

**CITY OF SPOKANE HEARING EXAMINER**

**Re:** An application for a re-plat of a portion of ) FINDINGS, CONCLUSIONS,  
an existing Preliminary Plat and Planned ) AND DECISION  
Unit Development by Taylor Engineering )  
on behalf of Feature Realty for Canyon )  
Bluffs Addition ) FILE NO. Z2009-09-PPLT

**SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** The applicant seeks approval of a re-plat of a portion of an approved preliminary plat and planned unit development (PUD) in order to allow the subdivision of approximately 9.05 acres of land into 34 lots for construction of attached single-family residences. The lots will be developed with townhomes in either 2-unit buildings or 4-unit buildings. The lots had previously been approved for 34 multifamily residential units.

**Decision:** Approval, subject to conditions.

**FINDINGS OF FACT**  
**BACKGROUND INFORMATION**

**Applicant:** Frank Ide  
Taylor Engineering, Inc.  
106 West Mission Avenue  
Spokane, WA 99201

Feature Realty  
3495 Santa Rosa Road  
Lompoc, CA 93436

**Property Address:** Addresses are not yet available for these lots but they are located on Westwood Lane and Canyon Woods Lane within the Canyon Bluffs PUD in Spokane, Washington.

**Property Location:** The Canyon Bluffs PUD is located on the north side of Thorpe Road south of 16<sup>th</sup> Avenue and west of the Burlington Northern and Santa Fe Railroad line in the City of Spokane, Washington.

**Legal Description:** The full legal description is in the record attached to Exhibit #2B

**Zoning:** RMF (Residential Multifamily).

**Comprehensive Plan Map Designation:** The property is designated Residential 15-30 in the City's 2001 Comprehensive Plan.

**Site Description:** The site consists of two tracts in the Canyon Bluffs PUD. The smaller tract to the north and located on the east side of Canyon Woods Lane contains approximately 41,500

square feet in area. It was originally designated as a drainage tract but a geotechnical evaluation found that it was unsuitable for that use and therefore it will be used for housing. It is currently devoid of structures and slopes slightly from the northwest to the southeast. The second is located tract is located at the far south end of the Canyon Bluffs PUD along the south side of Westwood Lane. It is irregular in shape and contains approximately 8 acres. It is also devoid of structures and slopes generally from the northwest to the southeast.

**Surrounding Conditions:** The properties surrounding are mostly zoned RSF (Residential Single Family). Canyon Bluffs is being developed with a variety of uses both single family and multifamily residential. The area surrounding Canyon Bluffs consists predominately of single family residential uses in various configurations and lot sizes. To the east is the railroad line and beyond that is the Fish Lake Trail which runs parallel to the railroad line and along the west side of State Route 195.

**Project Description:** The applicant seeks approval to subdivide two tracts totaling approximately 9.05 acres into 34 lots to allow the construction of no more than 34 attached single family townhouses. The largest tract which is on the south side of the development is to have approximately 30 lots and the northern tract is to have 4. The applicant stated that the northern tract had originally been designated for drainage purposes but a geotechnical evaluation found it to be unsuitable. Therefore the applicant seeks to subdivide that lot into 4 lots for single family attached and one 16,500 square foot tract to be designated as common area. The 4 lots will be developed either with a 4-plex or two 2-unit structures. The large lot on the south, which was to have 34 multifamily apartment units, will be subdivided into 30-lots for attached single family. 8 of the lots will have access directly to the cul-de-sac and westerly end of Westwood Lane while the other 22 lots, which are on the south side of Westwood Lane will have their primary access via an alleyway which will traverse those 22 lots. There are also 4 tracts set aside for common open space. The total number of dwelling previously approved for Canyon Bluffs would remain unchanged. See file number Z2001-02-PP/PUD. The smallest lot is approximately 3,950 square feet and the largest lot is approximately 11,748 square feet. The layout of streets, lots, alleyways and common areas are set forth on the Preliminary Plat Alteration of Canyon Bluffs Addition and First Addition which are in the record as Exhibit #2D.

### **PROCEDURAL INFORMATION**

**Authorizing Ordinances:** Spokane Municipal Code Sections 17C.110, 17C.110.030, 17C.110.300 through .340, Table 17C.110-2, Table 17C.110-3, 17G.050, 17G.060.170, 17G.070, and 17G.080.

**Hearing Date:** May 28, 2009

**Notices:** Mailed: January 15, March 26 and May 13, 2009  
Posted: January 16, March 26, and May 13, 2009

**Site Visit:** None made

**SEPA:** A Mitigated Determination of Nonsignificance (MDNS) was issued for the Canyon Bluffs proposal on March 16, 2001. The City adopted those environmental documents for this proposal on April 15, 2009.

**Testimony:**

Dave Compton  
City of Spokane, Planning Services  
808 West Spokane Falls Boulevard  
Spokane, WA 99201

Mike Britton  
City of Spokane, Engineering Services  
808 West Spokane Falls Boulevard  
Spokane, WA 99201

Dave Kokot  
City of Spokane, Fire Department  
808 West Spokane Falls Boulevard  
Spokane, WA 99201

Frank Ide  
Taylor Engineering, Inc.  
106 West Mission Avenue  
Spokane, WA 99201

Robert Townsend  
Feature Realty  
9323 South Stevens Creed Road  
Spokane, WA 99223

**Exhibits:**

1. Planning Services Staff Report
2. Application, including:
  - 2A General Application
  - 2B Preliminary Long Plat Application
  - 2C Application for Notification Map
  - 2D Site Plans
4. Pre-development conference notes
5. Engineering Services comments
6. Traffic Engineering comments
  - 6A Traffic Analysis by The Transpo Group
7. Department of Ecology comments
8. Spokane Tribe of Indians comments
9. Northwest Pipeline comments
10. Notice map with parcel listing
11. Title Company Certification of address listing
12. Plat Certificate
13. Notices
14. Affidavit of mailing January 15, March 26 and May 13, 2009
15. Affidavit of posting January 16, March 26, and May 13, 2009
16. SEPA MDNS Memorandum
17. Determination of Significance and adoption of existing environmental document
18. Environmental Checklist
19. Community Meeting sign in sheet
20. Community Meeting summary
21. Hearing File Preparation Checklist
22. Letter dated 07-25-07 to Rick Thompson from Hearing Examiner  
re: required road easement
23. Letter dated 01-15-09 to Frank Ide from Dave Compton  
re: community meeting instructions

24. Letter dated 01-26-09 to Planning Services Department from Rusty Lugli  
re: charging of fees
25. Letter dated 02-10-09 to Dave Compton from Rick Thompson  
re: road easement
26. Letter dated 02-11-09 to Interested Parties from Dave Compton  
re: request for comments
27. Letters dated 02-15 and 04-06-09 to Dave Compton from Julie McCoy  
re: opposing project
28. Email dated 03-11-09 to Dave Compton from Frank Ide  
re: moving project forward
29. Fax dated 03-11-09 to Frank Ide from Dave Compton  
re: comments received
30. Fax dated 04-07-09 to Dave Compton from Scott and Victoria Love  
re: concerns regarding the project
31. Email dated 04-13-09 to Dave Compton from Frank Ide  
re: hearing date
32. Letter dated 04-15-09 to Frank Ide from Dave Compton  
re: notice of public hearing instructions

### **FINDINGS AND CONCLUSIONS**

**Reviews of Type II and III permit applications such as PUDs and plats are subject to Spokane Municipal Code Section 17G.060.170. The Hearing Examiner has reviewed the proposed plat and PUD and evidence of record with regard to this Section and makes the following findings and conclusions.**

1. The proposal is allowed under the provisions of the Land Use Codes.

The proposal is within the boundaries of an existing PUD and further subdivision of these lots is allowed under the Development Regulations as well as the City's Subdivision Ordinance. The standards for development are set forth in Table 17C.110-3. The minimum lot area for the RMF Zone is 2,500 square feet and all lots in this re-plat have at least that much area. The proposal also meets the minimum lot width, depth and frontage. The structures will have to comply with building coverage requirements and maximum roof height. There was no evidence presented to show that the proposal could not comply with those requirements. As far as use is concerned, the code in Section 17C.110.030 states that characteristics of the RMF Zone include attached and detached single family residential, condominiums, apartments, duplexes, townhouses and row houses. Therefore the proposed use is allowed in this zone and the Hearing Examiner finds the proposal itself is allowed under the provisions of the Land Use Codes.

2. The proposal is consistent with the Comprehensive Plan designation and goals, objectives, and policies for the property.

The City's new Comprehensive and Development Regulations would substantially increase the density in this project, but the proposal was approved previous to the adoption of those requirements. The applicant proposes to rely on the original approval and only develop as many units as were previously allowed, that being 790 total units. If the proposal were developed under current regulations, it would have substantially more density. The applicant notes, however, that the property is characterized by steep slopes and other constraints that would make build out

at maximum or even minimum densities set forth in the Comprehensive Plan extremely difficult. This particular proposal complies with certain policies of the plan such as the policy that encourages infill development and access to various housing choices. Therefore the Hearing Examiner will allow less density than the plan would dictate and allow the proposal to stay consistent with the prior approval.

3. The proposal meets the concurrency requirements of Chapter 17D.010 of the Spokane Municipal Code.

There was no testimony presented by staff or agencies with jurisdiction regarding a failure of concurrency for any public services. Therefore this proposal meets concurrency requirements.

4. If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the property, including but not limited to size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water, and the existence of natural, historic, or cultural features.

The Hearing Examiner finds this criterion has been met and, in so doing, hereby adopts and incorporates the Planning Services Department Findings on this criterion, set forth in the Planning Services Staff Report, Exhibit #1, page 4.

5. The proposal will not have a significant adverse impact on the environment or the surrounding properties and, necessary conditions can be placed on the proposal to avoid significant effects or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use.

The proposal should not have substantial impacts on surrounding properties. The traffic department has reviewed the trip generation letter submitted by the applicant and found that the difference in anticipated traffic from 34 townhouses versus 34 apartments is insignificant. There may be slightly more building coverage than there would be with an apartment building but the proposal will be limited by the building coverage requirements of the code. There were two letters in the file regarding the possibility of view obstruction. Those letters came from homeowners located across the street from the northern lots. The applicant testified that the four lots on the north will have two 2-unit buildings which will allow for better views than a 4-unit building and that the current proposal is lower in elevation than the homes across the street so that those homes should still retain their views. Staff has recommended several conditions of approval that can be placed on the proposal to further avoid other potential significant impacts. Therefore the Hearing Examiner finds that this criterion has been met.

**For a preliminary long plat, the additional criteria below must also be satisfied.**

1. The proposed subdivision must make appropriate (in terms of capacity and concurrence) provisions for: public health, safety and welfare; open spaces; drainage ways; streets, roads, alleys and other public ways; transit stops; potable water supplies; sanitary wastes; parks, recreation and playgrounds; schools and school grounds; and sidewalks, pathways and other features that assure safe walking conditions.

The Hearing Examiner finds this criterion has been met and, in so doing, hereby adopts and incorporates the Planning Services Department Findings on this criterion, set forth in the Planning Services Staff Report, Exhibit #1, pages 5, 6 and 7.

## DECISION

Based on the findings and conclusions above, it is the decision of the Hearing Examiner to approve the proposed preliminary plat and planned unit development application, subject to the following conditions:

### A. General Conditions

1. Approval is for a preliminary re-plat for up to 34 single family residential lots to be part of the Canyon Bluffs PUD. This approval allows zero lot line development with two and four unit buildings. The property will be developed substantially in accordance with the site plan which is in the record as Exhibit #2D, except as modified by these conditions. The number, size and dimensions of lots and the layout of streets, sidewalks and the alleyway shall be substantially as depicted on the site plan, except where these conditions modify those placements. The applicant is authorized to prepare a final plat and PUD plan in accordance with the preliminary plat and these conditions of approval. Any modifications to the preliminary re-plat/PUD shall be reviewed and approved by the Hearing Examiner.

2. The stormwater system, utilities outside the public right-of-way, except for the City's water line in the public easement in Westwood Lane, roads, alleyways and any other private common areas shall be maintained by a homeowners association. This shall be stated on the final plat. The existing Canyon Bluffs Homeowners Association can be amended to satisfy this condition. A set of covenants, conditions, and restrictions (CC&Rs) prepared for the proposed development is subject to review and approval by the City of Spokane, and shall be recorded with the Spokane County Auditor's Office prior to the recording of the final re-plat. The CC&Rs shall address the duties and responsibilities of the homeowners association with respect to all private roads, utilities and other common areas. This includes the proposed alleyway and the emergency access easement in Tract B. The CC&Rs must address the levying and collection of assessments, and the operation and maintenance of all systems and facilities and shall also provide for the administration and enforcement of these duties and responsibilities.

3. Sanitary sewer service shall be provided by the City of Spokane. Sanitary sewers shall be designed and constructed to City standards. Sewers in public streets will be maintained by the City and those in private streets by the Homeowners Association. The project proponent shall be responsible for all costs associated with providing sanitary sewer service throughout the plat and securing all approvals and easements necessary to serve lots within the proposed plat.

4. Water service shall be provided by the City of Spokane's water system. The water lines must be designed and constructed to City standards. The water lines constructed in public streets or public easements will be operated and maintained by the City of Spokane. The design of water lines and systems shall be submitted to Engineering Services-Developer Services for review and acceptance prior to the City Engineer signing the final plat. The developer will be responsible for all costs associated with constructing water improvements necessary to serve the proposed plat.

5. Only City water and sanitary sewers shall serve the plat; the use of individual on-site sanitary waste disposal systems or private wells is prohibited, and it shall be so stated on the face of the final plat.

6. All storm water and surface drainage generated on-site shall be disposed of on-site in accordance with SMC 17D.060 "Storm Water Facilities" and as per the Project Engineer's recommendations, based on a revised drainage plan accepted for the final re-plat. Pre-development flow of off-site runoff passing through the plat/PUD shall not be increased (rate or volume) or concentrated due to development of the plat/PUD, based on a 50-year design storm. An escape route for a storm in excess of a 100-year design storm shall be provided. Prior to construction, a grading and drainage plan showing finished one-foot contours and supporting calculations must be submitted to Engineering Services-Developer Services for review.

7. An erosion/sediment control plan, detailing how dust and runoff will be handled during and after construction must be submitted to Engineering Services-Developer Services for review and acceptance prior to construction. The developer will be responsible for all costs associated with constructing storm water improvements necessary to serve this proposed PUD.

8. All improvements (street, alley access, sewer, storm sewer, and water) shall be designed by a Professional Engineer, licensed in the State of Washington and constructed to City standards by the developer prior to the occupancy of any structures served by said improvement. Revised final construction plans must be submitted to Engineering Services-Developer Services for review and acceptance.

9. A proposed alleyway is designed to serve 22 of the lots in this development. The alleyway shall be constructed to City standards with a width of at least 20 feet and a turnaround. There shall be a 20-foot setback between the alleyway and any garage door. The alleyway is to provide the sole vehicular access to the lots it serves and no access from any of these lots directly to Westwood Lane will be allowed.

10. Sidewalks shall serve each lot. All street identification and traffic control signs required for the proposed plat/PUD must be installed by the developer at the time of street improvements for the phase being constructed. They must be installed in accordance with City standards and inspected to the satisfaction of the City's Construction Management Office prior to the occupancy of any structures within the plat/PUD. Signing and striping shall be shown on street plans. The developer will be responsible for all costs associated with constructing street improvements necessary to serve this proposed plat/PUD.

11. Street designs for the proposed plat/PUD must include supporting geotechnical information on the adequacy of soils underneath to support vehicular loadings.

12. Minimum 20-foot radii are required at all residential street intersections. Wheelchair ramps are required to be constructed at intersections.

13. Slope easements for cuts and fills, as deemed necessary by Engineering Services – Developer Services in accordance with the Design Standards of the City's Engineering Services Department, are hereby granted to the City of Spokane for the construction and maintenance of public streets adjoining this plat. This statement must be included in the dedicatory language on the face of the final plat/PUD. All easements, existing and proposed as well as their purpose shall be on the final plat. A 10-foot utility easement shall be granted along all streets and roads within the plat. Easements to be shown on the final re-plat shall include the emergency access easement on Tract B and the access/utility easement serving Westwood Hills which is through Tract A.

14. A \$250.00 deposit will be required for each monument to be installed as part of this final plat/PUD. Civil engineered plans and profiles shall use NAVD88 datum (City of Spokane datum minus 13.13 feet.)

15. In accordance with the City's Financial Guarantee Policy, a financial guarantee will be required for all street, drainage, and erosion/sediment control improvements not constructed prior to approval of the final PUD.

16. Clear view at driveways and street intersections must be maintained.

17. The Fire Department requires 20 feet of unobstructed access width for its vehicles with an exterior clear radius of 50 feet and an interior turning radius of 28 feet. Fire Department access must also be provided to within 150 feet of any point around the perimeter of a building.

18. To accommodate fire apparatus access, the proposed 20 foot wide alleyway will have no parking allowed on either side except in front of garages. The maximum slope of roads for fire department apparatus is 10 percent.

19. Site fire flow shall not be less than 1,000 GPM for single-family residences or duplexes up to 3,600 square feet. If structures exceed 3,600 total square feet, Appendix B of the IFC will be used. Hydrant spacing shall not be more than 500 feet, unobstructed along the path of travel. Hydrants must be within 250' of any lot and within 400' of all points around the first floor of a building.

20. The required front, side, flanking side, and rear yards shall be shown on the face of the final plat and Final Plat dedication. They are: Front yards, minimum of 15 feet; rear yards, minimum of 20 feet; side yards can be 0 feet, but with at least 10 feet between structures. Lot coverage shall comply with the RMF Zoning requirements.

21. The area (in square feet) and street address of each lot shall be shown on the face of the final plat.

22. The final plat will contain sufficient information to review closure of the plat.

23. All parking areas and driveways shall be hard surfaced and it shall be so stated on the face of the plat.

24. Prior to submitting the final plat to the City, the platlor shall consult with Engineering Services as to what language must be contained within the dedicatory language on the face of the final plat.

25. The development of this re-plat may be phased. A phasing plan must be submitted to Engineering Services – Developer Services for review and acceptance. Any subsequent changes to the phasing plan can be submitted and will be reviewed and approved by City staff. If phasing conflicts arise between staff and the platlor, resolution of the conflict shall be referred to the Hearing Examiner.

26. The platlor shall maintain the wildlife corridor originally designated for the Mission Springs PUD described in Planning Services File Number 91-61-PP/PUD.

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

B. Prior to Approval of the Final Plat:

28. The applicant shall submit the following plans to the Engineering Department for its review and approval:

- a. construction plans for the alleyway and sidewalks serving the plat;
- b. a detailed plan for water service to be constructed to serve the plat;
- c. a detailed plan for sanitary sewers constructed to serve this plat;
- d. a storm drainage, erosion control, and grading plan, along with any required geo-technical report.

29. A fire protection plan demonstrating that there exists the necessary fire flow and showing the location of all fire hydrants shall be submitted to the Fire Department for its review and approval.

C. Prior to the Sale of Any Lots:

30. The lots to be sold shall be connected to a functioning public water system complying with the requirements of the Engineering Department and having adequate pressure for domestic and fire uses as determined by the Water/Hydro Services Department. This condition shall be stated on the face of the final plat.

31. The lots to be sold shall be connected to a functioning public sanitary sewer system complying with the requirements of the Engineering Department. This condition shall be stated on the face of the final plat.

32. The lots to be sold shall be adequately served by a fire hydrant and appropriate access streets as determined by the requirements of the City of Spokane Fire Department and City Transportation Department. This condition shall be stated on the face of the final plat.

D. Prior to the Issuance of Certificates of Occupancy:

33. All improvements, including street improvements, required by this decision, shall be installed to serve the residential unit for which the certificate of occupancy is sought in accordance with the plans approved by the City of Spokane. This condition shall be stated on the face of the final plat.

34. Spokane Municipal Code 17G.060.240 regulates the expiration of this approval, and Table 17G.060-3 sets forth the time frame for the expiration of all approvals.

DATED this 9th day of June 2009.

  
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Greg Smith  
City of Spokane Hearing Examiner

### **NOTICE OF RIGHT TO APPEAL**

Appeals of decisions by the Hearing Examiner are governed by Spokane Municipal Code 17G.060.210 and 17G.050.

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 9th day of June 2009. **THE DATE OF THE LAST DAY TO APPEAL IS THE 23rd DAY OF JUNE 2009 AT 5:00 P.M.**

In addition to paying the appeal fee to appeal the decision, the ordinance requires payment of a transcript fee to the City of Spokane to cover the costs of preparing a verbatim transcript and otherwise preparing a full record for the City Council.