, or will be complied with (or waived) as follows:

(a) TMC 13.04.120—Conformity to the Comprehensive Plan and the Major Street Plan and applicable ordinances, manuals, design specifications, plans and guidelines.

As stated at Conclusion of Law 7, the Plat and its intended residential development are consistent with the existing R-2 Single-Family Dwelling District in which the Subject Property currently sits. The Plat is also consistent with the Low-Scale Residential designation for the Site in the Comp Plan. Ultimately, development of the Subject Property in compliance with the conditions set forth herein will ensure that the remainder of this requirement (TMC 13.04.120) is complied with sufficiently.

As part of meeting the criteria of TMC 13.04.120, the development of the Plat will require compliance with small-lot single-family site development and building design regulations. These will include, but are not limited to, limitations on maximum building height, floor to area ratio constraints, particular design requirements, and parking space provision differences (from those applicable to standard lots).

(b) TMC 13.04.130—Relation to adjoining street system.

The roadways/access ways that will serve as the ingress and egress for the Plat will connect to South 80th Street and extend South Asotin Street, both of which are part of the City's street system. Further extension of South Asotin Street at the south end of the Plat at some point further ensures that this requirement is adequately met.

(c) TMC 13.04.140—Access.

The Plat Road and Tract A provide adequate access for the Subject Property and the lots to be created. The required sidewalks further ensure pedestrian access to, and in and around the Plat.

(d) TMC 13.04.150—Conformity to topography.

The proposed Plat conforms adequately enough to the topography present at the Subject Property to be approved. Ultimate compliance (e.g., taking into account the slopes located along the west boundary of the Plat) will be necessarily addressed as more detailed engineering plans for the development are submitted for review.

(e) TMC 13.04.160—Public or private streets or ways, or permanent access easement widths.

The Examiner concludes that the proposed width of the Plat Road to and through the Plat to be sufficient for the proposed development, as well as emergency vehicle access.

Prior to final plat approval, the City may require city street/road standards to be expressly met.

(f) TMC 13.04.165—Streetlights.

Streetlights must be provided in accordance with this section at an appropriate time as the development progresses.

(g) TMC 13.04.170—Roadways.

The Plat Road is intended to become a public right-of-way extension of South Asotin Street, and as such it must meet City standards. It appears to be adequate in width for the intended purpose of access. City road width requirements and other standards must be complied with, however.

(h) TMC 13.04.180—Public or private streets or ways, or permanent access easement design.

Ultimate compliance with this condition will be determined at the permitting/work order stage of development.

(i) TMC 13.04.190—Dead-end/cul-de-sac public or private streets or ways, or permanent access easements.

Strict application of this provision is temporarily waived. The cul-de-sac shown in the Plat presently is intended to be temporary. Farther extension of South Asotin Street beyond the Plat to the south will achieve better compliance with this provision.

(j) TMC 13.04.200—Alleys.

No alleys are proposed in the Plat. It does not appear that alleyways would be feasible or serve much purpose.

(k) TMC 13.04.210—Easements.

City easement requirements will be addressed as the development process unfolds, as well as in the application of the City's recommended conditions to any ultimate approval.

(l) TMC 13.04.220—Blocks.

It does not appear that this requirement is addressed in the record. The parties may address it as development progresses.

(m) TMC 13.04.230—Lots.

As currently proposed, the lots in the Plat appear to comply with this section's requirement for "All side lot lines [ ] [to] be at right angles to public or private street or way,... or radial to curved lines,..."

9. “Approval of the preliminary plat is a *tentative approval* and does not constitute final acceptance of the plat.” *TMC 13.04.100.D.2*. [Emphasis added.] As already stated, much of the actual compliance with conditions required in the preliminary plat 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. At the preliminary approval phase, it is mostly a matter of agreeing to be bound by compliance conditions. *TMC 13.04.100.D.2* continues with the following:

Approval of the preliminary plat, however, shall be assurance to the subdivider that the final plat will be approved; provided, that:

- a. The final plat substantially conforms to the approved preliminary plat.
- b. All requirements specified for the final plat are fully complied with.

10. Compliance with TMC 13.11.220 B.1—Critical Area Verification Permit: *TMC 13.11.220 B.1* allows for an applicant to request verification of critical areas “[o]n [ ] [a] subject site or within 300 feet of the subject site without submitting plans for a specific project.” The Applicant here requested such a verification be performed and then worked with the City to conduct necessary studies and submit them for review. The City reviewed the Applicant’s information and then made its own on-site investigation to confirm the Applicant’s submissions. Given that this has been done and there is no disagreement in any of the conclusions of the Applicant’s experts and the City’s expert staff, the CAVP is ready for approval/finalization. *FoF 19*.

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

12. Accordingly, the Plat is preliminarily approved and the CAVP is also hereby approved. This approval makes the Plat and the development of the Site subject to the following conditions:

**SECTION A. CONDITIONS OF APPROVAL:**

“Conditions” set forth herein are derived primarily from the PDS Report, other submissions in the record, and testimony from the hearing. Compliance with (i.e., final satisfaction of) many of the conditions below will be achieved through the Applicant’s development of the Subject Property after finalization of the Plat (assuming final approval of the Plat) rather than through this preliminary approval process. On-going compliance with these conditions as the development progresses is required, however.

As set forth at FoF 23 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”) may not be repeated here even though the majority is. That does not mean that the Applicant should not still reference helpful language from the Staff Report as guidance for its development process, and it also does not mean that some of these very general “conditions” or advisory information *will not* come into play in the finalization of the Plat or the later development of the Subject Property, or that the recommendations and information there are not also good guidelines to follow, even if omitted here.

To the extent that any express language in the PDS Report conflicts with the language in this Decision, this Decision shall control. Omission of any language from the PDS Report in this Preliminary

Plat Decision does not constitute a conflict necessarily.

As already stated at Conclusion of Law 9, this approval of the Plat is preliminary and tentative in nature. The preliminary Plat must still be finalized in accordance with controlling federal and state law, and the TMC. Approval of the preliminary Plat herein 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.

1. BUILDING AND LAND USE (including GEOTECH review)

- a. Any future development of the residential lots shall be consistent with the “R-2” Single-family Dwelling District (TMC 13.06.020), the Small-lot Single Family Residential development requirements in TMC 13.06.020 K and TMC 13.06.100 F and all other applicable sections of the Tacoma Municipal Code.
- b. Development of the Plat and lots will further comply with the approved lot subdivision plat design and landscape standards on TMC 13.06.090 B.
- c. All redline comments/conditions on the Plat layout design need to be addressed prior to final plat application.
- d. A second fire apparatus access at the south end of the subdivision is required.
- e. Construction shall meet applicable building codes at the time of complete building permit submittal acceptance.
- f. Structures shall meet applicable construction codes at time of complete building permit submittal.
- g. The onsite slopes are relatively minor and more of a concern closer to the west side of the Plat and potentially extending off the Plat. Depending on the proposed foot prints of the houses with relation to distances from the steep slopes to the west of the Site, they will require geotechnical evaluation at time of development.
- h. The plat geotechnical report shall be submitted with development of each lot.

**The following statements shall be inked on the final Plat map:**

- i. The taxpayer of each lot shall pay 1/12 of the tax assessments for Tract A in the subdivision. This amount shall be added to yearly tax bill for the taxpayer of each lot.
- j. **KNOW ALL PEOPLE BY THESE PRESENTS:** We (name of owners), the owners of the land herein described, embraced in and covered by said plat, do hereby donate and dedicate to the public forever the streets, alleys, and public places shown hereon, together with a perpetual easement on and over the private property abutting upon said streets, alleys, and public places to construct and maintain all slopes, cuts, and fill occasioned by the original grading by the City of Tacoma and necessary to accomplish and maintain such original grade of said streets, alleys, and public places. Said owners, for themselves and their respective successors and assigns, waive all claims for damages to the property included in this plat by reason of any cuts or fills made in streets, alleys, or public places shown hereon in the original grading thereof by the City of Tacoma, and further certify and swear that said land is free from all taxes and assessments which have heretofore been levied and become chargeable against said property, and further certify and swear that there are no encumbrances existing upon any of the land upon which streets, alleys, and public places have been herein donated and dedicated to the

public.

## 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 (“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 at the Applicant's expense.
- c. Be advised, the plans are considered preliminary and intended to determine the feasibility of compliance with the SWMM. The drawings and associated reports are not approved for construction.
- d. The Applicant is advised that the engineering analysis submitted in support of the preliminary plat application is not final, and more in-depth engineering analysis will be required for the development permitting phase.

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

- e. The Site is not presently served by the City stormwater drainage system. The City stormwater drainage system shall be extended to serve the project Site and/or the required street improvements through the City's Work Order process, or another method of stormwater management meeting all requirements of the City of Tacoma SWMM shall be provided. To start the work order contact Planning and Development Services – Site Development Group at (253) 591-5760 or [SiteDevelopment@cityoftacoma.org](mailto:SiteDevelopment@cityoftacoma.org). The City stormwater drainage shall be extended to allow the system to be extended in the future to serve neighboring properties.
- f. This Site is not presently served by the City’s sanitary sewer system. The City sanitary sewer shall be extended to serve the project Site through the City's Work Order process. To start the work order, please contact Planning and Development Services – Site Development Group at (253) 591-5760 or [SiteDevelopment@cityoftacoma.org](mailto:SiteDevelopment@cityoftacoma.org). The City sewer system shall be extended in a manner which allows the system to be extended in the future to serve neighboring properties.
- g. Each new lot/parcel shall have an individual side sewer connection to the public sanitary sewer. This may require re-routing any existing shared side sewers, or constructing new side sewers in order to individually connect each parcel to the public sanitary sewer. A public sanitary sewer extension may also be required in order to individually connect each lot/parcel.
- h. Private sanitary sewer and/or storm easements shall be provided across any lot/parcel(s) that side sewers or private storm must cross to serve parcels which do not have direct access to a public sanitary sewer or storm main, as applicable.
- i. A preliminary storm and/or sanitary sewer utility plan shall be prepared to show a preliminary design for storm and sanitary sewer mitigation. Refer to City Standard Plan DR-04 for Typical Utility Layout for a 52-foot wide right-of-way. This plan shall be approved by City of Tacoma Site Development Group prior to recording of the final short plat. Approved construction permits (Work Order and/or Site Development Permit) covering the entire Site may be substituted for the preliminary stormwater and/or sewer utility plan.
- j. The proposal includes utilizing separate stormwater facilities to mitigate stormwater on each lot. The facility sizing and amount of allowed impervious surface to be routed to the facility

shall be shown on the preliminary stormwater and/or sewer utility plan (approved construction permits covering the entire Site may be substituted for the preliminary stormwater and/or sewer utility plan). This may be in the form of a table that includes lot number, roof hard surface allowed in square feet, other hard surface allowed in square feet, and dimensions of each stormwater facility. Facility sections and details may be shown on the associated preliminary stormwater utility plan or construction permits.

- k. A Covenant and Easement Agreement shall be required for all projects with private storm drainage systems.
- l. All easements required for public storm and/or sanitary sewer extensions shall be granted to the City of Tacoma and be prepared by the City of Tacoma Public Works, Real Property Services Department. The recording numbers shall be inked on the final plat, or the easements may be shown on the plat document if approved by Environmental Services. Once the utility location(s) on the Site are/is approved by the City, the Site Development Group reviewer shall coordinate with Public Works, Real Property Services Department 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.**

- m. A preliminary utility plan dated \_\_/\_\_/20\_\_ was approved by the Site Development Group under permit number LUXX-XXXX. Additional permits and approvals are required for construction. (Note the preliminary plan dated 2/15/22 is NOT approved.)
- n. A Work Order for frontage improvements and associated utilities was approved by the Site Development Group under permit number WO\_\_ - \_\_\_\_\_. Additional permits and approvals may be required for onsite construction.
- o. A Site Development Permit for onsite grading and associated utilities was approved by the Site Development Group under permit number SDEV\_\_ - \_\_\_\_\_. Additional permits and approvals may be required for onsite stormwater management BMPs.
- p. WARNING: 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.
- q. This plat contains private storm and/or sanitary sewer easements. No permanent structure(s) shall be erected within the private easement area(s). 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 easement(s). 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.

Private Easement Recording No. \_\_\_\_\_

- r. This plat contains public storm and/or wastewater easements. No permanent structure(s) shall be erected within the public easement area(s) 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(s). 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.
- s. 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.
- t. Final design of the stormwater facilities may require modifications to the lot layout and/or a reduction in number of available building lots. Construction permits for each lot shall be approved by the Site Development Group prior to construction.
- u. Construction on any and all lots, including public roads and alleys, is limited to the hard surface as provided within the approved Stormwater Site Plan or as shown on the preliminary stormwater and/or sewer plan or permit SDEV \_\_ - \_\_\_\_ . 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 Development Group is required and will include evaluation of all lots created as part of this plat.

**The following conditions are applicable to building/development permits associated with this proposal:**

- v. All stormwater shall be managed in compliance with the City of Tacoma Stormwater Management Manual ("SWMM").
- w. The Applicant shall review SWMM Minimum Requirements #1-10 and comply with all applicable requirements.
- x. Per Minimum Requirement #5, projects that meet or exceed the SWMM thresholds shall employ, where feasible and appropriate, Onsite Stormwater Management BMPs to infiltrate, disperse, and retain stormwater runoff onsite to the maximum extent feasible.
- y. Water quality shall be provided for all projects that meet or exceed the thresholds for Minimum Requirement #6 as outlined in the SWMM. Pollution-generating hard surfaces created and/or replaced offsite as a result of this project shall count toward the pollution-generating hard surface total.
- z. Flow control or other mitigation in accordance with the SWMM shall be provided for all projects that meet or exceed the thresholds for Minimum Requirement #7 as outlined in the SWMM. Hard surfaces created and/or replaced offsite as a result of this project shall count toward the hard surface total.



- aa. All projects shall comply with Minimum Requirement #10: Off-Site Analysis and Mitigation.
- bb. This project is located within the South Tacoma Groundwater Protection District (STGPD). Please refer to the memorandum entitled “Implementation of Stormwater Infiltration for Pollution Generating Surfaces in the South Tacoma Groundwater Protection District” dated January 9, 2017 for infiltration requirements.
- cc. Public and private stormwater shall be managed in separate water quality and flow control facilities.
- dd. 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 SWMM, Volume 3, Chapter 13. Separate tracts or easements for the location of shared stormwater facilities shall be shown on the Plat, if applicable.
- ee. All 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 SWMM, Volume 3, Chapter 13. Separate tracts or easements for the location of shared stormwater facilities shall be shown on the Plat, if applicable. Public stormwater facilities shall be located in right of way, a tract dedicated to the City of Tacoma or an easement.
- ff. Stormwater facilities, other than conveyance, are required to be located in a separate tract dedicated to an association for private facilities or to the City of Tacoma for public facilities.
- gg. This project is located in the natural drainage course of abutting properties. Adequate provisions shall be made to collect drainage that naturally flows across the Site.
- hh. This project may include an infiltration facility that is regulated under Ecology’s underground injection control (UIC) well program. UIC wells shall be registered with the Washington State Department of Ecology. Registration and program information is available at: <http://www.ecy.wa.gov/programs/wq/grndwtr/uic/> or by calling 360-407-6143. This requirement typically applies to all infiltration trenches regardless of the size of the system except for single family facilities that receive only roof runoff.
- ii. It appears this project will disturb one or more acres of land or be part of a larger common plan of development or sale that has disturbed or ultimately will disturb one or more acres of land; and discharge stormwater from the Site. Coverage under a Washington State Department of Ecology (Ecology) NPDES Stormwater Construction General Permit (CSWGP) may be required. For assistance with the CSWGP contact the Ecology Southwest Region Pierce County Permit Administrator: (360) 407-7451. For Information about the Construction Stormwater General Permit and requirements, visit Ecology’s ISWGP webpage: <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Construction-stormwater-permit>. To submit a Notice of Intent (NOI) for coverage under the CSWGP apply online through Ecology’s WQWebPortal: <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Water-quality-permits-guidance/WQWebPortal-guidance>.
- jj. Each lot/building shall be independently connected to the City sanitary sewer at the building construction stage. Permits for this work must be obtained. Multiple units and buildings that are under single ownership and located on a single lot/parcel may use shared private side sewers that connect to the public sanitary sewer. In the event that this development is divided into more than one lot/parcel in the future (whether from platting, boundary line adjustments, lot segregations, or any other land use actions), each new lot/parcel shall have an individual

side sewer connection to the public sanitary sewer. This may require re-routing any existing shared side sewers, or constructing new side sewers in order to individually connect each lot/parcel to the public sanitary sewer. A public sanitary sewer extension may also be required in order to individually connect each lot/parcel. Notice of this requirement will be recorded on title of these lot/parcels.

- kk. Where a fixture is installed on a floor level that is lower than the next upstream manhole cover of the public or private sewer serving such drainage piping, said fixture shall be protected from back flow of sewage by installing an approved type of backwater valve. Fixtures on floor levels above such elevation shall not discharge through the backwater valve.
- ll. If the existing residence at (1628 S 80th Street) is connected to an onsite septic system, prior to recording of the plat/short plat/etc., the septic system shall be abandoned per Pierce County Health Department requirements and the residence shall connect to the City sanitary sewer system. Permits for this work must be obtained.
- mm. If pumping of sewage is required due to site conditions, plans and calculations for the pump system shall be prepared per City standards and submitted to Environmental Services - Site Development Group for review and approval prior to issuance of a side sewer connection permit.
- nn. Existing public easements are known to exist on the Site; the Applicant shall comply with all easement provisions.
- oo. There is limited availability in the Flett Creek payment in lieu of program for construction of stormwater retention facilities to comply with Minimum Requirement #7. Space in the facility can only be reserved once a complete construction permit (e.g. Work Order, Site Development) application has been submitted and accepted by the City. If there is no longer available space in the fee in lieu program at the time of construction permit application, the plat may be required to construct stormwater retention facilities, which will likely result in a reduction in the number of lots for the final plat.
- pp. Water and sanitary sewer locations must be "swapped" - follow City Standard detail DR-04 for a 52-foot right-of-way.

### 3. PROTECTION OF ADJACENT PROPERTIES

With the development of the Plat, the Applicant shall be responsible for adverse impacts to other property abutting the Plat. The development of the Plat 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. STREET, DRIVeways AND SIDEWALKS

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

- a. Extension of South Asotin Street shall be improved to Public Works Standards including a minimum width of 28 feet with cement concrete curb & gutter and sidewalks on both sides. The minimum roadway section shall meet City Design Standards at time of submittal. It shall include necessary drainage, and any additional unsuitable foundation excavation material must be removed as directed by the City Engineer. The future right-of-way shall be a minimum of 52 feet.
- b. The type, width, and location of all driveway approaches serving the Site(s) shall be approved by the City Traffic Engineer.
- c. Directional cement concrete curb ramps shall be constructed at the intersection of South 80<sup>th</sup> Street and South Asotin Street. Ramps shall be installed on the (NW, NE, and SE) corners of the intersection and align with current Tacoma and ADA standards.
- d. A (temporary) cul-de-sac shall be constructed at the end of the future Plat Road meeting Public Works Standards and to the approval of the City Engineer.
- e. Any future Private Accessway (Tract A) shall be improved to Public Works Standards to a minimum width of 24 feet and shall include sidewalks. The minimum roadway section shall meet City Design Standards at time of submittal. It shall include necessary drainage. The private access easement shall be a minimum 32 feet wide.
- f. A Work Order is 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, contact the Site Development Group at (253) 591-5760. A performance bond is required for all work orders per TMC 10.22.070.F.

#### 5. TRAFFIC ENGINEERING

- a. All public road accessways shall be constructed to the standards outlined in the City of Tacoma Right-of-way Design Manual.
- b. Shared driveways may be required for some lots in order to meet spacing requirements, per TMC 10.14.050.A.11.
- c. Residential lighting is required.
- d. Show lighting system on work order plans.
- e. Spacing will need to be worked out with utility services.
- f. Work shall be completed per: CITY OF TACOMA, RIGHT-OF-WAY DESIGN MANUAL Issued: January 7, 2016 Chapter 5 5-2 Errata Version July 2016.

- g. Illumination improves both traffic safety and individual safety along streets, sidewalks, and trails by allowing for visual perception of conditions and potential hazards throughout all hours of the day. Illumination plans may be required for a variety of reasons depending on varying environments encountered throughout the City.
- h. TMC 13.04, 13.06(A), and 13.07 provide regulatory authority for street lighting for new plats; illumination within certain zoning districts; and street lighting within landmarks and historic special review and conservation districts respectively. TMC 10.14 and 10.22 provide regulatory authority for streetlight provisions when placing or relocating driveways and when working in the right-of-way in general. When TMC requirements trigger offsite improvements, street lighting will also be addressed as a part of these improvements. This includes but is not limited to:
  - New plats shall be required to install streetlights in accordance with TMC 13.04.165.
  - New developments on arterial streets shall be required to install new streetlights or upgrade existing streetlights to current standards.
  - High-density development on non-arterial streets shall be required to install new streetlights or upgrade existing streetlights to current standards when recommended by the City Traffic Engineer.
  - High-density and/or commercial developments shall be required to install new streetlights or upgrade existing streetlights to current standards when recommended by the City Traffic Engineer.
  - Projects in mixed-use centers and/or designated business districts shall be required to install new streetlights or upgrade existing streetlights to current standards.
  - Projects on core pedestrian streets shall be required to install new streetlights or upgrade existing streetlights to current standards.
  - Projects within landmarks and historic special review and conservation districts may be subject to street lighting requirements specific to that district in accordance with TMC 13.07.120.
  - Projects involving undergrounding Tacoma Power's existing overhead infrastructure on which City streetlights are mounted shall be required to upgrade streetlights to current standards.
  - Low-density development for which streetlights are not required may still be required to install conduit for future streetlights where there is new or upgraded street frontage.
- i. New or replaced driveways and newly paved planting strips shall provide conduit for future streetlights in accordance with TMC 10.14.070.
- j. Driveways need to be shown on the final plat for all lots.

## 6. TACOMA POWER

Listed below are Tacoma Power's standard easement requirements for a plat. Many of the standard requirements are already met. Modify the plans to accommodate the easement requirements. A few of the issues with the existing site plan that do not meet these requirements are as follows:

- a. Five foot (5') easement parallel to all side lot lines at the front 15 feet of each lot not shown.

- b. The roof drain easements and lines conflict with the 5-foot side lot line easements in the previous note. It would be preferred to move the roof drain easements 5 feet farther into the property to eliminate the conflict. However, Tacoma Power may be able to design around this requirement and not need this change, but Tacoma Power will need to engineer the power to confirm.
- c. Sewer clean-outs are not to be located in the 10-foot utility easement. They should be relocated to property side of the easement.
- d. Additional easements may be necessary to serve lots 25 and 29,<sup>18</sup> and possibly at some other locations, but Tacoma Power will need to engineer the power layout to confirm. The developer shall work with Tacoma Power to confirm additional necessary easements before submitting for final plat. Tacoma Power has an existing overhead distribution line and 2 poles within the southerly portion of the proposed Plat Road. One of the poles does not appear to be shown on the survey and the plans do not call out the need to relocate these facilities. There is also an overhead service from one of these poles, pole #TP38221 that serves the home at 4319 S 60th St. All of these facilities will need to be relocated, and possibly converted to underground, prior to final plat approval. Tacoma Power will need to work with the developer to determine how to rebuild this infrastructure, as it is not as simple as just removing 2 poles. All relocation costs will be at the developer's expense. The developer can contact Tacoma Power New Services Engineering to look into solutions for relocating their infrastructure out of the purposed plat road.
- e. TACOMA POWER EASEMENT REQUIREMENTS FOR PLATS

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.

- Show a designated 10-foot utility easement on the Plat parallel to all road right-of-way areas.
- 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.
- No building shall be constructed within 8' of a transformer.

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<sup>18</sup> This appears to be a reference to the originally submitted Plat layout. The Applicant should understand that additional easement may be necessary, in any event, but perhaps for different lots than specified here.

- f. The following Easement Provisions and Notes should be included on the Plat for the benefit of Tacoma Power. Additional language can be included for cable/phone/communications/natural gas:

**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 DIVISION (D.B.A. TACOMA POWER), 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, UPON, 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 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. A new water main extension is required. Extension of a permanent water main shall be constructed by private contract. The 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 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 developer's deposit. The new mains will be installed by and at the expense of the developer. The 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 developers 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 developer will either be refunded the unused amount of the deposit or billed the cost overrun. Approximate design time is ten weeks. Contact Shelly Shaffer at (253) 502-8740. Extension of the water main is required prior to final plat approval.

- b. Private contract timeline:
  - i. Thirty-six to thirty-eight (36-38) weeks to begin design; and
  - ii. an additional 10-12 weeks to complete the design.
- c. Please note that any work order permits will not be issued until the water main design has been completed and reviewed by Planning and Development Services for the alignment and grade.
- d. TMC 12.10.045 requires a separate water service and meter for each lot/parcel. New water services and meters will be placed directly in front of each lot/parcel where possible. Prior approval by Tacoma Water is required for other non-typical locations.
- e. If fire sprinklering, contact the Tacoma Water Permit Counter at (253) 502-8247 for policies related to combination fire/domestic water service connections. If fire service is required it will be sized by your fire consultant and installed by Tacoma Water. Approved fire plans must be submitted to Tacoma Water.
- f. 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.
- g. If new water services are required, they will be sized and 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.
- h. Sanitary sewer mains and side sewers shall maintain a minimum horizontal separation of ten (10) feet 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." Vertical separation of eighteen (18) inches from Tacoma Water facilities.
- i. For utilities other than sanitary sewer and large diameter water mains, the proposed facilities shall have a minimum horizontal separation of five (5) feet and vertical separation of twelve (12) inches from Tacoma Water facilities.
- j. Please call 1-800-424-5555 and request underground utility locates at least 48 hours prior to commencement of digging.

- k. Tacoma Water is currently experiencing ongoing supply chain issues that could impact the timelines for new service connections. Find out more at [www.mytpu.org/building-remodeling/water-construction-development-services/](http://www.mytpu.org/building-remodeling/water-construction-development-services/)

## 8. FIRE PROTECTION

- a. A fire hydrant is required to be installed at the NW side of the cul-de-sac. Approval of hydrant placement will be through coordination with Tacoma Water.
- b. A second fire apparatus access shall be provided at the south end of the subdivision via the provided for extension of South Asotin Street to the west end of the fire apparatus access road for the short plats SP 78-266 and SP 79-0167 that connects to South Ainsworth Avenue.

## 9. SOLID WASTE

- a. Garbage and recycling will be serviced at the curb in front of each parcel. Containers must have 4-foot clearance between them when placed out for service. TMC 12.09.040.
- b. Lots 16-19 will not have adequate room for required 4- foot spacing at the curb in the cul-de-sac for garbage and recycling. Solid waste trucks will not back up over the sidewalk to access containers on Tract B.<sup>19</sup>

## 10. REAL PROPERTY SERVICES

- a. No permanent structures in right-of-way allowed.
- b. The City of Tacoma Building Official policy requires that new development be designed in such a way that encroachments in the right-of-way are not necessary.
- c. There is an outstanding in-lieu sewer assessment on the Subject Property. This is an advisory comment at this time, as this Land Use proposal does not trigger mandatory payment. Mandatory payment of the in-lieu sewer assessment will be required in the event of any connection, disconnection, or disruption of sewer service.

## 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. WASHINGTON STATE DEPARTMENT OF ECOLOGY

- a. Solid Waste Management: Derek Rockett (360) 407-6287

The Applicant proposes demolishing an existing structure(s). In addition to any required asbestos abatement procedures, the Applicant should ensure that any other potentially

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<sup>19</sup> This condition appears to still reference an earlier configuration of the Plat. The Applicant is advised that access/accommodation for trash pickups will have to be adequate in the final plat.



dangerous or hazardous materials present are removed prior to demolition. It is important that these materials and wastes are removed and appropriately managed prior to demolition. It is equally important that demolition debris is also safely managed, especially if it contains painted wood or concrete, treated wood, or other possibly dangerous materials. Please review the “Dangerous Waste Rules for Demolition, Construction, and Renovation Wastes,” on Ecology’s website at: [Construction & Demolition Guidance](#). All removed debris resulting from this project must be disposed of at an approved site. All grading and filling of land must utilize only clean fill. All other materials may be considered solid waste and permit approval may be required from your local jurisdictional health department prior to filling. Contact the local jurisdictional health department for proper management of these materials.

b. Toxics Cleanup: Eva Barber (360) 999-9593

The Subject Property is within a quarter mile of one contaminated Site. The site is McColm Residential Property, Facility Site ID (FSID) 7250. To search and access information concerning this Site, see <http://www.ecy.wa.gov/fs/> and <https://fortress.wa.gov/ecy/gsp/SiteSearchPage.aspx>.

If contamination is suspected, discovered, or occurs during the proposed residential development, testing of the potentially contaminated media must be conducted. If contamination of soil or groundwater is readily apparent, or is revealed by sampling, the Department of Ecology must be notified. Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300. For assistance and information about subsequent cleanup and to identify the type of testing that will be required, contact Eva Barber with the Toxics Cleanup Program at the Southwest Regional Office at (360) 999-9593.

c. Water Quality/Watershed Resources Unit: Joseph McCord (360) 791-5017

Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or storm drains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants.

Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48 RCW, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action

Construction Stormwater General Permit:

The following construction activities require coverage under the Construction Stormwater General Permit:

1. Clearing, grading and/or excavation that results in the disturbance of one or more acres **and** discharges stormwater to surface waters of the State.
2. Clearing, grading and/or excavation on sites smaller than one acre that are part of a larger common plan of development or sale, if the common plan of development or sale will ultimately disturb one acre or more **and** discharge stormwater to surface waters of the State.

- a) This includes forest practices (including, but not limited to, class IV conversions) that are part of a construction activity that will result in the disturbance of one or more acres, **and** discharge to surface waters of the State.
3. Any size construction activity discharging stormwater to waters of the State that Ecology:
- a) Determines to be a significant contributor of pollutants to waters of the State of Washington.
  - b) Reasonably expects to cause a violation of any water quality standard.

If there are known soil/ground water contaminants present on the Site, additional information (including, but not limited to: temporary erosion and sediment control plans; stormwater pollution prevention plan; list of known contaminants with concentrations and depths found; a site map depicting the sample location(s); and additional studies/reports regarding contaminant(s)) will be required to be submitted. For additional information on contaminated construction sites, please contact Carol Serdar at [Carol.Serdar@ecy.wa.gov](mailto:Carol.Serdar@ecy.wa.gov), or by phone at (360) 742-9751.

Additionally, sites that discharge to segments of waterbodies listed as impaired by the State of Washington under Section 303(d) of the Clean Water Act for turbidity, fine sediment, high pH, or phosphorous, or to waterbodies covered by a TMDL may need to meet additional sampling and record keeping requirements. See condition S8 of the Construction Stormwater General Permit for a description of these requirements. To see if your site discharges to a TMDL or 303(d)-listed waterbody, use Ecology's Water Quality Atlas at: <https://fortress.wa.gov/ecy/waterqualityatlas/StartPage.aspx>.

The Applicant may apply online or obtain an application from Ecology's website at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> - Application. Construction site operators must apply for a permit at least 60 days prior to discharging stormwater from construction activities and must submit it on or before the date of the first public notice.

Ecology's comments are based upon information provided by the lead agency. As such, they may not constitute an exhaustive list of the various authorizations that must be obtained or legal requirements that must be fulfilled in order to carry out the proposed action.

If you have any questions or would like to respond to these comments, please contact the appropriate reviewing staff listed above.

### 13. 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 Applicant/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 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 Applicant 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.

**DECISION:**

The Plat of Patterson Estates proposing 31 single-family residential lots and related necessary infrastructure is PRELIMINARILY APPROVED subject to the conditions set forth herein.

The related Critical Areas Verification Permit is also approved and finalized.

**DATED** this 1st day of August, 2022.

  
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**JEFF CAPELL, Hearing Examiner**

**NOTICE OF RECONSIDERATION/APEAL 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**

**APEAL 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 issuance of the decision by the Examiner, unless otherwise provided by statute.