

**SPOKANE COUNTY HEARING EXAMINER PRO TEM**

**Re:** Preliminary Plat of Dishman Estates ) *AMENDED FINDINGS,*  
at the Alteneder Ranch to divide ) *CONCLUSIONS,*  
20.64 acres into 21 lots for single- ) *AND DECISION*  
family residences in the Low Density )  
Residential (LDR) zone. ) FILE NO. PE-2094-21

**SUMMARY OF PROPOSAL AND DECISION**

**Summary of Proposal:** The Applicant is proposing to subdivide 20.64 acres into 21 residential lots on property in the LDR zone.

**Decision:** Approved, with conditions.

**FINDINGS OF FACT**  
**BACKGROUND INFORMATION**

**Applicant** Whipple Consulting Engineers  
21 S. Pines Road  
Spokane Valley, WA 99206

**Owners** RPM Properties LLC  
PO Box 30219  
Spokane, WA 99223

**Under Purchase** Big Sky Homes  
**Contract to:** PO Box 147  
Greenacres, WA 99216

**Property Location:** The site is designated as Parcel Numbers 44041.9149 (Unassigned Address) and 44041.9106 (11904 E. Thorpe Road), in Spokane County, Washington. The site is located east of and adjacent to Dishman Mica Road and south of and adjacent to Thorpe Road.

**Legal Description:** The legal description of the property is provided in the Preliminary Plat Map on file. The property is situated in the NE ¼ of Section 4, Township 24 North, Range 44 East, Willamette Meridian, Spokane County, Washington.

**Zoning:** The property is zoned LDR (Low Density Residential).

**Comprehensive Plan Designation:** The property is designated as Low Density Residential in the Spokane County Comprehensive Plan (CP).

**Site Description:** The site is approximately 20.64 acres in size and is irregular in shape. The site is undeveloped. The property lies south of Thorpe Road and east of Dishman-

Mica Road. The property slopes slightly from the east side of Dishman-Mica down to the east property line.

The site contains a mapped Type F stream, Chester Creek, which largely defines the eastern edge of the property. The site contains a Category II wetland that covers approximately 10 acres of the property. Floodplain areas associated with the creek are also present. The stream, the wetland, and the floodplain contain large areas of heavy wetland vegetation to include a significant riparian tree line that is located along the west half of the site and comprised of mature Cottonwoods and native shrubs and grasses.

Spokane County Critical Areas maps identify mapped priority habitat located on the site and within the surrounding area for Rocky Mountain Elk. The maps also identify geohazard areas present on the subject site in the form of Alluvial deposits. Finally, the property is located within a Critical Aquifer Recharge Area (CARA) identified as having high susceptibility.

**Project Description:** The proposal consists of a Preliminary Plat to divide 20.64 acres into 21 lots for single-family residences in the LDR zone. Access to the site will be by Dishman-Mica Road, which is adjacent to the site. Dishman-Mica Road is a paved, 2-lane roadway with no shoulder improvements along the site frontage. No access is proposed from Thorpe Road. The development will be served by public water and sewer. Public water is to be provided by Spokane County Water District No. 3. Public sewer will be provided by Spokane County Environmental Services (SCES).

The Applicant prepared a Trip Generation and Distribution Letter (TGDL) to assess the potential traffic impacts of the proposal. To address questions about drainage, the Applicant prepared a Conceptual Drainage Plan. To address environmentally sensitive areas or features of the site, the Applicant prepared a Wetland Delineation Report, a Wetland Mitigation Report, and a Geohazard Evaluation. These documents contain a detailed analysis of site conditions and an evaluation of the strategies that could be employed to avoid unnecessary impacts or mitigate the impacts that could not be avoided. Numerous project conditions and mitigation measures have been proposed based upon these documents.

**Surrounding Conditions and Uses:** Properties to the north of the site and south of Thorpe Road are within Spokane County and are zoned LDR. Properties north of Thorpe Road are within the City of Spokane Valley (COSV). Land use north of the subject site consists of a single-family residence and a former golf course. Zoning to the south of the site is LDR. Land use south of the subject site consists of single-family residences on acreage parcels, agricultural use, and undeveloped land. Zoning to the east of the site is LDR. Land use east of the site consists of a landscaping business, single-family residences on urban sized to acreage parcels, agricultural use, and undeveloped land. Properties to the west of the site are located within the limits of the COSV. Land use west of the site consists of single-family residences on urban sized to acreage parcels, agricultural use, and undeveloped land.

## PROCEDURAL INFORMATION

**Authorizing Ordinances:** Spokane County Code (SCC) Title 14 (Zoning Code), SCC Title 12 (Subdivisions), and SCC Title 11 (Environmental), and SCC Section 1.46 (Hearing Examiner System).

**Notice of Application:** Mailed: September 1, 2021  
Posted: February 9 and September 1, 2021

**Notice of Public Hearing:** Mailed: January 31, February 1 and 3, 2022  
Posted: February 3 and 4, 2022  
Publication: February 8, 2022

**Public Hearing Date:** February 23, 2022

**Site Visit:** March 2, 2022

**State Environmental Policy Act (SEPA):** A Determination of Nonsignificance (DNS) was issued on February 8, 2022. Any appeal of the DNS was due by February 22, 2022. No appeal was filed.

### **Documents Received by the Hearing Examiner Pro Tem:**

- Staff Report, including:
  - Maps, including Preliminary Plat Map of Record dated 12/20/21
  - Conditions of Approval
  - Agency Comments, including:
    - Request for Agency Comments date 01/26/22
    - Washington State Department of Fish and Wildlife (WSDFW)
    - COSV Community and Public Works Department
    - Washington State Department of Ecology (WSDOE)
    - Spokane Regional Health District
    - Spokane County Public Works Department
    - Spokane County Environmental Services
    - Avista
- Planning Director's Exception to Urban Connectivity Standards dated 02/15/22
- Application Materials, including:
  - Submittal Checklist dated 09/22/20
  - Preliminary Subdivision Application dated 11/10/20
  - Concept Storm Drainage Narrative dated 12/14/20
  - Project Narrative and Connectivity dated 12/21/20
  - Agreement to Pay Fees dated 01/05/21
  - Trip Generation and Distribution Letter (TGDL) dated 01/05/21
  - Fee Receipt dated 01/08/21
  - Preliminary Plat Fees and Plat Map dated 01/11/21
  - Expanded TGDL dated 05/04/21
  - Pre- and Post-Grading Surveys dated 11/15/21
- Preliminary Plat Maps, including:
  - A. Preliminary Long Plat & ALTA dated 12/23/20
  - B. Dishman Estates Long Plat dated 05/19/21

- C. Dishman Estates Long Plat dated 05/19/21
- D. Dishman Estates Preliminary Plat dated 05/19/21
- E. Dishman Estates Preliminary Plat dated 05/19/21
- Environmental Reports and Surveys, including:
  - Cultural Resources Survey dated November 2020
  - Geotechnical Engineering Report dated 01/25/2021
  - Wetland Delineation Report dated 01/30/21
  - Geotechnical Engineering Report Addendum – Geohazard Evaluation dated 04/12/21
  - Wetland Mitigation Report dated 11/07/21
- SEPA Checklist and DNS
  - SEPA Checklist dated 12/24/20
  - DNS dated 02/08/22
- Noticing Documents, including:
  - Title Company Certification dated 07/28/21
  - Notice of Application and Affidavits
  - Public Notice Packet dated 01/27/22
  - Notice of Virtual Hearing
  - Declaration of Mailing dated 02/01/22
  - Publishing Affidavit dated 02/14/22
  - Title Company Certification and Affidavits dated 02/15/22
- Public Comments, including:
  - Norm and Christy Moss
  - Chuck and Vicki Inks
  - Mark and Sally Purvine
  - Sandra Baker
  - Ann Phelps
  - Tom Galietti, including 7 videos and follow up email regarding potential SEPA appeal request
- Staff Presentation
- Applicant Presentation

**Testimony:**

Tammy Jones, Planning Manager  
 Spokane County  
 Building and Planning Department  
 1026 W. Broadway Avenue  
 Spokane, WA 99201

Todd Whipple  
 Whipple Consulting Engineers  
 21 S. Pines Road  
 Spokane Valley, WA 99206

Tom Galietti  
 4825 S. Dishman Mica Road  
 Spokane, WA 99206  
[Joeytomatoes1@gmail.com](mailto:Joeytomatoes1@gmail.com)

Taudd Hume  
 Witherspoon Brajich McPhee, PLLC  
 601 W. Main Avenue, #714  
 Spokane, WA 99201

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

Norm and Christy Moss  
4705 S. Lapwai Lane  
Spokane Valley, WA 99206  
[Camoss4@comcast.net](mailto:Camoss4@comcast.net)

Chuck and Vicki Inks  
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Sandra Baker  
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Kathy Mercer  
4821 S. Dishman Mica Road  
Spokane Valley, WA 99206

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10210 E. Sprague Avenue  
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Public Works  
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Todd Brooks  
Windermere Real Estate  
2829 S. Grand Boulevard  
Spokane, WA 99203

Travis Paske  
Big Sky Homes  
PO Box 147  
Greenacres, WA 99216

**FINDINGS AND CONCLUSIONS**

To be approved, the proposed preliminary plat must comply with the criteria set forth in the SCC and demonstrate consistency with the CP. The Hearing Examiner Pro Tem has reviewed the plat application and the evidence of record with regard to the application and makes the following findings and conclusions:

- 1. The proposed preliminary plat is consistent with the goals and policies of the Comprehensive Plan.*

The subject property is located within the Low Density Residential category of the CP, which allows a density range of 1 to 8 dwelling units per acre (DUs/acre). See CP, Chapter 2, Urban Land Use, p. UL-1. The net density of the Preliminary Plat is 1.02 DUs/acre. See Staff Report, p. 5. While the proposed density is at the low end of the range, the proposal is still within the density range set forth in the CP.

The CP intends to achieve an average residential density in new development of at least four DUs/acre. See Policy UL.9.2. That goal is to be achieved through a mix of densities and housing types. This density goal is stated as an *average* and, thus, some projects will be above the average and some will be below. Residential projects will vary in lot size, home size, plat design, etc. In addition, the density goal also applies throughout the Urban Growth Area (UGA) and, thus, the four DUs/acre goal does not operate as a

minimum applicable to each plat. The four DUs/acre average is a guideline in the CP, not a regulatory requirement. *Testimony of T. Jones*. While the density of the proposal is on the low end of the range, it satisfies the regulatory standards for density. *See id.* In addition, the low density of this project arises from the presence of the wetland and other environmentally sensitive areas on the site. *See id.* The project was designed to avoid or minimize the impacts to those areas, leaving limited room for development. *Testimony of T. Whipple*. Under the circumstances, the Hearing Examiner Pro Tem concludes that the preliminary plat is consistent with the CP, even though the proposed density is below the desired average.

The project is located within the UGA and in an LDR area. *See Staff Report*, pp. 2 & 5. Thus, the project is taking place on land designated for residential, urban development. In addition, the development is proposed in an area that already has the facilities to support that kind of growth, consistent with Goal UL.7 and Policy UL.7.1. The proposal is also consistent with Policy UL.7.3, which provides that new development must be located within the UGA.

The proposed subdivision includes 21 lots that are similar in size and configuration to the lots in the residential areas to the east and west of the site. In addition, design standards are included to ensure neighborhood character and compatibility with adjacent uses. *See Staff Report*, pp. 5-7. The proposal is designed to set aside the environmentally sensitive areas of the site. Impacts to these areas are limited and there are extensive conditions and mitigation measures to compensate for any such impacts. In this way, this project preserves the character of the neighborhood, consistent with Policy H.3.2.

The project will be connected to public water and public sewer. This is consistent with Policy UL.7.12, which provides that new development within the UGA should be connected to the public sewer. Policy CF.7.2 states that Spokane County should not allow extension of any sewer system that will degrade the existing system below the adopted level of service. Similarly, Policy CF.6.3 states that Spokane County should not allow extension of any water system that will decrease the level of service below the minimum standards. The proposal does not transgress these requirements. Spokane County confirmed that the sewer system has sufficient capacity to serve the development. *See Certificate of Sewer Availability*, November 13, 2020. Likewise, Spokane County Water District #3 verified that it has sufficient capacity to provide water to the subdivision. *See Certificate of Water Availability*, December 3, 2020. Thus, the water and sewer providers have determined that adding the proposed subdivision will not cause a decrease in the levels of service.

Policy UL.7.11 states that residential developments must provide for adequate roads, sewer, water, and drainage, among other things. The project includes a road that will be developed in accordance with the 2018 Spokane County Standards for Road and Sewer Construction ("2018 Road Standards"). This requirement is incorporated in the conditions of approval for this project. *See e.g. Public Works Conditions* 6, 18, & 20. The project will also be served by public sewer and public water, as previously discussed. Stormwater from the project will be handled in accordance with the adopted the 2008 Spokane Regional Stormwater Manual ("2008 SRSM"). Public Works has reviewed and accepted the Conceptual Drainage Plan submitted by the Applicant. *See Staff Report*, p. 4. In addition, adherence to the 2008 SRSM is a condition of this project. *See Public Works Conditions* 1, 6, & 27. Based upon the foregoing, the project is consistent with the objectives of Policy UL.7.11.

The Building and Planning Department (“Department”) has demonstrated that the proposal also fulfills various other goals and policies of the CP. See Staff Report, pp. 5-6. The Hearing Examiner Pro Tem agrees with the Department’s analysis, and hereby incorporates that analysis by reference.

As conditioned, the proposed preliminary plat is consistent with the goals and policies of the CP. Therefore, this criterion for plat approval is satisfied.

2. *The proposed preliminary plat is consistent with the Zoning Code.*

The zoning of the subject site is LDR. See Staff Report, p. 7. The zoning was established on June 1, 2004, as a result of adoption of the UGA Update for Spokane County. See *id.* The LDR zone is primarily for single-family and duplex residential development. See SCC 14.606.100. Thus, single-family residential uses are outright permitted in the LDR zone. See SCC 14.606.220 (residential lands matrix). The Applicant is proposing to develop approximately 20.64 acres with 21 single-family residences. The LDR zone clearly authorizes this use.

The LDR zone allows a density of one to eight DUs/acre. See SCC 14.606.300(1). The proposal has a density of 1.02 DUs/acre, well under the maximum density permitted under the zoning code. See Staff Report, p. 7. The density is considerably lower than other preliminary plats that have been approved in the vicinity. See *id.* However, the Applicant is developing the site with as many residential lots as can reasonably be created, given that the creek and its associated wetlands and floodplain occupy a large portion of the site. In order to develop the site, even at the low point within the density range, the Applicant had to seek a wetland buffer reduction. Even with the reduction, the development of several lots will encroach into the buffer area, necessitating significant mitigation measures to offset the potential impacts. Under the circumstances, there do not appear to be reasonable alternatives for developing the property at a higher density.

The minimum lot size in the LDR zone is 5,000 square feet. See Staff Report, p. 7; see also SCC 14.606.300, Table 606-3, Lot Standards for Residential Zones. The proposed lots satisfy this standard as they range in size from approximately 6,000 square feet to 10,000 square feet. See Staff Report, p. 7. Therefore, the proposal satisfies the minimum lot size requirement.

New subdivisions are generally required to adhere to the urban connectivity design standards found in SCC Section 12.400.123. See SCC 12.400.123(1)(a)-(f). The purpose of the urban connectivity standards is to provide a system of streets that offer multiple routes and connections, ensuring ease of movement for cars, bikes, and pedestrians. See SCC 12.400.123(1). To fulfill this objective, the urban connectivity standards encourage road connections to abutting and adjacent streets and properties and discourage the installation of private roads, dead-end streets, and permanent cul-de-sacs. See e.g. SCC 12.400.123(1)(b)-(d).

The proposed preliminary plat does not satisfy the urban connectivity standards because it utilizes a private road, lacks connections to adjacent developments or roads, and terminates in cul-de-sacs. See Memorandum dated February 15, 2022, Re: Exception to Urban Connectivity Standards. However, the Planning Director may grant exceptions to the urban connectivity design standards “based on unique attributes of the site or

surrounding properties.” See SCC 12.400.123(2). In this case, the Planning Director concluded that the proposed development qualified for just such an exception. See *id.* The Planning Director determined:

*Limited access points to the north, east, and south are the result of the location of critical areas to include a wetland and Type F stream, and associated buffers. These limitations support the use of a limited private roadway design with no future connections.*

The Planning Director’s determination is supported by the record and has not been challenged. The Hearing Examiner Pro Tem therefore concludes, based upon the exception granted by the Planning Director, that the project is not required to satisfy the urban connectivity design standards.

The proposed development also satisfies or will satisfy the other development standards applicable in the LDR zone, such as lot size, frontage, building coverage, and the like. See Staff Report, p. 9. Adherence to the development standards is a condition of approval of this plat.

Based upon the information in the preliminary plat file, along with the testimony and evidence provided at the hearing, the Hearing Examiner Pro Tem finds that the proposed preliminary plat is consistent with the development standards of the LDR zone.

### *3. Preliminary Plat Standards.*

The SCC Chapter 12.400, entitled “Subdivisions,” applies when there is a proposal to divide land into ten or more lots (less than 5 acres in size) when that land is inside the UGA. See SCC 12.400.102. These provisions apply to this project because the Applicant seeks to subdivide 20.64 acres, located within the UGA, into 21 lots for single-family use.

In order to be approved, the preliminary plat must comply with applicable development regulations; make appropriate provision for the public health, safety, and general welfare; serve the public use and interest; and make appropriate provision for open spaces, drainage ways, streets or roads, other public ways, potable water supplies, transit stops, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, critical areas, fire/emergency access, sidewalks for children who reach school by walking, and other relevant facts and planning features. See Revised Code of Washington (RCW) 58.17.110; see *also* SCC 12.400.

As has already been discussed, the proposal satisfies the development standards set forth in the zoning code. For example, the proposed, single-family use is outright permitted in the LDR zone. See SCC 14.606.220, Table 606-1, Residential Zones Matrix. The proposed density is 1.02 units per acre. See Staff Report, p. 7. This fits within the LDR density range, which is 1 to 8 DUs/acre. See SCC 14.606.300, Table 606-2, Density Standards for Residential Zones. The minimum lot area in the LDR zone is 5,000 square feet. See Staff Report, p. 7. The lots in this development exceed that minimum size, being in the range of 6,000-10,000 square feet. In any case, a myriad of development standards are incorporated into the conditions of approval, and many such standards will be addressed at the building permit stage.



The private road serving the plat must be designed and constructed to conform to the 2018 Road Standards. See *e.g.* Public Works Conditions 6, 18, & 20. Thus, the private road must satisfy standards relating to width, grade, and emergency access, among others matters.

The preliminary plat includes appropriate provisions for sewage disposal and water. The subdivision will be served by public water and public sewer. This is a condition of project approval. See *e.g.* Spokane Regional Health District (SRHD) Conditions 5-10. As previously noted, adequate public water and sewer services are available to serve the proposed development. See Certificate of Sewer Availability, November 13, 2020; see *also* Certificate of Water Availability, December 3, 2020.

The preliminary plat makes appropriate provisions for drainage on the site. The Applicant has submitted a concept drainage plan that has been reviewed and accepted by Public Works. See Staff Report, p. 4. The final road and drainage plans for the project must comply with the 2008 SRSM and other applicable standards. See Public Works Conditions 6 & 28. Moreover, there are extensive conditions on this project that ensure that stormwater generated by this development is properly managed. See *e.g.* Public Works Conditions 6-9, 15, & 26-35.

The development takes appropriate steps to ensure that there are no material impacts to critical areas. The development potential of the site is quite constrained by the presence of critical areas, including surface waters, floodplains, wetlands, priority habitat, and geohazard areas. The site is also within the CARA. The project has been designed to avoid or mitigate impacts to these critical areas as much as possible, as the following discussion illustrates.

*Wetlands.* There is a large wetland that encompasses approximately 10 acres of the site. See *e.g.* Staff Presentation, p. 4 (Probable Wetlands Map). The Applicant submitted a wetland delineation report, classifying the wetland and establishing its boundaries. See Wetland Delineation Report dated 01/30/21. Per the analysis in the report, the wetland is a Class II wetland with a habitat score of 6. See *id.*

Based solely on its classification, the wetland would have a minimum buffer of 200 feet. See SCC 11.20.050(C)(1)(a). However, under the SCC, the size of the buffer can be reduced depending on the classification of the wetland, the proposed use, and the habitat score. See Staff Report, p. 4. The proposal qualified for a reduction in the buffer to 150 feet, because the proposed use is considered moderate impact (single-family residences at 1 DU/acre), and the wetland had a relatively low habitat score (less than 20). See SCC 11.20.050(C)(1)(c) (describing “Alternative 3”); see *also* Staff Report, p. 4.

The SCC also allows for reduction in the wetland buffer when “there are no feasible alternatives to the site design that could be accomplished without buffer averaging...” See SCC 11.20.050(C)(4). The Planning Director has discretion to approve such reductions on a case-by-case basis. See *id.* For wetlands that score less than 20 points for habitat, the buffer can be reduced to accommodate moderate impact uses if certain mitigation measures are implemented. See SCC 11.20.050(C)(4)(b). Those measures include privacy fencing, planting of vegetation, and minimization of light disturbance. See Staff Report, p. 4. Based

upon these provisions, the Planning Department approved a reduction in the buffer width to 110 feet, limited to the area where the lots are proposed. See Staff Report, p. 4.

Even after the buffer reductions, the back yards of several residential lots encroach into the buffer area. This encroachment affects approximately 29,750 square feet of the buffer. See Staff Report, p. 4. The Applicant submitted a wetland mitigation plan to allow this residential yard use. See Wetland Mitigation Report dated 11/07/21. To mitigate the impact, the plan proposes to enhance 60,000 square feet of the buffer area by planting 590 trees, among other things. See Staff Report, p. 4; see also Applicant's Presentation, pp. 26 & 28 (Wetland Exhibit; Mitigation-Trees).

The scope of the proposed development was scaled back significantly based upon wetland delineation. *Testimony of T. Whipple*. As re-designed, the development activity is almost entirely outside the wetland buffer. The residential lots are now confined to a triangular area in the southwesterly corner of the site. See Preliminary Plat Map of Record dated 12/20/21. There is some impact to the buffer, but that is being mitigated on a 2:1 ratio. The mitigation plan was prepared by a wetland biologist and approved by WSDOE. There was no contrary expert testimony on this issue. In addition, there is no specific evidence in this record showing that the proposed development will have a negative effect on the wetlands.

Based upon the foregoing, the Hearing Examiner Pro Tem concludes that the proposal makes appropriate provisions for the wetlands on the site.

*Surface Waters*. Chester Creek, a Type F stream, forms a substantial part of the eastern border of the property. *Testimony of T. Jones*. None of the proposed development activity, however, will take place in, over, or adjacent to Chester Creek. There is no proposal to cross the creek, for example. The riparian buffer for the creek is 100 feet, as illustrated on the preliminary plat. See Preliminary Plat Map of Record dated 12/20/21; see also Staff Report, p. 5. The proposed development will take place well outside that buffer. There is no evidence in this record suggesting that the proposal will have any direct or material impacts on the creek. The Hearing Examiner Pro Tem concludes that the project, as designed and conditioned, includes appropriate provisions to account for the presence of surface waters.

*Floodplains*. There is a large floodplain on the site, associated with Chester Creek. *Testimony of T. Jones*. The westerly boundary of the floodplain is roughly equivalent to the westerly boundary of the wetland. See Applicant Presentation, p. 12 (Site Details). However, a portion of the floodplain, near the southern border of the site, extends westward into the southwest area of the site. See *id*. In the most recent, prior iteration of the plat, the Applicant included one lot that encroached into that part of the floodplain. *Testimony of T. Whipple*. However, the Applicant has since removed that lot (former Lot 14) from the proposal. See Applicant Presentation, pp. 4 & 18 (Preliminary Plat of Record – 21 Lots; Flood Plain Exhibit). As so revised, the plan does not include any lots that encroach into the floodplain. *Testimony of T. Whipple*.

The Hearing Examiner Pro Tem concludes that the proposal makes appropriate provisions to account for the presence of the floodplain. The residential development will take place near the floodplain. However, none of the lots are located within the floodplain. There is no evidence that the project, as currently designed and conditioned, will have material impacts on the floodplain.

*Priority Habitat.* The Spokane County Critical Areas maps show that the site contains priority habitat for Rocky Mountain Elk. See Staff Report, p. 5; see also Staff Presentation, p. 3 (PHS Map). The WSDFW reviewed the wetland delineation report and the proposed mitigation plan. See *id.* The WSDFW concluded that the Applicant was not required to prepare a habitat management plan for this project. See *id.* The WSDFW reached this conclusion because the “wetland, stream channel and floodplain will remain protected from development and continue [to] function as habitat.” See *id.* There was no expert testimony suggesting that the proposal would have a material impact on Elk habitat, or any other wildlife habitat. Based upon this record, the Hearing Examiner Pro Tem concludes that the proposal makes appropriate provisions to protect wildlife habitat.

*Geohazard Areas.* The Spokane County Critical Area maps identify geohazard areas present on the site in the form of alluvial deposits. See Staff Report, p. 5; see also Staff Presentation, p. 6 (Geohazard Soils Map). Pursuant to SCC 11.20.070(D), the Applicant submitted a Geohazard Evaluation of the site. See Geotechnical Engineering Report dated 01/25/2021; see also Geotechnical Engineering Report Addendum – Geohazard Evaluation. The Geohazard Evaluation confirmed that the site contains alluvial deposits. See *id.* The Geohazard Evaluation recommends the use of silt fences, erosion control berms, and/or retaining walls to mitigate against potential impacts of construction. See *id.* The Department reviewed and accepted the report. See Staff Report, p. 5; *Testimony of T. Jones.* In addition, the report’s recommendations have been incorporated as project conditions. See Department Condition 21. The Hearing Examiner Pro Tem concludes that the project, as conditioned, includes appropriate provisions to account for geohazard areas.

*Critical Aquifer Recharge Areas.* The site is located within the CARA and is identified as having high susceptibility. See Staff Report, p. 5. However, this designation does not preclude residential development. Rather, it requires that steps be taken to protect the aquifer from potential impacts. For example, the developer will be required to implement on-site controls for stormwater and surface drainage from the development. See SCC 11.20.075(B) (stormwater disposal systems). The Applicant has prepared a concept drainage plan for this project. Spokane County reviewed and accepted that plan. In addition, there are extensive project conditions related to drainage, as previously discussed. Those conditions require that the development adhere to the 2008 SRSM, among other things. Thus, this project makes appropriate provisions to protect the aquifer.

No evidence was presented that this project would prompt the need for additional parks, playgrounds, or recreational areas. There was also no evidence that the project would prompt the need for additional transit services or would tax the capacity of the school system. There were no comments on the project from Spokane County Parks and Recreation, the Spokane Transit Authority, or from the Central Valley School District. Given the lack of comment, the Hearing Examiner Pro Tem must assume that these

agencies have no objections or concerns about the project. The Hearing Examiner Pro Tem concludes that there is no basis to condition or deny the project based upon potential impacts on transit, parks, or school facilities.

The Hearing Examiner Pro Tem concludes that the project, as conditioned, furthers the public interest and is consistent with the public health, safety, and welfare. The proposal puts the property to productive use, provides additional housing options, constitutes a compatible addition to the neighborhood, and is sufficiently conditioned to mitigate the impacts that arise from the proposed construction and development.

#### 4. *Environmental Standards.*

On February 8, 2022, Spokane County, as the lead agency, issued a DNS for this project. See DNS, File No. PE-2094-21, dated 2-8-2022. The DNS was based upon a review of the application, the completed checklist, and comments from the public and relevant agencies. There was no testimony or other evidence presented at the hearing that established that the project would result in significant environmental harms that would not or could not be addressed through appropriate mitigation measures. In addition, any appeal of the DNS was due fourteen (14) days after its issuance. See *id.* The DNS was not appealed. A review of the record does not reveal anything to the Hearing Examiner Pro Tem that casts serious doubt on Spokane County's threshold determination.

The Hearing Examiner Pro Tem acknowledges that the site includes several environmentally sensitive features that must be protected. The site includes surface waters, wetlands, floodplains, priority Elk habitat, and erodible soils, for example. That said, the Applicant obtained expert analysis regarding the conditions on the site, including wetlands reports, a geohazard evaluation, and a cultural resources survey. The project engineer analyzed the site with respect to drainage and flooding, and designed the project to account for those issues. There was no expert testimony questioning the data or conclusions in the project engineer or as set forth in the reports. All of that information was reviewed by the relevant agencies and was found to be sufficient, as is discussed in detail above.

The residential lots are confined to the southwest corner of the property. The project was designed to avoid impacting the environmentally sensitive features as much as possible. The proposed development only encroaches into the wetland buffer to a limited degree, and the Applicant is compensating for that encroachment at a 2:1 ratio by planting almost 600 trees. The mitigation plan was reviewed and approved by multiple agencies. The proposed development does not encroach into the floodplain, or result in any direct impact on the creek. The WSDFW concluded that the project would have no impact on priority habitat and, therefore, there was no need for a habitat management plan. The Hearing Examiner Pro Tem concludes that the proposed conditions and mitigation measures are sufficient to address the potential environmental impacts of the development.

One other environmental issue that should be discussed is traffic. The evidence in this record shows that the project will not result in significant impacts. The project consists of 21 residential lots. This is a relatively small development. The Applicant's traffic engineer prepared a TGDL, which concludes that the project will result in 26 AM peak-hour trips and 31 PM peak-hour trips. See TGDL, December 13, 2020. At that level of traffic, the

traffic engineer concluded that the project “will have minimal impact on the transportation system.” See *id.* However, at the request of COSV, the traffic engineer expanded the analysis to include additional intersections. *Testimony of T. Whipple.* In accordance with that request, the traffic engineer produced an expanded TGD. See TGD, May 4, 2021. In the expanded TGD, the traffic engineer again concluded that there would be no material impacts on the transportation system. See *id.*

Spokane County and COSV reviewed the TGDs and accepted the results. Neither jurisdiction concluded that the project would have material impacts on the transportation system. No specific mitigation measures were proposed due to deficiencies in road capacity or safety, for example. The project conditions do include frontage improvements to Dishman-Mica Road. See COSV Community & Public Works Condition 3. However, it is clear that the transportation system has sufficient capacity to accommodate the proposed development.

The Hearing Examiner Pro Tem concludes that the application, as conditioned, complies with the Spokane County Environmental Ordinance (Chapter 11.10 SCC) and SEPA (Chapter 43.21C RCW).

#### 5. Agency Comments.

Prior to the hearing on February 23, 2022, the Department received comments from WSDFW, COSV Community and Public Works Department, WSDOE, SRHD, Spokane County Public Works Department, SCES, and Avista. These agencies and departments proposed various conditions of approval. The proposed conditions have been incorporated into this decision.

#### 6. Public Comments.

There were several public comments raising concerns about the proposed development. The primary issues of concern included flooding, traffic congestion, access, schools, wetland protection, and wildlife habitat. There were also concerns about the prior, unauthorized grading activities along Chester Creek. Each of these issues will be briefly discussed.

*Flooding.* Mr. Galietti, who owns property to the south of the subject site, contended that homes should not be constructed on the site until the Federal Emergency Management Agency (FEMA) has conducted a study of the flood conditions. See E-mail of T. Galietti 2-14-2022, 1:06 AM. He described the periodic flooding that occurs on the site and how that impacts the private driveway serving his residence and two other homes. *Testimony of T. Galietti.* He also noted that Thorpe Road was also periodically flooded and that the existing culverts were insufficient to handle the volume of water. See *id.* To illustrate the seriousness of the problem, Mr. Galietti submitted seven videos<sup>1</sup>, documenting significant flooding events that took place on the site in February-March 2017.

Mr. Galietti contended that several actions needed to be taken to address the flooding problem. He argued that a new overpass bridge (with a wider culvert)

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<sup>1</sup> The Hearing Examiner Pro Tem reviewed all of these videos multiple times, and specifically reviewed the videos during his site visit to the property on March 2, 2022, per Mr. Galietti's request.

needed to be constructed at the southeast corner of the site. See E-mail of T. Galietti 2-14-2022, 1:06 AM. Mr. Galietti further stated that Chester Creek needs to be dredged to the south, to better managed the flows from upstream. See E-mail of T. Galietti 2-14-2022, 1:06 AM. In addition, a water control valve also needs to be installed upstream in order to control the flooding. See *id.* He acknowledged that the primary source of the problem was upstream from the site and his property. *Testimony of T. Galietti.*

The Hearing Examiner Pro Tem is very sympathetic to Mr. Galietti's situation. As the owner of property adjacent to the creek and associated floodplain, Mr. Galietti and his neighbors are directly impacted by the flooding. However, the flooding described by Mr. Galietti does not justify delaying or denying this project or adding more project restrictions or conditions. The Hearing Examiner Pro Tem reaches this conclusion for several reasons.

First, as previously discussed, the developer is not proposing to do any construction work within the floodplain. Despite the concerns to the contrary, the project does not involve any grading or filling within the floodplain. See E-mail of A. Carey 2-21-2021, 11:41 AM. The project has been scaled back to avoid any encroachment into the floodplain or the wetland. There is some impact on the wetland buffer, but significant mitigation measures have been proposed to offset that impact, and no evidence exists that the buffer encroachment or the mitigation measures have any negative effect on the floodplain's capacity to handle or dispose of water. In short, there is no evidence that the project will have any impact on the floodplain or its hydrology.

Second, the videos submitted by Mr. Galietti do not demonstrate that the area proposed for development will be vulnerable to flooding. There is no question that a large part of the subject site will periodically flood, and with a substantial amount of water. The videos certainly support this conclusion. However, the videos confirm that the floodwaters accumulate in the wetland/floodplain, not in the *southwest* corner of the site proposed for development. For example, Video 2 was taken while standing on the Chester Creek overpass on the private driveway. See Galietti Video 2. It shows a 360-degree view from that location. See *id.* It shows that substantial water has accumulated throughout the floodplain, but not in the southwest area of the site along Dishman-Mica Road. See *id.* The other videos also demonstrate that serious flooding can occur at this property. However, those videos also show that the flood conditions are occurring in the easterly portion of the site, within the floodplain, wetlands, or along the creek. See Galietti Videos 1-7.

Third, the flooding experienced by Mr. Galietti and his neighbors is a pre-existing condition. The flooding problems primarily arise from upstream, off-site conditions, as Mr. Galietti explained. The flooding problems along the private driveway are not being caused by or exacerbated by the proposed development. As the project engineer noted, these problems will exist regardless of whether the plat is developed or not. *Testimony of T. Whipple.* As a result, there is no legal basis to condition the proposed development on taking steps to remediate the flooding problems experienced by Mr. Galietti or other property owners. It is not the Applicant's responsibility to implement flood control measures for the benefit of neighboring property owners. The Hearing Examiner Pro Tem also

doubts there is legal justification for requiring the Applicant to engage in flood control activities in off-site and upstream locations.

Finally, the Hearing Examiner Pro Tem is inclined to accept the expert opinions of the project engineer regarding the presence of the floodplain, the elevations of the project area, and the probability of flooding in the southwest corner of the site. The Hearing Examiner Pro Tem does not discount or disregard Mr. Galietti's experience, or the information he has submitted. However, the project has been carefully designed to avoid impacts to the floodplain. The project engineer clearly endorsed the floodplain modeling used to design this project. *Testimony of T. Whipple*. There is no contrary expert testimony in this record. The Hearing Examiner Pro Tem believes, based upon this evidence, that the project will not have a material impact on the floodplain or the flood conditions experienced by neighboring owners.

*Wildlife Habitat.* Several area residents were concerned about the potential impacts to wildlife and wildlife habitat. Neighbors pointed out that many species of wildlife live or pass through this natural area, including moose, deer, coyote, ducks, rabbits, geese, hawk, owls, cougars, and other animals. See E-mail of T. Galietti 2-14-2022, 1:06 AM; see also E-mail of C. Moss 9-12-2021, 7:00 PM; see also E-mail of M. Purvine 9-13-2021, 6:46 PM; see also E-mail of A. Carey 2-21-2021, 11:41 AM.

There is no doubt that the wetland is a home for many animals. However, the Hearing Examiner Pro Tem concludes that this project will not have a significant impact on that habitat. As previously discussed, the only priority habitat on this site is for Elk. However, the WSDFW determined that the proposal would have no impact on Elk habitat. The WSDFW further concluded that the developer should not be required to implement a habitat management plan. This certainly suggests that the agency with expertise in this area does not believe there will be material impacts on wildlife. In addition, there was no expert testimony at the hearing suggesting that the proposed development would impact the wetland area's ability to support wildlife. The development activity is occurring along Dishman-Mica Road, not within the environmentally sensitive areas of the site. Finally, the mitigation plan calls for the planting of almost 600 trees in the wetland buffer. This aspect of the project will provide some enhancement to the wetland habitat, which should benefit the wildlife who live or use the natural area.

*Traffic and Access.* The public comments raised a number of concerns about traffic and access. Some neighbors worried that the project would cause or contribute to traffic congestion. See E-mail of M. Purvine 9-13-2021, 6:46 PM; see also E-mail of S. Baker 9-13-2021, 5:54 PM; see also E-mail of C. Moss 9-12-2021, 7:00 PM; see also E-mail of T. Galietti 2-14-2022, 1:06 AM. Mr. Galietti, in particular, suggested that the project would create much more traffic than the traffic engineer had estimated. *Testimony of T. Galietti*. He also contended that the access to the site was too close to the private driveway serving his and his neighbors' property. See *id.* Finally, some neighbors were concerned about the ability to evacuate Painted Hills and other neighborhoods in the case of an emergency. See E-mail of C. Moss 9-12-2021, 7:00 PM; see also E-mail of S. Baker 9-13-2021, 5:54 PM.

The Hearing Examiner Pro Tem does not believe that additional project conditions are warranted based upon traffic or access concerns. The neighbors' concerns about traffic congestion are understandable. Undoubtedly, growth in the area will mean more traffic and that can lead to congestion over time. However, there is no evidence that this project will create traffic congestion. The project engineer analyzed the project and concluded that there would be no significant impacts on the transportation system. He did so applying the professional standards and guidelines that apply to a traffic analysis. His analysis was reviewed and accepted by both Spokane County and COSV. No deficiency in the transportation system was identified, and no agency required any specific mitigation measures to address any potential impacts. There was no expert testimony suggesting that the project would have a material, negative impact on the road system, or that the project engineer's analysis deviated from the standards. Under the circumstances, the Hearing Examiner Pro Tem concludes that the project conditions are sufficient to address the potential traffic impacts.

Mr. Galietti contended that the access point into the proposed plat was too close to his driveway access. However, he did not cite to any standards or provide measurements to support his claim. In response, the project engineer testified that the access was placed at least 150 feet from the private driveway, consistent with the SCC. *Testimony of T. Whipple*. He testified that the distance was carefully measured to ensure a proper distance was achieved. *See id.* No agency commented that the proposal deviated from the design standards. *See id.* The project engineer also stated that if the location was determined to be too close, the developer would make an adjustment to ensure the proper distance was maintained. *See id.* The Hearing Examiner Pro Tem concludes that the Applicant has sufficiently addressed this concern, in particular given that the Applicant must comply with the code standard in any event.

Finally, some neighbors raised a concern about emergency evacuation. The record is insufficient to consider this further. A general concern was raised, but no specific information was provided to elucidate the issue. The Hearing Examiner Pro Tem cannot condition or deny a project based upon a general concern or fear about the future. There is also no obvious reason this project would cause or contribute to problems evacuating the area in an emergency. The development has direct access to Dishman-Mica Road. There is no evidence that this roadway lacks sufficient capacity as a route for an evacuation. The development is also relatively small, suggesting that the traffic load from this site would also be relatively small during an evacuation. In any event, the Hearing Examiner Pro Tem cannot base project conditions on speculation about emergency events. Much more specific information and analysis would be necessary to properly consider this objection.

*Prior Unauthorized Grading.* Some residents raised concerns about prior, unauthorized grading or clearing activities by the owner, and the potential impacts to the habitat. *See* E-mail of T. Galietti 2-14-2022, 1:06 AM; *see also* E-mail of M. Purvine 9-13-2021, 6:46 PM; *Testimony of T. Galietti*. There was testimony that illegal clearing had significant environmental consequences. *Testimony of T. Galietti*.



The Hearing Examiner Pro Tem does not believe that the previous, unpermitted grading or clearing activity is a proper basis for additional project conditions for this proposal. The relevant agencies took action in response to the unauthorized activity, requiring the owner to remediate the site, with all necessary permits. *Testimony of T. Whipple*. That remediation project was completed by early December 2021. *See id.* No further action has been required of the owner, and thus the matter has been resolved. *See id.* Under the circumstances, it does not appear that additional project conditions are needed or appropriate. This is particularly true given that no grading or clearing of the floodplain is currently being proposed.

### **DECISION**

Based on the findings and conclusions above, it is the decision of the Hearing Examiner Pro Tem to approve the proposed preliminary plat subject to the following conditions (revised conditions shown in *italics*):

#### **Building and Planning Department:**

1. All conditions imposed by the Hearing Examiner shall be binding on the "Applicant," which term shall include the owner or owners of the property, heirs, assigns, and successors.
2. The proposal shall comply with the LDR zone and all other applicable provisions of the Spokane County Zoning Code, as amended.
3. The final plat shall be designed substantially in conformance with the preliminary plat of record submitted on December 20, 2021. No increase in density or numbers of lots, or 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.
4. The Building and Planning Director/designee shall review any proposed final plat to ensure compliance with these Findings and Conditions of Approval.
5. A final plat/name/number shall be indicated before the final plat is filed, such name/number to be approved by the Division Director/designee.
6. Appropriate road name(s) assigned by the Department shall be drafted on the face of the final plat.
7. The preliminary plat is given conditional approval for five (5) years, specifically to March 7, 2027. To request and extension of time, the Applicant must submit a written application to the County Division of Planning at least thirty (30) days prior to expiration of the final 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 February 5, 2027, 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.**

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. The dedication shall contain the following statement:  

“Setbacks shall be determined at the time building permits are requested.”
10. Four (4) current certificates of title shall be furnished to the Department prior to filing the final plat.
11. 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.
12. 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.
13. A survey is required prior to the filing of the final plat.
14. The 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 Department. The Title Notice shall generally provide as follows:  

**The parcel of property legally described as [                      ] is the subject of a land use action by a Spokane County Hearing Examiner on March 7, 2022, imposing a variety of special development conditions. File No. PE-2094-21 is available for inspection and copying in the Spokane County Building and Planning Department.**
15. Development and future use of the subject site shall be consistent with the Spokane County Critical Areas Ordinance (CAO), as amended.
16. The Final Plat shall illustrate the location of the Category 2 Wetland and required wetland buffer areas of 110 and 100 feet. The western 10 feet of the 110-foot wetland buffer area shall be labeled as ‘No disturbance’.
17. That area along the west half of the site to remain undeveloped shall require a wetland buffer area of 150 feet in width. The buffer area shall be illustrated on the Final Plat. No vegetation shall be removed within the wetland or required wetland buffer areas.
18. The Final Plat shall be consistent with Wetland Report and Wetland Mitigation Plan. The required 6-foot tall solid fencing shall be located on the outside of the 100-foot wetland buffer area and shall be constructed prior to approval of the Final Plat. The 100-foot wetland buffer area shall be located within the wetland tract. The Final Plat shall identify the wetland and buffer areas as being within a separate tract.

19. Prior to Final Plat approval the Applicant shall submit a final Wetland Mitigation Plan together with a planting plan, planting list, estimate, and timing and promissory letter addressing the proposed completion date of the required wetland mitigation and include the proposed dates for wetland monitoring to be accomplished.
20. The Final Plat shall illustrate and label the location of the Type F stream and required riparian buffer area of 100 feet.
21. Development of the site shall be consistent with the recommendations of the approved Geohazard Evaluation.

### **COSV Community & Public Works Department:**

#### *Design*

1. A Professional Engineer, licensed in the State of Washington, shall prepare required engineering documents (including civil/street plans, drainage plans, drainage calculations, traffic studies, shared access driveway plans, etc.). Plans shall conform to the 2009 City of Spokane Valley Street Standards (2009 SVSS), or as amended; the 2008 SRSM, or as amended; the City of Spokane Valley Municipal Code (SVMC); and all other federal, state, and local regulations, as applicable.
2. Review of civil plans and supporting documents cannot proceed until an application for a Land Disturbance permit has been received. All documents (plans, reports, etc.) must be submitted through the Building Department Permit Center located at 10210 E. Sprague Avenue.
3. **Dishman-Mica Road** is designated as a 2-Lane Minor Arterial and half-street frontage improvements are required per 2009 SVSS Chapters 2 and 7. Required improvements are detailed below:
  - a. 22 feet of asphalt width from street centerline to edge of gutter.
  - b. 2-foot-wide Type 'B' curb and gutter per 2009 SVSS Std. Plan R-102.
  - c. 10-foot-wide roadside swale per 2009 SVSS Std. Plan S-130. The Applicant shall install seed/grass in the roadside swale and maintain the swale.
  - d. 6-foot-wide concrete sidewalk per 2009 SVSS Std. Plan R-103.
4. A soil investigation and pavement design shall be prepared for the Dishman-Mica Road improvements per 2009 SVSS Chapter 8.
5. The following determines the **Dishman-Mica Road** right-of-way (ROW) and border easement dedications per 2009 SVSS 7.5.2 and 7.5.3. Existing dedication widths were estimated using information from the Spokane County Assessor's Office. **The project Applicant is responsible for verifying all values listed below.**
  - a. Existing half ROW width is 30 feet.
  - b. Required half ROW width is 26 feet.
    - i. ROW dedication not required.
  - c. A Border Easement is required and shall extend from the ROW to the back of sidewalk.

6. Dishman-Mica Road is a Minor Arterial. Access to an arterial is limited to a single access point.
7. The City requests copies of the floodplain development documents, hydraulic model files, and stormwater reports be submitted for the City's review.
8. Driveway approach design shall follow the 2009 SVSS, or as amended.
9. All stormwater facilities are to be designed per the 2008 SRSM. Linear roadside facilities such as swales shall be located within the ROW and/or border easements when adjacent to public streets or within a tract or easement when adjacent to a private street or driveway serving more than one lot. Non-roadside facilities such as ponds (especially consolidated ponds, which are those receiving runoff from more than one lot) shall be within a tract (see 2008 SRSM 11.2).
10. If drywells are proposed that do not receive stormwater from public facilities and they are in Garrison or Springdale soils, the testing for confirming the soil classification and that the drywells will function as designed may be performed during construction. If this option is exercised then the following note shall be placed on the cover of the plans:

“Per Spokane Regional Stormwater Manual methods, a qualified licensed engineer shall evaluate, classify and document the soils in the excavated drywell infiltration zone prior to installation of the filter fabric, drainage rock or drywell barrel and shall determine if the soil's conditions will be suitable and capable of infiltrating storm water at the design flow rate. Engineer shall submit a copy of the documentation detailing the observations, the conclusions and the basis for the conclusions to the COSV Development Engineering. If the engineer determines that the soils do not meet the design's requirements or that a condition exists preventing the drywell from functioning as designed, the design engineer shall be notified and the design revised to meet existing conditions. Any revisions to the design shall be submitted to COSV for review and acceptance.”
11. For the General Construction Notes use those in the 2009 SVSS Appendix 4A rather than those in the 2008 SRSM Appendix 3B.
12. Show all utilities and utility easements (i.e. telephone, power, etc.). The permittee is responsible for arranging all utility adjustments, improvements, or relocations as required for completion of the project. All rigid objects shall be located out of the clear zone. The clear zone requirements can be found in the 2009 SVSS, or as amended. The permittee shall contact every utility purveyor impacted by the project and conduct the following:
  - a. Discuss with the purveyor the proposed work including private services, utility improvements, and any relocations and adjustments as well as the costs for these activities;
  - b. When utility relocations are required, obtain from the purveyor a written statement that they acknowledge and concur with or have alternatives for the needed work; and
  - c. Forward a copy of the statement to COSV Development Engineering. Receipt of statements will be required prior to plan approval.

13. If sewer and/or water needs to be brought to the properties and to do this requires an Engineering design, copies of the draft sewer and water plans shall be submitted to Development Engineering. The civil plans for the project shall show the extents of pavement removal and replacement.
14. All new dry wells and other injection wells shall be registered with the Underground Injection Control program (UIC) at WSDOE prior to use and the discharge from the well(s) must comply with the ground water quality requirement (non-endangerment standard) at the top of the ground water table. Contact the UIC staff at UIC Program, WSDOE, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6143 or go to: <https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Underground-injection-control-program/Register-UIC-wells-online> for registration forms and further information. COSV will be requiring as part of the Project Certification Package documentation of either WSDOE's Rule Authorization approval of the UIC registration or documentation that the UIC registration was submitted 60 days prior to the submittal of the COSV project certification package for all projects with UIC's that receive Public stormwater runoff.
15. A Construction Stormwater Permit shall be obtained from the WSDOE if both of the following two conditions apply:
  - a. Construction project disturbs one or more acres of land (area is the cumulative acreage of the entire project whether in a single or in a multiphase project), and,
  - b. If there is a possibility that stormwater could run off the site during construction and into surface waters or into conveyance systems leading to surface waters of the state.Construction site operators shall apply for a permit 60 days prior to discharging stormwater. More information can be obtained from <https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Construction-stormwater-permit>
16. The 2008 SRSM requires sites meeting the Regulatory Threshold, as per 2.1.1, shall meet the applicable Basic Requirements, unless exempt as per 2.1.4 and 2.1.5. For more information see Chapter 2 of the 2008 SRSM:

<https://www.spokanevalley.org/filestorage/6862/6927/7094/7278/9576/RStormwaterMChapter2April2008.pdf>

### Construction

17. A pre-construction conference with COSV Development Engineering is required prior to the start of construction. During this meeting, standards and submittal requirements for the Construction Certification will be given to the project engineer/inspector.
18. For construction affecting public ROW, 48 hours prior to construction securely post a sign at each ingress to the project area. The sign(s) shall be clearly visible from the ROW and provide project construction details. See 2009 SVSS Section 9.7.
19. Permits are required for any access to or work within the ROW of the COSV roadway system. A traffic control plan shall accompany the ROW obstruction permit.

20. NOTICE - The Regional Pavement Cut Policy may prevent or limit pavement cuts in the adjacent street(s). There is a three-year moratorium on pavement cuts for newly paved streets. Please contact the COSV ROW inspector 720-5025 for further information.
21. The Temporary Erosion and Sediment Control (TESC) structures (such as filter fence, silt ponds, silt traps) shall be installed prior to the start of site work and maintained throughout the duration of construction and until the site has stabilized.
22. All survey monuments shall be protected during construction. Any disturbed or damaged monuments shall be replaced prior to certification/final plat and/or release of surety.
23. Construction within the proposed public streets and easements shall be performed under the direct supervision of a licensed Washington State Professional Engineer/Land Surveyor. All work is subject to inspection by the COSV Senior Development Engineer or by his staff.
24. Upon completion of the improvements, a Construction Certification package and record drawings are required for the improvements and shall be submitted and approved prior to Final Plat approval according to 2009 SVSS Chapter 9.
25. All public improvements shall provide a Performance/Warranty Surety per 2009 SVSS Chapter 9. The City accepts Letters of Credit, Cash Savings Assignments, and Bonds for Warranty Sureties. Bonds are not accepted for Performance Sureties.

**Final Plat**

26. The border easement shall be designated on the final plat map.
27. Plat language will be determined at the time of final plat submittal. Contact COSV Development Engineering after civil plan approval and/or prior to first submittal of final plat to obtain plat language.

**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 Department to the utility companies, County Engineer, and the SRHD. Written approval of the easements by the utility companies shall be received prior to the submittal of the final plat.
3. Sewage disposal method shall be as authorized by the Director of Utilities, Spokane County.
4. Water service shall be coordinated through the Director of Utilities, Spokane County.
5. Water service shall be by an existing public water supply when approved by the Regional Engineer (Spokane), Washington State Department of Health (WSDOH).

6. Prior to filing the final plat, the sponsor shall demonstrate to the satisfaction of the SRHD that an adequate and potable water supply is available to each lot of the plat.
7. Prior to filing the final plat, the sponsor shall present evidence that the plat lies within the recorded service area of the water system proposed to serve the 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. 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 dedicatory language on the plat shall state:

“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, County Building and Safety Department and 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.”

**Spokane County Environmental Services:**

1. A side sewer easement with a width acceptable to the SCES shall be shown on the face of the plat as “Private Sewer and Utilities Easement.” The dedication shall state “The perpetual, non-exclusive easement as shown on the face of the plat is for the construction, maintenance and all other uses or purposes which are or may be related to the private sewer lines. The easement shall run with the land.” The easement will be required through lot 12 to benefit lot 13.
2. As per the development regulations/zoning code of the governing authority as amended, the dedication shall state:

“Public sewers shall be constructed to provide for the connection of each parcel to the County’s system of sewerage. Uses on properties within the project shall be required to connect to the sewer and pay applicable charges per the County Sewer Ordinance. Sewer connection permits shall be required. All existing uses, not currently connected to the sanitary sewer system, are required to be connected.”
3. As per the development regulations/zoning code of the governing authority as amended, the dedication shall state:

“Individual tracts shall be subject to payment of current applicable 1 sewer connection charges and/or general facilities charges prior to the issuance of a sewer connection permit.”

4. Applicant shall submit expressly to SCES “under separate cover,” only those plan sheets showing sewer plans and specifications for the public sewer connections and facilities for review and approval. Commercial developments shall submit historical and/or estimated water usage as part of the sewer plan submittal. Prior to plan submittal, the developer is required to contact Chris Knudson, Jenn Bruner, or Colin Depner at 477 3604 to discuss the details of the sewer plans. Once submitted, the sewer plan may require revisions and/or additional plat comments to be addressed. Plans may be submitted electronically to [ESPlanReview@spokanecounty.org](mailto:ESPlanReview@spokanecounty.org)
5. As per the development regulations/zoning code of the governing authority as amended, security shall be deposited with SCES for the construction of the public sewer connection and facilities and for the prescribed warranty period. Security shall be in a form acceptable to SCES and in accordance with the Spokane County Sanitary Sewer Ordinance.
6. Any water service for this project shall be provided in accordance with the Coordinated Water System Plan for Spokane County, as amended.

**Spokane County Public Works:**

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

1. Conditional approval of the plat by the Spokane County Engineer (“County Engineer”) is given, subject to dedication of ROW and approval of the road system as indicated in the Preliminary Plat of Record.
2. All internal roads shall be private and called Lane.
3. Sidewalk shall be installed on a minimum of one side of the road private roads.
4. The proposed plat shall follow section 1.32 on connectivity as stated in the 2018 Road Standards.
5. A traffic study has been accepted by the County Engineer for this proposal for five years after the date of Preliminary Plat approval. Prior to filing 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.
6. 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 2018 Road Standards, the 2008 SRSM, and all other applicable standards. The plans and report shall receive the County Engineer’s acceptance prior to release of a construction or building permit or approval of the final plat.
7. The proposed plat shall be improved to the standards set forth in Spokane County Board of Commissioners Resolution No. 17-1076, as amended, which establishes regulations for roads, approaches, drainage and fees in new construction.



8. A concept drainage plan for this project has been accepted by the County Engineer. However, the acceptance of the concept drainage plan does not constitute final approval of the roads and drainage facilities for construction. The County Engineer may have additional comments that will need to be addressed prior to acceptance of final road and drainage plans.
9. The regulations of the National Flood Insurance Program shall be observed because the proposed plat is affected by a Flood Hazard Zone. A development permit shall be obtained from the County Engineer before development begins on any lot affected by a special flood hazard area. Development includes, but is not limited to fill, excavation, grading, paving, and construction of buildings or other structures (reference Spokane County Ordinance 11-0281). This condition is also applicable to driveway approaches, driveways, and private roads constructed on the site for access.

The following statement shall appear within the dedicatory language of the plat:

“Development within this subdivision shall conform to the requirements of the National Flood Insurance Program and Chapter 3.20 of the Spokane County Code. Purchasers of property in this subdivision are warned of possible flooding or ponding, potential special construction standards and the potential requirement to purchase Flood Insurance. This warning shall be carried in a title notice to be placed on each tract or parcel or portion of which is located within the Area of Special Flood Hazard.”

This condition is applicable to driveway approaches, driveways and private roads constructed on the site for access.

10. 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.
11. Construction work is prohibited within the existing or proposed public ROW until a permit has been issued by the County Engineer. All work is subject to inspection and approval by the County Engineer.
12. All construction within the existing or proposed public ROW is to be completed prior to filing the final plat or a bond in the amount estimated by the County Engineer to cover the cost of construction of improvements, construction certification, “Record Drawings” plans, and monumenting the street centerlines shall be filed with the County Engineer.
13. Direct access from lots to half ROWs is prohibited until such roads are constructed to county standards and established as county roads.
14. Direct access from lots to stub road connections is prohibited until such roads are constructed to county standards and established as county roads.
15. Road design, construction, and drainage control for half ROWs and stub road connections are the responsibility of the developer.

16. Appropriate provision shall be made that 1-foot strips at the ends or edges of all streets and half streets that terminate or border the plat boundary be held in trust until the continuation of the streets is dedicated or deeded. Note: Temporary cul-de-sacs are required when streets terminate at the plat boundaries.
17. Approach Permits are required for any access to the Spokane County road system.
18. Applicant shall dedicate ROW as specified in the 2018 Road Standards for all internal public roads.
19. All internal intersections shall have clear-view triangle easements unless alternate mitigation is approved by the County Engineer.
20. The private road shall be improved to adopted 2018 Road Standards for private roads.

Note: Any gates used, providing access on the private road, shall be documented on road plans and shall be located in a manner acceptable to the County Engineer. The Applicant shall also provide documentation to the County Engineer that the local Fire District has reviewed and accepted the location and function of the private gates.

21. All vested owners shall sign and record private road documents as prescribed by the County Engineer. These documents shall be reviewed and approved by the County Engineer prior to recording with the Spokane County Auditor. Recording numbers shall be referenced in the dedicatory language of the plat.
22. The following statement shall be placed in the plat dedication:

“WARNING: Spokane County has no responsibility to build, improve, maintain, or otherwise service the private roads contained within or providing service to the property described in this plat. By accepting this plat or subsequently by allowing a building permit to be issued on property on a private road, Spokane County assumes no obligation for said private road and the owners hereby acknowledge that the County has no obligation of any kind or nature whatsoever to establish, examine, survey, construct, alter, repair, improve, maintain, provide drainage or snow removal on a private road. This requirement is and shall run with the land and shall be binding upon the owner, their heirs, successors or assigns including the obligation to participate in the maintenance of the private road as provided herein.”
23. 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 for 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.
24. The Applicant shall grant applicable border easements adjacent to Spokane County ROW per 2018 Road Standards.
25. 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 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.

26. The sponsor's geotechnical engineer shall make crawlspace and/or basement recommendations for the building lots within this plat. One of the following four conditions must appear on the face of the final plat: 1) Crawlspaces and/or basements (must specify) are prohibited; 2) No crawlspaces and/or basements (must specify) allowed unless a lot specific geotechnical report is provided at the time of the residential building permit. If the above geotechnical report recommends or the lot plan utilizes foundation, crawlspace, or basement gravity drains or sump pump discharges to the public or private road & drainage facilities, these recommendations or associated lot plans shall be reviewed and accepted by Public Works; 3) IRC prescriptive waterproofing or damp-proofing (must specify) measures required; or 4) crawlspaces and/or basements (must specify) are acceptable without any special consideration.

In lieu of one of the above plat condition options, a geotechnical report with specific crawlspace and/or basement construction recommendations may be prepared at the time of the final plat. This report must be recorded by separate document along with the final plat and the recorded document referenced on the face of the final plat. Additionally, if recommendations vary lot by lot the geotechnical engineer shall provide Spokane County with an Excel spreadsheet showing every lot, as shown in the final plat, and the corresponding recommendation. If the geotechnical engineer specifies maximum depth for the lowest living level below existing grade, then a lot plan must be prepared for all of the lots with the depth limitation. The lot plan must show existing ground elevation at the center of the building envelope, the maximum cut to the finished floor of the lowest living level, and the top of curb at the center of the lot frontage (or other easily referenced elevation).

27. If 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 2008 SRSM, and make recommendations with respect to design parameters and infiltration rates.
28. All open drainage features such as channels, swales, and ponds shall be placed in separate tracts owned by the Homeowners Association (HOA). Swales will not be allowed on residential lots that average less than an acre size.
29. Erosion Control: A TESC plan is to be prepared by a Washington State licensed Professional Engineer and implemented throughout the duration of construction. The TESC plan is to be prepared using best management practices currently accepted within the Civil Engineering profession. The TESC plan is to include, at 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) are to be installed prior to other site work and the TESC measures are to be implemented and maintained throughout the duration of construction, including house construction.

30. Any part of the drainage system that lies outside of the public ROW 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. HOAs are accepted by the Spokane County Engineer for carrying out the required maintenance functions and responsibilities.
31. This land action is located in a general drainage problem area recognized by the County Engineer. This area is characterized by shallow, rocky soils and seasonal high ground water that are generally non-suitable for standard drywall practice. Strict management of annual subsurface disposal volumes and individual storm event surface release rates are in effect, unless hydro-geologically justified. The design 25 and 2 year storms shall be held to pre-development rates of flow for the detention pond as a minimum, unless approved by the County Engineer.
32. The proposed plat is located within a CARA of high susceptibility to groundwater contamination pursuant to the CAO. 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 these critical areas as required by the CAO.
33. Preservation of the Natural Location of Drainage System(s) to ensure that stormwater runoff can continue to be conveyed and disposed of in its natural location shall be addressed in the drainage submittal and identified on the face of the plat prior to final plat acceptance.
34. This project is located within a potential Regional Stormwater Facility Service Area. Coordination with the appropriate jurisdiction to increase the opportunity and ability to utilize regional stormwater facilities is required.
35. The Applicant shall acknowledge receipt of notice from Spokane County that prior to use, all drywells and other infiltration devices regulated under Washington Administrative Code (WAC) 173-218-070 serving the proposed project shall be registered with the WSDOE. Stormwater facility designers must apply to WSDOE for the above registration 60 days or more in advance to the installation of privately owned drywalls or other applicable infiltration devices, and coordinate with Public Works 75 days or more in advance to the installation of drywalls or other applicable infiltration devices located within a Spokane County ROW or an adjacent border or drainage easement regarding their registration as publicly owned facilities.
36. The Applicant is being given notice by Spokane County that site disturbances of greater than 1 acre with a discharge to "waters of the state" regulated by the National

Pollutant Discharge Elimination System (NPDES) under WAC 173-220 must apply for a permit from the WSDOE.

SIGNED this 7<sup>th</sup> day of March, 2022.



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Brian T. McGinn  
Spokane County Hearing Examiner Pro Tem

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## **NOTICE OF FINAL DECISION AND NOTICE OF RIGHT TO APPEAL**

Pursuant to SCC Chapter 1.46 (Hearing Examiner), the decision of the Hearing Examiner Pro Tem on an application for a preliminary plat is final and conclusive unless within twenty-one (21) calendar days from the issuance of the Hearing Examiner Pro Tem's decision, a party with standing files a land use petition in Superior Court pursuant to RCW Chapter 36.70C.

Pursuant to RCW Chapter 36.70C, the date of issuance of the Hearing Examiner Pro Tem's decision is three (3) days after it is mailed, counting to the next business day when the last day for mailing falls on a weekend or holiday.

On March 8, 2022, a copy of this decision will be mailed by first class mail to the Applicant, and by e-mail or mail to other parties of record. The date of issuance of the Hearing Examiner Pro Tem's decision is March 11, 2022.

**THE LAST DAY FOR APPEAL OF THIS DECISION TO SUPERIOR COURT BY LAND USE PETITION IS APRIL 1, 2022.**

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 W. Broadway Avenue, Spokane, Washington, 99260-0245, (509) 477-7490. The file may be inspected Monday through Friday of each week, except holidays, between the hours of 8:00 a.m. and 4:00 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.