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6 **BEFORE THE HEARING EXAMINER FOR THE CITY OF DUPONT**

7 **RE: Hoffman Hill Division 5 Phase 1**  
8 **Tract O**

9 **Preliminary Plat**

10 **SUB 15-01**  
11

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

12  
13 **SUMMARY**

14 The applicant has requested preliminary plat approval for the division of the 3.6-acres of Tract O of  
15 Hoffman Hill Division 5 Phase 1 into 28 residential lots for fourteen townhome buildings with each  
16 building composed of two zero lot line dwelling units. The preliminary plat application is approved  
17 subject to conditions. This preliminary plat application raises the same side yard and front yard setback  
18 issues raised in the Hoffman Hill Division 5 Phase 1 Tract I preliminary plat application, SUB 14-02.  
19 The summary of those issues in the Summary Section of the hearing examiner decision for SUB 14-02  
20 and the Conclusions of Law addressing the setback issues, specifically Conclusions of Law No. 5 and 6  
21 of the examiner decision for SUB 14-02, are adopted by this reference as if set forth in full.

22  
23 **TESTIMONY**

24 *[This summary is only provided for the convenience of the reader, to provide an understanding of the*  
25 *testimony presented at the hearing. The summary of testimony is not to be construed as containing any*  
26 *findings of fact or conclusions of law, or as indicating what information the examiner found pertinent*  
*or significant.]*

At the beginning of the hearing, the hearing examiner incorporated by reference all verbal argument  
and testimony made by the parties regarding front and side yard requirements in the hearing for the  
Hoffman Hill Division 5 Phase 1 Tract I preliminary plat application.

1 Lisa Klein, contract planner for the City of Dupont, summarized the staff report. Ms. Klein noted that  
2 one neighbor had submitted a letter expressing concern over the density of development. Ms. Klein  
3 had a couple phone conversations with the neighbor and was able to clarify what was authorized by the  
4 zoning for the project site. Ms. Klein identified a couple typographical errors in the staff report.  
5 Condition No. 4 should identify design review as Type II, not Type I review. In Section A4b, the  
6 minimum rear setbacks should be identified as 15 feet as measured from the property line, not the center  
7 line of the alley. Ms. Klein clarified that on the discussion in the Tract I review regarding Tract J  
8 setbacks, that plat has received preliminary plat approval but has not yet been developed.

9 Ivana Halvorsen, applicant representative from Barghausen Consulting Engineers, noted that the  
10 proposal has two tracts – one for access and utilities and the other for open space and utilities. All of  
11 the lots will front Hoffman Hill Boulevard.

12 Randall Olsen, applicant's attorney, noted that the applicant isn't proposing a zero lot line project.

13 Brian Nguyen, applicant representative, requested clarification on whether the cultural resource survey  
14 requested by the Nisqually Tribe was limited to Tract I or whether it also encompassed Tract O. Jeff  
15 Wilson, Dupont community development director, responded that the survey was only required for  
16 Tract I. Mr. Nguyen noted that the development of Tract O presented a good opportunity for the  
17 contract purchaser of the property to bring its high quality development to the City of Dupont, which  
18 has very limited property left that can still be developed.

## 19 EXHIBITS

20 The eleven documents identified under "Summary of Record" in the staff report were admitted as  
21 Exhibits 1-11 during the hearing. The following documents were also admitted:

|    |            |   |
|----|------------|---|
| 22 | Exhibit 12 | Staff Report  |
| 23 | Exhibit 13 | April 11, 2017 letter from Randall Olson addressing front yard setbacks |
| 24 | Exhibit 14 | April 11, 2017 letter from Randall Olson addressing side yard setbacks  |
| 25 | Exhibit 15 | August 10, 2017 Updated MDNS  |
| 26 | Exhibit 16 | Tacoma/Pierce County Health Department letter                           |
|    | Exhibit 17 | Google Map aerial of Tracts, I, O and J                                 |

## 27 FINDINGS OF FACT

### 28 Procedural:

- 29 1. Applicant. The applicant is NoJack4 LLC, Seattle, WA.

1 2. Hearing. A hearing was held on the subject applications on August 11, 2017 in the City of  
2 Dupont City Council Chambers. The hearing was left open through August 23, 2017 for submissions  
3 evidencing past City interpretations of setback regulations.

4 3. Project Description. The applicant has requested preliminary plat approval for the division of  
5 the 3.6-acres of Tract O of Hoffman Hill Division 5 Phase 1 into 28 residential lots for fourteen  
6 townhome buildings with each building composed of two zero lot line dwelling units.

7 4. Adequacy of Infrastructure/Public Services. The project will be served by adequate and  
8 appropriate infrastructure and public services as follows:

9 A. Water and Sewer Service. The proposal provides for adequate water and sewer  
10 infrastructure. The City of DuPont's water utility will serve the proposed plat. A certificate  
11 of water availability has been issued for the proposal. See Certificate of Water Availability,  
12 Ex. 1(g). The Pierce County Public Works and Utilities Department will provide sewer  
13 service to the proposal.

14 B. Police and Fire Protection. The proposal will be served by adequate police and fire  
15 protection. Staff have reviewed the proposal and cited no concerns over police resources  
16 or public safety issues related to the proposal. The proposed plat is served by the DuPont  
17 Fire Department. The Fire Department submitted comments regarding review of the  
18 preliminary plat application, Ex. 10, which have been incorporated into the recommended  
19 conditions of approval. The Fire Department recommends approval with the conditions.  
20 Impacts to fire resources are addressed by the payment of fire impact fees, due at the time  
21 of building permit issuance pursuant to DMC 26.05.050.

22 C. Drainage. The proposal provides for adequate drainage facilities. A drainage system has  
23 already been approved and constructed as part of prior stages of Hoffman Hills development  
24 to collect and treat stormwater runoff from the project site. Stormwater runoff on the  
25 proposed plat will be less than anticipated in the design of the stormwater facilities that  
26 serve the site. The proposed plat is required to convey onsite stormwater to the City's  
existing facilities, which are large enough to receive same. Final review and approval of  
the plat's conveyance system, which is at the owner's cost, shall occur following submittal  
of plat construction documents. See drainage compliance memo dated October 14, 2014,  
Ex. 1(e).

D. Parks/Open Space. The proposal provides for adequate parks and open space. The Director  
of Community Development has found the proposal to be compliant with applicable park,  
recreation and open space requirements. All parks necessary to serve the subject  
development were constructed with the underlying plat of Hoffman Hill Division 5, Phase 1.

1 E. Transportation. The proposal provides for adequate traffic infrastructure. Traffic  
2 infrastructure has already been constructed to accommodate the traffic impacts of the project  
3 as part of Hoffmann Hills Village IV, Division 5 preliminary plat approval. The applicant's  
4 traffic engineer, Don Dawes, determined that the trip generation of the proposal will be less  
5 than that anticipated for the Division 5 traffic infrastructure improvements. See Ex. 1(f). The  
6 proposal has also been reviewed by the City Engineer, who has determined that the proposal  
is consistent with all applicable standards for city roads, streets, access, circulation,  
transportation concurrency and the like.

7 F. Schools. The proposal provides for adequate schools. The previous DuPont SEPA decision  
8 for the same parcel, File No. SEPA 08-06, references an email dated July 17, 2008, from  
9 Quadrant Corporation which mitigates all school impacts for 80 multifamily units on the  
10 three multifamily tracts, Tract I, J and O of Hoffman Hill Division 5 Phase 1 plat via their  
11 School Funding Certificates account with the Steilacoom Historical School District. As  
such, all school impacts from the proposed development have been mitigated. Safe walking  
conditions for students who only walk to and from school are provided by existing  
sidewalks.

12 5. Adverse Impacts. There are no significant adverse impacts associated with the proposal. The  
13 site is flat, cleared and contains no critical areas. The site is vacant with a 10% slope and has been  
14 graded as part of the Hoffman Hills project. There are no wetlands, streams or other waterbodies on  
15 site. The project isn't located in a floodplain. The proposal is fully compatible with surrounding uses.  
16 The property is surrounded on all sides with residentially zoned and developed property except that  
17 property to the east is vacant and has been approved for townhome development. An updated mitigated  
determination of non-significance ("MDNS") was issued for the project on August 10, 2017 under the  
State Environmental Policy Act ("SEPA"). The MDNS mitigates all significant environmental  
impacts created by the proposal, most notably including several mitigation measures requiring actions  
necessary to ensure there are not hazardous substances in the soils of the project.

## 18 CONCLUSIONS OF LAW

19  
20 1. Authority. DMC 25.175.010 classifies preliminary plat applications as Type III permits. DMC  
21 25.175.010(2)(b) provides that the hearing examiner shall hold a hearing and issue a final decision for  
Type III permit applications.

22 2. Zoning/Comprehensive Plan Designations. The City of DuPont Comprehensive Plan designates  
23 the subject property as located within the Residential-12 District in the Hoffman Hill Village. The  
Zoning Map designation is R-12.

24 3. Review Criteria. DMC 24.03.050(a) and 24.03.060(b) govern the criteria for subdivision review.  
25 Applicable criteria are quoted below in italics and applied through associated conclusions of law  
26

1 **DMC 24.03.050(a):** *The Examiner shall review all proposed preliminary plats and shall take such*  
2 *action thereon as to assure conformance of the proposed subdivision to the general purposes of the*  
3 *comprehensive plan and to planning standards and specifications as adopted by the City.*

4 4. Conformance to Comprehensive Plan and Planning Regulations. The proposal is consistent  
5 with the City's comprehensive plan and planning standards for the reasons identified in Sections 3 and  
6 4 of the staff report, excluding the staff report analysis of disputed front and side-yard requirements,  
7 addressed separately in Conclusions of Law No. 5 and 6, incorporated by this reference and adopted  
8 for this Decision as if set forth in full from the final hearing examiner decision for the Hoffman Hill  
9 Division 5 Phase 1 Tract I preliminary plat application, SUB 14-02

10 **DMC 24.03.060(b)(1):** *A proposed subdivision and dedication shall not be approved unless the*  
11 *Examiner makes written findings that:*

12 *(1) Appropriate provisions are made for the public health, safety, and general welfare for open spaces,*  
13 *drainageways, streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes,*  
14 *parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including*  
15 *sidewalks and other planning features that assure safe walking conditions for students who walk to and*  
16 *from school; and*

17 **DMC 24.03.060(b)(2):** *The public use and interest will be served by the platting of such subdivision*  
18 *and dedication. If the Examiner finds that the proposed subdivision and dedication make such*  
19 *appropriate provisions and that the public use and interest will be served, then the Examiner shall*  
20 *approve the proposed subdivision and dedication.*

21 5. Appropriate Provision for Infrastructure. The proposal provides for appropriate infrastructure  
22 for the reasons identified in Finding of Fact No. 4.

23 6. Proposal is in Public Use and Interest and Consistent with Public Health, Safety and Welfare.  
24 The proposal makes appropriate provision for the public health, safety and welfare and is in the public  
25 use and interest because it provides for appropriate infrastructure as determined in Finding of Fact No.  
26 4 while also not creating any significant adverse impacts as determined in Finding of Fact No. 5.

## DECISION

The preliminary plat application meets all applicable criteria for the reasons identified in the  
Conclusions of Law above and is approved, subject to the following conditions of approval:

1. The city issued a SEPA Mitigated Determination of Non-significance. All mitigation measures are incorporated herein by reference as conditions of approval.
2. A sign permit is required if a neighborhood identification sign is proposed.
3. The project will demonstrate compliance with geotechnical recommendations.

#### **Prior to Application of Any Site Development Permits**

4. Site Plan Review and Type II Design Review and approval is required pursuant to DMC 25.65.010(2).
5. The side lot lines for Lots 1 and 28 that is adjacent to Swan Loop shall be 10 feet in accordance with DMC 25.20.040(4)(a).
6. Landscape and irrigation plans are required with the civil construction permit. The applicant will be required to demonstrate compliance with the water conservation regulations in DMC 25.90.040 at the time of Site Plan Review approval.
7. Fire flow requirements and on-site hydrant adequacy will be determined by the DuPont Fire Chief or designee as the project design is submitted.
8. Drainage ways: Stormwater runoff on the proposed plat will be less than originally anticipated when the original Hoffman Hill Division 5 stormwater facilities were designed and constructed. The proposed plat is required to convey onsite stormwater to the City's existing facilities, which are large enough to receive same. Final review and approval of the plat's conveyance system, which is at the owner's cost, shall occur following submittal of plat construction documents. See drainage compliance memo dated October 14, 2014 (Attachment 1e).
9. Curb ramps on adjacent streets are required to be upgraded to current ADA Standards.

#### **Prior to issuance of a Building Permit**

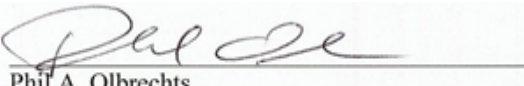
10. The structures must be designed to meet the requirements of the building construction codes in effect at that time. The following codes are currently enforced by the City of DuPont: the 2015 International Building Code, the 2015 International Residential Code, the 2015 International Fire Code, the 2015 International Mechanical Code, the 2015 International Fuel Gas Code, the 2015 Uniform Plumbing Code (each as amended and adopted by the State of Washington); and the 2015 Washington State Energy Code.
11. The project must receive all land use and civil construction approvals prior to issuance of building permits.
12. Prior to issuance of building permits for the structures, the applicant shall provide a copy of Pierce County Sewer Service Permit for each lot, for city record.
13. Provisions for collection and removal of drainage at the property lines and elevation changes must be incorporated into the design. (Note: the provisions of the IRC pertaining to site drainage away from the structure foundations must also be met in the design.)
14. Access to existing utility easements is to be maintained or provided with the building design.

#### **Prior to Certificate of Occupancy**

15. Prior to final approval of the project, as-builts and Geographic information System (GIS) documentation will be required, in accordance with City of DuPont Municipal Code Chapter 24.09 and Ordinance No. 97-559.

1 16. Prior to Fire Department approval for occupancy, an automatic fire sprinkler system shall be  
2 installed. The system shall comply with NFPA 13D Standard for Automatic Fire Sprinkler  
3 Systems. Three (3) sets of plans, hydraulic calculations, and material specifications sheets for  
4 all equipment used in the system shall be submitted by a State of Washington Licensed  
Contractor for review, approval, and permits issued prior to commencing work. A separate  
permit is required.

5  
6 Decision issued September 1, 2017.

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8   
Phil A. Olbrechts

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10 Hearing Examiner

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12 **Appeal Right and Valuation Notices**

13 DMC 25.175.010 provides that this decision, as a Type III decision, is final, subject to appeal to Pierce  
14 County Superior Court. Appeals are governed by Chapter 36.70C RCW.

15 Affected property owners may request a change in valuation for property tax purposes notwithstanding  
16 any program of revaluation.