

CITY OF SPOKANE HEARING EXAMINER

Re: Preliminary Plat and Planned Unit) FINDINGS, CONCLUSIONS,
Development application by North) AND DECISION ON
Gorge Residential Properties LLC for a) APPLICANT'S REQUEST FOR
78 acre Preliminary Plat and PUD to be) MINOR AMENDMENTS TO THE
known as Kendall Yards) PREVIOUS APPROVAL
)
) FILE NO. Z2006-06-PP/PUD

SUMMARY OF PROPOSAL AND DECISION

Proposal: The applicant seeks a preliminary plat and planned unit development (PUD) approval in order to allow the subdivision and mixed-use development of approximately 78 acres of land on the north bank of the Spokane River. New public streets, public plazas and the extension of the Centennial Trail through the site are also proposed.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: North Gorge Residential Properties LLC
1421 North Meadowwood Lane
Liberty Lake, WA 99019

Property Address: Not assigned

Property Location: The site is bounded by Monroe Street on the east, the north bluff of the Spokane River and Ohio Avenue on the south, Summit Boulevard on the west and Bridge Avenue and College Avenue on the north.

Legal Description: A full legal description is in the record attached to Exhibit #2.

Zoning: West of Maple Street the property is now zoned RMF (Residential Multifamily) it was zoned R3-L (Limited Medium Density Residential) at the time of application. The property east of Maple Street is zoned CC3 (Centers and Corridors 3) and CB-150 (Community Business 150).

Comprehensive Plan Map Designation: The property is designated Residential 15-30 west of Maple Street and Centers and Corridors-Core, and Commercial East of Maple Street to Monroe Street.

Site Description: The site is irregular in shape and contains 78 acres in area. East of Cedar Street to Monroe Street the site is reasonably flat and devoid of structures. Ide Street runs from Cedar Street to Monroe Street. To the west of Maple Street, the site is rolling and devoid of vegetation because of a Brownfields cleanup that took place in 2005 and 2006. The cleanup resulted in a large amount of contaminated soil being removed from the site. There is also a significant concrete promontory at the far west end of the site, which the applicant may or may not remove.

Surrounding Conditions: Adjacent to the site at the east end is the Spokane County Government Center including the County Health building, the Courthouse and the Public Safety building. Further to the west, properties to the north of the site are developed with some multifamily residential uses but primarily with single-family residential uses all the way to Summit Boulevard. To the south and west of the site there is a steep bank leading down to the Spokane River. On the south bluff there are a few single-family homes and more single-family homes are located further down the slope in an area known as Lower Crossing. The rest of the slopes are owned by the City's Parks Department and are designated as open space. To the east of the site is the commercial area along Monroe Street leading to the Monroe Street Bridge at the southeast corner. The site was for many years used by various railroads and was zoned for industrial and commercial uses until the railroad uses were eliminated.

Project Description: The project is extensively described in the application for a minor amendment to Kendall Yards which is in the record as Exhibit #3. In addition the applicant did a PowerPoint presentation along with a full description of the proposal at the public hearing on this matter and that is also in the record as Exhibit #A4. A PUD and preliminary plat for this site was approved by the Hearing Examiner on September 21, 2006, which allowed the applicant to subdivide the property and develop it with a mix of residential, office and commercial uses. The current applicant is different from the one who received the original approval and the current applicant now seeks approval of a minor amendment to the approved project. The uses of the site will remain substantially the same in that the portion of the site east of Maple Street will be primarily commercial development with some residential and office uses integrated into the commercial buildings. West of Maple Street the applicant seeks a residential development of varying densities and with varying building sizes. While the uses are similar to the original project, the applicant proposes to reduce the density and intensity of the project. The amount of commercial development will be reduced from over 1,000,000 square feet to 720,000 square feet. Twenty thousand square feet of that is to be located at key points in the residential area west of Maple Street. Residential uses will be reduced from 2,500 units to 1,088 units. The low-rise units and single family detached units will be located on the north side of the site adjacent to Bridge Avenue and the West Central neighborhood. The mid-rise buildings will be located more in the center of the site and to the south. The number of high-rise buildings will be reduced by 50% from the original approval and will be located in the center of the site adjacent to a proposed park and on the far southwestern corner of the site. A depiction of the residential height districts proposed is

in the record as Exhibit #6 attached to the application which is Hearing Exhibit #3. The applicant plans several open space areas within the site as well as the extension of the Centennial Trail along the bluff above the Spokane River from Monroe Street to the west end of the site. The applicant has submitted a new phasing plan which is attached to the application as Exhibit #12 and shows simultaneous phasing of both the residential and the commercial areas generally moving east to west. Four of the north/south neighborhood streets will remain intact and be improved and they include Nettleton Street, Elm Street, Cedar Street and Jefferson Street. A linear park and pedestrian connections will be provided at Chestnut Street and Cochran Street extending from Bridge Avenue south to the Centennial Trail. The east/west street, to be called Summit Boulevard will be constructed for east/west circulation. There will be no connection to the Maple Street bridge as previously proposed.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code Sections 11.19, 11.19.101, 11.19.1931, 11.19.361 through 3691 (since repealed), 17C.110, 17C.120, 17G.060.170, 17G.080, and 17G.080.050.

Hearing Date: April 15, 2010. (The record remained open until April 29, 2010, to allow for the submittal of additional information).

Notices: Mailed: March 25 and 26, 2010
Posted: March 29, 2010
Published: March 23, 2010

Site Visit: The Hearing Examiner has viewed the site on several occasions while considering the various proposals.

SEPA: This project was originally approved as Summit Properties and an Environmental Impact Statement (EIS) was issued for the Summit Properties' project in 1993. The City adopted that EIS and a Draft Supplemental Environmental Impact Statement (DSEIS) was published on March 7, 2006. A Final Supplemental Environmental Impact Statement (FSEIS) was published on July 17, 2006. An appeal of the adequacy of the FSEIS was filed on August 2, 2006. A decision denying that appeal was issued on September 21, 2006. An addendum to that FSEIS was issued by the City on March 16, 2010.

Testimony:

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

Raymond Wright
City of Spokane Traffic Engineering
808 West Spokane Falls Boulevard
Spokane, WA 99201

Jim Frank
North Gorge Residential Properties, LLC
1421 North Meadowwood Lane, Ste 200
Liberty Lake, WA 99019

Mike Terrell
MTLA
5312 South Chapman Road
Greenacres WA 99016

Jason Wheaton
North Gorge Residential Properties, LLC
1421 North Meadowwood Lane, Ste 200
Liberty Lake, WA 99019

Todd Whipple
Whipple Consulting Engineers
2528 North Sullivan Road
Spokane Valley, WA 99216

Kelly Cruz
2112 W Bridge Ave
Spokane, WA 99201

John Osborn
2421 West Mission Avenue
Spokane, WA 99201

Gary Mallon
gmallon@greaterspokane.org

Andrew Rolwes
211 North Wall Street, Suite 300
Spokane, WA 99201

Dr. Holmquist
317 North Lower Crossing Street
Spokane, WA 99201

Mardis Nenno
341 North Lower Crossing Street
Spokane, WA 99201

Kay Howard
2725 West College Avenue
Spokane, WA 99201

Michael Akin
2210 West Bridge Avenue
Spokane, WA 99201

Exhibits:

1. Planning Services Staff Report
 - 1-A dated 02-25-10
 - 1-B dated 03-02-10
 - 1-C Developer Responses
2. General Application including Parcel Map and Legal Description
3. Greenstone Application for Minor Amendment, including the following:
 - A-1 Revised Amendment to Kendall Yards Traffic Impact Analysis
 - A-2 Modified PUD Street Sections
 - A-3 Kendall Yards CCRS Document
 - A-4 PUD Street and Development Standards Matrix
 - A-5 Modification of Conditions Summary
 - A-6 Justification for Non-residential Uses in RMF Zone
 - A-7 Geotechnical Study
 - A-8 PUD Application
 - E-1 Illustrative Site Plan

- E-2 Land Use and Density Summary
- E-3 DOE "No Further Action" Letters
- E-4 Commercial Area Building Height Districts
- E-5 Commercial Area Conceptual 3-D Massing Study
- E-6 Residential Area High Rise Building Locations
- E-7 Non-Residential / Commercial Use Districts in RMF Zone
- E-8 Utility Easement Locations
- E-9 Residential Area Height District and Cross Sections
- E-10 Park and Open Space Plan
- E-11 Summit Boulevard Streetscape Drawing
- E-12 Environmental Checklist
- 3-A Amendment to the Final Supplemental Environmental Impact Statement
- 3-B Modifications to PUD and Preliminary Plat Narrative
- 4. Fire Department comments
 - 4-A Developer Response
- 5. Addendum to Kendall Yards PUD SEPA Review
- 6. Affidavit of Mailing dated 03-25,26-10
- 7. Affidavit of Posting dated 03-29-10
- 8. Affidavit of Publication dated 03-23-10
- 9. Affidavit of Sign Removal dated 04-20-10
- 10. Letter dated 01-07-10 to Interested Parties from Ken Pelton
re: requesting comments
- 11. Email dated 02-18-10 to Ken Pelton from Hearing Examiner
re: submission deadline
- 12. Letter dated 02-18-10 to Ken Pelton from Steve Faust
re: supporting project
- 13. Letter dated 02-18-10 to Ken Pelton from Kaye Turner
re: supporting project
- 14. Letter dated 02-22-10 to Ken Pelton from Harry Sladich
re: supporting project
- 15. Letter dated 02-22-10 to Ken Pelton from Lower Crossing Neighborhood
re: concerns regarding project
- 16. Letter received 02-26-10 to Hearing Examiner from Brenda Corbett
re: supporting project
- 17. Letter dated 03-12-10 to Greenstone Corporation from Hearing Examiner
re: approval of Residential Phase 1 with conditions
- 18. Email dated 03-13-10 to Hearing Examiner from Jim Frank
re: requesting clarification of Hearing Examiner's 03-12-10 letter
- 19. Memo dated 03-16-10 to Hearing Examiner from Fire Department
re: response to Jim Frank's email dated 03-13-10
- 20. Memo dated 03-19-10 to Hearing Examiner from Ken Pelton
re: response to Jim Frank's email dated 03-13-10
- 21. Letter dated 03-26-10 to Jim Frank from Hearing Examiner
re: response to Jim Frank's email dated 03-13-10
- 22. Letter dated 04-01-10 to Hearing Examiner from Jim Frank

- re: Urban Forester recommendations
- 23. Application for Appeal or Reconsideration filed by Greenstone 04-02-10
- 24. Letter dated 04-08-10 to Hearing Examiner from James Richman
 - re: reconsideration of Hearing Examiner's 03-26-10 letter
- 25. Letter dated 04-12-10 to James Richman from Hearing Examiner
 - re: response to 04-08-10 letter from James Richman
- 26. Letter dated 04-09-10 to Hearing Examiner from Mardis Nenno
 - re: concerns regarding project
- 27. Email dated 04-12-10 from Steven Hopkins to Ken Pelton
 - re: concerns regarding street width
- 28. Email dated 04-14-10 from Dave Chambers to Ken Pelton
 - re: utility easements
- 29. Letter dated 04-14-10 from Kay Turner to Ken Pelton
 - re: supporting project
- A. Exhibits received at hearing
 - A1 Letter from Brad Wilkin supporting project
 - A2 Submittal by Applicant, Streets
 - A3 Submittal by Applicant, Streets, continued
 - A4 Submittal by Applicant, Amended PUD and Preliminary Plat
 - A5 Submittal by Applicant, Overall Traffic Summary 02-05-10
 - A6 Submittal by Applicant, Walkable Communities
 - A7 Letter from John and Rachel Osborn, request to make agreement with City a part of the record
 - A8 Agreement between City of Spokane and Osborns, dated 10-05-06
 - A9 Letter from Andrew Rowles, supporting project
 - A10 Letter from Gunnar Holmquist, concerns regarding project
 - A11 Letter from Teresa C. Kulik, Chief Judge, concerns regarding project
 - A12 Letter from Judy Theodorson, concerns regarding project
- B. Comments received during the open record period ending 04-29-10
 - B1 Email from Ray Wright, Traffic Engineering, requesting information
 - B2 Letter from Michael Terrell, Tree Master Planning
 - B3 Memo from Eldon Brown, Developer Services, Issues for Consideration
 - B4 Response from Whipple Consulting Engineering
 - B5 Response from Applicant, Traffic Engineering
 - B6 Response from Applicant, Osborne Agreement

FINDINGS AND CONCLUSIONS FOR THE PLAT/PUD:

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

The Hearing Examiner finds that the minor amendments to the proposal still

comply with all of the criteria analyzed in the decision which was issued on September 21, 2006. The Hearing Examiner hereby adopts and incorporates those criteria and they are attached to this decision. The uses proposed have not changed and are allowed under the provisions of the land use codes, the proposal is consistent with the City's Comprehensive Plan and concurrency can be achieved as the density has been substantially reduced. The overall impacts of the proposal will be less because of the reduced density and intensity and there was nothing about the site that makes it unsuitable for the proposed development. All City facilities and utilities are in place to serve the proposal and this proposal, even more so than the original proposal makes appropriate (in terms of capacity and concurrence) provisions for the public health, safety and welfare, open spaces, drainage ways, streets roads alleys and other public ways, transit stops, potable water supplies, sanitary wastes, parks recreation and playgrounds, schools and school grounds, and sidewalks, pathways and other features that assure safe walking conditions.

Most of the concerns and objections to the proposal as voiced in public and written testimony, addressed aspects of the proposal which are not at issue in this decision. There were no legitimate objections to the density and intensity of the project being reduced which was the main reason for the minor amendment request. Some objected to the high-rise buildings, but the applicant is reducing the number of such buildings by 50% over and above the prior proposal. Under this process, the Hearing Examiner lacks authority to prohibit previously approved buildings.

There were also objections to the street system as proposed. The applicant will have north/south neighborhood streets at four locations and will use other street rights-of-way for pedestrian access from Bridge Avenue to the bluff and Centennial Trail. This street pattern was approved by the Transportation Department and meets concurrency standards with some mitigation as required. The east/west street will be constructed as a boulevard with a median in some portions of it and sidewalks and street trees throughout. There was concern about the Centennial Trail where it intersects the intersection of Elm Street and Falls Street. The applicant has proposed to move the trail to the north at that location so that people coming up the hill on Falls Street will have adequate time to stop and people on the trail will have adequate visual contact with cars on that street. There are several locations on the Centennial Trail where there are street crossings and the use of bollards and other devices to warn people of the intersection have been used successfully. While residents of Lower Crossing were concerned that additional traffic would use Falls Street and come down the hill to their dead end residential area, there is not much the applicant or the City can do other than installing signage to prevent people from using a public street such as that. The applicant also proposes a turnaround at the intersection of Elm Street and Falls Avenue

There was also testimony from Mr. John Osborn who, with his wife Rachel Osborn entered into an agreement with the City of Spokane subsequent to the approval of the original project in 2006. Mr. Osborn wanted that agreement to be part of the conditions of approval. The agreement, however, is between the City of Spokane and the Osborn's

and did not include the applicant or its predecessor. If the Hearing Examiner included the agreement in the conditions and the City failed to comply with its obligations, the applicant's project could be in jeopardy unless they stepped in and satisfied the City's obligations. The agreement was between the Osborns and the City and the Osborns will have to look to the City to perform its obligations under the agreement.

As stated above, the following findings and conclusions from the previous decision, issued on September 21, 2006, are hereby adopted and incorporated herein.

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

Preliminary plats and planned unit developments (PUDs) are allowed in accordance with current land use regulations. Subdivisions are allowed and governed by SMC 17G.080.050. This application for a PUD is governed by SMC 11.19.361 through .3691. Therefore, this particular proposal to subdivide the land and develop it as a PUD is allowed under the provisions of the land use codes.

The codes contain certain restrictions and requirements for subdivisions and PUDs. Some of those requirements such as density, height and setbacks can be varied through the PUD process and the applicant seeks several variations to those requirements. Those requests will be addressed under the PUD portion of this decision.

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

The City's 2001 Comprehensive Plan was developed pursuant to the State's Growth Management Act (GMA). The overall purpose of the GMA is to intensify development in urban areas in order to prevent sprawl. This applicant seeks to create an urban village with higher density residential and commercial on a site that is located adjacent to the downtown core and where all services and transportation systems are in place. This helps to prevent sprawl and therefore advances the goals of the GMA.

The Comprehensive Plan designation for the property is Residential 15-30 to the west of Maple Street with various business designations such as Community Business 150 and Centers and Corridors-Core to the east. The applicant seeks to develop the portion from Monroe Street to Maple Street with commercial uses and seeks a mixed used residential commercial urban village on the west part of the site. With bonus densities, which will be considered in the PUD portion of the decision, the net density for the west end from Maple Street to Summit Boulevard is proposed at 28.3 units per acre, which falls within the Comprehensive Plan Density range of 15 to 30 units per acre. The commercial uses on the east end of the site will be governed by floor area ratio calculations. Some residential units may be mixed with the commercial uses, but those residential units are exempted from floor area ratio requirements. Further review will be necessary before commercial uses are allowed to be located with the residential uses on

the west end of the site.

As stated, the Comprehensive Plan was developed to comply with the GMA. The goals of the GMA are set forth in Section 2.2 of the Plan. Goal #1 is to encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner. Goal #2 relates to reducing sprawl. This proposal clearly is consistent with those primary goals by developing a large piece of open land in the middle of the City.

There are various other goals and policies of the City's Comprehensive Plan with which this proposal is consistent. The Hearing Examiner has reviewed the analysis set forth by the applicant in its Planned Unit Development application which is in the record as Exhibit #1C. The Hearing Examiner agrees with the analysis set forth on pages 4, 5, and 6 of that Exhibit and hereby adopts and incorporates those findings herein. There was no evidence presented in this matter which convinces the Hearing Examiner that the proposal is not consistent with the Comprehensive Plan.

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

The proposal was circulated to all applicable City departments and agencies with jurisdiction over land development, and all of those departments and agencies were given the opportunity to comment. While most utilities, facilities, and services are in place and concurrency can be achieved, the Transportation Department only certified concurrency for Phase 1. More transportation analysis will be necessary before further transportation concurrency can be certified. Concurrency can be achieved for all other public services, according to the responses by the agencies that supply those services.

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

The site appears suitable for the proposed development. There is no topographical or other physical characteristics of the property which would preclude development nor is there any standing water or significant drainage problems. The applicant has submitted geotechnical and drainage reports, which are preliminary, to Engineering Services for review and Engineering Services found that they were satisfactory for certifying concurrency in those areas. The applicant must comply with the City's stormwater management regulations, but the drainage report states that this will be feasible.

The site has been significantly cleaned up in the last two years from prior contamination. It had been used by the railroads for over fifty years and was contaminated with heavy metals and petroleum based chemicals. These were removed

from the property and the site was certified with a "No Further Action" letter from the State Department of Ecology.

The applicant has stated that an inventory of historic properties and a limited archeological survey was completed and it was determined that no identified cultural resources are on the site. There are three abandoned Union Pacific Railroad bridges, and though they are not designated as historic, they are proposed to be retained and incorporated into public spaces within the project. There is a proposal to make Nettleton's Addition, which is across Bridge Street to the north a Historic District, and the project applicant proposes two-story buildings along Bridge Street in order to be compatible with the single-family homes across the street. No other site features of this site were identified in testimony which would convince the Hearing Examiner that the site is not suitable for this proposal.

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

Most of the testimony on this project related to its potential impacts on the environment and the surrounding properties. The applicant has issued a SEIS to update the EIS that was done for the Summit Properties project in 1993. The purpose of the supplemental document was to identify any further adverse environmental impacts that could occur from the development of the site and which were not identified in the 1993 EIS. On pages 15 through 20 of the FSEIS there is a matrix of potential impacts and the mitigation proposed for those impacts. That mitigation will become conditions of this approval.

In addition, an appeal was filed as to the adequacy of the SEIS. That appeal was addressed previously. That appeal raised certain environmental issues and questioned the adequacy of the statement. The Hearing Examiner found in reviewing the appeal that the FSEIS was adequate under the rule of reason.

It appears that the biggest impact the project will have is traffic on adjoining streets. The applicant has completed two traffic impact analyses (TIAs) analyzing the impacts of development. There are a significant number of mitigation measures that are set forth in the TIA and which are required to be accomplished either by the applicant or the City to alleviate traffic problems. For the TIA, the applicant's engineers studied over 90 signalized intersections in the project area. In addition, the applicant will have to complete a traffic calming study for the neighborhood streets which exit the property to the north. The project has only been certified for concurrency for Phase 1 and further phases will require additional traffic study.

It is difficult to predict what traffic impacts the proposal will actually have. The applicant proposes to make the project very pedestrian and bicycle friendly and with its

proximity to Downtown and other commercial areas as well as its proximity to employment centers, such as Downtown, the traffic may not impact surrounding properties to the degree some think. Also, as the project develops and there is a greater concentration of residents, an easy to use transit service could alleviate traffic impacts further. In any case, the City is requiring traffic impact studies for all phases of development of this site to insure that the impacts on surrounding properties are identified and addressed.

The impact of the project that is difficult to quantify is the impact of having larger buildings throughout the development. Some areas will be allowed buildings that are between four and eight stories in height and other areas will be allowed buildings between eight and twelve stories. Some people object to the additional height while others think they should be allowed. This issue is more of an aesthetic issue than an environmental issue. The taller buildings will have the greatest impact upon other properties within the same development. The applicant has planned the placement of buildings such that the shorter buildings, two-stories tall, will be placed across Bridge Street from existing single-family residences. The taller buildings will be placed to the south of the site and their main impact from shadowing, etc., will be to other buildings in this development. While it is true that some people who testified stated that in their opinion the taller buildings would be an eyesore on the bluff overlooking the Spokane River, the primary impacts of those buildings, light, shadowing, etc., will be felt by people residing in other buildings on site. The applicant testified that those internal impacts can be addressed in overall site design.

With all of the mitigation that will be required along with future design review and subsequent traffic studies, the Hearing Examiner finds that the proposal should not have a significant adverse impact on the environment or the surrounding properties.

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

1. The proposed subdivision must make appropriate (in terms of capacity and concurrence) provisions for:

a. Public health, safety, and welfare. The Hearing Examiner finds this criterion has been met and, in so doing, hereby adopts and incorporates the Planning Services Department Findings on this criterion, set forth in the Planning Services Staff Report, Exhibit #22 page 5.

b. Open spaces. At the hearing on this matter the applicant stated that approximately 25 acres of the site will be left in public open space. That will be in the form of plazas, informal open space areas around buildings, viewpoints at the top of the old concrete bridges as well as the continuation of the Centennial Trail from Monroe Street all the way through the site to Summit Boulevard. Therefore there is adequate provision for open spaces.

c. Drainage ways. The Hearing Examiner finds this criterion has been met and, in so doing, hereby adopts and incorporates the Planning Services Department findings on this criterion, set forth in the Planning Services Staff Report, Exhibit #22, page 5.

d. Streets, roads, alleys, and other public ways. The applicant proposes a system of streets through the project which will all connect to the main arterial which is Kendall Yards Boulevard, a new street. The overall street system plan is in the PUD Master Plan Exhibit #1G (Exhibit #7). Kendall Yards Boulevard will run from its intersection with Monroe Street through to the west end of the plat where it will connect to Lindeke Street. In addition, several existing neighborhood streets will be extended southward through the plat to intersect with Kendall Yards Boulevard. This will form a grid street pattern for the neighborhood and provide connectivity. The illustrative sections for the various streets are also set forth in the Master Plan and show a 38 foot wide paved street with curb, planting strip and sidewalks. There will also be connections to Maple Street.

In addition, as stated above, the applicant has completed two TIAs which analyzed over 90 nearby signalized intersections to evaluate levels of service concerns. The mitigation recommended by the TIA and the City's Transportation Department will become conditions of this approval. In addition, staff has recommended that a traffic calming study be done to review traffic impacts in the adjacent neighborhood and recommend mitigation. That will also be a condition of this approval.

e. Transit stops. There is transit service on Monroe Street and also along Broadway Avenue, which is two blocks to the north. Further, the increase in density on this site has the potential for increasing transit shuttle service, a future street car line, or at the very least enhanced transit service to this area. This should occur with the density proposed and the projects proximity to Downtown.

f. Potable water supplies. The Development will be connected to the City of Spokane's public water system. The construction of water mains and all costs associated with the construction of water improvements necessary to serve this plat will be the responsibility of the developer, subject to approval of plans and specifications by the City of Spokane. An overall water plan and hydraulic analysis must be submitted to Engineering Services-Developer Services for review and acceptance prior to the City Engineer signing the final plat/PUD.

g. Sanitary wastes. The development will be connected to the City's sanitary sewer system. The applicant will be responsible for all costs associated with constructing sewer improvements necessary to serve the proposed plat/PUD. Sanitary sewers necessary to serve the proposed plat/PUD shall be designed and constructed to City standards. Construction plans shall be submitted to Engineering Services-Developer Services for review and acceptance prior to the City Engineer signing the final plat/PUD.

h. Parks, recreation, and playgrounds. Besides the extension of the Centennial Trail and other open space within the PUD, the Hamblin conservation area is located to

the south and High Bridge Park is located to the south and west. In addition, Riverfront Park is approximately three blocks away from the east end of the development to the southeast.

i. Schools and schoolgrounds. The site is located within School District #81. There are no provisions for public schools or schoolgrounds within the development. School District #81 did not offer comment on the proposal and it is assumed, therefore, that the district can accommodate the children from the housing within the proposed development.

j. Sidewalks, pathways and other features that assure safe walking conditions. The Hearing Examiner finds this to be a very pedestrian friendly development. Besides the extension of the Centennial Trail through the plat, all streets will have a sidewalk on both sides and there will be other pedestrian and bicycle connections throughout the plat.

For a planned unit development (PUD), the following criteria must also be complied with:

1. All of the criteria in SMC 11.19.361 are satisfied.

General Objective #1. Encourage a more creative approach for land development, achieving a more efficient, aesthetic and desirable use of the land in harmony with and not adversely affecting the surrounding area, but remaining within the desired population density ranges and land area coverage standards. Such land development must be consistent with the available land, transportation, utilities, public health and safety standards of the City and the goals and policies of the Comprehensive Plan.

The Hearing Examiner finds that this proposal is a creative approach for land development. That conclusion is reinforced by the unanimous positive recommendations of the Design Review Committee who have expertise in the design area. The applicant has developed a unified site plan creating a pedestrian friendly urban village master plan which should compliment both the adjacent West Central Neighborhood, the County Government center, the Centennial Trail and the central business district. All utilities and facilities are in place to serve the proposal and the Hearing Examiner has found that the proposal is consistent with the Comprehensive Plan. The density ranges are within those allowed in the Comprehensive Plan and the land area coverage standards will also have to be met. Twenty-five percent of the site will be left in open space which will be a public amenity that will benefit the whole City as well as the surrounding areas.

General Objective #2. Best utilize and protect the potential of sites characterized by special features such as size, shape, geography, topography, or some environmentally sensitive feature.

The potential of this site is characterized by its size. There is nothing in the shape,

geography or topography which needs protection nor are there environmentally sensitive features on site which need protection although the applicant will have to develop a wildlife habitat plan to help protect wildlife areas located near the river and on the steep bluffs to the south and west of the site, which are public lands. It is unique to have a site of this size in the middle of an urban area adjacent to the central business district which provides a lot of opportunities for the applicant to be creative and develop the site as a master plan urban village as has been proposed in this case.

General Objective #3. Best preserve historical and cultural features.

No historical or cultural features have been identified on the site. There are existing Union Pacific Railroad bridges and the former High Bridge abutment at the west end of the site and the applicant proposes to preserve them and incorporate them into public areas in the site design. The applicant has also proposed interpretive signage to tell the story of the site. In addition, Nettleton's Addition to the north across Bridge Street has applied for Historic District Designation. The applicant has agreed to be sensitive to that and compliment that area with the scale and character of house design on the south side of Bridge Street within the project.

General Objective #4. Make possible a variety of living, working and/or recreational environments.

The site will be developed with urban style living which provides a contrast to the alternative of typical suburban style, large lot, single family housing which is developed on the periphery of the City. The applicant seeks to provide 2,600 housing units in a variety of buildings and settings, both for sale and rental. The site provides views from the north bank of the river and the opportunity to live close to downtown with its amenities and employment opportunities. There are recreational opportunities nearby with the Centennial Trail and the various parks and public lands.

General Objective #5. Maximize opportunities to conserve energy or utilize alternative energy sources.

As a high-density urban infill development the opportunity for more transit use and pedestrian and bicycle options in the vicinity will expand. The proximity to the downtown core and other commercial areas will help conserve energy by minimizing driving times. In addition, the applicant has proposed to seek LEED's certification. Certification under the LEED's (Leadership in Energy and Environmental Design) system is a nationally recognized environmentally friendly design system, which has a Green Building Rating System insuring superior environmental design. All of this will maximize opportunities to conserve energy.

General Objective #6. Encourage economy and efficiency in the provision and maintenance of utilities and transportation routes and in the provision of quality housing at a reasonable price.

Since this is an infill project, there is an economy and efficiency in using an infill site where utilities and transportation systems already exist. In addition, the site was contaminated but has been cleaned up by the applicant so the City should encourage its development.

General Objective 7. Permit flexibility in design such as, for example, placement of buildings, common wall construction, use of open spaces, bicycle and pedestrian circulation facilities, off-street parking areas, street alignment, or other methods to achieve these objectives.

The applicant has requested flexibility in design in various areas. He has asked for bonus densities which would make the density of the project greater than allowed in the underlying R3-L Zone, but would still keep it within the density range allowed by the Residential 15-30 designation in the Comprehensive Plan. The applicant has also asked for certain nonresidential uses in the residential portion of the site as well as height deviations.

In order to allow bonus density, the Hearing Examiner must find that the proposal complies with one or more of the criteria set forth in SMC 11.19.369D (since repealed). The Hearing Examiner finds that bonus density should be allowed under those criteria. There is no point system within the ordinance and no way to calculate the value of any criteria, but the applicant has satisfied Criteria #2, which favor sites which are within a reasonable distance of fire and police as well as medical, shopping, church, and other such amenities. This infill site is clearly benefited by proximity to many public services and shopping as well as employment centers. Criteria #3 relates to energy efficiency. In this case the proposal is south facing and the applicant has stated that it will take advantage of solar access. In addition, the applicant has stated that the project will have an improved environmental design, using the LEED standards of environmental design, which will create an energy efficient and environmentally superior project.

Criteria #4 is met in that there will be both private and public open space and recreational facilities as well as bicycle and pedestrian pathway systems including the extension of the Centennial Trail. Criteria #5 relates to environmental design and, as stated above, the applicant has proposed to seek LEED certification as part of his environmental design process. Criteria #6 is also met in that there will be a mix of housing types including townhouses, condominiums and apartments both for sale and rental within the development. The Hearing Examiner also believes that this is an innovative design and that therefore Criteria #7 has been met. Therefore, bonus densities are hereby allowed up to the 28.3 units per acre requested by the applicant.

The applicant also seeks to add some nonresidential uses within the area zoned RMF (formerly R3-L). There are requirements in the Municipal Code for adding nonresidential uses to a residential PUD and a condition of approval will be that the applicant complies with those requirements. They are set forth in SMC 11.19.363

(since repealed).

The Hearing Examiner hereby approves the increased height sought by the applicants subject to certain conditions and also subject to design review in the case of the taller buildings. The buildings in the 8 to 12 story areas must receive design review and those within the 4 to 8 story areas of the site are to have an average height of no higher than 6 stories. Buildings located in the 2 to 3 story areas are subject to the height transition requirements of SMC 17C.110.215C3.

DECISION

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

A. General Conditions:

1. Approval is for a preliminary plat and planned unit development for the 78 acre development to be known as Kendall Yards. It is approved for approximately 1,100 residential units and approximately 720,000 square feet of commercial and office uses. The property will be developed substantially in accordance with the modified application and site plans which are in the record as Exhibit #3. The number of lots, layout of streets and other site features shall be substantially as depicted on those site plans except where these conditions modify those placements. The design and location of streets, access points, pedestrian circulation, bicycle circulation, the Centennial Trail extension, and all other open space shall be substantially as depicted on the plan. The applicant is authorized to prepare a final plat and PUD plan in accordance with the preliminary plat in these conditions of approval. Any modifications to the preliminary plat/PUD shall be reviewed and approved by the City Hearing Examiner.

2. Any portion of the stormwater system, the utilities, the public plazas and other common areas which are on/in private property, shall be maintained by a homeowners association. A set of covenants, conditions, and restrictions (CC&Rs) prepared for the proposed development is subject to review and approval by the City of Spokane and shall be recorded with the Spokane County Auditors Office prior to the recording of the final plat. The CC&Rs shall address the duties and responsibilities of the homeowners association with regard to all private facilities and utilities. This includes, but is not limited to the levying and collection of assessments, the operation and maintenance of all systems and facilities and shall also provide for the administration and enforcement of these duties and responsibilities.

3. The project is planned to be constructed in phases. An amended Phasing Plan is in the record attached to the application as Exhibit #12. The current plan for the residential

portion of the site is to begin the phases adjacent to Maple Street and work westward. That phasing is approved and the applicant is permitted to submit the project in phases. Each phase is to be submitted to the Design Review Board for review and comment prior to the filing of the final plat for that phase. If the Design Review Board determines that the phase does not comply overall with the PUD Master Plan then the plan for the phase shall be forwarded to the Hearing Examiner for review.

4. The applicant seeks modification and approval of building coverage, yards and height in this PUD. The Hearing Examiner hereby approves the requested modifications as documented in the modified PUD Zoning Standard Matrix which is attached to the application as Appendix #4, subject to the following conditions. Buildings in the eight to twelve-story categories are subject to Design Review and shall incorporate a design of equal or better quality than would be achieved under the current City Tall Building Standards (SMC 17C.250) and the North Bank Overlay District (if applicable). If Design Review finds that any proposed buildings fail to meet the overall guidelines of the PUD Master Plan then the concept plan for those buildings shall be submitted to the Hearing Examiner for review. The Design Review Board is encouraged to use as public a process as possible in reviewing the designs. The applicant shall also submit to Design Review for review and comment, the overall project design guidelines of the PUD Master Plan including the signage standards as well as the design of all public plazas and public spaces within each phase of the PUD at the time each PUD phase is finalized.

5. The applicant's plan calls for 20,000 square feet of commercial uses, consistent with those allowed in the B1 zone to be placed in the RMF zone located west of Maple Street. The applicant has shown conformance with the requirements of SMC 11.19.363 which regulates non-residential uses in a residential PUD. See Appendix #6 of the application.

6. Sanitary sewer service shall be provided by the City of Spokane. Sanitary sewers shall be designed and constructed to City standards. Sewers in public streets, public alleys or public easements will be maintained by the City. Sewers located on private property will be maintained by the homeowners association. The project proponent shall be responsible for all costs associated with providing sanitary sewer service throughout the plat and securing all approvals and easements necessary to serve lots within the proposed plat. The Director of Wastewater Management has agreed to allow a single sewer service per building including for townhouse buildings with fee title ownership. A written agreement between the City of Spokane and the applicant will be required for this type of service.

7. The proposal shows several streets being vacated which contain sanitary sewer lines and/or water lines. The applicant must either move those lines to a public right of way or grant easements to the City in order to allow for the maintenance and operation of those lines. Paved or other dust free access to all sewer manholes and all water valves shall be maintained at all times. All accesses shall be designed to accommodate maintenance vehicles. If a surface other than asphalt or concrete is proposed it shall require written approval by the Director of Wastewater Management or the Director of the Water

Department. No structure may be constructed in any utility easement.

8. Water service shall be provided by the City of Spokane's water system. The water lines within the plat must be designed and constructed to City standards. Water lines existing or constructed in any public street will be operated and maintained by the City of Spokane. All water lines behind a master water meter shall be operated and maintained by the homeowners association, even if located in a public street, alley, or easement. Water mains located on private property shall be operated and maintained by the homeowners association. The design of water lines and systems shall be submitted to Engineering Services-Developer Services for review and acceptance prior to the City Engineer signing the final plat. The project proponent will be responsible for all costs associated with constructing water improvements necessary to serve the proposed plat. The Director of the Water Department has agreed to allow a single water service per building including townhouse buildings with fee title ownership. A written agreement between the City of Spokane and the applicant will be required for this service.

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

10. A hydraulic analysis with supporting calculations for domestic and fire flows must be submitted to Engineering Services-Developer Services for review and acceptance prior to the City Engineer signing the final plat/PUD. Because the final location, height, and construction type of all buildings is not yet known, a hydraulic analysis may be required for each structure at the time of building permit application. Pressures must meet City standards for domestic and fire flows. Any new connections to the existing sewer mains or water mains are subject to the City's Pavement Cut policy.

11. All storm water and surface drainage generated on-site shall be disposed of on-site in accordance with the City's storm water regulations. Predevelopment offsite runoff passing thru the plat/PUD shall not be increased (rate or volume) or concentrated due to development of the plat/PUD based on a 50-year design storm. A final drainage report with pre and post development rates and volumes for a 10, 50, and 100-year design storm as well as complete geotechnical support shall be submitted for review and acceptance prior to the City Engineer signing the final plat/PUD. The geotechnical report shall discuss the location of drainage structures, verify dry well capacities and verify percolation rates to soils where drainage swales are to be constructed. Site specific stormwater drainage reports and plans will be required for each structure and parking lot as building permits are requested. Supporting technical information, discussing location of drainage structures, and drywell capacities and verification of percolation rates through soils where drainage swales are to be constructed must be included in each site specific submittal.

12. Drainage structures (pipes, catch basins, drywells, etc.) located in public streets and rights of way, shall be maintained by the City of Spokane. Drainage structures located in any private streets or private areas of the plat/PUD shall be maintained by the owners

association. Swales or ponds in the public right of way shall be maintained by the adjacent property owner or the homeowners association. All swales and ponds shall be maintained with a permanent cover of live lawn turf, with optional shrubbery and/or trees which do not obstruct the flow or percolation of runoff in the drainage swale.

13. The design of the stormwater treatment and disposal system shall comply with all recommendations of the geotechnical engineer as contained in the stormwater report submitted to the City of Spokane for this development. The developer will be responsible for all costs associated with constructing storm water improvements necessary to serve this proposed PUD plat.

14. An erosion/sediment control plan, detailing how dust and runoff will be handled during and after construction must be submitted to Engineering Services-Developer Services for review and acceptance prior to construction.

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

16. On the portion of the project site located east of Maple Street, the development of any below-grade structures, including basements, is subject to prior review of a geotechnical evaluation for foundation design to determine suitability and the effects from stormwater and/or subsurface runoff. The geotechnical evaluation is required to be performed for each lot with below grade-level structures and submitted for review and acceptance to the City of Spokane Building Department and the City Engineering Services-Developer Services Department prior to the issuance of a building permit.

17. The applicant has submitted proposed street sections for each of the streets to be constructed within the PUD. See Appendix #2 of the application. All street sections which are consistent with the Street Sections set forth in the Transportation Element of the City's Comprehensive Plan are approved. The Director of Engineering Services has approved the street sections subject to the following additional conditions.

- A. Where medians are proposed, they shall be designed in accordance with the City's Engineering Design Standards.
- B. Where the street design does not allow for a 20-foot clear width, emergency vehicle staging areas shall be designated. Those staging areas shall comply with the requirements of SMC 17H.010.140.
- C. The location and size of various improvements, including but not limited to planter bulbs, pedestrian bump outs, medians, and roundabouts, will be evaluated at the time full engineering plans are submitted. The location and size of all streetscape features, including landscaping, shall comply with the

City's Clear View Policy as described in SMC 17C.110.230 (G).

- D. In all cases, sidewalk and planting strip widths shall meet the minimum requirements of the City's Engineering Design Standards and the Spokane Municipal Code.
- E. A 32-foot wide street section with on street parking on both sides is approved for Lindeke Street south of Summit Boulevard, Nettleton Street south of Bridge Avenue, and Elm Street south of Bridge Avenue. Emergency vehicle staging areas, as approved by the Fire Department shall be provided. Narrower streets are allowed in low density (less than 10 units per acre) residential areas only. If plans change and the density exceeds 10 units per acre, a 36-foot wide street may be required by the City's Engineering Services Director.
- F. Where perpendicular parking is proposed, for example on Ohio Street at the park, additional street width may be required by Engineering Services to allow for maneuvering area. For those streets and other streets which front the PUD, improvements are required including City of Spokane standard curb, sidewalk, buffer strips, paving, street signage, striping, stormwater drainage, street trees, and street lighting. Wheelchair ramps are also required.

18. Garages on residential units, if any, shall be a minimum of 20 feet from the back of the sidewalk. Clear view at driveways and street intersections must be maintained. All street lighting shall be constructed to City standards. The street names shall comply with SMC 17D.050.

19. As modified in the application, most driveway approaches in the residential component of this PUD will be accessed by connecting alleys. These residential driveway approaches will not require approach permits. However, all commercial driveways and residential driveways that connect to the collector arterials shall require an approach permit.

20. All street identification and traffic control signs required for this project must be installed by the developer at the time the streets are improved, prior to the occupancy of any structures served by those streets. The developer will be responsible for all costs associated with constructing street improvements necessary to serve this plat/PUD. Street designs for all arterials must include supporting geotechnical information on the adequacy of the soils underneath to support vehicle loads.

21. Nettleton Street is designated in the Comprehensive Plan as a shared use roadway and therefore shall be constructed as such. Lindeke Street will be constructed into a multiuse path from Summit Boulevard north to Bridge Avenue.

22. All streets proposed for vacation, can be vacated through the plat/PUD process as long as the appropriate utility easements or utility relocations are accomplished. The exception to this is for portions of Ohio Avenue. The Hearing Examiner concludes that Ohio Avenue between Elm Street and Cedar Street may be vacated through the PUD/Plat

process as long as Summit Boulevard has been constructed between Elm Street and Cedar Street and Elm Street is constructed from Bridge Avenue to Falls Avenue. The vacation of any other portions of Ohio Avenue must go through a street vacation process by the City Council pursuant to the requirements of the City code. Portions of the Ohio Avenue right-of-way shall be dedicated for use for the Centennial Trail and or park uses as shown on the Proposed Park, Open Space and Trail Plan.

23. Slope easements for cuts and fills, as deemed necessary by Engineering Services-Developer Services are to be granted to the City of Spokane for the construction and maintenance of public streets in and adjoining this plat. This statement must be included in the dedicatory language on the face of the final plat/PUD. All easements, existing and proposed as well as their purpose shall be on the final plat. A 10-foot utility easement shall be granted along all streets within the plat.

24. Prior to the signing of the final plat, a Developer Agreement must be negotiated and executed between the City and the developer. This agreement shall address the timing and financing of recommended traffic mitigations as well as any other issues relating to development and mitigation which the City and the developer agree to address.

25. The applicant's modified proposal includes an overall reduced development plan from the original showing commercial areas reduced from 1,000,000 square feet to 720,000 square feet and residential uses reduced from 2,600 dwelling units to 1,088. The Transportation Department states that this results in a trip generation decrease of approximately 48%, with an estimated 1,292 adjusted (after deducting pass by trips and mixed use credits) p.m. peak hour trips.

A. The applicant will be 100% responsible for financing the following mitigations:

1. Construction of full intersection improvements for Monroe Street and Bridge Avenue. Full intersection improvements shall be developed at this intersection upon meeting a traffic signal warrant where the traffic signal warrant analysis is conducted by the applicant's engineer upon a request by the Director of Engineering Services. Upon meeting traffic signal warrant criteria, the proponent shall install a traffic signal system as approved by the Director of Engineering Services at the Monroe Street and Bridge Avenue intersection. As vehicular traffic increases on Monroe Street, storage capacity for left turn movements from north bound traffic on Monroe Street must be addressed. The applicant shall be required to provide all engineering design, obtain all required permits, bid the construction, administer the contract and be responsible for all cost associated with this improvement.
2. The applicant shall also make the following improvements; construction of Bridge Avenue between Monroe Street and Jefferson Street; the construction of Jefferson Street south to Summit Boulevard; the construction of Summit Boulevard to collector arterial standards, west to its

intersection with College Avenue; full intersection improvements at Monroe Street and Bridge Avenue, Bridge Avenue at Madison Street, Bridge Avenue at Jefferson Street, Jefferson Street at Summit Boulevard, Summit Boulevard at Cedar Street, Summit Boulevard at Elm Street, Summit Boulevard at Nettleton Street, Summit Boulevard at Lindeke Street, and Summit Boulevard at College Avenue. The applicant shall insure all existing residents access to their properties.

3. The Applicant will be responsible for construction of the Centennial Trail (Monroe Street Bridge to the west terminus of the site), including the trail, lighting and associated improvements adjacent to the Kendall Yards project. Construction of the trail can be implemented to coincide with phases of the Kendall Yards project.

B. The following mitigation items and their financing arrangements will be addressed by the applicant and the City in the Developer Agreement referenced in Condition #24 above:

1. The applicant will contribute 34.9% (its proportionate share) to the Northwest Boulevard/Monroe Street project.
2. The applicant shall contribute 5.6% (its proportionate share) to the Northwest Boulevard and Maple Street project.
3. The applicant shall contribute 15.3% (its proportionate share) to the Boone Avenue and Maple Street project.
4. These fees will be collected on a per unadjusted p.m. peak hour trip basis (i.e. prior to deducting pass by trips and mixed use credits) of \$75.65 per p.m. peak hour trip and will be assessed only for the commercial development of the PUD. These fees will be collected at the time of receiving a building permit application.
5. In an effort to initiate preliminary engineering design for the affected intersections, the developer will guarantee a mitigation payment of \$36,000.00 to be paid on July 1, 2012. Mitigation fees paid prior to that date will be credited against the \$36,000.00 guarantee and future fees will be credited to any surplus remaining from the guaranteed amount.

26. Prior to the issuance of any building permit for any structure in the plat/PUD, a trip generation letter shall be submitted for review and acceptance, unless further addressed in the Developer Agreement referred to in Condition #24. The letter shall include the number of proposed residential units or the number of square feet of commercial space for the proposed structure, the number of p.m. peak hour trips for the proposed structure, and a running total of each for the phase.

27. The project shall maintain a roadway connection between Summit Boulevard and Bridge Avenue at Cedar Street, Elm Street, Nettleton Street and Summit Street. Pedestrian corridors shall be maintained between Bridge Avenue and the Centennial Trail at Cochran Street, Chestnut Street, Oak Street and Ash Street.

28. The applicant shall develop a habitat management plan ("HMP") that meets the requirements of SMC 17E.020.090. The HMP will be prepared by a wildlife biologist that is hired following an interview process that includes the applicant, the City of Spokane Parks Department ("Parks"), the Washington Department of Fish and Wildlife ("State") and a representative designated by the West Central Neighborhood. Parks shall administer the contract with the biologist. The biologist shall prepare the HMP in coordination with Parks and the State. Parks and the applicant shall share equally in the cost of preparing the HMP and any required mitigation. The HMP will address the slope areas along the river adjacent to the applicant's property. In addition to addressing the requirements in the ordinance the HMP shall address the potential affects of lighting and pets from this development on habitat areas and propose mitigation. The recommendations of the plan shall become part of the CC&Rs for the development and also part of the rules for the homeowners association. Recommended mitigation shall become conditions of this approval.

29. The applicant, in conjunction with the City of Spokane, shall conduct a traffic calming analysis to look at traffic impacts and traffic calming mitigation for the north south local access streets that are being linked between Summit Boulevard and the West Central Neighborhood to the north. In developing the traffic calming analysis, the parties shall also seek comments from Spokane County to insure that the streets around the Courthouse and the other government buildings in the area are taken into consideration in the study.

30. Except as modified by this PUD approval, the requirements of SMC 17C.160, the North River Overlay District, shall apply to this modified Kendall Yards PUD/plat.

31. Concurrency for all utilities for the entire PUD as modified is certified. Transportation concurrency is certified for Phase 1 of the residential development and will be examined further with the remainder of the modified project.

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

33. The subject of financial guarantees to insure that the construction of all streets, drainage, utilities and erosion/sediment control improvements are accomplished prior to the sale or transfer of any lots, shall be addressed and become part of the Developer Agreement between the City and the applicant as set forth in Condition #24 above.

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

35. The plattor shall consult with the Department of Engineering Services to insure the proper wording is used in the dedication on the final plat.

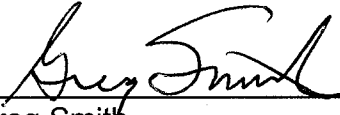
36. The applicant shall implement all mitigation set forth in the Mitigation Matrix of the Final Supplemental Environmental Impact Statement, Pp. 15-20 unless modified by these conditions.

37. The applicant shall use its best efforts to: 1) Obtain LEED's (Leadership in Energy and Environmental Design) certification and; 2) to design all site lighting to minimize its potential for extending on to the slopes along the Spokane River Gorge.

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

39. Spokane Municipal Code 17G.060.240 regulates the expiration of this approval, and Table 17G.060.3 sets forth the time frame for the expiration of all approvals.

DATED this 27th day of May 2010



Greg Smith
City of Spokane Hearing Examiner

NOTICE OF RIGHT TO APPEAL

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

Decisions of the Hearing Examiner regarding preliminary plats and planned unit developments are final. They may be appealed to the City Council. All appeals must be filed with the Planning Department within fourteen (14) calendar days of the date of the decision. The date of the decision is the 27th day of May 2010. **THE DATE OF THE LAST DAY TO APPEAL IS THE 10TH DAY OF JUNE 2010 AT 4:30 P.M.**

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

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