

OFFICE OF THE HEARING EXAMINER

CITY OF TACOMA

REPORT AND RECOMMENDATION

TO THE CITY COUNCIL

APPLICANT: Trung Do’s Goldsmith Services, Inc. (hereinafter referred to as the “Applicant”), is the current record owner of the real property subject to this requested rezone. The Applicant was represented at the hearing by Katherine Rupert, Land Use Analyst, Graves + Associates, PLLC.¹

HEARING EXAMINER FILE NO: HEX2021-019

SUMMARY OF REQUEST:

This Report and Recommendation addresses a request to rezone three parcels (lots) of real property, totaling approximately 19,628 square feet, from R-2 Single-Family Dwelling District to R-4-L Low-Density Multiple-Family Dwelling District for the eventual construction of seven (7) to thirteen (13) units of housing. The rezone application required review under the State Environmental Policy Act (“SEPA”). The Planning and Development Services (“PDS”) Director issued a final determination of nonsignificance (the “DNS”) on August 27, 2021. The appeal period for the DNS expired on September 10, 2021, without challenge. No conditions of development were placed on the Subject Property through the SEPA process and DNS.

LOCATION:

The lots addressed as 8638, 8640, and 8642 A Street, having tax Parcel Numbers 032033-6044, -6043, and -6042 (the “Subject Property” or the “Site”).

RECOMMENDATION:

The Hearing Examiner recommends approval of the requested rezone, subject to any conditions set forth herein below. Under the authority set forth in Tacoma Municipal Code (“TMC”) sections 1.23.050.A.1, 1.23.130, and 13.05.110, the Examiner heard testimony and reviewed the presented record and public testimony regarding the requested rezone. The Examiner’s recommendation of approval is based on the hearing and the hearing record and how that evidentiary record aligns with the TMC requirements set forth and analyzed below.

¹ See Ex. C-2 Property Owner Free Consent Form.

PUBLIC HEARING:

After reviewing the Preliminary Report submitted by PDS (herein the “PDS Report”—*Ex. C-1*) and all attendant information on file, the Hearing Examiner convened a public hearing on the rezone request on September 16, 2021.² The evidentiary record was held open until the close of business on September 17, 2021, to allow for additional written concerns or comments to be submitted via email concerning the proposed project.³

Testimony at the hearing was taken from all of the following:

City of Tacoma

Shirley Schultz, Principal Planner.

Applicants

Katherine Rupert, Applicant’s authorized agent.

Members of the Public

Patrick Gore, neighborhood resident.

Christina Tate, neighborhood resident.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION:

FINDINGS OF FACT:⁴

1. The Applicant submitted a reclassification request through Graves + Associates, PLLC requesting to rezone the Subject Property from R-2 Single-Family Dwelling District (abbreviated herein as “R-2”) to R-4-L Low-Density Multiple-Family Dwelling District (abbreviated herein as “R-4-L”). The Subject Property consists of three platted lots totaling approximately 19,628 square feet. The Applicant intends to develop the Subject Property with seven (7) to thirteen (13) units of housing (the “Project”). *Schultz Testimony, Rupert Testimony; Ex. C-1, Ex. C-4.*

2. The Applicant’s proposal to develop the Site as low-density multifamily housing includes a draft site plan showing townhouse-style apartments in two buildings. Again, the total number of dwelling units following development would be between 7 and 13 units, depending on final layout and building design. Resulting density would fall between 14 and 26 units per acre. The Applicant’s proposed illustrative site plan shows a single access drive into the Site, with the proposed buildings accessing the City’s street system through that common road. Garage parking is provided for two cars per unit. These preliminary plans and all development proposed presently appears to meet the requirements of the R-4-L zoning district. *Id.*

² The public hearing in this matter was conducted using Zoom teleconferencing with both internet visual and audio access, as well as separate telephonic (only) access via call in number on Zoom.

³ This was done in part to address a last minute request from a member of the public near the end of the hearing to continue the hearing to a later date. This request was denied.

⁴ Hereafter, “Finding of Fact” may be abbreviated as “FoF.”

3. The Subject Property currently consists of three lots created under a 2007 short plat. *See Exhibit C-9.* The Site is relatively flat, measuring approximately 66 feet along its A Street frontage, and slightly over 297 feet in depth from east to west. The total area of the Site is approximately 19,628 square feet, as already referenced above. A single-family home is located on the eastern side of the Site, which would be demolished if the rezone is approved, to make way for development moving forward. *Ex. C1, Ex. C-4, Ex. C-9; Schultz Testimony.*

4. The Site is bounded by A Street on the east, and a commercial facility under the same ownership as the Subject Property on the west (facing Pacific Avenue). A Street is a residential right-of-way, 60 feet in width. A Street is scheduled for reconstruction under the City's Streets Initiative. *Id.*

5. The property abutting the Site to the north was rezoned in 2020 for multifamily development (currently in permitting). Property to the south is developed with single-family homes on large lots. Properties to the south are zoned R-2. Larchmont Elementary School is located to the east across A Street. *Schultz Testimony, Rupert Testimony; Ex. C-1, Ex. C-4.*

6. The surrounding neighborhood is a patchwork of various uses. The west property line of the Subject Property is currently the *de facto* boundary between high-intensity commercial uses along the Pacific Avenue corridor and the single-family uses to the east of A Street. In the vicinity of the Subject Property, several parcels have been short-platted with private drives that run perpendicular to A Street and do not continue through to Pacific Avenue. The nearby real property addressed as 8632 A Street will be developed with 15 residential units in two buildings. Other large vacant parcels remain in the area. *Id.*

7. The Site was originally zoned R-2 One-Family Dwelling District in 1953 when the City's zoning code was first established. The Site has not been reclassified since that time. The adjacent parcel fronting Pacific Avenue was rezoned to C-2, General Community Commercial zone in 1985. *Ex. C-1, Schultz Testimony.*

8. In 2003 there were wetlands identified in the vicinity (with a small amount of wetland on the Subject Property). Those wetlands have now been filled in exchange for providing off-site mitigation nearby. The mitigation has been partially completed (and is partially failing) and may be subject to further review and enforcement under critical areas monitoring provisions. The wetland mitigation was not applied for, or performed by the Applicant. *Id.*

9. The City's Comprehensive Plan (the "Comp Plan") Future Land Use Map designates the Site as within the "Multi-Family (Low Density) I" land use category. This designation would support zoning of R-3 or R-4-L, the latter of which is proposed by the Applicant. The target density for R-4-L is 14-36 dwelling units per net acre. The entire area to the east of the commercial zoning along Pacific Avenue has been designated for low-density multi-family uses. *Id.*

10. There have been other rezones in the vicinity along Pacific Avenue as the area has become more commercially-developed. Otherwise, the remainder of the neighborhood retains its original R-2 Single-Family Dwelling District zoning. *Ex. C-1; Schultz Testimony.*

11. The rezone application was determined technically complete on May 27, 2021. *Ex. C-1.*

12. Notice of the Public Hearing was issued on July 8, 2021, and reissued on August 5, 2021, after it was discovered that the site sign had been incorrectly posted. The notice was mailed to owners of record and/or taxpayers of record for property within 400 feet of the Site and mailed and/or e-mailed to the South End Neighborhood Council, qualified neighborhood and business groups, City staff, and outside agencies. A property information sign was posted on the Site, and the Public Hearing Notice was posted on the City's website along with the application documents. *Id.*

13. As part of the review process for the rezone/Project, PDS provided notification of the rezone request to various City departments/divisions, and outside governmental and non-governmental agencies. Departmental comments and requirements regarding the Project are included in the PDS Report primarily at Section K.⁵ These agencies/departments/divisions recommended important conditions they believed would be properly attached to the Project if the rezone is approved by the City Council. *Schultz Testimony; Ex. C-1, Ex. C-6.*

14. Written public comments were taken in by PDS until on or around September 9, 2021, and are in the record as Exhibit C-5. In general, these comments were related to concerns about traffic and safety related to the school crossing near the Site, as well as general concerns about increased density in the neighborhood. *Ex. C-1, Ex. C-5.*

15. Testimony was taken at the hearing from the two neighbors listed at page 2 above. The commenters expressed concerns about the development of the Subject Property leading to increased traffic, crime, transient activity, and possibly leading to lowered property values. Mr. Gore also expressed concern about a tree located near the property line. *Tate Testimony, Gore Testimony.*

16. In rebuttal testimony, the City and the Applicant attempted to address these concerns (from the public testimony portion of the hearing) specifically referencing the A Street right-of-way improvements that are on the horizon, tree retention incentives, and CPTED (Crime Prevention Through Environmental Design) being a part of the Project review process. *Rupert Testimony, Schultz Testimony.*

17. Review under SEPA was required and was conducted by PDS prior to the hearing in this matter. Rezone applications are not exempted from SEPA review. Pursuant to the State's SEPA Rules (WAC 197-11) and the City of Tacoma's Environmental Code (TMC 13.12), the PDS Director issued a Determination of Environmental Non-Significance (again, the "DNS") for the requested rezone based on the intended Project on August 27, 2021. This determination was based on a review of the Applicant's Environmental Checklist and other supporting information on file with PDS. No appeals of the DNS have been filed. The DNS is in the hearing record as Exhibit C-3. *Schultz Testimony; Ex. C-1, Ex. C-3, Ex. C-7.*

18. The Applicant did not express any objection to the City's recommended conditions of approval, as those conditions are set forth in the hearing record. *Rupert Testimony; Exhibit C-1.*

19. The PDS Report (Exhibit C-1) accurately describes the requested rezone and the Project, general and specific facts about the Site, applicable sections of the Comp Plan (Exhibit C-8), and applicable regulatory codes (Exhibit C-7). Again, the PDS Report is included in the record as Exhibit C-

⁵ Departmental comments regarding the Project, more separately from the rezone itself, are set forth in detail in Exhibit C-6.

1, and by this reference, is incorporated herein as though fully set forth. To the extent that anything in the PDS Report conflicts with the contents of this Report and Recommendation, this Report and Recommendation controls.

20. Any conclusion of law herein which may be more properly deemed or considered a finding of fact is hereby adopted as such.

CONCLUSIONS OF LAW:

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding to conduct a hearing and make this written recommendation to the City Council in regard to a reclassification (rezone) request. The final decision on any requested reclassification is made through ordinance by the City Council. *TMC 1.23.050.A.1 and TMC 13.05.110.*

2. The requirements of SEPA have been met by the City's issuance of the DNS,⁶ which has not been appealed.

3. Under TMC 13.05.030.C.b, the applicant for a rezone is required to demonstrate consistency with all of the following criteria:⁷

- (1) That the change of zoning classification is generally consistent with the applicable land use intensity designation of the property, policies, and other pertinent provisions of the Comprehensive Plan.
- (2) That substantial changes in conditions have occurred affecting the use and development of the property that would indicate the requested change of zoning is appropriate. If it is established that a rezone is required to directly implement an express provision or recommendation set forth in the Comprehensive Plan, it is unnecessary to demonstrate changed conditions supporting the requested rezone.
- (3) That the change of the zoning classification is consistent with the district establishment statement for the zoning classification being requested, as set forth in this chapter.
- (4) That the change of the zoning classification will not result in a substantial change to an area-wide rezone action taken by the City Council in the two years preceding the filing of the rezone application. Any application for rezone that was pending, and for which the Hearing Examiner's hearing was held prior to the adoption date of an area-wide rezone, is vested as of the date the application was filed and is exempt from meeting this criteria.
- (5) That the change of zoning classification bears a substantial relationship to the public health, safety, morals, or general welfare.

⁶ See TMC 13.12.430.

⁷ Numbering of the criteria is kept the same as in the TMC for consistency.

4. The Applicant bears the burden of establishing by a preponderance of the evidence that the requested rezone conforms to all of the foregoing criteria, which are addressed below in turn. The Applicants may rely on any evidence in the hearing record. *TMC 1.23.070.A*

5. Consistency with the Comp Plan—TMC 13.05.030.C.b.(1) *“That the change of zoning classification is generally consistent with the applicable land use intensity designation of the property, policies, and other pertinent provisions of the Comprehensive Plan.”*

The Site is currently zoned somewhat vestigially as R-2 Single-Family Dwelling District dating back to the City’s original implementation of zoning regulations in 1953. The Comp Plan has already made moves beyond the existing zoning by designating the area where the Subject Property sits as Multi-Family (Low Density). In other words, the City Council has already determined, through the applicable land use intensity designation of the Subject Property, that it is suited for multi-family use/development.

The foregoing notwithstanding, TMC 13.05.030.C.b.(1) additionally requires general consistency with the “[p]olicies, and other pertinent provisions of the Comprehensive Plan” for a rezone to be approved. The City’s Exhibit C-8 set forth numerous Comp Plan policies and goals that are advanced by the rezone and the Applicant’s intended use of the Subject Property. A review of those policies and goals leads to the conclusion that the rezone and the proposed use of the Subject Property are both “generally consistent” with the policies and pertinent provisions of the Comp Plan. Through the permitting process, City staff will ensure that the Project continues to comply with the TMC and the Comp Plan generally.

Approving the requested rezone moves the Subject Property into conformance with its current Comp Plan designation and promotes the various Comp Plan goals and policies just referenced above. As a result, the Examiner concludes that the standards set forth in TMC 13.05.030.C.b.(1) are met.

5. Substantial Changes—TMC 13.05.030.C.b.(2) *“That substantial changes in conditions have occurred affecting the use and development of the property that would indicate the requested change of zoning is appropriate. If it is established that a rezone is required to directly implement an express provision or recommendation set forth in the Comprehensive Plan, it is unnecessary to demonstrate changed conditions supporting the requested rezone.”*

As the City noted in the PDS Report, at page 7 of 13, zoning and use patterns in the area of the Subject Property have changed gradually since the 1953 R-2 designation was put in place. Multiple rezones have been approved in the area and commercial development is prevalent along Pacific Avenue just a stone’s throw from the Site. “Pacific Avenue has always been an active transportation corridor and is planned for more activity over time” as the City notes. The Comp Plan contains multiple policies that encourage the increased provision/supply of residential uses and increased density near transit corridors such as Pacific Avenue. The requested rezone is in keeping with these changes and allows for development that advances Comp Plan policies applicable to the area.

In addition to the foregoing, and as already referenced above, the requested rezone moves the Subject Property in conformance with its current Comp Plan designation. As such, the requirements of TMC 13.05.030.C.b.(2) are met.

6. District Establishment Statement—TMC 13.05.030.C.b.(3) *“That the change of the zoning classification is consistent with the district establishment statement for the zoning classification being requested, as set forth in this chapter.”*

The R-4-L district establishment statement reads as follows.

R-4-L Low-Density Multiple-Family Dwelling District. This district is intended primarily for low-density multiple-family housing, mobile home parks, retirement homes and group living facilities. It is similar to the R-4 Multiple-Family Dwelling District, but more restrictive site development standards are intended to minimize adverse impacts of permitted and conditional uses on adjoining land. The district is characterized by amenities and services associated with single- and two-family residential districts, and it is located generally along major transportation corridors and between higher and lower intensity uses.

As expressed by the TMC excerpt above, the intent of the R-4-L Low-Density Multiple-Family Dwelling District is “primarily for low-density multiple-family housing, mobile home parks, retirement homes and group living facilities.” The Project proposes low-density multiple-family housing. In addition the Subject Property is located on the backside of a block that fronts Pacific Avenue, a major transportation corridor.

The City (primarily PDS) will need to be diligent, as development plans are refined and permits are applied for, to ensure that the use of the Subject Property remains consistent with the R-4-L zoning requirements for setbacks, landscaping, open space, building design, and parking, and to ensure that development serves as intended by the district establishment statement as an appropriate transition “between higher and lower intensity uses.”

Given the foregoing, the Examiner concludes that the requirements of TMC 13.05.030.C.b.(3) are met.

7. Recent Area-Wide Rezone—TMC 13.05.030.C.b.(4) *“That the change of the zoning classification will not result in a substantial change to an area-wide rezone action taken by the City Council in the two years preceding the filing of the rezone application. Any application for rezone that was pending, and for which the Hearing Examiner’s hearing was held prior to the adoption date of an area-wide rezone, is vested as of the date the application was filed and is exempt from meeting this criteria.”*

The Subject Property has never been rezoned since it was first classified as R-2 in 1953. As a result, the time limitation of TMC 13.05.030.C.b.(4) is not violated, and therefore it does not prevent approval of the present rezone request.

8. Relationship to the Public Welfare—TMC 13.05.030.C.b.(5) *“That the change of zoning classification bears a substantial relationship to the public health, safety, morals, or general welfare.”*

Regarding this criterion, PDS staff provided, in part, the following analysis:

The proposal was reviewed for environmental impacts per the City’s SEPA process. It was determined that the proposal will have no adverse impacts on either the human or built environment – including the future residents on the site.

Further, the City has adopted land use and development regulations to protect the health, safety, and welfare of the community as a whole. In addition to minimum building and safety codes, the applicant will be required to meet all applicable land use development regulations which have been adopted to ensure a quality development that fits in with the vicinity. This includes landscaping requirements, parking standards, tree canopy coverage, design standards, and setback regulations.

Finally, the City has multiple goals and policies related to the creation of multiple types and styles of housing to be available to multiple types of households. The applicant proposes to provide 11-15 additional units of housing near a major transportation corridor, in walking distance to a school and outdoor recreation.

As City staff noted in the PDS Report, the TMC and Comp Plan set forth policies, regulations and requirements, including design and development standards, aimed at regulating growth and development to ensure consistency with the public health, safety, morals and general welfare. The permit review process, which takes place as development of the Subject Property proceeds, will ensure that the intended development of the Subject Property is consistent with the public health, safety, morals and general welfare of the community, will ensure compliance with applicable laws and development regulations, and will address stated neighborhood concerns. Requiring compliance with applicable development regulations and standards, together with the conditions set forth herein, will adequately safeguard the public, and ensure compatibility with the surrounding community.

In addition to the foregoing, the city of Tacoma, as well as western Washington in general, has been experiencing a shortage in available housing, and more particularly in available affordable housing. Increasing the available housing supply in the City helps address this public health, safety and welfare concern by increasing the available supply of housing, and by increasing the supply, hopefully helping to stabilize or even reduce costs.

Given the foregoing, the Examiner concludes that the requirements of TMC 13.05.030.C.b.(5) are met or will be met through the development of the Project as conditioned herein, and as regulated in the TMC.

9. Findings entered herein, based on substantial evidence in the hearing record, support a conclusion that the proposed rezone is consistent with the applicable criteria and standards for rezones set forth in TMC 13.05.030.C.b.

10. Accordingly, the requested rezone is recommended for approval subject to the following conditions:

A. CONDITIONS OF APPROVAL: “Conditions” set forth herein are derived primarily from the PDS Report and the City staff review generally. As is typical with a rezone recommendation, the conditions below have more to do with the code compliance of the Applicant’s intended development of the Subject Property (the Project) after approval of the requested rezone than they do with the rezone

request in isolation, i.e., they are not recommended herein as conditions precedent to approving the rezone that must be satisfied before approval issues. Compliance with later development conditions prior to approving the rezone is, in most cases, physically and temporally impossible.

As set forth at FoF 19 above, the PDS Report is incorporated herein by reference. The Applicant should also continue to pay close attention to the City's Exhibit C-6 and the useful guidance and notice of development requirements that are enumerated therein, even though those requirements may not be set forth in the body of this Report and Recommendation.

City Council approval of the requested rezone, if obtained, does not release the Applicant from state, City, or other permitting requirements for subsequent development of the Subject Property, nor does anything in this Report and Recommendation take precedence over application of, and compliance with, the TMC. *See Usual Condition 2 below.*

Therefore, should the City Council approve this rezone request, the Examiner recommends making the following conditions from the hearing record on-going conditions of the rezone, and subsequent permits applicable to the Project should reflect the same:

1. LAND USE

- a. Any future development of the Site shall be consistent with the R-4-L Low-Density Multiple-Family Dwelling District development standards (TMC 13.06.020), the Landscaping Code (TMC 13.06.090.B), Parking Code (TMC 13.06.090.C), Transit Support Facilities (TMC 13.06.090.H), Bicycle and Pedestrian Support Standards (TMC 13.06.090.F), all other applicable sections of the Tacoma Municipal Code, and the conditions of this Report and Recommendation.
- b. At the time of permitting, the Applicant must demonstrate how the design of any proposed buildings is used to create high-quality development that fits in with the surrounding neighborhood. In addition to compliance with the design standards for the R-4-L District, this will include façade orientation toward A street, enhanced site design for landscaping and paved areas, building detailing, and/or architectural lighting.
- c. The required Landscape Plan shall provide the type, size and location of trees, shrubs, and groundcover plan for the site, to include open yard space, site perimeter, and tree canopy coverage. Retaining existing mature trees should be favored.

2. PEDESTRIAN/BICYCLE ACCESS

- a. The Applicant shall reserve a minimum 10-foot pedestrian easement with a minimum 5-foot pathway for the use of the residents of the Subject Property to access Pacific Avenue. CPTED elements must be considered in the design and use of the pathway.

- b. The driveway alignment for the development/Project shall be designed and located per Public Works standards (see Public Works – Traffic comments in Exhibit C-6).
- c. Directional curb ramps shall be provided at the intersection of A Street and East 86th Street, per the comments from Public Works. These will be shown on the Work Order associated with the development/Project.

3. GENERAL

Prior to obtaining building or grading permits, the Applicant shall contact the appropriate City departments and outside agencies to make the necessary arrangements for all required improvements. The required departmental approvals shall be acquired from, but not necessarily limited to, Planning and Development Services (253-591-5030), Tacoma Power (253-383-2471), Tacoma Water (253-383-2471), and Public Works Department (253-591-5525), as well as the Tacoma-Pierce County Health Department and Washington Department of Ecology.

B. USUAL CONDITIONS:

- 1. The recommendation and decision set forth herein is based upon representations made and exhibits, including development plans and proposals and intended use, submitted at the hearing conducted by the Hearing Examiner. Any **material** change(s) or deviations(s) in such development plans, proposals, or conditions of approval imposed shall be subject to the approval of the Hearing Examiner and may require additional review/hearings.
- 2. If the recommendation made herein leads to approval of the requested rezone, such approval shall be subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such law, regulations, and ordinances are on-going conditions to any approval granted and are a continuing requirement of such approvals. By accepting any resulting approval, the Applicant represents that the development (the Project) and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development (the Project) and activities permitted do not comply with such laws, regulations, and ordinances, the Applicant shall promptly bring such development or activities into compliance.

11. Any finding of fact herein which may be more properly deemed or considered a conclusion of law is hereby adopted as such.

RECOMMENDATION:

The Hearing Examiner recommends approval of the requested rezone, subject to the above listed conditions.

DATED this 29th day of September, 2021.



JEFF H. CAPELL, Hearing Examiner

NOTICE

RECONSIDERATION/APPEAL OF EXAMINER'S RECOMMENDATION

RECONSIDERATION:

Any aggrieved person or entity having standing under the ordinance governing the matter, or as otherwise provided by law, may file a motion with the office of the Hearing Examiner requesting reconsideration of a decision or recommendation entered by the Examiner. A motion for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the Examiner's decision/recommendation, not counting the day of issuance of the decision/recommendation. If the last day for filing the motion for reconsideration falls on a weekend day or a holiday, the last day for filing shall be the next working day. The requirements set forth herein regarding the time limits for filing of motions for reconsideration and contents of such motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed with the Office of the Hearing Examiner or do not set forth the alleged errors shall be dismissed by the Examiner. It shall be within the sole discretion of the Examiner to determine whether an opportunity shall be given to other parties for response to a motion for reconsideration. The Examiner, after a review of the matter, shall take such further action as he/she deems appropriate, which may include the issuance of a revised decision/recommendation. (*TMC 1.23.140*).

APPEALS TO CITY COUNCIL OF EXAMINER'S RECOMMENDATION:

Within 14 days of the issuance of the Hearing Examiner's final recommendation, any aggrieved person or entity having standing under the ordinance governing such application and feeling that the recommendation of the Examiner is based on errors of procedure, fact or law shall have the right to appeal the recommendation of the Examiner by filing written notice of appeal with the City Clerk, stating the reasons the Examiner's recommendation was in error.

Appeals shall be reviewed and acted upon by the City Council in accordance with *TMC 1.70*.

GENERAL PROCEDURES FOR APPEAL:

The Official Code of the City of Tacoma contains certain procedures for appeal, and while not listing all of these procedures here, you should be aware of the following items which are essential to your appeal. Any answers to questions on the proper procedure for appeal may be found in the City Code sections heretofore cited:

1. The written request for review shall also state where the Examiner's findings or conclusions were in error.
2. Any person who desires a copy of the electronic recording must pay the cost of reproducing the tapes. If a person desires a written transcript, he or she shall arrange for transcription and pay the cost thereof.

Once the permit decisions are finalized, any appeal thereof should be taken pursuant to the provisions of the Land Use Petition Act (LUPA, RCW 36.70C).

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**