

CITY OF SPOKANE HEARING EXAMINER

Re: Preliminary Plat and Zone) DECISION ON REMAND
Change Application for a) FROM CITY COUNCIL
Plat to be known as)
McCarroll East) FILE NO. 9400073PP/ZC/R

SUMMARY OF PROPOSAL AND DECISION

Proposal: On November 18, 1994, the Hearing Examiner rendered a decision approving the above-captioned application, subject to 28 conditions. That decision was appealed by Citizens for Responsible Development of Area I (CRDAI) on November 28, 1994. After several continuances, brought about because the parties to the appeal were engaged in settlement negotiations, the City Council, on March 6, 1995, remanded the matter to the Hearing Examiner in order to allow the Examiner to incorporate conditions of settlement reached by the respondents and the appellant into the Hearing Examiner's final decision. Thereafter, the parties continued their settlement negotiations but the negotiations stalled and the Hearing Examiner was asked to hold a hearing to determine whether the proposed conditions should be incorporated into the previous decision. A hearing was held on Tuesday, November 19, 1996.

Decision: At the Hearing and after the hearing, additional exhibits were submitted which will be set forth below. Based on the testimony and the exhibits submitted, the Hearing Examiner will add five additional conditions to the previous approval. There was no dispute regarding Conditions #2 through #5. The dispute centered around Condition #1 and Condition #6. Because the original decision contained 28 conditions, the five new proposed conditions will henceforth be numbered 29 through 33. Proposed condition #34 regarding the requirement that the platlor negotiate with Northwest Pipeline for permission to connect Seminole Court to Barnes Road across the pipeline easement will be deleted. The applicant has submitted written evidence showing that this change in the plat would cost approximately \$220,000. This includes not only the cost of extending the Seminole Court roadway and utilities but also includes almost \$150,000 to lower and relocate the Northwest Pipeline high-pressure gas transmission line. There was no evidence presented that would convince the Hearing Examiner that extending Seminole Court in that fashion was important enough to require the developer to pay the \$220,000 extra dollars.

The first settlement condition, which is numbered #29, was apparently approved by both sides but then later, the sides disagreed as to its exact meaning. The Hearing Examiner has amended it to make it more clear. All the new conditions must be read consistently and in conjunction with the original conditions of approval.

DECISION J

It is the decision of the Hearing Examiner to amend the previous approval dated November 18, 1994, in the above-entitled application to include the following additional conditions:

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29. During buildout of the plat, the platlor shall limit building permit applications to ten dwelling units per year for five years, beginning November 18, 1994. This right to ten permits shall accumulate from year to year so if any allowed permit applications are not made in any given year, the right to make those applications advances to the following year. The purpose of this limitation is to provide time for infrastructure improvements addressed in the Decision. This limitation shall furthermore provide time

for School District #81 to plan for additional student enrollment at the elementary, middle, and secondary school levels necessitated by development in the Indian Trail area.

- ✓ 30. No construction of dwelling units shall be allowed until the City of Spokane and the plattor have formalized an agreement for ownership, maintenance, and funding for maintenance, for the surface drainage system in the development.
- 31. Effective erosion control methods shall be used from the issuance of any building permit to the sale of the property by the builder. Natural vegetation shall be preserved where possible.
- ✓ 32. After sale of the lots, homeowners shall assure that continuing measures will be taken to insure erosion control.
- ✓ 33. The plattor may pay for installation of signalization at intersections reaching Level "F" service as a result of this development and receive credit against voluntary impact fees.

List of New Exhibits:

- 1. Letter dated 10-12-96 to the Hearing Examiner from James M. Frank requesting a special public hearing
- 2. Letter dated 11-6-96 to James M. Frank and Robert P. Kinglsey from the Hearing Examiner setting hearing date
- 3. Additional exhibits with index submitted by CRDAI
- 4. Exhibits submitted at the hearing by James M. Frank
- 5. Letter dated 12-2-96 from Inland Pacific Engineering to the Hearing Examiner re: cost to connect Seminole Court to Barnes Road

NOTICE OF RIGHT TO APPEAL

Decisions of the Hearing Examiner regarding preliminary plats and planned unit developments are final. They may be appealed to the City Council. All appeals must be filed with the Planning Department within fourteen (14) calendar days of the date of the decision. The date of the decision is the 13th day of December, 1996. **THE DATE OF THE LAST DAY TO APPEAL IS THE 27TH DAY OF DECEMBER, 1996 AT 4:30 P.M.**

The Office of the Hearing Examiner may require payment of a transcript fee to prepare a transcript of the hearing for the Council.

DATED this 13th day of December, 1996.

Greg Smith
City of Spokane Hearing Examiner

CITY OF SPOKANE HEARING EXAMINER

Re: Preliminary Plat and) FINDINGS, CONCLUSIONS,
Zone Change Application) AND DECISION
for a Plat to be Known as)
McCarroll East) FILE NO. Z9400073PP/ZC

SUMMARY OF PROPOSAL AND DECISION

Proposal: To rezone certain property which is currently zoned RS (Residential Suburban Zone), and R1-L (Limited Single-Family Residential Zone) to R1 (Single-Family Residential Zone) and R2 (Two-Family Residential Zone) (some of the R1-L property will remain R1-L) to allow the development of a preliminary plat which would subdivide 146.5 acres of land into 257 single-family lots, 30 duplex lots, and 11 large parcels totaling 35 acres which would be reserved for future planned unit development (PUD) applications and hearings.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant/Plattor: Leif Sorenson
c/o Sunset West Properties
1432 West Francis Avenue
Spokane, WA 99207

Agent: James Frank
c/o Inland Pacific Engineering
707 West Seventh Avenue
Spokane, WA 99204

Property Address: None assigned

Property Location: The property is located east of Farmdale Road and east of Indian Trail Road and extends north from just south of Strong Road to just south of Shawnee Avenue.

Legal Description: A full legal description is in the record as Exhibit #2H.

Zoning: RS (Residential Suburban Zone) and R1-L (Limited Single-Family Residential Zone)

Comprehensive Plan Map Designation: The property is designated Low-Density Residential and Natural Hazards Area in the 1983 Generalized Land Use Plan.

Site Description: This site consists of 146.5 acres located on the western side of Five Mile Prairie, sloping to the southwest to Indian Trail Road. The topography slopes gently to steeply downward to the

west. Maximum relief across the proposed development area is approximately 300 feet. The western, down-slope portion of the site is characterized by gentle to moderate slopes, on the order of nearly level to 25 percent. The eastern, up-slope portion of the proposed development is characterized by moderately steep to very steep slopes, on the order of 25 percent to 50 percent. Vegetation on the site consists of a mixture of evergreen trees, brush, grass, and weeds. The western, gently sloping portion of the property is covered by low grasses and very sparse trees, located only in the small draws and ravines. The easternmost steeper slopes of the property are typically covered by a moderately dense covering of evergreen trees. The trees tend to become more numerous towards the northern portion of the property.

The majority of the site is undeveloped. Strong Road trends easterly and northerly across the southern portion of the property, accessing residential and farmlands to the east of the proposed subdivision on Five Mile Prairie. In addition, a utility corridor trends northeasterly-southwesterly across the north central portion of the property. The soils are described by the Spokane County Soil Survey as Bernhill Very Rocky Complex (BkC), Marble Loamy Coarse Sand (MbC) and Bernhill Silt Loam (BaB).

Because of the number of drainage channels which cross the property, and the identification of intermittent streams on U.S.G.S. maps of the area, the Washington State Department of Ecology (Ecology) recommended a site wetland delineation. A preliminary wetland analysis was accomplished and can be found in the record as Exhibit #47. The conclusion of the study was that there were no portions of the site which satisfied the criteria for wetland status.

Surrounding Conditions: The site is surrounded with single-family residential uses to the north, single-family and undeveloped land to the west, mostly vacant land to the east except for some residences along Wieber Drive, and vacant land to the south. The zoning surrounding the project site is either R1, RS, or R1-L, similar to the site itself. Some of the land to the east of the site is outside the City Limits and Staff did not verify the zoning of that property.

The main access to the site is from Indian Trail Road which is a two-lane, street designated as a principal arterial in the City's Arterial Street Plan. As this proposal develops in phases, access from Indian Trail Road into the project will be via Lowell Avenue, Farmdale Road, Barnes Road, and Strong Road. Barnes Road is designated in the Arterial Street Plan as a minor arterial and will be so constructed.

Project Description: The preliminary plat of McCarroll East can be found in the record as Exhibit #2D. The applicant is proposing a subdivision consisting of a total of 298 lots. Of those lots, 257 will be single-family lots ranging in size from 9,600 square feet to 35,589 square feet. The proposal includes 30 duplex lots ranging in size from 9,868 square feet to 27,186 square feet. Eleven lots are proposed to be developed as future planned unit developments (PUD). The applicant is asking that they be approved at R1 densities to a maximum density of 211 units for all 11 lots combined. Each PUD proposal will have to be considered on its own merit through the application and public hearing process.

The applicant is also seeking various zone changes. A portion of the site south of Lowell Avenue and east of Indian Trail Road in the southwest portion of the site is proposed to be changed from RS to R2 (Two-Family Residential Zone) to allow the construction of 30 duplex units. Other portions of the site zoned RS are also proposed to be rezoned to R1. Portions of the site zoned R1-L will remain unchanged, although some of the property so zoned is designated for future PUD development. PUD development typically carries with it conditions of approval similar to those imposed by the "L" requirements of the zoning ordinance.

Circulation within the subdivision is to be accommodated by public streets with 60'-wide rights-of-way on the flatter ground, and 45'-wide rights-of-way in the steeper areas. Narrower right-of-way and sidewalk on only one side of the street is proposed for James Drive, Phoebe Drive, Elizabeth Drive, and Elizabeth Court. In the south portion of the project it is proposed that Strong Road be realigned to intersect with Pacific Park Drive on the west side of Indian Trail Road. It is also proposed that Barnes Road be extended to the east property line as an arterial street with a possible future connection to Strong Road at the east boundary of the site. Additional property from owners to the east of the subdivision will be required in order for that street to be developed.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code Sections 4.21, 11.18, 11.19, 11.19.081, and 11.19.290.

Hearing Date: August 30, 1994 and September 7, 1994 (The record was left open until Wednesday, September 21, 1994, for the submission of additional materials.)

Notices: Mailed: August 10, 1994
Posted: August 12 and 13, 1994
Published: August 12, 1994

Site Visit: August 30, 1994

SEPA: A Mitigated Determination of Nonsignificance (MDNS) for the proposal was issued on July 29, 1994. An appeal was filed relating to that MDNS, and that appeal will be addressed as part of this decision.

Testimony at August 30, 1994 Hearing:

Ken Pelton
City of Spokane Planning Services
808 West Spokane Falls Boulevard
Spokane, WA 99201

James M. Frank, Attorney at Law,
Representing the Applicant
707 West Seventh Avenue
Spokane, WA 99204

Robert Kingsley, Attorney at Law,
Representing "Citizens for Responsible
Development of Area I" (CRDAI)
423 West First Avenue, Suite 210
Spokane, WA 99204

K. W. Mote
9403 North Wieber Drive
Spokane, WA 99208

Lou Dobberstein
City of Spokane Transportation Dept.
808 West Spokane Falls Boulevard
Spokane, WA 99201

Michael J. Sawatzky
4704 West Alpine Drive
Spokane, WA 99208

Ned Hammond
School District #81
200 North Bernard Street
Spokane, WA 99201

Kurt Beilstein
4902 West Howesdale Avenue
Spokane, WA 99208

Testimony at September 7, 1994 Hearing:

Robert Kingsley, Attorney at Law
Representing "Citizens for Responsible
Development of Area I" (CRDAI)
423 West First Avenue, Suite 210
Spokane, WA 99204

George Miller
City of Spokane Water/Hydro Dept.
E. 914 North Foothills Drive
Spokane, WA 99207

Ned Hammond
School District #81
200 North Bernard Street
Spokane, WA 99201

Lisa Thew
5607 West Shawnee Avenue
Spokane, WA 99208

Michael Page
5611 West Shawnee Avenue
Spokane, WA 99208

Randy Rich
Washington Water Power Co.
1411 East Mission Avenue
Spokane, WA 99202

Holly Swanson
9011 North Farmdale
Spokane, WA 99208

James M. Frank, Attorney at Law
Representing the Applicant
707 West Seventh Avenue
Spokane, WA 99204

Michael J. Sawatzky
4704 West Alpine Drive
Spokane, WA 99208

Eldon Brown
City of Spokane Public Works Dept.
808 West Spokane Falls Boulevard
Spokane, WA 99201

Cherie Rodgers
4803 West Woodgrove Court
Spokane, WA 99208

Lori Becker
8614 North Terry Court
Spokane, WA 99208

Sharon Page
5611 West Shawnee Avenue
Spokane, WA 99208

Colleen King
5615 West Shawnee Avenue
Spokane, WA 99208

Curt Fackler
9617 North Arrowhead Road
Spokane, WA 99208

Exhibits:

1. Notes from predevelopment conference
 - 1A. Preliminary plat checklist
2. Application, including:
 - 2A. General preliminary plat application
 - 2B. General zoning application
 - 2C. Supplemental zone change application
 - 2D. Preliminary plat

- 2E. Street and storm drainage plan
- 2F. Sewer service plan
- 2G. Water service plan
- 2H. Legal description
- 2I. Applicant's authorization to be represented by James M. Frank
- 2J. Applicant's transmittal letter
- 3. Application Certification
- 4. Public Works Department comments
- 5. Traffic Engineering Department comments
- 6. Building Services Division comments
- 7. Fire Department comments
- 8. Solid Waste Department comments
- 9. Air Pollution Control Authority comments
- 10. Health District comments
- 11. County Stormwater Utility comments
- 12. Historic Preservation Department comments
- 13. Inland Empire Presbyter comments
- 14. Zoning Division comments
- 15. Real Estate Department comments
- 16. U.S. West comments
- 17. Parks Department comments
- 18. Washington Water Power Company comments
- 19. Water Department comments
- 20. Northwest Pipeline Corp. comments
- 21. Notification list
- 22. Notice
- 23. Notice letter to applicant
- 24. Affidavit of Mailing
- 25. Affidavit of Posting
- 26. Affidavit of Publication
- 27. Planning Services Staff Report
- 28. Correspondence between Inland Pacific Engineering and Northwest Pipeline Corp. regarding protection of natural gas pipeline
- 29. McC Carroll East Water Service Commentary
- 30. Preliminary Geotechnical Engineering Evaluation prepared by Howard Consultants, Inc.
- 31. Letter dated 7-29-91 to Richard Mason, Inland Pacific Engineering, from Fred Dayharsh regarding Environmental Checklist
- 32. Mitigated Determination of Nonsignificance
- 33. Environmental Checklist
- 34. Letter dated 7-26-91 to Art Daher of Nyda Realty, from Fred Dayharsh requesting comments on preliminary plat
- 35. Letter dated 10-12-93 to James Frank from Fred Dayharsh re: necessary additional information
- 36. 1988 Resolution of the Spokane City Council amending the Land Use Plan re: Natural Hazards Goal Policies

37. Letter dated 8-24-94 to the Hearing Examiner from Attorney Robert P. Kingsley requesting that the hearing be postponed
38. Traffic Impact Analysis - June, 1993
39. Level of Service Methods, Criteria & Tables
40. Additional Traffic Impact Analysis information - February 23, 1994
41. Storm Drainage Analysis
42. Letter to Whom it May Concern from Lonna Smeltzer opposing project
43. Letter dated 8-22-94 to Ken Pelton from Mary Lines opposing project
44. Letter dated 8-22-94 to Ken Pelton from Albert L. Greco opposing project
45. Letter dated 8-29-94 to Ken Pelton from Clifford E. Cameron
re: cul-de-sac extensions
46. Memorandum dated 8-25-94 to Hearing Examiner from Gerry Shrope
re: funding status of Indian Trail Road projects
47. Wetlands Determination dated 8-26-94 prepared by Michael M. Folsom and Robert R. Quinn
48. Letter dated 8-30-94 to Ken Pelton from James M. Frank
re: construction of improvements to Indian Trail Road
49. Letter dated 7-25-94 to John Bjork from James M. Frank
re: water tank
50. Map of the area identifying parks and open space, submitted by James M. Frank
51. Final Plat of Meadow Glen Sixth Addition, submitted by James M. Frank
52. Purchase and Sale Contract between Sunset West Properties, Inc. and the City of Spokane
53. Text of testimony given at hearing by Kurt Beilstein (with attached copies of related documents)
54. Letter dated 9-6-94 to Ken Pelton from Clifford E. Cameron requesting that the City require the applicant to provide road and utility improvements to property owned by Harlan Douglass
55. Local Comprehensive Plan Conformity Elements submitted by Cherie Rodgers
56. Indian Trail Area School Enrollment/Capacity figures submitted by Ned Hammond, representing School District #81
57. Letter dated 9-7-94 to the Hearing Examiner from Holly Swanson
re: geotechnical concerns
58. Letter dated 9-6-94 to Mike and Sharon Page from Frank McCoy
re: park property
59. Letter dated 9-7-94 to the Hearing Examiner from Holly Swanson
re: drainage
60. Citizens for Responsible Development of Area I (CRDAI) comments in opposition to approval of project and for reversal of MDNS
61. Note to file dated 9-19-94 re: Jim Frank's request for additional time to submit response to CRDAI comments
62. Response to CRDAI Comments submitted by Jim Frank on 9-22-94
63. Memorandum dated 9-12-94 to the Hearing Examiner from Kathy Miotke
re: excavation blasting
64. Letter dated 9-12-94 to the Hearing Examiner from Holly Swanson transmitting photographs of the site area

FINDINGS AND CONCLUSIONS

Appeal of Mitigated Determination of Non-Significance (MDNS)

An appeal of the City's MDNS was made by Citizens for Responsible Development of Area I (CRDAI). They argue that there was inadequate environmental analysis done as to the plat's impact on schools, parks, traffic, slopes, and storm drainage. They maintain that an Environmental Impact Statement (EIS) is necessary to adequately address these issues.

In evaluating the Environmental Checklist, the Responsible Official has the option of issuing a Determination of Nonsignificance (DNS), a Mitigated Determination of Nonsignificance (MDNS), or a Determination of Significance (DS). A DS is required whenever some impact has been identified in the environmental documents which has a reasonable probability of having more than a moderate effect on the quality of the environment. In this case, the City issued an MDNS. An MDNS is a finding that if certain mitigating conditions are imposed on the proposal that a DNS can be issued because the mitigating conditions reduce the probability that the proposal will have a significant environmental impact. The City asked for and received additional environmental documents after reviewing the Checklist. (See Exhibit #31.) Those studies were provided. The Hearing Examiner may consider the evidence which is part of the record in the McCarroll East Subdivision and Zone Change Application and the decision by the Responsible Official is presumed to be correct.

The first issue raised by CRDAI is that of the adequacy of schools. The written record contained conflicting information prior to the hearing because a letter from the school district stated that if all currently approved plats in the Indian Trail area were fully built out all at once, that schools would be over capacity. The school district's representative, however, appeared at the hearing and submitted a table which showed school populations and capacities. While it is true that there is residential growth in the Indian Trail area and that has impact on schools and that school populations are increasing, it is also true that the increase has declined in recent years and there is capacity available in all of the schools. (See Exhibit #56). Further, school needs are a measure of demographics and the dynamics of any particular area. Even if this plat is approved, it will most likely take 10 to 15 years to develop because of the absorption rate in the Spokane economy for single-family-residential lots. In that time frame, children now in the elementary schools will be moving on to middle schools and high schools, and testimony from the school district indicated that it is always difficult to predict how many children of each age will reside in any given subdivision.

While the school district is actively seeking another school site within the Indian Trail Road area, it did not request a DS for this plat, nor did it request the dedication of land for a school, nor that the applicant voluntarily contribute impact fees to the school district for future school needs. The testimony offered at the hearing by the school district indicated an uncertainty about the future, but a willingness to work with the City and future developers in order to insure that there is sufficient school capacity as buildout of various residential subdivisions occurs. The Hearing Examiner finds that the school district is the best judge of its capacity, and that the City Staff did not err by failing to require more environmental analysis related to schools.

The second issue raised regarding the MDNS is the issue of adequate park lands. Again, the City Parks Department made no request for a DS, nor did they request a dedication of property within this plat for park purposes, or the voluntary payment of impact fees by the applicant for park purposes. The

issue of parks was raised by CRDAI based on arguments that the land which has been designated by the applicant as his contribution to parks is not suitable for that purpose.

The applicant has either deeded or dedicated to the City almost 50 acres of land located on the east side of Indian Trail Road at the north City Limits. Some of that land is adjacent to high voltage power lines and, therefore, the Parks Department is reluctant to view it as a community park site. (See Exhibit #58) The Parks Department did, however, say that 14 acres of this 49-acre site could be considered as a neighborhood park site and that their immediate need is for a park site to serve properties on the west side of Indian Trail Road. They also state that subject to future studies of the health hazards attributed to high voltage power lines, that the land that has been obtained from the applicant may some day be available and usable as a park site. This information convinces the Hearing Examiner that the impacts from this proposed subdivision, measured with the mitigation measure of the land which the applicant has either sold or dedicated to the City Parks Department, demonstrates that an MDNS was appropriate on this issue.

As for the traffic issue, CRDAI has conceded that traffic has been analyzed extensively as part of this application. They state that numerous inaccuracies and deficiencies were found in the applicant's traffic study, and they presented an outline of those deficiencies in written form. That outline will be considered as the plat application is considered, supra. The MDNS which was issued by the City, however, did have several mitigating measures relating to traffic impacts, and those mitigating measures, along with the applicant's agreement to voluntarily pay impact fees to improve streets and intersections near this plat, are sufficient to reduce this plat's impact on the environment.

CRDAI also questions the analysis done on slopes, open areas, and storm water drainage. The applicant has submitted both a preliminary geotechnical engineering evaluation, Exhibit #30, as well as a storm drainage analysis, Exhibit #41, which are both in the record. The project has some sloping areas which are rather steep and CRDAI maintains that insufficient environmental analysis has been done on the impacts to the steep slopes. They cite specifically the Comprehensive Plan, a settlement in a 1986 lawsuit, and the City's Critical Areas Draft report as indication that the effect of this project on slopes has not been fully studied.

The slope issue is always a difficult one. Both the Comprehensive Plan and the Five Mile Prairie lawsuit referenced in the materials show that the City has a policy which encourages the preservation of steep slopes. There have been instances in other projects where steep slopes have been dedicated to the City Parks Department as open space. The City does not have a policy, ordinance, or rule that mandates the dedication of steep slopes or which prevents a project proponent from developing steeply sloped areas. The Critical Areas Draft report was recently adopted by City Council but was not the law of the City when this particular subdivision was considered. Therefore, while the Critical Areas study, the Comprehensive Plan and the lawsuit stipulation offer guidance of City policy, they do not prohibit the development of steep slopes. They simply act as a guide to the City in pursuing those policies.

The sloping of this property varies greatly, and most of the single-family lots are on lesser slopes. The large PUD lots are found on the steepest slopes, and they will have to be evaluated separately when a formal application for a PUD is submitted. The approval in this case only allows the platting of those lots. It does not allow any development to take place without further analysis. As far as the single-family lots are concerned, the applicant has submitted a preliminary geotechnical engineering evaluation of the site in order to determine the feasibility of development. (See Exhibit #30.) The report found no unstable slopes or soil creep. The conclusions of that report, therefore, are that the site is feasible for

development but that certain caution must be taken in the steeper portions of the site during construction. It recommends a project engineer do individual on-site geotechnical evaluations prior to construction, and it also recommends certain construction methods. The City of Spokane also, through its Building Services Department, has stated that portions of the Uniform Building Code which apply to construction on steep slopes must be adhered to. Finally, the applicant has designed the project so that the lots which are located on steep slopes are the largest, which will greatly assist in their development due to more options being available for building placement.

The applicant also submitted a preliminary storm drainage analysis, which is in the record as Exhibit #41. That analysis analyzes the soil types and the drainage characteristics of the site and recommends certain drainage abatement techniques which can be used for storm drainage control. A more detailed storm drainage plan will have to be engineered as a mitigating measure of this decision. Public Works testified at the hearing that such a detailed storm drainage plan, in their opinion, could be developed for this site.

The Hearing Examiner finds that the analysis which has been submitted regarding slopes and storm drainage is sufficient in this case for this preliminary approval to proceed. The applicants raised no specific questions regarding that analysis which would persuade the Hearing Examiner that the analysis is inadequate and that further analysis by way of an Environmental Impact Statement should be required. The applicant is not obligated to analyze speculative impacts but is only obligated to analyze those impacts which are identified in environmental documents and which will have more than a moderate effect on the quality of the environment. The applicant has analyzed those impacts in this case and, with the mitigating measures set forth in the MDNS along with the further mitigating measures which will involve further, more detailed, study of site features, and which are commonplace in the approval of plats and subdivisions in the City of Spokane, the Hearing Examiner hereby upholds the Mitigated Determination of Nonsignificance as made by Staff on July 29, 1994.

Zone Change

To be approved, the proposed zone change must comply with all of the criteria set forth in Spokane Municipal Code Section 4.21.320. The Hearing Examiner has reviewed the proposed zone change and the evidence of record with regard to this Section and makes the following Findings and Conclusions:

1. The proposed zone change is consistent with the Comprehensive Plan designation and Goals, Objectives, and Policies for the property and surrounding area.

The site is designated for low-density-residential uses according to the land use plan map of the Generalized Land Use Plan. The low-density category includes RS, R1, and R2 zones. RS and R1 zoning allow only single-family residences, while R2 zoning allows the construction of duplexes as well as single-family residences. The main difference between R1 zoning and RS zoning is lot size and, therefore, density. In the R1 zone the minimum lot size is 7,200 square feet, while the RS zone requires 11,000 square feet. Densities in the low-density-residential designation range from a low of one dwelling unit on two gross acres in selected areas to a maximum of six single-family dwelling units per gross acre. Four single-family dwelling units per gross acre is typical, according to the plan. Duplex housing may increase the maximum density to 11 dwelling units per gross acre.

The applicant is proposing a much less dense development than would be allowed under current zoning, or under the new zoning designations. While the typical single-family-residential density is four units per gross acre, the applicant's proposal for R1 zoning is approximately two-and-a-half units per gross acre. Further, the duplex zoning which would allow up to 11 units per acre will be developed at only six units per acre. Therefore, although the zone change may be necessary in order to provide the applicant with more flexibility in the design of lots as well as some increased density in the duplex areas, overall the proposal falls easily within the low-density-residential designation. This flexibility of lot size is necessary in this case to better deal with the slopes and natural contours of the land.

A portion of this plat is also located within the "natural hazards area" section of the Land Use Plan. This is true because of steep slopes along the eastern and northern portions of the site. According to the Staff Report, some of those slopes exceed 30 percent, and the Land Use Plan states that slopes in excess of 30 percent should not be considered suitable for development. The slopes that exceed 30 percent are found in the areas of the plat which will be subject to later planned unit development applications and review. The Hearing Examiner finds that the portions of the plat which have slopes not in excess of 30 percent will be developed consistent with the goals and policies of the natural hazards section of the Land Use Plan. In so finding, the Hearing Examiner hereby adopts the findings set forth in the Planning Services Staff Report, Exhibit #27, pages 7 through 9 on this issue. The Hearing Examiner further finds that the proposal complies with the goals and policies of the Generalized Land Use Plan relating to residential development and hereby adopts and incorporates the findings set forth in the Planning Services Staff Report on this issue, Exhibit #27, pages 4 through 7.

As for the R2 zoning, the Land Use Plan states that R2 zoning should be allowed to further encourage improvements in the areas of the City heretofore restricted to one-family residences, but manifesting a building trend either toward two-family residences or toward an unduly slow and sparse development in one-family residences. In this part of the City, there appears to the Hearing Examiner to be a trend toward construction of two-family residences along arterials. This is found both along Indian Trail Road and Francis Avenue. Duplex zoning has been allowed and duplexes have been constructed apparently as a form of transition or buffer from the arterial itself to the single-family areas located further from the arterial. This has occurred on Francis Avenue between Maple-Ash and Indian Trail Road as well as along portions of Indian Trail Road. The applicant's proposal to continue this trend on lots that are either adjacent to Indian Trail Road or front the same street as other duplexes will front appears appropriate. The applicant is apparently using the transition effect with R2 zoning, but instead of fronting residences on Indian Trail Road, the plat is designed so those duplexes essentially turn their back on Indian Trail Road and face an interior street. It seems logical, then, to allow the homes which face the same interior street to also be developed with duplexes. Also, the applicant has proposed duplexes for a portion of Strong Road as it enters the plat from Indian Trail Road. With Strong Road's design, it may be improved as an access on to Five Mile Prairie and, therefore, have an increased amount of traffic. The Hearing Examiner concurs that the proposed duplex development in this area will be consistent with the policy of allowing it as a transition along Indian Trail Road.

2. Conditions in the area in which the property is located have changed substantially since the property was last zoned.

The main change in the area has been the increased development of low-density-residential areas of similar densities to the current proposal. As stated, many of the lots in this subdivision would satisfy the requirements of the RS zone, but some do not. The zone change is mainly intended to allow flexibility in this plat to accommodate some of the lots that will be platted on steeper slopes. The overall

density, however, is comparable or less than many of the single-family subdivisions which are being developed in the area. The R2 zone, while still being at a reasonably low density, is consistent with much of the duplex development which has taken place along Indian Trail Road.

While this criterion is one which must be satisfied in order to obtain a zone change, the Hearing Examiner finds that a change of circumstances is not as important a factor in this case as in some cases because this zone change will only allow the same type of development which is occurring in this area at the present time. It does not result in a change in the overall land use of this property as compared to other properties in the area. Changed circumstances need only be found commensurate with the overall change proposed in the use of the property from the current zoning.

3. The proposed zone change will result in a substantial benefit or advantage to the public.

The main public benefits from the zone changes as proposed are that they will allow development patterns consistent with those in and around the proposal; they will allow transitions with the R2 from Indian Trail Road to the single-family zone; they will allow the plat to be developed in a manner which makes better use of the natural features and topography of the land and; further, they will allow additional and diverse housing opportunities in an area located conveniently to public utilities, public services, and in an area that is a popular portion of the City for residential living.

4. The proposed zone change will not have a significant adverse impact on surrounding properties or public health, safety or welfare considering areas both within and outside the jurisdiction of the City.

There are very few impacts which will be generated by this plat over and above those that would be generated by platting under the current zoning regulations. The overall gross density of the proposal is 3.61 units per acre, which is comparable to what could be developed on site now. Further, since the large PUD lots will be subject to further approval, said approval including weighing the impacts of their development if one deletes the density figures relating to those lots one finds that the overall density of the proposal is less than three units per acre. The Hearing Examiner finds that there are no significant or measurable impacts from this zone change over and above impacts which would occur anyway if the zone change were denied and the platting occurred under the current zoning regulations. There will be some impacts from this development on public facilities and utilities, and those will be analyzed further under the preliminary plat portion of this approval.

CRDAI has requested that if a zone change is granted that an "L" be attached in order to activate the "L" provisions of the zoning ordinance. Those provisions were enacted to require certain design standards for development in order to improve the aesthetics of a development as well as to help mitigate that development's impact upon surrounding properties. The "L" provisions include landscaping requirements, parking, screening, fencing requirements, as well as other requirements and limitations. A portion of this property is zoned R1-L and the applicant has not requested a change in that designation. The applicant has requested that the change to R1 and to R2 be done without the imposition of an "L" requirement.

The Hearing Examiner finds, in the case of the single-family lots proposed, that the inclusion of an "L" is not appropriate. If this were a planned unit development or some other type of flexible zoning concept, the Hearing Examiner would agree with the imposition of the "L," but when one is developing single-family lots to sell to families for the construction of single-family residences it seems inappropriate to the Hearing Examiner to impose regulations that similar single-family developments in the area do not

have. It would force some land owners to do landscaping in a manner different from that which they might want to do without any real justification for that requirement. The City would be saddled with the enforcement of those landscaping requirements for each individual lot, which would be an enforcement nightmare. The Hearing Examiner is certain that people who purchase a single-family lot on which to construct their home, including people who are members of CRDAI, would not want City inspectors dictating to them as to how they should landscape or screen their lot. The Hearing Examiner will, however, designate the R2 areas with the "L" because although some duplexes are owner occupied, many are not. Therefore, landscape standards appear to be more appropriate with that designation.

Preliminary Plat

Review of the proposed plat is subject to Spokane Municipal Code Sections 11.18.060. The Hearing Examiner has reviewed the proposed plat and evidence of record with regard to this Section and makes the following Findings and Conclusions:

1. The proposed use complies with the Comprehensive Land Use Plan.

The Hearing Examiner has found, under the Zoning portion of this decision, that the proposal is in compliance with the Comprehensive Plan. See Zoning criterion #1, *infra*.

2. The proposed preliminary plat complies with all applicable zoning and land use related codes.

With the zone change as granted herein, the proposal complies with all zoning and land use related codes. As stated, it complies with the Comprehensive Plan. All lots will be of a size which complies with the R1 or the R2 zoning regulations. No variances have been sought by the applicant relating to any of the property within this proposal. The large lots which are to be developed at a later time will have to have their own review process before any development can occur. As currently configured, however, they comply with all land use related codes.

The CRDAI argues that if one adheres to the land use plan restrictions on preservation of steep slopes, as well as a portion of a stipulation made by the City of Spokane in the lawsuit known as The People for the Preservation and Development of Five Mile Prairie v. The City of Spokane, no development can occur on the steep slopes in this project. The Hearing Examiner finds, however, that the Land Use Plan and also the terms of that stipulation are to act as a guide and policy for the City but do not rise to the level of an out-and-out restriction on the development of all property situated on or partially on a slope in excess of some steepness, whether it be 20 percent or 30 percent. Therefore, although the City is careful about development on steep slopes, and tries to preserve those slope areas as much as is possible, there is no prohibition in the zoning or land use codes on developing those sloped areas. The building code contains regulations for developing on steep slopes, and the applicant will have to adhere thereto. Usually, if sloped areas are steep enough and unstable enough, they will act as their own prohibition to development.

3. The proposed preliminary plat will make adequate provision for open space and sufficient building sites, public streets, water, sewage disposal, surface water drainage, and parks, playgrounds and other public places.

Open Space and Sufficient Building Sites: All lots within the subdivision are larger than required by the zoning ordinance and, therefore, appear to have sufficient size and width to allow construction of

residences without requiring any exceptions or variances from the standards of the zoning code. The lots platted on slopes have been platted large enough to allow some flexibility in the placing of residential buildings. There is no common or dedicated open space provided, but the required setbacks of the zoning code are intended to insure, in part, the provision of adequate open areas within residential neighborhoods. Further, the sloping nature of the property will give some feeling of openness to residents living within the development itself. The large lot PUD areas are to be developed, according to testimony, with clustered housing which will mean the buildings will be larger than single-family homes, but there will be a greater degree of open space provided on each of those large lots.

In addition, the applicant has dedicated 19 acres of property to the Park Department. That property is not located within the boundaries of this development but is located adjacent to other property which has either been dedicated or sold to the Parks Department on previous occasions and which is located north and west of this development. All of these factors combined, convince the Hearing Examiner to conclude that adequate provision has been made for open space and sufficient building sites.

Public Streets: All City streets within the plat will be developed to City standards with paving, curbing, sidewalks, and utilities. Barnes Road, which is designated as a minor arterial on the City's Arterial Street Plan, will be developed to minor arterial standards. A few of the streets which traverse the steeper portions of the site, such as Seminole Court, Lowell Avenue, Phoebe Drive, and North Elizabeth Court, will be developed to slightly lesser widths than the other streets because of slope constraints. They will also be developed with sidewalk on only one side as opposed to having sidewalk on both sides. This type of street development is allowed under City regulations because of the steeper terrain. It will still provide adequate paved width for travel, and the sidewalk on one side will provide pedestrian access along the street.

A dedication of land will be required for the eventual widening and improvement of Indian Trail Road. Further, the applicant has agreed not to begin development until Indian Trail Road's upgrading has been fully funded. The applicant has also agreed to voluntarily pay impact fees to the City to be used for Indian Trail Road improvements or other intersection improvements necessary in this area. Therefore, the Hearing Examiner finds that adequate provisions have been made for public streets.

CRDAI takes issue with the applicant's traffic report. (See Section 4 of Exhibit #60.) The applicant has responded to those concerns in its supplemental materials. (See Exhibit #62.) Many of the errors cited by CRDAI relate to the detail of the traffic study as opposed to its accuracy. The traffic study was, however, prepared pursuant to the rules promulgated by the City Transportation Department. Further, the Spokane Regional Council (SRC) completed an Indian Trail Traffic Study last year and, according to the Transportation Department, included Phase 1 of McCarroll East within its traffic study. Since the City is in the process of making the intersection improvements on Francis Avenue recommended by the SRC study, and since Phase 1 of the applicant's proposal was included in that study and, further, since the applicant will not develop until Indian Trail Road is improved and the intersection of Indian Trail Road and Francis Avenue is improved, it appears that the efforts made by the applicant to mitigate impacts related to his proposal are sufficient. Finally, the Transportation Department will not allow any development beyond Phase 1 until further traffic studies are completed.

Sewer and Water: The proposed plat will be served by City water and sewer. Adequate City sewer service is available to serve the plat and even though water service is available, the construction of homes in Phases 1 through 6 will not be allowed until the City has signed a contract for the construction of its new 3 million gallon water storage reservoir to be located at Strong Road and Elizabeth

Drive. Evidence showed that there have been water shortage problems experienced in some developments located to the north of this proposal, but evidence presented by the Water Department also showed that the construction of homes within this proposal will not worsen those water problems. Further, the construction of this new 3 million gallon reservoir could help to alleviate some of those water problems, and the further construction later of a new water reservoir or water transmission line from Five Mile Prairie will eventually solve the water pressure problems which are now being experienced. An entire analysis of supplying water service to this plat is in the record as Exhibit #29.

Surface Water Drainage: As stated earlier, a preliminary storm water drainage analysis was submitted by the applicant and is in the record as Exhibit #41. It states therein that a storm water system can be engineered for this site which will dispose of storm water in accordance with the City's "208" program. The representatives from the Department of Public Works who testified at the hearing likewise stated that it was their opinion that a sufficient storm water runoff plan could be developed for this plat to alleviate storm water concerns. That will become a condition of approval, and the Hearing Examiner finds that adequate provisions have or will be made to accommodate surface water drainage.

Parks, Playgrounds, and Other Public Spaces: As stated earlier, the applicant has donated 19 acres of land to the northwest of this property to the City Parks Department. That property, added to other property which has either been purchased by the Parks Department or donated by the applicant on other occasions, means that the parks Department has a 49-acre parcel accumulated at that site. Because of high-voltage power lines, it is uncertain what use the Parks Department will make of that property. But it is available to them as an asset either for parks, open spaces, or to sell in order to purchase other land. The Parks Department Report, which is in the record as Exhibit #58, does not request more park land from this applicant, nor does it request impact fees. Further, it does not indicate that there is a park crisis in this area. It does indicate that there are 24 acres of land designated for community park purposes on Five Mile Road and that the Parks Department's immediate priority is to acquire a five-plus-acre neighborhood park to serve the residents north of Strong Road and west of Indian Trail Road, which is west of this development.

The closest City park at this time is Pacific Park which is located on the south side of Lowell Road west of Indian Trail Road. This is a five-acre neighborhood park. There are also playgrounds and playfields adjacent to the elementary schools in the Indian Trail area. With no report from the Parks Department that the number of parks is inadequate to serve the proposed population, the Hearing Examiner finds that parks and playgrounds have been adequately provided for.

There is a fire station located on the south side of Lowell Road just west of Indian Trail Road, so fire protection services to this subdivision are available.

A great deal of testimony was given relating to the schools in this area. Representatives of CRDAI testified that schools are rapidly reaching capacity and without some provisions being made for schools in this area that they will soon become overcrowded. School District 81's representative attended the hearing and testified at length regarding schools. The charts that were submitted, which are in the record as Exhibit #56, do indicate that school population has increased over the years in the Indian Trail area, especially in the elementary schools. It does show, however, that in the last few years the rate of increase has declined and it also shows that there is still capacity to serve students in all three elementary schools, as well as in Salk Junior High as well as North Central and Shadle Park High Schools.

As stated earlier in the MDNS portion of this decision, school dynamics are something that the school district must constantly monitor. This development will clearly bring more school-age children to the area but the timing of those children's arrival is uncertain. This plat is designed to be developed over a 10-to-15-year period but it may or may not develop in that fashion. Further, the development of other plats in the area, or their non-development, also affect school populations. If families who purchase homes in this area remain in the area over a long period of time, their children will grow up and school populations could actually decline. The school district is concerned, and is apparently seeking another school site somewhere in the Indian Trail area as part of a plan to accommodate future growth. Since the Indian Trail Neighborhood Design Plan is currently being developed, it would be appropriate to plan for a school site at this time before all of the land has been platted for residential development.

Based on the data submitted by the school district, and their failure to request the dedication of land or the imposition of impact fees, the Hearing Examiner finds that adequate provisions have, in fact, been made for schools.

4. The proposed plat will serve the public interest and promote the general welfare.

The proposed plat provides for the orderly development of additional residential uses consistent with zoning in an area that is popular as a residential neighborhood. With improvements to Indian Trail Road and the water system serving this plat, all City utilities and infrastructure will be adequate to provide service. It serves the public interest to promote platting in areas where public facilities and utilities are available. Further, the mitigation measures which will be required will alleviate most adverse environmental impacts to the surrounding area. Therefore, the proposed plat will serve the public interest and promote the general welfare.

DECISION

Based on the Findings and Conclusions above, it is the decision of the Hearing Examiner to approve the proposed preliminary plat and zone change subject to the following conditions:

A. General Conditions

1. Approval is for a 298-lot subdivision to be known as McCarroll East. It will be developed substantially in accordance with the preliminary plat which has been submitted by the applicant and is in the record as Exhibit #2D. The location of the streets, cul-de-sacs and lots, along with the size of lots, shall be generally as depicted on that plan. The large lots on the east side of the subdivision, which are designated as future planned unit developments, must be submitted for future review and approval consistent with the City's planned unit development ordinance. Those large lots are to carry the R1 zoning designation, and are not approved for any specific density at this time.

2. This approval includes a zone change for certain property from RS to R2-L to allow the construction of 30 duplexes. The lots designated on the preliminary plat, which is Exhibit #2D, which will carry the R2-L designation, are Lots 1 through 13 and 26 through 29, Block 14; and Lots 1 through 13 of Block 15.

3. No building permits for any residences in this project will be issued until all construction funding for improvement of Indian Trail Road to four lanes has been obligated and construction assured. Further,

a new traffic analysis, meeting the requirements of the City Transportation Department, must be completed and submitted to Transportation for review and approval before any permits are issued for any construction beyond Phase 1. Phase 1 is identified in the Traffic Study, which is Exhibit #40, as 133 single-family homes and 14 duplexes. More mitigating measures relating to traffic may be imposed at that time.

✓ 4. The applicant has agreed to pay to the City \$721 per dwelling unit as a voluntary impact fee to be used for road and intersection improvements in this area. The applicant has further agreed to adjust this fee either upwards or downwards depending on the results of studies being done in relation to the City's new impact fee ordinance, which is Ordinance C31208, adopted September 19, 1994. That voluntary impact fee will be paid and administered pursuant to the regulations of that ordinance.

✓ 5. The plat shall dedicate to the City for right-of-way purposes, a 15-foot strip along the southwest portion of the plat adjacent to Indian Trail Road for additional Indian Trail Road right-of-way.

✓ 6. No construction of dwelling units in Phases 1 through 6 shall be allowed until the City has contracted for construction of the proposed 3 million gallon water storage reservoir to be located at Strong Road and Elizabeth Drive. No development of Phases 7 through 11 shall occur until a water transmission main is extended to the easterly boundary of the site by the plat.

✓ 7. The plat must demonstrate to the City Fire Department that fire flow is deliverable to the site. Fire flow will be measured and approved by the City Fire Department. Phasing of this plat shall be coordinated so that two separate accesses are provided for the Fire Department for all portions of the developed areas. Any time only one access is going to be available for any reason, the Fire Department must have prior notification.

✓ 8. The following language will be placed on the face of the plat:

This plat is located within a drainage basin which has been identified by the City of Spokane Public Works Department and the Spokane County Stormwater Utility as having storm water runoff problems. Since this plat is affected by or is a contributor to storm water flows, property owners should participate in the planning and implementation of a future basin-wide storm water management system. The owner(s) or successor(s) in interest hereby agree to join in any County and City approved storm water management program and to pay such rates and charges as may be fixed through public hearings for service or benefit obtained by the planning, design, construction, maintenance or operation of storm water control facilities.

✓ 9. The requirements of Uniform Building Code, Section 2907(d) apply to lots in this development with steep slopes. Measures must be taken to assure compliance with that section during construction on those lots.

✓ 10. The required front, corner, side, and rear yards shall be shown on the face of the final plat.

✓ 11. The area of each lot shall be shown in square feet on the face of the final plat.

✓ 12. The anticipated phases of plat development shall be depicted on the preliminary and final plat.

✓ 13. Slope easements, as necessary, shall be granted to the City of Spokane along all public streets. The location and purpose of said easements shall be identified on the face of the final plat.

14. A ten-foot easement for utilities shall be granted along all front lot lines along lot boundaries adjacent to streets. The location and purpose of said easement shall be identified on the final plat. Any easements required for the operation and maintenance of any portions of the public sewer or water system within the plat must be provided and shown on the plat. The Northwest Pipeline Easement shall be shown on the final plat.

✓ 15. All parking areas, streets, and drives within the plat shall be hard surfaced. All streets within the plat shall be built to City standards with paving, curbing, and sidewalk. Cul-de-sacs shall also meet the standards of the Solid Waste Department and the Fire Department.

✓ 16. The plat shall be served by public water and sanitary sewers complying with the requirements of the Spokane Municipal Code and the City of Spokane Department of Public Works. No lot within the plat may be served by on-site sanitary waste disposal systems or private wells. The following statement shall be set forth on the face of the plat in addition to the specifically identified conditions to be so set forth:

Notice: This plat shall be served by the City's sanitary sewer and water system only. Individual on-site sewage systems and private wells and water systems are prohibited. The City water system approved by County and State Health Officials and the City Water Department will be installed within this plat. The platlor will provide for individual domestic water service as well as fire protection to each lot prior to sale.

✓ 17. All storm water runoff must be disposed of on site in accordance with the "208" program. A grading and drainage plan for all three basins depicted in the preliminary drainage report, showing one-foot contours must be submitted to the Public Works Department for review and approval. Predevelopment offsite runoff passing through the site must not be increased due to development of the plat based upon a 50-year design storm. A geotechnical report and drainage study showing how runoff, including snowmelt analysis, is to be handled must be submitted to Public Works for review and approval.

✓ 18. The names for all streets within the plat shall be submitted to Planning Services for review and approval.

✓ 19. During construction, all dust control measures set forth in the Spokane County Air Pollution Control Authority's Regulation I, Article VIII, shall be complied with.

✓ 20. The applicant will explore, along with the Transportation Department, the Public Works Department, and the property owner to the south, the feasibility of extending the three courts at the south end of the plat, through to align with future streets to the south.

✓ 21. All improvements required by this decision shall be paid for by the platlor.

B. Prior to Approval of the Final Plat for Phase 1, and Each Subsequent Phase:

22. The platlor shall submit the following plans to the Department of Public Works for its review and approval:

- ✓ a. Construction plans for all road improvements required herein;
- ✓ b. Detailed plans for the sanitary sewer system, as well as detailed plans for the water system including mains, valves, hydrants, and service lines;
- ✓ c. Final grading and drainage plans showing contours, runoff channels, and the overall routing of storm water through this plat;
- d. Evidence that dedication of property for right-of-way purposes on Indian Trail Road has been accomplished; and
- e. Evidence that the plattor has executed an agreement with the City on impact fees.

✓ 23. A fire protection plan identifying the necessary fire flow and location of all fire hydrants shall be submitted to the Fire Department for its review and approval.

○ 24. The plattor shall submit proof to the Subdivision Administrator that all costs of published notices for the public hearing on the proposed preliminary plat have been paid.

C. Prior to the Sale of any Lots:

✓ 25. The lots to be sold shall be connected to a functioning public water system and a functioning public sewer system complying with the requirements of the Department of Public Works.

✓ 26. The lots to be sold shall be adequately served by a fire hydrant as determined by the City of Spokane Fire Department.

D. Prior to the Issuance of Certificates of Occupancy for any Residence:

27. All improvements, including street improvements, required by this decision shall be installed to serve the residences for which the Certificate of Occupancy is sought in accordance with the plans approved by the City of Spokane.

28. This approval does not waive the applicant's obligation to comply with the requirements of the Spokane Municipal Code as well as the requirements of City Departments and outside agencies with jurisdiction over land development.

DATED this 18th day of November, 1994.

Greg Smith
City of Spokane Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Decisions of the Hearing Examiner regarding zone changes and preliminary plats are final. They may be appealed to the City Council. All appeals must be filed with the Planning Department within ten (10) calendar days of the date of the decision. The date of the decision is the 18th day of November, 1994. **THE DATE OF THE LAST DAY TO APPEAL IS THE 28TH DAY OF NOVEMBER, 1994 AT 4:30 P.M.**

The Office of the Hearing Examiner may require payment of a transcript fee to prepare a transcript of the hearing for the Council.

DATED this 18th day of November, 1994.

Greg Smith
City of Spokane Hearing Examiner



March 8, 1995

COUNCIL ACTION MEMORANDUM:

CLERK'S FILE NO.

CPR 95-2

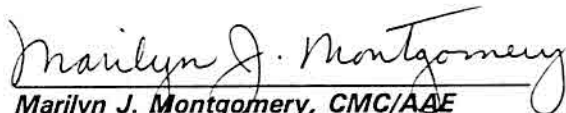
CPR 95-18

CCAF

RE: APPEAL ON THE RECORD BY CITIZENS FOR RESPONSIBLE DEVELOPMENT OF AREA I OF THE HEARING EXAMINER'S 11-18-95 DECISION APPROVING, SUBJECT TO CONDITIONS, PRELIMINARY PLAT AND ZONE CHANGE APPLICATION BY LEIF SORENSON FOR A PLAT TO BE KNOWN AS MCCARROLL EAST (LOCATED EAST OF FARMDALE RD. & EAST OF INDIAN TRAIL RD. & EXTENDING NORTH FROM JUST SOUTH OF STRONG RD. TO JUST SOUTH OF SHAWNEE AVE.)

At its Legislative Session held at 6:30 p.m. on Monday, March 6, 1995, the Spokane City Council considered the above Appeal and took the following action:

Motion by Mr. Crosby, seconded by Mr. Brewer, to remand the matter to the Hearing Examiner (to allow the Hearing Examiner to incorporate the conditions of a settlement reached by the respondents and the appellant into the Hearing Examiner's final decision); carried unanimously.



Marilyn J. Montgomery, CMC/A&E
Spokane City Clerk

MJM/jro

**c: Mayor/Council (1 copy for posting)
Assistant to the City Manager Molly Myers
Hearing Examiner Greg Smith
Assistant City Attorney Pat Dalton
Planning Director Charles Dotson
Area Manager Bob Alderson, Solid Waste Management Dept.
All persons on attached list**

FOR COUNCIL MEETING OF: February 6, 1995
5 p.m. Consent Agenda X
6 p.m. Hearing Agenda X

2-7-95

Notify Prior to Meeting:
Spokane Valley Advisory Council 0
Other? _____

TO: **MAYOR AND CITY COUNCIL**
X For Action
0 For Information

RECEIVED

JAN 30 1995

CITY CLERK'S OFFICE
SPOKANE, WA

A CATEGORY	RECOMMENDATION
0 Hearing	0 Accept
0 Annexation	0 Approve
0 Report	0 Deny
0 Contract	0 Place on File
0 Resolution	0 Set Hrg./Review
0 Emergency Ord.	Date for: _____
0 First Rdg. Ord.	X Defer/Continue
0 Report of City Mgr.	To: 3/6/95
	0 Council Direction

Clerk's File # CPR 95-18 *K*
Eng./LID # _____ Bid# _____

AGENDA WORDING:

Request to Reschedule Hearing: Appeal by Citizens for Responsible Development of Area I (CRDAI);
Hearing Examiner File No. 94-73PP

BACKGROUND:

The developer and the neighborhood association (the appellant) are currently engaged in settlement negotiations. The appeal is scheduled to be heard by the Council on February 13, 1995. The parties have jointly requested a continuance to March 6, 1995, to accommodate these settlement discussions.

ENVIRONMENTAL FINDING: N/A

FISCAL IMPACT: _____

BUDGET ACCOUNT #: _____

ATTACHMENTS: (List)

Signatures of: *[Signature]*
Submitting Department

Legal

Division Director

Finance

[Signature]
City Manager

COUNCIL ACTION:
FOR COUNCIL ACTION OF MONDAY, FEBRUARY 6, 1995, SEE
NOTICE OF RESCHEDULED HEARING DATED FEBRUARY 7, 1995

COUNCIL ACTION:
SEE COUNCIL ACTION MEMORANDUM DATED MARCH 8, 1995,
FOR COUNCIL ACTION OF MARCH 6, 1995.

DISTRIBUTION AFTER COUNCIL ACTION:
Hearing Examiner
Pat Dalton, Legal Dept.
Charles Dotson, Planning Dept.
Bob Alderson, Area Manager,
Solid Waste Mgmt. Dept.
All persons on attached list
CCAF

#1-1