

CITY OF SPOKANE HEARING EXAMINER

Re: Preliminary Plat Application) FINDINGS, CONCLUSIONS,
by T.J. Landco, LLC for a) AND DECISION
22-lot Preliminary Plat to be)
known as Talon Ridge) FILE NO. Z2004-55-PP

SUMMARY OF PROPOSAL AND DECISION

Proposal: The applicant seeks a preliminary plat approval to allow the subdivision of approximately 24 acres of land into 22 residential lots.

Decision: Approval, subject to conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

Applicant: T. J. Landco, LLC
c/o Tod Lasley
12005 North Fairwood Drive
Spokane, WA 99208

Represented by: Margaret Arpin, Attorney at Law
Arpin Law Office
1117 East 35th Avenue
Spokane, WA 99203

Property Address: Not assigned

Property Location: West of the Eagle Valley Subdivision, west of Meadowlane Road near its intersection with State Route (SR) 195.

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

Zoning: R1 (Single-family Residential Zone)

Comprehensive Plan Map Designation: This property is designated in the City's 2001 Comprehensive Plan as Residential 4-10.

Site Description: The site is irregular in shape and contains 24 acres. It slopes downward steeply from west to east and there are ravines located at the bottom of the slopes at the east end of the property. One ravine is on the north side and one on the south side. The Staff Report states that the overall average slope is 18.75 percent, while some of the westerly portion is slightly more than 30 percent. Most of the ground surface has been cultivated and is covered with a sparse to moderate growth of grass, but some areas have a growth of Ponderosa pine trees.

Surrounding Conditions: To the east, between this property and SR-195 is a single-family residential subdivision being developed, called Eagle Valley. To the south is the Eagle Ridge development, also in the process of being constructed. To the north and west, the property is unplatted and undeveloped, or developed with single-family uses on very large lots. The zoning is R1 in all directions.

Project Description: The applicant seeks to subdivide this 24 acres into 22 single-family lots. The lots range in size from approximately 28,000 square feet to approximately 45,000 square feet. The plat will have public streets connecting from the Eagle Ridge Subdivision to the south. It also will have a secondary emergency access from the Eagle Valley Addition to the east. The layout of lots and streets is set forth on the preliminary plat, which is in the record as Exhibit #2D. That plat map also shows a large drainage area in the northeast corner of the plat, and a large open area located in the southeast portion. Access to the site will be via SR-195, Meadowlane Road, and Eagle Ridge Boulevard.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code Sections 11.02, 11.02.0460, 11.18, 11.19, and 11.19.081.

Hearing Date: April 7, 2005

Notices: Mailed: July 15, 2004
Posted: July 16, 2004
Published: July 19 and 26, 2004

Site Visit: April 6, 2005

SEPA: A Mitigated Determination of Nonsignificance (MDNS) was issued by the City on March 16, 2005.

Testimony:

Steve Haynes
City of Spokane Planning Services
808 West Spokane Falls Boulevard
Spokane, WA 99201

Mike Britton
City of Spokane Traffic Engineering
808 West Spokane Falls Boulevard
Spokane, WA 99201

Margaret Arpin, Attorney at Law
Arpin Law Office
1117 East 35th Avenue
Spokane, WA 99203

Tod Lasley
T.J. Landco LLC
107 East Magnesium Road, Suite C
Spokane, WA 99208

Fred Knostman
116 West Bristol Avenue
Spokane, WA 99224

Sean Malone
5930 Meadowlane Road
Spokane, WA 99224

Exhibits:

1. Notes from predevelopment conference
2. Application, including:
 - 2A. General application
 - 2B. Preliminary plat application
 - 2C. Preliminary plat (June 2004)
 - 2D. Preliminary plat (March 2005)
3. Engineering Services Department comments (9-28-04 and 12-27-04)
4. Fire Department comments
5. Solid Waste Department comments
6. Wastewater Department comments
7. Treasurer's Department comments
8. Washington State Dept. of Transportation comments
9. Washington State Dept. of Ecology comments
10. Washington State Dept. of Fish and Wildlife comments
11. Notice map and area maps
12. Notices
13. Affidavits of Mailing
14. Affidavits of Posting
15. Affidavit of Publication
16. Planning Services Staff Report
17. Mitigated Determination of Nonsignificance
18. Environmental Checklist
19. Tape and sign-in sheet from community meeting
20. Transportation Threshold Analysis prepared by the Transpo Group, 1-8-04

21. Conceptual Drainage Plan and Report prepared by Simpson Engineers, Inc., 1-21-04
22. Limited Geotechnical Drainage Plan and Report prepared by Cummings Geology, Inc., 12-17-03
23. Letter dated 11-10-03 to Tod Lasley from Michael M. Folsom, Geographical Services, re: Stream evidence at Chicha property
24. Letter dated 3-22-04 to Tod Lasley from Eldon Brown re: Secondary access to the plat
25. Letter dated 8-9-04 to Steve Haynes from Fred Knostman re: Concerns
26. Letter dated 8-9-04 to Steve Haynes from Rachelle A. Rickard re: Access to city streets
27. E-mail exchange dated 8-25-04 between Steve Haynes and Fred Knostman re: Concerns
28. Letter dated 1-20-05 to Tod Lasley from Steve Haynes re: Notice of application
29. Letter dated 1-21-05 to Tod Lasley from Steve Haynes re: Changes to plat
30. Letter dated 2-7-05 to Steve Haynes from Tod Lasley re: Clarification of points in 1-21-05 letter
31. Letter dated 3-15-05 to Tod Lasley from Steve Haynes re: Notice of public hearing
32. Commitment for Title Insurance
33. Memorandum in Support of Application submitted at the hearing by Margaret Arpin
34. Photographs showing erosion and letter expressing concerns submitted at the hearing by Fred Knostman
35. Revised Staff Report submitted at the hearing by Steve Haynes

FINDINGS AND CONCLUSIONS

Review of the proposed plat is subject to Spokane Municipal Code Section 11.02.0460. The Hearing Examiner has reviewed the proposed plat and evidence of record with regard to this section and makes the following findings and conclusions:

1. The proposed subdivision is consistent with the Comprehensive Plan designation and goals, objectives, and policies for the property.

The subject property is designated in the City's 2001 Comprehensive Plan as Residential 4-10, which means that it is appropriate for low-density-residential development. The land is zoned R1 (Single-family Residential). The applicant's plat will be developed with low-density, single-family residences. The Planning Staff, in their

report, Exhibit #35, pages 3 and 4, set forth certain policies of the Comprehensive Plan and find this proposal to be consistent with those policies. The applicant also has submitted evidence that the proposal is consistent with the Comprehensive Plan. See Exhibit #33, pages 3 and 4. The Hearing Examiner accepts the analysis and adopts that analysis herein from both the Staff Report and the applicant's memorandum. There was no testimony or evidence submitted to the Examiner to show that the proposal is not consistent with the City's 2001 Comprehensive Plan. Evidence was presented to show non-compliance with the Latah Creek Plan, but that plan is no longer in effect.

2. The proposed subdivision complies with all requirements of the land use codes applicable to the property being subdivided.

The proposal complies with all of the site development standards of the R1 zone. All of the lots are larger than the minimum lot size and width, and the proposed yards are as required by R1 regulations. There was no evidence presented to show that the proposed subdivision does not meet the requirements of the land use codes.

3. The proposed subdivision makes appropriate (in terms of capacity and concurrence) provisions for:

a. Public health, safety, and welfare. The proposal provides single-family residential housing in an area zoned for single-family uses where services and utilities are available. It is consistent with the density standards of the R1 zone and is also consistent with most of the goals and objectives of the Comprehensive Plan. Therefore, the Hearing Examiner finds that the proposed development serves the interest of the general public and promotes the general welfare.

Both the Police and Fire Departments were given the opportunity to review this proposal and provide comments. The Police Department did not offer any comments or concerns regarding the proposal. The Fire Department will require that it be able to review the final placement of fire hydrants and also to insure the development has adequate water pressure for fire flow purposes. In addition, the Fire Department has requirements relating to access to the site, roadway width, and turnaround dimensions. The fire station designated to serve the site is Station #4, which is located at 1515 West First Avenue, approximately five miles from the site.

b. Open spaces. The purpose of open space in plats is to provide light, air, and some outdoor recreation space. There are two parcels of dedicated open space within this plat. Also, lots within the plat will be larger than traditional City lots and since they will be required to conform to R1 site coverage requirements, which means that only 40 percent of the lot can be covered with structures, each lot will have substantial open space for the use of its residents. The Hearing Examiner finds, therefore, that there is adequate provision for open space.

c. Drainage ways. All stormwater and surface water drainage generated on site must be disposed of on site in accordance with the City's stormwater control regulations. The applicant has had a conceptual drainage study prepared and the report was found acceptable to the City's Engineering Services Department. A final drainage report will be required before the City Engineer signs the final plat. The project proponent will be responsible for the costs associated with constructing stormwater improvements which are necessary to serve the proposed plat.

d. Streets, roads, alleys, and other public ways. The streets within the plat and adjacent streets will be built to City standards and will be public streets with sidewalk on both sides. The traffic study submitted by the applicant was accepted by the Traffic Department and its findings were accepted for concurrency considerations. The MDNS requires the payment of \$732 per dwelling unit for proposed improvements to SR-195.

No alleys are proposed for the plat, but there are accesses in the proposal for some of the lots in order to provide vehicle access to the rear yards. The street right-of-way width is to be 50 feet instead of the standard 60 feet because of the slope. This was acceptable to the City Engineer. There was public testimony about the proposed second access road from Bristol Avenue on the east. This additional access road is to be for emergency purposes only. There were concerns that this access road would cut across some steep slopes and thereby cause considerable damage to the slope and possible erosion problems. The Fire Department has required this second access in order for the plat to comply with the Fire Code. This access has been accepted by the City Engineer, the Transportation Department, and the Fire Department and must be maintained by an owners association. Further, the applicant will be required to control not only stormwater drainage movement but also erosion both during and after construction. Although it is unfortunate that this access road has to cut across this steep slope, it appears necessary for emergency purposes, according to the Fire Department.

e. Transit stops. There is no transit service serving the site.

f. Potable water supplies. The development will be connected to the City of Spokane's public water system. The applicant will be required to submit an overall water plan to the Engineering Services Department and the Water Department for review prior to the City Engineer signing the final plat. A hydraulic analysis with supporting calculations for domestic and fire flows will be included in the submittal. The developer will be responsible for all costs associated with constructing water mains and other improvements necessary to serve the plat.

g. Sanitary wastes. The development will be connected to the City's public sanitary sewer system. Construction of sanitary sewers to and through the development will be the responsibility of the developer, subject to the approval of plans by the City's Engineering Department.

h. Parks, recreation, and playgrounds. There are no public parks within the proposal. The closest public park is the Creek at Qualchan Golf Course on the east side of SR-195. There are also conservation areas and public hiking trails located in the vicinity of this plat.

i. Schools and schoolgrounds. The site is located within School District #81. No adverse comments were submitted by School District #81, and it is therefore assumed that the school district can accommodate the children from the housing within this development who may be attending public schools.

j. Sidewalks, pathways and other features that assure safe walking conditions. The streets within the plat will be public and will be developed to City standards. This will include sidewalks within the development. Sidewalks will also connect this development with Eagle Ridge to the south and there are connecting points for the streets in this plat to connect to the property to the north once it is platted. The emergency access road can also be used as a pedestrian connection to the east.

4. The proposed subdivision serves the public interest and will result in a benefit or advantage to the public.

It is in the public interest to have a variety of housing types located in different areas of the City where services and utilities already exist. This development is within the City and also within the City's Urban Growth Area. It will provide 22 home sites and these home sites will be consistent with current development and also consistent with the City's Comprehensive Plan. Therefore, the subdivision serves the public interest.

DECISION

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

A. General Conditions

1. Approval is for a preliminary plat to allow the subject property to be subdivided into a maximum of 22 single-family-residential lots. The plat is to be developed substantially in accordance with the preliminary plat which is in the record as Exhibit #2D. The number of lots and layout of streets shall be substantially as depicted on that exhibit except as modified by these conditions of approval. This includes the location of the open area and drainage area on site. Any proposed modifications to the preliminary plat shall be reviewed and approved by the City's Hearing Examiner.

2. This PUD will have a private emergency access road, and stormwater systems. They shall be maintained by a homeowners associations. A set of Covenants, Conditions, and

Restrictions, (CC&Rs) prepared for the proposed development is subject to review and approval by the City of Spokane, and shall be recorded with the Spokane County Auditor's Office prior to the recording of the final plat. The CC&Rs shall address the duties and responsibilities of the homeowners association with respect to the emergency access road and stormwater disposal systems. This includes, but is not limited to, the levying and collection of assessments, and the operation and maintenance of those facilities, and shall also provide for the administration and enforcement of these duties and responsibilities.

An operation and maintenance manual for all stormwater facilities to be maintained by the Talon Ridge Homeowners Association shall be prepared by a professional engineer, licensed in the State of Washington, and submitted to Engineering Services-Developer Services for review and acceptance prior to the City Engineer signing the final plat.

3. The following statement is to be included in the dedicatory language on the final plat:

All stormwater and surface drainage generated on site must be disposed of on site in accordance with SMC 11.09A "Stormwater Facilities" and in accordance with the project engineer's recommendation based on the conceptual drainage plan accepted for this plat. Predevelopment flows of offsite runoff passing through this plat must not be increased (rate or volume) or concentrated due to development of this plat, based on a 50-year design storm. An escape route for a 100-year storm event must be provided through this plat.

No building permit shall be issued for any lot in this plat until evidence satisfactory to the City Engineer has been provided showing that the recommendations of SMC 11.09A "Stormwater Facilities" and the project engineer's recommendations, based on the drainage plan accepted for this final plat have been complied with. A surface drainage plan shall be prepared for each lot and shall be submitted to Engineering Services for review and acceptance prior to the issuance of a building permit for said lot.

4. A final grading and drainage plan showing finished one-foot contours and supporting calculations for each phase must be submitted for review and acceptance prior to the City Engineer signing the final plat. The developer will be responsible for all costs associated with constructing stormwater/runoff improvements necessary to serve this plat.

Drainage tracts, drainage easements, and common areas shall be designated unbuildable. These tracts and easements, including all detention ponds and drainage facilities, will be operated and maintained by the Talon Ridge Homeowners Association. The City of Spokane will operate and maintain all stormwater lines and structures located in public right-of-way except for any lines connecting from stormwater structures

in public streets to drainage tracts or drainage easements. These lines will be maintained by the Talon Ridge Homeowners Association. Property owner(s) will maintain drainage swales or planting strips in public right-of-way, adjacent to the property owner(s) property, with a permanent live cover of lawn turf, with operational shrubbery and/or trees, which do not obstruct the flow and percolation of runoff in the drainage swale, as indicated on the accepted plans. Stormwater and surface drainage passing through the plat shall be coordinated with the adjacent plat owners to the east.

5. The development of any below-grade or sublevel structures (including basements) in the plat is subject to review of a geotechnical evaluation for foundation design to determine suitability and effects from stormwater and/or subsurface runoff. The geotechnical evaluation is required to be performed for each lot with below-grade or sublevel structures and submitted for review and acceptance to the City of Spokane Building Department and Engineering Services-Developer Services prior to issuance of a building permit. An overall or phase-by-phase geotechnical analysis may be performed in lieu of individual lot analyses to determine appropriate construction designs.

6. A preliminary drainage report from Simpson Engineers dated January 21, 2004, has been submitted to Engineering Services-Developer Services for review. Along with this report is a limited geotechnical engineering study prepared by Cummings Geotechnology, Inc. dated December 17, 2003, which recommends that stormwater be discharged into the ground via drywells. This is the recommended scheme to handle post-development increase in rate and volume. The geotechnical engineer recommends an infiltration rate of 72 inches per hour through drywells.

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

8. All water lines constructed to and within this development are the developer's responsibility. Any plan submittal for review and acceptance of the water system to serve this proposed development must include a hydraulic analysis with supporting calculations for domestic and fire flows.

9. An overall sewer plan is required to be submitted to Engineering Services-Developer Services for review and acceptance prior to the City Engineer signing the final plat. All sewer lines constructed to and within the plat will be constructed at the developer's expense.

10. Project mitigation shall include a voluntary SEPA mitigation fee of \$732 per dwelling unit for the Washington State Department of Transportation proposed improvements to SR-195. This fee shall be paid in total to the Washington State Department of Transportation at final plat approval. The applicant or their agent shall provide

documentation to the City Engineer demonstrating that the fee has been paid prior to the Engineer signing the final plat.

11. An erosion/sediment control plan, detailing how dust and runoff will be handled during and after construction of each phase shall be submitted to Engineering Services-Developer Services prior to construction of said phase. The erosion/sediment control plan is required prior to the issuance of any permits for the project.

12 All streets serving this plat must be designed based on the adequacy of soils underneath to support vehicular loads. All streets except the emergency secondary access will consists of paving, curbing, sidewalk, drainage structures and planting strips/swales.

13. All street identification and traffic control signs required by this project will be the responsibility of the proponent. These signs must be shown on the street improvement plans and are to be constructed as part of the street improvements. The streets will not be accepted until all required signs are installed. Final street names shall be consistent with the City's policy on street naming and shall avoid duplication of intersection names.

14. All required improvements serving the plat, including streets, sanitary sewer, stormwater, and water systems shall be designed and constructed at developer's expense. Construction plans for public and private improvements must be submitted to Engineering Services for review and approval. The design of all street, sanitary sewer, water, and stormwater facilities shall be done by a professional engineer, licensed in the State of Washington, and the improvements must be constructed to City standards by the developer prior to the occupancy of any structures within the development. Engineering Services-Developer Services must review all plans prior to the City Engineer signing the final plat. Plan review fees will be determined at the time of review.

15. Slope easements, as required, shall be granted along all streets serving this plat. A ten-foot utility easement shall be granted along all streets and roads within the plat. All easements, existing and proposed, along with their purpose, shall be shown on the face of the final plat.

16. The required front, side, flanking side, and rear yards shall be shown on the face of the final plat. R1 zoning standards shall be complied with.

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

18. The final plat will contain sufficient information to review closure of the plat.

19. Lot corners at intersections of streets shall have a minimum 20-foot radius.

20. A monument deposit of \$250 for each public monument will be required prior to the City Engineer signing the final plat.

21. All parking areas and driveways shall be hard surfaced and it shall be so stated on the face of the final plat.

22. A "financial guarantee policy" enacted as of July 1, 2001, requires a performance surety for construction of the street improvements, drainage, and sediment control for each plat.

23. Eagle Ridge Boulevard must be fully constructed from SR-195 to Cedar Road prior to final plat approval.

24. Garages will be constructed no less than 20 feet from public sidewalk.

25. Cul-de-sac radius must be 50 feet to face of curb.

26. The grade of the proposed fire lane/emergency access road from Bristol Court to the north-south street that is to be named on the final plat shall not exceed ten-percent grade at any point, unless approval for a steeper grade is given by the City Engineer. The access road must be a minimum of twenty feet wide and must be an all-weather surface that is maintained throughout the year, including snow removal.

27. The placement of fire hydrants throughout the plat must be approved by the City Fire Department in accordance with the Uniform Fire Code. Fire hydrants are to be installed at the developer's expense and shall be served by a minimum eight-inch diameter water main with a minimum six-inch diameter service line to the individual hydrants. Hydrants shall be placed not more than five-hundred feet apart, and each lot must be within two-hundred-fifty feet of a hydrant. Fire Department access must be provided to within one-hundred-fifty feet of any point around the outside of any building.

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

B. Prior to Approval of the Final Plat

29. The applicant shall submit the following plans to the Engineering Department for its review and approval:

- a. construction plans for all streets and sidewalks serving the plat;
- b. a detailed plan for water service to be constructed to serve the plat;
- c. a detailed plan for sanitary sewers constructed to serve this plat;

- d. a storm drainage, erosion control, and grading plan, along with any required geo-technical report.

30. A fire protection plan demonstrating that there exists the necessary fire flow and showing the location of all fire hydrants shall be submitted to the Fire Department for its review and approval.

C. Prior to the Sale of Any Lots

31. The lots to be sold shall be connected to a functioning public water system complying with the requirements of the Engineering Department and having adequate pressure for domestic and fire uses as determined by the Water/Hydro Services Department. This condition shall be stated on the face of the final plat.

32. The lots to be sold shall be connected to a functioning public sanitary sewer system complying with the requirements of the Engineering Department. This condition shall be stated on the face of the final plat.

33. The lots to be sold shall be adequately served by a fire hydrant and appropriate access streets as determined by the requirements of the City of Spokane Fire Department and City Transportation Department. This condition shall be stated on the face of the final plat.

D. Prior to the Issuance of Certificates of Occupancy

34. All improvements, including street improvements, required by this decision, shall be installed to serve the residential unit for which the certificate of occupancy is sought in accordance with the plans approved by the City of Spokane. This condition shall be stated on the face of the final plat.

35. Spokane Municipal Code 11.02.0460B states:

B. Time Limitation.

A preliminary short plat, preliminary long plat, or preliminary binding site plan automatically expires and becomes void if the applicant fails to file a final plat or binding site plan within five years of the effective date of the approval unless the applicant has received an extension for the preliminary short or long plat or the preliminary binding site plan as provided in Section 11.02.0280.

(A fee is required to accompany the extension request.)

DATED this 18th day of April 2005.

Greg Smith
City of Spokane Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Appeals of decisions by the Hearing Examiner are governed by Spokane Municipal Code 11.02.0730.

Decisions of the Hearing Examiner regarding preliminary plats and planned unit developments are final. They may be appealed to the City Council. All appeals must be filed with the Planning Department within fourteen (14) calendar days of the date of the decision. The date of the decision is the 18th day of April 2005. **THE DATE OF THE LAST DAY TO APPEAL IS THE 2nd DAY OF MAY, 2005 AT 4:30 P.M.**

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

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