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SPOKANE COUNTY HEARING EXAMINER

PRELIMINARY PLAT OF AERO ROAD
PUD TO DIVIDE APPROXIMATELY 5.14
ACRES INTO 35 LOTS FOR 68 DUPLEX
DWELLING UNITS AND ONE SINGLE
FAMILY RESIDENCE IN THE MEDIUM
DENSITY RESIDENTIAL ZONE WITH A
PUD OVERLAY ZONE

**REVISED FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
DECISION**

APPLICANT: WHIPPLE CONSULTING
ENGINEERS

FILE NO. PW-2074-19

I. SUMMARY OF DECISION

Hearing Matter: On November 27, 2019, the application for a Preliminary Plat to divide approximately 5.14 acres into 35 lots for 68 duplex dwelling units and one single family residence in the Medium Density Residential (MDR) zone with a Planned Unit Development (PUD) Overlay Zone, Spokane County Building and Planning Department (“Department”) File No. PN-2074-19, came before the Hearing Examiner for hearing pursuant to Spokane County Code (SCC) 12.400.114.

On January 7, 2020, A timely Request for Reconsideration was submitted to the Hearing Examiner’s office and a Decision Re: Applicant’s Request for Reconsideration issued on January 23, 2020.

Summary of Decision: Based upon the Decision Re: Applicant’s Request for Reconsideration, dated January 23, 2020, the application for a Preliminary Plat to divide approximately 5.14 acres into 35 lots for 68 duplex dwelling units and one single family residence in the Medium Density Residential (MDR) zone with a Planned Unit Development (PUD) Overlay Zone, Spokane County Building and Planning Department (“Department”) File No. PN-2074-19, is approved, subject to *revised* conditions hereinbelow. Pursuant to RCW 58.17.140(3)(a) the preliminary plat, as conditioned, will expire five years after the approval of the proposed Preliminary Plat, unless an application for a time extension is submitted at least 30 days prior to such expiration date.

1 **II. FINDINGS OF FACT**

2 **A. Procedural Matters:**

3 The application for the proposed Preliminary Plat was submitted to the
4 Spokane County Building and Planning Department on January 14, 2019. A
5 Determination of Completeness was issued for the subject application on February
6 12, 2019, and the Notice of Application was mailed on February 13, 2019. In addition,
7 Notice of Application signs were posted on the site.

8 The subject property is generally located at the southwest corner of the
9 intersection of Aero Road and Fruitvale Road, in the SE ¼ of Section 7, Township 24
10 North, Range 42 EWM, Spokane County, Washington. The parcels making up the site
are identified as Auditor’s Parcel Nos. 24073.9032 and 24073.9086.

11 The applicant is Whipple Consulting Engineers, Inc., 21 South Pines Road,
12 Spokane Valley, Washington.

13 Pursuant to SCC Section 13.500, Notice of Application, and SCC Section
14 13.700, Notice of Hearing, the following notices were properly prepared, mailed, and
15 posted:

16 Notice of Application – mailed by the Department on February 13, 2019. SCC
17 13.500.106. Certification of Mailing by Martha Thornton dated February 13,
2019.

18 Notice of Application – posted by Alex Ewing on February 14, 2019. SCC
19 13.500.106. Affidavit of Posting by Alex Ewing dated February 14, 2019.

20 Notice of Public Hearing – posted at the site on October 9, 019, by the
21 applicant. SCC Section 13.500.108. Affidavit of Posting by Anna Hirning, dated
22 October 9, 2019.

23 Notice of Hearing – mailed on October 7, 2019, Declaration of Mailing by
24 Martha Thornton dated October 7, 2019.

25 Notice of Hearing – mailed on October 9, 2019, Affidavit of Mailing by Anna
26 Hirning dated October 9, 2019.

27 Notice of Hearing – published in the Spokesman Review, a recognized legal
28 newspaper for the publication of notices, on October 15, 2019. Affidavit of
29 Publication by E. Jean Robinson, dated October 16, 2019.

30 A Mitigated Determination of Nonsignificance (MDNS) was issued by the
Spokane County Department of Building and Planning for the proposed Preliminary

1 Plat of Aero Road PUD, PW-2074-19/PUD-01-19, on October 15, 2019, which includes
2 a mitigation measure requiring the applicant pay a voluntary mitigation fee of
3 \$233.00 per trip equaling \$14,446.00 prior to the finalization of any phase of the
4 preliminary plat. No appeal from the MDNS was made.

5 The Hearing Examiner conducted a site visit on October 29, 2019.

6 The hearing for this matter was scheduled, as noted in the Notice of Hearing,
7 for 9:00 a.m. on October 30, 2019, in the Commissioner's Hearing Room, 1026 East
8 Broadway, Spokane, Washington. Due to an error in the Notice of Hearing posted on
9 the site on October 9, 2019, argument was heard on October 30, 2019 at
10 approximately 9:00 a.m. regarding the error in the posted notice. A continuance of the
11 hearing was ordered by the Hearing Examiner and announced at the hearing on
12 October 30, 2019. The Hearing Examiner's decision was to continue the hearing to
13 November 27, 2019 at 1:30 p.m. to allow the correction to the posted notice. Said
14 correction was posted at the site on October 31, 2019 and notice of the continued
15 hearing was posted at the hearing room at the time originally set for the hearing on
16 October 30, 2019.

17 The Hearing Examiner reconvened the hearing on November 27, 2019, at 1:30
18 p.m. and heard the application pursuant to the Spokane County Hearing Examiner
19 Ordinance, SCC Chapter 1.46; the County Hearing Examiner Rules of Procedure,
20 County Resolution No. 1996-0294; and SCC Chapter 12.400 (Subdivision Ordinance).

21 The following persons were present at and/or testified at the hearing under an
22 oath administered by the Hearing Examiner:

23 Tammy Jones
24 Building and Planning Department
25 1026 W. Broadway Avenue
26 Spokane WA 99260

27 Ben Goodmansen
28 21 S. Pines Rd.
29 Spokane Valley, WA 99206
30 bgoodmansen@whipplece.com

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

James Lambert
james.lambert@horizonair.com

Craig Ulleland
7614 S. West Terrace Dr.
Cheney, WA 99004
craigulleland@yahoo.com

Joanna Lambert
9904 W January Drive
Cheney, WA 99004
jmhayde@gmail.com

Kathi Maxwell

Terry Horne
10007 W Raspberry Avenue
Cheney, WA 99004

1 kjmaxwell56@gmail.com

terryhorne@comcast.net

2 Pence Properties
3 penceproperties@outlook.com

Nina Keaney
nekeaney01@cloud.com

4 Allyson Andrade
5 aandrade@whipplece.com

Travis Foland
7422 Dana St.
Cheney, WA 99004

6 Tiffany Wentz
7 7710 S. Blackberry St.
8 Cheney, WA 99004
9 Jim & Sandra Anattol
jbanattol@dresnan.net

Gerd Scheller
glak@msn.com
Kevin Mumow
Kmumow81@gmail.com

10 Richard LaForest
11 randclaforest@hotmail.com

Kathi Maxwell
Kjmaxwell56@gmail.com

12 Becky Bunker
13 renceproperhe@ontlode.com

14 The following exhibits were submitted during the hearing:

15 Exhibit 1: Letter from Whipple Consulting to The Hearing Examiner Dated
16 11.27.2019, submitted by Ben Goodmansen (7 pp.)

17 Exhibit 2: PN-2074-19 PowerPoint Presentation hard copies, submitted by
18 Ben Goodmansen (29 pp.)

19 Exhibit 3: PowerPoint Presentation hard copies, submitted by Gerd
20 Sheller (22 pp.)

21 Exhibit 4: West Terrace Stormwater Study, submitted by Terry Horne
(1 page)

22 Exhibit 5: West Plains: Stormwater High Risk Area Map, submitted by
23 Terry Horne (1 page)

24 Exhibit 6: Stormwater Management Plan for the West Plains Planning Area,
25 submitted by Terry Horne (178 pp.)

26 **B. Issues Raised by Public Comment:**

27 Comments received from surrounding property owners' express opposition to
28 the proposed Preliminary Plat and PUD, which can be summarized as concerns
regarding:

- 29 a. existing stormwater drainage problems,
30 b. increased traffic at the 1-190 intersection and along Fruitvale Road,

- 1 c. safety for children traveling to school or to school bus stops,
- 2 d. school overcrowding due to the additional residential development,
- 3 e. lack of a park in the area,
- 4 f. accessibility to firefighting vehicles,
- 5 g. proposed density and the construction of duplexes,
- 6 h. reduced property values due to higher density development,
- 7 i. increased crime as a result of duplex development opposed to single
8 family home development, and
- 9 j. alleged neglect and unfinished development relative to an adjacent
10 duplex development.

11 Evidence regarding reduced property values, alleged increase in crime, street
12 design concerns, pedestrian safety, school overcrowding, and burdensome traffic at I-
13 90 and nearby roadways was anecdotal in the form of oral and written testimony, and
14 was not otherwise supported by professional opinion or documented data.

15 In support of their concerns regarding stormwater drainage and a high level of
16 ground water in the area, several witnesses provided as exhibits images of flooded
17 streets in the area during spring thaw and run off. Witnesses described concerns that
18 the existing stormwater drainage systems and retention ponds do not contain or
19 evacuate the stormwater that accumulates during the spring thaw and runoff from
20 the existing development in the area. The maintenance of the existing stormwater
21 drainage systems is the responsibility of at least two separate Homeowner's
22 Associations (HOAs) for developments lying southwest and west of the subject site
23 and lying east of the subject site. Concerns were raised regarding the lack of an
24 agreement between the applicant and the HOAs regarding maintenance of the
25 stormwater drainage systems.

26 In addition to photographs of the standing water on Fruitvale Road and
27 January Street, a copy of the Stormwater Management Plan for the West Plains
28 Area, dated February 2003, was submitted to support testimony that the area
29 immediately surrounding the subject site has a high ground water level and an area
30 where drainage of stormwater is problematic due to the geology of the area. Exhibits
31 3 and 6.

32 Testimony was offered that the basements of many homes in the area
33 surrounding the subject site have problems with flooding and sump pumps are
34 required to attempt to alleviate the water in basements. The existing stormwater
35 storage pond located to the west of the subject site is reported to fill to capacity and
36 overflowing due to stormwater runoff.

1 As explained hereinafter, the responsibility for the repair and maintenance of
2 the stormwater drainage systems that are located outside of county right-of-way and
3 on private property are the responsibility of the Crystal Meadows HOA and the West
4 Terrace Third Addition – PUD respectively.

5 **C. Description of Site and Proposed Project:**

6 The subject property is approximately 5.14 acres in size, currently undeveloped
7 and located south of Aero Road and west of Fruitvale Road. Aero Road is a paved 2
8 lane arterial without curbing or sidewalk along the site frontage. Fruitvale Road is a
9 paved 2 lane local access roadway without curbing or sidewalk along the site
10 frontage. The subject site is generally flat with natural low growing foliage. The site
is slightly higher than the surrounding lands to the north, east, south and west.

11 The proposal consists of a Preliminary Plat and Planned Unit Development
12 (PUD) Overlay Zone to divide approximately 5.14 acres into 35 lots for 68 duplex
13 units and one (1) single family residence in the existing Medium Density Residential
14 (MDR) zone, with a proposed net density of 15.86 units per acre. Dana Street, to the
15 south of the proposed Preliminary Plat will be extended to the north through the site
16 to Aero Road. Three internal driveways are proposed, two extending west from Dana
17 Street in a hammer head configuration which will provide access to several duplex
18 units. Another driveway will extend east and then south from Dana Street to serve
19 two duplex structures. Duplex structures will face Dana Street on the east and west
20 side of the street and duplex units will also face Fruitvale Road on the west side of
21 the road. The proposed Preliminary Plat is to be developed in one phase.

22 The proposed Preliminary Plat is within a Critical Aquifer Recharge Area
23 (CARA) identified as having medium susceptibility, as such the proposed Preliminary
24 Plat will be served by public water and sewer. As more fully discussed below, disposal
25 of stormwater from the site shall be consistent with Chapter 9.14 of the Spokane
26 County Code.

27 The subject site is located within a Joint Planning Area (JPA) with the City of
28 Spokane. Pursuant to Section 13.300.103 of the Spokane County Public Works
29 Application Review Procedures for project permits (Resolution #1- 0070), a
30 Community Informational Meeting was held by the applicant on November 29, 2018.

D. Land Use Designations and Conditions for Neighboring Land:

Established uses on surrounding properties include single family residential
development to the east, south and west. Light industrial development exists north

1 and northwest of the subject site. Immediately to the west, land is zoned Light
2 Industrial. Land to the northwest is zoned as Light Industrial and further west land
3 is zoned Rural Conservation. Lands to the east, southeast, and northeast of the site
4 are zoned Low Density Residential. The zoning of the subject site is Medium Density
5 Residential (MDR) established on June 1, 2004, as a result of the implementation of
6 the Spokane County Zoning Code.

6 **E. Agency Comments:**

7 Prior to the hearing on November 27, 2019, the Department received
8 comments from Spokane Public Works, Spokane County Environmental Services, and
9 Spokane Regional Health District. The agency comments are in the form of
10 suggested conditions of approval of the Preliminary Plat and are included herein as
11 such.

12 **F. Consistency with Comprehensive Plan:**

13 The subject property is located within the Medium Density Residential
14 category of the Comprehensive Plan which allows a density range of from 6 to 15
15 dwelling units per acre. Design standards are included to ensure neighborhood
16 character and compatibility with adjacent uses. The Preliminary Plat proposes a
17 density of 15.86 units per acre. To accommodate the additional density, the applicant
18 is requesting bonus density pursuant to Chapter 14.704 of the Spokane County
19 Zoning Code.

19 Comprehensive Plan goals and policies applicable to the proposed Preliminary
20 Plat include:

20 **Urban Land Use**

21 Goal UL.2 - Maintain and enhance the quality of life in Spokane County through
22 urban design standards.

23 Policy UL.2.14 - Separated sidewalks shall be required on public roads in all
24 new residential subdivisions.

25 The Public Works Department has suggested conditions of approval including
26 improvements of all proposed interior roadways, and the construction of curbing and
27 separated sidewalks along the Aero and Fruitvale Road frontages, pursuant to
28 applicable Spokane County Road Standards.

29 Policy UL.2.16 - Encourage the location of medium and high density residential
30 categories near commercial areas and public open spaces and on sites with

1 good access to major arterials. A determination that a particular property has
2 access to major arterials may be based on a condition of approval or
3 development agreement requiring construction of new roads and/or access to
4 particular major arterials.

5 The subject site is located adjacent to Light Industrial zoned properties with
6 industrial and commercial development and between that Light Industrial zone and
7 Low Density Residential zoned properties. Thus, the proposed Preliminary Plat acts
8 as a buffer between the Light Industrial and Low Density Residential zone. The site
9 is also located in near proximity to the I-90 corridor.

10 Policy UL.2.17 - Site multifamily homes throughout the Urban Growth Area as
11 follows:

12 a) Integrated into or next to neighborhood, community or urban activity
13 centers.

14 b) Integrated into small, scattered parcels throughout existing
15 residential areas. New multi-family homes should be built to the scale and
16 design of the community or neighborhood, while contributing to an area-wide
17 density that supports transit and allows for a range of housing choices.

18 The proposed Preliminary Plat is located near an urban activity center
19 (located at the interchange of I-90) and is on a relatively small parcel near existing
20 residential development. The size and design of the duplex structures is similar to the
21 single family development in the immediate area of the proposed Preliminary Plat.

22 Policy UL.2.18 - Establish development requirements that encourage quality
23 design within multifamily development areas.

24 Spokane County has adopted design standards as part of its zoning code.

25 Policy UL.2.19 - Develop standards that prescribe maximum building heights
26 and other building design features to give a residential scale and identity to
27 multifamily developments.

28 Spokane County has adopted design standards as part of its zoning code.

29 Goal UL.3 - Encourage exemplary developments by providing for flexibility and
30 innovative design through planned unit commercial/industrial and residential
developments.

Policy UL.3.1 - Provide flexibility with regulations and other incentives for
planned unit commercial, industrial and residential developments.

1 Spokane County has adopted regulations regarding Planned Unit
2 Development as part of its zoning code.

3 Policy UL.3.2 - Develop criteria to evaluate planned unit developments for
4 approval of development incentives. Criteria shall be based on the following
5 considerations:

- 6 a) Creative, efficient uses of land.
- 7 b) Exceptional quality and design.
- 8 c) Preservation of usable open space and natural landscape features.
- 9 d) Environmentally sensitive design.
- 10 e) Efficient utilization of public facilities and services.
- 11 f) Community improvements (i.e., contributions to culture, recreation,
12 tourism, public improvements, business incubator facilities, etc.).
- 13 g) The project's ability to create living-wage jobs.
- 14 h) Development of street, pedestrian and bicycle paths that contribute to
15 a system of fully connected routes.

16 Spokane County has adopted regulations regarding Planned Unit Development
17 as part of its zoning code

18 Policy UL.3.3 - Incentives for planned unit developments, which are consistent
19 with adopted criteria, may include:

- 20 a) Bonus density;
- 21 b) Increase in floor-to-area ratios; and
- 22 c) Greater flexibility in design standards (e.g., setbacks, frontage,
23 building height, lot area, street design, landscaping, etc.).

24 Spokane County has adopted regulations regarding Planned Unit Development
25 as part of its zoning code

26 Goal UL.5 - Provide for an aesthetically pleasing urban environment and
27 encourage the maintenance and enhancement of natural and cultural views.

28 Policy UL.5.7 - Encourage placing power and telecommunication lines
29 underground, at the rear of the properties or in alleyways.

30 The proposed development will be connecting to existing utilities that cross
through or are located near the subject site in compliance with all applicable codes
and regulations.

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Goal UL.7 - Guide efficient development patterns by locating residential development in areas where facilities and services can be provided in a cost effective and timely fashion.

Policy UL.7.1 - Identify and designate land areas for residential use, including categories for low-medium-and high-density areas.

By adoption of the Spokane County Comprehensive Plan and the implementing Spokane County Code, Spokane County has complied with Policy UL.7.1. The subject site is located adjacent to existing and proposed urban style developments of a variety of residential densities. Urban services are readily available to the proposed Preliminary Plat.

Policy UL.7.3 - New development must be located within the Urban Growth Area (UGA) boundary.

The subject site is located within the Urban Growth Area (UGA), and within the Medium Density Residential category of the Comprehensive Plan.

Policy UL.7.10 - Phasing of land development shall be consistent with the established levels of service for the provision of public facilities and services within the UGA's.

The proposed Preliminary Plat will be finalized in one phase, and the proposed development is consistent with Section IV, Concurrency, of the Phase 2 Development Regulations.

Policy UL.7.11 - Establish zoning and subdivision regulations that require residential developments to provide the following improvements:

- a) paved streets, curbs and sidewalks, paths and internal walkways, when appropriate;
- b) adequate parking consistent with local transit levels;
- c) street lighting;
- d) storm water control;
- e) public water supply;
- f) public sewers.

Spokane County has adopted applicable zoning codes and development standards. The proposal will provide for paved internal public roads, off-street parking for each lot, and will connect to existing public water and sewer systems. The proposed Preliminary Plat, as conditioned herein, does or shall comply with those codes and standards.

1 Policy UL.7.12 - New development within the UGA shall be connected to public
2 sewer, consistent with the requirements for concurrency.

3 As noted above, this requirement is met.

4 Goal UL.8 - Create urban areas with a variety of housing types and prices,
5 including manufactured home parks, multifamily development, townhouses and
6 single-family development.

7 Policies UL.8.1 Provide for mixed-income development in residential areas and
8 encourage opportunities for co-housing and shared community resources,
9 where appropriate.

10 The proposed Preliminary Plat qualifies as a mixed-income development and is
11 located adjacent to a single-family residential neighborhood.

12 Goal UL.9b - Create efficient use of land and resources by reducing the conversion
13 of land to sprawling, low density development.

14 Policy UL.9.2 - Seek to achieve an average residential density in new
15 development of at least 4 dwelling units per net acre in the Urban Growth
16 Area through a mix of densities and housing types.

17 The density of the proposal is 15.86 units per acre which, though considerably
18 higher than the existing adjacent densities, is consistent with the density range
19 allowed within the Medium Density Residential category.

20 **Transportation**

21 Goal T.2 - Provide transportation system improvements concurrent with new
22 development and consistent with adopted land use and transportation plans.

23 Policy T.2.3 - Transportation improvements shall be consistent with land use
24 plans, capital funding and other planning elements.

25 Internal roadway and entrance improvements will be required. Spokane
26 County Public Works has requested the payment of a voluntary payment of \$233.00
27 per trip towards future improvements to the surrounding transportation system.

28 Policy T.2.5 - Coordinate planning with appropriate jurisdictions and utility
29 companies for utility corridors that may affect the transportation system.

30 The application for the proposed Preliminary Plat has been circulated for
review and comment to all affected reviewing agencies.

Goal T.4a - Ensure that urban roadway systems are designed to preserve and be
consistent with community character.

1 Policy T.4a.1 - Utilize best available engineering practices to ensure a safe and
2 efficient roadway system.

3 As conditioned hereinafter the proposed Preliminary Plat will comply with the
4 Spokane County Code and Spokane County Road Standards as applicable. Spokane
5 County Public Works has requested improvements to the Aero and Fruitvale Road
6 frontages to include the construction of curbing and separated sidewalks.

7 Policy T.4a.16 - Reduce right-of-way width dedications to the minimum
8 necessary to provide for transportation needs.

9 Spokane County Public Works has not requested additional dedication along
10 the existing frontage roadway, however it has requested the dedication of 38 feet of
11 public right-of-way for the improvement of Dana Street.

12 **Housing**

13 The Housing chapter of the Comprehensive Plan is intended to serve as a
14 framework for long-term planning and daily decision-making on housing related
15 projects and programs.

16 Goal H.3a - Develop a variety of housing options for all economic groups.

17 Policy H.3.2 - Ensure that the design of infill development preserves the
18 character of the neighborhood.

19 The proposed duplex development will provide housing options to a diverse
20 income group while maintaining the low rise residential character of the area.

21 **Capital Facilities and Utilities**

22 Policy CF.6.3 - Prohibit the extension of water service to new development that
23 will decrease the level of service of the existing water system below the adopted
24 minimum level of service standards.

25 A public water system is currently in place and available for new development,
26 and the proposal is consistent with the concurrency provisions of the Phase 2
27 Development Regulations. Potable water is available to the site via the City of
28 Spokane. The water district has indicated that there is sufficient supply of water to
29 serve the proposed Preliminary Plat. The proposal is consistent with the concurrency
30 provisions of Spokane County Code.

Goal CF.7 - Coordinate private and public sanitary sewer planning to promote
efficient service, protect the natural resources and ensure the orderly physical
development of Spokane County consistent with adopted plans and policies.

1 Policy CF.7.2 - Prohibit the extension of any sewer system that will degrade
2 the existing system below the adopted level of service.

3 A public sewer system is available to serve the proposed development. City of
4 Spokane Public Sewer system has indicated its approval of the proposed Preliminary
5 Plat, and that there is sufficient capacity within the system to accommodate the
6 proposed development.

6 **Parks and Open Space**

7 Policy PO.3.3 - New development shall mitigate a portion of its direct impacts
8 on the availability of parks, open spaces and recreation facilities.

9 Spokane County Parks & Recreation has not commented on the proposed
10 development; thus, the proposed Preliminary Plat is assumed to meet established
11 Spokane County regulations.

12 **West Terrace Neighborhood/Community Plan**

13 The proposed Preliminary Plat is located within the West Terrace
14 Neighborhood/Community Plan (West Terrace Plan), which was adopted in
15 September of 1990 as CPA-63-90. The West Terrace Plan provides specific guidelines
16 for future development, traffic and pedestrian circulation, community facilities and
17 general design. In the event of a conflict between the policies of the West Terrace
18 Plan and the Comprehensive Plan, the Comprehensive Plan will govern. There is a
19 conflict between the terms of the West Terrace Plan and the Spokane County
20 Comprehensive Plan and the implementing Spokane County Zoning Code, therefore
21 the Comprehensive Plan and the zoning code control regarding the proposed
22 Preliminary Plat.

23 As conditioned, the proposed Preliminary Plat of Aero Road PUD is generally
24 consistent with the Goals and Policies of the Medium Density Residential category of
25 the Comprehensive Plan, subject to approval of the requested bonus density.

24 **G. Consistency with Zoning:**

25 The Medium Density Residential (MDR) zone was established by the
26 implementation of the adoption by Spokane County of the Phase 2 Development
27 Regulations on June 1, 2004. The Medium Density Residential (MDR) zone is
28 primarily for the development of a combination of single family and/or multi-family
29 uses at a density range of greater than 6 up to and including 15 dwelling units per
30 acre. Cluster development, zero lot-line housing and other incentives are permitted to

1 promote infill and preservation of open space. Business and Professional offices are
2 also permitted in the MDR zone. SCZC 14.606.100.

3 The subject site is surrounded by Light Industrial (LI) to the west, north and
4 northwest, Medium Density Residential (MDR) to the south and Low Density
5 Residential (LDR) to the east, northeast and the southeast. Staff Report. The
6 proposed density of 15.86 units per acre is higher than the density of the single family
7 residential development to the west and east of the subject site. Id. By utilizing the
8 Planned Unit Development Overlay Zone however, the proposed density is consistent
9 with the maximum density of 15 units per acre in the Medium Density Residential
(MDR) zone by applying the requested bonus density. SCZC 14.704.310.

10 The proposed Preliminary Plat of Record and Planned Unit Development Site
11 Plan illustrates the development 35 lots for 34 duplexes (68 units) and one (1) single
12 family residence on 5.14 acres with a net development area of 4.35 acres and a net
13 density of 15.86 units per acre. Preliminary Plat, Sheet P-1. The proposed
14 Preliminary Plat indicates access from three streets or roads. Id. First access from
15 Aero Road via Dana Street running north and south through the proposed plat. Id.
16 Second via Fruitvale Road directly to duplexes on the east side of the plat, and third
17 from January Avenue to three of the duplex sites. Id. The extension of Dana Street
18 thru the site to Aero Road will be a public roadway. Id. Three private driveways from
19 Dana Street will serve secondary lots within the development. Id. All roadways will
be fully developed to Spokane County Roadway Standards. The Preliminary Plat
illustrates the location of four (4) open space tracts, A-D, totaling approximately 10%
of the site to provide for passive recreation and green space. Staff Report.

20 The proposed Preliminary Plat is consistent with the Concurrency
21 requirements of the Phase 2 Development Regulations and the City of Spokane public
22 sewer and water systems are available to serve the site. Staff Report.

23 Section 12.400.123, Urban Connectivity Design, of the Spokane County
24 Subdivision Ordinance is intended to provide for a system of streets that offer
25 multiple routes and connections and including frequent intersections and few closed
26 end streets (cul-de-sacs) within the Urban Growth Area (UGA). The design of plats
27 shall adhere to urban connectivity design standards, unless otherwise approved by
28 the Director and the Spokane County Engineer pursuant to Section 12.400.123(1).
29 The design of the proposed Preliminary Plat does not provide for a public connection
30 to the west of the subject site the due to the pattern of existing development and does
request a series of private roadways to serve secondary lots. The Preliminary plat
does provide for connections to the north, south and east of the site.

1 The project file contains a memo, dated October 23, 2019, from the Planning
2 Director recognizing the unique attributes of the site and approving a request to be
3 exempted from urban connectivity design standards relative to the three private
4 driveways as provided by Section 12.400.123(2) of the Subdivision Ordinance. The
5 Spokane County Engineer has expressed his agreement with the granting of the
exception to the connectivity requirements. See Memo dated October 30, 2019.

6 **Fairchild Air Force Base and Spokane International Airport Overlay Zones**

7 In addition to the MDR zoning of the subject site, the site is also located within
8 the Fairchild Air Force Base (FAFB) Overlay zone, Section 14.702A of the Spokane
9 County Zoning Code. The site is located within the Military Influence Area (MIA) 2
10 and of the FAFB Overlay Zone. Prior to finalization of the plat an avigation easement
11 shall be awarded to the Fairchild Air Force Base consistent with SCZC 14.702A.810.
12 A title notice and notice to renters and/or lessees of the property shall be recorded
13 and acknowledged by the renters and/or lessees as required by SCZC 14.702A.910 &
14 .920 respectively. The site also lies within the Airport Overlay Compatibility 5 zone
15 (ACZ-5) of the Spokane International Airport. Table 14.702.260 of the Spokane
16 County Zoning Code permits residential uses in the ACZ-5. Prior to plat finalization,
the applicant shall grant an avigation easement to the Spokane International
Airport. Staff Report.

17 **H. Planned Unit Development (PUD) Overlay Zone:**

18 The purpose and intent of the Planned Unit Development (PUD) Overlay zone
19 is to establish a process to foster creative, efficient and comprehensive design of site
20 development, and may be used in conjunction with any zoning classification within
21 the urban growth area boundary. These regulations provide flexibility in site design
22 and offer incentives in order to encourage creation of permanent open space,
23 encourage development of a variety of housing types, facilitate development of mixed-
24 use projects, promote land use patterns that support a sense of community and
provide a variety of environments for living, working and recreation. SCZC
14.704.100.

25 A preliminary Planned Unit Development (PUD) Site Plan was submitted by
26 the applicant as required by SCZC 14.704.120(1-10). The Site Plan identifies the
27 location of proposed improvements including single family and duplex residences,
28 proposed building setbacks, and the location of open space tracts totaling
29 approximately 25,572.59 square feet or 10.1% of the subject site. A schematic
30 landscape plan addressing the size and type of plant materials to be installed and the

1 method of permanent maintenance has been submitted. The landscape plan proposes
2 frontage landscaping along Aero Road and January Drive frontages. Staff Report;
3 Preliminary Plat, Sheet P-1.

4 The formula for calculating the allowed bonus density under a PUD Overlay is
5 found in SCZC 14.704.310(1.a). That formula is:

6
$$\begin{array}{ccccccc} \text{Net Development} & \times & \text{Maximum Number of} & + & \text{Density Bonus} & = & \text{Total Units} \\ \text{Factor} & & \text{units per acre allowed} & & \text{Earned} & & \text{Permitted} \end{array}$$

7
8 The net development factor is the acreage of the planned unit development
9 area minus the area set aside for, or existing in, any of the following:

- 10 i. Schools.
11 ii. Commercial and/or industrial uses.
12 iii. Single-family residential platted areas, if determining net
13 development factor for the multifamily portion of a mixed single-family,
14 multifamily development.
15 iv. Natural water bodies, including lakes, streams, swamps, marshes,
16 and bogs which are not incorporated in the common open space plan of
17 the planned unit development.
18 v. 75% of areas having slopes that exceed 40%.
19 vi. Public or private streets.

20 Bonus Density: The following units per acre may be cumulatively earned as
21 additional density to the maximum base unit density of the underlying zone.

- 22 a. Common Open Space.
23 i. 0.3 unit-per-acre bonus if at least 50% of the dry, common open
24 space has a slope of 10% or less.
25 ii. 0.5 unit-per-acre bonus if significant recreation areas are
26 developed and equipped with at least 2 of the following features: hard
27 surface biking, hiking or walking trails connecting the entire
28 development; improved playfields, sport courts; swimming or wading
29 pool; or children's play areas that incorporate play
30 structures/equipment and are at least 10,000 square feet in size.
- b. Environmental Concern.
i. 0.3 unit-per-acre bonus if general public access is provided to lake
or river; to trails, 0.1 unit-per-acre bonus; to scenic viewpoint, 0.1
unit-per-acre bonus.
ii. 1.0 unit-per-acre bonus if 40% or more of the existing, healthy
trees over 10 inches in diameter, are retained on the site. Tree

1 diameter shall be measured at 6 feet above the ground. This bonus
2 shall only apply in forested areas where the density of the above
3 described trees is equal or greater than 10 trees per acre.

4 c. Internal Circulation and Parking.

5 i. 0.2 unit-per-acre bonus if nonresidential parking areas are kept
6 small (10 to 20 spaces in a group) and interspersed with landscaping,
7 or provided within or under main buildings.

8 ii. 0.5 unit-per-acre bonus if provision is made for an internal bike
9 and pedestrian system physically separated from roadways.

10 iii. 1.0 unit-per-acre bonus for an interconnected roadway system
11 without cul-de-sacs.

12 iv. 0.5 unit-per-acre bonus for an ungated development allowing
13 through access to the public.

14 v. 0.5 unit-per-acre bonus if at least 1/2 of the required parking is
15 covered or 1 unit-per-acre bonus if all the required parking is
16 covered.

17 d. Public Service and Facility Availability.

18 i. 0.3 unit-per-acre bonus if public transit is available within ¼-mile
19 walking distance of the majority of dwelling units and offices.

20 ii. 0.2 unit-per-acre bonus if off-site convenience shopping facilities
21 are functionally accessible within reasonable walking distance
22 (approximately ¼-mile).

23 iii. 0.5 unit-per-acre bonus if special facilities for public transit are
24 incorporated into the design (e.g., sheltered, lighted waiting/loading
25 facilities, including benches and park-and-ride spaces).

26 e. Housing.

27 i. 0.5 unit-per-acre bonus if the development features a mix of at least
28 3 of the following housing types: Detached, single-family residences;
29 attached, single-family residences; manufactured homes; duplexes;
30 townhouses and apartments.

ii. 1.0 unit-per-acre bonus for mixed income housing where at least
20% of the units are set aside for households making less than 80% of
the median income of the County as defined by the Department of
Housing and Urban Development (HUD).

Applying the formula as described above and applied to the proposed
Preliminary Plat, the Total Units Permitted as a bonus density is 71 units.

Net Development x Maximum Number of + Density Bonus = Total Units

1 Factor units per acre allowed Earned¹ Permitted
2 4.351 acres x 15 units/acre + 1.3 units/acre = 71 units

3
4 Which calculates to 16.3 units per acre. Because the proposed density is 15.86
5 units per acre, the proposed density is allowed by utilizing a PUD Overlay Zone for
6 the proposed Preliminary Plat.

7 Although the Preliminary Plat proposes through streets not ending in cul-de-
8 sacs, it includes three private driveways with turnarounds serving secondary lots
9 that do not provide for interconnection of all roadways within the proposed
10 development. Hence the bonus density earned by the proposed Preliminary Plat is 1.3
11 units per acre allowing for a density of 16.3 units per acre within the PUD Overlay
12 zone.

13 As conditioned hereby, the proposed Preliminary Plat and Planned Unit
14 Development (PUD) Overlay zone are generally consistent with the development
15 standards of the Medium Density Residential (MDR) zone and the Planned Unit
16 Development (PUD) Overlay zone.

17 **I. Stormwater Drainage/Treatment:**

18 Several written comments and a significant number of those testifying at the
19 hearing described flooding that occurred at Fruitvale Road and January Street
20 during the spring thaw/runoff. Testimony also described problems with water in
21 basements during the same period in the residential developments that surround the
22 proposed Preliminary Plat.

23 Exhibit number 6, submitted at the hearing by Ms. Terry Horne, is a copy of
24 the Final Report, Stormwater Management Plan (Final Report) for the West Plains
25 Planning Area, dated February 2003. Although the map of the planning area
26 contained in the report indicates that the site of the proposed Preliminary Plat is
27 outside of the planning area, slightly to the south of the western portion of the
28 planning area, the report is still instructive on several points. Final Report, map ES-
29 1.

30

¹ Bonus density may be granted for the following (SCZC 14.704.310 (2)(a – e)).
3 units if at least 50% of the common open space has a slope of 10% or less
.5 units for an ungated development allowing access to the public
.5 units if all required parking is covered.
= 1.3 units total bonus density

1 The Final Report states that the western portion of the I-90 sub-basin, where
2 the proposed Preliminary Plat site is located, is generally more prone to extensive
3 surface flooding and basement flooding than the eastern portion of the sub-basin.
4 Final Report, 2-5. The drainage problems in the area appear to be associated
5 primarily with the local geology and topography; the surface topography tending to be
6 flat causing the rainfall and snowmelt to pond and infiltrate rather than runoff, and
7 no significant natural surface drainage channels exist in that part of the basin. Final
8 Report, 2-6. The report predicts that new development in the western I-90 basin
9 (prediction in 2003) could lead to increased drainage problems. The problems, the
10 report continues, would arise primarily from the fact that the topography and geology
11 make the area already prone to drainage problems, rather than the addition of new
12 impervious surfaces. Thus, the problems are being exacerbated by the addition of new
13 impervious surfaces to an area that is already prone to drainage problems such as
14 ponding and flooding. Final Report, 2-6.

12 Following the circulation of the Final Report, Spokane County, the City of
13 Spokane, and the City of Spokane Valley adopted the Spokane Regional Stormwater
14 Manual (adopted April 2008).

15 **RCW 58.17 Requirements**

16 RCW 58.17.120, Disapproval due to flood, inundation or swamp conditions –
17 Improvements – Approval conditions, reads:

18 The city, town, or county legislative body shall consider the physical
19 characteristics of a proposed subdivision site and may disapprove a
20 proposed plat because of flood, inundation, or swamp conditions.
21 Construction of protective improvements may be required as a condition
22 of approval, and such improvements shall be noted on the final plat.

22 No plat shall be approved by any city, town, or county legislative
23 authority covering any land situated in a flood control zone as provided
24 in chapter 86.16 RCW without the prior written approval of the
25 department of ecology of the state of Washington.

24 **Spokane County Code, Section 12**

25 Regarding the approval of a proposed plat the Spokane County Code reads:

26 12.400.118 - Conformity with applicable land use controls.

27 Subdivisions may be approved by the hearing examiner if the hearing
28 examiner, after a public hearing, makes a formal written finding of fact
29 that the proposed subdivision is in conformity with Chapter 58.17 RCW,
30

1 any applicable zoning ordinance, or other land use plans which are
2 known to exist.

3 12.400.130 - Stormwater runoff.

4 Provisions for stormwater runoff shall be in compliance with Spokane
5 County guidelines for stormwater management.

6 **Spokane Regional Stormwater Manual**

7 Adopted in 2008, the Spokane Regional Stormwater Manual (the Manual) was
8 collaboratively developed by Spokane County and the Cities of Spokane and Spokane
9 Valley. The standards for stormwater design and management established by the
10 Manual are intended to protect water quality, natural drainage systems and down-
11 gradient properties as urban development occurs. Spokane Regional Stormwater
12 Manual 1-1.

13 The development of the proposed Preliminary Plat is subject to requirements
14 identified in the Manual including:

- 15 a. A Drainage Submittal
- 16 b. Geotechnical Site Characterization
- 17 c. Flow Control
- 18 d. Natural and Constructed Conveyance Systems, and
- 19 e. Operation and Maintenance

20 A geotechnical site characterization (GSC), prepared by a geotechnical
21 engineer, that must demonstrate suitability for stormwater disposal and to determine
22 sub-level structure construction feasibility may also be required. Spokane Regional
23 Stormwater Manual 2-9.

24 The applicant has provided a Concept Drainage Report for Fruitvale & Aero,
25 dated September 4, 2019, which has been reviewed and approved by the Spokane
26 County Public Works Department. Staff Report.

27 Unless specifically approved by the local jurisdiction, the peak rate and volume
28 of stormwater runoff from any proposed land development to any natural or
29 constructed point of discharge downstream shall not exceed the pre-development
30 peak rate or volume of runoff and a down-gradient analysis demonstrating that there
will be no expected adverse impacts on downgradient properties is required. Spokane
Regional Stormwater Manual 2-14.

When site conditions allow, infiltration is the preferred method of flow control
for urban runoff. All projects are encouraged to infiltrate stormwater runoff on site to

1 the greatest extent possible if such infiltration will not have adverse impacts on
2 downgradient properties or improvements. Id.

3 Stormwater runoff shall be discharged in the same manner and at the same
4 location as in the pre-developed condition, unless otherwise specifically accepted by
5 the local jurisdiction. Stormwater runoff shall not be concentrated onto down-
6 gradient properties where sheet flow previously existed and shall not be diverted to
7 points not receiving stormwater runoff prior to development. Spokane Regional
8 Stormwater Manual 2-17.

9 For drainage ponds and other drainage facilities outside of the public road
10 right of way, the project proponent shall provide the financial means and
11 arrangements for the perpetual maintenance of the drainage facilities. The facilities
12 shall be operated and maintained in accordance with an operation and maintenance
13 plan that meets the criteria specified in Chapter 11 of the Manual. The operation and
14 maintenance plan shall also include applicable source control BMPs, as described in
15 Chapter 10 of the Manual. Spokane Regional Stormwater Manual 2-20.

16 Testimony and exhibits provided during the hearing on this application clearly
17 establish that even prior to any development on the site of the proposed Preliminary
18 Plat, stormwater drainage problems exist in the immediate area of the proposed
19 Preliminary Plat and the surrounding residential developments. Comparing
20 information published on the Weather Underground website,
21 www.weatherunderground.com, for the years 2012 – 2019, precipitation in the area of
22 the proposed Preliminary Plat during the winter and fall of 2018 – 2019 was not
23 significantly higher than for the years 2012 – 2019.

24 The drainage report for the West Terrace Third Addition – PUD, at page 6,
25 states that the development of the proposed roads and residential areas [in the West
26 Terrace Third Addition – PUD] are designed in conformance with the *Spokane
27 County Standards for Road and Sewer Construction* and *Spokane County Guidelines
28 for Stormwater Management*. Drainage Report, West Terrace Third Addition – PUD,
29 dated September 3, 2004 (copy in Building and Planning Department file re: West
30 Terrace Third Addition – PUD, file # PW-1856-98) The designed storm drainage
facilities for the Crystal Meadows plat “will adequately remove from the streets and
convey the stormwater runoff from the developed site for the 50-year storm event, in
general accordance with the Spokane County Guidelines for Stormwater
Management”. Drainage Plan for Crystal Meadows Subdivision, Spokane County,
WA, dated October 2006, page 6, IV. 1. Conclusions. (copy in Building and Planning
Department file re: Crystal Meadows, file # PW-1972-2005 & PW-1972A-2005) The

1 two drainage reports, West Terrace Third Addition and Crystal Meadows together
2 encompassed the site of the proposed Preliminary Plat of Aero Road PUD, that is
3 before the Hearing Examiner in this matter. See Building and Planning files PW-
4 1972-2005, PW-1972A-2005, and PW-1865-98.

5 The stormwater that was expected to runoff of the subject site of Aero Road
6 PUD was included in the calculations regarding the design of the stormwater systems
7 for West Terrace Third Addition – PUD and Crystal Meadows subdivisions. Based
8 upon that information, the proposed stormwater management system for the Aero
9 Road PUD is the existing stormwater management systems of Crystal Meadows and
10 West Terrace Third Addition – PUD. Testimony of Ben Goodmansen, Concept Storm
11 Drainage Report for Fruitvale & Aero, dated September 4, 2019.

12 The Hearing Examiner hereby finds that there is a failure of the stormwater
13 management systems at the Crystal Meadows and West Terrace Third Addition –
14 PUD and is thus inadequate to accommodate the projected stormwater runoff from
15 the proposed Preliminary Plat of Aero Road PUD.

16 Any finding of fact above that is a conclusion of law is deemed a conclusion of
17 law.

18 III. CONCLUSIONS OF LAW

- 19 1. The application for the proposed Preliminary Plat shall be considered under
20 the laws, regulations, and codes, relative to the application, in effect on
21 November 27, 2018, as required by RCW 58.17.033.
- 22 2. As conditioned hereby, the proposed Preliminary Plat is generally consistent
23 with the Goals and Policies of the Urban Land Use and other applicable
24 chapters of the Comprehensive Plan.
- 25 3. As conditioned hereby, the proposed Preliminary Plat is consistent with the
26 purpose and intent and the development standards of both the LDR zone and
27 SCZC Chapter 14.606.
- 28 4. The application, as conditioned, complies with the Environmental Ordinance
29 (SCC Chapter 11.10) and SEPA (Chapter 43.21 RCW).
- 30 5. The proposed Preliminary Plat and PUD complies with the density limitations
for the MDR zone when the bonus density allowed in SCZC 14.704.310 are
applied.
6. As conditioned hereinafter, the proposed Preliminary Plat meet the
requirements of SCC 12.400.118, SCC 12.400.130, and the Spokane Regional
Stormwater Manual, adopted April 2008.

- 1 7. Pursuant to RCW 58.17.120, the Hearing Examiner shall consider the physical
2 characteristics of the proposed subdivision site and may disapprove the
3 proposed plat because of flood, inundation, or swamp conditions.
- 4 8. The proposed design of the stormwater drainage system for the proposed
5 Preliminary plat shall consider the functionality, constructability and
6 maintenance of the system, including the health, safety and welfare of the
7 public.
- 8 9. Financial means and arrangements for the perpetual maintenance of the
9 drainage ponds and other drainage facilities, that exist outside of the public
10 road right of way, in compliance with the Spokane Regional Stormwater
11 Manual shall be provided owner(s) of the drainage ponds and other drainage
12 facilities.
- 13 10. The application, as conditioned hereby, generally conforms to the
14 Comprehensive Plan and the relevant regulations in the Spokane County
15 Zoning Code, the application makes appropriate provision for the public health,
16 safety, and welfare.
- 17 11. Approval of the application is appropriate under SCC 1.46.110 (Hearing
18 Examiner Ordinance), the SCC 12.400 (Subdivision Ordinance), and RCW
19 Chapter 58.17.
- 20 12. Any conclusion of law above that is a finding of fact is deemed a finding of fact.

IV. DECISION

21 Based on the Findings of Fact and Conclusions of Law above, the application
22 for a preliminary plat to divide approximately 5.14 acres into 35 lots for 68 duplex
23 dwelling units and one single family residence in the Medium Density Residential
24 (MDR) zone with a Planned Unit Development (PUD) Overlay Zone is approved,
25 subject to compliance with the conditions of approval of the various agencies specified
26 below.

27 Any conditions of approval of public agencies that have been added or
28 significantly altered by the Hearing Examiner are italicized. This approval does not
29 waive the applicant's obligation to comply with all other requirements of other public
30 agencies with jurisdiction over land development.

Minor revisions should be made to the conditions of approval to ensure proper
formatting, clarity, and consistency with the findings of fact above.

CONDITIONS OF APPROVAL:

Subject to approval of the proposed Preliminary Plat at the rescheduled
hearing as described in Section IV. Decision, above.

1 Spokane County Building and Planning Department:

- 2 1. All conditions imposed by the Hearing Examiner shall be binding on the
3 "Applicant", which term shall include the owner or owners of the property, heirs,
4 assigns and successors.
- 5 2. The proposal shall comply with the Medium Density Residential (MDR) zone,
6 Fairchild Air Force Base Overlay zone, Airport Overlay (AO) zone, Planned Unit
7 Development (PUD) Overlay zone, Landscaping chapter, and all other applicable
8 provisions of the Spokane County Zoning Code, as amended.
- 9 3. The final plat shall be designed substantially in conformance with the Preliminary
10 Plat of record and Planned Unit Development (PUD) Site Plan presented to the
11 Hearing Examiner on November 27, 2019. No increase in density or numbers of
12 lots, or substantial modification of the preliminary plat or conditions of approval,
13 shall occur without a change of conditions application and its approval by the
14 Hearing Examiner after a public hearing.
- 15 4. The Building and Planning Director/designee shall review any proposed final plat
16 to ensure compliance with these Findings and Conditions of Approval.
- 17 5. A final plat/name/number shall be indicated before the final plat is filed, such
18 name/number to be approved by the Division Director/designee.
- 19 6. Appropriate road name(s) assigned by the Building and Planning Department
20 shall be drafted on the face of the final plat.
- 21 7. The preliminary plat is given conditional approval for five (5) years, specifically to
22 *a date to be determined at the rescheduled hearing as described above in Section*
23 *IV. Decision, above.* To request and extension of time, the applicant must submit a
24 written application to the County Division of Planning at least thirty (30) days
25 prior to expiration of the final plat, in accordance with the extension of time
26 provisions of the County Subdivision Ordinance. Submission of a time extension
27 application after the close of business hours on will not be accepted, and the
28 preliminary plat will become null and void at such time to the extent it has not
29 received final plat approval.
- 30 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:

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“Setbacks shall be consistent with the Final Planned Unit Development Site Plan.”

- 10. Four (4) current certificates of title shall be furnished to the Spokane County Building and Planning 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 Building and Planning Department shall prepare and record with the Spokane County Auditor Notice, noting that the property in question is subject to a variety of special conditions imposed as a result of approval of a land use action. This Title Notice shall serve as a public notice of the conditions of approval affecting the property in question. The Title Notice should be recorded within the same time frame as allowed for an appeal and shall only be released, in full or in part, by the Building and Planning Department. The Title Notice shall generally provide as follows:

“The parcel of property legally described as _____ is the subject of a land use action by a Spokane County Hearing Examiner on _____, imposing a variety of special development conditions. File No. PW-2074-19 is available for inspection and copying in the Spokane County Building and Planning Department.”
- 15. Development of the subject site shall be consistent with the Spokane County Critical Areas Ordinance, as amended.
- 16. The final plat shall comply with the Fairchild Air Force Base Overlay zone of the Spokane County Zoning Code.
- 17. The applicant shall award an Avigation Easement to FAFB and file with the Spokane County Auditor, as required by Section 14.702A.810 of the Spokane County Zoning Code.
- 18. The final plat shall comply with the Spokane International Airport Overlay (AO) zone, Chapter 14.702 of the Spokane County Zoning Code.

- 1 19. The applicant shall award an Avigation Easement to Spokane International
2 Airport and file with the Spokane County Auditor, as required by Section
3 14.702.220 of the Spokane County Zoning Code.
- 4 20. The Building and Planning Department shall prepare and record with the
5 Spokane County Auditor Notice, prior to final approval and shall state the
6 following:
7 "This property is located in close proximity to Fairchild Air Force Base and
8 is routinely subject to military aircraft overflight activity; occupants may
9 experience inconvenience, annoyance, or discomfort from noise, smell or
10 other effects of military aircraft activities."
- 11 21. The final plat dedication shall state:
12 "This property is located in close proximity to Fairchild Air Force Base and
13 is routinely subject to military aircraft overflight activity; occupants may
14 experience inconvenience, annoyance, or discomfort from noise, smell or
15 other effects of military aircraft activities."
- 16 22. All proposed residential units shall provide for a minimum of a 2-car enclosed
17 garage as required by the requested bonus density provision.
- 18 23. This plat is approved for a maximum of 35 lots for 34 duplexes (68 units) and 1
19 single family residence. The final plat dedication shall list the lot numbers for
20 those lots on which a duplex will be constructed.
- 21 24. Prior to the issuance any building permit(s), the applicant shall submit to
22 Spokane County Building and Planning the signed acknowledgment form from
23 the applicable Fire District stating that the fire access/roads, road signage and
24 fire hydrants are installed and operational per the approved water plan and
25 county engineers approved road plan.
- 26 25. Prior to the issuance of the initial building permit(s), the applicant shall
27 submit to Spokane County Building and Planning the signed acknowledgment
28 form from the water purveyor stating that the public water system has been
29 installed, tested and accepted as operational pursuant to the approved water
30 plan.

1 Spokane County Public Works:

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

- 3 1. Conditional approval of the plat by the County Engineer is given, subject to
4 dedication of right-of- way and approval of the road system as indicated in the
5 preliminary plat of record.
- 6 2. In lieu of a full Traffic Impact Analysis (TIA), a voluntary mitigation fee of \$233
7 per trip equaling \$14,446 total for the 62 trips will be required.
- 8 3. A Professional Engineer, licensed in the State of Washington, shall submit final
9 road and drainage plans, a drainage report, and calculations that conform to the
10 2018 Edition of the Spokane County Road Standards, the 2008 Spokane Regional
11 Stormwater Manual, and all other applicable standards. The plans and report
12 shall receive the County Engineer's acceptance prior to release of a construction or
13 building permit or approval of the final plat.
- 14 4. A concept drainage plan for this project has been accepted by the County
15 Engineer. However, the acceptance of the concept drainage plan does not
16 constitute final approval of the roads and drainage facilities for construction. The
17 County Engineer may have additional comments that will need to be addressed
18 prior to acceptance of final road and drainage plans.
- 19 5. *Prior to acceptance of final road and drainage plans, the applicant and the parties
20 responsible for the operation and maintenance of the stormwater management
21 systems of West Terrace Third Addition – PUD and the Crystal Meadows
22 subdivisions shall provide to the Public Works Department for review and
23 approval, an agreement between the parties regarding the respective
24 responsibilities of the parties for the operation and maintenance of the stormwater
25 management system that is shared by the respective parties, and shall describe the
26 probable causes of the failure of the existing stormwater management systems as
27 described in the testimony at the hearing on October 30, 2019, and shall describe
28 the proposed remedies of the systems designed to avoid continued or similar failure
29 of the stormwater management systems in the future. Said agreement and the
30 remedies described therein shall be approved by the Public Works Department prior
to acceptance of the final road and drainage plans.*
6. 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

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all improvements were installed to the lines and grades shown on the approved construction plans and that all disturbed monuments have been replaced.

- 7. Construction work is prohibited within the existing or proposed public right-of-way until a permit has been issued by the County Engineer. All work is subject to inspection and approval by the County Engineer.
- 8. All construction within the existing or proposed public right-of-way 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.
- 9. Approach Permits are required for any access to the Spokane County road system.
- 10. Applicant shall dedicate right-of-way as specified in the Spokane County Standards for all internal public roads.
- 11. A statement shall be placed in plat dedication that no direct access be allowed from lots to Aero Road, until such time as authorized by the County Engineer.
- 12. The County Engineer has designated an Urban Local Access Roadway Section for the improvement of Dana Street which is to be constructed within the proposed development. This will require the dedication of 38 feet of ROW with applicable boarder easements and the installation of 29 feet of asphalt. The construction of curbing and separated sidewalk is also required.
- 13. The County Engineer has designated a Local Access Roadway Section for the improvement of Fruitvale Road which is adjacent to the proposed development. This will require the construction of separated sidewalk.
- 14. Aero Road frontage and separated sidewalk shall match the requirements from Crystal Meadows (P-1972) directly to the West.
- 15. 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

1 requirement is and shall run with the land and shall be binding upon the
2 owner, their heirs, successors or assigns including the obligation to participate
3 in the maintenance of the private road as provided herein.”

4 16. The proposed plat shall be improved to the standards set forth in Spokane County
5 Board of Commissioners Resolution No. 17-1076, as amended, which establishes
6 regulations for roads, approaches, drainage and fees in new construction.

7 17. The applicant is advised that there may exist utilities either underground or
8 overhead affecting the applicant's property, including property to be dedicated or
9 set aside future acquisition. Spokane County will assume no financial obligation
10 for adjustments or relocation regarding these utilities. The applicant should
11 contact the applicable utilities regarding the responsibility for adjustment or
12 relocation costs, and to make arrangements for any necessary work.

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

15 19. If the project is phased and one phase depends on another phase for access and/or
16 drainage treatment and disposal, the prior phase shall be completed, certified and
17 accepted by Spokane County prior to the acceptance of plans for the dependent
18 phase of the development. One foot no access strips on public roads will not be
19 released until the subject phase is completed, certified and accepted by Spokane
20 County for maintenance.

21 20. The sponsor's geotechnical engineer shall make crawlspace and/or basement
22 recommendations for the building lots within this plat. One of the following four
23 conditions must appear on the face of the final plat: 1) crawlspaces and/or
24 basements (must specify) are prohibited, 2) no crawlspaces and/or basements
25 (must specify) allowed unless a lot specific geotechnical report is provided at the
26 time of the residential building permit, 3) IRC prescriptive waterproofing or
27 dampproofing (must specify) measures required, or 4) crawlspaces and/or
28 basements (must specify) are acceptable without any special consideration.

29 In lieu of one of the above plat condition options, a geotechnical report with
30 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

1 recommendation. If the geotechnical engineer specifies maximum depth for the
2 lowest living level below existing grade, then a lot plan must be prepared for all of
3 the lots with the depth limitation. The lot plan must show existing ground
4 elevation at the center of the building envelope, the maximum cut to the finished
5 floor of the lowest living level, and the top of curb at the center of the lot frontage
(or other easily referenced elevation).

6 21. If the proposed drainage system incorporates infiltration as a method of
7 stormwater disposal in the design, there shall be a site investigation and study
8 conducted by a qualified Geotechnical Engineer prior to submittal of the road and
9 drainage plans. The geotechnical report, at a minimum, shall cover all sites where
10 drywells or infiltration may be proposed, draw conclusions about the ability of any
11 proposed drywells to function according to the Spokane Regional Stormwater
12 Manual, and make recommendations with respect to design parameters and
13 infiltration rates.

14 22. All open drainage features such as channels, swales, and ponds shall be placed in
15 separate tracts owned by the Home Owners Association. Swales will not be
16 allowed on residential lots that average less than an acre size.

17 23. Erosion Control: A Temporary Erosion and Sedimentation Control (TESC) plan is
18 to be prepared by a WA State licensed Professional Engineer and implemented
19 throughout the duration of construction. The TESC plan is to be prepared using
20 best management practices (BMP's) currently accepted within the Civil
21 Engineering profession. The TESC plan is to include, as a minimum, a grading
22 plan, location and details of silt control structures, and street cleaning program.
23 Runoff from exposed areas must be filtered prior to discharging into a detention
24 pond or evaporation pond. The TESC major structures (such as silt ponds, silt
25 traps) are to be installed prior to other site work and the TESC measures are to be
26 implemented and maintained throughout the duration of construction, including
27 house construction.

28 24. Any part of the drainage system that lies outside of the public right-of-way will
29 neither be maintained nor operated by Spokane County forces. Prior to plan
30 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

1 Operations and Maintenance Manual for the stormwater management system
2 shall be prepared by the Sponsor's Engineer and included in the project
3 documents submitted to the County Engineer for acceptance, along with a
4 discussion of the design life of the various components, a calculated annual cost
5 for repair and maintenance, and a calculated replacement cost. Homeowners
6 Associations are accepted by the Spokane County Engineer for carrying out the
7 required maintenance functions and responsibilities.

7 25. This land action is located in a general drainage problem area recognized by the
8 County Engineer. This area is characterized by shallow, rocky soils and seasonal
9 high ground water that are generally non suitable for standard drywell practice.
10 Strict management of annual subsurface disposal volumes and individual storm
11 event surface release rates are in effect, unless hydro-geologically justified. The
12 design 25 and 2 year storms shall be held to pre- development rates of flow for the
13 detention pond as a minimum, unless approved by the County Engineer.

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

18 27. If the requested plat is approved, the Spokane County Engineer will issue a
19 Transportation Concurrency Certificate for seventy-six (76) PM peak hour trips
20 for a 76 dwelling unit plat.

21 28. Preservation of the Natural Location of Drainage System(s) to ensure that
22 stormwater runoff can continue to be conveyed and disposed of in its natural
23 location shall be addressed in the drainage submittal and identified on the face of
24 the plat prior to final plat acceptance.

24 29. This project is located within a potential Regional Stormwater Facility Service
25 Area. Coordination with the appropriate jurisdiction to increase the opportunity
26 and ability to utilize regional stormwater facilities is required.

27 30. The applicant shall acknowledge receipt of notice from Spokane County that prior
28 to use, all drywells and other infiltration devices regulated under WAC 173-218-
29 070 serving the proposed project shall be registered with the Washington State
30 Department of Ecology.

1 31. The applicant is being given notice by Spokane County that site disturbances of
2 greater than 1- acre with a discharge to "waters of the state" regulated by the
3 National Pollutant Discharge Elimination System (NPDES) under WAC 171-220
4 must apply with the Washington State Department of Ecology.

5 Spokane Regional Health District:

- 6 1. The final plat shall be designed as indicated on the preliminary plat of record
7 and/or any attached sheets as noted.
- 8 2. Appropriate utility easements shall be indicated on copies of the preliminary plat
9 of record for distribution by the Planning Department to the utility companies,
10 Spokane County Engineer, and the Spokane Regional Health District. Written
11 approval of the easements by the utility companies shall be received prior to the
12 submittal of the final plat.
- 13 3. Sewage disposal method shall be as authorized by the Director of Utilities,
14 Spokane County.
- 15 4. Water service shall be coordinated through the Director of Utilities, Spokane
16 County.
- 17 5. Water service shall be by an existing public water supply when approved by the
18 Regional Engineer (Spokane), State Department of Health.
- 19 6. Prior to filing the final plat, the sponsor shall demonstrate to the satisfaction of
20 the Spokane Regional Health District that an adequate and potable water supply
21 is available to each lot of the plat.
- 22 7. Prior to filing the final plat, the sponsor shall present evidence that the plat lies
23 within the recorded service area of the water system proposed to serve the plat.
- 24 8. A public sewer system will be made available for the plat and individual service
25 will provide to each lot prior to sale. Use of individual on-site sewage disposal
26 systems shall not be authorized.
- 27 9. A statement shall be placed in the dedication to the effect that:
28 "A public sewer system will be made available for the plat and individual
29 service will be provided to each lot prior to sale. Use of individual on-site
30 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."

1 11. The final plat dedication shall contain the following statement:

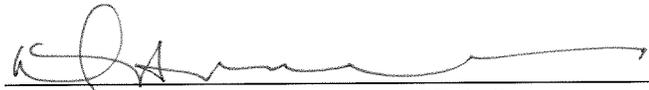
2 "The public water system, pursuant to the Water Plan approved by Regional
3 and State health authorities, the local fire protection district, County Building
4 and Planning Department and water purveyor, shall be installed within this
5 subdivision, and the applicant shall provide for individual domestic water
6 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."

7 Department of Ecology:

8 1. This project lies within the City of Spokane Sewer Service Area. Applicant is
9 required to notify them of this proposal and conform to their requirements.
10 Spokane County Environmental Services will not sign a final plat until the city of
11 Spokane sewer related requirements have been met.

12 DATED this 23rd day of January, 2020

13 SPOKANE COUNTY HEARING EXAMINER

14 

15 _____
16 David W. Hubert, WSBA #16488

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

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

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

25 On January 24, 2020 a copy of this decision will be mailed by first class mail to
26 the Applicant, and by e-mail to other parties of record. The date of issuance of the
27 Hearing Examiner's decision is January 29, 2020.

28 **THE LAST DAY FOR APPEAL OF THIS DECISION TO SUPERIOR COURT**
29 **BY LAND USE PETITION IS FEBRUARY 20, 2020.**

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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.