

CITY OF SPOKANE HEARING EXAMINER

Re: Application for a Preliminary Plat and)
Planned Unit Development to subdivide) FINDINGS, CONCLUSIONS,
three existing parcels into up to 96) AND DECISION
attached housing lots on roughly 9.76)
acres, on land within the Residential) FILE NO. Z22-348PPUD
Single Family (RSF) zone.)

I. SUMMARY OF PROPOSAL AND DECISION

Proposal: The applicant, Whipple Consulting Engineers, Inc., is requesting approval of an application for a Preliminary Plat and Preliminary Planned Unit Development (PUD) from the Hearing Examiner to subdivide three existing parcels into up to 96 attached housing lots on roughly 9.76 acres, using the 10% density bonus within the PUD regulations. The applicant may ultimately remove three lots for the purpose of building a clubhouse and pool to serve the development.

Decision: Approved, with conditions.

**II. FINDINGS OF FACT
BACKGROUND INFORMATION**

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

Owner: Diamond Rock Construction / 920 Evergreen, LLC
2602 N Sullivan Rd
Spokane Valley, WA 99216

Property Location: The proposal consists of Tax Parcel Nos. 34032.0607, 34032.0401, and 34032.0432, addressed as 5216 S. Palouse Highway, 5336 S. Freya Street, and one unaddressed parcel. The site is located near the intersection of 55th Avenue and Freya Street.

Legal Description: The legal description of the property is provided in the Preliminary Plat, Moody P.U.D. See Exhibit 4, p. 13.

Zoning: The property is zoned RSF (Residential Single Family).

Comprehensive Plan (CP) Map Designation: The property is designated as Residential 4-10.

Site Description: The proposal includes three parcels which front 55th Avenue, Freya Street, and Palouse Highway, as well as unimproved 53rd Avenue to the west. The site size is approximately 9.76 acres. The site is currently vacant and relatively flat with natural vegetation.

Project Description: The applicant is proposing to construct up to 96 attached housing units using the PUD standards. The development proposes a mix of public and private streets, as well as private alleys for individual townhome access. The development will be served by public water and sewer. The applicant indicates that up to three lots may be removed from the final proposal for the purpose of constructing a clubhouse and pool to serve the development. The application seeks a density bonus, which is allowable through the PUD regulations, for a maximum of 96 units. The proposal is requesting minor deviations from zoning development standards (lot width, frontage, and minimum lot area).

Surrounding Conditions and Uses: The adjacent zoning to the north and east is RSF, to the west is RMF (Residential Multi-Family), and farther to the east and south is outside the City's jurisdiction (Spokane County). Adjacent land uses to the west are multi-family, whereas land uses to the north are single family. Uses to the east and south in Spokane County are mini storage, a church, and single-family homes.

III. PROCEDURAL INFORMATION

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

Notice of Community Meeting: Mailed: July 7, 2023
Posted: July 6 & 7, 2023

Notice of Application/Public Hearing: Mailed: July 7, 2023
Posted: July 10, 2023
Published: July 10 & 17, 2023

Community Meeting: July 26, 2022

Site Visit: August 7, 2023

Public Hearing Date: August 9, 2023

State Environmental Policy Act (SEPA): A Determination of Non-Significance (DNS) was issued on July 25, 2023. See Exhibit 9. The deadline to appeal the DNS was August 8, 2023. The DNS was not appealed.

Testimony:

Ali Brast, Associate Planner
City of Spokane Planning & Development
808 W. Spokane Falls Boulevard
Spokane, WA 99201

Todd Whipple, PE
Whipple Consulting Engineers, Inc.
21 S Pines Rd
Spokane Valley, WA 99206
toddw@whipplece.com

Leonard & Linda Crume
5124 S. Palouse Highway
Spokane, WA 99223
lcrumes@gmail.com

Will Clark
2910 E. 57th Avenue, 5-122
Spokane, WA 99223
will@spokanepropertyservices.com

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

Sue Petersen
manitoprime@icloud.com

Lori Achenbach
lori1975@comcast.net

Jean Wells
wellsj@hotmail.com

Exhibits:

Staff Report, dated 08/03/23, including the following exhibits:

1. Pre-Development Conference Notes
2. Notification Map Application
3. Community Meeting Materials
4. Application Materials, including:
 - a. General Application with Owner Authorization, pp. 1-2
 - b. Preliminary Long Plat Application, pp. 3-7
 - c. PUD Application, pp. 8-12
 - d. Site and Context Plans, pp. 13-26
 - e. SEPA Checklist, pp. 27-48
 - f. Supplemental Information and Development Narrative, pp. 49-52
 - g. Application Receipt, p. 53
 - h. Trip Generation and Distribution Letter (TGDL), pp. 54-65
5. Request for Agency Comments, including:
 - a. Request letter dated 09/26/22, pp. 1-3
 - b. Washington State Department of Archaeology and Historic Preservation (WSDAHP) dated 09/26/22, pp. 4-5
 - c. Spokane Regional Health District dated 09/28/22, pp. 6-9
 - d. Avista dated 10/07/22, pp. 10-13
 - e. Spokane Fire Department dated 10/24/22, pp. 14-16
 - f. Washington State Department of Ecology (WSDOE) dated 10/06/22, pp. 17-18
 - g. City of Spokane Engineering dated 10/27/22, pp. 19-24
 - h. City of Spokane Development Services Technically Incomplete Letter dated 11/01/22, pp. 25-30

- i. Whipple Consulting Engineers response letter dated 12/21/22 (pp. 31-40) with attachments, including:
 - Revised site plans, pp. 41-47
 - Revised Environmental Checklist, pp. 48-67
 - Concept Storm Drainage Report, pp. 68-113
 - Geotechnical Report, pp. 114-162
 - Cultural Resources Report (pp. 163-198), including Appendix A – Unanticipated Discovery Plan (pp. 199-211) and letter from WSDAHP dated December 16, 2022 (p. 212)
- 6. Second Request for Agency Comments, including:
 - a. Request letter dated 01/10/23, pp. 1-3
 - b. Spokane Regional Health District dated 01/10/23, pp. 4-5
 - c. Spokane Tribe of Indians dated 01/11/23, p. 6
 - d. City of Spokane Water and Hydroelectric Engineering dated 01/11/23, pp. 7-9
 - e. City of Spokane Traffic Engineering dated 01/18/23, pp. 10-13
 - f. City of Spokane Street Department dated 01/20/23, p. 14
 - g. Spokane Transit Authority dated 01/24/23, pp. 15-19
 - h. City of Spokane Engineering dated 02/02/23, pp. 20-25
 - i. Spokane Fire Department dated 02/07/23, pp. 26-30
 - j. City of Spokane Development Services Technically Incomplete Letter dated 02/10/23, pp. 31-37
 - k. Whipple Consulting Engineers response letter dated 03/15/23 (pp. 38-46) with attachments, including:
 - Revised site plans, pp. 47-54
 - Revised Cultural Resources Report (pp. 56-91) with Revised Unanticipated Discovery Plan (pp. 92-104)
 - l. City of Spokane Traffic Engineering dated 03/28/23, pp. 105-107
 - m. City of Spokane Street Department dated 04/04/23, p. 108
 - n. City of Spokane Engineering dated 03/29/23, p. 109
 - o. City of Spokane Development Services Technically Incomplete Letter dated 04/26/23, pp. 110-117
 - p. Whipple Consulting Engineers response letter dated 05/12/23 (pp. 118-126) with attachments, including:
 - Revised site plans, pp. 127-139
- 7. Notice of Application, SEPA, and Public Hearing Instructions (pp. 1-2), including:
 - a. Public Notice Letter, Map and Parcel List, pp. 3-6
 - b. Affidavits, pp. 7-13
- 8. Public Comments
- 9. DNS
- 10. Staff Presentation
- 11. Applicant Letter to Hearing Examiner
- 12. Applicant Presentation

IV. FINDINGS AND CONCLUSIONS

To be approved, a PUD must comply with the criteria set forth in Section 17G.060.170 SMC. The Hearing Examiner has reviewed the application and the evidence of record with regard to the application and makes the following findings and conclusions:

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

The site is zoned RSF. The Applicant is proposing to develop the site with up to 96 attached housing lots. "Residential Household Living" is permitted in the RSF zone. See Table 17C.110-1. "Residential Household Living" is characterized by residential occupancy of a dwelling unit (DU) by a household. See SMC 17C.190.110(A). Examples include single-family residences, duplexes, and other structures with self-contained DUs. See SMC 17C.110.190(C). The Applicant is proposing a development for single-family DUs, which is a permitted use in the RSF zone.

The proposal, however, is not to develop traditional single-family lots. The Applicant is proposing a plat/PUD for attached housing lots. Attaching housing means two or more DUs that are single-family residences on individual lots attached by a common wall at a shared property line. See SMC 17A.020.010(AR) (defining "Attached Housing"). Attached housing includes townhouses, row houses, and other similar structures. See *id.* This type of housing is permitted in the RSF zone. See SMC 17C.110.115 (entitled "Housing Types Allowed"); see *also* Table 17C.110-2 (showing that "Attached Single-family residence is permitted in the RSF zone).

SMC 17C.110.310 sets forth development standards for attached housing. Among other things, those provisions state that a maximum of two houses may be built with a common wall. See SMC 17C.110.310(F)(1). Structures made up of three or more attached houses are prohibited unless approved as a PUD. See *id.* The proposal includes an application for a PUD. See Exhibit 4. As a result, the Applicant's proposal to develop banks of between four and eight attached housing lots is permitted by the land use codes. See Staff Report, p. 4.

The development will also be required to satisfy the general development standards in the RSF zone. The Applicant has not requested any deviations from setbacks, height, and off-street parking. See Staff Report, pp. 4-5. The Applicant has, through the PUD process, sought deviations from other development standards. For example, the Applicant seeks to reduce the minimum lot size in the RSF from 4,350 square feet to 2,225 square feet, and the minimum frontage from 40 feet to 25 feet. See Staff Report, p. 4; see *also* Table 17C.110-3. The Applicant also seeks to increase the density above the maximum of 10 units per acre. See Table 17C.110-3. The proposed density of the project is 10.9 units per acre. See Staff Report, p. 4.

The requested deviations from the development standards are allowed pursuant to the PUD standards. See Staff Report, p. 5. Staff had no objections to the design changes, as they were appropriate under the PUD standards and given the design of the project. *Testimony of A. Brast.* The density deviation, in particular, is permitted because the Applicant proposed to include nine units for affordable housing, qualifying the project for a bonus of 10% above the maximum density. See Staff Report, p. 5. If the affordable housing is not included in the project, the number of units would drop from 96 to 87. See *id.*

At the hearing, the Applicant further requested deviations from the lot coverage and floor area ratio (FAR) standards. *Testimony of T. Whipple.* These deviations were requested to accommodate the development of row houses on small lots. See *id.* The City had no

concerns about the requested departures from the standards. *Testimony of A. Brast*. For similar reasons as discussed above, the City agreed that these changes were reasonable in scope and were necessary to accommodate the proposed townhouse-style housing. *See id.*

The Hearing Examiner concludes that the proposal, as conditioned, satisfies the land use codes, including the PUD and plat standards as discussed in Paragraphs 6 and 7 below. Therefore, this criterion for approval is satisfied.

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

The proposed development is consistent with the pertinent provisions of the CP. The site is designated as Residential 4-10. This designation allows attached (zero-lot line) housing of two family residences or more with the approval of a PUD overlay. *See CP, Chapter 3, p. 3-41.* The proposal is to develop 96 attached housing lots on roughly 9.76 acres, using the 10% density bonus within the PUD regulations. This proposal indicates banks of between four and eight attached housing lots. The CP encourages the further development of this housing option. *See CP Chapter 3, Policy 3.6, p. 3-24.*

The City seeks to provide opportunities for a variety of housing types that are safe and affordable for all income levels. *See CP, Chapter 6, Goal H1, p. 6-5.* Similarly, Policy H1.18 promotes a wide range of housing types and housing diversity to meet the needs of a diverse population with varying income levels. *See CP, Chapter 6, Policy H1.18, p. 6-9.* The project serves these goals given that it is intended to provide affordable housing options for mid-level incomes. *See Staff Report, p. 6.* In addition, the project will increase housing diversity at a time when the community is experiencing housing shortages and limited choices.

As its name suggests, land designated as Residential 4-10 may be developed with a minimum of four DUs/acre and a maximum of ten DUs/acre. *See id.* The density of the project is 10.9 DUs/acre, which is allowed provided the PUD provision is used. Thus, the project satisfies the density objective of its residential designation with the increased density allowed under a PUD.

The development is situated within an area that is predominantly designated for low-density residential use. *See Exhibit 10 (slide 5).* There is an apartment complex to the immediate west and single-family uses to the north. The area to the south and east are outside the Spokane City limits but appear to be comprised of an apartment complex to the northeast, mini-storage to the east, and single-family residences immediately to the south. *See Exhibit 10 (slide 4).* Given these characteristics, the proposal is consistent with Goal LU5 and Policy LU 5.5. These provisions of the CP promote development that is complementary and compatible with surrounding land uses. *See CP Chapter 3, Goal LU 5 & Policy LU 5.5, pp. 3-27 & 3-28.*

The project is consistent with several other goals and policies of the CP, as discussed in the Staff Report. *See Staff Report, pp. 5-6.* The Hearing Examiner concludes that this criterion is satisfied.

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

Two requests for agency comment were circulated on or about September 26, 2022, and January 10, 2023. See Exhibits 5 & 6. In response, the City received comments from various agencies regarding the project. See *id.* The conditions suggested by agencies or departments with jurisdiction were incorporated as project conditions. See Staff Report, p. 6. “No department or agency identified that the application as proposed cannot meet concurrency.” See *id.* To the extent any deficiencies exist in public infrastructure, those conditions are addressed by the project conditions. See *e.g.* Conditions 3, 4, and 6 (setting forth requirements for water, sewer, and transportation). The Hearing Examiner concludes that, with the proposed conditions, the project satisfies this criterion for approval.

- 4) *If approval of a site plan is required, the property is suitable for the proposed use and site plan considering the physical characteristics of the property, including but not limited to size, shape, location, topography, soils, slope, drainage characteristics, the existence of ground or surface water and the existence of natural, historic or cultural features. See SMC 17G.060.170(C)(4).*

The Hearing Examiner concludes that the property is suitable for the proposed use, given its physical characteristics. The site consists of approximately 9.76 acres and, thus, has sufficient size to accommodate the proposal. The shape is irregular but well-suited for development of housing, as the project plans demonstrate. See Exhibit 4, pp.13-26. The location is appropriate, most notably given that the site fronts three arterials, facilitating proper access to and from the development. See Staff Report, p. 6.

The site is generally flat. See *id.* The steepest slope on the site is only 3% in grade. See Exhibit 4, p. 31 (Environmental Checklist ¶ B(1)(a)). There is no reason to conclude that the soils are unsuitable for development. The proposal will use stormwater disposal methods consistent with the Spokane Regional Stormwater Manual (SRSM). See Exhibit 4, p. 30 (Environmental Checklist ¶ A(15)(a)(1)). The project is properly conditioned to control the drainage. See Condition 5. There are no surface waters on the site. See Exhibit 4, p. 33 (Environmental Checklist ¶ B(3)(a)(1)).

No groundwater will be withdrawn as the project will be served by city water. See Exhibit 4, p. 34 (Environmental Checklist ¶ B(3)(b)(1)). In addition, wastewater will be collected and routed to the public sewage treatment facility. See Exhibit 4, pp. 34-35 (Environmental Checklist ¶¶ B(3)(b)(2), B(3)(c)(2)). In addition, as previously discussed, stormwater will be collected and treated prior to discharge, in order to protect groundwater quality. There was no evidence introduced at the hearing to establish that the project was materially hindered by the presence of groundwater, or that it would have significant impacts on groundwater.

A cultural resources survey was completed for this site. See Exhibit 6, pp. 56-104; see *also* Exhibit 5, pp. 163-211. The survey did not reveal any eligible cultural resources. See *id.* The survey concluded that the project should be permitted to proceed as planned. See *id.* The WSDAHP concurred with the results and recommendations of the survey report. See Exhibit 5, p. 212 (Letter of WSDAHP, dated 12/16/22). The WSDAHP did not recommend any further archaeological supervision of the site. See *id.* However, the WSDAHP did request that the Applicant prepare an Inadvertent Discovery Plan. See *id.* The Spokane Tribe of Indians came to the same conclusions. See Exhibit 6, p. 6

(Letter of Spokane Tribe of Indians, dated 01/11/23). The Applicant has already prepared an Inadvertent Discovery Plan for the project. See Exhibit 6, pp. 92-104; see also Exhibit 5, p. 199-211.

The Hearing Examiner concludes that the property is suitable for the proposed use, given the conditions and characteristics of the site. As a result, this criterion is satisfied.

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

The record in this case supports the conclusion that no significant environmental impacts will arise from this project.

There are no wetlands or surface waters on this site. See Exhibit 4, p. 33 (Environmental Checklist ¶ B(3)(a)(1)). The site is not located within a 100-year floodplain. See Exhibit 4, p. 33 (Environmental Checklist ¶ B(3)(a)(5)). No threatened or endangered species were identified on the site. See Exhibit 4, pp. 36-37 (Environmental Checklist ¶ B(4)(c) & B(5)(b)).

The project is not anticipated to create any significant noise or light, beyond that associated with normal residential uses. See Exhibit 4, p. 39 & 41 (Environmental Checklist ¶ B(7)(b) & B(11)). No waste materials will be discharged into the ground or surface waters. See Exhibit 4, pp. 34-35 (Environmental Checklist ¶¶ B(3)(a)(6), B(3)(b)(2) & B(3)(c)(2)). No environmental hazards are anticipated to arise due to this project. See Exhibit 4, p. 38 (Environmental Checklist ¶ B(7)(a)).

The Applicant will be required to implement onsite controls for stormwater and surface drainage generated from the development. See SMC 17D.060.010 *et seq.* As previously referenced, all stormwater will be collected, treated, and discharged in accordance with the SRSM. These requirements have been incorporated into the project conditions. See Conditions 5 & 24. The Applicant's engineer has prepared a concept drainage report to support the project, and to fulfill the applicable standards. See Exhibit 5, pp. 68-113.

The project will generate new traffic that has an impact on the transportation system. However, the City reviewed and accepted the TGDG prepared by the developer's traffic engineer. See Exhibit 4, pp. 54-65. The TGDG concludes that the impacts of the project will adequately be addressed through the payment of impact fees. See Exhibit 4, p. 60. Accordingly, the City will be collecting impact fees pursuant to SMC 17D.075. See Condition 27. There is no evidence to demonstrate that more is necessary to address traffic impacts.

There will be some impacts due to construction activity. See e.g. Exhibit 4, p. 39 (Environmental Checklist ¶ B(7)(b)(2)-(3) [concerning construction noise]). However, the construction impacts will not result in significant environmental impacts and can be adequately mitigated (e.g. dust control, limited work hours, etc.). Further, the construction activity is temporary. Once the construction project ends, the potential impacts from noise, dust, and emissions from construction vehicles will cease. In addition, the environmental impacts of the completed project are minor.

Various departments and agencies reviewed the proposal and concluded that there were no significant environmental impacts. The City examined the environmental checklist, and ultimately issued a DNS on July 25, 2023. See Exhibit 9. The appeal period for the DNS expired on August 8, 2023. See *id.* The DNS was not appealed. *Testimony of A. Brast.*

It should be noted, however, that an adjacent property owner at 5124 S. Palouse has continually provided comments during the processing of this plat specific to their water issues. See Staff Report, p. 6; see also Exhibit 8, p. 2; *Testimony of Leonard & Linda Crume.* Their home has three sump pumps that feed into a 500-gallon outdoor drywell. See *id.* To dispose of the water, they pump through an underground buried pipe under Ferrall Street, which was approved when the property was in the County. See *id.* These concerns, and others, have been adequately addressed, as discussed below. See Paragraph IV.8.

Based upon the foregoing, the Hearing Examiner concludes that the proposal will not have a significant adverse impact on the environment or the surrounding properties and, therefore, this criterion for approval has been met.

6. *The proposal is consistent with the development standards for planned unit developments. See SMC 17G.060.170(D)(4).*

The project satisfies the criteria for approval of a PUD, as set forth in SMC 17G.060.170(D)(4).

a. *Compliance with All Applicable Standards. See SMC 17G.060.170(D)(4)(a).*

The Staff has confirmed that the proposal satisfies the applicable standards for a PUD, found at SMC 17C.070.030. See Staff Report, p. 7. The Hearing Examiner agrees with the Staff's analysis and conclusions, and hereby incorporates the Staff's reasoning into this decision. See Staff Report, pp. 8-9.

b. *Architectural and Site Design. See SMC 17G.060.170(D)(4)(b).*

The building elevations provided by the Applicant indicate that the building design standards of a PUD will be met. See Staff Report, p. 8. At the time this project went through Pre-Development, Design Review was required for PUDs. See *id.* By the time this application had been submitted, that requirement had been removed from the municipal code. See *id.* Staff believes this criterion is satisfied, and the Hearing Examiner concurs.

c. *Transportation System Capacity. See SMC 17G.060.170(D)(4)(c).*

There is network capacity on the arterial system surrounding this development and direct access is proposed from this plat to several arterials. See Staff Report, pp. 8-9. The City's Traffic Engineer required the applicant to prepare a TGDL to analyze the anticipated trips generated and distributed by the plat. See *id.* Other than Traffic Impact Fees, no additional transportation improvements have been identified of the applicant to the larger system. See *id.* A peanut-about is proposed at the intersection of Palouse Highway and Freya (draft plan included with file). See *id.* This project's impact fees will contribute to the achievement of this project. See *id.*

The Hearing Examiner finds that transportation system has sufficient capacity to support the proposed development. To the extent there are any impacts to the transportation system, those impacts are accounted for through the payment of impact fees. Therefore, this criterion is satisfied.

d. Availability of Public Services. See SMC 17G.060.170(D)(4)(d).

The application was first circulated for comment on September 26, 2022. See Exhibit 5. The application was circulated again, for additional comments, on January 10, 2023. See Exhibit 6. Various departments and agencies provided comments on the proposal. See Exhibits 5-6; see also Staff Report, p. 9. The conditions suggested by those agencies and departments are incorporated into this decision. These conditions ensure that the public facilities and services will be adequate to support the proposed development. That said, no department or agency reported that public services or facilities were unavailable. The Hearing Examiner concludes that public services and facilities are available to serve the plat/PUD. Therefore, this criterion is met.

e. Protection of Designated Resources. See SMC 17G.060.170(D)(4)(e).

The site is zoned RSF and, thus, is properly developed with residential uses. See Paragraph IV.1. The site does not contain designated landmarks, critical areas, or agricultural lands. See Staff Report, p. 9.

A Cultural Resources Survey was completed by the Applicant. See Exhibit 6, pp. 56-104 & Exhibit 5, pp. 162-211. The survey demonstrated that there are no historic or cultural resources on the site. See *id.* Nonetheless, an Inadvertent Discovery Plan has been prepared to protect any such resources during the development of the site, should any be discovered. See Exhibit 6, pp. 92-104; see also Exhibit 5, p. 199-211.

No evidence was introduced that demonstrated that designated resources were on the site and needed to be protected. The Hearing Examiner concludes that this criterion is fulfilled.

f. Compatibility with Adjacent Uses. See SMC 17G.060.170(D)(4)(f).

The site is proposed for development with 96 attached housing lots on a site that is zoned RSF. The proposed use is compatible with both the adjacent zoning and the existing uses of the surrounding land. For example, the land to the west is zoned RMF and is the location of an apartment complex. The land to the north is zoned RSF and is predominantly developed with single-family residences. The area to the south and east is outside the city but includes uses such as an apartment complex, mini-storage, a church, and single-family residences. The proposed development is not incompatible with any of these uses, as the Hearing Examiner already concluded. See Paragraph IV.2. This criterion for approval of a PUD is satisfied.

g. Mitigation of Off-Site Impacts. See SMC 17G.060.170(D)(4)(g).

The proposed residential development is unlikely to have material, off-site impacts. See Part IV.5. The construction work will have some impact, but those impacts are temporary and can be mitigated by best management practices. Once the project is completed, the likely impacts of residential uses are relatively small. The project will not be a significant source of noise, light/glare, litter, etc. See *id.* The risks of such impacts will be offset during building permit review, which will consider matters such as refuse disposal and on-site lighting. See Staff Report, p. 9. Therefore, this criterion is satisfied.

7. *The proposed subdivision makes appropriate (in terms of capacity and concurrence) provisions for: (a) public health, safety, and welfare; (b) open spaces; (c) drainage ways; (d) street, roads, alleys, and other public ways; (e) transit stops; (f) potable water supplies; (g) sanitary wastes; (h) parks, recreation and playgrounds; (i) schools and school grounds; and (j) sidewalks, pathways, and other features that assure safe walking conditions. See SMC 17G.060.170(D)(5).*

The proposal makes adequate provisions for the public health, safety, and welfare. The proposal is designed and will be required to satisfy the applicable city standards for drainage, streets and other public ways, proper disposal of storm water, and the like. All the pertinent facilities, such as streets, curbing, sidewalks, etc., must be designed and constructed in accordance with City standards. The development will be connected to public sewer and water. There were no comments from any department or agency suggesting that the proposed development placed undue stresses on the public infrastructure or services. There was no testimony or other evidence that convinced the Hearing Examiner that there would be significant impacts on the public health, safety, or welfare.

The Hearing Examiner concludes that the proposal satisfies the applicable subdivision standards. The Hearing Examiner also adopts and incorporates the staff's analysis of this issue, found on pages 7-8 of the Staff Report. This criterion is met.

8. *The project, as conditioned, adequately addresses the concerns of the neighboring property owners.*

Mr. and Mrs. Crume raised two primary concerns about the project. *Testimony of Leonard & Linda Crume.* First, they worried that the project may damage or interfere with their drainage system, which keeps water from flooding their home. *See id.* Second, they were concerned about how the project would impact the use of Ferrall Road. Specifically, Mr. Crume was concerned about individuals parking along Ferrall, interfering with his ability to move his boat in and out of his property through his existing gate and driveway. *Testimony of Leonard Crume.* He requested that "no parking" restrictions be imposed on that roadway. *See id.* He also objected that drivers would use Ferrall to avoid or bypass the future "peanut-about," causing heavy traffic, speeding, etc., along that road. *See id.*

The project is required to dispose of all its drainage on-site, in accordance with the SRS and city standards. The project will not interfere with or diminish the capacity of the neighbor's drainage system. *Testimony of T. Whipple.* This includes the planned improvements to Ferrall Street. *See Exhibit 11, p. 2.* In addition, the developer plans to make drainage improvements, early in the project that will ensure that the neighbors are not harmed by the development activity. *Testimony of T. Whipple.* In response to the Crumes' request, the project engineer will provide contact information for the developer's contractor, engineer, and possibly others, so that the neighbors can call in the event any serious problems arise. *See id.*

With respect to access and parking, the project conditions already address the Crumes' concerns. Condition 3b states the the west side (which is the location of the neighbors' driveway) of Ferrall will be constructed with standard curb/gutter and driveway drops "in coordination with adjoining property owners." *See Condition 3b.* Thus, the conditions already honor the neighbors need for access, and include a requirement to coordinate with them on the improvements. Condition 3b further states if the road is constructed to a width

of 28 feet, “no parking signs must be installed along the west side.” See Condition 3b. The project engineer confirmed that the intent is to construct the road to that width. *Testimony of T. Whipple*. Thus, the project conditions already include a “no parking” restriction on one side of the road. See *id.* The neighbor wanted the restriction to apply to both sides of the road. *Testimony of Leonard Crume*. However, the traffic department did not find that to be necessary when it proposed the condition. The Hearing Examiner believes that imposing additional parking restrictions on a public road is a matter best left to the discretion of the traffic department. If the neighbors want additional restrictions, they should make that request to the traffic department, which may or may not agree.

The traffic concerns raised by the Crumes are adequately addressed. The idea that some drivers will use Ferrall as a bypass route is intuitive, but there is no evidence that a material amount of traffic will re-route to Ferrall once the peanut-about is constructed. The neighbor is not a traffic expert and could not offer an analysis of future traffic patterns. Regardless of that, the project engineer pointed out that the proposed design for Ferrall Road includes constrictors, which act as traffic calming measures. *Testimony of T. Whipple*; see also Exhibit 12 (Slide 23). These kinds of measures have proven to be at least partially effective in other developments. *Testimony of T. Whipple*.

Other neighbors also raised concerns about the proposal. See Exhibit 8. Those concerns included excessive traffic, inadequate roads or infrastructure, problematic access, drainage problems, and protection of the groundwater, among other things. See *id.* The Hearing Examiner considered these questions and concludes that these matters were properly addressed through the SEPA process, concurrency review, and by imposing reasonable and sufficient project conditions, including the requirement to pay impact fees to account for the anticipated traffic impacts.

The Hearing Examiner concludes that the current project conditions, coupled with the project design, are sufficient to address the concerns of the neighbors. As a result, the project should be approved without adding more conditions.

DECISION

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

1. Per 17G.070.030.B.5 a 10% density bonus over the maximum allowable is permissible at a rate of 1% of bonus density for each 1% of affordable housing that is provided. The affordable housing units are required to meet or exceed the U.S. Department of Housing and Urban Development standards for affordable units. Those units are required to be dispersed throughout the project and shall not be congregated all in one building. On the final plat, if the density bonus is pursued, the applicant is required to record a deed restriction on any lots set aside for affordability to ensure the affordability restrictions run with the land.
2. A 12-foot separated pathway is required along Palouse Highway in lieu of City standard sidewalk. To accommodate the required pathway, the Applicant may be required to dedicate a pathway easement along Palouse Highway up to 8 feet in width, rather than the 6 feet proposed by the Applicant, in order to match the existing pathway leading to the Target site.

3. With regard to the proposed vacation of the east bulb (right-of-way [ROW]) of the Thor/Ferrall Street cul-de-sac, shown on Sheet PP1.0, comments are as follows:
 - a. Ferrall Street shall be improved from the Palouse Highway to 55th Avenue as a condition of approval of this plat.
 - b. Between 53rd Avenue and the Palouse Highway, street improvements shall include a minimum 28-foot-wide paved section with full frontage improvements east of centerline. The west side of the roadway shall be constructed with City standard curb/gutter, and driveway drops shall be provided in coordination with adjoining property owners. If 28 feet is determined to be the final width, no parking signs must be installed along the west side. The improvements will be constructed to eliminate the bulbs of the cul-de-sac.
 - c. Between 55th Avenue and 53rd Avenue, street improvements shall include full frontage improvements. Curb bump outs shown on Sheet PP2.0 will be considered during the plan review process and must be approved by the City Engineer as a design deviation. The east section of ROW bulb can be vacated after the final plat is recorded. The vacation will be initiated by the City of Spokane through a resolution to vacate after plat finalization.
 - d. The bulb on the west side of the cul-de-sac shall remain until a decision is made, in coordination with the adjoining property owners, as to the vacation of the bulb. The City could initiate a street vacation application to eliminate the bulb when the street improvements are complete.
4. There are public water and sanitary sewer mains in both 55th Avenue and Palouse Highway that could provide service to this proposed plat.
 - a. The developer will be responsible for all costs associated with design and construction of sanitary sewer and water improvements necessary to serve the proposed plat. Mains and/or service connections located in private roads/alleys/tracts shall be private and privately operated and maintained by a Homeowner's Association (HOA). These improvements, including service connections to each lot, shall be accepted for service prior to the City Engineer signing the final plat.
 - b. The water system shall be designed and constructed in accordance with City standards. A pressure of 45 pounds per square inch (psi) minimum at the property line is required for service connections supplying domestic flows. Pressures shall not drop below 20 psi at any point in the system during a fire situation. Pressures over 80 psi will require that pressure reducing valves be installed at developer expense. Private water mains connecting to City public mains shall be master metered at the property line of the private road/alley/tract.
 - c. An electronic copy of an overall water plan and hydraulic analysis must be submitted to Development Services for review and acceptance. The hydraulic analysis must include supporting calculations for domestic and fire flows.
5. All stormwater facilities necessary to serve the proposed plat shall be designed and constructed in accordance with City standards. All facilities located in private roads/alleys/tracts shall be private and privately operated and maintained by an HOA.
 - a. Prior to construction, a grading and drainage plan shall be submitted to Development Services for review and acceptance.

- b. An erosion/sediment control plan, detailing how dust and runoff will be handled during and after construction, shall be submitted to Development Services for review and acceptance prior to construction.
 - c. If drywells are used, they will be tested to ensure design infiltration rates are met. A minimum factor of safety of 2 will be required. In accordance with state law, existing and proposed Underground Injection Control structures need to be registered with the WSDOE. Proof of registration must be provided prior to plan acceptance.
 - d. The developer will be responsible for all costs associated with constructing storm water improvements necessary to serve the proposed plat.
6. Public streets, including paving, curb, sidewalk, signs, storm drainage structures/facilities, and swales/planting strips necessary to serve the proposed plat, shall be designed and constructed in accordance with City standards. Private streets/alleys/tracts shall also be designed and constructed in accordance with City Standards.
- a. Signing and striping plans, where appropriate, shall be included as part of the design submittal.
 - b. Per SMC 17G.010.230 (provide Signing and Striping Plan). The following application materials are required as a part of an engineering services private project application.
 - i. Public and Private Street System (1) Prior to design approval, the following information is required:
 - ii. Signing, striping, and channelization plan approved by the transportation department.
 - iii. Show all street trees on the Signing and Striping plan so that obstructions can be dealt with in the design process.
 - c. 53rd Avenue between Thor (Ferrall) Street and the west plat boundary has only 30 feet of ROW. It is intended to be a public roadway when fully improved. It must be strip paved to a minimum 20-foot width and closed to through traffic at the west plat boundary as part of the street improvements for this development. It shall be privately maintained (snow plowing, pavement removal and replacement, etc.) by a HOA until it is fully improved from Thor (Ferrall) Street to the existing cul-de-sac to the west.
 - d. The alley intersection with Palouse Highway must be physically blocked to prevent traffic from entering/exiting from/onto Palouse.
 - e. The alley intersection with Freya Street must be physically blocked to prevent traffic from entering/exiting from/onto Freya.
 - f. Frontage improvements are to include full pavement sections, curb, and separated sidewalks with street trees; City standard driveway approaches; and Americans with Disabilities Act curb ramps at all intersections.
 - g. Centerline monuments will be required to be installed at every intersection and at the beginning and end of every horizontal curve (for public streets) and must be shown on the Engineering design plans.
 - h. Street design for the plat shall include supporting geotechnical information on the adequacy of the soils underneath to support vehicular design loads.
7. Preapproved road names shall be identified on plat documents at the time of Final Plat submittal.

- a. Per Section 17D.050A.060 Roadway Naming Standards:
Duplicate roadway names will not be allowed. Any roadway name shall not duplicate any county roadway names unless the new roadway is in alignment with the existing county roadway.
Roadways with the same root name but different suffix (that are not in reasonable alignment with the existing roadway) will be considered as a duplicate roadway name, e.g., Chesterfield Drive or Chesterfield Lane and, thus, disallowed.
8. Plan review fees for sanitary sewer, water, street, and storm water improvements will be determined at the time of plan submittal and must be paid prior to the start of review.
9. All tracts and private roads/alleys need to be shown on the plat and the operation and maintenance responsibilities for each need to be addressed in the Covenants, Conditions, and Restrictions (CC&Rs) for the plat.
10. All private streets, tracts, and facilities are to be privately maintained by a HOA to include snow plowing, pavement removal and replacement, street sign replacement, etc.
 - a. Applicable dedicatory statements must be included in the final plat detailing what is being dedicated to the HOA and for what purpose.
 - b. The Auditor File Number of the document creating the HOA must be referenced in the plat dedication.
 - c. CC&Rs must be submitted to Development Services for review and acceptance prior to final plat finalization.
11. Civil engineered plans and profiles shall use North American Vertical Datum of 1988 (NAVD88) (City of Spokane datum minus 13.13 feet).
12. The City's Water Department will require master meters at connections to public water mains, as this will be a private system.
13. Per the comment of Avista, the Final Plat shall include 10-foot utility easements along the public road frontages and 5-foot utility easements along private alleyways behind any ROW dedications or border easements. If the dedication language below is added for private alleyways being for utility purposes, the utility easements along the alleys do not need to be located on the final plat.
14. Include the following language in the plat dedication:
 - a. Utility easements 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; the right to trim and/or remove trees, bushes, and landscaping without compensation; and the right to prohibit structures that may interfere with the construction, reconstruction, reliability, maintenance, and safe operation of same.
 - b. Serving utility companies are also granted the right to install utilities across border easements.
 - c. The private alley easements as shown hereon are dedicated for utility purposes in addition to ingress and egress as stated.
15. Per comments from the Spokane Tribe, an inadvertent discovery plan shall be implemented into the scope of work.

16. If the pool is ultimately proposed, separate plans are required to be submitted to the Spokane Regional Health District (SRHD) for their review and approval, consistent with the comment letter submitted by the SRHD on September 28, 2022.
17. Adherence to any pertinent regulations identified in the SRHD comment letter, dated January 10, 2023, is required. This letter addresses proper removal of debris, septic systems, and/or wells.

The following statements will be required in the dedication of the final plat:

18. Only City water and sanitary sewer systems shall serve the plat; the use of individual on-site sanitary waste disposal systems and private wells is prohibited.
19. Ten-foot utility easements as shown here on the described plat are hereby dedicated to the City and its permittees for the construction, reconstruction, maintenance, protection, inspections, and operation of their respective facilities together with the right to prohibit structures that may interfere with the construction, reconstruction, reliability, and safe operation of the same.
20. 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.
21. Prior to the issuance of any building permits, the lots shall be connected to a functioning public or private sanitary sewer system and connected to a public or private water system, complying with the requirements of Development Services and having adequate pressure for domestic and fire uses, as determined by the Water and Hydroelectric Services Department and the Fire Department.
22. No direct vehicular access to any tracts are allowed from either Freya Street or the Palouse Highway without permission from the City Engineer.
23. All parking areas and driveways shall be hard surfaced. All new or modified driveway locations will need to be reviewed and approved prior to construction.
24. All stormwater and surface drainage generated on-site must be disposed of on-site in accordance with Chapter 17D.060 SMC, Stormwater Facilities, the SRSM, and City Design Standards. A surface drainage plan shall be prepared for each lot and shall be submitted to Development Services for review and acceptance prior to the issuance of a building permit on said lot.
25. No building permit shall be issued for any lot in this subdivision/PUD until evidence satisfactory to the Director of Engineering Services has been provided showing that the recommendations of Chapter 17D.060 SMC, Stormwater Facilities, and the Project Engineer's recommendations, based on the drainage plan accepted for the final subdivision/PUD, have been complied with.
26. Slope easements for cut and fill, as deemed necessary by Development Services in accordance with City Design Standards, are granted along all public ROWs.
27. A Transportation Impact Fee will be collected prior to the issuance of a building permit for the affected lot.
28. General Facilities Charges for new and/or upsized water and sewer services will apply to the lots within this plat.
29. All street identification and traffic control signs required by this project will be the responsibility of the developer per SMC 17G.080.070.

30. A portion of this plat lies within the Moran Prairie Special Drainage District, basements are not recommended. The development of any below grade structures (including basements) in the plat is subject to review of a geotechnical evaluation for foundation design to determine suitability and affects 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 concurrence to the City of Spokane Building Department and Developer Services prior to issuance of a building permit. An overall geotechnical analysis may be performed in lieu of individual lot analyses to determine appropriate construction designs.
31. The City of Spokane does not accept responsibility to inspect and/or maintain the private drainage easements, nor does the City of Spokane accept any liability for and failure by the lot owner(s) to properly maintain such areas. The City of Spokane is responsible for maintaining storm water facilities located within the public ROW as shown in the final plat documents. Maintenance shall include cleaning the structures and pipes.

DATED the 20th day of September 2023.



Brian T. McGinn
City of Spokane Hearing Examiner

NOTICE OF RIGHT TO APPEAL

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

Decisions of the Hearing Examiner on PUDs are final. They may be appealed to the City Council. All appeals must be filed with the Planning Department within fourteen (14) calendar days of the date of the decision. The date of the decision is the 20th day of September 2023. **THE DATE OF THE LAST DAY TO APPEAL IS THE 4th DAY OF OCTOBER 2022, AT 5:00 P.M.**

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