

CITY OF SPOKANE HEARING EXAMINER

Re: Preliminary Plat Application by Whipple)
Consulting Engineers, Inc. to subdivide) FINDINGS, CONCLUSIONS,
approximately 5.95 acres into 32 single-) AND DECISION
family lots on property located at 5840)
S. Meadow Lane Road) FILE NO. Z20-185PPLT

SUMMARY OF PROPOSAL AND DECISION

Proposal: The Applicant is proposing to subdivide approximately 5.95 acres into 32 single-family lots in a plat to be known as “The Greens at Meadowlane.”

Decision: Approved, with conditions.

FINDINGS OF FACT
BACKGROUND INFORMATION

**Applicant/
Agent:** Todd Whipple
Whipple Consulting Engineers, Inc.
21 S. Pines Road
Spokane Valley WA 99206

Owner: George Parris
Meadowlane Greens LLC
603 N Havana Street
Spokane, WA 99202

Property Location: The subject property is located on parcel number 34064.0034 and currently addressed as 5840 S. Meadow Lane Road, which is located west of US-195 at the intersection of E. Meadowlane Road, City of Spokane, Washington.

Legal Description: The legal description of the property is provided in Exhibit 3 (Subdivision Guarantee).

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

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

Site Description: The site is approximately 5.95 acres in size, and is relatively flat. The steepest slope on the site is approximately 8% in grade. The site is essentially trapezoidal in shape, although a rectangular area along the road is excluded from the development. The excluded area contains an existing house. The site is a former golf course. The site does not contain any environmentally sensitive features. There is a small, lined pond on the site that served as a water feature in the golf course. This pond is not natural and will be removed as part of the proposed development.

Surrounding Conditions and Uses: The adjacent zoning surrounding the proposal is RSF. South of the site is the Eagle Valley Subdivision. There is a church to the north of the site. There are large parcels to the west of the site that are proposed for future development. The site is adjacent to US-195. To the northeast, on the other side of the highway, are single-family houses. There is also a church to the east and on the other side of the highway.

PROCEDURAL INFORMATION

Authorizing Ordinances: Spokane Municipal Code (SMC) 17C.110, Residential Development; SMC 17G.080.050, Subdivisions; and SMC 17G.060.170, Decision Criteria.

Notice of Community Meeting: Mailed: September 8, 2020
Posted: September 8, 2020

Notice of Application/Public Hearing: Mailed: February 11, 2022
Posted: February 15, 2022
Publication: February 15 & 22, 2022

Community Meeting: September 24, 2020

Site Visit: April 13, 2022

Public Hearing Date: March 30, 2022

State Environmental Policy Act (SEPA): A Mitigated Determination of Non-Significance (MDNS) was issued on March 7, 2022. The MDNS was not appealed.

Testimony:

Tami Palmquist
John Saywers
City of Spokane Planning & Development
808 W. Spokane Falls Boulevard
Spokane WA 99201

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

Adam & Molly Marshall
2915 W. Grandview Avenue
Spokane WA 99224

Bob McVicars
509 W. Bolan Avenue
Spokane WA 99224

Gillian Ball
210 W. Turner Avenue
Spokane WA 99224

Travis Weese
5924 S Summerwood Street
Spokane WA 99224

Present but did not Testify or Submitted Comments to the Record:

Allyson Andrade
Ben Goodmansen
Whipple Consulting Engineers
21 S. Pines Road
Spokane Valley WA 99206

Andrew Lemberg
7211 S. Moran View Street
Spokane WA 99224

Angela Leung
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Barbara Papke
202. W. Turner Avenue
Spokane WA 99224

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Spokane WA 99224

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Ryan Currie
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Stacie Ramsey
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Terese Palaia
25 E. Stutler Road
Spokane WA 99224

Alan Nolan
717 E. Ballard Road
Colbert WA 99005

George Parris
Meadowlane Greens LLC
603 N Havana Street
Spokane, WA 99202

Diane Riser
6807 S. Blackwing Court
Spokane WA 99224

Exhibits:

1. Planning Services Staff Report dated 03/23/22
2. MDNS dated 03/07/22
3. Community Meeting and Application Materials, including:
 - Transmittal Sheet (p. 1)
 - Notice of Community and Traffic Study Scoping Meeting scheduled for 09/24/20 (pp. 2-6)
 - Affidavit of Mailing Community Meeting Notice on 09/08/20, including mailing list (pp. 7-9)
 - Affidavit of Posting Community Meeting Notice at Location on 09/08/20, including photos (pp. 10-12)
 - Affidavit of Posting Community Meeting Notice at Library and Fire Station on 09/08/20 (p. 13)
 - Community and Traffic Scoping Meeting Minutes and Attendees List and Email Comments (pp. 14-26)
 - Title Company Guarantee dated 09/22/20 (pp. 27-31)

- Pre-Development Conference Notes (pp. 32-39)
 - General Application dated 10/12/20 (pp. 40-42)
 - Preliminary Long Plat Application (pp. 43-46)
 - State Environmental Policy Act (SEPA) Environmental Checklist dated 10/12/21 (pp. 47-71)
 - Preliminary Plat of Record dated 10/05/20 (p. 72)
 - Trip Generation and Distribution Letter (TGDL) dated 09/10/20 with appendices (pp. 73-83)
 - Project Narrative dated 09/24/20 (pp. 84-87)
 - Technically Incomplete Letter dated 09/14/21, including Agency comments (pp. 88-107)
 - Applicant's Response to Agency Comments dated 10/13/21 (pp. 108-120)
 - Updated Preliminary Plat of Record dated 10/12/21 (pp. 121-125)
 - Applicant's Response to Comments dated 01/13/22 (pp. 126-127)
 - B-40 Vehicle Turning Exhibit dated 01/13/22 (p. 128)
 - Preliminary Plat of Record dated 01/12/22 (pp. 129-130)
4. Notice of Application and Public Hearing Materials, including
 - Notice of Application and Public Hearing Instructions dated 02/08/22 (pp. 1-2)
 - Notice of Application and Public Hearing (pp. 3-6)
 - Affidavit of Posting Public Hearing Notice at Library and City Hall on 02/15/22 (p. 6)
 - Affidavit of Request for Publication dated 02/14/22 (p. 7)
 - Affidavit of Mailing Public Hearing Notice on 02/11/22 (pp. 8-10)
 - Affidavit of Posting Public Hearing Notice at Location on 02/16/22, including photos (pp. 11-14)
 5. Agency Comments, including:
 - Request for Comments emailed 10/22/20 (pp. 1-5)
 - Washington State Department of Ecology (WSDOE) (pp. 6-8)
 - Washington State Department of Archaeology & Historic Preservation (WSDAHP) (pp. 9-12)
 - Washington State Department of Transportation (WSDOT) (pp. 13)
 - Technically Incomplete Letter dated 08/17/21 (pp. 14-20)
 - Technically Incomplete Letter dated 09/14/21 (pp. 21-49)
 - Technically Incomplete Letter dated 11/04/21 (pp. 50-51)
 - Second Request for Comments dated 10/14/21 (pp. 52-54)
 - WSDOE (pp. 55-57)
 - City Traffic (pp. 58-59)
 - City Engineering (pp. 60-65)
 - Applicant's Response to Turn Around, including plat dated 01/12/22 (See Exhibit 3, p. 128)
 - WSDOT and City Traffic (pp. 67-76)
 - Avista (pp. 77-85)
 - City Engineering (pp. 86-96)
 - Spokane Tribe of Indians (pp. 97-98)
 - WSDOT (pp. 99-100)
 - City Engineering (pp. 101-105)
 6. Public Comments
 7. Planning Services Email Dump (should be duplicative of everything in the file)
 8. Planning Services Presentation

9. Applicant's Presentation
10. Applicant's Letter dated 03/29/22
11. E-mail of T. Palmquist 04/13/22

FINDINGS AND CONCLUSIONS

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

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

The site is zoned RSF. The Applicant proposes to develop the site with single-family residences. This proposed use is outright permitted in the RSF zone. See Table 17C.110-1; see also SMC 17C.110.115. The density range of the proposal is 5.3 dwelling units per acre (DUs/acre). See Staff Report, p. 3. Therefore, the net density of the project fits within the 4-10 DUs/acre allowed under the municipal code. See *id.* The proposed development also satisfies the minimum lot size and frontage requirements for the SFR zone. See *id.* In addition, the proposed development will be required to satisfy all other applicable development standards, as provided in the conditions of approval. The Hearing Examiner concludes that this proposal is authorized by the land use codes.

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

The proposed development is consistent with the pertinent provisions of the CP. The site is designated as Residential 4-10. This designation allows single-family residences on individual lots and attached (zero-lot line) single-family residences. See CP, Chapter 3, p. 3-40. Land with this designation may be developed with a minimum of 4 DUs/acre and a maximum of 10 DUs/acre. See *id.* The density of the project fits within this designation, as discussed above.

In addition, the proposal is generally supported by the goals, objectives, and policies of the CP. The site is within the Urban Growth Area and is designated for precisely this type of development. The proposed development is consistent in density to the adjacent Eagle Ridge development. See Staff Report, p. 4; see also CP, Chapter 8, Policy DP 1.4, p. 10 (encouraging project designs that blend with existing neighborhoods); see also CP, Chapter 8, Policy DP 1.2, p. 8-5 (stating that new development should be compatible with the context of the area and improve the surrounding neighborhood). With respect to urban land within the City, this proposal is a natural progression in the residential development, consistent with the long-term plans for the area. See CP, Chapter 3, Goal LU 5, p. 3-26 (promoting development that is complementary with other land uses); see also CP, Chapter 3, Policy LU 5.5, p. 3-27 (discussing the need to ensure compatibility when permitting infill developments).

Mitigation measures were required in order to address insufficiencies in the transportation system and the public water supply. With those mitigation measures in place, the relevant City departments and WSDOT have agreed that those public facilities

are sufficient to serve the proposed subdivision. Aside from transportation and water, no facility or service providers reported that the public infrastructure was not sufficient to accommodate the development. See Paragraph 3. So long as the project conditions are satisfied, public services and facilities will be adequate to serve the proposed development. This fulfills Policy LU 1.12, Public Facilities and Services. See CP, Chapter 3, Policy LU 1.12, p. 3-14. In addition, the project, as conditioned, promotes the efficient use of land by focusing growth in areas where adequate facilities and services are available. See CP, Chapter 3, Policy LU 3.1, p. 3-17.

Considering the characteristics and design of the proposal, the Hearing Examiner agrees with the Staff that it is consistent with the CP. Therefore, this criterion is satisfied.

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

On October 22, 2020, and again on October 14, 2021, a Request for Comments on the application was circulated to all City departments and outside agencies with jurisdiction, consistent with SMC 17D.010.020(B)(1). See Exhibit 5. The distribution list included the Police Department, Fire Department, Spokane School District (as well as the Cheney School District, District 81, and the Mead School District), Spokane Transit Authority (STA), Planning & Development, Street Operations, Engineering Services, Parks Department, Water Department, and WSDOT, among many others. See *id.* The relevant departments and agencies had the opportunity to provide comments, suggest mitigating measures or conditions, and advise whether public facilities and services are sufficient to support the proposed development.

The responsibility to determine whether a project satisfies the concurrency requirement lies with the facility and service providers. See SMC 17D.010.020(B). When reviewing a project, the facility and service providers must determine whether a development application will reduce the level of service (LOS) below the minimum LOS standards. See SMC 17D.010.020(C). If the project cannot pass this test, even with mitigating measures, the project must be denied. See *id.*

Pursuant to the municipal code, the following facilities and services must be evaluated for concurrency: transportation, public water, fire protection, police protection, parks and recreation, library, solid waste disposal and recycling, schools, and public wastewater (sewer and stormwater).¹ See SMC 17D.010.010.

With regard to this application, there were *no comments* from school² representatives, the Police Department, the Fire Department, Spokane Transit Authority, or the Parks

¹ There were no comments or testimony suggesting that public facilities for solid waste disposal/recycling or public wastewater were insufficient to support the proposed development. Therefore, the question in this case is whether the remaining facilities or services are adequate.

² Ms. Marshall contended that the Spokane School District did not comment because notice was not sent to the attention of the correct individual. The Hearing Examiner concludes that notice was not fatally flawed, even if that allegation is true. First, the record contains no evidence that the notice did not reach the school district, even if the wrong name is listed as the contact. Second, Staff confirmed that the school district received actual notice of the project. *Testimony of T. Palmquist.* The project has been pending for an extended period of time, leaving plenty of time to comment. Moreover, the school district has not raised an objection based upon notice, sought to re-open the record to comment, or requested any other relief. Finally, there is no evidence that the only reason the school district did not comment was lack of notice. In the Hearing Examiner's experience, school districts almost never comment on subdivision proposals.

Department, despite having two separate opportunities to comment. When an agency or department does not comment, the Hearing Examiner must conclude that those entities have no concerns about the effect of the proposal on the LOSs for their respective facilities or services. The municipal code makes this clear:

Failure by the notified facility and service provider to respond shall be construed as a finding that concurrency is met.

See SMC 17D.010.020(B)(1) (emphasis added).

According to the comments received, public services and facilities are sufficient to serve the proposed development, with two exceptions. First, the City is requiring a phased approach for the development until a second water transmission main is in service, which is anticipated in 2024. See Staff Report, pp. 4-5. Until the second water main is in service, the City will allow the developer to obtain certificates of occupancy for 15 lots in 2023, 10 lots in 2024, and 11 lots in 2025. See Staff Report, p. 5.

Second, the additional traffic from the project will impact the LOS and safety of the intersection of US-195 and E. Meadowlane Road. See Staff Report, p. 5. The additional traffic load also impacts the ramp at NB US-195 and EB I-90. See *id.* To address these impacts, the developer will be required to contribute to: (1) the construction of a J-turn improvement at US-195/E. Meadowlane Road; and (2) a mitigation project (to be determined and agreed upon) to make an improvement to the US-195 corridor to reduce the impact to the ramp. See *id.* So long as these mitigation measures are carried out, the traffic concurrency requirement will be satisfied. See *id.* The required mitigation measures are set forth in detail in the MDNS. See Exhibit 2; see *also* Staff Report, p. 5. The MDNS was not appealed. Thus, the proposed mitigation is not subject to challenge under SEPA.

Despite the foregoing, many neighbors suggested that public infrastructure was inadequate to support additional development. For example, Ms. Papke complained that there is no bus service, no library, no police presence, no fire station, and no local schools. See E-mail of B. Papke 3-3-2022. Mr. Marshall pointed out some similar deficiencies, while emphasizing that there is only one brush truck for fire support. *Testimony of A. Marshall.* There was also a concern about the lack of recreational opportunities in the area. See E-mail of G. Ball 3-3-2022.

Although the neighbors desire for better public infrastructure and services is understandable, the record is insufficient to support additional conditions or denial of this project based upon concurrency concerns. There is no evidence that this project reduces the LOS for anything other than traffic or water³ below the minimum standards. In several instances, it is doubtful that an LOS standard has been adopted. That is not clear, however, because the relevant facility and service providers did not comment on this project, let alone suggest project conditions or assert that the proposal impacts the LOS. If this project exceeded the police or fire departments' capacity to serve the area, for example, one would expect those departments to say so. Similarly, no school districts

³ There was some dispute about whether the project had any impact on the LOS for public water. The project engineer contended that the LOS standard only references "capacity," while the City's mitigation requirement was based only a separate concern about velocity. The Hearing Examiner deems it unnecessary to resolve this issue given that, ultimately, the developer did not challenge the mitigation measures proposed by the Water Department.

advised of a lack of capacity or asserted that this project required mitigation. The STA does not have service in this area. It is difficult to see how the developers of this project are responsible for the absence of this public service. In any case, the failure of facility or service providers to comment is tantamount to confirming that the concurrency is satisfied. Even setting that aside, the neighbors or residents contending that public facilities or services were inadequate did not submit sufficient information to establish that this project required further conditions or must be denied due to its impacts. There was no specific data or analysis or expert testimony describing the current levels of service, how the project impacted public services, why mitigation measures would not be sufficient to address the potential impacts, etc.

The Hearing Examiner concludes that, with the proposed conditions, the project satisfies this criterion for approval.

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

The Hearing Examiner concludes that the property is suitable for the proposed use, given its physical characteristics. The development area is of sufficient size to accommodate the project, as is demonstrated by the layout shown on the proposed plat. Similarly, the shape and location of the site do not pose genuine limitations on its use and development.

There are no visible signs or a history of unstable soils at the site or its immediate surroundings. See Exhibit 3, p. 52 (Environmental Checklist ¶ B(1)(d)). There will likely be some localized erosion during the construction, although those impacts will be mitigated by best management practices. See Exhibit 3, p. 53 (Environmental Checklist ¶ B(1)(f) & (h)). No erosion is anticipated from the completed project because the surfaces will be stabilized by paving, concrete, buildings, and landscaping. See *id.*

There is a lined pond on site that previously served as a water feature within the golf facility. See Exhibit 3, p. 54 (Environmental Checklist ¶ B(3)(a)(1)). However, this is an artificially created pond that is not subject to environmental protections. The development site is a substantial distance from the nearest waterway. Latah Creek lies approximately 700 feet to the east. See *id.*

Storm water drainage on the property will be handled through the typical methods identified in the Spokane Regional Stormwater Manual (SRSM). See Exhibit 3, pp. 50 & 55 (Environmental Checklist ¶¶ A(14)(a)(1) & B(3)(b)). All future runoff will be treated in the catchment areas before infiltrating through the treatment soil and into the native soil. See Exhibit 3, p. 56 (Environmental Checklist ¶¶ B(3)(c)(1) & (2)). No groundwater will be withdrawn as water will be supplied by the local water purveyor. See Exhibit 3, p. 55 (Environmental Checklist ¶ B(3)(b)(1)). There is no reason to expect that groundwater will be impacted by this project.

There are no known historic or cultural features on the development site. Both WSDAHP and the Spokane Tribe of Indians requested that the developer complete a cultural survey to verify this conclusion. See Exhibit 5, pp. 10-12 & pp. 97-98. The developer

completed a cultural survey and found that no historic properties were affected, and no further archaeological investigations were recommended. See Staff Report, pp. 5-6. WSDAHP concurred with the results and did not recommend direct archaeological supervision of the project. See *id.* WSDAHP did recommend that an Inadvertent Discovery Plan be included as part of the construction permit. See *id.* That recommendation has been incorporated into the project conditions. See Condition 33.

Various City departments and agencies reviewed the SEPA checklist for physical characteristics of the property and no other comments were received indicating the site is unsuitable for development. See Staff Report, p. 6.

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

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

On October 12, 2020, the Applicant prepared an environmental checklist for the project. See Exhibit 3, pp. 47-71. The checklist supports the conclusion that no significant environmental impacts will arise from this project or will occur without being adequately mitigated.

The site does not contain environmentally sensitive features. With the exception of an artificial pond within the golf course, which will be removed as part of the development, there are no water bodies on the site. There are no wetlands, surface waters, or other limiting features. See Exhibit 3, p. 54 (Environmental Checklist ¶ B(3)(a)(1)). The property does not lie within a 100-year floodplain. See Exhibit 3, p. 55 (Environmental Checklist ¶ B(3)(a)(5)). There are no unstable soils or steep slopes on the site. See Exhibit 3, p. 52 (Environmental Checklist ¶ B(1)(a), (b) & (d)). No threatened or endangered species were identified on the site. See Exhibit 3, pp. 58 & 59 (Environmental Checklist ¶ B(4)(c) & B(5)(b)).

The project will have some impact on the environment. The potential impacts of runoff and drainage from the site will, therefore, be handled by implementing measures in accordance with the SRSM. See Paragraph 4 above.

There will be some impacts due to construction activity. However, the construction impacts will not result in significant environmental impacts, and can be adequately mitigated (e.g. dust control, limited work hours, etc.). Further, the construction activity is temporary. Once the construction project ends, the potential impacts from noise, dust, and emissions from vehicles will cease. See e.g. Exhibit 3, pp. 53 & 61 (Environmental Checklist ¶¶ B(2)(a) & B(7)(b)) (addressing dust, emissions, and noise). And the environmental impacts of the completed project are minor. See *id.* To the extent that impacts arise, those concerns will be addressed by the project conditions.

The project will also result in additional traffic. No specific impacts to the transportation system immediately adjacent to the proposed development were identified. There are impacts associated with US-195. Those impacts are the subject of detailed mitigation

measures proposed by WSDOT and the City. Those mitigation measures are incorporated into the MDNS that was issued by the City on March 7, 2022. See Exhibit 2. There was no evidence that the proposed mitigation would be ineffective, and there was no expert testimony challenging the comments or analysis of the project engineer, WSDOT, or the City. The appeal period for this MDNS expired on March 21, 2021, without an appeal being filed. See *id.*

Based upon the foregoing, the Hearing Examiner concludes that the proposal will not have significant adverse impacts on the environment or the surrounding properties that will not be adequately addressed by project mitigation. Therefore, this criterion for approval has been met.

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

The proposal makes adequate provisions for public health, safety, and welfare. The record does not contain evidence that this project is antithetical to the community's interests. The proposal is designed and will be required to satisfy the applicable City standards for drainage, streets, and other public ways; proper disposal of storm water; and the like. All the pertinent facilities, such as streets, curbing, sidewalks, etc., must be designed and constructed in accordance with City standards. The development will be connected to public sewer and water. The transportation and water systems contain deficiencies. For this reason, specific mitigation measures were proposed to address the concerns. Other than those issues, there were no other comments from any department or agency suggesting that the proposed development placed undue stresses on the public infrastructure or services. There was no testimony or other evidence that convinced the Hearing Examiner that there would be significant impacts on public health, safety, or welfare.

The Hearing Examiner concludes that the proposal satisfies the applicable subdivision standards. The Hearing Examiner also adopts and incorporates the staff's analysis of this issue, found on pages 6-8 of the Staff Report. This criterion is met.

7. *The Hearing Examiner concludes that this project should be approved despite the concerns raised by area residents.*

Through public testimony or written comments, area residents raised a number of concerns about the proposal. The central concern of area residents was that public infrastructure and services were insufficient to support the proposed development. The insufficiencies covered a range of subjects, including traffic, police, fire, schools, bus service, and other matters. Many residents contended that public infrastructure/services should be developed before any further development was allowed in the area. Some believed that a moratorium should be enacted to ensure that all necessary amenities were in place before development in the area continued.

Public Infrastructure and Services. The residents of the area contended that public infrastructure necessary to support this kind of development was either clearly insufficient

or missing altogether. See *Testimony of A. Marshall, M. Marshall, B. McVicars*; see also E-mail of B. Papke 3-3-2022. For example, Mr. Marshall pointed out that there are no walking amenities, bike access, or community centers in the neighborhood. *Testimony of A. Marshall*. As previously discussed, neighbors also complained about the lack of many public services, such as bus service, police and fire protection, a library, and more. See e.g. E-mail of B. Papke 3-3-2022. Area residents believed that adequate public infrastructure and services should be funded and in place before any of the proposed developments should be allowed to proceed. See *Testimony of A. Marshall, M. Marshall, & B. McVicars*; see also E-mail of T. Palaia 3-1-2022; see also E-mail of B. Papke 3-3-2022.

The Hearing Examiner sympathizes with the residents' desire to improve public infrastructure and services in their neighborhood. However, a developer of a subdivision is responsible to mitigate the impacts of the specific proposal. The developer is not required to resolve all deficiencies that might exist in an area, or supply public amenities unrelated to the project's impacts. For example, there is no legal basis for the Hearing Examiner to require the developer to address the lack of walking or biking routes in the neighborhood, the absence of adequate recreational opportunities, or the lack of a community center. If a proposal causes a deficiency to arise, that harm must be addressed or mitigated. If the deficiencies are pre-existing conditions that would exist with or without the project, then those issues are not the responsibility of one developer. As a result, it is not proper to condition a project to resolve such matters.

In addition, the Hearing Examiner has already concluded that the project, with mitigation measures, passes the concurrency test. See Paragraph 3. The facility and service providers, either directly or tacitly, have confirmed that adequate public infrastructure and public services exist to support the proposed development. To the extent that the project exceeds the capacity of the transportation system or public water facilities, there are mitigation measures in place to ensure adequate LOSs for those facilities. See e.g. Conditions 1-4. The area residents, no doubt, are looking for comprehensive, long-term solutions for the development challenges in Latah Valley. The issue before the Hearing Examiner, however, is whether the public facilities and services can support the 32-lot subdivision being proposed.

Traffic Impacts. Area residents were especially concerned about insufficiencies in the transportation system. Many residents contended that accessing and using US-195 was not safe. See e.g. E-mail of B. Papke 3-3-2022. Improvements are necessary to address this dangerous intersection. See E-mail of G. Ball 3-3-2022; see also E-mail of A. Leung 3-19-2022; see also E-mail of J. Wear 3-11-2021. Adding more houses and vehicles to that intersection will only serve to exacerbate the problem. See E-mail of A. Lemberg 3-19-2022; see also E-mail of T. Palaia 3-1-2022. Residents argued that further development should be postponed until these issues are addressed. See E-mail of A. Lemberg 3-19-2022; see also E-mail of J. Wear 3-11-2021; see also E-mail of T. Palaia 3-1-2022; see also *Testimony of B. McVicars*.

The City and WSDOT, in essence, agreed with the contention that the project would have impacts on the transportation system. The City and WSDOT only allowed the project to proceed on the condition that certain improvements were made in order to address the anticipated impacts. See Conditions 1-3. It appears those conditions were the result of lengthy discussions about what needed to be done. Those mitigation measures include restricting left-hand turns onto US-195 from E. Meadowlane Road and the installation of a

J-turn. See Condition 2. This will certainly address the most serious safety issue facing those accessing US-195 from E. Meadowlane Road. In any case, the project conditions were incorporated into the MDNS. The MDNS was not appealed and, thus, the conditions included in the MDNS are not now subject to challenge pursuant to SEPA.

In addition, the conditions regarding traffic were approved by the relevant City departments and WSDOT. Thus, the agencies with expertise on traffic infrastructure and safety have determined that the project should be permitted to proceed, with the suggested improvements. The proposed mitigation measures are also supported by the project engineer. There is no expert testimony in this record challenging the conclusions of City engineers, the project engineer, or WSDOT. No contrary data or analysis has been submitted into this record. The public comments and testimony do not discuss the mitigation measures in any detail. There are some general criticisms, such as an argument that the proposed J-turn is merely a “Band-Aid.” *Testimony of A. Marshall*. There was also a claim that J-turns have caused many “near-fatal” accidents. See E-mail of B. Papke 3-3-2022. However, there was no specific evidence supporting this assertion. In addition, the record includes no specific analysis or convincing evidence showing that the proposed measures are not sufficient to address the impacts of this particular proposal.

Calls for Moratorium. Many area residents apparently believe that a moratorium should be imposed to prevent further development until a whole range of infrastructure improvements and services are in place to support additional development. *Testimony of A. Marshall*; see also E-mail of B. Dickerhoof 2-15-2022; see also E-mail of T. Palaia 3-1-2022. While the Hearing Examiner can appreciate the thinking underlying this suggestion, this issue is beyond the scope of the Hearing Examiner’s authority. The Hearing Examiner only has the authority delegated to him by statute or ordinance. See *HJS Development v. Pierce County*, 148 Wn.2d 451, 471, 61 P.3d 1141 (2003). No such authority has been granted to the Hearing Examiner. On the contrary, it appears that only the legislative body (i.e. City Council, in this case) has the power to adopt a moratorium. See Revised Code of Washington (RCW) 36.70A.390. Justifying a moratorium would also require public hearings and an extensive record focused specifically on whether development activity should be halted in a particular area. The hearing in this case focused, properly, on a single application. The broader questions about long-range planning in the Latah Valley are better and more properly addressed in another forum.

DECISION

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

1. Per the MDNS, based on existing golf course use of the site, the project has already vested six PM peak hour trips, which equates to six new home sites. These can be built without any traffic mitigation.
2. Per the MDNS, vehicular traffic from this project is expected to deteriorate the LOS and negatively impact safety at the intersection of US-195/E. Meadowlane Road. The Greens at Meadowlane may not final plat beyond the 6th lot until a financial commitment is in place (secured by a letter of credit or bond), which has been approved by the City, providing for the construction of the J-turn improvement at US-195/E. Meadowlane Road. This commitment may be defined

- as an agreement between several developers to fund and construct the J-turn within a specified time frame, not to exceed six years, as agreed upon by City staff and WSDOT. The J-turn project will consist of removing the eastbound left lane from the US-195/E. Meadowlane Road intersection and provide a J-turn opportunity south of the intersection. The applicant's contributions to funding the design and construction of the E. Meadowlane Road/US-195 J-turn project will qualify for a credit against transportation impact fees per SMC 17D.075.070.
3. Per the MDNS, vehicular traffic from this project is expected to add 5 AM trips and three PM trips to the NB US-195 to EB I-90 ramp. WSDOT has commented that no additional peak hour trips may be added to the ramp due to safety concerns. Greens at Meadowlane is required to complete an improvement to the US-195 corridor that will reduce the impact of its traffic on NB US-195 to EB I-90 ramp ("Mitigation Project"). Greens at Meadowlane may not final plat beyond the 6th lot until a financial commitment is in place (secured by a letter of credit or bond), which has been approved by the City, providing for the design and construction for the Mitigation Project, which shall be under contract for construction within one year from recording of the final plat . The details of the mitigation project will be agreed upon by the developers, City, and WSDOT. The applicant's contributions to funding the design and construction of the mitigation project will qualify for a credit against transportation impact fees per SMC 17D.075.070.
 4. Per the MDNS, due to high velocities with the 24-inch water transmission main serving the Eagle Ridge area, the City is requiring a phased approach for all developments until a second water transmission main is in service. The water transmission main is anticipated to be operational in 2024 barring any unforeseen circumstances. Until this second water transmission main is in service, the City will grant the developer certificates of occupancy for 15 lots in 2023, 10 lots in 2024, and 11 lots in 2025.
 5. With the final plat being phased, provisions for temporary public turnarounds will need to be established at that time.
 6. Per SMC 17H.010, subdivisions comprised of more than 30 lots shall include two access points or provide alternatives acceptable to the City fire department and the director of engineering services.
 7. Per SMC 17H.010.030 Street Layout Design, street layout shall provide for future extension of streets into areas that are presently not subdivided. This plat shall provide for a future right-of-way extension to the west.
 8. The interior street between lots 17-21 and 8-12 of Block 1 is longer than 150 feet in length and will require a public turn-around conforming to the Fire Department Standards. Please revise and resubmit. Your response letter states that the Fire Department has waived this requirement. Please submit documentation from the Fire Department confirming this.
 9. Please submit an auto-turn maneuverability analysis showing the effect of the northerly curve on fire response vehicles.
 10. Please omit the Typical Road Cross Section Detail from Sheet 2.
 11. Any proposals to deviate from the City of Spokane Design Standards will require an Engineering Design Variance be approved and signed by the City.

- a. Variance requests must be submitted with the Engineering plans.
12. Per City of Spokane Municipal Code Section 17D.050A.040, Division Street will need to be renamed to Division Court or Division Place. That being said, the Division Street name is causing issues for the address grid and for Spokane Regional Emergency Communications. The City requests that it be renamed. Browne could stay the same, however, it would be best for that street to be renamed as well.
 13. Block 1 appears in 2 separate blocks. Recommend Block 3 for Lots 1-7, south of Pheasant Bluff.
 14. Public streets, including paving, curb, sidewalk, signs, storm drainage structures/facilities, and swales/planting strips necessary to serve the proposed plat, shall be designed and constructed in accordance with City standards. Sidewalks shall serve each lot.
 - a. Signing and striping plans, where appropriate, shall be included as part of the design submittal.
 - b. Street design for the plat shall include supporting geotechnical information on the adequacy of the soils underneath to support vehicular design loads.
 - c. Any grades exceeding 8% must be shown on the preliminary plat.
 - d. Minimum horizontal curve radii shall be determined per American Association of State Highway and Transportation Officials (AASHTO) design for low speed urban streets, based on design speed, which shall be 5 mph over the speed limit.
 - e. Garages shall be a minimum of 20 feet from the back of sidewalk to fully accommodate a parked vehicle without obstructing the sidewalk.
 - f. All street identification and traffic control signs required due to this project must be installed by the developer at the time street improvements are being constructed. They shall be installed and inspected to the satisfaction of the City's Construction Management Office in accordance with City standards prior to the occupancy of any structures within the plat.
 - g. The developer will be responsible for all costs associated with constructing street improvements necessary to serve the proposed plat.
 - h. Centerline Monuments must be installed in accordance with City Design Standards. If street improvements are bonded for in order to record the final plat early, a \$250.00 deposit will be required for each monument.
 15. An existing 12-inch public water main located in S. Meadow Lane Rd. is the nearest available water main which may be able to provide service to the proposed plat.
 - a. The developer will be responsible for all costs associated with design and construction of water improvements necessary to serve the proposed plat.
 - b. The water system shall be designed and constructed in accordance with City standards. A pressure of 45 psi minimum at the property line is

required for service connections supplying domestic flows. Pressures shall not drop below 20 psi at any point in the system during a fire situation. Pressures over 80 psi will require that pressure relief valves be installed at developer expense.

- c. Two copies of an overall water plan and hydraulic analysis must be submitted to the Development Services Center for review and acceptance. The hydraulic analysis must include supporting calculations for domestic and fire flows.
 - d. In addition to the hydraulic analysis, construction plans shall be submitted to the Development Services Center for review and acceptance. The water system, including individual service connections to each lot, shall be constructed and accepted for service prior to the City Engineer signing the final plat.
16. The nearest existing public sanitary sewer that may be able to provide service to this proposed plat is a 12-inch PVC main in S. Meadow Lane Road.
- a. The developer will be responsible for all costs associated with design and construction of sanitary sewer improvements necessary to serve the proposed plat.
 - b. The sanitary sewer system shall be designed and constructed in accordance with City standards.
 - c. Construction plans shall be submitted to the Development Services Center for review and acceptance. The sanitary sewer system, including individual service connections to each lot, shall be constructed and accepted for service prior to the City Engineer signing the final plat.
17. All stormwater and surface drainage generated on-site shall be disposed of on-site in accordance with SMC 17D.060 "Stormwater Facilities," the SRSM, Special Drainage Districts, City Design Standards, and per the Project Engineer's recommendations, based on the drainage plan accepted for the final plat. Pre-development flow of any off-site runoff passing through the plat shall not be increased (rate or volume) or concentrated due to development of the plat, based on a 50-year design storm. An escape route for a 100-year design storm must be provided.
- a. No building permit shall be issued for any lot in the plat until evidence satisfactory to the City Engineer has been provided showing that the recommendations of SMC 17D.060 "Stormwater Facilities," the SRSM, Special Drainage Districts, City Design Standards, and the Project Engineer's recommendations, based on the drainage plan accepted for the final plat, have been complied with. A surface drainage plan shall be prepared for each lot and shall be submitted to the Development Services Center for review and acceptance prior to issuance of a building permit.
 - b. Prior to construction, a grading and drainage plan shall be submitted to Developer Services for review and acceptance.
 - c. An erosion/sediment control plan, detailing how dust and runoff will be handled during and after construction, shall be submitted to the Development Services Center for review and acceptance prior to construction.

- d. If drywells are utilized, they will be tested to insure design infiltration rates are met. A minimum factor of safety of two will be required. In accordance with State Law, existing and proposed Underground Injection Control structures need to be registered with the WSDOE. Proof of registration must be provided prior to plan acceptance.
 - e. The developer will be responsible for all costs associated with constructing storm water improvements necessary to serve the proposed plat.
18. This property is not within the General Facilities Charges (GFC) Wavier Zone. GFC Connection charges must be paid at the time of water and sewer permits.
 19. Lot plans, following the criteria outlined in the SRSM Appendix 3C, must be submitted for review after infrastructure plans have been approved for construction.
 20. Addresses must be shown on the face of the final plat. Please contact The City of Spokane Addressing Team at addressing@spokanecity.org or (509) 625-6999 to develop addresses prior to submitting the final plat.
 21. All easements whether existing or proposed, must be shown on the face of the final plat including easements for public sidewalks.
 22. Construction plans for public street, sewer, water, and storm water systems must be designed by a Professional Engineer, licensed in the State of Washington, and submitted to the Development Services Center for review and acceptance prior to construction. Civil engineered plans and profiles shall use NAVD88 datum (City of Spokane datum minus 13.13 feet). Submittal of the construction plans and final plat shall be required for the first submittal of the project review.
 23. Plan review fees for sanitary sewer, water, street, and storm water improvements will be determined at the time of plan submittal and must be paid prior to the start of review.
 24. In accordance with the City's Financial Guarantee Policy, a financial guarantee will be required for all street, drainage, and erosion/sediment control improvements not constructed prior to approval of the final plat. Sewer and water improvements necessary to serve the plat cannot be bonded for.

25. STATEMENTS TO BE INCLUDED IN THE DEDICATORY LANGUAGE

- a. Ten foot utility and drainage easements as shown here on the described plat are hereby dedicated to the City and its permittees for the construction, reconstruction, maintenance, protection, inspections, and operation of their respective facilities together with the right to prohibit structures that may interfere with the construction, reconstruction, reliability and safe operation of the same.
- b. Development of the subject property, including grading and filling, are required to follow an erosion/sediment control plan that has been submitted to and accepted by the Development Services Center prior to the issuance of any building and/or grading permits.
- c. Prior to the issuance of any building permits, the lots shall be connected to a functioning public or private water system complying with the requirements of the Development Services Center and having adequate

pressure for domestic and fire uses, as determined by the Water and Hydroelectric Services Department.

- d. The water system shall be designed and constructed in accordance with City Standards. A pressure of 45 psi minimum at the property line is required for service connections supplying domestic flows. Pressures shall not drop below 20 psi at any point in the system during a fire situation. Pressures over 80 psi will require that pressure relief valves be installed at the developer's expense.
 - e. All stormwater and surface drainage generated on-site shall be disposed of on site in accordance with SMC 17D.060 "Storm water Facilities," the SRSM, Special Drainage Districts, City Design Standards, and per the Project Engineer's recommendations, based on the drainage plan accepted for the final plat. Pre-development flow of off-site runoff passing through the plat shall not be increased (rate or volume) or concentrated due to development of the plat, based on a 50-year design storm. An escape route for a 100-year design storm shall be provided.
 - f. No building permit shall be issued for any lot in this plat until evidence satisfactory to the City Engineer has been provided showing that the recommendations of SMC 17.060 "Stormwater Facilities," the SRSM, Special Drainage Districts, City Design Standards, and the Project Engineer's recommendations, based on the drainage plan accepted for this final plat, have been complied with. A surface drainage plan shall be prepared for each lot and shall be submitted to Developer Services for review and acceptance prior to issuance of a building permit.
 - g. Slope easements for cut and fill, as deemed necessary by Developer Services in accordance with City Design Standards, are granted along all public right of ways.
 - h. All public improvements (street, sewer, storm sewer, and water) shall be constructed to City standards prior to the occupancy of any structures served by said improvements.
 - i. No building permit shall be issued for any lot in the plat until evidence satisfactory to the City Engineer has been provided showing that sanitary sewer and water improvements, constructed to City standards, have been provided to the lot in question.
 - j. GFC charges and Transportation Impact Fees will be collected prior to the issuance of a building permit for the affected lot.
26. Sidewalks shall be located on both sides of the street for all public and private streets.
27. Sidewalk shall be constructed around the bulb of cul-de-sacs so that every lot is served by a sidewalk.
28. All sidewalks shall be designed and constructed in accordance with the City's design standards, standard plans, and specifications.
29. Pedestrian buffer strips are required on both sides of all streets between the sidewalk and the curb. The width and type of pedestrian buffer strip for each street shall comply with the requirements of the CP and the City's design standards.

30. Street trees are required to be planted in the pedestrian buffer strip on all residential lots.
31. WSDOE has offered the following conditions:
- a. Obtain a Construction Stormwater General Permit for this project.
 - b. For more information or technical assistance, please contact Shannon Adams at (509) 329-3610 or via email at Shannon.Adams@ecy.wa.gov.
32. Avista requests a 10-foot-wide dry utility easement to run contiguous with said easement in Eagle Ridge 11th and 12th Additions. Said easement to be located along the front of proposed Lots numbered 1 through 45, with the following dedication language requested:
- a. Easements for “Dry” utilities (electric, gas, phone, fiber, cable TV) as shown hereon are hereby granted over the rights-of-way for the private streets and adjoining said streets to the City of Spokane and its permitted serving utilities for the construction, reconstruction, maintenance, protection, inspection and operation of their respective facilities, together with the right to prohibit changes in grade over installed underground facilities and the right to prohibit, trim and/or remove trees, bushes, landscaping, without compensation and to prohibit brick, rock or masonry structures that may interfere with the construction, reconstruction, reliability, maintenance, and safe operation of same. Storm drain dry wells and Water Meter boxes shall not be placed within the “Dry” easements; however, lateral crossings by storm drain, water and sewer lines are permitted. Serving utility companies are also granted the right to install utilities across common areas, open space areas and Tracts A and B with authorization from Homeowners Association. If the developer or his subcontractor should ditch beyond the limits of the platted easement strips shown herein, the easement shall then be identified by the actual physical location of the installed utilities.
33. An Inadvertent Discovery Plan will be required to be submitted as part of the construction permit. If any artifacts or human remains are found upon excavation, this office and the Spokane Tribe of Indians should be immediately notified and the work in the immediate area cease.
34. Adhere to any additional performance and development standards documented in comment or required by City of Spokane, Spokane County Washington State, and any Federal agency.

SIGNED this 14th day of April 2022.



Brian T. McGinn
City of Spokane Hearing Examiner

NOTICE OF RIGHT TO APPEAL

Appeals of decisions by the Hearing Examiner are governed by Spokane Municipal Code 17G.060.210 and 17G.050.

Decisions of the Hearing Examiner regarding preliminary plats are final. They may be appealed to the City Council. All appeals must be filed with the Planning Department within fourteen (14) calendar days of the date of the decision. The date of the decision is the 14th day of April. **THE DATE OF THE LAST DAY TO APPEAL IS THE 28th DAY OF APRIL 2022, AT 5:00 P.M.**

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