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

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

9 **Preliminary Plat, Site Plan and**
10 **Design Review**

11 **PLNG2019-014,-015 and -016**
12

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND FINAL DECISION

13
14 **SUMMARY**

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16 The Applicant has requested preliminary plat approval for the division of the 2.03 acres of Tract I of
17 Hoffman Hill Division 5 Phase 1 into 16 residential lots for a combination of eight detached single-
18 family and eight attached zero lot line homes. The preliminary plat application is approved subject to
19 conditions.

20 **TESTIMONY**

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

25 Lisa Klein, City of Dupont contract planner, summarized the staff report. Ms. Klein recommended an
26 additional condition that states that “*approval of this preliminary plat application voids and replaces the*
previous preliminary plat approval dated August 31, 2017, City File Sub 14-02.”

Ivana Halvorsen, Applicant, testified that the Applicant was going through the replat process because

Dupont does not have a minor revision process.

EXHIBITS

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

Exhibit 2: Staff recommended condition.

FINDINGS OF FACT

Procedural:

1. Applicant. The Applicant is Brian Nguyen, Lennar Northwest Inc.
2. Hearing. A hearing was held on the subject applications at 1:00 pm on June 19, 2019 at Dupont City Hall, Council chambers.
3. Project Description. The Applicant has requested preliminary plat approval for the division of the 2.03 acres of Tract I of Hoffman Hill Division 5 Phase 1 into 16 residential lots for a combination of eight detached single-family and eight attached zero lot line homes. A highly similar application 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.
4. Adequacy of Infrastructure/Public Services. The project will be served by adequate and appropriate infrastructure and public services as follows:
 - A. Water and Sewer Service. The proposal provides for adequate water and sewer infrastructure. The City of DuPont's water utility will serve the proposed plat. A certificate 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.
 - 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.

- 1 C. Drainage. The City Engineer has reviewed the current proposal and found it to comply with
2 the City's drainage standards. As determined in the 2017 approval, a drainage system has
3 already been approved and constructed as part of prior stages of Hoffman Hills development
4 to collect and treat stormwater runoff from the project site. Stormwater runoff on the
5 proposed plat will be less than anticipated in the design of the stormwater facilities that
6 serve the site. The proposed plat is required to convey onsite stormwater to the City's
7 existing facilities, which are large enough to receive same. Final review and approval of
8 the plat's conveyance system, which is at the owner's cost, shall occur following submittal
9 of plat construction documents. See drainage compliance memo dated October 14, 2014,
10 Ex. 1(e).
- 11 D. Parks/Open Space. The proposal provides for adequate parks and open space. The Director
12 of Community Development has found the proposal to be compliant with applicable park,
13 recreation and open space requirements. The proposal includes 6,034 square feet of open
14 space. All parks necessary to serve the subject development were constructed with the
15 underlying plat of Hoffman Hill Division 5, Phase 1.
- 16 E. Transportation. The proposal provides for adequate traffic infrastructure. Traffic
17 infrastructure has already been constructed to accommodate the traffic impacts of the project
18 as part of Hoffmann Hills Village IV, Division 5 preliminary plat approval. However, trip
19 generation for the Tract I was based upon the original proposal for a 20 unit condominium.
20 The trip generation for the proposed mix of single-family and zero lot development will
21 generate more trips, but is still less than the 25 trips necessary to trigger a traffic impact study.
22 See Ex. 4d. The proposal has also been reviewed by the City Engineer, who has determined
23 that the proposal is consistent with all applicable standards for city roads, streets, access and
24 circulation. A condition of approval also requires acquisition of a concurrency certificate
25 prior to approval.
- 26 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 6. Conformity to Development Standards¹. The project conforms to applicable development
12 standards as follows:

13 A. Chapter 25.20 Zoning District Standards. The proposal complies with all applicable zoning
14 code standards for the reasons identified in Section D1a-k of the staff report.

15 B. Chapter 25.75 Commute Trip Reduction. The City’s Commute Trip Reduction requirements,
16 Chapter 25.75 DMC, only apply to employers with 100 or more employees. The Applicant
17 indicates approximately 90 employees are anticipated.

18 C. Chapter 25.80 Cultural Resources. The MDNS for the proposal includes mitigation measures
19 for the protection of cultural, historical and archaeological resources. Pursuant to these
20 requirements, the Applicant submitted a Cultural Resources Survey and Inadvertent
21 Discovery Plan, Ex. H3c. The Cultural Resource Survey determined the site is located in an
22 area considered to have a high probability for cultural resources as it is located near an
23 archaeological site and within an archaeological protection zone. The report recommends
24 that archaeological monitoring be conducted during construction and that the inadvertent
25 discovery plan included within the report be adopted prior to ground disturbance. The MDNS
26 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.

1 The Applicant significantly exceeds this requirement by incorporation 45% landscaping.
2 DMC 25.90.030(1) requires street trees at least one per 40 or 50 feet of frontage depending
3 on the tree species and other circumstances. The Applicant proposes eight street trees that are
4 40 feet apart as required, with an authorized exception for a tree that would create utility and
5 sight distance conflicts. The Applicant's landscape plans do not include any irrigation as
6 required by DMC 25.90.040. The addition of irrigation as required by DMC 25.90.040 is
7 imposed by Conditions No. 5 and 6.

8
9 E. Chapter 25.95 Parking. DMC 25.95.030 requires a minimum of two parking spaces per
10 dwelling unit of the project. The parking and driveway space proposed by the Applicant
11 provides the required parking. DMC 25.95.040 requires parking spaces to be located within
12 500 feet of the building served, which is also met by the proposal.

13 F. Chapter 25.105 Critical Areas. There are no critical areas on-site or affected by the proposal

14 G. Chapter 25.110 Street Corner Setbacks. Chapter 25.110 DMC imposes height limits on
15 structures and landscaping that can be placed within the sight triangle of street corners. The
16 project area does not include any street corners due to Tract C being a private access
17 driveway.

18 H. Chapter 25.115 Transportation. Chapter 25.115 requires transportation concurrency review
19 for nonexempt development. The conditions of approval require that the Applicant to apply
20 for and obtain a Transportation Concurrency certificate, to the extent required by DMC
21 25.115, prior to issuance of the first building permit.

22 I. Chapter 25.116 Sign Code. The Applicant has not proposed any signs.

23 J. Chapter 25.120 Tree Retention. Tree retention standards are governed by Chapter 25.120
24 DMC, which requires four trees per acre be retained for mixed single-family and multifamily
25 areas. This means eight trees must be retained for the 2.03 acre project site. The proposal
26 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.

23 CONCLUSIONS OF LAW

24 1. Authority. DMC 25.175.010 classifies preliminary plat applications as Type III permits. DMC
25 25.20.050(6) classifies site plan review of multifamily projects involving less than 80 dwelling units as
26 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
4 applications.

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

8 3. Review Criteria. DMC 25.20.050(6) requires site plan approval for all multifamily projects in a
9 residential zone. DMC 25.65.010(1) requires design review for all multifamily site plans in a residential
10 zone. As further identified in DMC 25.65.010(1), design review requires conformance to all the design
11 standards of Chapter 25.65 DMC. DMC 25.150.030 governs the criteria for site plan review. DMC
12 24.03.050(a) and 24.03.060(b) govern the criteria for subdivision review. The findings of Section D3 of
13 the staff report area adopted to find conformance to all the requirements of Design Review, specifically
14 Chapter 25.65 DMC. Applicable criteria for site plan and subdivision review are quoted below in italics
15 and applied through associated conclusions of law

16 **Preliminary Plat**

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

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

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

25 *(1) Appropriate provisions are made for the public health, safety, and general welfare for open spaces,
26 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*

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.*

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

Site Plan

DMC 25.150.030: *In order to obtain site plan approval, all of the development regulations and criteria 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.*

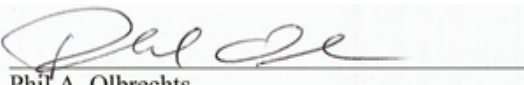
4. Proposal complies with site plan criteria. Finding of Fact No. 6 assesses compliance with the DMC chapters referenced in the DMC 25.150.030 criterion above and finds the project conforms to each.

DECISION

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

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

Decision issued July 4, 2019.



Phil A. Olbrechts

Hearing Examiner

Appeal Right and Valuation Notices

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

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