

**CITY OF SPOKANE HEARING EXAMINER**

**Re:** Application for a Preliminary Plat and )  
Planned Unit Development to subdivide )  
34.93 acres of land into a 199-lot ) FINDINGS, CONCLUSIONS,  
Planned Unit Development for ) AND DECISION  
development for single-family homes in )  
the RSF zone. The application also ) FILE NO. Z23-190PPUD  
includes a Wetland Modification )  
Conditional Use Permit. )

**I. SUMMARY OF PROPOSAL AND DECISION**

**Proposal:** The applicant, Whipple Consulting Engineers, Inc., is requesting approval of an application for a Preliminary Plat and Preliminary Planned Unit Development (PUD) from the Hearing Examiner to subdivide 34.93 acres of land into a 199-lot PUD for development for single-family homes (the most current plat map detail includes 196 buildable lots). The application also includes a Wetland Modification Conditional Use Permit (CUP). The application is requesting modification to the maximum floor area ratio (FAR), lot coverage, driveway coverage limits, and setbacks (front and rear yard) under the PUD application process.

**Decision:** APPROVED, with conditions.

**II. FINDINGS OF FACT  
BACKGROUND INFORMATION**

**Applicant:** Whipple Consulting Engineers, Inc.  
Todd Whipple, PE  
21 S Pines Rd  
Spokane Valley, WA 99206

**Owner:** Lennar Northwest, Inc. – Brent Parrish  
33455 6th Avenue South, Unit 1-B  
Federal Way, WA 98003

**Property Location:** 3929 W. Grandview Road, Spokane, WA 99224, parcel 25263.0051 (and parcels 25263.0048, 25263.0052, 25263.2907, 25263.3001, 25263.3002, 25263.3101, 25263.3102, 25263.310 addressed as 2101, 2102, 2103, 2106, and 2107 S. Westridge Lane. Note: some parcels have no address currently assigned).

**Legal Description:** The legal description of the property is provided on the preliminary plat maps. See Exhibit 6.

**Zoning:** The property is zoned Residential 1 (R1) but is vested in the previous zoning of RSF (Residential Single Family).

**Comprehensive Plan (CP) Map Designation:** The property is designated as Residential Low but is vested in the previous zoning of Residential 4-10.

**Site Description:** The subject property is generally located between West 21st Avenue to the north, West 25th Avenue (city/county boundary) to the south, South Garden Springs Road to the west, and South H Street to the east.

**Project Description:** The applicant is proposing to develop a 34.93-acre PUD with 199 buildable lots (196 lots per most recent preliminary plat map) for single-family residential development along with four tracts of land associated with common open space and wetland areas. The project includes construction of public roads and public utilities as well as stormwater facilities to serve the development.

The application requests modification to the maximum FAR, lot coverage, driveway coverage limits, and front and rear yard setbacks under the PUD application process. A variance, from driveway approach limits to implement any approved request to exceed driveway coverage limits, sought through this PUD process will require a separate variance by the City Engineer completed outside of this combine type III application process.

The wetland modification CUP portion of the application includes filling one wetland – Wetland C (a total of 19,424 square feet [sq. ft.]/0.45 acre). Mitigation for this direct impact to Wetland C includes creation of new wetland areas (38,716 sq. ft./0.89 acre), enhancement of existing Wetlands A and B (13,991 sq. ft./0.32 acre), and enhancing the required wetland buffer (58,799 sq. ft./1.35 acres).

**Surrounding Conditions and Uses:** The adjacent zoning to the east, north, and west is R1. South of the site is outside the City’s jurisdiction (Spokane County). Adjacent land uses including within Spokane County to the south are single-family homes, vacant lots, and larger tracts of land that are either vacant or residential in nature. Spring Heights Park is located just to the south of the project site in Spokane County.

### **III. PROCEDURAL INFORMATION**

**Authorizing Ordinances:** Spokane Municipal Code (SMC) 17C.110, Residential Development; SMC 17C.320, Conditional Uses; SMC 17G.060, Land Use Application Procedures; SMC 17G.070, Planned Unit Developments; and SMC 17G.080, Subdivisions.

**Community Meeting:** April 12, 2022, November 15, 2022, and March 14, 2023

**Notice of Community Meeting:**

Mailed: March 28, 2022  
Posted: March 25 & 28, 2022  
Published: March 28 & April 4, 2022

Mailed: October 25, 2022  
Posted: October 25 & 27, 2022  
Published: October 25 & November 1, 2022

Mailed: February 27, 2023  
Posted: February 23 & 24, 2023

**Public Hearing Date:** March 27, 2024

**Notice of Application/Public Hearing:** Mailed: February 7, 2024  
Posted: February 8 & 9, 2024  
Published: February 8 & 15, 2024

**Site Visit:** April 16, 2024

**State Environmental Policy Act (SEPA):** A Mitigated Determination of Non-Significance (MDNS) was issued on March 7, 2024. See Exhibit 9. The deadline to appeal the MDNS was March 21, 2024. The MDNS was not appealed.

**Testimony:**

Melissa Owen, Assistant Planner  
City of Spokane Planning & Development  
808 W. Spokane Falls Boulevard  
Spokane, WA 99201  
[mowen@spokanecity.org](mailto:mowen@spokanecity.org)

Todd Whipple, PE  
Whipple Consulting Engineers, Inc.  
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Matt Bruch  
[Mattbruch3@gmail.com](mailto:Mattbruch3@gmail.com)

**Submitted comments to the record or present but did not testify:**

Grandview-Thorp Neighborhood Council  
[grandviewthorp@hotmail.com](mailto:grandviewthorp@hotmail.com)

Ken Van Voorhis  
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Debbie Rosengrant  
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Leslie Hope  
[lkhope@verizon.net](mailto:lkhope@verizon.net)

**Exhibits:**

Staff Report, dated 03/22/24, including the following exhibits:

1. Vicinity Map
2. Zoning Map
3. Land Use Map
4. Application Documents, including:
  - a. General Application
  - b. Preliminary Long Plat Application
  - c. Preliminary PUD Application
  - d. Wetland Conditional Use Permit Application
  - e. Project Narrative
  - f. Open Space Calculation – March 2023
5. Wetland Modification Documents, including:
  - a. Washington State Department of Ecology (WSDOE) Wetland Administrative Order
  - b. Wetland Modification Conditional Use Permit and Critical Area Addendum
  - c. Wetland Modification Assessment and Mitigation Report – 2022
6. Site Planning and Context Documents, including:
  - a. Plat Map Package – December 2023
  - b. Plat Map Package – November 2023
  - c. Plat Map Package – September 2023
  - d. Plat Map Package – Original
7. Technical Documents, including:
  - a. Geotechnical Report
  - b. Geohazard Evaluation Report
  - c. Trip Generation and Distribution Letter (TGDL), original
  - d. TGDL, updated
  - e. Storm Drainage Report, original
  - f. Storm Drainage Report, revised
  - g. Water and Sewer Flow Calculations
  - h. Preliminary Design Profiles
8. Shoreline/Critical Areas Checklist
9. MDNS and SEPA Checklist
10. Request for Agency Comments, including:
  - a.i May 2023 Request for Agency Comments
  - a.ii Request for More Information
  - a.iii Applicant Response
  - b.i September 2023 Request for Agency Comments
  - b.ii Request for More Information
  - b.iii Applicant Response
  - c.i November 2023 Request for Agency Comments
  - c.ii Request for More Information
  - c.iii Applicant Response
  - d.i December 2023 Request for Agency Comments
  - d.ii Technically Complete Letter
11. Notice of Application, SEPA and Public Hearing documents, including:
  - a. Sign positing and Mailing Instructions

- b. Notice of Application Letter, revised email address
  - c. Newspaper Notice
  - d. Notice of Application Letter with updated map with correct application date
  - e. Newspaper Notice Affidavit – February 8, 2024
  - f. Newspaper Notice Affidavit – February 15, 2024
  - g. Affidavits of Posting and Mailing
  - h. Email Notice to Neighborhood Council
12. Public Comments
  13. Community Meeting No. 1 Documents, including:
    - a. Notification Map Application
    - b.i Notice of Community Meeting Sign
    - b.ii Notification Map
    - b.iii Preliminary Plat Parcels
    - c. Notice of Community Meeting
    - d. Meeting Summary and Registration Report
    - e. Meeting Chat
    - f. Mailing and Posting Affidavits
    - g. Public Comment
  14. Community Meeting No. 2 Documents, including:
    - a. Mailing Radius and Mailing List
    - b. Community Meeting Notice
    - c. Meeting Summary and Attendance List
    - d. Meeting Chat
    - e. Community Meeting Communications to Applicant
    - f. Mailing and Posting Affidavits
  15. Community Meeting No. 3 Documents, including:
    - a.i Notification Map Application
    - a.ii Notice of Community Meeting Sign
    - a.iii Notification Map
    - a.iv Preliminary Plat Parcels
    - a.v Notice of Community Meeting Letter
    - b. Community Meeting No. 3 Mailer
    - c. Meeting Summary and Attendance List
    - d. Meeting Chat
    - e. Community Meeting Communications to Applicant
    - f. Mailing and Posting Affidavits
  16. Pre-Development Conference Final Comments
  17. Staff Presentation
  18. Applicant Hearing Materials, including:
    - a. Presentation
    - b. Letter to Hearing Examiner
  19. Applicant Supplemental Information
  20. Adam Marshall Exhibits
  21. Washington State Department of Transportation (WSDOT) SEPA Condition – addressing when condition will be met
  22. Link to Spokane Regional Transportation Council (SRTC) US-195 Final Study

#### **IV. DISCUSSION**

This proposal meets all of the applicable code requirements, including those calling for concurrency analysis and mitigation. Significant concurrency and mitigation conditions are being imposed on this proposal, much of which were staunchly negotiated by the city and other agencies. Yet, given the reasonable objections and trepidations raised by members of the public, some general discussion on some of these topics is warranted. Beyond the application of all specific code requirements addressed in the following sections, some further discussion on wildfires and concurrency will be more generally discussed here.

First is the issue of wildfire danger and emergency access/egress. Despite legitimate and well-founded fears of wildfire, such trepidations are not a valid legal basis for denial of this specific project based on the record. Simply put, there is still ample opportunity for egress from this area in the case of wildfire, and this development will likely increase options for escape in the case of a quickly approaching wildfire. First and foremost, will be the completion of 21<sup>st</sup> Avenue, which will provide more direct access to the Garden Springs/Sunset route for those inhabiting the southeasterly portions of the connected neighborhoods. Second is the addition of the fire access point that will be added to the southeast corner of this development. This will add an additional option for egress to the south and southwest, which could be used by members of the public not residing in this future subdivision. And finally, this area will still have access to US-195 at 16<sup>th</sup> Avenue. While current plans exist to remove the access to northbound US-195 at 16<sup>th</sup> Avenue, there will still be an opportunity to head south on US-195. In an extreme emergency, where southbound travel on US-195 would be ill-advised, it seems reasonable to assume that persons fleeing in this direction will still be able to access US-195 north by crossing the median at or near 16<sup>th</sup> Avenue (if this crossing is obliterated or blocked, there is a median break approximated 1/3 of a mile south of 16<sup>th</sup> Avenue). Or, possibly an emergency response that closes the southbound US-195 exit from I-90 that could be used as additional emergency egress. Still, there is nothing I found in the record that would make me conclude that this particular subdivision will substantially increase the risk of death or harm from wildfire to existing residents in the area.

Similarly, we have the associated issues raised relating to the so-called Wildland-Urban Interface (WUI, or WA-WUI) and associated requirements. Issues with the possible application of these code provisions were raised by interested residents, but other issues were also raised by the Applicant as to recent changes to the state's mapping and application of these code provisions throughout the state that may significantly call into question their use and applicability. An exhaustive analysis of these issues will not be a part of this decision. The WUI provides requirements implemented into the Washington State Building Code by and through the Washington State Building Code Council. This legislative scheme is designed to impose increased requirements on building materials and related methods of construction to address a potential increase in the possibility of wildfire in these areas. But, as stated in the WUI Story Map, "the Wildland-Urban Interface, or WUI, is not the same as wildfire risk. As such, the Wildland-Urban Interface map can be used as a TOOL to help define wildfire risk, but it cannot be THE TOOLKIT." See <https://storymaps.arcgis.com/stories/7016c437623a445997c072a05e26afbb>.

The designation of land as some level of WUI (Urban, Interface, Intermix, Wildlands, and Long-Term Nonbuildable Areas) is not a specific part of the land use development analysis. In short, these are building code requirements and are not under the purview of analysis for subdivision. See also *Washington Administrative Code (WAC)*

51-55-0400.402.1 (“Subdivisions. Subdivisions shall comply with locally adopted standards.”). It is uncertain whether and how these codes may apply to this subdivision once the Applicant submits applications for building permits, but such is not within the scope of the requests before us. However, insofar as it does relate to fire danger, the Applicant is being required to provide fire access through the southeastern corner of the property and will also be required to improve access to the property by upgrading either 26<sup>th</sup> or 27<sup>th</sup> Avenues to the standards required for fire truck access. Within the limited scope of how WA-WUI may apply, the Applicant is complying with these requirements by making this necessary road upgrade that will ensure that emergency vehicles have adequate access to the site from multiple directions. The commenting citizens are right to be concerned about the risk of wildfire, but it appears from the record that appropriate improvements and mitigation measures will be completed.

Lastly is the thornier topic of concurrency. As a starting point, there is a foundational question about whether a city is, or should be, growing. Many municipalities across this country face the dire circumstances and implications of decreasing population and loss of industry. The problems associated with this situation are far more difficult to address or arrest. Alternatively, municipalities face the challenges of addressing growth and development. Spokane and the surrounding areas appear to be growing. A growing municipality brings its own slew of problems and considerations that must be addressed through concurrency.

Concurrency, and associate schema, are an attempt to solve what is inherently an unsolvable problem. That is, there are two competing imperatives that must be balanced in order to prevent the unsustainable consequences of favoring either interest. On the one hand, we have current residents and users of public infrastructure. New developments put additional strain on these shared utilities and facilities, and necessary upgrades or improvements will need to be funded by local jurisdictions and their taxpayers. This is the exact reason why impact fees, concurrency analysis, and other mitigation measures exist.

But on the other hand, the growing Spokane area does have a need for continued development, especially housing. An onerous and financially burdensome imposition of impact fees or other expenditures required by concurrency codes can place an undue burden on wanted and needed development. An over-imposition could work to limit or practically prohibit new development. Such a situation could also impede growth by preventing necessary development, exacerbating existing negative trends such as housing costs and the ongoing housing shortage Spokane is working diligently to overcome. Without a full recitation of how and why we got to this point, whether locally, nationally, or internationally, it must be accepted as fact or operative assumption that Spokane needs more housing, and we need it yesterday. Therefore, the imperatives associated with requiring new development to pay for the anticipated effects on the shared utilities and facilities must be delicately applied.

As a specific and explicit example in this case, impact fees have been imposed on this development. State laws and a slew of court decisions have significantly narrowed the ability of municipalities to impose and use impact fees for new development. See, e.g. *Revised Code of Washington (RCW) 82.02.050-110; WAC 365-196-850; RCW 39.92*. Impact fees cannot be used to correct existing deficiencies, cannot exceed a proportionate share of the cost of system improvements, and municipalities must have additional sources of funding so as to not rely wholly on impact fees to fund system improvements. *Id.* Other specific and significant restraints apply, including a requirement for specific

identification within the capital facilities element of the comprehensive plan. All this is to say that the imposition of any impact fees requires a substantial effort to create and implement in the first place. Fortunately, the City of Spokane has already undertaken this sizable work to be able to impose the reasonable impact fees that are being assessed to this development. The Applicant will be required to pay transportation impact fees associated with the South Service Area at a rate of \$1,256.58 per single family residence, totaling roughly \$250,000.00 as currently proposed.

While evaluation of concurrency may seem lacking from the public's perspective, improvements to the process must be implemented at the legislative level, not before this tribunal. An examination of the extensive record in this case shows that the proposal meets the concurrency requirements as they currently exist. Four rounds of agency comments were initiated by the City. Many other communications and negotiations occurred. The result of this lengthy process are the conditions of approval. Besides the impact fees, the Applicant will be required to make other significant improvements, such as the fire access road improvements in the county, and be bound by other stipulations such as the carefully tailored condition regarding the 16th Avenue/US-195 intersection.

While residents and commenters on this proposal have expressed well-founded fears, they were unable to present superior options, recommendations, or conditions to improve the development or ameliorate reasonably expected negative effects beyond those already identified and addressed. Denying this application based on the evidence presented is not justifiable. Further traffic analysis is not warranted, nor have commenters offered their own evidence that weighs as heavily as the Applicant's traffic engineer or the City's traffic engineer. This is also true with regards to other areas of concurrency analysis.

The Applicant, the City, and the WSDOT (among others) went through an exhaustive process to make just such determinations. Such are the conditions of approval, assessed impact fees, and other stipulations that have already, and will still yet, impose great expense and obligations on the Applicant.

## **V. FINDINGS AND CONCLUSIONS**

There are three separate permit applications within this proposal. These are a Wetland Modification Type III CUP, a PUD, and a Long Plat. They will be addressed in this order. The Hearing Examiner has reviewed the application and the evidence of record with regard to the application and makes the following findings and conclusions:

### **A. *Wetland CUP – Decision Criteria SMC 17C.320.080; SMC 17G.061.310 (formerly 17G.060.170)***

- 1) *The proposal is allowed under the provisions of the land use codes. SMC 17G.060.170(C)(1).*

SMC 17E.070 provides the standards related to wetlands and development with and around designated wetlands. Regulated activities listed under SMC 17E.070.040(A) include, but are not limited to: removal, excavation, grading or dredging of soil, sand, gravel; dumping, discharging, or filling with any material; draining, flooding, or disturbing of the water level or water table; construction, reconstruction, demolition, or expansion of any structure; removal, cutting, clearing, harvesting, shading or intentional burning of any



vegetation, including removal of snags or dead or downed woody material, or planting of nonnative vegetation that would degrade the wetland, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules; activities that restrict, increase or otherwise measurably alter the hydrology, water quality or limnology of the wetland; and construction or installation of streets or utilities. See Staff Report, p.6.

The applicant has applied for this permit in accordance with SMC 17E.070.080 – Application Submittal Requirements – including: a wetlands report, wetland critical area addendum, topographic survey, site plan information, and technical reports including a proposed wetland mitigation plan/map. *Id.* Additionally, the wetland modification was evaluated by the WSDOE, and conditions were placed as part of administrative order 22442 pursuant to RCW 90.48.120 and WAC 173-201A. *Id.*; see also Exhibit 5a.

Three existing wetlands were identified in the Towey 2022 report. *Id.*; see also Exhibit 5c. The three wetlands were rated as Category III wetlands with a habitat score of 5 and a standard buffer of 150 feet per the City of Spokane regulations. *Id.* Category III wetlands generally have been disturbed in some ways, and are often smaller, less diverse, and/or more isolated from other natural resources in the landscape than Category II wetlands and may not need as much protection as Category I and II Wetlands. *Id.*

A joint agency meeting was held on June 16, 2023, with WSDOE and the project team, including Towey Ecological Services, at the project site. *Id.* The wetland delineations were reviewed, and agency members agreed that the wetland boundaries were accurate; however, a critical area addendum (See Exhibit 5b) was prepared to address comments from WSDOE and supplement the information provided in the 2022 Wetland Assessment and Wetland Mitigation Plan report prepared by Towey Ecological Services (See Exhibit 5c). See Staff Report, p.6. In particular, the addendum addresses the accuracy of hand drawn sketches to determine wetland ratings in the 2022 report. *Id.* The addendum includes a more accurate assessment via a mapping exercise determined that the previous rating overestimated several important values. *Id.*

The 2022 evaluation land use intensity calculation did not accurately separate moderate and low intensity areas from relatively undisturbed habitats. *Id.* The wetland critical areas addendum provides updated land use calculations. *Id.* The wetland ratings were reevaluated and determined to be more accurately reflected as Category IV wetlands with a Habitat Score of 4 and a standard buffer of 50 feet (see Section 17E.070.110 Wetland Buffers). *Id.*

Direct impacts are identified to Wetland C. Wetland C is proposed to be filled in its entirety, a total of 19,424 sq. ft (0.45 acre) of wetland fill to a Category III wetland, to accommodate the proposed project footprint. See Staff Report, p. 7. No direct impacts are proposed to Wetlands A and B per the wetland critical area addendum. *Id.*

Given the poor condition of Wetland C and the low habitat function provided by this wetland, based on the assessment by Towey Ecological Services, it was determined by those with expertise in wetlands that the best path forward was to include all of Wetland C as direct impacts and mitigate accordingly. *Id.*

Any action taken pursuant to SMC Chapter 17E.070 shall result in equivalent or greater functions and values of the critical areas associated with the proposed action, as determined by the best available science. *Id.* All actions and developments shall be

designed and constructed in accordance with mitigation sequencing to avoid, minimize, and restore all adverse impacts before restoration, and compensation of impacts will be allowed. *Id.* No activity or use shall be allowed that results in a net loss of the functions or values of critical areas. *Id.*

Mitigation for the Wetland C impacts is proposed onsite and in-kind, consistent with the City regulations that prioritizes onsite/in-kind over offsite options. *Id.* The 2022 Towey report outlines the gains to be had through the proposed mitigation plan through the wetland creation at a 2:1 ratio, supplemental plantings to the existing wetlands to remain, as well as supplemental plantings to the wetland buffer. *Id.*

A 50-foot standard buffer will be extended around the created wetland so that the entire wetland complex of Wetlands A and B, with the new wetland area, will be properly buffered. *Id.*

No change in Cowardin classification will result. *Id.* Treated stormwater from the development will be used to supplement wetland hydrology beyond the existing condition. *Id.*

The mitigation components for this project include wetland creation, wetland enhancement, and buffer enhancement:

- Wetland Creation 38,716 sq. ft. (0.89 acre),
- Wetland Enhancement 13,991 sq. ft. (0.32 acre), and
- Wetland Buffer Enhancement 58,799 sq. ft. (1.35 acres).

*Id.*

As noted above, mitigation to compensate for the Wetland C fill is provided at a 2:1 replacement ratio, consistent with City requirements per SMC 17E.070.130.C.2, for a total 38,839 sq. ft. of wetland creation proposed to be located between Wetlands A and B. *Id.*

In addition to the area of wetland creation, Wetlands A and B will be enhanced in situ with supplemental plantings of native plants. *Id.* No change to the mitigation plantings previously provided (as prepared by Whipple Consulting) are proposed with the wetland critical areas addendum. *Id.*

Buildings and other accessory structures shall be set back a distance of ten feet from the edges of all delineated critical area buffers protecting fish and wildlife habitat conservation and wetland protection areas. *Id.* The following uses may be allowed in the structural setback area:

1. Landscaping;
2. Uncovered decks;
3. Roof eaves and overhangs, maximum of twenty-four inches;
4. Pervious unroofed stairways and steps; and
5. Impervious ground surfaces, such as driveways and patios.

See Staff Report, pp. 7-8.

The Hearing Examiner concludes that the proposal, as conditioned, is allowed under the provisions of the land use codes. Therefore, this criterion for approval is satisfied.

- 2) *The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property. See SMC 17G.060.170(C)(2).*

SMC Chapter 17E.070 Wetlands Protection is based on and implements the CP. See Staff Report, p. 8. The purpose of the standards is to protect the public health, safety, and welfare by preserving, protecting, and restoring wetlands through the regulation of development and other activities within wetlands and their buffers. *Id.*

At time of application submittal, the property was designated Residential 4-10 on the CP Land Use Plan Map. *Id.* The site will be developed with single family homes. *Id.* Subject to the conditions contained in this decision and development of the site in compliance with the requirements of the SMC, the proposal is consistent with the CP.

The project is consistent with several other goals and policies of the CP, as discussed in the Staff Report. See Staff Report, pp. 8 & 15-17. The Hearing Examiner agrees and, therefore, concludes that this criterion is satisfied.

- 3) *The proposal meets the concurrency requirements of Chapter 17D.010 SMC. See SMC 17G.060.170(C)(3).*

There are no concurrency requirements associated with the CUP application; however, concurrency has been addressed as part of criteria for the proposed PUD and Long Plat applications. See Staff Report, p. 8.

The Hearing Examiner agrees and finds this criterion is satisfied.

- 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. See SMC 17G.060.170(C)(4).*

Per SMC 17E.070.030, the applicant must perform a field investigation by a qualified professional Wetland Scientist to determine the Wetland Boundary, which determines the associated buffers. The applicant's biologist performed a wetland delineation report which is included as part of the record. See Exhibit 5c. Additionally, an addendum to the wetland critical areas report was also submitted for review and was based on more accurate methods for determining wetland ratings. See Staff Report, p. 8; see also Exhibit 5b.

In consultation with the WSDOE, the wetland evaluation was updated to reflect the current regulations and proper functional rating. As noted above, WSDOE issued an administrative order (22442) that includes conditions that are required to be met pursuant to RCW 90.48.120 and WAC 173-201A. See Exhibit 5a.

The Hearing Examiner concludes that the property is suitable for the proposed use, given its physical characteristics, and as this is more directly addressed in the accompanying PUD and Long Play applications. As a result, this criterion is satisfied.

- 5) *The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary conditions can be placed on the proposal to*

*avoid significant effect or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use. See SMC 17G.060.170(C)(5).*

The record in this case supports the conclusion that no significant environmental impacts will arise from this project, despite the presence of wetlands.

SMC17E.070.130 provides standards for wetland mitigation in order to offset the impacts resulting from proposed activities such as those involved in this application. According to this section of the SMC, wetland mitigation “means the use of any or all of the following action listed in descending order of preference (mitigation sequencing):

1. Avoiding the impact altogether by not taking a certain action or parts of an action.
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts.
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment.
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
5. Compensating for the impact by replacing, enhancing or providing substitute resources or environments; or
6. Monitoring the impact and the compensation project and taking appropriate corrective measures. Mitigation may include a combination of the above measures.”

This application includes a wetland mitigation plan and outlines mitigation measures to provide wetland creation, wetland enhancement, and wetland buffer enhancement. See Staff Report, p. 9. As noted above, mitigation to compensate for the Wetland C fill is provided at a 2:1 replacement ratio, consistent with City requirements per SMC 17E.070.130.C.2, for a total 38,839 sq. ft. of wetland creation proposed to be located between Wetlands A and B. *Id.*

All plantings will only be native species typical for the region that have been site located based on that species tolerances for light, water, and soil type. *Id.* A variety of tree, shrub, and herbaceous species have been chosen with the intent to provide structural and species diversity within the mitigation area. *Id.* Once construction is approved, a qualified wetland ecologist shall conduct a post-construction assessment. *Id.* The City and WSDOE will be notified when the mitigation plan has been fully installed and is ready for a final site inspection and subsequent final approval. *Id.* Once final approval is obtained in writing, and “as-built” plans are approved, the monitoring period will begin. *Id.*

Regular maintenance reviews will be performed and will be performed by a qualified biologist or ecologist and completed each year for five years. See Staff Report, p. 10. The mitigation areas will be protected post-construction through installation of critical areas fencing around the perimeter of the critical areas to deter human entry into the mitigation site, as well as through identification of the mitigation area in a separate tract for the City. *Id.* A deed restriction, or similar device, will be recorded with the City to clearly identify the mitigation site in perpetuity. *Id.*

An Environmental Checklist and other supporting documents and studies were routed and reviewed by the City of Spokane. *Id.* Applicable findings and recommendations are incorporated into the conditions of approval for this proposal. *Id.* Any development of the parcels referenced above will be reviewed by the Spokane Development Services Department during the specific permit review process to ensure adherence to all required development standards and conditions of approval associated with this Type III Wetland Modification CUP/PUD/Plat application. *Id.* These standards include, but are not limited to, land use standards (setbacks, landscaping, screening, and design), engineering standards, utility standards, and building/fire codes, environmental codes, etc. *Id.*

This site is located within the Critical Aquifer Recharge Zone (moderate) and must comply with SMC Chapter 17E.010 Critical Aquifer Recharge Areas-Aquifer Protection. *Id.*

The site includes some limited steep slopes areas; however, the project parcels are not shown on maps related to erodible soils or hazardous geology. *Id.* A geotechnical report was provided as part of the application material and the report includes recommendations. *Id.*; see also Exhibits 7.a. and 7.b. As per the geohazard report by Budinger and Associates dated December 12, 2022, while geologic hazard conditions are present within the proposed development, Budinger concluded that the project is feasible because these conditions can be managed through proper design, construction, and verification. See Staff Report, p. 10. For land subject to the geologically hazardous zone code, development is regulated under SMC Chapter 17E.040. *Id.* The city's geohazard codes will continue to be reviewed or compliance throughout the development process as applicable. *Id.*

A Cultural Resource Survey was completed, and existing structures were evaluated via a Historic Property Inventory (HPI) by the Washington State Department of Archeology and Historic Preservation (WSDAHP) and Spokane Tribe of Indians to confirm any historic value to the structures. *Id.* The required HPI was completed and submitted to WSDAHP and Spokane Tribe of Indians for their review. *Id.* Both the Spokane Tribe and WSDAHP concurred that no historic structures are affected by the proposal. WSDAHP did not recommend further archaeological supervision of the project. *Id.* However, both WSDAHP and Spokane Tribe of Indians requested that an Inadvertent Discovery Plan (IDP) be implemented into the scope of work prior to any ground disturbing activities. This request has been added to the conditions of approval. *Id.*

An MDNS was issued for this entire proposal. It was not appealed.

Subject to the conditions contained in this decision, the Hearing Examiner concludes that the proposal will not have a significant adverse impact on the environment or the surrounding properties and, therefore, this criterion for approval has been satisfied.

**B. Planned Unit Development (PUD) and Plans-in-Lieu – Decision Criteria SMC 17G.061.310 subsections C and D4 (formerly 17G.060.170 subsections C and D4).**

- 1) *The proposal is allowed under the provisions of the land use codes. SMC 17G.060.170(C)(1).*

A PUD allows an applicant to ask for flexibility in the Development Standards for the base zoning district, per SMC 17G.070.030. See Staff Report p. 11. The minimum lot size, lot depth, lot width, lot coverage and the FAR are all standards that may be modified through a PUD. *Id.* All requests, agreements, and imposed conditions are allowed under the provisions of the land use codes.

Upon review, the Hearing Examiner agrees with the extensive analysis of this criterion contained in the Staff Report. See Staff Report pp. 11-14. The proposal is permitted in accordance with the land use regulations in place at the time of submittal; therefore, the Hearing Examiner finds this criterion satisfied.

- 2) *The proposal is consistent with the comprehensive plan designation and goals, objectives, and policies for the property. See SMC 17G.060.170(C)(2).*

The proposal to create a 34.93-acre PUD/Plat with common open space for the construction of new single-family homes is consistent with multiple goals and policies from several chapters of the CP, as discussed in the Staff Report. See Staff Report, pp. 15-17. The Hearing Examiner agrees and, therefore, concludes that this criterion is satisfied.

- 3) *The proposal meets the concurrency requirements of Chapter 17D.010 SMC. See SMC 17G.060.170(C)(3).*

Pursuant to SMC Chapter 17D.010.020, all facility and service providers are responsible for maintaining and monitoring their available and planned capacity. The application was circulated beginning May 5, 2023, and the fourth and final Agency Comment period (specific to WSDOT, Integrated Capital Management [ICM], Planning, Engineering, and Fire review of revised materials) was circulated on December 15, 2023. In response, the City received comments from various agencies regarding the project. See Staff Report, p. 17. See *also* Exhibit 10. Comments received during each agency review period are included in the file exhibits. See Exhibit 10. The conditions suggested by agencies or departments with jurisdiction were incorporated as project conditions. See Staff Report, pp. 17-19; See *also* Conditions of Approval. To the extent any deficiencies exist in public infrastructure, those conditions are addressed by the project conditions. See *e.g.* Conditions 6, 7, 24, 36, and 40 (setting forth requirements for transportation, water, and fire department access).

The project will generate new traffic that has an impact on the transportation system. WSDOT and ICM review resulted in SEPA mitigation to address traffic impacts. See Staff Report, pp. 17-18.

The application was deemed technically complete on January 26, 2023. See Staff Report, p. 17. Conditions of approval include those provided by agencies with jurisdiction. *Id.* No

agency with jurisdiction identified that concurrency could not be met if conditions and/or SEPA mitigation were followed. *Id.*

Upon review of the entire record, including especially the comments and communications from jurisdictional departments and agencies, the Hearing Examiner concludes that, with the proposed conditions, the project meets the concurrency requirements of the SMC and, therefore, satisfies this criterion for approval.

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. See SMC 17G.060.170(C)(4).*

The site plan has been reviewed by city staff and jurisdictional agencies for compliance with applicable codes and provided the opportunity to address any site constraints or concerns. See Staff Report p. 19. Comments from agencies are included in the report exhibits. *Id.* See also Exhibit 10.

The proposal is for 199 lots (196 lots per most recent plat map) over 34.93 acres of land. The density proposed is within allowed density for the zone. Four agency comment periods were held between May 2023 and December 2023. No agency identified that this site was not suitable for development. *Id.*

The site is sloping, but generally amenable to development. The steepest slopes exceed 30% in grade; however, the majority of the site is between 4 to 10%. See Exhibit 9, p. 9 (Environmental Checklist ¶ B(1)(a)). There is no reason to conclude that the soils are unsuitable for development. In addition, the applicant has provided both a geotechnical report (see Exhibit 7a) and geohazard evaluation (see Exhibit 7b). The noted conditions within these evaluations can be managed through property design, construction, and verification. See Staff Report, p. 10. The proposal will use stormwater disposal methods consistent with the Spokane Regional Stormwater Manual (SRSM). See Exhibit 9, p. 7 (Environmental Checklist ¶ A(15)(a)(1)). The project is properly conditioned to control the drainage. See Condition 35. There are wetlands present on the site. See Exhibit 9, p. 11 (Environmental Checklist ¶ B(3)(a)(1)).

A geotechnical report associated with the adjoining property under the same ownership and associated with the Amendment to Westridge Addition (Z23-108FPLT) and a geohazard evaluation for the project site was submitted as part of the application materials and while some challenges exist there are no aspects of the site that would appear to prevent development in this area. See Exhibits 7.a. and 7.b.

A Cultural Resource Survey and HPI were completed for the site, and both the WSDAHP and the Spokane Tribe of Indians Tribal Historic Preservation Officer recommended that an IDP be implemented into the scope of work prior for any earth moving activities. This has been added as a condition of approval. See also the suitability analysis within the Wetland CUP (Section V.A.(1)&(4)).

There is no indication in the record that the site is unsuitable for the proposed development, so long as the conditions of approval are imposed. As such, the Hearing Examiner finds this criterion for approval is satisfied.

- 5) *The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if necessary conditions can be placed on the proposal to avoid significant effect or interference with the use of neighboring property or the surrounding area, considering the design and intensity of the proposed use. See SMC 17G.060.170(C)(5).*

An Environmental Checklist and other supporting documents and studies were routed and reviewed by the City of Spokane. Applicable findings and recommendations are incorporated into the conditions of approval for this proposal. Any development of the parcels referenced above will be reviewed by the Spokane Development Services Department during the specific permit review process to ensure adherence to all required development standards and conditions of approval associated with this Type III Wetland Modification CUP/PUD/Plat application. These standards include, but are not limited to, land use standards (setbacks, landscaping, screening, and design), engineering standards, utility standards, and building/fire codes, environmental codes, etc. See Staff Report, p. 20.

There will be some impacts due to construction activity. See e.g. Exhibit 4, p. 17 (Environmental Checklist ¶ B(7)(b)(2)-(3) [concerning construction noise]). However, the construction impacts will not result in significant environmental impacts and can be adequately mitigated (e.g. dust control, limited work hours, etc.). Further, the construction activity is temporary. Once the construction project ends, the potential impacts from noise, dust, and emissions from construction vehicles will cease. In addition, the environmental impacts of the completed project are minor.

The project is not anticipated to create any significant noise or light, beyond that associated with normal residential uses. See Exhibit 9, p. 17 & 19 (Environmental Checklist ¶ B(7)(b) & B(11)). No waste materials will be discharged into the ground or surface waters. See Exhibit 9, pp. 11-13 (Environmental Checklist ¶¶ B(3)(a)(6), B(3)(b)(2) & B(3)(c)(2)). No environmental hazards are anticipated to arise due to this project. See Exhibit 9, p. 16 (Environmental Checklist ¶ B(7)(a)).

The Applicant will be required to implement onsite controls for stormwater and surface drainage generated from the development. See SMC 17D.060.010 *et seq.* All stormwater will be collected, treated, and discharged in accordance with the SRSM. These requirements have been incorporated into the project conditions. See Conditions 26, 28, 30 & 32-35. The Applicant's engineer has prepared a concept drainage report to support the project, and to fulfill the applicable standards. See Exhibits 7e and 7f.

There will be additional traffic generated by this development, which is within the purview of an environmental analysis. In this regard, SEPA mitigation also includes the following condition (6a):

Vehicular traffic from this project is expected to add 5 AM trips and 3 PM trips to the northbound US-195 to eastbound I-90 ramp. WSDOT has commented that no additional peak hour trips may be added to the ramp due to safety concerns. The Beard Addition development is required to complete an improvement to the US-195 corridor that will reduce the impact of its traffic on northbound US-195 to eastbound I-90 ramp ("mitigation project"). Studies of the US-195 corridor have identified the removal of the left and thru movements from Eastbound 16th Avenue at



US-195 as the appropriate mitigation project. This mitigation project was recently confirmed in a December 2021 US-195/I-90 study led by the SRTC in collaboration with WSDOT, the City of Spokane, and other partnering agencies. The Beard Addition development may not finalize any portions of the project until a financial commitment is in place (secured by a letter of credit or bond), which has been approved by the City, providing for the design and construction for the mitigation project, which shall be under contract for construction within one year from the date of project approval. The details of the mitigation project will be agreed upon by the developers, City, and WSDOT.

Per email communications with Gregg Figg from WSDOT on March 13, 2024, this condition is satisfied once construction begins on the 16<sup>th</sup> Avenue/US-195 turn restriction project. See Staff Report, p. 18. Other measures relating to environmental effects, including traffic, sidewalks, and emergency access have been identified and will be incorporated into the conditions of approval.

Various departments and agencies reviewed the proposal and concluded that there were no significant environmental impacts. The City examined the environmental checklist and ultimately issued an MDNS on March 6, 2024. See Exhibit 9. The appeal period for the MDNS expired on March 20, 2024. *Id.* The MDNS was not appealed. *Testimony of M. Owen.*

See also the suitability analysis above for additional references to the environmental checklist (Section V.B.4). See also the environmental analysis within the Wetland CUP (Section V.A.5).

Based on the entire record, the Hearing Examiner finds that this development will not have significant adverse impacts on the environment or the surrounding properties, and all identified potentially negative effects will be adequately addressed by the conditions of approval. Therefore, this criterion for approval is satisfied.

6) *Compliance with All Applicable Standards. The proposed development and uses comply with all applicable standards of the title, except where adjustments are being approved as part of the concept plan application, pursuant to the provisions of SMC 17G.070.200(D)(2).*

The applicant has asked for minor modifications to development standards, which is allowed under the PUD process. All applicable development standards related to PUD have been met (17G.070.030). See Staff Report, p. 20. See also Sections V.A, V.B.1-5, and V.C.

The Hearing Examiner finds that this criterion for approval is satisfied.

7) *Architectural and Site Design. The proposed development demonstrates the use of innovative, aesthetic, and energy-efficient architectural and site design.*

Requirements that PUDs engage with the Design Review Board were removed from the SMC. See Staff Report, p. 20. At the time of application submittal 17C.110 also did not include design standards for single-family homes; however, the applicant submitted conceptual drawings of residential units (see preliminary plat map packages building

elevations exhibits). *Id*; see also Exhibit 6. The PUD code includes design standards in the 100 series of section 17G.070. See Staff Report, p. 20. Staff has evaluated these standards and has found the application is in compliance with these standards and that the proposal is consistent with the residential codes in place at time of permit submittal. *Id*. The proposed site plan includes a central wetland area that will include walking paths and other amenities that will make this subdivision unique and aesthetically pleasing.

After a review of the record and applicable code sections, the Hearing Examiner agrees with Staff analysis and conclusions. Therefore, this criterion for approval is satisfied.

8) *Transportation System Capacity. There is either sufficient capacity in the transportation system to safely support the development proposed in all future phases or there will be adequate capacity by the time each phase of development is completed.*

A traffic analysis was included in the application materials for this proposal. Both the original evaluation and revised memo are included in the report for reference. See Staff Report, p. 21; see also Exhibits 7.c. and 7.d.

WSDOT and ICM also provided comments that are included as mitigation for SEPA and/or conditions of approval. *Id*. WSDOT and ICM Comments/Conditions are included in the conditions of approval for this proposal and SEPA mitigation that has already been described above. *Id*.

This site will be served by 21st Avenue and includes development of additional public streets to serve the development. *Id*. Infrastructure plans for water, sewer, street, and stormwater improvements have been approved for the construction of 21st Avenue between Grandview Road and H Street in association with the Alteration to Westridge Plat. *Id*. The Beard Addition plat is dependent on these 21st Avenue improvements. *Id*. Infrastructure plans were approved under City Project Numbers 2022554-2022557. *Id*. If 21st Avenue is not improved via the Alteration to Westridge Plat, these same improvements (Project numbers 2022554-2022557) must be built via the Beard Addition Plat. *Id*.

Additionally, the following comments from City of Spokane Fire are included as conditions of approval for this application to address fire access requirements required under the adopted fire code:

- An additional access at the southeast corner of the property as represented in the Spokane County Memo dated January 2, 2024 (included in Exhibit 10.d. as an agency comment during the 4th Agency Review).
- Full width paving along 25th between proposed Snowcrest and Cumberland Streets. Should the County be opposed to this solution, a minimum of 20' clear width paved access along 25th with "No Parking" posted every 50' on both sides of the paved area.

*Id*. See also the concurrency and environmental analysis above.

Based on a review of the record, the Hearing Examiner concludes that there is ample transportation system capacity, and that mitigation measures and conditions of approval will adequately minimize negative effects. As such, this criterion for approval is satisfied.

- 9) *Availability of Public Services. There is either sufficient capacity within public services such as water supply, police and fire services, and sanitary waste and stormwater disposal to adequately serve the development proposed in all future phases, or there will be adequate capacity available by the time each phase of development is completed.*

This criterion is essentially a portion of the concurrency analysis. Pursuant to SMC Chapter 17D.010.020, all facility and service providers are responsible for maintaining and monitoring their available and planned capacity. See Staff Report, p. 21. The application was circulated beginning May 5, 2023, and the fourth and final Agency Comment period (specific to WSDOT, ICM, Planning, Engineering, and Fire review of revised materials) was circulated on December 15, 2023. Comments received during each agency review period are included in the file exhibits. See Staff Report, p. 21-22.

During agency review, agencies with jurisdiction have the opportunity and responsibility to address any concerns related to concurrency including an evaluation of transportation, public water, fire protection, police projection, parks and recreation, public library, solid waste disposal & recycling, and public wastewater (sewer and stormwater). See Staff Report, p. 22. As noted above four requests for agency comment were distributed between May and December 2023. *Id.* The application was deemed technically complete on January 26, 2023. *Id.* Conditions of approval include those provided by agencies with jurisdiction. *Id.* No agency with jurisdiction identified that concurrency could not be met if conditions and/or SEPA mitigation were followed. *Id.*

This plat will need to be incorporated into the SIA Water Pressure Zone. See Staff Report, pp. 18-19. However, current water demands in this pressure zone are challenging the City's ability to supply water in accordance with engineering standards and regulations for fire flow. *Id.* Thus, until an analysis of the City's water system in the West Plains Area is complete and needed improvements to the water system have been identified and addressed, all new connections to the water system must wait until the new SIA#3 Water Storage Tank, currently under construction, is complete and operational. *Id.* The tank is anticipated to be operational by the end of 2024. *Id.* Connection to the water system may be allowed sooner, depending on conclusions from the water analysis and based on the amount of water requested and timing of the proposed development. *Id.*

Connecting this plat into the SIA Water Pressure Zone is a concept that has been discussed by City Staff and the developer. *Id.* To implement this concept, the developer will be required to do the following:

Install a closed valve into the existing 12-inch water main in Garden Springs Road just south of where Grandview Road's water main connects into Garden Springs Road. From this valve, a new 12-inch water main must be installed in Grandview Road, east to the intersection of 21<sup>st</sup> Avenue and Grandview Road. At this intersection, a new Pressure Reducing Valve (PRV) assembly, connecting the two 12-inch mains, will need to be installed. This is where a new 8-inch water main from 21<sup>st</sup> Avenue will connect. Because the existing 12-inch water main in Garden Springs Road from Abbott Road to Grandview Road will be converted from the Highland Pressure Zone to the SIA Pressure Zone, PRVs will need to be installed on any water services to existing houses not having one in the converted pressure zone. Valves at each end of the water mains in the pressure zone conversion will need to be adjusted (opened/closed) to complete the conversion.

See Staff Report, pp. 18-19. See *also* the concurrency and environmental analysis above.

Based on a review of the record, the Hearing Examiner concludes that there is sufficient capacity for public services, and/or that the mitigation measures and conditions of approval will make it so that adequate capacity is available by project completion. As such, this criterion for approval is satisfied.

10) *Protection of Designated Resources. City-designated resources such as historic landmarks, view sheds, street trees, urban forests, critical areas, or agricultural lands are protected in compliance with the standards in this and other titles of the Spokane Municipal Code.*

The proposal includes modification to existing wetland under this combined application. See Staff Report, p. 22. Please refer to the wetland modification CUP criteria discussion above (Section V.A.). The wetlands are being adequately addressed, and the WSDOE has signed off on the proposal.

As part of the project application submittal, a preliminary landscape plan was provided for public street trees. Street trees are required and will be placed in the plant strip between the curb and separated sidewalk. *Id.*

Existing structures located on the site are slated for demolition (separate permits required). *Id.* Existing structures were evaluated via an HPI by the WSDAHP and Spokane Tribe of Indians to confirm any historic value to the structures. *Id.* The required HPI was completed and submitted to WSDAHP and Spokane Tribe of Indians for their review. *Id.* Both the Spokane Tribe and WSDAHP concurred that no historic structures are affected by the proposal. *Id.*

The project is located in the Critical Aquifer Recharge Area (moderate). *Id.* The Director of Engineering Services or designee administers this section of code as per SMC 17A.010.070 – Delegation of Administration. *Id.* Development Services Engineering staff were included in this project review. *Id.* Engineering Department comments are included for reference and conditions associated with their review included in the conditions of approval for this combined application. *Id.*

Resources are protected in compliance with the standards in applicable zoning codes and other titles of the SMC. *Id.* Compliance with applicable codes will continue throughout the final PUD/Plat process as well as construction and development of the project site. *Id.*

Based on a review of the record, the Hearing Examiner concludes that City-designated resources are protected in compliance with the SMC. As such, this criterion for approval is satisfied.

11) *Compatibility of Adjacent Uses. The concept plan contains design, landscaping, parking/traffic management and multi-modal transportation elements that limit conflicts between the planned unit development and adjacent uses. There shall be a demonstration that the reconfiguration of uses is compatible with surrounding uses by means of appropriate setbacks, design features, or other techniques.*

The proposed development for single-family residential development is consistent with surrounding uses that are generally residential in nature. See Staff Report, p. 23. The proposal utilizes and adds to the existing platted public street network and a street tree plan will be implemented as development occurs. *Id.*

There is no proposed reconfiguration of uses as part of this proposal in the R1 zone (formally RSF). *Id.* The PUD code also requires that standard front and rear yard setbacks within 80 feet of the project boundary be retained providing additional consistency with the adjoining residential neighborhood directly to the east of the subject site. *Id.*

Compliance with parking associated with residential development will be reviewed at time of building permit – there is no proposal for shared parking facilities with this proposal. *Id.*

With regards to density, it should be noted that under current and soon to be implemented state and local laws, a much greater density of houses and/or housing units would be allowed here (assuming other considerations could be satisfied). The proposed density is still considered “low intensity.” See SMC 17C.111.

Based on a review of the record, the Hearing Examiner concludes that the concept plan limits conflicts between the PUD and adjacent uses and that the reconfiguration as proposed is consistent with the applicable development standards that are designed to ensure compatibility with surrounding uses. As such, this criterion for approval is satisfied.

12) *Mitigation of Off-site Impacts. All potential off-site impacts including litter, noise, shading, glare, and traffic will be identified and mitigated to the extent practicable.*

The proposed residential development is unlikely to have material, off-site impacts. See Staff Report, p. 23. The construction work will have some impact, but those impacts are temporary. *Id.* The City does have adopted quiet hours applicable to construction activities. *Id.* Once the project is completed, the likely impacts of residential uses are relatively small. *Id.* The project will not be a significant source of noise, light/glare, litter, etc. *Id.* The risks of such impacts will be offset during building permit review, which will consider matters such as refuse disposal and on-site lighting. *Id.*

The Hearing Examiner agrees with the Staff analysis. Based on a review of the record, the Hearing Examiner concludes that all potential off-site impacts will be identified and mitigated to the extent practicable. As such, this criterion for approval is satisfied.

**C. LONG PLAT – DECISION CRITERIA SMC 17G.061.310 SUBSECTION C AND 17G.080.025 (FORMERLY 17G.060.170 SUBSECTIONS C AND D5)**

1) *The proposal is allowed under the provisions of the land use codes. SMC 17G.060.170(C)(1).*

The proposal is for 199 buildable lots (196 lots per most recent plat map) for residential single-family development along with open space and walking trails and stormwater retention on roughly 35 acres of land. the proposed use is allowed outright in the R1 zone (formally RSF). See Staff Report, p. 23.

Consistent with the codes in plat of application submittal, SMC 17C.110.030 Characteristics of Residential Zones, described the RSF zone as a low-density single-family residential zone. *Id.* It allowed a minimum of four and a maximum of ten dwelling units per acre. *Id.* One- and two-story buildings characterize the allowed housing. *Id.* The major type of new development will be attached and detached single-family residences. *Id.* In appropriate areas, more compact development patterns are permitted. *Id.* The RSF zone is applied to areas that are designated Residential 4-10 on the land use plan map of the CP. *Id.*

The application is requesting modification to the maximum FAR, lot coverage, setbacks (front and rear yard setback) and driveway coverage limits under the PUD application process. *Id.* These requested modifications are addressed in the discussion of PUD criteria above. *Id.* Additionally, modification to the maximum size of curb cut/approach will be addressed by engineering under a separate variance process. *Id.*

Given the foregoing and the discussion under Section V.B., the Hearing Examiner finds this criterion met.

2) *The proposal is consistent with the comprehensive plan designation and goals, objectives and policies for the property. SMC 17G.060.170(C)(2).*

The CP includes multiple goals, objectives, and policies that are relevant to the proposal. Examples of applicable CP goals, objectives and policies, were included in the PUD criteria evaluation found in Section V.B.

The CP designates the subject property as “Residential Low” (formerly Residential 4-10 at time of permit application submittal), which allows detached and attached single-family residences at a minimum of four units and a maximum of ten units per acre. *Id.*

The Hearing Examiner agrees that the proposal meets the land use designation minimum development requirements and, therefore, this criterion is satisfied.

3) *The proposal meets the concurrency requirements of chapter 17D.010 SMC. (SMC 17G.060.170(C)(3)).*

As discussed in the PUD criteria evaluation (Section V.B), all facility and service providers are responsible for maintaining and monitoring their available and planned capacity (SMC Chapter 17D.010.020). During agency review, agencies with jurisdiction had the opportunity and responsibility to address any concerns related to concurrency including an evaluation of transportation, public water, fire protection, police projection, parks and recreation, public library, solid waste disposal & recycling, and public wastewater (sewer and stormwater). *Id.* As noted previously, four requests for agency comment were distributed between May 2023 and December 2023. *Id.* The application was deemed technically complete on January 26, 2024. *Id.* Conditions of approval include those provided by agencies with jurisdiction. *Id.*

No agency with jurisdiction identified that concurrency could not be met if conditions and/or SEPA mitigation were followed. See Staff Report, p. 25. WSDOT and IDP reviews resulted in SEPA mitigation to address traffic impacts. *Id.*

SEPA mitigation is described in Section V.B. and the Hearing Examiner finds this criterion satisfied.

- 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. SMC 17G.060.170(C)(4).*

This site has been reviewed for compliance with applicable codes and agencies had the opportunity to address any site constraints or concerns. *Id.* The PUD criteria evaluation in Section V.B. address these requirements; therefore, the Hearing Examiner finds this criterion satisfied.

- 5) *The proposal will not have a significant adverse impact on the environment or the surrounding properties, and if 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. SMC 17G.060.170(C)(5).*

The PUD criteria evaluation in Section V.B. address these requirements; therefore, the Hearing Examiner finds this criterion satisfied.

- 6) *The proposed subdivision makes appropriate (in terms of capacity and concurrence) provisions for:*

a. *public health, safety and welfare:*

The City of Spokane Fire and Police Departments, in addition to other emergency service-related departments and agencies, were given the opportunity to review this proposal and provided comments. *Id.* No comments were received indicating that public health safety and welfare could not be met. *Id.*

Comments from City of Spokane Fire are included as conditions of approval for this application to address fire access requirements required under the adopted fire code. See Conditions 40a & 40b. In addition, comments from Spokane Emergency Communications were received related to road naming. See Staff Report, p. 26. Any issues with road naming will be addressed prior to final plat. *Id;* see also Condition 12.

b. *open spaces:*

The applicant is providing open space in excess of that required under the PUD code. *Id.* This is in addition to private open space found on individual lots. *Id.* Each lot has building coverage limitations, which allows for private open space on each parcel. *Id.*

c. *drainage ways:*

All stormwater and surface drainage generated onsite shall be disposed of on-site in accordance with SMC 17D.060 "Stormwater Facilities," the SRSM Special Drainage Districts, City Design Standards, and, per the Project Engineer's

recommendations, based on the drainage plan accepted for the final plat. *Id.* Predevelopment flow of any off-site runoff passing through the plat shall not be increased (rate or volume) or concentrated due to development of the plat, based on a 50-year design storm. *Id.* An escape route for a 100-year design storm must be provided.

*d. streets, roads, alleys, and other public ways:*

Public streets, including paving, curb, separated sidewalk, signs, storm drainage structures/facilities, and swales/planting strips necessary to serve the proposed plat, shall be designed and constructed in accordance with City standards. *Id.* The SEPA mitigation associated with this development includes mitigation associated with the US-195 corridor and the construction of sidewalk on the south side of Grandview Avenue from Garden Springs Road to 21st Avenue to provide a walking route for students to reach the school bus route on Garden Springs Road. *Id.* 21st Avenue must be fully constructed and open to traffic between Grandview Avenue, and the existing endpoint of 21st Avenue prior to issuance of any building permits within the PUD. *Id.* This is in addition to fire access improvements described above to address fire access requirements. *Id.*

*e. transit stops:*

As per comments provided by the Spokane Transit Authority (STA), STA currently does not provide fixed route transit service to the project site. *Id.* While there are no current plans for fixed route service to the project area, Grandview Avenue at Garden Springs Road may be a candidate for bus service in the future. *Id.* STA will need to work with the individual property owners to address any requests by STA related to future fixed-route service as your public transit planning for this area progresses. See Staff Report, pp. 26-27.

*f. potable water supplies:*

This plat will need to be incorporated into the SIA Water Pressure Zone. See Staff Report, p. 27. Evaluation of this criterion is covered in Section V.B.9.

*g. sanitary wastes:*

Sanitary sewer service will be provided by connecting to the existing public sewer service line located in 21st Avenue. *Id.* A conceptual utility plan and water and sewer flow calculations are included as part of this application record. *Id.*; see also Exhibits 6.d.iii. and 7.g. Refuse collection (garbage, recycling, and yard waste) is provided through City of Spokane. See Staff Report, p. 27.

*h. parks, recreation, and playgrounds:*

The applicant does not propose to provide any public park, recreation or playground space. *Id.* Four common tracts provide internal walkways a minimum of 5 feet wide to and around the modified wetland outside of the wetland buffers. *Id.* The common open space encompasses approximately 7 acres of land (including the wetland and wetland buffers) and will be owned and maintained by a homeowner's association. *Id.* Sterling Heights Park is located just to the south of



the project site in Spokane County. *Id.* Grandview Park is relatively close and located northeast of the subject site at the corner of 17<sup>th</sup> Avenue and D Street. *Id.* The Parks Department did not offer any comments on this proposal. *Id.*

*i. schools and school grounds:*

There are no provisions for public schools or school grounds as a part of this proposal. *Id.* The site is served by Cheney School District. *Id.* The nearest public schools include Windsor Elementary School and Westwood Middle school. *Id.* Cheney Public Schools provided comments on the proposal. *Id.* The comments were general in nature and primarily related to safe walking paths through the development to ensure a single central bus stop for school transportation. *Id.* Cheney Public Schools also noted that as of October 2022, Windsor Elementary School was 106% of its intended capacity. *Id.* Comments were forwarded to the City's Planning Director for consideration in long-range planning efforts such as the City's CP Update. *Id.* The development will meet this request safe walking facilities based on standard code compliance under the SMC and conditions associated with this proposal. *Id.*

*j. sidewalks, pathways, and other features that assure safe walking conditions.*

Separated sidewalks with street trees will be required on both sides of each new street. *Id.* The development also includes internal walkways around the mitigated wetland/common open space (outside of wetland buffer areas). *Id.* The proposal is also required to provide sidewalk outside of the development boundaries as part of SEPA mitigation. *Id.* The project is responsible for building sidewalk on the south side of Grandview Avenue from Garden Springs Road to 21<sup>st</sup> Avenue to provide a walking route for students to reach the school bus route on Garden Springs Road. *Id.*

The Hearing Examiner adopts the foregoing evaluation under SMC 17G.060.170(C)(6) and finds this criterion satisfied.

## **VI. DECISION**

Based on the findings and conclusions above, it is the decision of the Hearing Examiner to approve the proposed Preliminary Plat/PUD and Wetlands Modification CUP, subject to the following conditions:

1. Beard Addition PUD/Plat and Wetland Modification CUP will be developed in substantial conformance with applicable code and development standards.
2. Development should adhere to plans, drawings, illustrations, and/or specifications on file with the Development Services Center and with comments received regarding the project from City Departments and outside agencies with jurisdiction.
3. The proposal will be developed in conformance with the findings of the Wetland Report on file with this application, specifically with respect to the wetlands' ratings, assigned buffers, and mitigation plan.

4. Adhere to any additional performance and development standards documented in comment or required by City of Spokane, Spokane County, Washington State, and any Federal agency.
5. This approval does not waive the applicant's obligation to comply with all of the requirements of City Departments and outside agencies with jurisdiction over land development.
6. The proposal should comply with issued SEPA MDNS:
  - a. Vehicular traffic from this project is expected to add 5 AM trips and 3 PM trips to the northbound US-195 to eastbound I-90 ramp. WSDOT has commented that no additional peak hour trips may be added to the ramp due to safety concerns. The Beard Addition development is required to complete an improvement to the US-195 corridor that will reduce the impact of its traffic on northbound US-195 to eastbound I-90 ramp ("mitigation project"). Studies of the US-195 corridor have identified the removal of the left and thru movements from Eastbound 16th Avenue at US-195 as the appropriate mitigation project. This mitigation project was recently confirmed in a December 2021 US-195/I-90 study led by the SRTC in collaboration with WSDOT, the City of Spokane, and other partnering agencies. The Beard Addition development may not finalize any portions of the project until a financial commitment is in place (secured by a letter of credit or bond), which has been approved by the City, providing for the design and construction for the mitigation project, which shall be under contract for construction within one year from the date of project approval. The details of the mitigation project will be agreed upon by the developers, City, and WSDOT. The applicant's contributions to funding the design and construction of the mitigation project will qualify for a credit against transportation impact fees per SMC 17D.075.070.

*Per email communications with Gregg Figg from WSDOT on 03/13/24, the above mitigation condition is satisfied once construction begins on the 16th/US 195 turn restriction project.*

- b. The applicant shall construct sidewalk on the south side of Grandview Avenue from Garden Springs Road to 21<sup>st</sup> Avenue to provide a walking route for students to reach the school bus route on Garden Springs Road. The sidewalk shall be built concurrent with 21<sup>st</sup> Avenue or the first phase of street improvements within the Beard Addition PUD. The City has determined that the improvements qualify as public facilities for purposes of SMC 17D.075.070 and will otherwise serve the goals and objectives of the City's capital facilities plan and anticipates that the improvements will qualify for a credit against transportation impact fees under SMC 17D.075.070. Upon completion of the improvements, the applicant may apply for a credit pursuant to the process set forth in SMC 17D.075.070.

Integrated Capital Management (ICM) – Transportation:

7. 21<sup>st</sup> Avenue must be fully constructed and open to traffic between Grandview Avenue and the existing endpoint of 21<sup>st</sup> Avenue prior to issuance of any building permits within the PUD.

Planning Department:

8. Approval of the Beard Addition PUD, Long Plat, and Wetland Modification CUP – City File No. Z23-190PPUD – will be acknowledged to include an additional 14,887

sq. ft. of land associated with parcels 25263.2905 and 25263.2906 (parcel numbers at time of permit application) consistent with applications maps, reports, and exhibits submitted for file Z23-190PPUD and the Amendment to Westridge Addition PUD – City File No. Z23-108FPLT.

9. That the inclusion of land associated with parcels 25263.2905 and 25263.2906, pursuant to 17G.060.230, will not result in a new application nor represent a substantial modification to the proposal and that land associated with parcels 25263.2905 and 25263.2906 (parcel numbers at time of permit application) will be shown as part of Tract A1 and/or A2 in future application materials including, but not limited to the Final PUD/Plat and deed restrictions necessary for the wetland modification CUP, etc. associated with file Z23-190PPUD.
10. Compliance with 17E.020 Fish and Wildlife Conservation, 17E.070 Wetland Protections including:
  - a. Buildings and other accessory structures shall be set back a distance of 10 feet from the edges of all delineated critical area buffers protecting fish and wildlife habitat conservation and wetland protection areas.
  - b. Wetland buffer zones shall be retained in their natural condition and free from mowing or other cutting activity, except for the removal of noxious weeds. Where buffer disturbances have occurred before or during construction, revegetation with native vegetation shall be required.
  - c. The applicant shall mark the boundaries of the wetland buffer and mitigation area prior to any ground disturbing activities so that these areas are not encroached into by construction equipment.

*Items to be addressed prior to final plat approval (authorization to print, sign, record).*

11. The PUD overlay zone must be adopted by Spokane City Council prior to final plat approval.
12. Please update Westridge Lane to Snowcrest Street to match the alteration to Westridge Addition PUD/Plat as applicable. While a portion of map includes the new street name, the area near the intersection with 21<sup>st</sup> Avenue still includes the Westridge name. This will need to be addressed prior to engineering plan approval.
13. Please add the County recording numbers for expanded rights of way at Cumberland Steet and Snowcrest Street.
14. Vicinity map – please use only black and white on your maps including vicinity map and produce the vicinity map on the final plat map at a scale where street names are legible to avoid issues with recording at the County.
15. The landscape plan will be reviewed and approved as part of the final plat process. Street trees will need to be added to lots within the PUD that have frontage along 21<sup>st</sup> Avenue.
16. Because the PUD code identifies that driveways should not be the dominant feature along the street frontage (SMC 17G.070.135.B.4 and 17G.070.140.B.4), planning requests additional landscaping including trees or other plantings in front yards to address this issue should driveway coverage limits be approved as part of this proposal.
17. The easement recorded under AFN 9602140328 proposed to be released by the applicant will need to be completed prior to approval of the final plat or the plat

modified to incorporate this easement if release is not obtained. Please note that the current easement appears to impact 10 lots adjoining proposed tracts A2, B, and C.

18. WSDAHP's concurrence with the cultural resource survey also addresses existing structures on the lot. Regarding existing structures:
  - a. Any existing accessory structures will need to be removed prior to final plat or a cash bond placed for the demolition and removal of all debris as an alternative to demolition (if any retained structures would not cross property lines).
  - b. Any structures on the property proposed for demolition that are over 200 sq. ft. in size will require a separate demolition permit and compliance with Spokane Regional Clean Air Agency requirements. For structures under 200 sq. ft., please work with Spokane Regional Clean Air to following their process.
19. We received a deed restriction template for protected wetlands in Spokane County. Please note that any deed restriction templates used for this plat need to be modified for the City of Spokane.
20. Front and rear yard setbacks of all lots within 80 feet of the perimeter of the project shall be the same as that required by the base zone pursuant to SMC 17G.070.030 (C.3.a.i) – Planned Unit Developments, setbacks, front and rear yard setbacks.
21. Perimeter fencing for the PUD is permitted except the maximum height of fencing along a street frontage of the PUD development may not exceed 42 inches in height: When a fence is along a street frontage, usable pedestrian access shall be provided and spaced a minimum of one every three hundred feet. Compliance with this section of code will be a condition of approval for the PUD/Plat pursuant 17G.070.030 (C.7)
22. Pursuant to 17G.070.030, common open space for the proposed PUD shall be permanently maintained by and conveyed to a homeowners' or property owners' association as regulated by state law.
23. Pedestrian connections shown on the preliminary PUD Plat Maps and proposed to address connectivity requirements under the SMC through tracts B, C, and into A2, etc. are required to be paved and a minimum of 5 feet wide.
24. This Beard Addition plat is dependent on 21<sup>st</sup> Avenue improvements and infrastructure plans approved under City Project Numbers 2022554 through 2022557.
  - a. If 21<sup>st</sup> Avenue is not improved via the Alteration to Westridge Plat, these same improvements (Project Numbers 2022554 through 2022557) must be built via the Beard Addition Plat.
  - b. This plat is dependent on the Alteration to Westridge Plat dedicating parcels 25263.2809 and 25263.3003 as public right-of-way. The Beard Addition Final Plat cannot be finalized until adequate public right-of-way is dedicated to connect this plat to 21<sup>st</sup> Avenue.

Engineering:

25. Addresses must be shown on the final plat. Address permits can be applied for at the City of Spokane Permit Center, or by emailing a request to [addressing@spokanecity.org](mailto:addressing@spokanecity.org).

Note from M. Owen: Address fees for 119 lots have been assessed and paid for under Z23-190PPUD.

26. Lot plans, following the criteria outlined in the SRSM Appendix 3C, must be submitted for review.
27. Applicable dedicatory statements must be added to the final plat dedication detailing who the tracts are being dedicated to and for what purpose. A Homeowner's Association (HOA) must be established for the maintenance of all shared private facilities within the plat. Final plat dedication must reference the recording information of the document establishing the HOA.
28. The City of Spokane will be responsible for the maintenance of the storm lines in the street. The HOA will be responsible the maintenance of all tracts and stormwater facilities located on tracts as well as pipes connecting tracts to the City's storm lines in the streets.
29. All easements, both public and private, must be shown or referenced on the final plat. There are several easements showing in the title report that must be referenced on the final plat. If blanket in nature, the easement must be referenced in a Surveyor's Note.
30. Engineered construction plans for public street, sewer, water, and storm water systems must be approved for construction and the improvements must be completed prior to plat finalization. Street and storm improvements may be bonded for; however, all water and sewer improvements must be installed and accepted for service prior to plat finalization.
31. Centerline monuments must be set by a Licensed Surveyor at every intersection, the beginning and end of every horizontal curve, and at the center point of each cul-de-sac. Monuments must be installed following Section H of the City of Spokane Standard Plans. <https://static.spokanecity.org/documents/business/designstandards/2023/standard-plans-section-h-2023-04-19.pdf>.  
  
If a monument cannot be set due to a manhole or other utility conflict, offsets must be scribed on the curbs. An as-built drawing of the offsets must be turned in with enough detail that the location can be calculated at a later time. These as-builts are required to be turned in to Construction Management before the project is considered complete.
32. Construction plans for public street, sewer, water, and stormwater systems must be designed by a Professional Engineer, licensed in the State of Washington, and submitted to Development Services for review and acceptance prior to construction.
33. The developer will be responsible for all costs associated with design and construction of sanitary sewer, stormwater, water, and street improvements necessary to serve the proposed plat.
34. Infrastructure plans for water, sewer, street, and stormwater improvements have been approved for the construction of 21<sup>st</sup> Avenue between Grandview Avenue and H Street in association with the Alteration to Westridge Plat. This Beard Addition plat is dependent on these 21<sup>st</sup> Avenue improvements. Infrastructure plans were approved under City Project Numbers 2022554 through 2022557.
  - a. If 21<sup>st</sup> Avenue is not improved via the Alteration to Westridge Plat, these same improvements (Project Numbers 2022554 through 2022557) must be built via the Beard Addition Plat.

- b. This plat is dependent on the Alteration to Westridge Plat dedicating parcels 25263.2809 and 25263.3003 as public right-of-way. The Beard Addition Final Plat cannot be finalized until adequate public right-of-way is dedicated to connect this plat to 21<sup>st</sup> Avenue.
35. All stormwater and surface drainage generated onsite shall be disposed of onsite in accordance with SMC 17D.060 "Stormwater Facilities," the SRSM, Special Drainage Districts, City Design Standards, and, per the Project Engineer's recommendations, based on the drainage plan accepted for the final plat. Pre-development flow of any off-site runoff passing through the plat shall not be increased (rate or volume) or concentrated due to development of the plat, based on a 50-year design storm. An escape route for a 100-year design storm must be provided.
- a. It is noted that stormwater is proposed to be discharged in areas with wetlands located within the project area. Any wetlands and/or buffer zone modifications required due to stormwater impacts and/or any other development impacts must be completed in accordance with City regulations and standards and the work must be inspected and approved by the City prior to the City Engineer signing a final plat for any phase of the proposed development.
  - b. No building permit shall be issued for any lot in the plat until evidence satisfactory to the City Engineer has been provided showing that the recommendations of SMC 17D.060 "Stormwater Facilities," the SRSM, Special Drainage Districts, City Design Standards, and the Project Engineer's recommendations, based on the drainage plan accepted for the final plat, have been complied with. A surface drainage plan shall be prepared for each lot and shall be submitted to Engineering Services – Development Services for review and acceptance prior to issuance of a building permit.
  - c. Prior to construction, a grading and drainage plan shall be submitted to Development Services for review and acceptance.
  - d. An erosion/sediment control plan, detailing how dust and runoff will be handled during and after construction, shall be submitted to Development Services for review and acceptance prior to construction.
  - e. If drywells are used, they will be tested to ensure design infiltration rates are met. A minimum factor of safety of 2 (two) will be required. In accordance with State Law, existing and proposed Underground Injection Control structures need to be registered with the WSDOE. Proof of registration must be provided prior to plan acceptance.
  - f. The developer will be responsible for all costs associated with constructing storm water improvements necessary to serve the proposed plat.
36. This plat will need to be incorporated into the SIA Water Pressure Zone. However, current water demands in this pressure zone are challenging the City's ability to supply water in accordance with engineering standards and regulations for fire flow. Thus, until an analysis of the City's water system in the West Plains Area is complete and needed improvements to the water system have been identified and addressed, all new connections to the water system must wait until the new SIA#3 Water Storage Tank, currently under construction, is complete and operational. The Tank is anticipated to be operational by the end of 2024. Connection to the water system may be allowed sooner, depending on conclusions from the water analysis and based on the amount of water requested and timing of the proposed development.

- a. Connecting this plat into the SIA Water Pressure Zone is a concept that has been discussed by City Staff and the developer. To implement this concept, the developer will be required to do the following:
  - i. Install a closed valve into the existing 12-inch water main in Garden Springs Road just south of where Grandview Road's water main connects into Garden Springs Road. From this valve, a new 12-inch water main must be installed in Grandview Road, east to the intersection of 21<sup>st</sup> Avenue and Grandview Road. At this intersection, a new PRV assembly, connecting the two 12-inch mains, will need to be installed. This is where a new 8-inch water main from 21<sup>st</sup> Avenue will connect. Because the existing 12-inch water main in Garden Springs Road from Abbott Road to Grandview Road will be converted from the Highland Pressure Zone to the SIA Pressure Zone, PRVs will need to be installed on any water services to existing houses not having one in the converted pressure zone. Valves at each end of the water mains in the pressure zone conversion will need to be adjusted (opened/closed) to complete the conversion.
  - b. The developer will be responsible for all costs associated with design and construction of water improvements necessary to serve the proposed plat.
  - c. The water system shall be designed and constructed in accordance with City standards. A pressure of 45 pounds per square inch (psi) minimum at the property line is required for service connections supplying domestic flows. Pressures shall not drop below 20 psi at any point in the system during a fire situation. Pressures over 80 psi will require that pressure reducing valves be installed at developer expense.
  - d. An electronic version (pdf) of an overall water plan and hydraulic analysis must be submitted to Development Services for review and concurrence. The hydraulic analysis must include supporting calculations for domestic and fire flows.
  - e. In addition to the hydraulic analysis, construction plans shall be submitted to Development Services for review and acceptance. The water system, including individual service connections to each lot, shall be constructed and accepted for service prior to the City Engineer signing the final plat.
37. There is an existing 8-inch PVC sanitary sewer main in 21<sup>st</sup> Avenue at the H Street right-of-way intersection that may provide service to this plat.
  - a. The developer will be responsible for all costs associated with design and construction of sanitary sewer improvements necessary to serve the proposed plat.
  - b. The sanitary sewer system shall be designed and constructed in accordance with City standards.
  - c. Construction plans shall be submitted to Development Services for review and acceptance. The sanitary sewer system, including individual service connections to each lot, shall be constructed and accepted for service prior to the City Engineer signing the final plat.
38. Public streets, including paving, curb, sidewalk, signs, storm drainage structures/facilities, and swales/planting strips necessary to serve the proposed plat,

shall be designed and constructed in accordance with City standards. Sidewalks shall serve each lot.

- a. Signing and striping plans, where appropriate, shall be included as part of the design submittal.
- b. Street design for the plat shall include supporting geotechnical information on the adequacy of the soils underneath to support vehicular design loads.
- c. Any grades exceeding 8% must be shown on the preliminary plat.
- d. Garages shall be a minimum of 20 feet from the back of sidewalk to fully accommodate a parked vehicle without obstructing the sidewalk.
- e. All parking areas and driveways shall be hard surfaced. In accordance with the City of Spokane Municipal Code, Section 17H.010.220, the total nominal width of all driveways on a street for any one ownership shall not exceed forty percent of the frontage. An engineering design variance must be approved in order to allow larger approach widths. The application for the design variance must be accompanied by supporting information detailing why the 40% frontage requirement cannot be met.
- f. All street identification and traffic control signs required, due to this project, shall be installed by the developer at the time street improvements are being constructed. They shall be installed and inspected to the satisfaction of the City's Construction Management Office in accordance with City standards prior to the occupancy of any structures within the plat.
- g. The developer will be responsible for all costs associated with constructing street improvements necessary to serve the proposed plat.

39. It appears that that the western portion of the development is too low in elevation to meet minimum slope and connect to the sewer at the end 21st Avenue. The Developer needs to provide solutions to eventually gravity drain into the city's public sewer system. If a Lift Station is proposed, then it would likely be a Private Lift Station or individual pumps for each home.

Fire Department:

40. The following condition will need to be addressed prior to permit of the 31<sup>st</sup> home in this development:

The Fire Code requires that single/two-family residential developments with more than 30 homes to have two separate and approved fire access roads. The roads are required to be a minimum of half the largest diagonal of the developed property. Rough dimensions show the diagonal to be about 1,837 feet with the distance between the two access points (Cumberland and Snowcrest Streets) at about 796 feet. That is less than the required 50%. This does not meet the Fire Code.

To address this issue, The City Fire Department requests the following conditions of approval:

- a. An additional access at the southeast corner of the property as represented in the Spokane County Memo dated January 2, 2024 (located in Exhibit 10.d.ii. as part of the agency comments).
- b. Provide full width paving along 25<sup>th</sup> Avenue between proposed Snowcrest and Cumberland Streets. Should the County be opposed to this solution, a minimum



of 20 feet clear width paved access along 25<sup>th</sup> Avenue with “No Parking” posted every 50 feet on both sides of the paved area.

WSDOE:

41. Compliance with the enclosed cover letter and administrative order (Exhibit 5.a.) from the Shorelands and Environmental Assistance Program at the WSDOE on November 30, 2023.
42. The WSDOE Water Quality Program – Operators of construction sites that disturb one acre or more total area and has or will have a discharge of stormwater to a surface water or to a storm sewer, must apply for coverage under WSDOE’s Construction Stormwater General Permit, if soil or ground water contamination is known at the site, additional information will be required.

Avista:

43. Please provide a 10-foot-wide dry utility easement along the front of each lot.

WSDAHP & Spokane Tribe of Indians:

44. An IDP implemented into the scope of work prior to ground disturbing activities.

Statements to be included in the Dedicatory Language on the face of the final development plan/detailed site map:

1. This plat proposal is vested under SMC Chapter 17C.110 Residential Zones. Consistent with RCW 58.17.033(1) and RCW 58.17.170(2)(a), structures approved for development under SMC Chapter 17C.110 (may elect to meet all applicable development and design standards in accordance with Chapter 17C.110 in its entirety for a period of five years following final plat filing, or all the applicable residential development and design standards listed in SMC 17C in its entirety. After 5 years from final plat filing, adopted standards at time of permit apply.
2. If any archaeological resources, including sites, objects, structures, artifacts, and/or implements, are discovered on the project site, all construction and/or site disturbing activities shall cease until appropriate authorities, agencies, and/or entities have been notified in accordance with Chapters 27.44 and 27.53 RCW.
3. Street trees are required. Compliance will be verified at time of certificate of occupancy for each new home consistent with the development’s approved landscape plan.
4. Ten-foot utility and drainage easements, as shown hereon the described plat, are hereby dedicated to the City and its permittees for the construction, reconstruction, maintenance, protection, inspections and operation of their respective facilities together with the right to prohibit structures that may interfere with the construction, reconstruction, reliability and safe operation of the same.
5. Development of the subject property, including grading and filling, are required to follow an erosion/sediment control plan that has been submitted to and accepted by Development Services prior to the issuance of any building and/or grading permits.
6. Prior to the issuance of any building permits, the lots shall be connected to a functioning public or private water system complying with the requirements of Development Services and having adequate pressure for domestic and fire uses, as


determined by the Water and Hydroelectric Services Department and the Fire Department.

7. The City of Spokane does not accept the responsibility of maintaining the stormwater drainage facilities on private property nor the responsibility for any damage whatsoever, including, but not limited to, inverse condemnation to any properties due to deficient construction and/or maintenance of stormwater drainage easements on private property.
8. All stormwater and surface drainage generated onsite shall be disposed of onsite in accordance with SMC 17D.060 "Storm water Facilities," the SRSM, Special Drainage Districts, City Design Standards, and, per the Project Engineer's recommendations, based on the drainage plan accepted for the final plat. Pre-development flow of off-site runoff passing through the plat shall not be increased (rate or volume) or concentrated due to development of the plat, based on a 50-year design storm. An escape route for a 100-year design storm shall be provided.
9. No building permit shall be issued for any lot in this plat until evidence satisfactory to the City Engineer has been provided showing that the recommendations of SMC 17.060 "Stormwater Facilities," the SRSM, Special Drainage Districts, City Design Standards, and the Project Engineer's recommendations, based on the drainage plan accepted for this final plat, have been complied with. A surface drainage plan shall be prepared for each lot and shall be submitted to Developer Services for review and acceptance prior to issuance of a building permit.
10. Slope easements for cut and fill, as deemed necessary by Development Services in accordance with City Design Standards, are granted along all public right of ways.
11. Only City water and sanitary sewer systems shall serve the plat. The use of individual on-site sanitary waste disposal systems and private wells is prohibited.
12. All public improvements (street, sewer, storm sewer, and water) shall be constructed to City standards prior to the occupancy of any structures served by said improvements.
13. No building permit shall be issued for any lot in the plat until evidence satisfactory to the City Engineer has been provided showing that sanitary sewer and water improvements, constructed to City standards, have been provided to the lot in question.
14. The development of any structures in this plat is subject to review of a geotechnical evaluation for foundation design to determine suitability and effects from stormwater and/or subsurface runoff. The geotechnical evaluation is required to be performed for each lot with structures and submitted for review and concurrence to the Development Services Center prior to issuance of a building permit.
15. With respect to any increased stormwater flows accruing as a result of any development, each property owner, on its own behalf and the behalf of its successors in interest, fully accepts without reservation, the obligation to obstruct and artificially contain and collect all natural or artificially generated or enhanced drainage flows across or upon said owner's property. The purpose of this requirement is to avoid causing or potentially contributing to flooding, erosion or stormwater loads on other private or public properties and the public sewer system.
16. Each property owner, on its own behalf and the behalf of its successors in interest, acknowledges and accepts full responsibility to maintain drainage facilities within all

drainage easements, and to maintain and protect any on-site stormwater control facilities. Under no circumstances does the City of Spokane, its officers or agents, accept any responsibility to maintain on-site stormwater control facilities, drainage courses, or drainage pipes on private lots within this development or otherwise within drainage easements or flood plain areas.

17. The City of Spokane is not a guarantor of public improvements with respect to protection of property from flooding or damage from stormwater, excessive groundwater levels, soil erosion, movement, or related risks. Property owners, acting on their own behalf and the behalf of their successors in interest and assigns, forever waive any claim for loss, liability, or damage to people or property because of stormwater or drainage problems and related risks against any governmental entity arising from platting or permit approvals, or the construction and maintenance of public facilities and public property within the plat or subdivision. This waiver is intended to include application to the City of Spokane, its officers and agents, and includes any claims for loss or for damage to lands or property adjacent to or otherwise affected by any street or public way or easement by the established construction, design and maintenance of said streets or public ways or easements, including the construction, drainage and maintenance of said streets, not by way of limitation. Property owners, on their own behalf and the behalf of their successors and assigns, further stipulate and agree that this waiver decreases property value in an amount at least equal to one dollar or more and intend and agree that it run with the land.
18. All street identification and traffic control signs required by this project will be the responsibility of the developer per SMC 17G.080.070.
19. All parking areas and driveways shall be hard surfaced. All new or modified driveway locations will need to be reviewed and approved prior to construction.
20. Easements for "Dry" utilities as shown hereon are hereby granted over the rights-of-way for the private streets and adjoining said streets to the City of Spokane and its permitted serving utilities for the construction, reconstruction, maintenance, protection, inspection and operation of their respective facilities, together with the right to prohibit changes in grade over installed underground facilities and the right to prohibit, trim and/or remove trees, bushes, landscaping, without compensation and to prohibit brick, rock or masonry structures that may interfere with the construction, reconstruction, reliability, maintenance, and safe operation of same.
21. Storm drain dry wells and water meter boxes shall not be placed within the "Dry" easements; however, lateral crossings by storm drain, water and sewer lines are permitted.
22. Serving utility companies are also granted the right to install utilities across future acquisition areas or border easements.

DATED the 22<sup>nd</sup> day of April 2024.

  
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Karl J. Granrath  
City of Spokane Hearing Examiner

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

Appeals of decisions by the Hearing Examiner are governed by SMC 17G.060.210 and 17G.050.

Decisions of the Hearing Examiner on PUDs 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 22<sup>nd</sup> day of April 2024. **THE DATE OF THE LAST DAY TO APPEAL IS THE 6<sup>TH</sup> DAY OF MAY 2024, 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.