



Request for Appeal or Reconsideration

Application

Rev. 20170927

Please answer each question completely. If more space is needed, attach additional paper.

Appellant:

Name: Kelly Puzio
Address: 3525 S. Crestline St. Spokane, WA 99203
Phone: 202-468-5501 Email: kgpuzio@gmail.com

Respondent:

Name: Spokane City
Address: 808 W Spokane Falls Blvd., Spokane, WA. 99201
Phone: 509-755-2489 Email: _____

File Number (of application or permit, if applicable): Z18-598PPUD

This is an appeal or reconsideration of:

- ☒ Hearing Examiner
- ☐ Planning Commission
- ☐ City Engineer
- ☐ City Council
- ☐ Junk Vehicle Determination

- ☐ Planning Director
- ☐ Director of Building
- ☐ Traffic Engineer
- ☐ Homeless Encampment Decision
- ☐ Other: _____

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FEB 01 2019

PLANNING & DEVELOPMENT

This is an appeal or reconsideration to the:

- ☒ City Council
- ☐ Planning Examiner

- ☐ Hearing Examiner
- ☐ Other: _____

What is the decision being appealed or request for reconsideration?

(i.e. approval or denial of a special permit or issuance of a building permit, etc.)

Garden District Preliminary Plat and PUD Application, Findings of Fact, Conclusions of Law, and Decision (Jan. 15, 2019).

Why is the decision wrong?

☒ Error or misinterpretation of FACT

☐ Error in PROCEDURE

☒ Error or misinterpretation of LAW or COMPREHENSIVE PLAN

Please identify the specific factual, legal or procedural errors or misinterpretations that you believe resulted in the decision being wrong and how correcting the error would result in a different decision. If you believe a misinterpretation of the law or Comprehensive Plan or procedural error was made, please identify the specific laws, code sections or plan policies that you believe were misapplied, misinterpreted, or violated:

See attached document

What is the harm to you resulting from the decision?

See attached document

What relief do you seek? What would you have the decision maker do?

See attached document

SUBMITTED BY:

Kelly Puzio

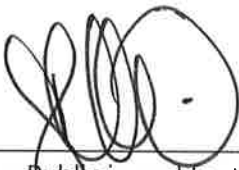


2/1/19

ACKNOWLEDGEMENT

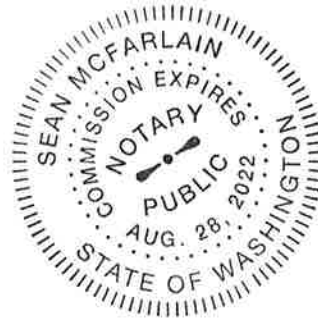
I certify that I know or have satisfactory evidence that KELLY PUZIO signed this instrument and acknowledged it to be his/her own free and voluntary act for the uses and purposes mentioned in this instrument.

DATE:

2/1/2019

Notary Public in and for the City of Spokane,
State of Washington

My commission expires: 08/28/2022

**For Staff Use Only**

Date appeal filed:
Was appeal timely filed?
Appeal fee?
Transcript fee?

Date appeal period ends:
Is appellant a party of record?
Fee paid?
Fee paid?

Co-appellants:

Adrian	Rigsby	2214 E 35th
Alan	DeLong	3525 South Lee St.
Amanda	Gable	3705 S Crestline St.
Amy	Heppler	4516 S Altamont
Andy	Ketza	2203 East 34th Avenue
Andy	Wittwer	3617 S Smith
Barbara	Safranek	2315 E 34th Ave
Bing	Preston	3305 S. Crestline St.
Brad	Pearson	3410 S Napa
Cade	Mowry	4327 S. Crestline St
Chad	Rigsby	2214 E 35th
Charles	Milani	2204 E 34th Avenue
Dean	Gable	3705 S Crestline St.
Desiree	Mowry	4327 S. Crestline St
Diane	Van Orden	2211 E. 34th Ave
Diane	Birginal	2025 E 36th
Drew	Repp	2024 E 36th
Duane	Swinton	2319 East 34th Ave
Erin	Rushworth	3525 S Crestline
Heather	Stewner	1926 E 36 Ave
Holly	Bozo	1926 East 34th Ave.
Jan	Swinton	2319 East 34th Ave
John	Bozo	1926 East 34th Ave.
Katherine	Woodfield	2224 E 36th Ave
Kelly	Puzio	3525 S Crestline
Kevin	Edwards	2206 E. 32nd Ave
Kirk	Jackson	4302 S. Crestline St.
Laine	Lambarth	2310 E 34th Ave
Laura	DeLong	3525 South Lee St.
Lindsay	Edwards	2206 E. 32nd Ave
Lisa	Repp	2024 E 36th
Marcia	Milani	2204 E 34th Avenue

Mark	Safranek	2315 E 34th Ave
Martin	Woodfield	2224 E 36th Ave
Mayla	Edwards	2206 E. 32nd Ave
Michael	Syon	3505 South Lee Street
Nathan	Taylor	1810 E 35th
Pablo	Monsivais	2128 E 35th
Rachel	Devlin	1508 E 34th Ave
Ramona	Pearson	3410 S Napa
Richard	Sola	3605 S. Crestline
Richard	Van Orden	2211 E. 34th Ave
Rick	Boal	2026 E. 30th
Rita	Ketza	2203 East 34th Avenue
Roberta	Jackson	2102 E 30th Ave
Sandi	Jackson	4302 S. Crestline St.
Sharma Shields	Mills	2223 E 36th Ave
Shirley	Marpe	2025 E 34th Ave
Simeon	Mills	2223 E 36th Ave
Temeria	Hatch	2111 E 36th Ave
Theodore	Edwards	2206 E. 32nd Ave
Theresa	Bidowski	2014 East 35th Avenue
Tiffany	Syron	3505 South Lee Street
Tim	Devlin	1508 E 34th Ave
Wendy	Holcomb	1805 E 18th Ave.
William	Bidowski	2014 East 35th Avenue
William	Edwards	2206 E. 32nd Ave
Wu	Xiaodan	2203 E 35th Avenue

Please identify the specific factual, legal or procedural errors or misinterpretations that you believe resulted in the decision being wrong and how correcting the error would result in a different decision. If you believe a misinterpretation of the law or Comprehensive Plan or procedural error was made, please identify the specific laws, code sections or plan policies that you believe were misapplied, misinterpreted, or violated:

In his decision of January 15, 2019, the Hearing Examiner approved the Garden District PUD and subdivision, but imposed a condition requiring Crestline Street to be extended and connected to Southeast Boulevard, just south of the intersection of Southeast and 29th Avenue (the

“Crestline Extension”). The Crestline Extension is opposed by the surrounding Lincoln Heights Neighborhood, the developer (Greenstone), and the Lincoln Heights Neighborhood Council (see the official comments from the Lincoln Heights Neighborhood Council included below). The City Council has also expressed concern over extending Crestline to Southeast Boulevard, as stated in Council Resolution 2018-0061.

The Hearing Examiner based this condition on his conclusion that, absent the Crestline Extension, the PUD and subdivision would conflict with the development code and Comprehensive Plan. Specifically, the Hearing Examiner held that omitting the Crestline Extension would violate policies LU 4.4., LU 4.5, TR 2, and TR7. With respect to the development code, the Hearing Examiner did not cite specific regulatory requirements with which the project would conflict (absent the extension). However, the city’s staff report cited SMC 17H.010.030, SMC 17H.010.080, SMC 17G.080.070, and SMC 17G.070.145 as the basis for the alleged conflict with the code.

However, as documented in the developer’s response to the staff report, the Crestline Extension is not required to ensure consistency with these elements of the Comprehensive Plan and development code. Not only are these provisions too general and vague (and, in some instances, irrelevant) to require the specific action of extending Crestline to Southeast Boulevard, substantial testimony was presented at the hearing that there is already adequate street connectivity in the neighborhood. In short, the Hearing Examiner erred in his conclusion that the Crestline Extension is necessary to ensure compliance with the code and Comprehensive Plan. As a result, the Examiner erred in imposing that requirement as a condition of approval.

In contrast, the Crestline Extension would conflict with provisions of the Comprehensive Plan favoring preservation of neighborhood character and compatibility of in-fill development—specifically, Comprehensive Plan policy LU 1.3 and goal LU 5. In this case, the neighborhood is strongly opposed to the Crestline Extension as it would lead to more traffic in areas where pedestrian safety is already an issue, and would have a dramatic and negative impact on the existing character of the neighborhood.

Correcting these erroneous legal conclusions would result in a decision approving the Garden District PUD and subdivision without the requirement to extend Crestline to Southeast Boulevard. Absent a conflict with the Comprehensive Plan and development code, such a condition would not be justified.

In addition to his erroneous conclusion that the Crestline Extension is necessary for consistency with the Comprehensive Plan and development code, the Examiner also erred in how he chose to implement that condition. At the hearing, the developer demonstrated that there are at least two viable routes for connecting Crestline to Southeast Boulevard, and the Examiner himself opined that both routes would be consistent with the Comprehensive Plan and code. The Examiner even observed that the less impactful route would be consistent with policy LU

4.3 of the Comprehensive Plan, whereas the more impactful route preferred by the city would not.

However, instead of allowing the developer to select the preferred route, and then propose that route for approval by the Examiner, the Examiner's decision requires the developer and city to "agree" on which route will be implemented. In essence, this gives the city veto authority over any proposed alignment for the Crestline Extension. The city need only withhold its "agreement," and the project will die. Yet, where two or more options would equally comply with the code, the city does not have authority to force a developer to choose one option over another.

Finally, the Examiner's decision requires the developer to return to the Design Review Board for further consideration of the proposal after a specific alignment is chosen for the Crestline Extension. However, under the Spokane Municipal Code, the Design Review Board is an advisory body without final decision-making authority and the decision does not specify how the Design Review Board's future recommendations will be effectuated. In this way, too, the Decision was made in error. At the very least, the decision must specify a mechanism for enforcing the Board's future recommendations.

What is the harm to you resulting from the decision?

The appellant and co-appellants live in the neighborhood directly adjacent (or near) the proposed site. We are members of the Lincoln Heights Neighborhood community and council.

The harm resulting to the Lincoln Heights Neighborhood is three-fold:

First, the construction of this arterial will require the destruction of important trees and urban canopy. When considering Greenstone's project, the Spokane Design Review Board (2018) unanimously voted to preserve this urban canopy. Previously, the South Hill Coalition (2014) identified preserving and enhancing the tree canopy as a critical goal. The destruction of these trees and urban canopy will be an extraordinary loss to the entire neighborhood.

Second, this decision requires the developer (Greenstone) to build an arterial through an existing neighborhood. This activity is explicitly rejected in the Spokane Comprehensive Plan: "Existing neighborhoods will be preserved or enhanced ... principle arterials that bisect neighborhoods create undesirable barriers to pedestrian circulation and adversely impact adjoining residences." This arterial will reduce the walkability of our neighborhood, which is already devoid of sidewalks. Only 23% of the streets in this neighborhood have sidewalks.

Third, the construction of this arterial will increase vehicle traffic along Crestline directly adjacent to an Elementary School (Hamblen Elementary), which has over 550 students. Many of these students walk and bike across Crestline on their way to school. This increased traffic strongly increases the likelihood that a young child will be hit or struck by a car.

What relief do you seek? What would you have the decision maker do?

We request that the City Council modify the challenged decision to allow Greenstone to develop this property as proposed – without connecting Crestline to Southeast Boulevard or requiring any other street connections (such as a street connection between 31st and Southeast) to Southeast Boulevard. In the alternative, we request reversal of the decision insofar as it found a conflict between the proposed PUD and subdivision with the Comprehensive Plan and development code, and/or remand to consider the application absent those erroneous legal conclusions.

Palmquist, Tami

From: Carol Tomsic <carol_tomsic@yahoo.com>
Sent: Thursday, November 15, 2018 11:44 PM
To: Palmquist, Tami
Cc: Beggs, Breean; Kinnear, Lori; Stuckart, Ben; Wittstruck, Melissa; DOUGLAS & MARILYN LLOYD; Sally Phillips; Laine Pitcher; Makaya Judge
Subject: Lincoln Heights Neighborhood Council official comments on Garden District PUD

Official Comments of the
 Lincoln Heights Neighborhood Council
 On the Garden District PUD

The Lincoln Heights Neighborhood Council supports the Garden District PUD as recommended to the City by the Design Review Board.

Our residents have expressed confidence in the Greenstone developer's willingness to construct a quality project and their plan to set aside land for a common, publicly accessible natural area.

The Lincoln Heights Neighborhood Council executive board met to provide this response, which is based on remarks made at Council meetings by council members and concerned neighbors. A vote by the neighborhood council is not possible before the open comment deadline. Per Council bylaws, this response will be presented at the next Council meeting.

At several of our Council meetings attendees have expressed concerns about project aspects. Most of the neighborhood concerns were focused on an extension of Crestline to SE Blvd.

The Lincoln Heights Neighborhood Council is concerned about an increase of volume and speed of traffic on Crestline, especially north of 37th where it is currently a residential street without sidewalks. The safety of residents and school children walking to Hamblen elementary would be endangered by the Crestline extension because of the lack of sidewalks and increased traffic. In addition, side roads with noticeable downgrades and limited visibility, especially in the snow and ice, will become dangerous with the increased traffic.

The Lincoln Heights Neighborhood Council is concerned about the safety of the intersection at SE Blvd with the Crestline extension. An increase in car turning movements along with existing bus turning movements will congest an already overburdened intersection. The STA Monroe to Regal High Transit will increase connectivity in our neighborhood, but not if traffic deters it.

The Lincoln Heights Neighborhood Council is concerned about the density of the PUD. Our residents have voiced concerns about crime, multi-family housing and apartments rather than owner-occupied homes. The PUD should continuously address the safety of the residents.

The Lincoln Heights Neighborhood District Plan supports a pedestrian friendly and walkable economically vibrant neighborhood. The Garden District PUD is designed to integrate into the neighborhood and improve connectivity and safety in a manner that complements the existing area. The long-existing pedestrian and bicycle paths on the development will be kept intact by the preservation of an urban forest, open space and residential traffic calming in the development. The Garden District PUD was reviewed by the Design Review Board. The board unanimously recommended the hearing examiner protect the mature tree canopy and stated the PUD preserves the healthy urban forest canopy and supports a pedestrian friendly environment.

The Lincoln Heights Neighborhood Council also notes a reversal of the arterial designation of Crestline was unanimously passed by city council vote to the Comp Plan amendment docket.

The Lincoln Heights Neighborhood Council also notes it does not want an arterial to split its district center. The development will play a strong role in establishing the districts character and long-term success, as cited by our district plan.

The Lincoln Heights Neighborhood Council also supports a walking path through the PUD that connects with the Touchmark walking trail.

The Lincoln Heights Neighborhood Council believes the Garden District PUD provides a non-motorized connectivity to the neighborhood and harmonizes with the South Hill Coalition and Lincoln Heights District Plan.

Thank you

Carol Tomsic

Lincoln Heights Neighborhood Chair

Tami - Please send email confirmation of the comments.