

1

2

3

4

5

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

7

8

9

10

11

12

13

14

15 **RE: Hoffman Hill Division 5 Phase 1**

16 **Tract I**

17 **Preliminary Plat, Site Plan and**

18 **Design Review**

19 **PLNG2019-014,-015 and -016**

20

21

22

23

24

25

26

FINDINGS OF FACT, CONCLUSIONS OF

LAW AND FINAL DECISION

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

52

53

54

55

56

57

58

59

60

61

62

63

64

65

66

67

68

69

70

71

72

73

74

75

76

77

78

79

80

81

82

83

84

85

86

87

88

89

90

91

92

93

94

95

96

97

98

99

100

101

102

103

104

105

106

107

108

109

110

111

112

113

114

115

116

117

118

119

120

121

122

123

124

125

126

127

128

129

130

131

132

133

134

135

136

137

138

139

140

141

142

143

144

145

146

147

148

149

150

151

152

153

154

155

156

157

158

159

160

161

162

163

164

165

166

167

168

169

170

171

172

173

174

175

176

177

178

179

180

181

182

183

184

185

186

187

188

189

190

191

192

193

194

195

196

197

198

199

200

201

202

203

204

205

206

207

208

209

210

211

212

213

214

215

216

217

218

219

220

221

222

223

224

225

226

227

228

229

230

231

232

233

234

235

236

237

238

239

240

241

242

243

244

245

246

247

248

249

250

251

252

253

254

255

256

257

258

259

260

261

262

263

264

265

266

267

268

269

270

271

272

273

274

275

276

277

278

279

280

281

282

283

284

285

286

287

288

289

290

291

292

293

294

295

296

297

298

299

300

301

302

303

304

305

306

307

308

309

310

311

312

313

314

315

316

317

318

319

320

321

322

323

324

325

326

327

328

329

330

331

332

333

334

335

336

337

338

339

340

341

342

343

344

345

346

347

348

349

350

351

352

353

354

355

356

357

358

359

360

361

362

363

364

365

366

367

368

369

370

371

372

373

374

375

376

377

378

379

380

381

382

383

384

385

386

387

388

389

390

391

392

393

394

395

396

397

398

399

400

401

402

403

404

405

406

407

408

409

410

411

412

413

414

415

416

417

418

419

420

421

422

423

424

425

426

427

428

429

430

431

432

433

434

435

436

437

438

439

440

441

442

443

444

445

446

447

448

449

450

451

452

453

454

455

456

457

458

459

460

461

462

463

464

465

466

467

468

469

470

471

472

473

474

475

476

477

478

479

480

481

482

483

484

485

486

487

488

489

490

491

492

493

494

495

496

497

498

499

500

501

502

503

504

505

506

507

508

509

510

511

512

513

514

515

516

517

518

519

520

521

522

523

524

525

526

527

528

529

530

531

532

533

534

535

536

537

538

539

540

541

542

543

544

545

546

547

548

549

550

551

552

553

554

555

556

557

558

559

560

561

562

563

564

565

566

567

568

569

570

571

572

573

574

575

576

577

578

579

580

581

582

583

584

585

586

587

588

589

590

591

592

593

594

595

596

597

598

599

600

601

602

603

604

605

606

607

608

609

610

611

612

613

614

615

616

617

618

619

620

621

622

623

624

625

626

627

628

629

630

631

632

633

634

635

636

637

638

639

640

641

642

643

644

645

646

647

648

649

650

651

652

653

654

655

656

657

658

659

660

661

662

663

664

665

666

667

668

669

670

671

672

673

674

675

676

677

678

679

680

681

682

683

684

685

686

687

688

689

690

691

692

693

694

695

696

697

698

699

700

701

702

703

704

705

706

707

708

709

710

711

712

713

714

715

716

717

718

719

720

721

722

723

724

725

726

727

728

729

730

731

732

733

734

735

736

737

738

739

740

741

742

743

744

745

746

747

748

749

750

751

752

753

754

755

756

757

758

759

760

761

762

763

764

765

766

767

768

769

770

771

772

773

774

775

776

777

778

779

780

781

782

783

784

785

786

787

788

789

790

791

792

793

794

795

796

797

798

799

800

801

802

803

804

805

806

807

808

809

810

811

812

813

814

815

816

817

818

819

820

821

822

823

824

825

826

827

828

829

830

831

832

833

834

835

836

837

838

839

840

841

842

843

844

845

846

847

848

849

850

851

852

853

854

855

856

857

858

859

860

861

862

863

864

865

866

867

868

869

870

871

872

873

874

875

876

877

878

879

880

881

882

883

884

885

886

887

888

889

890

891

892

893

894

895

896

897

898

899

900

901

902

903

904

905

906

907

908

909

910

911

912

913

914

915

916

917

918

919

920

921

922

923

924

925

926

927

928

929

930

931

932

933

934

935

936

937

938

939

940

941

942

943

944

945

946

947

948

949

950

951

952

953

954

955

956

957

958

959

960

961

962

963

964

965

966

967

968

969

970

971

972

973

974

975

976

977

978

979

980

981

982

983

984

985

986

987

988

989

990

991

992

993

994

995

996

997

998

999

1000

1001

1002

1003

1004

1005

1006

1007

1008

1009

1010

1011

1012

1013

1014

1015

1016

1017

1018

1019

1020

1021

1022

1023

1024

1025

1026

1027

1028

1029

1030

1031

1032

1033

1034

1035

1036

1037

1038

1039

1040

1041

1042

1043

1044

1045

1046

1047

1048

1049

1050

1051

1052

1053

1054

1055

1056

1057

1058

1059

1060

1061

1062

1063

1064

1065

1066

1067

1068

1069

1070

1071

1072

1073

1074

1075

1076

1077

1078

1079

1080

1081

1082

1083

1084

1085

1086

1087

1088

1089

1090

1091

1092

1093

1094

1095

1096

1097

1098

1099

1100

1101

1102

1103

1104

1105

1106

1107

1108

1109

1110

1111

1112

1113

1114

1115

1116

1117

1118

1119

1120

1121

1122

1123

1124

1125

1126

1127

1128

1129

1130

1131

1132

1133

1134

1135

1136

1137

1138

1139

1140

1141

1142

1143

1144

1145

1146

1147

1148

1149

1150

1151

1152

1153

1154

1155

1156

1157

1158

1159

1160

1161

1162

1163

1164

1165

1166

1167

1168

1169

1170

1171

1172

1173

1174

1175

1176

1177

1178

1179

1180

1181

1182

1183

1184

1185

1186

1187

1188

1189

1190

1191

1192

1193

1194

1195

1196

1197

1198

1199

1200

1201

1202

1203

1204

1205

1206

1207

1208

1209

1210

1211

1212

1213

1214

1215

1216

1217

1218

1219

1220

1221

1222

1223

1224

1225

1226

1227

1228

1229

1230

1231

1232

1233

1234

1235

1236

1237

1238

1239

1240

1241

1242

1243

1244

1245

1246

1247

1248

1249

1250

1251

1252

1253

1254

1255

1256

1257

1258

1259

1260

1261

1262

1263

1264

1265

1266

1267

1268

1269

1270

1271

1272

1273

1274

1275

1276

1277

1278

1279

1280

1281

1282

1283

1284

1285

1286

1287

1288

1289

1290

1291

1292

1293

1294

1295

1296

1297

1298

1299

1300

1301

1302

1303

1304

1305

1306

1307

1308

1309

1310

1311

1312

1313

1314

1315

1316

1317

1318

1319

1320

1321

1322

1323

1324

1325

1326

1327

1328

1329

1330

1331

1332

1333

1334

1335

1336

1337

1338

1339

1340

1341

1342

1343

1344

1345

1346

1347

1348

1349

1350

1351

1352

1353

1354

1355

1356

1357</

1 Dupont does not have a minor revision process.

2

3 EXHIBITS

4

5 The June 13, 2019 staff report along with all attachments identified at page 16-17 of the report were
6 admitted as Ex. 1 during the hearing.

7 Exhibit 2: Staff recommended condition.

8

9 FINDINGS OF FACT

10

11

12 Procedural:

13 1. 14 Applicant. The Applicant is Brian Nguyen, Lennar Northwest Inc.

15 2. Hearing. A hearing was held on the subject applications at 1:00 pm on June 19, 2019 at Dupont
16 City Hall, Council chambers.

17 3. Project Description. The Applicant has requested preliminary plat approval for the division of
18 the 2.03 acres of Tract I of Hoffman Hill Division 5 Phase 1 into 16 residential lots for a combination of
19 eight detached single-family and eight attached zero lot line homes. A highly similar application
20 involving the same number of residential units was approved in 2017, City of Dupont File Sub. 14-02.
Many of the findings of this decision are based upon the findings of the hearing examiner approval for
Sub. 14-02 for those issues in which circumstances have not changed since the 2017 approval.

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

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

26 B. Police and Fire Protection. The proposal will be served by adequate police and fire
protection. Staff have reviewed the proposal and cited no concerns over police resources
or public safety issues related to the proposal. The proposed plat is served by the DuPont
Fire Department. The Fire Department has reviewed the proposal and submitted a letter
stating “[n]o comment on this project.” See Ex. 4a. Impacts to fire resources are addressed
by the payment of fire impact fees, due at the time of building permit issuance pursuant to
DMC 26.05.050.

C. Drainage. The City Engineer has reviewed the current proposal and found it to comply with the City's drainage standards. As determined in the 2017 approval, a drainage system has already been approved and constructed as part of prior stages of Hoffman Hills development to collect and treat stormwater runoff from the project site. Stormwater runoff on the proposed plat will be less than anticipated in the design of the stormwater facilities that 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. The proposal includes 6,034 square feet of open space. All parks necessary to serve the subject development were constructed with the underlying plat of Hoffman Hill Division 5, Phase 1.

E. Transportation. The proposal provides for adequate traffic infrastructure. Traffic infrastructure has already been constructed to accommodate the traffic impacts of the project as part of Hoffmann Hills Village IV, Division 5 preliminary plat approval. However, trip generation for the Tract I was based upon the original proposal for a 20 unit condominium. The trip generation for the proposed mix of single-family and zero lot development will generate more trips, but is still less than the 25 trips necessary to trigger a traffic impact study. See Ex. 4d. The 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 and circulation. A condition of approval also requires acquisition of a concurrency certificate prior to approval.

F. Schools. The proposal provides for adequate schools. The previous Dupont SEPA decision for the same parcel, File No. SEPA 08-06, references an email dated June 17, 2008, from Quadrant Corporation which mitigates all school impacts for 80 multifamily units on the three multifamily tracts, Track I, J and O of Hoffman Hill Division 5 Phase 1 plat via their School Funding Certificates account with the Steilacoom Historical School District. The proposal does not increase the number of units that was covered under the original certificate. As such, all school impacts from the proposed development have been mitigated.

5. **Adverse Impacts.** There are no significant adverse impacts associated with the proposal. There are no critical areas on-site. All existing vegetation was removed with rough grading and construction of the underlying plat, Hoffman Hill Division 5 Phase 1. The proposal is fully compatible with surrounding uses. The property adjoins the Fort Lewis property to the east and is buffered from that

1 property by a wide strand of trees. Residentially zoned and developed property is located to the north
2 and west and the Hoffman Regional Stormwater Pond is located to the south. The maximum density
3 authorized for the R-12 zone is 12.5 dwelling units per acre and the Applicant only proposes 7.9. A
4 modified mitigated determination of non-significance (“MDNS”) was re-issued for the project on July
5 14, 2017 under the State Environmental Policy Act (“SEPA”) and was adopted as an existing
6 environmental document for purposes of the subject applications. See Ex. 3c. The MDNS mitigates
7 all significant environmental impacts created by the proposal, most notably requiring testing of soils
8 and clean up as necessary pursuant to state regulations to remove any hazardous waste. The mitigation
9 measures also require monitoring for the presence of cultural resources and action as necessary to
10 prevent any damage to such resources if discovered.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

6. Conformity to Development Standards¹. The project conforms to applicable development standards as follows:
 - A. Chapter 25.20 Zoning District Standards. The proposal complies with all applicable zoning code standards for the reasons identified in Section D1a-k of the staff report.
 - B. Chapter 25.75 Commute Trip Reduction. The City’s Commute Trip Reduction requirements, Chapter 25.75 DMC, only apply to employers with 100 or more employees. The Applicant indicates approximately 90 employees are anticipated.
 - C. Chapter 25.80 Cultural Resources. The MDNS for the proposal includes mitigation measures for the protection of cultural, historical and archaeological resources. Pursuant to these requirements, the Applicant submitted a Cultural Resources Survey and Inadvertent Discovery Plan, Ex. H3c. The Cultural Resource Survey determined the site is located in an area considered to have a high probability for cultural resources as it is located near an archaeological site and within an archaeological protection zone. The report recommends that archaeological monitoring be conducted during construction and that the inadvertent discovery plan included within the report be adopted prior to ground disturbance. The MDNS outlines requirements for the inadvertent discovery plan.
 - D. Chapter 25.85 Affordable Housing. Chapter 25.85 DMC, Affordable Housing, provides incentives for affordable housing but does not impose any mandatory requirements. The proposal does not include any affordable housing.
 - G. Chapter 25.90 Landscaping. The proposal complies with the City’s landscaping standards. DMC Chapter 25.90 regulates landscaping. DMC 25.90.020(2) requires 30% landscaping.

¹ Conformity to development standards is usually assessed via conclusions of law. However, site plan review standards are highly detailed and technical. In the absence of any disagreement over the application or any indication in the record of a code compliance issue, the examiner will rely upon assurances made by staff that standards are met, based upon the staff’s exercise of professional judgment. Since these determinations of conformity are based upon staff expertise instead of application of law to fact, the determinations regarding conformance to development standards are treated as findings of fact.

The Applicant significantly exceeds this requirement by incorporation 45% landscaping. DMC 25.90.030(1) requires street trees at least one per 40 or 50 feet of frontage depending on the tree species and other circumstances. The Applicant proposes eight street trees that are 40 feet apart as required, with an authorized exception for a tree that would create utility and sight distance conflicts. The Applicant's landscape plans do not include any irrigation as required by DMC 25.90.040. The addition of irrigation as required by DMC 25.90.040 is imposed by Conditions No. 5 and 6.

- E. Chapter 25.95 Parking. DMC 25.95.030 requires a minimum of two parking spaces per dwelling unit of the project. The parking and driveway space proposed by the Applicant provides the required parking. DMC 25.95.040 requires parking spaces to be located within 500 feet of the building served, which is also met by the proposal.
- F. Chapter 25.105 Critical Areas. There are no critical areas on-site or affected by the proposal.
- G. Chapter 25.110 Street Corner Setbacks. Chapter 25.110 DMC imposes height limits on structures and landscaping that can be placed within the sight triangle of street corners. The project area does not include any street corners due to Tract C being a private access driveway.
- H. Chapter 25.115 Transportation. Chapter 25.115 requires transportation concurrency review for nonexempt development. The conditions of approval require that the Applicant to apply for and obtain a Transportation Concurrency certificate, to the extent required by DMC 25.115, prior to issuance of the first building permit.
- I. Chapter 25.116 Sign Code. The Applicant has not proposed any signs.
- J. Chapter 25.120 Tree Retention. Tree retention standards are governed by Chapter 25.120 DMC, which requires four trees per acre be retained for mixed single-family and multifamily areas. This means eight trees must be retained for the 2.03 acre project site. The proposal includes 17 trees, which satisfies Chapter 25.120 standards.
- K. Chapter 25.125 Wireless Communication Facilities. No wireless communication facilities are proposed, so Chapter 25.125 DMC, Wireless Communication Facilities, does not apply.

CONCLUSIONS OF LAW

1. Authority. DMC 25.175.010 classifies preliminary plat applications as Type III permits. DMC 25.20.050(6) classifies site plan review of multifamily projects involving less than 80 dwelling units as a Type II permit. DMC 25.65.010(2) classifies design review as a Type I permit. DMC 25.175.010(2)(b) provides that projects involving multiple permits of different classifications may be processed under the

1 highest classification. Pursuant to DMC 25.175.010(2)(b), the subject preliminary plat, site plan and
2 design review applications have been consolidated into one Type III review. DMC 25.175.010(2)(b)
3 provides that the hearing examiner shall hold a hearing and issue a final decision for Type III permit
applications.

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

6 3. Review Criteria. DMC 25.20.050(6) requires site plan approval for all multifamily projects in a
7 residential zone. DMC 25.65.010(1) requires design review for all multifamily site plans in a residential
8 zone. As further identified in DMC 25.65.010(1), design review requires conformance to all the design
9 standards of Chapter 25.65 DMC. DMC 25.150.030 governs the criteria for site plan review. DMC
10 24.03.050(a) and 24.03.060(b) govern the criteria for subdivision review. The findings of Section D3 of
the staff report area adopted to find conformance to all the requirements of Design Review, specifically
Chapter 25.65 DMC. Applicable criteria for site plan and subdivision review are quoted below in italics
and applied through associated conclusions of law

12 Preliminary Plat

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

14 4. Conformance to Comprehensive Plan and Planning Regulations. The proposal is consistent
15 with the City's comprehensive plan and planning standards for the reasons identified in Sections C and
D of the staff report.

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

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

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

1
2 5. Appropriate Provision for Infrastructure. The proposal provides for appropriate infrastructure
for the reasons identified in Finding of Fact No. 4.

3
4 6. Proposal is in Public Use and Interest and Consistent with Public Health, Safety and Welfare.
The proposal makes appropriate provision for the public health, safety and welfare and is in the public
use and interest because it provides for appropriate infrastructure as determined in Finding of Fact No.
4 while also not creating any significant adverse impacts as determined in Finding of Fact No. 5.
5

6 **Site Plan**

7 **DMC 25.150.030:** *In order to obtain site plan approval, all of the development regulations and criteria
8 specified in the district applicable to the property must be satisfied in addition to any general
development requirements in Chapters 25.75 through 25.95 and 25.105 through 25.125 DMC.*

9
10 4. Proposal complies with site plan criteria. Finding of Fact No. 6 assesses compliance with the
DMC chapters referenced in the DMC 25.150.030 criterion above and finds the project conforms to
11 each.

12 **DECISION**

13 The preliminary plat, site plan and design review applications meet all applicable criteria for the reasons
14 identified in the Conclusions of Law above and are approved, subject to the conditions of approval
recommended in the staff report and the following:

15
16 27. Approval of this preliminary plat application voids and replaces the previous preliminary plat
approval dated August 31, 2017, City File Sub 14-02.

17 Decision issued July 4, 2019.

18
19 
20 Phil A. Olbrechts

21 Hearing Examiner

22
23
24 **Appeal Right and Valuation Notices**

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

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

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26