

SPOKANE COUNTY HEARING EXAMINER

RE: Preliminary Plat of Park Place, in the)	
Urban Residential-7* (UR-7*) Zone;)	FINDINGS OF FACT,
Applicant: Plese Graham, LLC)	CONCLUSIONS OF LAW,
File No. PN-1931-03)	AND DECISION
_____)	

I. SUMMARY OF DECISION

Hearing Matter: Application for a preliminary plat.

Summary of Decision: Approve preliminary plat application, subject to conditions of approval. The preliminary plat will expire on July 13, 2010, unless an application to request an extension of time is submitted at least 30 days prior to the expiration date.

II. FINDINGS OF FACT

1. The application seeks approval of a preliminary plat to divide 42.28 acres of land into 122 lots for single-family dwellings, in the Urban Residential-7* (UR-7*) zone.
2. The site is generally located south of Rosewood Avenue and east of Hartley Street, immediately southwest of the intersection of Francis Avenue and Hartley Street, in the East ½ of the NW ¼ of Section 34, Township 26 North, Range 42 EWM, in Spokane County, Washington.
3. The site is currently referenced as County Assessor's tax parcel nos. 26342.9001 and 26342.9014. The site is legally described on the preliminary plat map of record.
4. The applicant for the proposal and the site owner is Plese Graham LLC, 201 W. Francis Avenue, Spokane, WA 99205.
5. On May 3, 2005, the County Department of Planning issued a Mitigated Determination of Nonsignificance (MDNS) for the proposal. The Hearing Examiner conducted a site visit on May 16, 2005
6. On May 18, 2005, the Examiner went on the record to continue the public hearing on the preliminary plat from May 18, 2005 to June 6, 2005, to allow the submittal of a revised MDNS.
7. On May 20, 2004, the Department formally withdrew the MDNS and issued a revised MDNS. The revised MDNS was not appealed.
8. On June 6, 2005, the Examiner conducted a public hearing on the proposal. The requirements for notice of public hearing were met.
9. The following persons testified at the public hearing:

Tammy Jones
Building and Planning Department
1026 West Broadway
Spokane, WA 99260

Scott Engelhard
Division of Engineering and Roads
1026 West Broadway
Spokane, WA 99260

Meg Arpin
1117 E. 35th Avenue
Spokane, WA 99203

Mike Prim
6110 N Cambridge Dr
Spokane, WA 99208-3705

Keith Beebe
5209 W Rosewood Ave
Spokane, WA 99208-3746

Bob McKenzie
4805 W Rosewood Ave
Spokane, WA 99208-3738

Bob Cameron
5131 W Rosewood Ave
Spokane, WA 99208-3744

Jeff Stevens
3402 N Milton St
Spokane, WA 99205-2364

Barb Stuebing
5131 W Rosewood Ave
Spokane, WA 99208-3744

Richard Stone
6425 N Elizabeth St
Spokane, WA 99208-3701

Howard Raleigh
5224 W Rosewood Ave
Spokane, WA 99208-3759

Carol Westersee
5111 W Rosewood Ave
Spokane, WA 99208-3744

Ernie Fulmer
6123 N Hartley St
Spokane, WA 99208-3721

Tracy Smith
6006 N Hartley St
Spokane, WA 99208-3720

Ron Dohar
5911 N Hartley St
Spokane, WA 99208-3717

10. The Hearing Examiner takes notice of the County Comprehensive Plan and Capital Facilities Plan, Phase I Development Regulations, Phase 2 Development Regulations, County Zoning Code, County Subdivision Ordinance, County Code, County Critical Areas Ordinance and maps, County Guidelines for Stormwater Management, 2001 County Standards for Road and Sewer Construction, other applicable development regulations, and prior land use decisions in the vicinity.

11. The record includes the documents in the project file at the time of the public hearing, the documents and testimony submitted at the public hearing held on May 18, 2005 and June 6, 2005, and the items taken notice of by the Hearing Examiner.

12. The site is approximately 42.28 acres in size and undeveloped. The bulk of the site is heavily vegetated with a moderate growth of immature ponderosa pine, along with some mature

pine trees, and a sparse to moderate growth of native shrubs and grasses. Some Douglas-fir trees are located along the south edge of the site.

13. The site is relatively flat in topography, except for an upward sloped area located in the extreme south end of the east three-fourths of the site, which has slopes of approximately 20%. The site sits on a terrace area located approximately 100 feet above the Spokane River, which lies approximately one-half (1/2) mile south of the site. The site was previously owned as undeveloped cemetery land.

14. On December 10, 2003, the applicant submitted a complete application for a preliminary plat for the site. The Staff Report erroneously states that the application was submitted on December 10, 2004.

15. On March 29, 2005, the applicant submitted a revised preliminary plat map. The revised map differed from the original preliminary plat map by illustrating extension of a stub road from the intersection of proposed Royal Avenue and Oxford Avenue in the preliminary plat east through a lot owned by the applicant in the adjacent subdivision, and east to the intersection of Oxford Drive and Hartley Street.

16. The preliminary plat map submitted on March 29, 2005, considered the preliminary plat map of record, illustrates division of the site into 122 lots for single-family dwellings. Lot sizes range from approximately 8,503 square feet to 30,225 square feet, with an average lot size of approximately 13,100 square feet. The density (net) of the preliminary plat is approximately 3.3 dwelling units per acre. The map illustrates development of the project in three (3) phases.

17. The preliminary plat map illustrates the internal roads in the preliminary plat as public roads. The internal road system connects off-site, to the east, to the intersection of Hartley Street and Francis Avenue, and the intersection of Hartley Street and Oxford Drive.

18. The preliminary plat map illustrates the proposed dedication of a 30-foot wide, 117.6-foot long tract of land located along the west border of the site to the City of Spokane, for public pedestrian access to Riverside State Park. The state park abuts the site on the west. The map shows a 30-foot wide easement for sewer utilities extended northwesterly from such tract and the west border of the site, through the state park, to a point located some distance west of Aubrey L White Parkway. The map also illustrates a proposed 12-foot wide road in the center of the easement, for emergency access, ingress, egress and utility maintenance.

19. Effective January 15, 2002, the County implemented a new Comprehensive Plan, County Urban Growth Area (UGA) boundaries, and Phase I Development Regulations; pursuant to the State Growth Management Act. See County Resolution Nos. 2-0037 and 2-0470.

20. The site, and neighboring land located east of the Spokane River in the area, are located in the UGA. The land lying north, east, northeast and southeast of the site is located in the City of Spokane. The land located in the UGA lying west and south of the site, and the land lying near the site to the northwest, is unincorporated and designated in the Low Density Residential

category of the Comprehensive Plan. The land lying further to the northwest and to the south, located east and north of the Spokane River, is located in the City of Spokane.

21. Effective January 15, 2002, the County Phase I Development Regulations reclassified the zoning of the site, and the other land in the area designated in the Low Density Residential category of the Comprehensive Plan, from the Rural Residential-10 (RR-10) zone to the Urban Residential-7* (UR-7*) zone. Such zoning is referred to as "UR-7*", rather than "UR-7", because the Phase I Development Regulations limited the density (net) of such new zoning to six (6) dwelling units per acre.

22. On May 25, 2004, the County adopted a new Zoning Code, and Phase 2 Development Regulations to implement the new Zoning Code, to take effect on June 15, 2004. The Phase 2 Development Regulations replaced the Phase I Development Regulations, and reclassified the zoning of the site and other land zoned UR-7* in the area to the Low Density Residential (LDR) zone of the new County Zoning Code.

23. Pursuant to RCW 58.17.033 and Section 13.300.110 of the County Code, the preliminary plat application must be considered under the UR-7* zone, Phase I Development Regulations, Zoning Code provisions and other development regulations in effect when the preliminary plat application was submitted as complete on December 10, 2003. Accordingly, the LDR zone, the Phase 2 Development Regulations, and the remainder of the new County Zoning Code do not apply to the current application.

24. The land located in the City of Spokane to the north, northwest, east and northeast is developed with single-family homes on lots of similar sizes to the lots in the proposal. The land lying west, southwest and immediately northwest of the site is zoned LDR, and is part of Riverside State Park.

25. The land lying south of the site is zoned LDR and consists of vacant land and a cemetery. A steep hillside, with slopes ranging from 50-60%, lies directly south of the site. The hillside is bisected by a north flowing, intermittent drainage way, which terminates near the southeast corner of the site, and has side slopes ranging from 50-70%. The land lying further to the south, and the land lying southeast of the site, in the City of Spokane, consists of a cemetery. A shooting range and gun club are located approximately one (1) mile southwest of the site.

26. Nine Mile Road (State Route No. 291) in the area is a 5-lane state highway. Assembly Street is a 4-lane arterial in the City of Spokane. Francis Avenue (State Route No. 291) is a 4-lane state highway, east of its intersection with Assembly Street and Nine Mile Road (SR-291), and is a 2-lane City local access road street near the site. The other roads in the vicinity are City or County local access streets.

27. County Critical Areas maps designate an erodible soils geo-hazard in the south end of the site, and designate the site in a critical aquifer recharge area (CARA) of high susceptibility to groundwater contamination. Such maps do not designate any priority wildlife habitat, wetlands or DNR streams on the site; but do designate Urban Natural Open Space priority wildlife habitat near the site to the west inside Riverside State Park.

28. A large number of neighboring property owners and residents expressed opposition or concerns regarding the proposal; including comments relating to traffic safety and capacity, lack of sidewalks and narrow streets in the vicinity, deterioration of existing streets, impacts on wildlife on or near the site, loss of neighborhood access to Riverside State Park through the site, school capacity, fire and emergency access, drainage impacts, view impacts from removal of trees on the site, impacts on property values, loss of recreational opportunities, impacts from extension of sewer line through Riverside State Park, steep slopes on site, provision of sewer for proposal, need for neighborhood park, need for vegetative buffer along project borders, impacts on air quality, and other concerns. This included a petition expressing concerns signed by 344 neighboring residents.

29. RCW 36.70B.030 and RCW 36.70B.040 provide that comprehensive plans and development regulations adopted under GMA shall serve as the foundation for project review. Where aspects of development are regulated by local development regulations, or in the absence of applicable development regulations, addressed by the comprehensive plan, such regulations or plans are determinative of such aspects of development; and the local government during project review may not reexamine alternatives to or hear appeals regarding such items, except for issues of code interpretation. This includes, at a minimum, the type of land use permitted on property, if the criteria for their approval has been satisfied; the density of residential development in urban growth areas; and the availability and adequacy of public facilities identified in a comprehensive plan, if the comprehensive plan or development regulations provide for funding of such facilities as required by GMA.

30. Under Washington case law, where there is a conflict between the policies of a comprehensive plan adopted by a local government and the zoning regulations or other development regulations adopted by the local government, the zoning and development regulations are controlling over the policies of a comprehensive plan.

31. Under Washington case law, "community displeasure", standing alone, cannot be the basis for denying a land use application. The decision must be based on the criteria established by statute and local development regulations for approving the application.

32. The site is currently zoned UR-7*. The UR-7 zone is intended to add to the variety of housing types and densities in urban areas, and to provide standards for the orderly development of residential property in a manner that provides a desirable living environment that is compatible with surrounding land uses and assures the protection of property values. The UR-7 zone permits the development of single-family homes, including manufactured homes; manufactured home parks, subject to certain development standards; duplexes, multi-family dwellings and certain other uses.

33. The maximum residential density permitted in the UR-7 zone, where such zoning was established prior to adoption of the Phase I Development Regulations, is seven (7) dwelling units per acre. The current project is limited to a maximum residential density (net) of six (6) dwelling units per acre, under the UR-7* designation, pursuant to the Phase I Development Regulations.

34. Policy UL.9.1 of the Comprehensive Plan recommends that residential densities (net) in the Low Density Residential category, which category applies to the site, range from 1-6 dwelling units per acre. Policy UL.9.2 recommends that the County seek to achieve an average residential density (net) in new development of at least four (4) dwelling units per acre, through a mix of densities and housing types. Policy UL.8.1 recommends that mixed-income development be provided for in residential areas.

35. The density (net) of the preliminary plat of approximately 3.3 dwelling units per acre is within the range of residential density recommended in the Low Density Residential category of the Comprehensive Plan, and significantly below the maximum residential density permitted in the UR-7* zone.

36. The density (net) of the preliminary plat is less than the four (4) dwelling units per acre recommended by the Comprehensive Plan, but is justified considering the location of the site on the periphery of the UGA, and next to a state park and near designated priority wildlife habitat.

37. Policy UL.2.11 of the Comprehensive Plan promotes the linkage of developments with open space, parks, natural areas and street connections. The applicant proposes a public pedestrian connection to the state park that abuts the site on the west.

38. Policy UL.5.4 of the Comprehensive Plan encourages the preservation of healthy, attractive native vegetation where appropriate during land development; or the use of appropriate native plant materials in site landscaping. Policy UL.2.12 recommends that the site characteristics of residential development, including existing trees, be enhanced and preserved through sensitive site planning tools. Policy UL.2.15 encourages the planting of street trees in residential subdivisions. The applicant indicated that existing trees on the site will remain in the areas not used for streets, sidewalks, houses and other necessary construction. Planting strips will be installed between curb and sidewalk in the development. See letter dated 12-9-03 from James F. Benthin & Associates, and page 10 of environmental checklist.

39. Policies UL.2.20 and T.4a.12 of the Comprehensive Plan encourage new residential developments to be arranged in a pattern of connecting streets and blocks; to allow people to get around easily by foot, bicycle, bus or car. Cul-de-sacs or other closed street systems may be considered appropriate where topography or other physical limitations make connecting systems impractical, and in other appropriate circumstances. The proposal provides connectivity to the adjoining street system, where feasible.

40. The Comprehensive Plan contains numerous policies protective of designated critical areas, which policies are specifically implemented through the County Critical Areas Ordinance.

41. Policy UL.2.14 of the Comprehensive Plan recommends that separated sidewalks be required on public roads in all new residential subdivisions.

42. Policy T.3e.1 of the Comprehensive Plan recommends that the transportation network provide safe and convenient bicycle and walking access between housing, recreation, shopping,

community facilities and mass transit access points; and that obstructions and conflicts with pedestrian and bicycle movement be minimized.

43. Policy T.4a.2 of the Comprehensive Plan recommends that the capacity of existing roads be maximized to reduce the need for new or expanded roads, through the use of signalization, improved signage and other means.

44. Policy T.2.2 of the Comprehensive Plan recommends that transportation improvements needed to serve new development be in place at the time new development impacts occur, or that a financial commitment, consistent with the County's Capital Facilities Plan, be made to complete the improvement within six (6) years.

45. Policy T.4a.13 and Policy UL.2.21 of the Comprehensive Plan encourage local access roads that are curvilinear, narrow or use other street designs consistent with safety requirements to discourage through traffic in neighborhoods; where such design fits into the surrounding street systems and aids in implementing specific land use designs.

46. The guidelines set forth in the 2001 County Standards for Road and Sewer Construction ("County Road Standards") recommend the provision of adequate vehicular and pedestrian access to all parcels of land, minimizing through traffic movements and excessive speeds on local access streets, logical street patterns, minimizing vehicular and pedestrian-vehicular conflict points, considering traffic generators in designing a street system in a proposed development, prohibiting direct residential lot access to Urban Principal and Urban Minor Arterials, and consideration of bordering arterial routes.

47. The County Road Standards require the construction of curb and sidewalk along the public road frontage of new developments within urban land use zones. Such standards call for separated sidewalks, unless the County Engineer finds that a design deviation is appropriate based on local conditions. See Road Standards, Chapter 3.

48. County Engineering conditions of approval require the applicant to improve the internal public streets in the proposal to the specifications set forth in the County Road Standards. This includes the installation of 30 feet of asphalt, curb and sidewalk.

49. County Engineering condition #2 points out that Francis Avenue, Hartley Street and Oxford Drive, which are the existing streets most directly accessed by the project, are under the jurisdiction of the City of Spokane; and advises the applicant to consult with the City to determine any access requirements for such streets.

50. County Utilities and County Regional Health District conditions of approval indicate that the site is located in the City of Spokane sewer and water service areas, and that the preliminary plat is required to comply with the City's requirements for sewer and water service.

51. On December 10, 2003, the City certified the availability of public sewer to the site, indicating that an existing sanitary sewage pump station located at the southeast corner of the intersection of Aubrey L. White Parkway and Rifle Club Road is adequate and available to serve

the preliminary plat, subject to the applicant paying all costs associated with extending public sewer to the site.

52. On December 10, 2003, the City certified the availability of public water to the site, indicating that the nearest water main was a 12-inch line located at the adjacent intersection of Hartley Street and Francis Avenue, subject to the applicant paying all costs for connecting to the City's water system.

53. On December 31, 2003, City of Spokane Engineering submitted a letter requesting that the proposal, if platted, be annexed to the City of Spokane; requesting that the public roadways in the proposal meet City road and fire access standards, and addressing access to the state park located west of the site.

54. On January 8, 2004, City of Spokane Planning Services submitted a letter recommending that the roads in the preliminary plat meet the 60-foot width required by City standards, advising that the City would be the logical entity to provide snow plowing services for the project, commenting that the proposed emergency access from the site through the state park to Aubrey L. White Parkway may be too steep for City Fire Department standards, commenting that City fire stations are far closer to the project than the fire stations of the nearest fire district, recommending that the density of the project be increased to at least four (4) dwelling units per acre to be consistent with the City's Comprehensive Plan, and advising that annexation waivers will be required for individual lots in the final plat.

55. On May 3, 2005, the original MDNS for the project was issued. Such determination required the applicant to pay the City 30% of the cost of making necessary traffic improvements at the intersection of Assembly Street and Nine Mile Road, but not more than a contribution of \$75,000; with provision for a pro rata rebate if the improvement costs are less than \$250,000. The original MDNS required such payment to be made prior to finalization of the preliminary plat, or prior to the release of any construction permits for the proposal, whichever event came. The original MDNS also provided for refund of the amount paid by the applicant, if construction of the physical intersection improvements is not commenced within six (6) years of the date payment is made.

56. On May 17, 2005, the applicant entered into a "pre-annexation development agreement" with the City of Spokane, which requires the applicant to pay the City mitigation for traffic improvements at the intersection of Assembly Street and Nine Mile Road (SR-291), as called for in the original MDNS, except for allowing such payment to be made at the time the City anticipates construction of the intersection improvements, but no sooner than finalization of Phase I of the proposal. Phase I is currently planned for 63 lots.

57. The pre-annexation development agreement contemplates annexation of the site prior to final plat approval, but would allow phases of the project to be finalized if annexation is not completed before final plat approval. The agreement obligates the applicant to design and build the project to City standards; but requires the applicant to obtain a variance from such standards from the City to allow a right of way width of 42 feet and a roadway width of 32 feet, and

possibly to allow a variance from design elements to address fire apparatus set-up and minimize impacts on response time.

58. The pre-annexation development agreement requires the applicant to dedicate the portion of the private lot owned by the applicant adjacent to the site necessary for public right of way for access to Oxford Drive; to provide public sewer service via Aubrey L. White Parkway, with an appropriate graveled access road for sewer maintenance and an appropriate easement; and petition the City for annexation of the site within 30 days of preliminary plat approval. The agreement binds the City to submit a finding of concurrency to the County, permit the project to connect to City sewer and water utilities and right of way, and process the petition for annexation submitted by the applicant.

59. City of Spokane Engineering submitted a letter dated May 17, 2005 referencing the pre-annexation development agreement, and certifying the concurrency of the project for sewer, water and transportation; subject to compliance with the agreement. The letter also agreed to the revised traffic mitigation for the intersection of Assembly Street and Nine Mile Road stated in the revised MDNS.

60. On May 20, 2005, the County Department of Building and Planning withdrew the original MDNS, and issued a revised MDNS. The revised MDNS, like the pre-annexation development agreement, authorized the applicant to delay making its contribution for the improvements at the intersection of Assembly Street and Nine Mile Road (SR-291) until at least the first phase of the preliminary plat is finalized. The MDNS was revised because of a misunderstanding between the applicant and the City of Spokane regarding the timing of the applicant's payment to the City. The City of Spokane and WSDOT agreed to the issuance of the revised MDNS.

61. Since the site is located in the unincorporated area, the proposal is subject to review under the County Comprehensive Plan and County development regulations and the County Road Standards, and not those of the City of Spokane. This includes the concurrency requirements of the County Phase I Development Regulations, and the County Road Standards. The preliminary plat is indirectly subject to the City's sewer and water regulations, through required connection to the City's sewer and water facilities. The City's transportation concurrency requirements are relevant with regard to measuring the off-site transportation impacts of the project on City streets, and transportation mitigation under SEPA.

62. The applicant's legal counsel opined at the public hearing that vehicle delay time at off-site intersections, resulting from the additional traffic generated by the project, is not a SEPA impact; but did not cite any legal authority for such opinion.

63. Local governments are required under SEPA to consider the effects of its land use decisions in areas outside its jurisdiction. See, e.g. *Save a Valuable Environment v. Bothell*, 99 Wn.2d 363, 372 (1983). Public streets and highways are considered part of the built environment under SEPA. The County Comprehensive Plan requires that transportation concurrency be met and road impacts be considered in approving new land development. Delay time at intersections provides an objective standard for measuring environmental impacts to transportation

infrastructure. Further, RCW 58.17.110 and the County Subdivision Ordinance require that appropriate provision be made for roads.

64. The preliminary plat map illustrates a 42-foot wide right of way width for the internal public roads in the proposal. This exceeds the 38-foot wide width required for an Urban Local Access road by the County Road Standards. See Table 3.03 and Sheet A-1 of Standard Plans, County Road Standards. The Examiner takes notice that the chief difference between the 60-foot rights of way required by the City of Spokane for local access streets and the 38-foot wide widths required by the County Road Standards is that the County Road Standards place sidewalk and planting strips associated with such roads outside the right of way, while the City standards place such improvements within the right of way. The City also, apparently, requires a somewhat wider asphalt surface for such roads than the County Road Standards.

65. The applicant submitted a traffic impact analysis (TIA) for the proposal prepared by a qualified traffic engineering consultant, which was last revised on March 8, 2005. The TIA was scoped by the County, City and Washington State Department of Transportation to study the intersections of Nine Mile Road (SR-291) with Lyons Avenue, Royal Avenue and Francis Avenue/Assembly Street. The intersections of Nine Mile Road (SR-291) with Lyons Avenue and Royal Avenue represent the two access points for project traffic to Nine Mile Road (SR-291), while eastbound project traffic heading for the more urban areas in the City of Spokane will pass through the intersection of Nine Mile Road (SR-291) with Francis Avenue and Assembly Street.

66. Spokane County and the City of Spokane have identified level of service (LOS) E as the minimum acceptable LOS at county and city road intersections, respectively.

67. The TIA indicates that the cumulative traffic impacts from existing traffic, the project and other anticipated future development at the time of project build-out in 2010 will degrade the LOS at the un-signalized intersection of Nine Mile Road (SR-291) and Lyons Avenue in the AM peak hour from acceptable LOS C to acceptable LOS D, and will retain acceptable LOS B in the PM peak hour. The TIA also indicates that such cumulative traffic impacts will degrade the LOS at the un-signalized intersection of Nine Mile Road (SR-291) with Royal Avenue in the AM peak hour from acceptable LOS C to acceptable LOS D, and degrade acceptable LOS B at such intersection to acceptable LOS C during the PM peak hour.

68. The TIA indicates that the existing LOS during the PM peak hour at the un-signalized, "Y"-configured intersection of Nine Mile Road (SR-291) with Francis Avenue and Assembly Street is currently at failing LOS F; and that the cumulative traffic impacts from existing traffic, the project and other anticipated future development at the time of project build-out in 2010 will increase the delay at LOS F at such intersection during the PM peak hour. The TIA indicates that such cumulative traffic impacts will degrade the LOS at such intersection during the AM peak hour at the time of project build-out in 2010 from acceptable LOS C to acceptable LOS D. The TIA identifies that primary cause of the poor LOS at such intersection to be the high volume of northbound left turn traffic that must yield to a moderate amount of traffic traveling southbound to eastbound on Nine Mile Road/Francis Avenue.

69. The TIA indicates that the installation of a traffic signal at the un-signalized intersection of Nine Mile Road (SR-291) with Francis Avenue and Assembly Street would improve the LOS at such intersection in the AM/PM peak hour in 2010, in regard to the cumulative traffic impacts from existing traffic, the proposal and other anticipated development, to acceptable LOS B/LOS C, respectively. This is based on installation of a traffic signal that limits signalization and control to the northbound and eastbound movements, also referenced as a "Florida T" traffic signal.

70. The TIA found that the installation of a "Florida T" traffic signal at the un-signalized intersection of Nine Mile Road (SR-291) with Francis Avenue and Assembly Street, would likely reduce the length of the northbound left turn queue at such intersection from 500 feet to 340 feet, eliminating a concern that such queue would block the southbound Driscoll Boulevard to southbound Assembly Street movement at such intersection.

71. The TIA found that the turn lanes and approach lanes at the intersections of Nine Mile Road (SR-291) with Royal Avenue and Lyons Avenue are of adequate length to accommodate the northbound left turn lane and eastbound approach traffic volumes under both the AM and PM peak hour conditions; and that acceleration lanes onto Nine Mile Road are not warranted.

72. The TIA studied traffic accident data for the subject intersections for the 3-year period between 2000 and 2002, which were the most recent years for which complete data was available. The TIA found that the average accidents rates at the subject intersections were approximately 20% lower than the critical collision rate threshold for such intersections, the point where safety improvements may be warranted.

73. The TIA found that right-turn southbound deceleration lanes onto Nine Mile Road (SR-291) were not warranted at the Nine Mile Road (SR-291) intersections with Lyons Avenue and Royal Avenue, because peak hour southbound right turn volumes at such intersections were less than 20 vehicles at each intersection, respectively. The WSDOT Design Manual recommends consideration of right turn tapers or pockets when the right turn volume is 20 or more vehicles, and consideration of a right turn lane when the right turn volume is 40 or more vehicles.

74. The TIA recommended that WSDOT and the City of Spokane proceed with a planned study to analyze the intersection of Nine Mile Road (SR-291) with Francis Avenue and Assembly Street, and identify long-term improvements that will mitigate the existing failing LOS F at such intersection. The TIA recommended that the City and WSDOT consider the installation of a Florida "T" signal at such intersection, as an interim measure, to mitigate such failing LOS, and that the applicant contribute to the cost of installing such signalization.

75. Certain neighboring residents expressed concern that installation of a traffic signal at the intersection of Nine Mile Road (SR-291) with Francis Avenue and Assembly Street would increase traffic safety concerns at the intersection, due to slick conditions during the winter in combination with the slope of the intersection, and vehicles having to wait longer at such intersection for the signal to change. Such owners requested that a traffic signal be installed instead at the intersection of Rifle Club Road and Nine Mile Road (SR-291), located some distance west of the intersection of Lyons Road and Nine Mile Road (SR-291), on the basis that it

would slow down traffic at the intersections of Nine Mile Road (SR-291) with Lyons Avenue and Royal Avenue.

76. The record indicates that the project will have little impact on the intersection at Rifle Club Road and Nine Mile Road (SR-291), traffic warrants are not met for installation of a traffic signal at such intersection at the current time, the City does not want to install a signal at such intersection, and the City and WSDOT find it essential to mitigate traffic impacts instead at the intersection of Nine Mile Road (SR-291) with Francis Avenue and Assembly Street. The opposing opinions of neighboring residents were not supported by competent proof of a traffic engineering nature, and do not rebut the TIA or the positions of the City of Spokane and WSDOT regarding necessary traffic mitigation for the proposal.

77. Certain neighboring residents expressed concern regarding the widths of Royal Avenue, Oxford Drive, Francis Avenue and Hartley Street near the site; and the condition of the road surface on Hartley Street. These roads must be assumed to have met County or City of Spokane standards when constructed, including the lack of sidewalks along such roads. The paved widths of such roads appear to range from 30-40 feet, based on the testimony of the residents. Since the required paved width of County roads under the County Road Standards, curb to curb, is 30 feet, it is difficult to view neighboring City streets as inadequate. City of Spokane Engineering, which is responsible for maintaining such roads, did not express any concern regarding the width or condition of such roads.

78. Under Washington case law, traffic mitigation must bear a rational nexus to and be roughly proportionate to the impact of a development. The applicant is required to install sidewalks in the proposal, which requirement is proportionate to the impact of the proposal.

79. RCW 58.17.110 and the County Road Standards provide a regulatory basis to require the subdividers of land to install sidewalks off-site for children who walk only to school, in certain instances. However, there is no evidence that children would walk to school from the proposal to neighboring schools. The applicant cannot be held responsible for children playing in the streets, which is not an authorized activity. There is an insufficient regulatory basis under the County Road Standards, the policies of the Comprehensive Plan, and the County Subdivision Ordinance to require the applicant to install sidewalks off-site along neighboring public streets.

80. County Engineering condition #24 certifies that the proposal meets the County's transportation concurrency requirements. The proposal, as conditioned, meets the transportation, sewer and water concurrency requirements of the County Phase I Development Regulations.

81. Certain area residents indicated that the site lies in a low area where air pollution gathers, and the proposal would worsen such condition. The Spokane County Air Pollution Control Authority (SCAPCA) was contacted regarding the project, but did not submit any comments. Public agencies did not scope the project for air quality impacts. There is no competent proof in the record of a scientific or statistical nature to indicate that the proposal would have any significant air quality impacts in the area.

82. The site appears to lie at an urban wildfire interface adjacent to Riverside State Park, considering past firestorm events over the last 15 years. Spokane County Fire District 10 commented in a letter dated April 26, 2005 that the site lies within its service area, the site is over five (5) miles from its closest station, the district has no automatic response or contract with agencies other than the State Department of Natural Resources for wildfire incidents in the area, the district has no plans to build a fire station in the area, the site will likely be annexed by the City of Spokane upon approval of the proposal, the project would be served with an adequate water supply for fire protection by the City, and the City of Spokane Fire Department has a fire station only 1.5 miles away from the site and could best serve the project. The district indicated that some type of agreement would need to be worked out with the City for fire response to the site.

83. The County Fire District Service Area map shows that the site and vicinity are located in Fire District 10's service area. However, a 1986 interlocal agreement executed between County Fire District 9 and the City of Spokane for fire services indicates that Fire District 9 is responsible for such area. The agreement obligates the City to provide primary fire protection, emergency medical and related services to the site and area, and requires Fire District 9 to assist the City in accordance with a mutual aid agreement executed in 1966.

84. Fire District 10, in a letter dated June 6, 2005 to the applicant, indicated that it had talked to Fire District 9 about the 1986 interlocal agreement, and would resolve any conflict with Fire District 9 over serving the area. Such letter also noted that the City of Spokane plans to annex the site, resulting in the City Fire Department being the primary responder for the project.

85. The proposal complies with the County Road Standards requirement that urban residential subdivisions that cumulatively cause 50 or more lots to access a public access road provide a secondary access road for fire/emergency, through connection of the internal road system in the preliminary plat to neighboring public road intersections. In addition, the proposed access road for utilities through the adjacent state park may facilitate the provision of fire protection services to the park. The applicant indicated that the removal of trees on the site for development of the project should reduce the wildfire danger for neighboring properties. The proposal makes appropriate provision for fire protection services.

86. The Washington State Parks and Recreation Commission did not oppose the project, but recommended installation of a fence or other barrier along the boundary between the preliminary plat and Riverside State Park to prevent dumping and trespass onto park land. The Commission also indicated that the details of any the pathway connecting the project to the state park would have to be worked out with park staff. See letter dated February 4, 2004 from Commission to County Department of Building and Planning.

87. The Washington State Parks and Recreation Commission advised the applicant that final approval of the sewer and emergency fire road easement through the adjacent state park, requested by the applicant, was contingent on final approval by the Commission, but that such approval was likely. The Commission indicated that the 12-foot wide roadbed proposed in the easement would have to consist of a dirt road; or of a subsurface of crushed gravel/rock, if needed for stability and drainage, topped by at least two (2) inches of hydro-seeded natural grasses and wildflowers. The Commission also recognized that the City of Spokane would assume

operational responsibility for the easement, including maintenance, repair and related liability. See letters dated June 11, 2003 and July 15, 2003 from Commission to applicant.

88. At the public hearing, the applicant requested that the Examiner not mandate construction of a fence along the common boundary between the proposal and the state park; indicating that the Commission had not communicated with the applicant regarding the need for such fencing, and noting that individual lot owners in the proposal may erect fences adjacent to the park. The applicant advised that the Commission could make the installation of a fence a condition of granting the easement through the park. The Examiner has added a condition of approval requiring the applicant to consult with the Commission, prior to final plat approval, regarding the proposed pathway to the park, the need for fencing along the west boundary of the site, and the proposed utility and access easement through state park land.

89. County Parks and Recreation noted that the County Capital Facilities Plan recommends 1.4 acres of parkland per 1,000 residents in the UGA, such plan shows no parkland located in the subarea where the site is located, and the closest county parks are located several miles from the site. Such agency suggested, but did request a condition of approval, that the applicant provide active recreation improvements in the proposal for its future residents, or make a voluntary contribution to the County to provide added recreation opportunities at the nearest county parks.

90. The site is located adjacent to a state park, which will provide significant recreational opportunities for area residents. A city park is located north of the intersection of Rifle Club Road and Nine Mile Road, in the vicinity. The City of Spokane's Joe Albi Stadium and the adjoining Dwight Merkle sports complex fields are located approximately one-third (1/3) mile southeast of the site. Because the County Phase I Development Regulations do not require direct concurrency for parks, the Examiner has no authority to require mitigation for the impact of the project on county parks.

91. Spokane School District No. 81 was contacted regarding the project, but did not submit any comments. Conflicting evidence in the record was presented by the applicant and neighboring property owners regarding the impact of the proposal on the capacity of neighboring schools. The applicant indicated that it had been advised by the district that there was sufficient school capacity to accommodate the project, and that Indian Trail Elementary School would not be closed. See letters from neighboring property owners, letter and attachment from James F. Benthin & Associates dated December 10, 2003, and testimony of Margaret Arpin. Since the County Phase I Development Regulations do not require direct concurrency for schools, the Examiner has no authority to require mitigation for the impact of the proposal on school capacity.

92. The applicant plans to treat and discharge stormwater generated by the proposal in bio-filtration swales installed in soils approved by County Engineering. County Engineering conditions of approval require that a final drainage plan be submitted that conforms to the County Guidelines for Stormwater Management and the County Road Standards. Such conditions also contain detailed requirements for stormwater management, including possible geo-technical work to determine the feasibility for constructing basements and the infiltration of stormwater. The proposal makes appropriate provision for stormwater disposal.

93. The extension of public sewer to the proposal and the provision of stormwater management in accordance with the County Guidelines for Stormwater Management ensure that the CARA provisions of the Critical Areas Ordinance for areas of high susceptibility to aquifer contamination will be met for the project.
94. The applicant submitted a geo-hazard evaluation report prepared by a qualified professional engineer. The report characterizes in detail the topography and soils on the site, particularly the south end of the site where slopes up to 20% are found, and the steep slopes and drainage way located immediately south of the east three-fourths of the property. The report found no evidence of former slides, abnormally moist areas indicative of soil sliding potential, or active or relatively recent soil erosion on the site. The report recommended installation of appropriate structure(s) to control and disperse the storm drainage that could flow down the steep drainage from the south into the southeast corner of the site, and mitigation measures for soil cuts and embankments made at the steeper slope angles on the site.
95. The geo-hazard evaluation report adequately describes the geo-hazards presented by site development, and recommends appropriate mitigating measures for such geo-hazards. County Building and Planning condition of approval #16 requires compliance with applicable provisions of the County Critical Areas Ordinance, and condition #17 requires compliance with the mitigating measures recommended in the geo-hazard evaluation report.
96. Under the County Critical Areas Ordinance, the County Department of Building and Planning may require a developer to prepare and submit a habitat management plan for development located in a priority habitat or within one-fourth (1/4) mile of a non-game priority species point location (den or nest site), if it is determined by the Department of Building and Planning, after consultation with the Washington State Department of Fish and Wildlife (WDFW) that a proposal is likely to have a significant adverse impact on the priority habitat or species.
97. Neighboring property owners drew attention to various forms of wildlife frequenting the site and the adjacent state park. The WDFW submitted written comments on March 25, 2004, noting that the Urban Natural Open Space priority wildlife habitat designated by County Critical Areas maps in the adjacent state park to the west has been identified as being associated with occurrences of wintering bald eagles, and nesting areas for red tailed hawks, coopers hawks and pileated woodpeckers; and that the site provides an excellent buffer between the state park and neighboring residents to the east. The Department also commented that continued use of the site as a memorial park would be "more appropriate" than the proposed subdivision, with regard to impacts on wildlife.
98. The County Critical Areas maps do not designate any priority wildlife habitats on the site, or non-game priority species point location on or near the site. There is no competent evidence in the record, such as information submitted by a wildlife biologist, indicating that priority wildlife habitat is located on the site, or that the proposal would have any significant adverse impact on such habitat or a priority, endangered or threatened species of wildlife. The Examiner lacks a regulatory basis to require preparation of a habitat management plan for the proposal, mitigation of impacts on priority wildlife habitat, or a view buffer along the project borders.

99. The *Norway Hill* case cited by an opponent of the project, addressing the need for preparation of an environmental impact study for large subdivisions, has been distinguished and superseded by adoption of the SEPA guidelines, the DNS and MDNS mitigation process, and recent case law. The *King County v. Boundary Review Board* case cited by such project opponent, addressing environmental analysis for municipal annexations of property, has been superseded by changes to state annexation laws which exempt such annexations from environmental review.

100. The Examiner concurs with the analysis in the Staff Report regarding the consistency of the preliminary plat, as conditioned, with the Comprehensive Plan, the UR-7* zone and other development regulations, as supplemented above.

101. The preliminary plat will be provided with a high level of public services and utilities, including public sewer and water. As conditioned, the proposal will be reasonably compatible with neighboring properties. The proposal generally implements the purpose and intent of the UR-7* zone.

102. The design, shape, size and orientation of lots in the preliminary plat are appropriate for the proposed use of such lots; and are appropriate for the character of the area in which the lots are located, considering the zoning of the site and adjacent properties, location of the site in the UGA and the availability of public services in the area.

103. Block dimensions in the preliminary plat reflect due regard for the needs of convenient access, public safety, emergency vehicle access, topography, road maintenance and provision of suitable sites for the proposed use. Road alignments in the proposal are designed with appropriate consideration for existing and planned roads, anticipated traffic patterns, topographic and drainage conditions, safety and the proposed use of the site.

104. No deficiencies with regard to the proposal's compliance with development regulations have been established in the record. No public agencies objected to the proposal, as conditioned, or its environmental impact. The project will not have more than a moderate effect on the quality of the environment; and will not adversely impact the public health, safety and general welfare.

105. The proposal has been conditioned for compliance with the UR-7* zone, the County Zoning Code, the County Subdivision Ordinance and other applicable development regulations.

Based on the above findings of fact, the Hearing Examiner enters the following:

II. CONCLUSIONS OF LAW

1. The proposed preliminary plat, as conditioned, conforms to the Comprehensive Plan.
2. The preliminary plat and dedication will serve the public use and interest.
3. The preliminary plat and dedication make appropriate provision for open spaces, roads, drainage ways, schools and school grounds, playgrounds, parks and recreation, sidewalks for

children who walk only to school, sanitary wastes, potable water supplies, easements, utilities, planning features, fire safety, critical areas, and all other relevant facts as specified in RCW 58.17.110 and the County Subdivision Ordinance. The preliminary plat and dedication also make appropriate provision for the public health, safety and general welfare.

4. The proposed subdivision meets the general design requirements and other preliminary plat requirements listed in Chapter 12.400 of the Subdivision Ordinance.
5. The procedural requirements of the State Environmental Policy Act and the County's Local Environmental Ordinance have been met.
6. The proposal, as conditioned, complies with the UR-7* zone, the County Phase I Development Regulations, the provisions of the County Zoning Code, and other applicable development regulations in place at the time a complete application for the preliminary plat was submitted on December 10, 2003..
7. Approval of the preliminary plat application is appropriate under Section 11 of the County Hearing Examiner Ordinance, adopted by County Resolution No. 96-0171.

III. DECISION

Based on the Findings of Fact and Conclusions of Law above, the subject application for a preliminary plat is hereby *approved*, subject to the conditions of approval of the public agencies specified below.

Any conditions of approval of public agencies that have been added or significantly altered by the Examiner are *italicized*.

This approval does not waive the applicant's obligation to comply with all other requirements of other public agencies with jurisdiction over land development.

SPOKANE COUNTY BUILDING AND PLANNING DEPARTMENT

1. All conditions imposed by the Hearing Examiner shall be binding on the "Applicant," which term shall include the owners and developers of the property, and their heirs, assigns and successors.
2. The preliminary subdivision applies to the real property described on the preliminary plat map of record, currently referenced as County Assessor tax parcel nos. 26342.9001 and 26342.9014.
3. The final plat shall comply with the Urban Residential-7* (UR-7) zone, and all other applicable provisions of the Spokane County Zoning Code *in place on December 10, 2003*.

4. The final plat shall be designed substantially in conformance with the preliminary plat of record submitted on March 29, 2005. No substantial modification of the preliminary plat, or conditions of approval, shall occur without a change of conditions application and its approval by the Hearing Examiner after a public hearing. The County Department of Building and Planning may approve minor revisions to the preliminary plat and condition of approval, as provided in the County Subdivision Ordinance.
5. The Building and Planning Department Director/designee shall review any proposed final plat to ensure compliance with this decision and its conditions of approval.
6. A final plat/name/number shall be indicated before the final plat is filed; such name/number to be approved by the Building and Planning Director/designee.
7. Appropriate road name(s) assigned by the Building and Planning Department shall be drafted on the face of the final plat.
8. Appropriate utility easements shall be indicated on copies of the proposed final plat. Approval of utility easements by appropriate utility companies shall be received with the submittal of the final plat.
9. Four (4) current certificates of title shall be furnished to the Spokane County Building and Planning Department prior to filing the final plat.
10. Prior to filing of all or a portion of the final plat, the applicant's surveyor shall submit one or more maps outlined in red of the area being finalized. The scale shall match the appropriated assessor's map scale.
11. At the time of final plat submittal, the applicant shall demonstrate either on the face of the final plat or on an acceptable attachment that all lots located on a cul-de-sac or curvilinear street meet or exceed the minimum required frontage.
12. A survey is required prior to the filing of the final plat.
13. The street address for each lot shall be indicated on the face of the final plat. The Department reserves the right to confirm the actual address at the time a building permit is issued.
14. The final plat shall demonstrate compliance with the *geo-hazard and critical aquifer recharge area* provisions of the Spokane County Critical Areas Ordinance, as amended.
15. The final plat shall comply with the mitigating measures recommended in the Geo-hazard evaluation report dated March 9, 2004. The identified Geo-hazard areas shall be illustrated on the face of the final plat.
16. The preliminary plat is given conditional approval for five (5) years, specifically to July 13, 2010. To request an extension of time, the applicant must submit a written application to the County Building and Planning Department at least thirty (30) days prior to the expiration date for

the preliminary plat, in accordance with the extension of time provisions of the County Subdivision Ordinance. **Submission of a time extension application after the close of business hours on the last day when a request for extension of time can be timely submitted will not be accepted, and the preliminary plat will become null and void at such time to the extent it has not received final plat approval.**

17. The Building and Planning Department shall prepare and record with the Spokane County Auditor Notice, noting that the property in question is subject to a variety of special conditions imposed as a result of approval of a land use action. This Title Notice shall serve as a public notice of the conditions of approval affecting the property in question. The Title Notice should be recorded within the same time frame as allowed for an appeal and shall only be released, in full or in part, by the Building and Planning Department. The Title Notice shall generally provide as follows:

“The parcel of property legally described as *[insert legal description]* is the subject of a land use action by the Spokane County Hearing Examiner on July 13, 2005, approving a preliminary plat application and imposing a variety of special development conditions, relating to such approval, is available for inspection and copying in the Spokane County Building and Planning Department.”

SPOKANE COUNTY DIVISION OF ENGINEERING AND ROADS

Prior to release of a building permit or use of property as proposed:

1. Conditional approval of the plat by the County Engineer is given subject to dedication of right-of-way and approval of the road system as indicated in the preliminary plat of record.
2. Francis Avenue, Hartley Street and Oxford Drive are under the jurisdiction of the City of Spokane. The applicant is advised to consult with the City of Spokane to determine requirements for access to these roadways. Any required access permits and/or roadway improvements to Havana Street shall be reviewed and approved by the City of Spokane.
3. A traffic study has been accepted by the County Engineer for this proposal for five years after the date of the preliminary plat approval. In order to file any portion of a plat after the five year preliminary plat approval, the County Engineer may require updated traffic information to be submitted and additional mitigation may be required.
4. A Professional Engineer, licensed in the State of Washington, shall submit final road and drainage plans, a drainage report and calculations that conform to the 2001 Edition of the Spokane County Standards for Road and Sewer Construction, the 1998 Spokane County Guidelines for Stormwater Management, and all standards and laws that are applicable to this project. Any final road and drainage plans and a drainage report shall receive the County Engineer's acceptance prior to release of a construction or building permit or approval of the final plat.

5. Construction within the proposed public streets and easements shall be performed under the direct supervision of a licensed engineer/surveyor, who shall furnish the County Engineer with "Record Drawings" plans and a certificate in writing that all improvements were installed to the lines and grades shown on the approved construction plans and that all disturbed monuments have been replaced.
6. No construction work is to be performed within the existing or proposed public right-of-way until a permit has been issued by the County Engineer. All work is subject to inspection and approval by the County Engineer.
7. All construction within the existing or proposed public right-of-way is to be completed prior to filling the final plat or a bond in the amount estimated by the County Engineer to cover the cost of construction improvements, construction certification, "Record Drawings" plans and monumenting the street centerlines shall be filed with the County Engineer.
8. No direct access from lots to half (½) right-of-ways until such roads are constructed to county standards and established as county roads.
9. No direct access from lots to stub road connections until such roads are constructed to county standards and established as county roads.
10. Road design, construction and drainage control for half (½) right-of-ways and stub road connections are the responsibility of the developer.
11. The applicant shall make appropriate provision for holding a 1-foot strip at the ends or edges of all streets that terminate or border the plat boundary in trust until the continuation of the streets be dedicated or deeded. Temporary cul-de-sacs are required where streets terminate at the plat boundaries.
12. Approach permits are required for any access to the Spokane County road system.
13. The County Engineer has designated a Local Access Roadway Section for the improvement of all internal public roads which are to be constructed within the proposed development. This will require the installation of 30 feet of asphalt. The constructing of curbing and sidewalk is also required.
14. The proposed plat shall be improved to the standards set forth in Spokane County Resolution No. 1-0298, as amended, which establishes regulations for roads, approaches, drainage and fees in new construction.
15. The County Engineer has examined this development proposal and has determined that the impact of the proposal upon the existing County Road System warrants the dedication of additional right-of-way and the roadway improvements herein specified.
16. The applicant is advised that there may exist utilities either underground or overhead affecting the applicant's property, including property to be dedicated or set aside future

acquisition. Spokane County will assume no financial obligation for adjustments or relocation regarding these utilities. The applicant should contact the applicable utilities regarding the responsibility for adjustment or relocation costs and to make arrangements for any necessary work.

17. The applicant shall grant applicable border easements adjacent to Spokane County Right-of-Way per Spokane County Standards.

18. If the project is developed in phases, a phased road and drainage plan shall be prepared by a licensed Professional Engineer, which clearly show the phasing of the development. The plan must demonstrate that each phase of the development is in conformance with the applicable Spokane County road and drainage standards, and the Conditions of Approval of the plat. If the project is phased and one phase depends on another phase for access and/or drainage treatment and disposal, the prior phase shall be completed, certified and accepted by Spokane County prior to the acceptance of plans for the dependent phase of the development. One (1)-foot no access strips on public roads will not be released until the subject phase is completed, certified and accepted by Spokane County for maintenance. No access through a previous phase of the development will be allowed and no plans will be accepted or certified by the Sponsor's Engineer.

19. If it is revealed during site investigation, either through observations during field visits, historical data, or soil sampling/test pit exploration, that shallow bedrock and/or groundwater is found in the substrata, then there shall be a site investigation and study conducted by a qualified geotechnical Engineer prior to submittal of the road and drainage plans. The reports shall, at a minimum, address the feasibility of constructing basements within this development and identify those lots where basements can be properly constructed. Lots where basements and below grade level construction are prohibited shall also be identified. No groundwater sump pumps or gravity drains may be connected to the sanitary sewer for any of the lots in this plat or be discharged to public or private road surfaces. Suitable language shall be placed on the face of the plat identifying those lots where below grade construction is prohibited. All mitigating measures that may be recommended for lots approved for basements shall be a requirement of any building permits for said approved lots.

20. If the soils onsite are not pre-approved for drywells per the Spokane County Guidelines for Stormwater Management, and the proposed drainage system incorporates infiltration as a method of stormwater disposal in the design, there shall be a site investigation and study conducted by a qualified Geotechnical Engineer prior to submittal of the road and drainage plans. The geotechnical report, at a minimum, shall cover all sites where drywells or infiltration may be proposed, draw conclusions about the ability of any proposed drywells to function according to the Spokane County Guidelines for Stormwater Management, and make recommendations with respect to design parameters and infiltration rates.

21. Erosion Control: A Temporary Erosion and Sedimentation Control (TESC) plan shall be prepared by a WA State licensed Professional Engineer and implemented throughout the duration of construction. The TESC plan is to be prepared using best management practices (BMP's) currently accepted within the Civil Engineering profession. The TESC plan shall include, as a minimum, a grading plan, location and details of silt control structures, and street cleaning

program. Runoff from exposed areas must be filtered prior to discharging into a detention pond or evaporation pond. The TESC major structures (such as silt ponds, silt traps) shall be installed prior to other site work and the TESC measures shall be implemented and maintained throughout the duration of construction, including house construction.

22. Any part of the drainage system that lies outside of the public right-of-way will neither be maintained nor operated by Spokane County forces. Prior to plan acceptance by the County Engineer, the Sponsor shall provide a mechanism, acceptable to the County Engineer, for the perpetual maintenance of the stormwater drainage system. This mechanism shall also provide for the funding of routine maintenance and the replacement of the various components of the drainage system at the end of the service life of the respective components, and any other improvements that may be legally required in the future. An Operations and Maintenance Manual for the stormwater management system shall be prepared by the Sponsor's Engineer, and included in the project documents submitted to the County Engineer for acceptance, along with a discussion of the design life of the various components, a calculated annual cost for repair and maintenance, and a calculated replacement cost. Homeowners Associations are accepted by the Spokane County Engineer for carrying out the required maintenance functions and responsibilities.

23. The proposed plat is located within a Critical Aquifer Recharge Area (CARA) of high susceptibility to groundwater contamination. The treatment of stormwater runoff shall be provided for directly connected pollution generating impervious surfaces including traveled ways and parking areas that are designated as high susceptibility or drain to an area of high susceptibility. The final plat shall protect such critical areas as required by the County Critical Areas Ordinance.

24. Upon final plat approval, the Spokane County Engineer will issue a Transportation Concurrency Certificate for One Hundred Twenty-Four (124) PM peak hour trips for a 122-lot plat.

CITY OF SPOKANE TRANSPORTATION SERVICES

1. Plese-Graham, L.L.C. shall pay to the City of Spokane a sum equal to thirty percent (30%) of the cost of necessary intersection improvements, acceptable to the City of Spokane and WSDOT, at or near the intersection of Assembly and Nine Mile Road, including all costs associated with the improvements (studies, design and engineering). Plese-Graham, L.L.C.'s share of such costs shall not exceed \$75,000. If the improvements cost less than \$250,000, the City of Spokane shall rebate Plese-Graham, L.L.C. the pro rata share of the savings.

2. The applicant shall make the above payment to the City of Spokane at the time the City anticipates construction of the intersection improvements, upon thirty (30) days notice to Plese-Graham thereof. In no event shall payment be required prior to the finalization of Phase 1 (one) of the development, and no later than final approval of the last phase of the development. Pursuant to RCW 82.02.010, et. seq, if construction of the physical intersection improvements is

not commenced within six (6) years of the date such payment is made, the payment shall be refunded to Plese-Graham, L.L.C.

SPOKANE COUNTY DIVISION OF UTILITIES

1. The project lies outside of the County's 6-year capital sewer plan area and inside the Urban Growth Area. Pursuant to the County Phase 1 Development Regulations, projects that fall within this area are required to connect to a sanitary sewer system.
2. This project lies within the City of Spokane Sewer and Water Service Areas. The applicant is required to notify them of this proposal and conform to their requirements.
3. Any water service for this project shall be provided in accordance with the Coordinated Water System Plan for Spokane County, as amended.

SPOKANE REGIONAL HEALTH DISTRICT

1. The final plat shall be designed as indicated on the preliminary plat of record and/or any attached sheets as noted.
2. Appropriate utility easements shall be indicated on copies of the preliminary plat of record for distribution by the County Department of Building and Planning to the utility companies, the Spokane County Engineer, and the Spokane Regional Health District. Written approval of the easements by the utility companies must be received prior to the submittal of the final plat.
3. The sewage disposal method shall be as authorized by the Director of Utilities, the city of Spokane Public Works.
4. Water service shall be coordinated through the Director of Utilities, City of Spokane Public Works.
5. Water service shall be by an existing public water supply when approved by the Regional Engineer (Spokane), State Department of Health.
6. Prior to filing the final plat, the applicant shall demonstrate to the satisfaction of the Spokane Regional Health District that an adequate and potable water supply is available to each lot in the final plat.
7. Prior to filing the final plat, the applicant shall present evidence that the plat area lies within the recorded service area of the water system proposed to serve the final plat.
8. A public sewer system will be made available for the plat and individual service will be provided to each lot prior to sale. The use of individual on-site sewage disposal systems shall not be authorized.

9. A statement shall be placed in the dedication to the effect that: "A public sewer system will be made available for the plat and individual service will be provided to each lot prior to sale. Use of individual on-site sewage disposal systems shall not be authorized."

10. The final plat dedication shall state: "The use of private wells and water systems is prohibited."

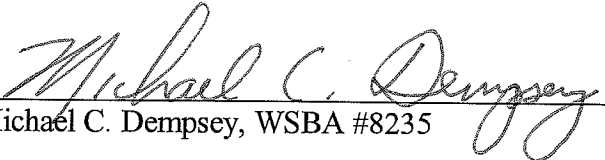
11. The final plat dedication shall contain the following statement: "The public water system, pursuant to the Water Plan approved by county and state health authorities, the local fire protection district, the County Building and Planning Department and the water purveyor, shall be installed within this subdivision and the applicant shall provide for individual domestic water service as well as fire protection to each lot prior to sale of each lot and prior to issuance of a building permit for each lot."

WASHINGTON STATE PARKS AND RECREATION COMMISSION

1. *Prior to final plat approval, the applicant shall consult with Commission staff regarding connection of the final plat and Riverside State Park through a pedestrian pathway, the construction of fencing along the west border of the final plat, and approval of the proposed utility and access easement through Riverside State Park.*

DATED this 13th day of July, 2005

SPOKANE COUNTY HEARING EXAMINER


Michael C. Dempsey, WSBA #8235

NOTICE OF FINAL DECISION AND NOTICE OF RIGHT TO APPEAL

Pursuant to Spokane County Resolution No. 96-0171, the decision of the Hearing Examiner on an application for a Preliminary Plat is final and conclusive unless within twenty-one (21) calendar days from the issuance of the Examiner's decision, a party with standing files a land use petition in superior court pursuant to chapter 36.70C RCW. Pursuant to chapter 36.70C RCW, the date of issuance of the Hearing Examiner's decision is three (3) days after it is mailed.

This Decision was mailed by Certified Mail to the Applicant, and by first class mail to other parties of record, who individually submitted substantive written comments and provided a mailing address, on July 13, 2005. The date of issuance of the Hearing Examiner's decision is therefore July 18, 2005, counting to the next business day when the last day for mailing falls on a weekend or holiday. **THE LAST DAY FOR APPEAL OF THIS DECISION TO SUPERIOR COURT BY LAND USE PETITION IS AUGUST 8, 2005.**

The complete record in this matter, including this decision, is on file during the appeal period with the Office of the Hearing Examiner, Third Floor, Public Works Building, 1026 West Broadway Avenue, Spokane, Washington, 99260-0245, (509) 477-7490. The file may be inspected Monday - Friday of each week, except holidays, between the hours of 8:30 a.m. and 5:00 p.m. Copies of the documents in the record will be made available at the cost set by Spokane County.

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