CITY COUNCIL FOR THE CITY OF SPOKANE

IN THE MATTER OF )   FILE NO. Z18-598PPUD
)   )   APPEAL OF HEARING
)   EXAMINER’S FINDINGS OF
)   FACT, CONCLUSIONS OF LAW
)   AND DECISION DATED
)   JANUARY 15, 2019

1. INTRODUCTION

Appellant/Applicant, Greenstone, by and through its attorneys, Elizabeth A. Tellessen and Winston & Cashatt, submits this memorandum in support of its appeal of the City of Spokane Hearing Examiner Pro Tem’s Findings of Fact, Conclusions of Law and Decision (“Decision”), dated January 15, 2019. The Decision conditionally approved Greenstone’s application for a planned unit development (PUD) and preliminary plat (collectively the “Application”). Greenstone requests the City Council reverse the erroneous findings, conclusions, and conditions, and affirm the balance of the Decision subject to modified conditions.

2. FACTS THAT ESTABLISH APPELLANT’S RIGHT TO THE RELIEF REQUESTED

Greenstone is the applicant and has standing to bring this appeal as provided in Spokane Municipal Code (SMC) 17G.050.310.

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3. **ERRORS IN FACTS OR CONCLUSIONS**

Greenstone takes exception and objects to the findings and conclusions set out in Section II of the Decision as follows:

3.1 The entire design review board (DRB) hearing, including deliberations and unanimous vote, are part of the record and the contrary finding in the Decision is in error. (Decision II.F, p. 7, ll. 3-4; see Memorandum, December 6, 2018, Attachment C)

3.2 The Decision is inconsistent, finding that compliance with the recommendations of the DRB is a condition of approval, but then leaving open the probability of extending Crestline Street past 32nd Avenue, which would eliminate open space and cause the loss of urban forest, which is contrary to the DRB’s conditions. (Decision II.F, p. 7, ll. 4-6)

3.3 The Decision erroneously interprets the DRB decision. (Decision II.F, p. 7, ll. 11-18) The DRB approved the site plan without a Crestline extension and imposed conditions to preserve open space and the mature trees, which cannot be satisfied if the extension of Crestline is required. The DRB explicitly approved the site plan without the extension of Crestline, despite staff’s recommendation that Crestline be extended.

3.4 The Hearing Examiner erroneously concluded that because the DRB asked that the PUD project be “returned to the DRB for review” if Crestline was extended that this language permits the City to condition the PUD to require the Crestline extension. This is an error of fact and law. (Decision II.F, p. 7, ll. 12-18)
3.5 The Hearing Examiner erroneously concludes, “the extension of Crestline Street through the proposed development to Southeast Boulevard, may be imposed as a condition of approval by Spokane City,” but, that “[t]he Hearing Examiner Pro Tem lacks jurisdiction to require that the applicant follow any particular path in extending Crestline Street...” (Decision II.F, p. 7, ll. 11-22) The Hearing Examiner has clear authority to condition the approval of the application, and is required to impose the conditions unanimously approved by the DRB. SMC17G.040.080(D)

3.6 The Hearing Examiner finds that “All parties agree...that an extension of Crestline...would result in removal and destruction of the mature trees” through the center of the site. (Decision II.G, p. 8, ll. 9-12) This finding is consistent with the DRB decision to approve the site plan without the Crestline extension, and is inconsistent with the conclusion that the staff’s recommendation for Crestline extension through the site must be required.

3.7 The Hearing Examiner erroneously concluded without substantial evidence that the extension of Crestline is required to meet the “connectivity” requirements of the City development code and Comprehensive Plan. (Decision II.H, p. 11, ll. 14-18)

3.8 The Hearing Examiner erroneously concluded “If the connection between Crestline Street and Southeast Boulevard and 29th Avenue is eliminated...the policies for connection with surrounding existing streets and multiple routes through the development would be frustrated.” (Decision II.F, p. 11, ll. 19-24) This conclusion ignores the Comprehensive Plan, PUD purpose, and PUD guidelines all of which encourage expanding mobility options beyond those dependent on the automobile.
3.9 The Decision erroneously concludes that “the question of whether Crestline Street between 32\textsuperscript{nd} and Southeast Boulevard would be an arterial is not yet resolved.” (Decision II.H, p. 14, ll. 5-6)

3.10 The Hearing Examiner erred in finding that Exhibit #4 was not proposed as an alternative traffic route for automobile connectivity that could be implemented as a modification to the plat. (Decision II.H, p. 14, ll. 11-13) The Hearing Examiner correctly concludes that connectivity can be achieved by the traffic alternative offered in Exhibit #4. (Decision II.H, p. 12, ll. 7-9)

3.11 The conclusion that “the preliminary plat and PUD as proposed do not comply with all applicable standards of Title 17G SMC” is vague, contrary to the evidence, and an erroneous application of the law to the facts. (Decision II.H, p. 14, ll. 12-13) Expert testimony provided in the hearing concluded that additional road connections were not required to provide road “connectivity” and the existing street system would support the housing density in the area. The Hearing Examiner erroneously concluded that the project does not meet the applicable standards of PUD ordinance in SMC 17.G.

3.12 The Decision is incongruous in its incorporation of the DRB recommendations as conditions, which are at odds with the extension of Crestline Street. (Decision II.H, p. 14, ll. 14-15)

3.13 The Decision is vague in its reference to “the requirement of compliance with the applicable standards of Title 17G SMC” as the evidence establishes the project meets the concurrency requirements, and there is no reference to which standards the application does not comply. (Decision II.H, p. 14, ll. 16-20)
3.14 The Decision correctly finds the proposal protects the on-site resources, which
cannot be accomplished if there is an extension of Crestline Street. (Decision II.H, p. 15, ll. 2-7)

3.15 The conclusion that “the extension of Crestline Street from 32nd Avenue to
Southeast Boulevard is required” is contrary to the evidence in the record in regard to the
applicable law, and various other findings in the Decision. (Decision II.H, p. 15, ll. 19-20)

3.16 The conclusion that 17G.060.170(D)(4)(a) is not met is inconsistent with the
Decision approving the application. (Decision II.H, p. 15, ll. 20-22)

3.17 The finding that the proposal meets the requirement for open space is inconsistent
with the conclusion that Crestline Street must be extended. (Decision II.H, p. 16, ll. 21-24)

3.18 The finding that the applicant withdrew its request for vacation of ROWs is not
supported by the record as the platted ROWs for 30th and 31st Avenue will be vacated and
realigned as shown on the plan. (Decision II.H, p. 16, ll. 17-20)

3.19 The Hearing Examiner erroneously concluded that a design variance would be
required in order to utilize a 27’ road section. (Decision II.H, p. 16, ll. 21-24)

4. EXCEPTIONS/OBJECTIONS TO THE DECISION AS CONDITIONED

Greenstone takes exception and objects to the conditions the Hearing Examiner imposed
in the Decision as follows:

4.1 The approval of the application subject to the condition “that a street connection
for vehicles be provided between the intersection of Crestline Street and 34th Avenue to the
intersection of Southeast Boulevard and 31st Avenue” is not supported by the evidence in the
record, is a misapplication of the law to the facts, and inconsistent with numerous findings.
(Decision III.A.2, p. 18, l. 20-22)
4.2 The Decision improperly modifies the conditions unanimously adopted by the DRB without making a finding that the DRB’s decision was improper. SMC 17G.040.080(D)

4.3 The Decision imposes a condition that “the location of the street connection shall be agreed upon between the City of Spokane and the applicant.” This condition is improper and outside the Hearing Examiner’s jurisdiction. (Decision III.A.2, p. 19, ll. 2-3)

4.4 The Decision concludes that the street connection’s designation is based on the legislative action contemplated in Resolution No. 2018-0061, which is outside the Hearing Examiner’s jurisdiction, as well as an erroneous application of law to the facts. (Decision III.A.2, p. 19, ll. 4-5)

4.5 The Decision is vague to the extent it requires the streets be built to “City of Spokane street standards,” but does not specify the applicable standard. (Decision III.A.3, p. 19, ll. 6-7)

4.6 The Decision improperly requires an exchange of property for use as right of way for a credit to offset Transportation Impacts Fees, where there is no evidence in the record of the value or analysis of just compensation, nor any evidence that additional right of way is needed to accommodate the impacts of the project. (Decision III.A.8, p. 19, l. 22 – p. 20, l. 2)

4.7 The Decision is vague to the extent it requires the streets be built to City of Spokane street standards without specifying the applicable standards, which permit a 27’ road section. (Decision III.A.11, p. 19, ll. 6-7)

4.8 The applicant objects to Condition No. 18, which is contrary to the requested deviations and not supported by the record. (Decision III.A.18, p. 21, ll. 13-20)
4.9 Condition No. 41 is inconsistent with the finding that Crestline Street must extend past 32nd Avenue as Crestline cannot be extended and preserve the open space and urban canopy. (Decision III.A.41, p. 26, ll. 3-17)

4.10 The Decision imposes a condition that the applicant return to the Design Review Board regarding the location of the street connection. This is outside the Hearing Examiner's jurisdiction, an erroneous application of the law to the facts, and not supported by substantial evidence in the record. (Decision III.A.41, p. 26, ll. 14-17) The Decision misinterprets the DRB's condition, which only applies if Crestline is extended, but would not apply to an alternate connection that did not involve extending Crestline.

4.11 The Decision does not make a finding, conclusion, or condition in relation to the applicant's request for deviations as set forth in its development standards matrices for the CCI and RSF zones.

5. REQUESTED RELIEF

The Decision purports to approve the application subject to mutually exclusive conditions regarding Crestline Street. In short, the project cannot conform to the design and conditions approved by the DRB and accommodate the extension of Crestline. Accordingly, Greenstone requests the City Council reverse the erroneous findings, conclusions, and conditions identified in this appeal. Following reversal the City Council should modify the conditions consistent with the correct finding that the proposal satisfies the requirements for connectivity or that Exhibit #4 illustrates a suitable means of enhancing connectivity.

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APPEAL OF HEARING EXAMINER'S FINDINGS FOR FACT, CONCLUSIONS OF LAW AND DECISION – Page 7
DATED this 31st day of January, 2019.

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GARDEN DISTRICT PRELIMINARY PLAT AND PUD APPLICATION
APPLICANT: GREENSTONE
FILE NO. Z18-598PPUD

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

I. SUMMARY OF DECISION

Hearing Matter: The matter before the Hearing Examiner Pro Tem is an application for a Preliminary Plat and Preliminary Planned Unit Development (PUD) to construct 236 residential units and 38,000 square feet of office, retail, and other commercial uses on roughly 24.59 acres in the Lincoln Heights neighborhood. The applicant, Greenstone, submitted the application on behalf of Sonneland Properties, LLC.

Summary of Decision: Approved, subject to revised conditions.

II. FINDINGS AND CONCLUSIONS

A. Procedural Matters:

A Community Meeting was held on March 1, 2018. Spokane Municipal Code (SMC) 17G.060.050. An application was submitted on June 27, 2018. A Request for Comments notice was sent to departments and agencies on July 16, 2018, and the applicant was notified in writing on October 25, 2018, of the technically complete status of application. Notice of Application and Public Hearing was posted/mailed on November 1, 2018. SMC 17G.060.100. Notice of Application and Public Hearing was printed in the Spokesman on November 2, 2018, and November 9, 2018. The Public Comment Period ended on November 16, 2018. A State Environmental Protection Act (SEPA) Determination of Non-Significance (DNS) was issued on November 19, 2018, and was not appealed. SMC 17G.060.140.

The applicant is Greenstone c/o Ben Scandalis whose address is 1421 N. Meadowwood Lane, Suite 200, Liberty Lake WA 99019. The property owners are Sonneland Commercial Properties LLC & Sonneland Residential Properties LLC whose address is PO Box 562, Colbert WA 99005.

The Hearing Examiner Pro Tem conducted a site visit on December 10, 2018.

The hearing for this matter was scheduled, as noted in the Notice of Hearing, for 1:30 p.m. on December 12, 2018, in the Commissioner's Hearing Room, 1026 East Broadway, Spokane, Washington.
On December 12, 2018, at 1:30 p.m., the Hearing Examiner Pro Tem opened the hearing on this matter, the hearing being held until 4:00 p.m., at which time the hearing was recessed for one week for completion on December 19, 2018, beginning at 9:00 a.m., in the Commissioner’s Hearing Room, 1026 East Broadway, Spokane, Washington. The hearing on the application concluded and was adjourned at or about 11:50 a.m. on December 19, 2018. The hearing was conducted pursuant to the Spokane Hearing Examiner Ordinance codified in SMC Section 02.005.040.

The following persons testified at the hearing, under an oath administered by the Hearing Examiner Pro Tem:

Tami Palmquist, Principal Planner
City of Spokane
808 W. Spokane Falls Boulevard
Spokane WA 99201

Inga Note, Sr. Traffic Engineer
City of Spokane
808 W. Spokane Falls Boulevard
Spokane WA 99201

James Richman, Assistant City Attorney
City of Spokane
808 W. Spokane Falls Boulevard
Spokane WA 99201

Jim Frank
Greenstone
1421 N. Meadowwood Lane, Suite 200
Liberty Lake WA 99019

Carol Ellis
2015 E. 36th Avenue
Spokane WA 99203

Leonard Butters
2006 E. 64th Avenue
Spokane WA 99223

Summer Beers
4003 E. Sumac Drive
Spokane WA 99223

Kevin Edwards
2206 E. 32nd Avenue
Spokane WA 99203

Trent Shino
3211 S. Crestline Street
Spokane WA 99203

Carol Tomaic
3303 E. 27th Avenue
Spokane WA 99223

Kelly Puzio
3525 S. Crestline Street
Spokane WA 99203

Scott Tschirgi
2615 E. 38th Avenue
Spokane WA

Rick Boal
2026 E. 30th Avenue
Spokane WA 99203

Andy Hoye
4219 E. 42nd Avenue
Spokane WA 99223

Pat McElgunn
4227 S. Magnolia Street
Spokane WA 99203

Dick Edwards
312 W. 32nd Avenue
Spokane WA 99203

Richard Van Orden
2211 E. 34th Avenue
Spokane WA 99203

Charles Milani
2204 E. 34th Avenue
Spokane WA 99203
The following persons were present at the hearing, but did not testify:

For the City of Spokane:
- Louis Mueller, Principal Planner
- Andy Schenk, Principal Engineer
- Eldon Brown, City Engineer

From the public:
- Dennis Wagner
- Lizzie Frank
- Ron Cord
- William Grimes
- Rita Ketza
- Marcia Milani
- M. Reichman
- John Hollett

The following persons/groups submitted comments to the file prior to the close of the hearing:

Southgate Neighborhood Council
TJ O'Dell
Justin McNamara
Ann Hough
Joycelyn Caton
Kate Statz
Drew & Lisa Repp

Danny O'Dell
Brenda Cord
Suzanne Janes
Erin Rushworth
Kaitlin Re
Theresa Bidowski
Katie Chisholm
Wayne Stronk
Sharon Niblock
Kathy Bixler
Laine Lambarth
Diane Birginal
Lincoln Heights Neighborhood Council
Merri Hartse
Alan Currier, Rockwood South Hill
Heather Stewner
Adrian Rigsby
Amy McCaffree
Douglas Hagood
Mark VanDam
Sharon Christoph-Kelly
Elaine Snouwaert
Jim & Anne Pearson
Roger Branz
Tom Kearney
Penny Henicz
Amanda Gable
Amy Heppner
Brad & Ramona Pearson
Andy Wittwer
Jerry Boyd
Chad Rigsby
William Bidowski
Marilyn & Henry Reimann
Maxine Lammers
Amy Heppler
Diana Roberts
Jean Simmons
Linda Warner
Malika Oudes
Chris Barton
Tim & Rachel Devlin
Leanne Ozaine-Smith
Kim & Mary Kay Anderson
Michael McBride
Russ Reser
Pablo Monsivais
Dean Gable
Sheri Engelken

The following exhibits were admitted to the record during the hearing:

- Exhibit 1: City Building & Planning Staff Report PowerPoint Presentation, 42 pages

- Exhibit 2: Applicant’s PowerPoint Presentation, 43 pages

- Exhibit 3: Letter from Kelly Puzio, 1 page

- Exhibit 4: Applicant’s Garden District Street Exhibit, 1 page

- Exhibit 5: Lincoln Heights Neighborhood District Center Plan, submitted by Jim Frank, 3 pages

- Exhibit 6: Statement by Paul Kropp, 1 page

- Exhibit 7: Testimony materials from Stewart Hart, 7 pages

- Exhibit 8: Written statement by Albert Lundbeck, 1 page

The record includes the electronic recording of the public hearing, the documents in the application file at the time of the hearing up to and including December 19, 2018, at 9:00 a.m., the sign-in sheet for the hearing, and the items taken notice of by the Hearing Examiner Pro Tem in this decision and at the hearing.
The Hearing Examiner Pro Tem takes notice of the Spokane Comprehensive Plan ("Comprehensive Plan"), the SMC, other applicable development regulations, and previous land use decisions for the site and area.

B. Description of Site:

The subject property is located south of 29th Avenue, behind the Quail Run Office Park, west of Southeast Boulevard, north of 33rd Avenue, and east of Napa Street. The proposed project encompasses multiple parcels totaling approximately 25.49 acres. A portion of the site is currently developed with a general office building and a Rockwood primary care medical center. The remainder of the site is undeveloped. The topography of the site is generally sloping down north to south to approximately the middle of the site where the site levels off somewhat with some undulation through the southeast side of the site, which slopes up again toward 32nd Avenue to the south. There is a hill in the northwest side of the site that slopes down toward the east and south ending at approximately the line of the Crestline Street right-of-way (ROW) on the east and 32nd Avenue on the south. This hill area is where the City of Spokane is planning to construct a water tower as part of the potable water system of the area. Most of the site is still naturally vegetated with established trees, shrubs, and grasses. Utilities exist in the unimproved platted ROWs of Crestline Street and 30th, 32nd, and 33rd Avenues.

The site is bounded on the northwest by residential development and commercial development immediately north on 29th Avenue. South of the site is residential single-family housing. To the west is residential multi-family development. East of the site is commercial development along Southeast Boulevard and the Lincoln Heights shopping area further east across Southeast Boulevard.

C. Description of Proposed Project:

The proposed development is described by the applicant as "a walkable mixed-use urban neighborhood with a combination of office, retail, and residential uses" that will "create a free-flowing public realm, emphasizing flexible plazas and a ribbon of green parks and gardens with a mobility network primarily serving pedestrians and cyclists." The applicant asserts that the PUD Site Plan illustrates how the "green garden corridor will connect the urban mixed-use core of the neighborhood and serve as a transition to the lower density residential neighborhoods on the southern edge of the Lincoln Heights neighborhood into the Southgate neighborhood further south."

The applicant proposes to construct 236 residential units, composed of a mix of apartments, townhomes, cottages, and detached single-family homes, across the entire development site. The project will also include up to 38,000 square feet of office, retail, and other commercial located north of 30th Avenue. The PUD site includes two different base zone classifications: CC1 zone classification and Residential Single-Family (RSF) zone classification. A total of 110 residential units are proposed in the CC1 zone classification, and 126 residential units are proposed in the RSF zone classification. Residential development
along 32nd Avenue, east of Crestline Street, will be “estate lots” designed to match the size of lots on the south side of 32nd Avenue outside of the proposed PUD. The commercial uses are all proposed to be developed in the CC1 zone classification.

Deviations from the zoning development standards for setbacks, lot coverage, roof forms, etc. are being requested under the PUD application. The application also proposes a deviation from the standard for connectivity, specifically elimination of a connection of Crestline Street northward to 29th Avenue and/or eastward to Southeast Boulevard. The vacation of several ROWs, dedicated as part of the final plat of “Estate Development” filed in 1970, is also proposed in the applications for the plat and for the PUD. During the hearing, the applicant stated that it would no longer ask for the vacation of the ROWs, primarily due to the existence of various utility facilities that already exist in the ROWs. The applicant clarified that though it was no longer requesting that the ROWs be vacated, it was still requesting that the connection of 30th Avenue and 31st Avenue, from Martin Street to Southwest Boulevard, and that 32nd Avenue and Crestline Street be modified as proposed in the PUD Site Plan.

D. Land Use Designations and Surrounding Conditions for Site and Neighboring Land:

The adjacent zoning to the north is CC1-DC (Center and Corridor Type 1 – District Center); to the northeast is O-35 (Office); to the northwest is RMF (Residential Multi-Family); and to the south, east, and west is RSF. Prior to 2006, the RSF portion of the site was zoned R1. The CC1-DC portion of the site was zoned Office (O) and Office Retail (OR), but was changed to CC1-DC in 2013 as part of a Comprehensive Plan Amendment, File Z1200046COMP.

Adjacent land uses to the south are single-family homes. The Touchmark Retirement Community is to the west of the site; they recently received a Conditional Use Permit (CUP) to build a memory care center and a health and fitness building. The City of Spokane intends to build a water tower on the vacant, L-shaped parcel to the west. Commercial uses border the north of the site.

The land use map designation is Residential 4-10 and CC Core, per the current Comprehensive Plan adopted in 2017.

Applicable zoning regulations include SMC 17C.110 – Residential Development; SMC 17G.060 – Land Use Application Procedures; SMC 17G – Planned Unit Developments; and SMC 17G.080 – Subdivisions.

E. Department Reports:

Notice and request for comments were sent to the City departments and outside agencies concerned with land development on July 16, 2018. Copies of reports from those who responded to the notice and request for comments are a part of the file for reference. See File Z18-598PPUD. Department and agency comments have been considered and referred to in creating the conditions set forth below.
F. Design Review Board:

Pursuant to SMC 17G.040, the Design Review Board (DRB) convened the required hearings and submitted its recommendations regarding the proposed preliminary plat and PUD. See File No. Z18-598PPUD. Both the applicant and Spokane City assert that the DRB’s recommendations were adopted by unanimous vote of the DRB. This is not stated in the DRB’s recommendations and there appears to be no evidence of that in the record other than the assertions of the parties. Pursuant to SMC 17G.040.080(D), the recommendations of the DRB, dated June 13, 2018, are incorporated herein by this reference and compliance therewith shall be a condition of approval by this decision.

The applicant asserts that the recommendation of the DRB is to approve the proposed PUD as submitted relative to the termination of Crestline Street at 32nd Avenue. Thus, the applicant argues, the Hearing Examiner Pro Tem is bound to adopt the DRB’s recommendation and approve the applications, including the termination of Crestline Street at 32nd Avenue. Spokane City argues that even though the DRB’s recommendation is unanimous it does not recommend approval of the termination of Crestline Street at 32nd Avenue without continuing through the development site to Southeast Boulevard. The City further asserts that the DRB’s recommendation is merely a recommendation and is not binding upon the Hearing Examiner Pro Tem.

The Hearing Examiner Pro Tem agrees with Spokane City regarding the language contained in the recommendation of the DRB. The language of the recommendation that is in question reads:

“In the event that the City of Spokane requires that the Crestline connection be established, the applicant shall return to the Design Review Board to address traffic calming, along with any disruptions to the pedestrian friendly environment and urban forest canopy.” DRB Recommendation, dated June 13, 2018, paragraph #8.

This language clearly anticipates that the extension of Crestline Street through the proposed development to Southeast Boulevard, may be imposed as a condition of approval by Spokane City. If the extension of Crestline Street is required by the City, then the DRB asks that the applicant return to the DRB for review of the proposed extension. Id.

The Hearing Examiner Pro Tem lacks jurisdiction to require that the applicant follow any particular path in extending Crestline Street through the proposed preliminary plat and PUD; however, it is the Hearing Examiner Pro Tem’s opinion that the path of said connection between Crestline Street from 32nd Avenue and Southeast Boulevard that is illustrated by Exhibit #4, as submitted by the applicant, may be sufficient to make the required connection.

G. Public Comments:

Written public comment and testimony at the hearing regarding the proposed preliminary plat and PUD is voluminous. Public comments regarding the proposal fall into...
several categories; those in favor of the proposal including the termination of Crestline Street at 32nd Avenue, those in favor of the proposal but requesting that the extension of Crestline Street be included, and those opposed to the proposal entirely.

Individuals and neighborhood associations advocating the termination of Crestline Street at 32nd Avenue were resoundingly concerned with the prospect of inviting even more traffic into and through their neighborhoods if Crestline Street is extended through the PUD to Southeast Boulevard. A significant number of comments describe the condition of Crestline Street between 32nd Avenue and 57th Avenue as having no sidewalks, causing school children to walk along an already busy street without the protection of sidewalks and inadequate pedestrian crossings at intersecting streets. Other concerns describe allegedly inadequate traffic controls at intersections along Crestline Street and steep inclines approaching those intersections that cause dangerous stopping and crossing conditions in the winter season.

A significant number of comments opposed to the extension of Crestline Street express an opposition to the extension of Crestline Street along the path at or near that shown in the Final Plat of Estate Development (1970). All parties agree, as alleged by the commenters, that an extension of Crestline Street along that path, currently a walking path through the site and proposed to remain as such, would result in removal and destruction of the mature trees that now line that path and are proposed to remain as part of the green, open space in the proposed development.

Comments requesting the extension of Crestline Street through the PUD to Southeast Boulevard generally focus on the fact that the proposed preliminary plat and PUD would create as many as 126 residential units in a very compact area; thus, creating a burden on the already allegedly crowded Crestline Street as it travels south from 32nd Avenue. These comments also cite the lack of sidewalks on south Crestline Street and the danger that poses to school children as well as adults who walk along Crestline Street.

Several comments were received that oppose the proposal in its entirety, alleging that the density is too high for the area in which it is to be built. Those comments highlight the fact that the surrounding neighborhood to the south of the proposed preliminary plat and PUD consists of lots larger than those proposed for the cottage-style dwelling units and certainly lower density than the multi-family structures that are proposed. They also expressed concerns for the added traffic, much like the other comments in favor or in opposition to the extension of Crestline Street north of 32nd Avenue.

A noticeable number of comments from citizens living in the surrounding neighborhoods to the south, west, and even to the north across 29th Avenue, express strong concerns for the added traffic on 29th Avenue, Southeast Boulevard, Crestline Street, Regal Street, and 37th Avenue. The expressed concerns spring from a fear that the already crowded traffic on those streets would be exacerbated by the proposed development. Complaints centered not just on the difficulty of driving in the area due to the high volume of traffic, but also the danger to pedestrians who attempt to cross 29th Avenue at the intersections of 29th
Avenue and Pittsburgh Street, 29th Avenue and Martin Street, 29th Avenue and Southeast Boulevard, as well as the issues already described along Crestline Street.

Notwithstanding the Traffic Distribution Letter submitted by the applicant and the anecdotal nature of the comments submitted during the review and hearing process, the people who commented, people who live and circulate in the area surrounding the proposed development, describe a situation relative to the pedestrian experience on 29th Avenue and on Crestline Street that would warrant further attention by Spokane City. However, relative to the review of the proposed preliminary plat and PUD for compliance with the Comprehensive Plan and SMC, the record lacks evidence to contest the professional opinions in the Traffic Distribution Letter and the testimony of engineers on behalf of Spokane City who agree that transportation concurrency is met for the proposed project, as that term is used in SMC 17D.010.020(C). The comments and testimony submitted regarding the proposal have all been considered by the Hearing Examiner in reaching this decision.

H. Consistency with Comprehensive Plan and Zoning:

SMC 17G.060.170 Decision Criteria:

C.1. Allowed under the provisions of land use codes.

The proposals for a preliminary plat and PUD are allowed under the Residential Zoning Standards, SMC 17C.110; CC1 Zoning Standards, SMC 17C.122; PUD process, 17G.070.030; and review by the DRB, SMC 17C.122.060.

SMC 17G.070.030(A)(5) allows permitted uses of either the RSF or CC1 zone to be allocated across the entire site of the proposed plat, proportionate to the land devoted for each zoning district. The density of residential units is less than the highest allowed density and higher than the minimum density. SMC 17C.110; 17C.122. As conditioned, the proposal complies with this requirement.

C.2. Consistency with the Comprehensive Plan designation and goals, objectives, and policies for the property.

Several Comprehensive Plan goals, objectives, and policies are relevant to the proposed preliminary plat and PUD. Those include LU 1.3, LU 1.12, LU 4.3, LU 4.4, LU 4.5, LU 5, LU 5.5, DP 1.2, TR 2, and TR 7. Of specific concern to the City of Spokane Planning Staff and many citizens residing in the surrounding areas are LU 4.4, LU 4.5, TR 2, TR 4.5, and TR 7. Several public comments and testimony at the hearing also indicate concerns related to LU 1.3, LU 5, LU 5.5, and DP 1.2.

LU 4.4, LU 4.5, TR 2, TR 4.5, and TR 7 envision a connected network of facilities that provide safe, direct, and convenient access for all users, including pedestrians, bicycles, and automobiles. The facilities are to be designed to allow safe travel through the proposed development and are to be generally laid out in a grid pattern with more street intersections, shorter block lengths, increased street connectivity, and access to and from the surrounding areas. This interconnected system of facilities should allow travel on multiple routes by
multiple modes with consideration of and alignment with the existing and planned land use context of each corridor and major street segment.

The original proposal, considered by the applicant and presented to the public during the required pre-application Community Meeting, included the extension of Crestline Street to the north from 32nd Avenue along the alignment shown in the Final Plat of Estate Development (November 1970) with a slight variation as it turned to the east and connected with 31st Avenue and on to Southeast Boulevard. That section of Crestline Street (from 37th Avenue to 31st Avenue and Southeast Boulevard) is currently designated in the Proposed Arterial Network Map TR 12 (of the Comprehensive Plan) as a future major collector arterial; though by Resolution No. 2018-0061, an amendment to the Proposed Arterial Network Map TR 12 is under consideration, which amendment would possibly “remove the proposed new urban major collector arterial on Crestline Street between 37th Avenue and Southeast Boulevard at 31st Avenue.” Testimony of Inga Note.

Public response at the Community Meeting was strongly in favor of eliminating the Crestline Street extension from 32nd Avenue to Southeast Boulevard and 31st Avenue. The reasons expressed for the opposition to the extension of Crestline Street north of 32nd Avenue can be summed up as an expectation that such an extension of Crestline Street would bring traffic from an already crowded Crestline Street into the neighborhood surrounding the proposed preliminary plat and PUD site and through the site, thus causing overwhelming traffic congestion, raise safety issues for pedestrians in the area, and destroy the “alternative to automobiles” design of the PUD. In contrast, there is public comment and testimony provided at the hearing before the Hearing Examiner Pro Tem that cites concerns for the added traffic and threat to safety that will be generated by the development of the PUD as proposed, with the 126 apartments and other residential units proposed in the PUD that will use Crestline Street southbound as their primary ingress and egress to and from the PUD.

In support of the proposal to terminate Crestline Street at 32nd Avenue, the applicant argues that transportation concurrency relative to the proposed development in the PUD is met without Crestline Avenue being extended north of 32nd Avenue and is thus unnecessary; that as indicated by the public comment and the Traffic Distribution Letter (Testimony of Jim Frank and testimony of Todd Whipple), the extension of Crestline Street would exacerbate the already congested and allegedly dangerous traffic conditions on Crestline Street south of 32nd Avenue; that the PUD code provisions allow for the deviation from the specific municipal code requirements in favor of a design that complies with and furthers the goals and policies of the Comprehensive Plan; and that the Proposed Arterial Network Map TR 12 is not a binding ordinance but is more in the nature of a suggestion. Testimony of Jim Frank.

In response, Spokane City cites to several Comprehensive Plan goals and policies that they argue dictate the connectivity between the established streets surrounding the proposed preliminary plat and PUD. They also cite provisions of the SMC that allegedly require extension of Crestline Street north of 32nd Avenue even in a PUD. Although Spokane City agrees that the transportation concurrency is met for the proposed preliminary plat and PUD
without the extension of Crestline Street, they point out that concurrency does not eliminate
the requirement to comply with the Comprehensive Plan and applicable municipal code.
Finally, Spokane City argues that prudent engineering practices indicate the need for the
extension and that the Proposed Arterial Network Map TR 12 is a binding document that is
adopted by ordinance. Testimony of Inga Note and testimony of James Richman.

The disagreement between Spokane City and the applicant regarding the location and
design of the streets within the proposed preliminary plat and PUD centers on the extension
of Crestline Street such that it connects with Southeast Boulevard and 31st Avenue. The
alignment and design of 30th Avenue extending east from Martin Street then south to 31st
Avenue and east again to Southeast Boulevard is not challenged by Spokane City. Also
uncontested at this point in time is the location of and dedication of the ROW that is depicted
in the Final Plat of Estate Development (1970). During the hearing the applicant indicated
that: 1) the request for the vacation of ROWs within the proposed preliminary plat and PUD
is withdrawn by the applicant; and 2) that the streets and avenues within the proposed
preliminary plat and PUD would all be constructed and dedicated as public streets. The
reason stated for the withdrawal of the request to vacate ROWs was in part that there exists
in the ROW, and may be installed future, utility facilities that must remain and will be
maintained from time to time.

The mitigation measures stated in the Mitigated Determination of Nonsignificance
(MDNS) relative to Spokane City File Z1200046-COMP, dated July 29, 2013, are sufficiently
addressed and complied with by the proposed preliminary plat and PUD as conditioned
hereinafter.

Comprehensive Plan policies LU 4.4, LU 4.5, TR 2, and TR 7 specifically refer to
connectivity and travel to, from, and within the proposed preliminary plat and PUD. The key
elements of the policies are safety of pedestrians and non-automobile use, along with an
increase in connectivity of streets and multiple routes relative to major streets. The proposed
preliminary plat and PUD is located adjacent to 29th Avenue and Southeast Boulevard and
Crestline Street, each of which are major streets. The elimination of the connection between
Crestline Street and Southeast Boulevard or 29th Avenue would not comply with the policies
of the Comprehensive Plan relative to connectivity and transportation.

If the connection between Crestline Street and Southeast Boulevard and 29th Avenue
is eliminated, the residents in the southern portion of the development would have only one
avenue of ingress and egress to and from the development for automobile traffic, that being
south on Crestline Street. Although traffic could use 34th Avenue, 35th Avenue, or 37th
Avenue to then travel east or west from Crestline, the most direct route to the east or west
would be south on Crestline Street to 37th Avenue. Even though the design as proposed
would encourage bicycle or pedestrian traffic for access to the commercial enterprises on 29th
Avenue and/or Southeast Boulevard, the policies for connection with surrounding existing
streets and multiple routes through the development would be frustrated.
Although it is not directly applicable to Crestline Street (a major collector arterial), policy LU 4.3 provides a possible solution to the connectivity policy faced here and is consistent with an illustration provided by the applicant as Exhibit #4 at the hearing. The discussion portion of policy LU 4.3 reads: “Principal arterials that bisect neighborhoods create undesirable barriers to pedestrian circulation and adversely impact adjoining residences. Whenever possible, principal arterials should be located on the outer edge of neighborhoods.” Exhibit #4 illustrates a possible route for the connection between Crestline Street and Southeast Boulevard that meets in large part the other policies identified above and directs the connecting street around the outer edge of the development (neighborhood). It is understood that this alternative route may attract traffic from the northern portion of the development, though that possibility has been considered in the original Traffic Distribution Letter prepared by Whipple Consulting Engineers, Inc. (January 3, 2018). Such an alternative design would accomplish the intent of the cited policies and provide a second route for the residents of the proposed residential dwelling units in the southern portion of the development.

C.3. The proposal meets the concurrency requirements of Chapter 17D.010 SMC.

The Traffic Distribution Letter dated January 3, 2018, and the Revised Traffic Distribution Letter, dated August 14, 2018, both generated by Whipple Consulting Engineers, Inc., regarding the automobile traffic expected to be generated by the proposed preliminary plat and PUD, conclude that “… the proposed project while adding trips to local intersections, will not reduce the intersections in the immediate area below an acceptable level of service.” The staff report filed by Spokane City indicates that “The application was circulated on July 16, 2018, for department and agency comments. Comments were received and are included in the file. Adequate utilities exist in the area to serve the proposed project.” The applicant’s materials, Garden District Preliminary Plat – Subdivision Design Criteria section contains the following statement under numbered paragraph 9: “A demographic analysis of similar developments indicates that the Garden District community will have about 40 school-aged children (under 19 years). Spokane School District No. 81 serves the site and has capacity to serve the additional students.”

There are no comments from the public or from any agency asserting that the concurrency requirements for this application have not been met. All evidence in the record on the subject indicates that the concurrency requirements for this application are met.

C.4. Suitability for proposed use.

As stated above, the site of the proposed preliminary plat and PUD is located within a Final Plat – Estate Development that was recorded in approximately November 1970. As such, the property is suitable for redevelopment as infill development. The property is surrounded by urban development including professional businesses, commercial retail businesses, medical care providers, multi-family dwelling units, single-family dwelling units, and is bounded on at least two sides by major urban streets. The property is zoned appropriately for the proposed development. The topography of the site is well suited for
development as proposed. Cultural consideration has been provided by the Spokane Tribe of Indians indicating a desire for a cultural survey of the site and a discovery plan in the event that archeological artifacts are discovered on the property during development and construction. No objection to the suitability of development of the site has been offered.

C.5. Absence of significant adverse environmental impact.

A SEPA DNS was issued by Spokane City on November 19, 2018. The DNS was not timely appealed.

D.4. PUD criteria.

In addition to the above criteria found in SMC 17G.060.170(C), approval of the proposed PUD must meet the following criteria:

a. Compliance with applicable standards.

The proposed development and uses must 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(F)(2). SMC 17G.060.170(D)(4). Construction of the PUD is proposed to take place in three phases, and the proposed PUD meets the requirement of SMC 17G.070.200(F)(2).

Relying upon SMC 17G.070.010, the applicant requests deviation from the standards of Title 17G SMC, specifically regarding the extension of Crestline Street through the proposed PUD from 32nd Avenue to Southeast Boulevard.

SMC 17G.070.010(A) explains that the purpose of the PUD provisions is to encourage innovative planning and flexible design standards that results in more infill and mixed use development; economically diverse and affordable housing options; improved protection of open space and critical areas and transportation options and preserve the existing landscape and amenities that may not otherwise be protected through conventional development. The PUD provisions in that code section are: 1) Flexibility, 2) Efficiency, 3) Affordable Housing, 4) Diverse Housing, 5) Open Space, 6) Economic Feasibility, and 7) Resource Preservation.

The applicant argues that extending Crestline Street through the proposed PUD to Southeast Boulevard along the path of the dedicated ROW in the Final Plat of Estate Development (1970) would diminish if not destroy the designed open space and would significantly hinder the resource preservation designed into the proposed PUD. Construction of an extension of Crestline Street along the dedicated ROW to Southeast Boulevard would cut a wide path through the planned pedestrian pathway designed for that ROW and would require the removal of the colonnade of mature trees that borders the proposed pathway currently. The proposed design would leave the existing trees and make that area part of the green open space designed for the PUD.

In response, Spokane City argues that the extension of Crestline Street from 32nd Avenue to Southeast Boulevard is not only included in the Proposed Arterial Network Map TR 12, but is also required by the Comprehensive Plan and development standards and
street standards contained in the SMC. Upon questioning during the hearing, Spokane City indicated that the location of the extension of Crestline Street to Southeast Boulevard need not follow the path of the dedicated ROW in the Final Plat of Estate Development (1970); however, the City’s position is that the extension and connection to Southeast Boulevard must be made. Spokane City also indicated during the hearing that the extension of Crestline Street to Southeast Boulevard would not be required to be an arterial as indicated on the Proposed Arterial Network Map TR 12; however, no indication was given regarding whether that was a final decision and amendment to the Proposed Arterial Network Map TR 12, thus the question of whether Crestline Street between 32nd Avenue and Southeast Boulevard would be an arterial is not yet resolved.

As noted above, during the hearing the applicant submitted an illustration marked as Exhibit #4 that shows a possible alternate route for a connection between Crestline Street at 32nd Avenue and Southeast Boulevard. That possible alternate route would follow 32nd Avenue to the east from Crestline Street and then turn north at the now existing cul-de-sac to connect to 31st Avenue and then proceed along 31st Avenue to Southeast Boulevard. The alternate route in Exhibit #4 would comply with the standards in Title 17G SMC. See SMC 17G.070.146. The applicant’s briefing before the Hearing Examiner emphasizes that the proposed preliminary plat and PUD only proposes to terminate Crestline Street at 32nd Avenue without extending it through the PUD. At the hearing the applicant did not propose the illustration in Exhibit #4 as a modification to the proposed preliminary plat and PUD.

For the reasons stated above in this section, the preliminary plat and PUD as proposed do not comply with all applicable standards of Title 17G SMC.

b. Architectural and Site Design.

The applicant has completed the Design Review process and the recommendations of the DRB are incorporated into this decision.

c. Transportation System Capacity.

As demonstrated by the uncontested Traffic Distribution Letters dated January 3, 2018, and August 14, 2018, there is sufficient capacity on the arterial system and intersections surrounding the proposed preliminary plat and PUD. The capacity of the arterial system and intersections surrounding the proposed preliminary plat and PUD, however, do not relieve the requirement of compliance with the applicable standards of Title 17G SMC.

d. Availability of Public Services.

Both the applicant and Spokane City assert that there is sufficient capacity within the public services to adequately serve the proposed preliminary plat and PUD upon build out of the project. This is supported in the record by evidence in the file that the application was submitted to departments and agencies who provide those services and the responses from those agencies and departments are contained in the file. Failure of an agency or
department to respond to the application or to otherwise object is taken as an indication of adequate capacity.

e. Protection of designated resources such as historic landmarks, view sheds, street trees, urban forests, critical areas, or agricultural lands.

The proposed preliminary plat and PUD is designed to leave in a substantially natural state the rock outcropping on the east side of the site and to preserve as much as possible the mature trees throughout the site. The proposal also maintains much of the walking trails that already exist on the property including improvement to the pedestrian path that currently exists in the area of the ROW for the extension of Crestline Street through the Final Plat of Estate Development (1970). There are no agricultural areas within the site.

f. Compatibility with adjacent uses.

The site of the proposed preliminary plat and PUD is surrounded by varying uses, including commercial development on the northwest and east boundaries. To the west the site is bounded by multi-family apartment style residential development and to the south by single-family residential development on urban sized lots. The proposed commercial and residential development in the northern portion of the site, with a CC1 zoning classification, is compatible with the existing commercial development immediately adjacent to the site. In the southern portion of the site, with a RSF zoning classification, the proposal indicates a total of approximately 126 residential dwelling units across a combination of multi-family residential structures similar to those to the west of the site, single-family cottage-style residential dwellings in the south and east side of the site, and single-family dwellings on urban sized lots similar to the development immediately across the street in the south and east side of the site. The proposed development is within the density requirements for the site and represents a reasonable buffer and transition from the development on the site to the surrounding areas.

g. Mitigation of off-site impacts, such as litter, noise, shading, glare, and traffic.

As conditioned the proposed preliminary plat and PUD will offer mitigation measures relative to this requirement. Although mitigation for traffic is not necessary, based upon the Traffic Distribution Letters submitted and accepted by Spokane City, the extension of Crestline Street from 32nd Avenue to Southeast Boulevard is required by the policies of the Comprehensive Plan and the applicable design and street standards.

In summary, as indicated above in this section, the criteria identified in SMC 17G.060.170(D)(4)(b–g) are met by the proposed preliminary plat and PUD. Criteria (a) is not met.
D.5 (a-j). Plat, Short Plat, and Binding Site Plan – Capacity and Concurrence.

a. Public health, safety and welfare.

As conditioned the proposed preliminary plat and PUD makes appropriate provision for the public health, safety and welfare.

b. Open spaces.

The proposal under consideration includes approximately 9.18 acres of common area tracts that will be used for parks, open spaces, and shared community facilities including community gardens, a neighborhood park, a community center building, and fitness center.

c. Drainage ways.

All stormwater and surface drainage generated on-site shall be disposed of on-site in accordance with SMC 17D.060 “Stormwater Facilities,” the 2008 Spokane Regional Stormwater Manual (“2008 SRSR”), Special Drainage Districts, and City Design Standards.

d. Streets, roads, alleys, and other public ways.

Public and private 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. During testimony at the hearing, the applicant indicated that all streets constructed within the proposed preliminary plat and PUD would be public streets meeting all applicable code requirements and standards.

Notwithstanding a modification of the location of the streets from that illustrated in the Final Plat of Estate Development (1970), the proposed preliminary plat and PUD provides a street connection between Martin Street at 30th Avenue and Southeast Boulevard at 31st Avenue, consistent with the SEPA mitigation requirements of the Sonnelland Comprehensive Plan Amendment Z1200046-COMP.

At the time of the original application it had been proposed that the existing ROWs within the Final Plat of Estate Development (1970) be vacated. During the hearing before the Hearing Examiner Pro Tem, the applicant withdrew its request for vacation of the ROWs within the earlier plat upon the request of Spokane City. The reason for the withdrawal of the request to vacate ROWs and agreement to withdraw was based upon the existence within the ROWs of several utility facilities and the significant future possibility of other utility facilities being placed within the existing ROWs.

Narrower streets with parking on one side and two, 10-foot lanes have been requested indicating a total curb-to-curb width of 28 feet. The alignment and location of the narrower section was not identified in the request. The residential standard curb-to-curb width is 36 feet while the arterial standard curb-to-curb width is 40 feet (SMC 17H.010.050). A design variance request must be submitted and approved prior to the submittal of engineering plans for review if an alternative width is to be used (SMC 17H.010.020).
e. Transit stops.

A Spokane Transit Authority (STA) route is currently available along 29th Avenue and Southeast Boulevard, with a bus stop along 29th Avenue at Martin Street. There is also a Park and Ride facility across Southeast Boulevard at the intersection with 31st Avenue. There are no stops or routes proposed internal to the development.

f. Potable water supplies.

Domestic water services are available at the site of the proposed preliminary plat and PUD. All water services shall follow the "City of Spokane Water Department Rules and Regulations for Water Service Installations." The following changes to the applicant's PUD Development Standards Matrix are required by Spokane City.

PUD Development Standards Matrix – CC1 Zone:
Utilities – All water services shall follow the "City of Spokane Water Department Rules and Regulations for Water Service Installations."
Manifold meters or bullhead assemblies are not allowed. All sewer services shall follow the Regulations Governing Sewer Construction in the City of Spokane and City of Spokane Design standards.

PUD Development Standards Matrix – RSF Zone:
Utilities – All water services shall follow the "City of Spokane Water Department Rules and Regulations for Water Service Installations."
Manifold meters or Bullhead assemblies are not allowed. All sewer services shall follow the Regulations Governing Sewer Construction in the City of Spokane and City of Spokane Design standards.

g. Sanitary sewers.

All sewer services shall follow the Regulations Governing Sewer Construction in the City of Spokane and City of Spokane Design Standards. The sanitary sewer system, including individual connections to each lot, shall be constructed and accepted for services prior to the City Engineer signing the final plat.

h. Parks, recreation and playgrounds.

See b. Open spaces, above. In addition, Hamblen Park is located roughly a quarter of a mile south on Crestline Street from the southern boundary of the proposed preliminary plat and PUD. The parks department did not offer any comments on this proposal.

h. Schools and school grounds.

The site is located within the Spokane Public School District #81, roughly a third of a mile from Hamblen Elementary School. There are no provisions for public schools or school grounds as a part of this proposal. The school district did not provide any comments on this proposal.
i. Sidewalks, pathways, and other features that assure safe walking conditions.

The applicant is proposing a trail system through the community common area and along streets to provide a comprehensive pedestrian system throughout the site that connects to the surrounding roadway system and neighborhoods. Separated sidewalks with street trees will be required on both sides of each new street.

I. City Recommendations:

The City recommends approval of this application subject to the conditions of approval. The City believes that, as the proposal is currently configured, it does not achieve the connectivity envisioned by the Comprehensive Plan and does not comply with the City’s development regulations, which implement the Comprehensive Plan. The conditions of approval are necessary to ensure that the project is consistent with the Comprehensive Plan and Development Regulations, and compliance with the conditions should be a condition of approval of the project.

Any finding of fact above that is a conclusion of law is deemed a conclusion of law.

Any conclusion of law above that is a finding of fact is deemed a finding of fact.

III. DECISION

Based on the Findings of Fact and Conclusions of Law above, the application for a preliminary plat and PUD, on a 24.59-acre site to construct 236 residential units and 38,000 square feet of office, retail, and other commercial uses, is hereby approved, subject to compliance with the conditions specified below.

Any conditions of approval of public agencies that have been added or significantly altered by the Examiner are *italicized*. This approval does not waive the applicant’s obligation to comply with all other requirements of other public agencies with jurisdiction over land development.

A. Conditions of Approval:

1. Development should adhere to plans, drawings, illustrations, and/or specifications on file with the Development Services Center as modified by the conditions below.

2. *As presently configured, the proposed preliminary plat and PUD is not consistent with the applicable goals and policies of the Comprehensive Plan and does not comply with the applicable standards, specifically related to connectivity of streets surrounding and through the proposed development. The applicable policies and standards require that a street connection for vehicles be provided between the intersection of Crestline Street and 34th Avenue to the intersection of Southeast Boulevard and 31st Avenue.*

   - This vehicular connection shall be built to City of Spokane Street Standards.

   - This connection shall be *dedicated* as a public ROW.
• All proposed intersections, corners, or curves must meet the Fire Department's
design standards.

• The location of the street connection shall be agreed upon between the City of
Spokane and the applicant.

• Whether the street connection between Crestline Street and Southeast Boulevard
shall be an arterial street or otherwise is dependent upon the proposed amendment
of the Proposed Arterial Network Map (Map TR 12) found in Resolution No. 2018-
0061, dated July 9th, 2018.

3. The proposed residential public street connection for vehicles between the intersection of
Martin Street at 30th Avenue and Southeast Boulevard at 31st Avenue shall:

• Be built to City of Spokane street standards;

• Be dedicated as a public ROW; and

• All proposed intersections, corners or curves must meet the Fire Department's
design standards.

4. Bike connections must be provided between the three intersections 1) Crestline Street at
34th Avenue, 2) Martin Street at 30th Avenue, and 3) Southeast Boulevard at 31st
Avenue.

5. Pedestrian connections must also be provided between the three intersections identified in
#4 above, and additionally to the proposed trail in the 32nd Avenue alignment to Pittsburg
Street.

6. Any new intersection/driveway at 29th Avenue and Stone Street (south side of 29th
Avenue) shall be limited to "right-in, right-out only" to maintain the function of 29th
Avenue and Southeast Boulevard intersection, pursuant to the Mitigated Determination of

7. Additional clarification shall be provided regarding the following items:

• Provide a key to describe or delineate on the topographical map what the
numbered lots and tracts reference.

• Modify the plan to indicate the uses proposed and their locations in this plat (SFR,
multifamily, mixed use, etc.) or for the tract uses (open space, stormwater
management, multi-modal and pedestrian access, etc.).

8. The applicant shall dedicate 7.5 feet of ROW along the south side of 29th Avenue
immediately adjacent to the proposed preliminary plat and PUD, between Martin Street
and the east property boundary to allow for future widening work on 29th Avenue.
Dedication of the ROW can be used as a credit to offset the cost of Transportation Impact Fees required due to the development of the site.

9. Intersection improvements of 31st Avenue and Southeast Boulevard will be required to include minor restriping work, to add a northbound left turn pocket and crosswalk amenities.

10. Transportation impact fees will be assessed per SMC 17D.075.

11. All public or private streets, paving, curbs, sidewalks, utilities, stormwater, lights, and similar facilities shall be developed according to City standards, unless specifically modified by the city engineer. Waivers, variances, or modifications to the private or public street standards, utilities, and other infrastructure through a PUD shall be approved by the city engineer. No waivers, variances, or modifications to the private or public street standards have been approved for this plat.

12. Any proposed vacation of 32nd Avenue shall be conducted by the Spokane City Council (SMC17G.080.020.D.2.a).

- The existing 32nd Avenue ROW, west of Crestline Street is the planned route for the new water main that will provide the water supply to the new High System Reservoir. This ROW is also planned to be the emergency overflow path for the new reservoir tank. A sufficient no build easement for both of these needs is required for the vacation to be considered.

- All existing public water mains and public sewer mains require a minimum no build easement of 30 feet. If the easements overlap due to the large size of these mains, the easement shall extend a minimum 15 feet from the outside edge of the utility on each side. The no build easements shall apply to all structures, patios, or swimming pools, etc. The City of Spokane shall not be responsible for any surface restoration except grass or asphalt if utility repairs are required. Foundations shall have a minimum 20-foot separation from public water and sewer mains.

- Adequate access shall be provided to surface facilities (e.g., manholes, valves, etc.) within the easement(s).

- If existing public ROW is vacated, the applicant will need to compensate the City of Spokane if there is a net loss of overall platted public ROWs.

13. All existing and proposed easements, both public and private, shall be shown and/or referenced on the preliminary plat face.

- Crestline Street was vacated from 29th Avenue to 30th Avenue in 1994 with the condition of an "unobstructed paved easement" reserved for Washington Water Power Company, Cox Cable TV, and the City of Spokane for existing and future utilities. Reference Ordinance C31317, amending C30538, recording number 9503140282.
• There are existing water service lines to the existing buildings addressed as 2202, 2204, and 2230 E. 29th Avenue. Easements for the water services will need to be established or water services will need to be relocated as to not cross property lines.

14. No structures will be allowed within the existing easement areas of vacated Crestline and Stone Streets.

15. Maintain all existing water and sewer services, provide easements and access as needed.

16. The following items are required to be shown on the preliminary plat per SMC 17G.080.040(B)(2) via SMC 17G.080.050(C)(2):
   - Locations and widths of streets, alleys, ROWs, easements (both public and private), turn around and emergency access, parks and open spaces will need to be shown on the preliminary plat. (SMC 17G.080.040 (2)(r)).
   - The location and sizes of all permanent buildings, ... structures, overhead and underground utilities, ... and other features existing upon, over or under the land proposed to be subdivided, and identifying any which are to be retained or removed.

17. Clearly identify the outer boundary limits of the proposed preliminary plat.

18. All water services shall comply with the “City of Spokane Water Department Rules and Regulations for Water Service Installations.” All sewer services shall comply with the Regulations Governing Sewer Construction in the City of Spokane and City of Spokane Design standards.
   - CC1 Zone: Utilities – All water services shall follow the “City of Spokane Water Department Rules and Regulations for Water Service Installations.” Manifold meters or Bullhead assemblies are not allowed. All sewer services shall follow the Regulations Governing Sewer Construction in the City of Spokane and City of Spokane Design standards.
   - RSF Zone: Utilities – All water services shall follow the “City of Spokane Water Department Rules and Regulations for Water Service Installations.” Manifold meters or Bullhead assemblies are not allowed. All sewer services shall follow the Regulations Governing Sewer Construction in the City of Spokane and City of Spokane Design standards.

19. All manholes and valves shall require a 12-foot-wide, all-weather driving surface to each location for access with either a turn-around or through access and must be accessible at all hours.

20. Each lot must include addresses on the face of the final plat. Application for addresses should be made at the time of sewer and water services permits.
21. Plan review fees for sanitary sewer, water, street, and stormwater improvements will be determined at the time of plan submittal and must be paid prior to the start of review.

22. General Facility Charges (GFCs) must be paid at the time of water and sewer permits, including connections to private systems.

23. 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.

- The developer will be responsible for all costs associated with constructing street improvements necessary to serve the proposed plat.
- Signing and striping plans, where appropriate, shall be included as part of the design submittal.
- Street designs for the proposed plat shall include supporting geotechnical information on the adequacy of soils underneath to support vehicular design loads.
- Any requests to deviate from the City standards (curb, sidewalk and planting strip locations/widths, right-of-way widths, etc.) must be submitted in writing and will be addressed at the time of Developer Services’ review of the street engineering plans.
- Minimum 20-foot radii are required at all residential intersections. A minimum of 30-foot radii are required for residential and arterial intersections.
- Garages shall be setback a minimum of 20 feet from a sidewalk to fully accommodate a parked vehicle without obstructing the sidewalk.
- Americans with Disabilities Act (ADA) ramps must be constructed as necessary.
- All street identification and traffic control signs required due to the proposed plat shall be installed by the developer at the time of street improvements. 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 phase being developed.

24. There are multiple public sanitary sewer mains within the proposed plat/PUD as well as in 29th Avenue available to provide service to this plat/PUD.

- Any new sewer main lines constructed outside public ROW shall be private.
- Any additional sewers necessary to serve the proposed plat shall be designed and constructed to City standards. Review and permit fees are applicable.
- The developer will be responsible for all costs associated with constructing sanitary sewer improvements necessary to serve the proposed plat. Additionally,
inspection fees are applicable for sewer improvements to the lots and are subject to be paid prior to the start of construction.

- Sanitary sewer shall be constructed, inspected, and tested prior to the City Engineer signing the final plat.

25. There are multiple public water mains within the proposed plat/PUD as well as in 29th Avenue available to provide service to this plat/PUD.

- Any new water mains constructed outside of the public ROW shall be private.

- Any additional water mains necessary to serve the proposed plat shall be designed and constructed to City standards. Review and permit fees are applicable.

- The developer will be responsible for all costs associated with constructing water improvements necessary to serve the proposed plat. Additionally, inspection fees are applicable for water improvements to the lots and are subject to be paid prior to the start of construction.

- Water improvements shall be constructed, inspected, and tested prior to the City Engineer signing the final plat.

- A pressure of 45 pounds per square inch (psi) minimum to 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 relief valves be installed at the developer's expense. Where minimum domestic and fire flows cannot be provided from the existing water system, the developer will be required to design and construct improvements necessary to serve the proposed plat in accordance with City standards.

26. A hydraulic analysis is required for the proposed removal of any water mains from the water system, to ensure the operation of the water system is not compromised by the removal.

27. All stormwater and surface drainage generated on-site shall be disposed of on-site in accordance with SMC 17D.060 "Stormwater Facilities" and the Project Engineer's recommendations, based on the drainage plan accepted for the final plat. A surface drainage plan shall be prepared for each lot and shall be submitted to Development Services for review and acceptance prior to issuance of a building permit.

- The Dedication of the plat must address who has responsibility for operation and maintenance of the proposed drainage facilities. If drainage tracts are proposed, a homeowner's association (HOA) must be established and appointed as having responsibility for said stormwater facilities in the tracts. An Operation and Maintenance Manual is required which will identify and list the operation and maintenance tasks associated with the drainage facilities with the tracts. The
Operations and Maintenance Manual must be referenced in the Dedication of the plat.

- All stormwater facilities necessary to serve the proposed plat shall be designed and constructed in accordance with City standards. Review and permit fees are applicable.

- Prior to construction, a grading and drainage plan showing finished one-foot contours and supporting calculations shall be submitted to Development Services for review and acceptance.

- 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. Erosion and sediment control measures must be in place, on the project site, prior to the issuance of any building permits and any construction (including any grading/earth-moving).

- One copy plus a pdf of a final drainage report, including supporting geotechnical site characterization, calculations and documentation, shall be submitted to Developer Services for review and acceptance prior to the City Engineer signing the final plat.

- Acceptance of a conceptual drainage report does not imply that the concept proposed is inherently accepted as the final design. Acceptance only implies that the applicant (or agent) has demonstrated that stormwater disposal is manageable. It does not relieve the applicant from changes to the design that may be necessary in order to comply with the City's stormwater ordinance and design standards.

- If drywells are utilized, they will be tested insure design infiltration rates are met. A minimum factor of safety of two will be required. You must register all new drywells and other injection wells with the Underground Injection Control program (UIC) at Washington State Department of Ecology (WSDOW) prior to use. In addition, discharge from the well(s) must comply with the ground water quality requirement (nonendangerment standard) at the top of the ground water table. Contact the Eastern Regional Office UIC Coordinator, Llyn Doremus at (509) 329-3518 or via email at Llyn.Doremus@ecy.wa.gov. You may also go to https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Underground-injection-control-program for registration forms and further information. Proof of registration must be provided prior to plan acceptance.

- The developer is responsible for all costs associated with constructing stormwater improvements necessary to serve the proposed plat.

28. An unpaved trail shall connect between the Garden District and Touchmark development at the intersection of vacated 32nd Avenue and Napa Street.
29. All water services after the required Protectus meter as shown in City of Spokane Standard Plan Y-118 shall be private. All vault locations shall be per Standard Plan Y-118.

30. A $250.00 deposit will be required for each monument to be installed as part of the final plat.

31. Civil engineered plans and profiles shall use NAVD88 datum (City of Spokane datum minus 13.13 feet).

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

33. Site fire flow will be required to be provided and maintained during construction.

34. Fire hydrant spacing shall not be more than 500 feet (along an acceptable path of travel), within 500 feet of the property line for non-sprinklered buildings and 750 feet of the property line for fire sprinklered buildings (SMC 17F.080.030).

35. For commercial buildings, fire hydrants are required to be along an acceptable path of travel within 400 feet to all points around the building without fire sprinklers (International Fire Code [IFC] 507.5.1), and 600 feet for commercial buildings with fire sprinklers (IFC 507.5.1, exception 2).

36. Fire Department Connections for new fire sprinkler system installations shall be located no more than five hundred feet from a fire hydrant along an accessible path of travel unless approved by the fire official.

37. Fire Department approved all-weather access must be provided to within 150 feet of any point around the outside of a building (IFC 503.1.1). For fully sprinklered buildings, this is extended to 165 feet (IFC 503.1.1, exception 1). Dead-end roads longer than 150 feet need approved fire apparatus turn-arounds (IFC 503.2.5). Fire apparatus turning radius is 50 feet external, 28 feet internal (SMC 17F.080.030.D.3). Minimum height clearance is 13 feet-6 inches (IFC 503.2.1). Fire lanes will have a maximum slope of 10 percent (based on IFC 503.2.7). Minimum width for fire access is 20 feet, unobstructed (IFC 503.2.1).

38. Buildings exceeding 30 feet in height and will be required to have a Fire Aerial Access lane of 26 feet wide along at least one full side of each building (IFC D105.2).

39. Fire access will be maintained during construction. The fire lanes will be maintained with an all-weather surface (IFC 3310.1).
40. Single-family and duplex residential developments that exceed 30 dwelling units on any 
single road with no additional access are required to have a second fire access road (IFC 
D107.1).

41. Pursuant to the DRB recommendation dated June 13, 2018:

- The Design Review Board finds that the site design and architecture as presented 
demonstrates the use of innovative, aesthetic, and energy-efficient design.

- The Design Review Board supports the requested design departure to provide a 6-
foot separated sidewalk with a 6-foot planting strip (in the CC1 zoned portion)

- The project as proposed preserves the healthy urban forest canopy and supports a 
pedestrian friendly environment.

- The applicant shall preserve the existing allee of trees in the center of the site.

- The applicant shall consider opportunities for a terminated vista at South 
Crestline Street and East 32nd Avenue with an amenity or art.

- The applicant shall consider opportunities for greater variation of the roof form of 
the two story multifamily housing units on the south end of the site to better blend 
with the existing neighborhood.

- The project as proposed will better meet the buffer requirement if conifers are 
integrated into the southern landscape buffer.

- Based upon the condition imposed by this decision, requiring that a connection be 
established between the intersection of Crestline Street and 32nd Avenue and 
Southeast Boulevard and 31st Avenue, upon agreement between Spokane City and 
the applicant regarding the location of said connection, the applicant shall return 
to the Design Review Board to address traffic calming, along with any disruptions 
to the pedestrian friendly environment and urban forest canopy.

42. Pursuant to the WSDOE comment:

- The operator of a construction site that disturbs one acre or more of total land 
area, and which has or will have a discharge of stormwater to a surface water or to 
a storm sewer, must apply for coverage under WSDOE's Baseline General Permit 
for Stormwater Discharges Associated with Construction Activities.

43. Pursuant to the STA comments:

- As the Garden District project moves forward, Spokane Transit requests that we 
continue to be involved in the design of the transit stop and associated amenities. 
In particular, the stop and amenities should be planned to support the 
implementation of High Performance Transit elements, with planned 
improvements on the 29th Avenue corridor beginning in 2019. Specifically, we are 
interested in improving (and/or slightly relocating) the existing eastbound stop at
Southeast Boulevard. Such improvements should accommodate raised boarding platforms and power/communication conduits to support High Performance Transit infrastructure.

- Spokane Transit further requests that pedestrian crossing improvements at the intersection of East 31st Avenue and South Southeast Boulevard be considered as part of the project.

44. Pursuant to the Spokane Tribe comments:

- An inadvertent disturbance plan be created and submitted to Spokane City prior to commencement of construction on the project.

45. The following statements shall be included in the Dedicatory Language on the face of the final plat:

- 10-foot-wide easements for "Dry" utilities (electric, gas, phone, fiber, cable TV) as shown on the herein described plat are hereby dedicated for the use of serving utility companies 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. 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. Serving utilities are also granted the right to install utilities across sidewalk easements, common areas or Tracts and future acquisition areas.

- Utility easements shown here on the described plat are hereby dedicated to the City and its permittees for the construction, reconstruction, maintenance, and operation of utilities and cable television, together with the right to inspect said utilities and to trim and/or remove brush and trees which may interfere with the construction, maintenance, and operation of the same.

- All storm water and surface drainage generated on-site shall be disposed of on-site in accordance with SMC 17D.060 "Storm water Facilities", City standards, and as 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 proposed 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 an "a 100-year design storm event" must be identified.

- Slope easements for cut and fill, as deemed necessary by Engineering Services, in accordance with the City's Design Standards, are hereby granted to the City of Spokane for the construction and maintenance of public streets adjoining this plat.

- This plat is not in an irrigation district. The property owner shall maintain the drainage swale/planting strip in the public right-of-way, adjacent to the property.
owner's property, with a permanent live cover of lawn turf, with optional
shrubbery and/or trees, which do not obstruct the flow and percolation of storm
drainage water in the drainage swale as indicated by the approved plans. Any re-
grading of the lots shall not alter the drainage of such facilities. The City of
Spokane and its authorized agents are hereby granted the right to ingress and
egress to, over, and from all public and private drainage easements and tracts for
the purposes of inspection and emergency maintenance of drainage swales and
other drainage facilities. The property owner or his/her representative shall
inform each succeeding purchaser of all drainage easements on the property and
his/her responsibility for maintain drainage facilities within said easements.

- 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.

- All improvements (street, sewer, storm sewer, and water) shall be constructed to
City standards by the developer prior to the occupancy of any structures served by
said improvements.

- All required improvements serving the plat, including streets, sanitary sewer,
stormwater, and water shall be designed and constructed at the developer's
expense. The improvements must be constructed to City Standards by the
developer prior to the occupancy of any structures within the development.

- No building permit shall be issued for any lot in this subdivision/PUD until
evidence satisfactory to the City Engineer has been provided showing that the
recommendations of chapter 17D.060 SMC, Stormwater Facilities, and the Project
Engineer's recommendation, based on the drainage plan accepted for the final
subdivision/PUD, have been complied with.

- No garage shall be permitted within twenty feet from the front property line.

- All parking areas and driveways shall be hard surfaced.

- Only City of Spokane Water shall serve the plat. The use of individual on-site
wells is prohibited.

- Only City of Spokane Sewer shall serve the plat. The use of individual on-site
sanitary disposal systems is prohibited.

- A Transportation Impact Fee will be collected for each lot per SMC 17D.075.

- 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.
• 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 the Engineering Services Department and having adequate pressure for domestic and fire uses, as determined by the Water and Hydroelectric Services Development.

• Prior to the issuance of any building permits, the lots shall be served by fire hydrants and shall have appropriate access to streets as determined by the requirements of the City Fire Department and the Engineering Services Department.

• Water mains and fire hydrants must be installed at the developer’s expense, in locations approved by the City Fire Department and in accordance with applicable State and Federal provisions.

• The water system shall be designed and constructed in accordance with City Standards. A pressure of 45 psi minimum at the property line is required for services 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 relief valves be installed at the developer's expense.

• All private improvements constructed within the boundaries of a PUD are required to be maintained by a homeowner’s association or comparable entity established for this PUD.

DATED this 15th day of January, 2019

CITY OF SPOKANE HEARING EXAMINER
PRO TEM

David W. Hubert, WSBA #16488

NOTICE OF FINAL DECISION AND NOTICE OF RIGHT TO APPEAL


Decisions by the Hearing Examiner regarding preliminary long plats and PUDs are final. The Hearing Examiner’s decision may be appealed to the Spokane City Council. All appeals must be filed with the Planning Department within fourteen (14) calendar days of the issuance of the decision.

Pursuant to Revised Code of Washington (RCW) Chapter 36.70C, the date of issuance of the Hearing Examiner's decision is three (3) days after it is mailed.

On January 15, 2019, a copy of this decision will be by first class mail to the Applicant, the Property Owner, and the Agent and by email or first class mail to other
parties of record. The date of issuance of the Hearing Examiner's decision is January 18, 2019.

THE LAST DAY FOR APPEAL OF THIS DECISION TO THE SPOKANE CITY COUNCIL IS FEBRUARY 1, 2019.

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

Pursuant to RCW 36.70B.130, affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.