



City of Tacoma
Hearing Examiner

July 30, 2019

Craig Deaver, Principal
CES NW, Inc.
310 29th Street NE, STE 101
Puyallup, WA 98372-6803
cdeaver@cesnwinc.com
(Electronic & First Class Mail Delivery)

John Harrington, Principal Planner
City of Tacoma
747 Market Street, Room 345
Tacoma, WA 98402-3701
JHARRING@ci.tacoma.wa.us
(Electronic & Interoffice Mail Delivery)

Re: HEX2019-012 (LU18-0127) Applicant: Vladmir Kubay

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 July 30, 2019.

Sincerely,

Louisa Legg
Office Administrator

Enclosure (1): Findings, Conclusions, and Decision

Cc: First Class Mail Delivery
Vloudimir Kubay, 3512 NE 17th Place, Renton, WA 98056-3226

Electronic Mail Delivery
Evan Mann, Entitlement Manager, SoundBuilt Homes (evan@soundbuilthomes.com)

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid or via delivery through City of Tacoma Mail Services to the parties or attorneys of record herein.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED July 30, 2019, at Tacoma, WA.

Louisa Legg

OFFICE OF THE HEARING EXAMINER
CITY OF TACOMA
FINDINGS, CONCLUSIONS AND DECISION

APPLICANT: Vladimir¹ Kubay (the “Applicant”).²

HEARING EXAMINER FILE NO: HEX 2019-012 (LU18-0127).

SUMMARY OF REQUEST:

The Applicant has requested approval to subdivide two (2) existing parcels of real property totaling approximately 3.55³ acres in area into fourteen (14) single-family residential lots, together with a private roadway tract, stormwater/drainage tract, and a wetland tract.

Ancillary to the preliminary plat request, the Applicant was required to apply for a wetland minor development permit (under TMC 13.11.220.B.2), and approval (or finalization) of that permit is also addressed here.

LOCATION:

The subject site is located principally at the address of 2216 65th Avenue NE, and includes Pierce County tax Parcel Nos. 0321254069 and 0321254029 (the “Site” or the “Subject Property”).

DECISION:

The requested preliminary plat is hereby approved subject to the conditions and requirements set forth herein at section 9 of the Conclusions of Law below.

The wetland minor development permit is also approved/finalized subject to conditions set forth at section 9 of the Conclusion of Law below, based on the determination that the requirements of

¹ The Applicant’s signature reflected in Ex. 9, Property Owner’s Authorization, appears as “Vloudimir Kubay;” however, Pierce County Assessor-Treasurer records reflect an alternate spelling of the Applicant’s first name as “Vladmir.” As the record owner of the Subject Property, Mr. Kubay granted authority to act on his behalf, relevant to the processing of the present preliminary plat application, to C.E.S. NW Inc., and Soundbuilt Homes (and its affiliate Copper Ridge, LLC), which has the Subject Property under contract to purchase, among others (*See Ex. 9*). Mr. Kubay and the entities he authorized are collectively referred to herein as the “Applicant.”

² For purposes of compliance with conditions herein, the term “Applicant” includes the Applicant’s employees, agents, contractors and assigns as well.

³ Other information in the record shows the Subject Property as being both larger and smaller than the 3.55 acre figure, but the Applicant indicated in testimony that the latest survey work produced the above number, and that is why it is used herein. *Craig Deaver Testimony*.

Tacoma Municipal Code (“TMC”) 13.11.220.B.2 have been or will be met through subdividing and developing the Subject Property as set forth and conditioned herein.

PUBLIC HEARING:

After reviewing the Preliminary Report (the “Report”) of the City’s Planning and Development Services Department (“PDS”) and reviewing information on file, the Hearing Examiner convened a public hearing on the rezone request on June 27, 2019.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION:

FINDINGS OF FACT:

1. The Applicant has requested approval of the proposed preliminary plat dubbed “Norpoint Place,” which would subdivide the Subject Property into fourteen (14) single-family dwelling lots ranging in size from 5,001 square feet to 5,987 square feet. The proposed residential lots will average 5,317 square feet in size achieving an overall net density for the subdivision of approximately 5.19 dwelling units per acre. This density calculation does not include a proposed wetland tract. A critical areas minor development permit was also required to address protection of wetlands on the Subject Property. *Ex. 1, Ex. 2, Ex. 4, Ex. 8.*

2. Resulting new home sites will have access off a newly created 28-foot-wide, paved access road that terminates in a cul-de-sac (22nd Street Ct. NE), with curb, gutter and sidewalk. The private access road will extend westward from its intersection/connection with 65th Avenue NE. 65th Avenue NE is a 62-foot wide local access road with an improved pavement width of 24 feet (24'). There is curb, gutter and sidewalk on the east side of the street, but not on the west side adjacent to the Site. City staff recommends, and the Examiner agrees, that 65th Avenue NE should be improved adjacent to the Site with a ½ street improvement with new asphalt pavement, curb, gutter and sidewalk to tie in with the existing alignment of sidewalks on adjacent parcels as part of the development of the Subject Property. In addition to the fourteen (14) single-family dwelling lots, the proposed plat includes three tracts: Tract A is the private access roadway, which is intended to remain private, Tract B, which is a stormwater tract, and Tract C, which consists of the herein referenced wetland and its buffer.⁴ All residential lots will have their access exclusively through the Tract A internal private roadway. All tracts will be maintained by a homeowners association to be created. *Deaver Testimony, John Harrington Testimony, Shannon Brenner Testimony; Ex. 1, Ex. 4, Ex. 8, Ex. 12.*

3. The westerly 1.05 acres of the Subject Property contains a Category IV wetland with a code required 50-foot buffer. No improvements are proposed in the wetland or buffer; however, the City’s environmental specialist considers the wetland to function as a stormwater flow control facility and a wetland minor development permit (“WMDP”) was required. The WMDP is being considered for issuance/finalization ancillary to this preliminary plat approval process and can be approved by the

⁴ Plans for a fourth Tract D for emergency access purposes, were abandoned by the Applicant prior to hearing and Tract D is no longer part of the proposed plat. *Deaver Testimony.* Ultimately, emergency vehicle access will have to comply with City standards.

Hearing Examiner when the development proposed for the preliminary plat will result only in a minor or *de minimis* impact on the wetland. *Harrington Testimony, Brenner Testimony; Ex. 1, Ex. 4.*

4. The Site is comprised of two long rectangular shaped parcels containing approximately 3.55 acres of total area,⁵ with 247 feet of frontage on 65th Avenue NE and extends 626 feet west of 65th Avenue NE. The previously-existing single-family house and outbuildings on the Subject Property have been removed. There are remnants of the former structures such as concrete and debris and the Applicant indicated that these will be removed as the Subject Property is developed. There are no known existing wells or septic systems on the Site. If any are discovered, the Applicant further indicated that these would be decommissioned per health department standards. *Ex. 1, Ex. 11; Harrington Testimony, Deaver Testimony.*

5. The Site and surrounding area was originally zoned “R-2” VSD Single-Family Dwelling District (est. 1953) with View-Sensitive Overlay (est. 2002). There have been no subsequent zoning changes in the area. The proposed lot sizes, residential density, and intended single-family dwelling land use are permitted within the “R-2” VSD zoning. *Ex. 1, Ex. 11.*

6. The Site is fairly flat, covered with grasses, shrubs, and trees, and gently slopes downward in an east-west direction (at about 3-4% range) dropping off the Site into a steeper ravine area. The steeper ravine area is not immediately adjacent to the Site, however, and therefore, the proposed development is not impacted or limited by any related setbacks. There are few trees on the Site presently. The Applicant plans to save any that exist and the planting of street trees is recommended by the City as a condition of development. The westerly quarter of the Subject Property has denser stands of trees and bushes in the wetland area. *Deaver Testimony, Harrington Testimony; Ex. 1, Ex. 11, Ex. 14.*

7. A vacant parcel borders the Site to the west. Bordering the Site on the north and south, and across 65th Avenue NE to the east, are developed single-family lots. Subdivision lots in the area improved with a single-family residence have been estimated at values ranging from \$310,000 to \$475,000 according to Zillow. There is a Puyallup Tribal Housing Authority development to the south. As mentioned above, a wetland and associated 50-foot (50') buffer and steep slopes are to the west. *Deaver Testimony, Harrington Testimony, Ex. 1, Ex. 2, Ex. 8.*

8. Sanitary and storm sewer, water and power utilities run north-south adjacent the Site in 65th Avenue NE. There will be extensions of the water and power lines into the new subdivision within the new private roadway/cul-de-sac (Tract A) to provide service to the new lots. There are no off-site utility extensions required for the proposed subdivision. Stormwater will be collected and conveyed to the southwest corner of the Site where a detention pond is proposed (Tract B). The stormwater is proposed to be released from the pond and be treated for water quality before entering the wetland buffer/wetland (Tract C). The Applicant does not expect to move materials or grade within the wetland buffer or wetland. The detention pond system will regulate flow and volume requirements for the wetland. *Deaver Testimony, Harrington Testimony, Brenner Testimony; Ex. 1, Ex. 2, Ex. 8.*

⁵ Again, total area figures in the record have varied, but the 3.55 acre figure was testified to as being accurately based on the Applicant's latest survey information.

9. The proposed sanitary sewer plan intends to add an east-west collector in the new access roadway that will then flow north between Lots 5 and 6 to the existing sewer line in 64th Avenue NE. Storm water generated by the new subdivision will be conveyed to drains and collectors along the Tract A access roadway to the detention pond on the south side of the roadway cul-de-sac in Tract B. *Harrington Testimony, Deaver Testimony; Ex. 1, Ex. 2, Ex. 12.*

10. The proposed development would connect to existing water mains within 65th Avenue NE. The Applicant anticipates two new fire hydrants will be installed to serve its proposed development—one within the private roadway and the other within 65th Avenue NE serving the Site. The new access roadway/cul-de-sac has been designed to meet turn radius requirements for emergency vehicles and all other vehicles which may service the planned lots i.e., delivery trucks. *Deaver Testimony.*

11. The Applicant proposes off-street parking for each lot consisting of two vehicles in the driveway and two in the garage. *Deaver Testimony.*

12. Applicant testimony indicated that there is no intention to break the development of the Subject Property into phases. *Deaver Testimony.*

13. The nearest Pierce Transit bus stop is for the Route 63 – NE Tacoma Express – approximately .75 miles northwest of the Site near the intersection of 29th Street NE and 59th Ave NE. This bus cycles every hour during peak service. King County Metro bus line (Route 182) with service into Federal Way, also has a stop within ½ mile north of the Site (356th Street and 21st Avenue SW). The only mode of transit currently running on these routes is local bus. *Ex. 1, Ex. 5.*

14. A traffic impact analysis was performed by Heath and Associates concluding that impacts from the development proposed by the preliminary plat would be “mild” and that no mitigation was necessary. *Ex. 5; Deaver Testimony.*

15. Educational facilities that will serve K-12 students living in the new subdivision (with distance and direction from the site) are: Northeast Tacoma Elementary (.95 miles – northwest), Meeker Middle School (3.9 miles - northwest) and Stadium High School (10.1 miles - west). There were no comments submitted by the Tacoma School District for this project. *Harrington Testimony; Ex. 1, Ex. 15.*

16. Tacoma Metro Parks within a mile of the Site are Northeast Tacoma Playfield next to Northeast Tacoma Elementary School .95 miles northwest of the site. Other parks in the area are Madrona Park (Federal Way) - .68 miles northeast of the Site, and Alderwood Park (Tacoma) – 1.8 miles northeast of the Site. There were no comments submitted by Metro Parks for this project. *Ex. 1.*

17. The proposed subdivision is within the North East Neighborhood District. There were no comments submitted by the North East Neighborhood Council for this preliminary plat application. *Ex. 1.*

18. In accordance with the requirements of TMC 13.04.100.C and 13.05.020 regarding notice of preliminary plat applications and shoreline permits, written notice of the application was mailed to all owners of property within 1,000 feet of the Site, the appropriate neighborhood council, and qualified neighborhood groups on April 26, 2019. A second public notice postcard was sent on May 29, 2019 to add

the WMDP and SEPA to the notice for the subdivision. Public notice signs were posted on the Site referencing the subdivision and wetland. Notice was also posted on the City's internet website, and notice of the hearing was published in the Tacoma News Tribune on April 26, 2019. *Harrington Testimony, Ex. 1.*

19. As part of the preliminary plat review process, PDSs provided notification of the proposed preliminary plat request and intended development to various City departments, and outside governmental, and non-governmental agencies. Departmental comments and suggested requirements regarding this proposal are included in the City's Report, and as appropriate, are made conditions herein. *Ex. 1.*

20. The Applicant agreed to the conditions of approval recommended by reviewing City departments and outside agencies, with the following notable exceptions:

(a) The Applicant apparently disagreed with the City over the need for the WMDP because no "development" is proposed to occur in the Tract C wetland/wetland buffer. The Applicant is also concerned over the characterization of the function of the Tract C wetland/wetland buffer and the labelling thereof. These concerns notwithstanding, it did appear, during the hearing that the Applicant agreed with the City's characterization of the wetland functioning as a "flow control facility." *Deaver Testimony, Brenner Testimony; Ex. 4.*

(b) Although part of the existing zoning paradigm, and not a separate condition of this preliminary plat consideration process, the Applicant voiced displeasure over the City's refusal to consider a blanket height variance for the Subject Property at this stage of the entitlements process. No height variance was before the Hearing Examiner for consideration as part of this proceeding. *Deaver Testimony.*

(c) The Applicant has not agreed to Public Works, Traffic Engineering's recommended condition that the development include "A shared use path, minimum 10 ft. with 2 ft. gravel shoulder, between 64th and private road, to meet standards in the Tacoma ROW Design Manual." *Ex. 1.* The Applicant advocated instead for a five-foot (5') wide sidewalk in the same location. This condition is addressed below at section 9.5.b in the Conclusions of Law below. *Ex. 1; Deaver Testimony.*

(d) The Applicant stated disagreement with any requirement to improve the east side street corners at the intersection of the private access roadway and 65th Avenue NE with ADA compliant ramps. This condition is addressed at section 9.4.e in the Conclusions of Law below. *Ex. 1, Deaver Testimony.*

21. Two (2) members of the public appeared at the hearing but elected not to testify. One person had questions for the Applicant that were addressed privately after the hearing.

22. Pursuant to the State's SEPA Rules (WAC 197-11) and the City of Tacoma's Environmental Code (TMC 13.12), the Director of Planning and Development Services issued a Determination of Environmental Non-Significance ("DNS") for the proposed action on May 29, 2019, which was required

due to the presence of the wetland on the Subject Property and the WMDP being part of the mix. The DNS was based on a review of the Applicant's submitted Environmental Checklist, a site survey, a Joint Aquatic Resource Permit Application ("JARPA") checklist review, and other supporting information on file with PDS. The DNS has not been appealed. *Harrington Testimony; Ex. 1, Ex. 3, Ex. 5, Ex. 7, Ex. 8.*

23. PDS's Report in this matter accurately describes the requested preliminary plat and resulting subdivision, as well as the intended, proposed use, general and specific facts about the Site, applicable sections of the City's Comprehensive Plan (the "Comp Plan"), and applicable regulatory codes. The Report is marked as Exhibit 1, and by this reference, is incorporated herein as though fully set forth. In the event of any conflict between the contents of the Report and this Decision, this Decision shall control.

24. Any conclusion of law herein 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 the subject matter of this proceeding. *See TMC 1.23.050.B.1, TMC 1.23.120, TMC 13.04.100.D, and TMC 13.11.220.B.2.*

2. The requirements of SEPA have been, or will be met, by the City's having issued the DNS, which has not been appealed, and the Applicant's ultimate compliance with the conditions set forth herein. *FoF 22.*

3. Under TMC 13.04.100.D, the applicant for a preliminary plat is required to demonstrate consistency with the following criteria:

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.⁶
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. In addition to the foregoing, a proposed preliminary plat must also comply with the requirements set forth in TMC 13.04.120 through 13.04.230.⁷ The Applicant bears the burden of establishing, by a preponderance of the evidence, that the requested preliminary plat conforms to all of the

⁶ Numbering of these subsections is maintained the same as in the TMC.

⁷ These sections and the requirements set forth therein are incorporated herein by this reference even though not reproduced verbatim, and will be addressed below. Many of the listed compliance items in TMC 13.04.100.D.1 have a certain amount of subject matter overlap with the requirements spelled out in TMC 13.04.120~.230.

foregoing criteria. *TMC 1.23.070*. “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 this 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 are made for...”:

4. As set forth in the Findings of Fact above, and as supplemented by the Report,⁸ the preliminary plat of “Norpoint Place” makes appropriate provision for the items listed in TMC 13.04.100.D.1, or those factors are accounted for by existing facilities/amenities. Many of the listed items that are not expressly provided in the development proposed by the preliminary plat (i.e., existing facilities/amenities, such as parks, bicycle circulation, schools, and transit stops) certainly have room to be improved. That said, these facilities are adequate to allow the preliminary plat to be approved in light of the present housing shortage in Tacoma and Western Washington generally. The facilities/amenities being added through the development itself, such as street trees along the frontage of the lots to be created, the open space that will be preserved in Tract C and to a lesser extent Tract B, and the sidewalks and pedestrian path between Lots 5 and 6 will serve the future residents of Norpoint Place, but will also add to the surrounding neighborhood. Availability of utilities appears to be sufficient. Provided that subsequent development occurs in compliance with the conditions contained herein, and is otherwise compliant with applicable laws, the Examiner concludes that the requirements of TMC 13.04.100.D.1 are adequately met.

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

5. The proposed preliminary plat and the intended residential development that would follow final approval are consistent with the existing R-2 Single-Family Dwelling District in which the Subject Property currently sits. The proposed preliminary plat and proposed development are consistent with the public use and interest, as that is embodied in the Comp Plan and City Ordinances, and as set forth in the Report, most especially from the standpoint of (a) “Encourag[ing] more housing choices...” (Comp Plan Policy DD—4.2), “Encourag[ing] residential infill development...” (Comp Plan Policy DD—4.3), and “Promot[ing] safe, healthy housing...” (Comp Plan Goal H—3). The Examiner concludes that the requirements of TMC 13.04.100.D.2 are met, or will be met through the development of the Subject Property in compliance with this Decision.⁹

Compliance with TMC 13.04.120 through .230.

6. As reference in FN7 above, 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 Report addresses these issues as did testimony at the hearing. Many of the “requirements” of these sections find the majority of their

⁸ Again, in the event of any material conflict between the Report and this Decision, this document shall control.

⁹ Again, it should be noted here that some of TMC 13.04.100.D.2’s requirements are met presently, and some will be met through the Applicant’s compliance with the development conditions set forth below.

compliance in the actual development complying with the conditions of approval set forth herein below, in addition to the actual subdivision of the Subject Property. It should also be noted here that many of these “requirements” in Sections .120 through .230 are not absolute, being conditioned with language like “In general,”¹⁰ “Whenever feasible,”¹¹ and “In cases where...is impractical...”¹² These qualifiers make for a great deal of flexibility in the actual application of the TMC 13.04.120 through .230 “requirements” for approving a preliminary plat. That notwithstanding, the Examiner finds 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, as addressed in the Report, and as addressed at the hearing. In cases where there is flexibility in these sections arising from the language of that section, the development, as conditioned herein, meets the intent of the TMC sufficiently. Where exacting compliance is not achieved, it is not absolutely required, and the deviations are due unique aspects of the size and location of the Subject Property that make any allowed flexibility warranted.

Wetland Minor Development Permit.

7. TMC 13.11.220.B.2, titled “Minor Development Permit” provides the following:

A Minor Development permit may be issued when an applicant cannot meet the minimum buffer requirements or where the Director determines that the proposal will result in temporary, minor, or de-minimis impacts to the buffer or critical area. The Director will consider the size of the area affected, the sensitivity of the critical area and/or presence of priority species and habitat when determining whether the impact is temporary, minor, or de-minimis. The project must comply with the following:

- a. The project will not result in a permanent impact to the critical area that would require compensatory mitigation; and
- b. Mitigation is provided to restore the site to pre-development conditions, including the maintenance of pre-development hydrological conditions and vegetation conditions.¹³

PDS staff determined that the WMDP was necessary. The Applicant disputed this determination at the hearing despite the work for the WMDP determination being concluded. The City was correct. Although no development is proposed in the wetland or its buffer, the WMDP was necessary to “determine[] that the proposal will result in temporary, minor, or de-minimis impacts to the buffer or critical area,” and to determine that “The project will not result in a permanent impact to the critical area that would require compensatory mitigation.” This process is now done and appropriate conditions have been recommended

¹⁰ TMC 13.04.180.

¹¹ TMC 13.04.190.

¹² TMC 13.04.160.

¹³ There are also subsection c and d in TMC 13.11.220.B.2, but neither apply in this case: subsection c because there is no buffer modification requested, and subsection d because there are no “FWHCA Biodiversity Areas/Corridors” to address here.

for the proposed development to ensure that impacts to the wetland and buffer are “de-minimis” and that no compensatory mitigation is necessary.

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

9. Accordingly, the requested preliminary plat and WMDP are approved subject to the following conditions:

CONDITIONS OF APPROVAL:

“Conditions” set forth herein are derived primarily from the City’s Report, other submissions in the record, and testimony from the hearing. Many (but certainly not all) of the conditions below have more to do with compliance issues related to the Applicant’s intended development of the Subject Property after finalization of the plat than they do with this upfront, preliminary plat and WMDP approval. In a strict sense, compliance with later development conditions prior to approving the plat is physically and temporally impossible. Ongoing compliance with these conditions as the development progresses is required, however.

As set forth at FoF 23 above, the City’s Report is incorporated herein by reference. Some of the more general language from section K. of the Report (“Recommendation and Conditions of Approval”), such as contact information, is not repeated here, because it is not conditional to approval of the preliminary plat or to the development itself. It is informational. This omission does not mean that the Applicant should not still reference helpful language from the Report as guidance for its development process, and it also does not mean that some of these very general “conditions” *will not* apply in some fashion to later development of the Subject Property, even if not appropriately included here.

To the extent that any express language in the Report materially conflicts with the language in this Decision, this Decision shall control. As referenced immediately above, omission of language from the Report in this Decision does not necessarily constitute a conflict.

Approval of the preliminary plat is just that—preliminary. The preliminary plat must still be finalized in accordance with controlling state law and the TMC. Approval of the preliminary plat and the WMDP 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.*

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 View-Sensitive Overlay District (TMC 13.06.555)¹⁴ and all other applicable sections of the Tacoma Municipal Code.

¹⁴ As already referenced above, the Applicant made it known at the hearing that height variances will be sought for many of the houses to be built on the Subject Property. No height variances were before the Hearing Examiner to decide as part of this proceeding, however.

- b. Development of the subdivision and lots must further comply with the approved lot subdivision plat design and landscape standards in TMC 13.06.502.
- c. Easements for side sewer lines and the north-south lateral sanitary sewer connection from Tract A to the sewer manhole in 64th Avenue NE will be required and may impact the placement and or type of improvements on Lots 6, 7 and 8.

Easements for roof drains will need to be shown on the final plat map.

- d. Construction shall meet applicable building codes at the time a building permit submittal is deemed complete.
- e. Notice on Title regarding the wetland shall be recorded per TMC 13.11.280 (A)(1).
- f. Critical Area fencing and signage must be installed at the wetland buffer edge for those portions of the wetland buffer that are located on the Subject Property.
- g. A homeowners' association or similar mechanism shall be established for the maintenance of common area Tracts including, without limitation, the wetland and wetland buffer identified on the preliminary plat map as "Tract C." Documents must be submitted prior to approval of the final plat to establish the entity responsible for maintenance of the wetland and wetland buffer tract. The documents must include language identifying the restriction for wetland and wetland buffer.
- h. All parties/residents in the plat shall retain equal ownership of the wetland and wetland buffer tract (Tract C). This requirement must be recorded on the face of the final plat.
- i. 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 roadway, curb, gutter, sidewalk, drainage and utility improvements within the subdivision shall be shared equally with the taxpayers of Lots 1 thru 14.
 - iii. The taxpayer of each lot shall pay 1/14 of the tax assessments for Tracts A, B and C in the subdivision. This amount shall be added to yearly tax bills for the taxpayer of each lot.

2. STORM AND SANITARY SEWERS

- a. Development of the Subject Property 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 borne by the Applicant.
- c. The Applicant has provided a preliminary stormwater site plan to address comments related to Minimum Requirement #8 and the City's Critical Areas Protection Ordinance. Any final stormwater site plan must meet all applicable requirements of the TMC and the SWMM.

- 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. A Covenant and Easement Agreement shall be required for all projects with private storm drainage systems.
- f. 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 Division. The recording numbers shall be inked on the final plat. Once the utility locations on the Site are approved by the City, the Site Development Group reviewer shall coordinate with Public Works, Real Property Services Division 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 utility plan dated XX/XX/20XX was approved by the Site Review Group under permit number SDEVXX-XXXX. 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 WO1X-XXXX. Additional permits and approvals are required for onsite construction.
- i. A site development permit for on-site grading and associated utilities was approved by the Site Review Group under permit number SDEVXX-XXXX. Additional permits and approvals are required for on-site stormwater management Best Management Practices (“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 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. _____

- l. 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.

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 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 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 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 development:

- 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 onsite to the maximum extent feasible. This development shall comply with List #2 under Section 3.4.5.6 of Chapter 3, Volume 1 of the SWMM.
- s. Water quality shall be provided for all projects that meet or exceed the thresholds for Minimum Requirement #6 as outlined in the City of Tacoma SWMM. Pollution-generating hard surfaces created and/or replaced offsite as a result of this development shall count toward the pollution-generating hard surface total.
- t. Flow control or other mitigation in accordance with the City of Tacoma SWMM shall be provided for all projects that meet or exceed the thresholds for Minimum Requirement #7 as outlined in the City of Tacoma SWMM. Hard surfaces created and/or replaced offsite as a result of this development shall count toward the hard surface total.
- u. All projects shall comply with Minimum Requirement #10: Off-Site Analysis and Mitigation.
- v. Wetland and/or associated buffers exist on this Site. Minimum Requirement #8: Wetlands Protection applies to this development.
- w. Public and private stormwater shall be managed in separate water quality and flow control facilities.
- x. 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 SWMM, Volume 3, Chapter 13. Separate tracts or easements for the location of shared stormwater facilities shall be shown on the final plat map, if applicable.
- y. All public stormwater facilities shall be located in right of way, a tract dedicated to the City of Tacoma or easement per City of Tacoma SWMM, Volume 3 Chapter 13 and as approved in writing by Environmental Services.
- z. Each lot/building shall be independently connected to the City sanitary sewer at the building construction stage. Permits for this work must be obtained.
- aa. Public utility easements are known to exist on the Site. The Applicant shall comply with all easement provisions.

3. PROTECTION OF ADJACENT PROPERTIES

With the proposed development, the Applicant/developer shall be responsible for adverse impacts to other property abutting the Site. The proposed 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/manager shall be responsible to obtain a construction permit from the affected property owner. The design shall be such that adverse impacts are limited as much as possible. When they do occur, the project engineer/manager shall address them.

4. STREETS, DRIVEWAYS, AND SIDEWALKS

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

- a. Cement concrete sidewalk shall be constructed abutting the Site along 65th Avenue NE to the approval of the City Engineer. New sidewalk shall meet Public Right-of-Way Accessibility Guidelines and requirements set forth by the Americans with Disabilities Act.
- b. Cement concrete curb and gutter shall be constructed abutting the Site along 65th Avenue NE to the approval of the City Engineer.
- c. The alignment of curb, gutter, and sidewalk shall be based on Tacoma design reference detail DR-04, except that the existing alignment of 65th Avenue NE appears to be an offset alignment biased east.
- d. All cuts into public streets shall be restored in accordance with the City's Right-of-Way Restoration Policy.
- e. Directional cement concrete curb ramps shall be constructed at the intersection of 65th Avenue NE and 22nd Street Court NE on all corners of the intersection, unless existing ramps on the east side of 65th Avenue NE are already ADA compliant and are not altered from that compliant state by anything related to the development proposed here. Ramps shall be constructed to provide a north-south crossing of the new private road accessway and at least one east-west crossing of 65th Avenue NE. It appears that the removal and replacement of ramps may affect the existing ramps that provide a north-south crossing of 22nd Street Court NE. If this is the case, those ramps must also be removed and replaced.
- f. The private accessway in Tract A shall be designed per Table 4-6 of the Right-of-Way Design Manual. The minimum roadway section shall meet City Design Standards at time of submittal. Tract A shall include necessary drainage. The Applicant is advised that the road design and width shown for review of the preliminary plat application are marginal. The road would not be accepted for public ownership or maintenance.
- g. The type, width, and location of all driveway approaches serving the Site and lots therein shall be approved by the City Engineer.
- h. A sufficient turn-around must be designed and constructed per City of Tacoma's Design Manual and Tacoma Fire Department approval.
- i. 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 Public Works Private Development at (253) 591-5760. A performance bond is required for all work orders per TMC 10.22.070.F.

5. TRAFFIC ENGINEERING

- a. The new road accessway shall be constructed in an alignment that does not create turning conflicts with 22nd Street Ct. NE on the east side of 65th Avenue NE.
- b. A shared use path, with a presumed minimum width of 10 ft. with 2 ft. gravel shoulder, between 64th Street NE and the private road accessway shall be constructed. The shared use path shall be constructed to meet standards in the Tacoma ROW Design Manual for the type of path proposed/required. The pedestrian path shall provide a continuous pathway to 24th Street NE.
- c. Streetlights at the intersection, and within the development, shall meet City of Tacoma standards.

6. TACOMA POWER

- a. A designated 10-foot utility easement shall be shown on the plat parallel to all interior and exterior road rights-of-way. A 5-foot utility easement shall be shown parallel to all side lot lines at the front 15 feet of each lot. If there are flag lots (none proposed presently), the stem or driveway section shall be designated as a utility easement along with an additional 5-foot wide easement extending across the end of the stem area and if necessary, an additional 5 feet into the adjacent property.
- b. Longitudinal wet utilities, such as drainage, dry wells, storm/sewer systems, bio-swales and sidewalks or permanent structures shall not be installed in the utility easements as indicated in Item 6.a (above). Lateral crossings are permitted
- c. The utility easement(s) as indicated above shall not have "slopes" greater than 10 percent upward or 20 percent downward perpendicular to the road rights of way. Hill holders or retaining walls shall be provided by the Applicant/developer to support or to protect utility equipment where required by Tacoma Power Standards.
- d. All sewer stubs and roof drains shall be extended to the property side, beyond the utility easements. No clean-outs shall be placed in the utility easements.
- e. No building including the eaves shall be constructed within 8 feet of a transformer.
- f. Any relocation of Tacoma Power's facilities, as a result of the Applicant's request, shall be done at the sole expense of the Applicant/requestor.

FEEES

- g. Fees for new electrical service or upgrading the existing electrical service shall be determined when the power requirements are submitted to Tacoma Power New Services Engineering Department.
- h. Fees for the electrical permit are based on the electrical contractors bid amount and have not been determined.
- i. The Applicant/developer must observe the appropriate clearances to Tacoma Power's facilities during construction. *See* WAC 296-155-53408 pertaining to equipment and non-electrical workers in the vicinity of TPU equipment and overhead and underground conductors/cables.

- j. Appropriate clearances must be maintained between all structures and Tacoma Power's facilities. No building shall be constructed under a primary power line. Buildings in the vicinity of the overhead lines must meet WAC, NEC, NESC and Tacoma Power requirements for clearance. Alternatively, the Applicant/developer shall be responsible for all costs associated with relocating Tacoma Power's facilities in order to obtain the appropriate clearances. Costs of relocation include demolition of existing facilities, construction of new facilities, restoration of property as necessary, and relocation of other utilities as necessary.
- k. Tacoma Power intends to retain all existing easements and facilities in and around the Subject Property. Alternatively, the Applicant/developer shall be responsible for all costs associated with relocating Tacoma Power's facilities. Costs of relocation include demolition of existing facilities, construction of new facilities, restoration of property as necessary, and relocation of other utilities as necessary. The Applicant/developer shall assist Tacoma Power and other affected utilities in obtaining all necessary easements for said relocated facilities.
- l. The Applicant/developer shall provide Tacoma Power and other affected utilities with all necessary easements.
- m. 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.

7. TACOMA WATER

- a. An existing 10" CI water main in 65th Avenue NE can provide service to this development. Calculated pressure is approximately 56 psi. The nearest hydrant is located at 2208 65th Avenue NE. There are 2 existing 3/4" services, 1 to each parcel.
- b. City ordinance 12.10.045 requires a separate water service and meter for each parcel. Applicant/Customer will be required to prove that property side pipes have been separated.
- c. Extension of a permanent water main is required and will be constructed by private contract. The developer of the Subject Property 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 development, the Applicant/developer will either be refunded the unused amount of the deposit or billed the cost overrun.

- d. Private contract timeline:
 - i. Four to six (4-6) weeks to begin design
 - ii. An additional 4-6 weeks to complete design
- e. Existing water meters 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. SDC credit for existing meters will not be given until the existing meter is retired.
- f. New water services shall be installed by Tacoma Water after payment of the Service Construction Charge and the Water Main Charge. New meters shall be installed by Tacoma Water after payment of the System Development Charge.
- g. If a new fire hydrant is required at a location with an existing water main, the hydrant shall be installed by Tacoma Water after payment of an installation charge.
- h. If existing water facilities need to be relocated or adjusted due to street improvements for this development, they will be relocated by Tacoma Water at the Applicant/owner's expense.
- i. 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".
- k. 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

- a. A new fire hydrant shall be installed. The hydrant may be located anywhere along the circumference of the cul-de-sac.

- b. Future construction shall comply with the adopted Fire Code at the time a building permit submittal is deemed complete. The Applicant is advised that, under current Fire Code, any home with a point on an exterior wall greater than 150 feet from a fire apparatus access road is required to be provided with a fire sprinkler system. It appears that the buildable area on the lots west of the cul-de-sac may support construction of homes with points on exterior walls greater than 150 feet from the nearest fire apparatus access road.

9. SOLID WASTE

All containers must have four feet (4') spacing between containers.

10. REAL PROPERTY SERVICES

- a. All notations on the plat must be legible and of a font size that makes them easily readable.
- b. The proposed sanitary sewer main extension will require an easement. It must be delineated and dedicated on the face of the plat, or a separate easement must be granted.
- c. The plans must clearly state the roof drain/storm system is private and maintenance of the system will be the responsibility of the property owners.

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.

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 Planning and Development Services 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 (18") by 24 inches (24").
- 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 Tacoma Municipal Code 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. It is possible that 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. Should any evidence of archaeological material be uncovered during the course of development, 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 must understand that it is their/its responsibility to closely review the Zoning and Platting sections of the Tacoma Municipal Code and, specifically, the “Final Plat Procedure,” Chapter 13.04.100. The Applicant should be aware that if specific dates are not met and if specific items are not filed on time with the appropriate departments the plat may expire or otherwise become null and void.

USUAL CONDITIONS:

1. The decisions rendered herein are 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, 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 are conditions precedent to the approval granted and are a continuing requirement of such approvals. By accepting these approvals, the Applicant represents that the development and activities authorized will comply with such laws, regulations, and ordinances. 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 Hearing Examiner approves the requested preliminary plat of "Norpoint Place" and companion Critical Areas/Wetland Minor Development permit, subject to the conditions set forth herein.

DATED this 30th day of July, 2019.



JEFF H. CAPELL, Hearing Examiner

NOTICE

RECONSIDERATION OF HEARING EXAMINER'S DECISION PRELIMINARY PLAT REQUEST AND WETLAND MINOR DEVELOPMENT PERMIT REQUEST

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 OF HEARING EXAMINER'S DECISION - PRELIMINARY PLAT REQUEST-- WETLAND MINOR DEVELOPMENT PERMIT REQUEST APPEAL TO SUPERIOR COURT

Pursuant to the Official Code of the City of Tacoma, Section 1.23.160 and other applicable laws, 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 likely must be commenced within 21 days of the entering of the decision by the Examiner, unless otherwise provided by statute.