

**CITY OF TACOMA**

**OFFICE OF THE HEARING EXAMINER**

**PRELIMINARY PLAT DECISION**

**APPLICANT:** Stevens Canyon LLC (herein, the “Applicant”).

**FILE NO.:** HEX 2021-009 (LU20-0029).

**SUMMARY OF REQUEST:**

The Applicant has requested preliminary approval of a plat that would subdivide 2.58 acres of land into twelve (12) single-family residential lots, with a public roadway and utilities, site drainage, open space tract and wetland tract with a buffer (herein the “Plat”). The Applicant also seeks approval of a Wetland Minor Development Permit (“WMDP”) attendant to the Hearing Examiner’s review of the Plat.

**LOCATION:**

The site is addressed as 5836 South Mason Avenue and is situated within Section 24, Township 20, Range 02, Quarter 31 in South Tacoma. The site is located within the City’s “R-2” Single-Family Dwelling District and the South Tacoma Groundwater Protection Overlay Zone and contains a wetland on the southwesterly portion of the property (herein, the “Site” or the “Subject Property”).

**DECISION:**

The proposed Plat<sup>1</sup> is granted preliminary approval, subject to the conditions set forth herein.

**PUBLIC HEARING:**<sup>2</sup>

After reviewing the City of Tacoma (“City”) Planning and Development Services Department’s (“PDS”) Preliminary Report (the “PDS Report”) on the Plat, and examining available information on file with the application, the Hearing Examiner conducted a public hearing on the application on April 1, 2021. Approximately 17 people were in attendance throughout.

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<sup>1</sup> Where the defined Plat is referred to simply as “the Plat,” it is to be understood that the Plat is still proposed as a *preliminary* plat and not final in any sense.

<sup>2</sup> Due to National, State of Washington and City of Tacoma Proclamations of Emergency made in response to the COVID-19 virus, the City of Tacoma closed the Tacoma Municipal Building to the public until further notice on or around March 17, 2020. As a result, the public hearing in this matter was conducted virtually using Zoom teleconferencing with both internet and telephonic access.

**ATTENDING AND TESTIFYING:**

**Present and testifying for the City were:**

John Harrington, Principal Planner, PDS (City’s chief witness),  
Shannon Brenner, Environmental Specialist-Biologist, PDS.

**Present and Testifying for the Applicant were:**

Stephen Bridgeford, P.E., Sr. Land Planner, Contour Engineering LLC,  
Mike Goularte, E.I.T., Project Engineer, Contour Engineering LLC,  
Matt De Caro, Associate Principal/Sr. Scientist, Soundview Consultants LLC.

**Members of the Public Present and Testifying:**

Yvonne Combs, a neighbor to the Plat,  
Jennifer Bullis, a neighbor to the Plat,  
Paula Smith, a neighbor to the Plat,  
James Jolly, a neighbor to the Plat,  
Robert Oxborrow, a neighbor to the Plat,  
Brandon Smith, a neighbor to the Plat.

**FINDINGS, CONCLUSIONS, AND DECISION:**

**FINDINGS OF FACT:**

1. Stevens Canyon LLC (as above, the “Applicant”) is seeking preliminary plat approval to subdivide the Subject Property into 12 single-family dwelling lots ranging in size from approximately 4,545 square feet to 7,433 square feet. The new residential lots will average 5,149 square feet in size and have a net density of approximately 8.46 dwelling units per acre. The proposed wetland tract and road tract are not included in the net density calculation. *Harrington Testimony, Bridgeford Testimony; Ex. C-1~ C-3, Ex. C-11.*

2. The new home sites will have access off of a new 52-foot wide paved public cul-de-sac-like road (herein the “Plat Road”).<sup>3</sup> The Plat Road is intended to be dedicated to the public. The Plat Road will connect up to South 60th Street at the south entrance to the Plat and will extend north, curving slightly eastward to miss the proposed wetland buffer, and then continuing north to a hammerhead turnaround that will be located, at least in part, in what is presently undeveloped South 58th Street right-of-way. Additional right-of-way will be dedicated at the northwest corner of the subdivision for a potential extension of South 58th Street westward to South Verde Street, should the property to the west be subdivided. The Plat Road will be improved with a 28-foot-wide paved road surface and concrete curb, gutter and sidewalk. There will not be any sidewalk adjacent to the wetland tract, Tract A on the west side of the Plat Road, however. *Id.*

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<sup>3</sup> The actual north end turnaround of the Plat Road is a hammerhead configuration, rather than a more traditional rounded cul-de-sac with houses on the periphery.

3. The Site is comprised of two parcels in a somewhat rectangular shape totaling 2.58 acres with approximately 462 feet of frontage on South Mason Avenue and a width of approximately 240 feet. The Subject Property is fairly flat on the west half and slopes upward to the east to South Mason Street (25-40% slope). It is covered with grasses, shrubs and trees presently. To the west of the Site, the land slopes upward again creating the canyon-like setting that the subdivision is named after. The Site has 50 feet of frontage on South 60th Street on its south side. There are currently no improvements on the Subject Property. South 60th Street, the access point into the Plat, is an 80-foot wide local access road with a substandard gravel surface only 15 feet wide. There is no curb, gutter or sidewalk on South 60th Street presently. South 60th Street rises 20 feet to the east where it intersects with South Mason Avenue. The primary parcel that will become part of the Plat has never been subdivided, while the other small parent parcel at the south end of the Site adjacent to the alley comes from the east 52 feet of Lots 1-3 of Block 4 of the Cedar Grove Addition Plat. *Harrington Testimony; Ex. C-1, Ex. C-11.*

4. The predominant land use in the vicinity of the Site is single family residences. Subdivision lots in the area improved with a single-family residence have estimated values ranging from \$299,000 to \$516,000 on the smaller lots to the south and up to \$674,000 on the larger lots on the ridge east of South Mason Avenue according to Zillow. There is one duplex on the east side of South Mason Avenue, which was approved prior to 1997 when the applicable zoning was R-3. *Harrington Testimony; Ex. C-1, Ex. C-11.*

5. The residential subdivisions in the surrounding vicinity of the Subject Property were mostly developed in the late 1970s and 1980s with lot sizes ranging from 4,486 to 43,553 square feet. The subdivision proposed by the Plat is generally consistent with the existing subdivision pattern and characteristics in and around the Site. *Id.*

6. The Site was originally subject to two zoning classifications in 1953 with the west half zoned "R-2" Single-Family Dwelling District and the east half zoned "R-3" Two-Family Dwelling District. The east half and the land east to Tyler Street was rezoned to R-2 in 1997 (from R-3), along with the reclassification of the ½ block area shown in yellow in the zoning map at page 4 of 23 of the PDS Report. The zoning controls applicable to the Subject Property also include the South Tacoma Groundwater Protection District ("STGPD") overlay. This overlay district is in place to protect groundwater areas that recharge municipal water wells from commercial and industrial businesses that store and use significant quantities of potentially hazardous materials. The STGPD does not have any relevance to the residential uses proposed for the Plat, however. The proposed lot sizes, residential density and single family dwelling land use are all permitted within the existing R2-STGPD zoning. *Id.*

7. The current land use designation for the Subject Property under the One Tacoma Comprehensive Land Use Plan (the "Comp Plan") is Single Family Residential. The properties to the north and southeast are designated Multi-Family Low Density, which is suitable for duplexes, triplexes, and low rise apartments. The properties located northeast of the Site on the east side of South Tyler Street are designated Heavy Industrial. There is a 20+ foot rise from the elevation of the new road up to South Mason Avenue. The proposed lot sizes, residential density and single-family dwelling land use are supported within the Comp Plan's Single Family Residential designation that has a density range of 6-12 dwelling units per net acre. *Harrington Testimony; Ex. C-1, Ex. C-11.*

8. The current no-outlet design, using the hammerhead turnaround, is not favored in the City's design regulations for plats, however it is necessitated by the steep slopes present in the South 58th Street corridor eastward to South Mason Avenue. Development of, and access to the unplatted property to the west of the Site is accounted for by making provisions for future connection to South Verde Street to the west with the dedication of additional right-of-way. *Harrington Testimony; Ex. C-1, Ex. C-11.*

9. The Subject Property falls under two Critical Area designations: one for a wetland in the southwest corner of the proposed subdivision, and another for the steep slopes along the entire length of the east side of the Site. As part of City staff review, the Plat layout was reviewed by a PDS Environmental Specialist for the wetland and a geotech engineer for the steep slopes. *Harrington Testimony, Brenner Testimony; Ex. C-1, Ex. C-1A, Ex. C-4, Ex. C-5, Ex. C-11.*

10. Tract A of the Plat contains a Category IV wetland which normally requires a buffer of 50 feet on the periphery of the delineated wetland. No improvements are proposed in the wetland or modified buffer (more below); however, the wetland will play some role as a stormwater control facility for a portion of the Plat in that some storm water from the Plat will make its way to the wetland through percolation into the ground and groundwater, thereby helping to control storm water in the Plat and helping to maintain the present hydrology of the wetland. *Harrington Testimony, Brenner Testimony, Goularte Testimony; Ex. C-1, Ex. C-1A, Ex. C-2, Ex. C-4, Ex. C-11.*

11. The City's analysis of the wetland concluded that a reduction to the otherwise required 50-foot buffer to 44 feet (at its narrowest) along the eastern edge was warranted under the Tacoma Municipal Code ("TMC"),<sup>4</sup> provided that certain mitigating actions are taken by the Applicant when developing the Subject Property. These mitigation measures include the removal and management of non-native invasive vegetation and planting of native vegetation to improve diversity throughout the buffer, and are included, along with others, in the Conditions of Approval set forth in Section A. following the Conclusions of Law below. The City's analysis of the steep slopes concluded that they could be protected and protected against primarily through retaining walls constructed as part of the development of the Plat. *Brenner Testimony, Goularte Testimony; Ex. C-1, Ex. C-1A, Ex. C-2, Ex. C-4, Ex. C-5, Ex. C-11.*

12. Sanitary sewer and power lines run north-south in the alley stub at the south end of the Plat. There are water distribution lines in South Stevens Street to the southwest and in South Mason Avenue to the east. Storm sewer facilities are located in South Stevens Street. Extensions of the water, sanitary and storm sewer, and power lines will be required into the new subdivision within the Plat Road to provide service to the new lots. A new fire hydrant will be required near the hammerhead turnaround. Later water pressure modeling may require the water lines in South Stevens Street and South Mason Avenue to be linked to provide proper water pressure for fire flow at the hydrant. Stormwater is proposed to be collected in catch basins within the Plat Road with flow in a pipe emptying into an existing natural open drainage ditch that flows south from the wetland and curves westward just north of South 60th Street and again enters a pipe to a

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<sup>4</sup> See discussion at Conclusion of Law 11 below.

catch basin at the northeast corner of South Stevens and South 60th Streets. *Harrington Testimony; Ex. C-1.*

13. The nearest Pierce Transit bus stop is for the Route 53 – University Place bus at a distance of .42 miles south where South Mason Avenue intersects with South 66th Street. This bus cycles every 30 minutes during peak service between the Tacoma Community College Transit Center and the Tacoma Mall Transit Center. The Transit Priority Network includes the nearby arterials of South 56th Street, South 66th Street and South Tyler Street. No comments were received from Pierce Transit regarding the Plat application. *Id.*

14. A 5-foot wide asphalt surface pedestrian walkway will be provided on the north side of South 60th Street from the subdivision’s south entrance to South Mason Avenue if improvements to South 60th Street are not completed prior to application for final plat. Street improvements on South 60th Street (24-foot paved surface, and curb, gutter and sidewalk on the north side of the street) will be required to be constructed by the Applicant/developer of the new lot at the northwest corner of South 60th Street and South Mason Avenue when a new home is built. *Id.*

15. Educational facilities that will serve K-12 students living in the Plat (with distance and direction from the Site) are: Manitou Elementary (.42 miles to the south), Gray Middle School (.3 miles to the southeast) and Mount Tahoma High School (1.34 miles to the south). The Tacoma School District submitted no comments or concerns regarding the Plat application. *Id.*

16. Tacoma Metro Parks within a mile of the Site include the “SERA” South End Recreational Area Playfield just east of Gray Middle School, and Manitou Park adjacent to Manitou Elementary School. There were no comments submitted by Metro Parks regarding the Plat application. *Ex. C-1.*

17. The Plat is located in the South Tacoma Neighborhood District. There were no comments submitted by the South Tacoma Neighborhood Council regarding the Plat. *Id.*

18. Public notice of the Plat application and public hearing was mailed to owners of record and/or taxpayers of record for all properties within 1,000 feet of the Site on February 19, 2021. Public notice signs were posted on the Site referencing the subdivision and Minor Development permit for the wetland. Notice was also posted on the City’s internet website, and notice of the hearing was published in the Tacoma Daily Index on February 19, 2021. *Ex. C-1, Ex. C-11.*

19. A number of comments were received from property owners who had received notice postcards. Stated concerns included: (a) impacts to the wetland and the lack of formal SEPA review with a wetland being involved, (b) stormwater management concerns specifically stating that standing water was a problem in the neighborhood during the wet season, (c) the perceived need for improvements to roads (South Mason Avenue and South 60th Street) leading to the Site, (d) provision of new utilities, and (e) increased traffic from the new houses and layout of Plat Road in relation to existing residential structures north of the Site.

20. Testimony at the hearing centered on these areas as well with the addition of concerns regarding (i) the narrow width of South Mason Avenue and garbage pickup from the

Plat, (ii) retaining walls in the Plat, (iii) vegetation behind the proposed houses along South Mason Avenue, (iv) loss of the existing green space that is the Subject Property currently, (v) speculation regarding wildlife on the Subject Property, and (vi) loss of usable lot area due to opening, in part, of the South 58th Street right-of-way. During rebuttal, the City and the Applicant addressed these concerns. *Id.*

21. Pursuant to the State’s SEPA Rules (WAC 197-11) and the City of Tacoma’s Environmental Code (TMC 13.12), the proposed 12-lot subdivision and Wetland Minor Development Permit are exempt from SEPA review. SEPA review is only required for sites that have wetlands when a full CAPO Development Permit is required for the wetland site (TMC 13.12.310). Since only a Minor Development Permit was required, SEPA review was not required. Here, the Applicant will not be making any built improvements in the wetland or the buffer, only mitigation enhancements in the form of improved vegetation. *Harrington Testimony, Brenner Testimony, Goularte Testimony; Ex. C-1A, Ex. C-4.*

22. The PDS Report, entered into the record as Exhibit C-1, is generally accurate in its description of the Plat, general and specific facts about the Site, applicable sections of the Comp Plan, and applicable regulatory codes. The PDS Report is incorporated herein by reference as though fully set forth. That notwithstanding, to the extent that anything in the PDS Report conflicts with the content of this Decision, this Decision shall control.

23. Any conclusion of law below, which may be more properly deemed or considered a finding of fact (“FoF”), is hereby adopted as such.

### **CONCLUSIONS OF LAW:**

1. The Hearing Examiner has jurisdiction over the Plat pursuant to TMC 1.23.050.B.1 and TMC 13.04.100.D. Authority regarding the Examiner’s initial review and approval of the WMDP comes from TMC 1.23.120 and TMC 13.05.110.C, which allow decisions on permits not otherwise typically considered by the Hearing Examiner to be consolidated with proceedings over which the Examiner has original jurisdiction or which require a public hearing.

2. The Applicant bears the burden of proving by a preponderance of the evidence that its request for preliminary plat approval conforms to the applicable requirements for that approval, and that the WMDP also meets the criteria for approving the same. *TMC 1.23.070.C*. The preponderance of the evidence standard requires “that the evidence establish the proposition at issue is more probably true than not true.”<sup>5</sup>

3. No SEPA review was necessary here because the preliminary plat creates fewer than 20 new residential lots. As a result, no requirements were recommended to become part of the approval through SEPA review/authority. *WAC 197-11-800; TMC 13.12.410.A.*

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<sup>5</sup> *Mohr v. Grant*, 153 Wn.2d 812, 822, 108 P.3d 768 (2005) (plurality opinion); *In re Pers. Restraint of Schley*, 191 Wn.2d 278, 286-287, 421 P.3d 951, 957 (2018).

4. Under TMC 13.04.100.D, “The preliminary plat shall not be approved unless it is found that:

1. Appropriate provisions are made for the public health, safety, and general welfare, and for open spaces; stormwater management; streets or roads; alleys; other public ways; bicycle circulation; transit stops; potable water supplies; sanitary wastes; parks and recreation; playgrounds; schools and school grounds; and all other relevant facilities, including sidewalks and other planning features which assure safe walking conditions for students who walk to and from school and for transit patrons who walk to bus stops or commuter rail stations.
2. The public use and interest will be served by the platting of such subdivision and dedication as set forth by the Comprehensive Plan and other Adopted City Ordinances, manuals, design specifications, plans, goals, policies, and guidelines.” *TMC 13.04.100.D.1-2.*<sup>6</sup>

5. In addition to the requirements of TMC 13.04.100.D above, TMC 13.04.110 states that a proposed preliminary plat should also comply with the requirements set forth in TMC 13.04.120 through 13.04.230 as the “minimum standards of design and development... to which a subdivision plat... must conform for approval.”<sup>7</sup> Again, the Applicant bears the burden of establishing, by a preponderance of the evidence that the requested preliminary Plat conforms to all of these criteria. *TMC 1.23.070*. The foregoing notwithstanding, TMC 13.04.110 allows the Hearing Examiner or the PDS Director to waive “strict application” of these minimum standards upon a finding “that unique circumstances exist that make the strict application of the standards unreasonable.”

6. “Approval of the preliminary plat is a *tentative approval* and does not constitute final acceptance of the plat.” *TMC 13.04.100.D.2*. [Emphasis added.] Often, much of the actual compliance with conditions required in a preliminary plat approval comes later through the plat finalization process, and even more so in the actual process of developing the Subject Property in accordance with all required conditions and applicable code provisions. At the preliminary approval phase, it is mostly a matter of agreeing to be bound by compliance conditions. TMC 13.04.100.D.2 continues on with the following:

Approval of the preliminary plat, however, shall be assurance to the subdivider that the final plat will be approved; provided, that:

- a. The final plat substantially conforms to the approved preliminary plat.

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<sup>6</sup> Numbering of these subsections is maintained the same as in the TMC text.

<sup>7</sup> These sections and the requirements set forth therein are incorporated herein by this reference even though not reproduced verbatim, and will be addressed below. Many of the listed compliance items in TMC 13.04.100.D.1 have a certain amount of subject matter overlap with the requirements spelled out in TMC 13.04.120-.230.

- b. All requirements specified for the final plat are fully complied with.  
[Emphasis added.]

7. Compliance with TMC 13.04.100.D.1; “Appropriate Provisions are made for the public health, safety, and general welfare, and for open spaces; stormwater management; streets or roads; alleys; other public ways; bicycle circulation; transit stops; potable water supplies; sanitary wastes; parks and recreation; playgrounds; schools and school grounds; and all other relevant facilities, including sidewalks and other planning features which assure safe walking conditions for students who walk to and from school and for transit patrons who walk to bus stops or commuter rail stations.”

The Plat’s proposed utility infrastructure and amenities, as will be augmented by the various requirements set forth in the Conditions of Approval at Section A. below, combined with the existing available infrastructure and amenities in and around the Subject Property will be sufficient to serve the future residents of the Plat and appropriately provide for the items listed in TMC 13.04.100.D.1. The Section A. approval/development Conditions further insure (a) that the development of the Plat will take place in a manner that is consistent with the public health, safety, and general welfare, and (b) that the residential development of 12 new single-family homes will be consistent with all applicable provisions of city and state law.

Open spaces will be provided through yard space requirements in each given lot and are further provided by the wetland tract and in nearby park amenities. A preliminary stormwater plan has been made and will be further enhanced and brought into compliance with the City’s code and stormwater manual as the Plat review process continues, and finalized during development. Access is provided through the Plat Road which will also have sidewalks for the majority of its length facilitating walking and biking. Necessary utilities are present at reasonable distances from the Plat that can be extended and made available to serve the Plat. Public transit is available within a reasonable distance as well.<sup>8</sup>

As a result, the Examiner concludes that the requirements of TMC 13.04.100.D.1 are met. *See FsoF 12~16.*<sup>9</sup>

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<sup>8</sup> Some concern was expressed at the hearing that .42 miles was too far to be considered reasonably available. While this distance is not ideal, it is not unreasonable to the point of being grounds to deny approval here. The Examiner, who is fast approaching full on senior citizenship, walks at least .4 miles everyday with his less than athletic eight-year-old dog.

<sup>9</sup> It was argued at the hearing by a commenter that without regard to whether the Plat meets the City’s code requirements for approval, the Examiner could nonetheless deny approval. This argument is incorrect. Review and approval of a preliminary plat must take into account the facts and circumstances shown through the evidence presented and match them up with the applicable law to render a decision. The Examiner does not have unfettered discretion to deny approval without regard to the actual evidence presented and how that evidence aligns with the law.

8. Compliance with TMC 13.04.100.D.2: Public Use and Interest, Consistency with the Comp Plan and other Adopted City Ordinances, Manuals, Design Specifications, Plans, Goals, Policies, and Guidelines:

The Plat and intended development of the Subject Property are consistent with existing zoning and Comp Plan designations. Development of the Subject Property in compliance with the Section A. Conditions set forth below, both during the process leading to final plat approval, and during the actual development of the Subject Property, will ensure that the requirements of TMC 13.04.100.D.2 are met. *See FsoF 6 and 7.*

Additionally, it is very much in the public interest, at present, to increase the available housing stock in the Tacoma market. It is beyond questioning that housing in Tacoma is in short supply and affordable housing even more so. With the increase in supply that the Plat will eventually provide, affordability will hopefully be affected positively as well, if for no other reason, due to the forces of supply and demand.

Compliance with TMC 13.04.120 through .230:

9. There is a good deal of subject matter overlap in the listed items that a preliminary plat must make appropriate provisions for in TMC 13.04.100.D.1 and the more broken out requirements set forth in TMC 13.04.120 through .230. The PDS Report and overall hearing record addresses these issues as did testimony at the hearing specifically. Again, many of the “requirements” of these sections find the majority of their compliance in the actual development of the Plat complying with the conditions of approval set forth herein below, but there must be some accounting for these factors out of the gate at the preliminary plat approval stage. It should also be noted here that many of these “requirements” in Sections .120-.230 are not absolute, being conditioned with language like “In general,”<sup>10</sup> “Whenever feasible,”<sup>11</sup> and “In cases where...is impractical...”<sup>12</sup>

Specifically, these TMC sections and their requirements are complied with, or will be complied with (or waived) as follows:

(a) TMC 13.04.120—Conformity to the Comprehensive Plan and the Major Street Plan and applicable ordinances, manuals, design specifications, plans and guidelines.

As stated in Conclusion of Law 7, the proposed Plat and its intended residential development are consistent with the existing R-2 zoning in effect at the Subject Property. The Plat also conforms to the current Comp Plan designation. *FsoF 6 and 7.* Ultimately, development of the Subject Property in compliance with the conditions set forth herein will ensure that the remainder of this requirement (TMC 13.04.120) is complied with sufficiently.

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<sup>10</sup> TMC 13.04.180.

<sup>11</sup> TMC 13.04.190.

<sup>12</sup> TMC 13.04.160.

(b) TMC 13.04.130—Relation to adjoining street system.

The Plat Road will serve as ingress and egress for the Plat connecting to South 60th Street which is part of the City's street system. This requirement is adequately addressed. The hammerhead dead-end is not ideal, but is appropriate here at present since any connection to South Mason Avenue via what is currently unopened South 58th Street is impractical due to the slope present at the northeast end of the Subject Property.

(c) TMC 13.04.140—Access.

The Plat (and Plat Road) provide(s) adequate access for the Subject Property and the lots to be created, together with connection to the City's street system at the south end of the Plat to South 60th Street.

(d) TMC 13.04.150—Conformity to topography.

The proposed Plat, conforms adequately enough to the topography present at the Subject Property to be approved. Modifications have been made to leave the wetland as untouched as possible, and development has been limited to the center, flatter areas in order to avoid the steep slopes as much as possible.

(e) TMC 13.04.160—Public or private streets or ways, or permanent access easement widths.

The Examiner concludes that the proposed width of the Plat Road running through the Plat is sufficient for the proposed development, as well as emergency vehicle access.

(f) TMC 13.04.165—Streetlights.

Streetlights must be provided in accordance with this section and other applicable provisions of the TMC at an appropriate time as the development progresses.

(g) TMC 13.04.170—Roadways.

The Plat Road is intended to be dedicated as public right-of-way. It appears to be adequate in width for the intended purpose of access, both for residents of the Plat and for public/emergency services. The final plat approval process may impose additional requirements in order to meet City right-of-way standards.

(h) TMC 13.04.180—Public or private streets or ways, or permanent access easement design.

Ultimate compliance with this condition will be determined at the permitting/work order stage of development.

(i) TMC 13.04.190—Dead-end/cul-de-sac public or private streets or ways, or permanent access easements.

Strict application of this provision is waived based on City staff review and further due to topographical/slope constraints mentioned above.

(j) TMC 13.04.200—Alleys.

No alleyways play a material role in the Plat.

(k) TMC 13.04.210—Easements.

City easement requirements are addressed in the Section A. Conditions of Approval below, and will be further addressed as the development process unfolds.

(l) TMC 13.04.220—Blocks.

The Plat does not appear to cover a full city block, nor is the Plat itself broken into blocks. It would appear that this requirement is not applicable here.

(m) TMC 13.04.230—Lots.

As currently proposed, the lots in the Plat will materially comply with this section's requirement for "All side lot lines [ ] [to] be at right angles to public or private street or way,... or radial to curved lines,..."

10. The Examiner concludes that, where absolute, the requirements of TMC 13.04.120 through .230 above are met, or will be met, through the development proceeding as set forth in the application and the proposed Plat map, as addressed in the PDS Report, and as testified to at the hearing. In cases where there is flexibility in the "requirements" of these sections arising from the language of any given section, the development of the Plat, as conditioned herein, meets the intent of the TMC sufficiently.

11. TMC 13.11.220.B.2 Wetland Minor Development Permit.

TMC 13.11.220.B.2 provides that "A Minor Development permit may be issued when an applicant cannot meet the minimum buffer requirements or where the Director [Examiner here] determines that the proposal will result in temporary, minor, or de-minimis impacts to the buffer or critical area." Here, the Applicant seeks to reduce the wetland's buffer a maximum of six feet along one side only to 44 feet. As Brenner pointed out during the hearing (and in her written analysis—Exhibit C-1A), TMC 13.11.330 already allows for a reduction of the Category IV buffer to 40 feet. The Applicant has asked for less than this allowance and only along one side. The evidence in the record and presented at the hearing shows by a preponderance that impacts to the wetland, if any, will be minor and sufficiently mitigated through vegetation improvements. As a result, the WMDP meets the requirements for approval. *FsoF 9-11.*

12. Accordingly, the Plat is preliminarily approved and the WMDP is also hereby approved subject to the following conditions:

**SECTION A. CONDITIONS OF APPROVAL:** “Conditions” set forth herein are derived primarily from the PDS Report, other submissions in the record, and testimony from the hearing. Compliance with (i.e., final satisfaction of) many of the conditions below will be achieved through the Applicant’s development of the Subject Property after finalization of the Plat (assuming final approval of the Plat) rather than through this preliminary approval process. On-going compliance with these conditions as the development progresses is required, however.

As set forth at FoF 22 above, the PDS Report is incorporated herein by reference. Some of the more general language from section K. of the PDS Report (“Recommendation and Conditions of Approval”) may not be repeated here even though the majority is. That does not mean that the Applicant should not still reference helpful language from the Staff Report as guidance for its development process, and it also does not mean that some of these very general “conditions” *will not* apply to finalization of the Plat or the later development of the Subject Property, or that the recommendations are not also good guidelines to follow.

To the extent that any express language in the PDS Report conflicts with the language in this Decision, this Decision shall control. Omission of any language from the PDS Report in this Preliminary Plat Decision does not constitute a conflict.

As already stated at Conclusion of Law 6, this approval of the Plat is preliminary in nature. The preliminary Plat must still be finalized in accordance with controlling state law and the TMC. Approval of the preliminary Plat herein does not release the Applicant from state or other permitting requirements for subsequent development of the Subject Property, nor does anything in this Decision take precedence over application of, and compliance with, the TMC. *See Usual Condition 2 below.*

1. **BUILDING AND LAND USE**

- a. Any future development of the residential lots in the Plat shall be consistent with the “R-2” Single-family Dwelling District (TMC 13.06.020), the Small-lot Single Family Residential development requirements in TMC 13.06.020.K and TMC 13.06.100.F and all other applicable sections of the TMC.
- b. Development of the subdivision (the Plat) and lots will further comply with the approved lot subdivision plat design and landscape standards in TMC 13.06.502.
- c. Easements for roof drains (that lead to lines/pipes crossing other owner’s property) will need to be shown on final plat map.
- d. Construction shall meet applicable building codes at the time of building permit submittal acceptance.
- e. The intent of the TMC regarding Critical Areas and hazards is to identify the level of hazard and provide steps for addressing these hazards based on site investigation by a licensed professional. Avoidance of potential hazards is the primary objective, with allowances for modified setbacks based on the level of potential hazard as outlined in the

TMC. The Site has slopes and a geotechnical professional has evaluated those potential geohazards. In this case, the Site primarily consists of moderate slopes less than 40% and elevation changes of close to 20' that are addressed per TMC 13.11.730 sections A, B, and C for erosion and landslide hazards. The provided geotechnical evaluation shows these hazards meeting code requirements with slopes under 40%, stable hillside, structures meeting a 10' to 11' setback from the base of the hill and with proper erosion control does not constitute a significant hazard per the design professional.

- f. Based on the information available outlining the minimal hazards, a minor wall of 5' to 8' tall at the base of the hillside is reasonable to facilitate the proper yard space with consideration of building setback.
- g. Design of any wall should address global slope stability per TMC 13.11.730 section C and standard engineering practices.
- h. NOTE: Consideration for engineering design at a hillside is on a case-by-case basis with the information available and geotechnical hazard evaluation. Characteristics like steeper slopes, different subgrade materials, ground and surface moisture, elevation changes, and other site information available assist in making the determination.
- i. **The following statement shall be inked on the final plat map:**
  - i. The taxpayer of each lot shall pay 1/12 of the tax assessments for Tracts A and B in the subdivision. This amount shall be added to the yearly tax bill for the taxpayer of each lot.
  - ii. KNOW ALL PEOPLE BY THESE PRESENTS: We (name of owners), the owners of the land herein described, embraced in and covered by said plat, do hereby donate and dedicate to the public forever the streets, alleys, and public places shown hereon, together with a perpetual easement on and over the private property abutting upon said streets, alleys, and public places to construct and maintain all slopes, cuts, and fill occasioned by the original grading by the City of Tacoma and necessary to accomplish and maintain such original grade of said streets, alleys, and public places. Said owners, for themselves and their respective successors and assigns, waive all claims for damages to the property included in this plat by reason of any cuts or fills made in streets, alleys, or public places shown hereon in the original grading thereof by the City of Tacoma, and further certify and swear that said land is free from all taxes and assessments which have heretofore been levied and become chargeable against said property, and further certify and swear that there are no encumbrances existing upon any of the land upon which streets, alleys, and public places have been herein donated and dedicated to the public.

## 2. STORM AND SANITARY SEWERS

- a. Development of the Plat shall comply with all applicable requirements contained in the City of Tacoma Stormwater Management Manual ("SWMM"), Side Sewer and Sanitary Sewer Availability Manual, TMC 12.08, TMC 2.22, TMC 10.14, TMC 10.22 and the Right-of-Way Design Manual in effect at time of vesting land use actions, building or construction permitting.

- b. Any utility construction, relocation, or adjustment costs shall be borne by the Applicant.
- c. The Applicant has provided a preliminary stormwater site plan to address comments related to Minimum Requirement #8 and the City's Critical Areas Protection Ordinance. The Site Review Group has found that the preliminary design documents submitted meet the intent of the SWMM and has approved the preliminary engineering to move toward a hearing, provided that the applicant applies for and obtains a minor wetland development permit. [*Not a condition, but left in for context.*]
- d. The Applicant is advised that the engineering analysis submitted in support of the preliminary plat application is not final, and more in-depth engineering analysis will be required for the development permitting phase and that Minimum Requirement #8 compliance is required prior to final plat approval.

**The following conditions shall be met prior to application for Final Plat:**

- e. The Site is not presently served by the City stormwater drainage system. The City stormwater drainage system shall be extended to serve the project Site and/or the required street improvements through the City's Work Order process, or another method of stormwater management meeting all requirements of the City of Tacoma SWMM shall be provided. To start the work order, contact Planning and Development Services – Site Development Group at (253) 591-5760. The City stormwater drainage shall be extended to allow the system to be extended in the future to serve neighboring properties.
- f. This Site is not presently served by the City sanitary sewer system. The City sanitary sewer shall be extended to serve the project Site through the City's Work Order process. To start the work order, please contact Planning and Development Services – Site Development Group at (253) 591-5760. The city sewer system shall be extended in a manner which allows the system to be extended in the future to serve neighboring properties.
- g. Each new lot/parcel shall have an individual side sewer connection to the public sanitary sewer. This may require re-routing any existing shared side sewers, or constructing new side sewers in order to individually connect each parcel to the public sanitary sewer. A public sanitary sewer extension may also be required in order to individually connect each parcel.
- h. Private sanitary sewer and/or storm easements shall be provided across any lots/parcels that side sewers or private storm must cross to serve lots/parcels which do not have direct access to a public sanitary sewer or storm main, as applicable.
- i. A preliminary storm and/or sanitary sewer utility plan shall be prepared to show a preliminary design for storm and sanitary sewer mitigation. This plan shall be approved by City of Tacoma Site Development Group prior to recording of the final plat. Approved construction permits (Work Order and/or Site Development Permit) covering the entire Site may be substituted for the preliminary stormwater and/or sewer utility plan.
- j. A Covenant and Easement Agreement shall be required for all projects with private storm drainage systems.
- k. All easements required for public storm and/or sanitary sewer extensions shall be

granted to the City of Tacoma and be prepared by the City of Tacoma Public Works, Real Property Services Department. The recording numbers shall be inked on the final plat, or the easements may be shown on the plat document if approved by Environmental Services. Once the utility location(s) on the Site is/are approved by the City, the Site Development Group reviewer shall coordinate with Public Works, Real Property Services Department to prepare the easement for recording prior to final plat during the work order process.

**The following conditions are applicable to building/development permits associated with this proposal:**

- l. All stormwater shall be managed in compliance with the City of Tacoma Stormwater Management Manual (SWMM).
- m. The applicant shall review SWMM Minimum Requirements #1-10 and comply with all applicable requirements.
- n. Per Minimum Requirement #5, projects that meet or exceed the SWMM thresholds shall employ, where feasible and appropriate, Onsite Stormwater Management Best Management Processes (BMPs) to infiltrate, disperse, and retain stormwater runoff onsite to the maximum extent feasible.
- o. Water quality shall be provided for all projects that meet or exceed the thresholds for Minimum Requirement #6 as outlined in the SWMM. Pollution-generating hard surfaces created and/or replaced offsite as a result of this project shall count toward the pollution-generating hard surface total.
- p. Flow control or other mitigation in accordance with the SWMM shall be provided for all projects that meet or exceed the thresholds for Minimum Requirement #7 as outlined in the SWMM. Hard surfaces created and/or replaced offsite as a result of this project shall count toward the hard surface total.
- q. All projects shall comply with Minimum Requirement #10: Offsite Analysis and Mitigation.
- r. Wetland and/or associated buffers exist on this site. Minimum Requirement #8: Wetlands Protection is required to be complied with.
- s. This project is located within the South Tacoma Groundwater Protection District (STGPD). Please refer to the memorandum entitled "Implementation of Stormwater Infiltration for Pollution Generating Surfaces in the South Tacoma Groundwater Protection District" dated January 9, 2017 for infiltration requirements.
- t. Public and private stormwater shall be managed in separate water quality and flow control facilities.
- u. Private stormwater facilities are required to be located in a separate tract, easement or private roadway with appropriate easements to benefit contributing parcels for private facilities per the SWMM, Volume 3, Chapter 13. Separate tracts or easements for the location of shared stormwater facilities shall be shown on the plat, if applicable.

- v. All public stormwater facilities shall be located in right-of-way, a tract dedicated to the City of Tacoma or an easement per SWMM Volume 3 Chapter 13 and as approved in writing by Environmental Services.
- w. Stormwater facilities, other than conveyances, are required to be located in a separate tract dedicated to an association for private facilities or to the City of Tacoma for public facilities per the SWMM, Volume 3, Section 3.7.1.
- x. This Plat is located in the natural drainage course of abutting properties. Adequate provisions shall be made to collect drainage that naturally flows across the Site.
- y. It appears this project will disturb one or more acre of land or is part of a larger common plan of development or sale that has disturbed or ultimately will disturb one or more acres of land; and discharge stormwater from the site. Coverage under a Washington State Department of Ecology (Ecology) NPDES Stormwater Construction General Permit (CSWGP) may be required. For assistance with the CSWGP contact the Ecology Southwest Region Pierce County Permit Administrator: (360) 407-7451. For Information about the Construction Stormwater General Permit and requirements, visit Ecology's ISWGP webpage:  
  

<https://ecology.wa.gov/Regulations-Permits/Permits-certifications/Stormwater-general-permits/Construction-stormwater-permit>.  
To submit a Notice of Intent (NOI) for coverage under the CSWGP apply online through Ecology's WQWebPortal:  
<https://ecology.wa.gov/Regulations-Permits/Guidance-technical-assistance/Water-quality-permits-guidance/WQWebPortal-guidance>.
- z. Each lot/building shall be independently connected to the City sanitary sewer at the building construction stage. Permits for this work shall be obtained. Multiple units and buildings that are under single ownership and located on a single parcel may use shared private side sewers that connect to the public sanitary sewer. In the event that this development is divided into more than one parcel in the future (whether from platting, boundary line adjustments, lot segregations, or any other land use actions), each new lot/parcel shall have an individual side sewer connection to the public sanitary sewer. This may require re-routing any existing shared side sewers, or constructing new side sewers in order to individually connect each lot/parcel to the public sanitary sewer. A public sanitary sewer extension may also be required in order to individually connect each lot/parcel. Notice of this requirement will be recorded on title to affected lots/parcels.
  - aa. Where a fixture is installed on a floor level that is lower than the next upstream manhole cover of the public or private sewer serving such drainage piping, said fixture shall be protected from back flow of sewage by installing an approved type of backwater valve. Fixtures on floor levels above such elevation shall not discharge through the backwater valve.
  - bb. If pumping of sewage is required due to site conditions, plans and calculations for the pump system shall be prepared per City standards and submitted to Environmental Services - Site Development Group for review and approval prior to issuance of a side sewer connection permit.

### 3. PROTECTION OF ADJACENT PROPERTIES

With the development of the Plat, the Applicant/Developer shall be responsible for adverse impacts to other property abutting the project. The project shall be designed to mitigate impacts including, but not limited to, discontinuities in grade, abrupt meet lines, access to driveways and garages, and drainage problems. Slopes shall be constructed with cuts no steeper than 1-1/2:1, and fills no steeper than 2:1, except where more restrictive criteria is stipulated by the soils engineer. When encroaching on private property, the project engineer shall be responsible to obtain a construction permit from the property owner. The design shall be such that adverse impacts are limited as much as possible. When they do occur, the project engineer shall address them.

- a. Coverage under the NPDES Construction General Permit is required for any clearing, grading, or excavating that will disturb more than one acre of land, per the Washington State Department of Ecology (Ecology). Contact Ecology's Office of Regulatory Assistance at 1-800-917-0043 to determine if any additional requirements are necessary. Additional information is also available online at <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. City approval does not release the applicant from state or other permitting requirements.

### 4. STREETS, DRIVEWAYS AND SIDEWALKS

**The following conditions shall be met prior to application for Final Plat:**

- a. The Plat Road shall be improved to Public Works Standards including a minimum width of 28 feet with cement concrete curb and gutter, sidewalks, and planter strip on both sides. If sidewalk is not viable on both sides of the street due to the existing wetland, then ADA compliant curb ramps shall be provided at the end of the sidewalk to minimize the distance pedestrians have to travel via the sidewalk to get to lots 1, 2, 3, and 4. The minimum roadway section shall meet City Design Standards at time of submittal. It shall include necessary drainage, and any additional unsuitable foundation excavation material must be removed as directed by the City Engineer. The future right-of-way shall be a minimum of 52 feet. New sidewalk shall meet Public Right-of-Way Accessibility Guidelines and requirements set forth by the Americans with Disabilities Act.
- b. The type, width, and location of all driveway approaches serving the lots shall be approved by the City Engineer.
- c. Directional cement concrete curb ramps shall be constructed at the intersection of the proposed street and South 60th Street. Ramps shall be installed on the NE and NW corners of the intersection providing an east-west crossing and align with current Tacoma and ADA standards. North-south crossing and temporary receiving ramps will be waived in lieu of meeting condition "g." below.
- d. Directional cement concrete curb ramps shall be constructed at the end of the proposed roadway crossing east-west and align with current Tacoma and ADA standards.

- e. An approved fire turn-around, shall be designed and construction for all dead end streets or private accessway over 150' in length of a T-type or branch turnaround subject to approval by the City Engineer and Tacoma Fire Department.
- f. South 60th Street shall be paved a minimum 24' wide with asphalt wedge curb from the eastern side of the proposed roadway to South Stevens Street. The street shall be constructed in accordance with the City of Tacoma Right-of-Way Manual and standard detail PD-01(1), PD-01(2), DR-04, and all other standard details. Design shall account for all drainage and be designed in accordance with the SWMM.
- g. Cement concrete sidewalk shall be constructed along the north side of South 60th Street from the entrance to the plat to South Stevens Street to connect the pedestrian network. Cement concrete sidewalk shall be constructed per standard detail SU-04 and in alignment with DR-04. A curb ramp meeting City of Tacoma and ADA standards shall be constructed to complete the East-West crossing at South Stevens Street.
- h. Install a 5-foot paved pedestrian pathway along the north side of South 60th Street between the new road and South Mason Avenue to accommodate direct pedestrian access to Gray Middle School and transit. This is consistent with the Transportation Master Plan policy to prioritize pedestrians, Safe Routes to Schools, and access to transit. This condition will not be needed if prior to final plat application, street and sidewalk improvements to South 60th Street are done by the developer of the lot at 5844 South Mason Avenue at the time of building the new home on that lot.
- i. Street trees shall be installed in accordance with TMC 13.06.090.B.
- j. A Work Order is required. A licensed professional civil engineer must submit the street plans for review and approval following the City's work order process. To initiate a work order, contact the Site Development Group at (253) 591-5760. A performance bond is required for all work orders per TMC 10.22.070.F.

**Additional Information [Not conditions. Included for informational purposes only.]**

City documents are available online at the following locations:

- City of Tacoma Stormwater Management Manual:  
[www.cityoftacoma.org/stormwatermanual](http://www.cityoftacoma.org/stormwatermanual)
- City of Tacoma Side Sewer and Sanitary Sewer Availability Manual:  
[www.cityoftacoma.org/sidesewer](http://www.cityoftacoma.org/sidesewer)
- Right-of-Way Design Manual: [www.cityoftacoma.org/designmanual](http://www.cityoftacoma.org/designmanual)
- City of Tacoma Right-of-Way Restoration Manual:  
<http://www.govme.org/download/PDF/PublicWorks-Right-of-Way-RestorationPolicy.pdf>

5. TRAFFIC ENGINEERING

- a. The Plat Road shall be constructed to the standards outlined in the City of Tacoma Right-of-Way Design Manual.

- b. Shared driveways may be required for some lots in order to meet spacing requirements, per TMC 10.14.050.A.11.
- c. Streetlighting will have to be calculated and reviewed so that it does not illuminate the critical (wetland) area.
- d. Residential streetlighting will be required for the Plat Road. Include the following on the work order plans:

CITY OF TACOMA, RIGHT-OF-WAY DESIGN MANUAL  
Issued: January 7, 2016 Chapter 5 5-2 Errata Version July 2016

- e. Illumination improves both traffic safety and individual safety along streets, sidewalks, and trails by allowing for visual perception of conditions and potential hazards throughout all hours of the day. Illumination plans may be required for a variety of reasons depending on varying environments encountered throughout the City.

## 6. TACOMA POWER

- a. Tacoma Power has an existing overhead distribution line and two poles within the southerly portion of the proposed Plat Road. One of the poles doesn't appear to be shown on the survey and the plans do not call out the need to relocate these facilities. There is also an overhead service from one of these poles, pole #TP38221, that serves the home at 4319 South 60th Street. All of these facilities will need to be relocated, and possibly converted to underground, prior to final plat approval. Tacoma Power will need to work with the developer to determine how to rebuild this infrastructure, as it is not as simple as just removing two poles. All relocation costs will be at the Applicant/developer's expense. The Applicant/developer can contact Tacoma Power New Services Engineering to look into solutions for relocating their infrastructure out of the purposed plat road.

### b. TACOMA POWER EASEMENT REQUIREMENTS FOR PLATS

Easements must be shown on the face of the final Plat Mylar for Tacoma Power, communications, natural gas and cable television companies and specifically name Tacoma Power as Grantee within any easement provision and/or dedications. The following are also requirements:

- Show a designated 10-foot utility easement on the Plat parallel to all road rights-of-way.
- Show a 5-foot easement parallel to all side lot lines at the front 15 feet of each lot.
- If there are flag lots, the stem or driveway section shall be designated as a utility easement.
- Drainage, dry wells, storm/sewer systems, bio-swales, sidewalks or permanent structures shall not be installed in the 10-foot utility easement.
- Utility easement shall not have greater than 2 percent slopes.
- Extend all sewer stubs to the property side beyond the 10-foot utility easement.
- Show building setbacks from the property line.

- No building shall be constructed within 8' of a transformer.
- c. The following Easement Provisions and Notes should be included on the Plat for the benefit of Tacoma Power. Additional language can be included for cable/phone/communications/natural gas:

#### EASEMENT PROVISIONS

A PERPETUAL EASEMENT WITH A RIGHT OF ENTRY AND CONTINUED ACCESS IS HEREBY RESERVED FOR AND GRANTED TO THE CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, LIGHT DIVISION (D.B.A. TACOMA POWER), ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND PRIVILEGE TO CONSTRUCT, MAINTAIN, OPERATE, ALTER, REPAIR AND REPLACE UNDERGROUND/ABOVE GROUND UTILITIES INCLUDING, BUT NOT LIMITED TO, ELECTRIC AND COMMUNICATIONS WIRES, CABLE, CONDUIT, SERVICE AND DISTRIBUTION WIRES, PAD MOUNTED TRANSFORMERS, VAULTS, JUNCTION BOXES, SWITCHES AND APPURTENANT EQUIPMENT IN, OVER, UPON, UNDER, ALONG AND ACROSS THE REAL PROPERTY HEREIN DESCRIBED UPON THE RECORDING OF THIS PLAT. THE LOCATION OF THESE "TACOMA POWER" EASEMENTS ARE SHOWN ON THE FACE OF THIS PLAT AND THE EASEMENT DIMENSIONS ARE SHOWN ON SHEETS \_\_\_\_\_ OF THIS PLAT.

#### TACOMA POWER NOTES

1. LONGITUDINAL WET UTILITIES, SUCH AS DRAINAGE, DRY WELLS, STORM/SEWER SYSTEMS, BIO-SWALES AND SIDEWALKS OR PERMANENT STRUCTURES SHALL NOT BE INSTALLED IN THE 10-FOOT UTILITY EASEMENT, LATERAL CROSSINGS ARE PERMITTED.
2. UTILITY EASEMENT SHALL HAVE NO GREATER THAN 2% SLOPES PERPENDICULAR TO THE ROAD RIGHTS-OF-WAY.
3. EXTEND ALL SEWER STUBS AND ROOF DRAINS TO THE PROPERTY SIDE, BEYOND THE 10-FOOT UTILITY EASEMENT. NO CLEAN-OUTS SHALL BE PLACED IN THE UTILITY EASEMENT.
4. NO BUILDING, INCLUDING EAVES, SHALL BE CONSTRUCTED WITHIN 8 FEET OF A TRANSFORMER.
5. ANY RELOCATION OF TACOMA POWER'S FACILITIES WILL BE DONE AT THE CUSTOMER'S EXPENSE.

#### 7. TACOMA WATER

- a. A new water main in South 60th Street may be required from South Stevens Street to South Mason Avenue in addition to a new water main in the new public road.
- b. Extension of the water main is required prior to final plat approval.
- c. No existing service to the parent parcels. The 6" CI main in South Mason Avenue and 8" DI in South Steven Street are available. Calculated pressure of mains varies from 69 psi in

South Steven Street to 52 psi in South Mason Avenue.

- d. TMC 12.10.045 requires a separate water service and meter for each lot/parcel.
- e. Water main design is by Tacoma Water only.
- f. Extension of a permanent water main is required and shall be constructed by private contract. The developer of the privately financed project will be responsible for all costs and expenses incurred by Tacoma Water for preparation of plans and specifications, construction inspection, testing, flushing, sampling of the mains, and other related work necessary to complete the new water main construction to Tacoma Water standards and specifications. The engineering charge for the preparation of plans and specifications will be estimated by Tacoma Water. The developer will be required to pay a deposit in the amount of the estimated cost. The actual costs for the work will be billed against the developer's deposit. The new mains will be installed by and at the expense of the developer. The developer will be required to provide a 20-foot wide easement over the entire length of the water main, fire hydrant, service laterals and meters. The developer's professional land surveyor shall prepare and submit the legal description of the easement to Tacoma Water for review and processing. Prior to construction, a second deposit in the estimated amount for construction inspection, testing, and sampling will be due to Tacoma Water. Upon completion of the project, the developer will either be refunded the unused amount of the deposit or billed the cost overrun. Approximate design time is ten weeks.
- g. When new water services are required, they will be sized and installed by Tacoma Water. New water services will be installed after payment of the Service Construction Charge and the Water Main Charge. New meters will be installed by Tacoma Water after payment of the System Development Charge.
- h. New services installation timeline:
  - i. Two weeks to complete estimating.
  - ii. An additional 4-6 weeks to install service once payment is received.
- h. The Applicant is advised to obtain private utility easements for any property-side water pipes leading from the City meter to the building on any portion(s) existing on adjacent parcels. Easements may not be needed as each lot is currently abutting the water main.
- i. New water services and meters will be placed directly in front of each lot/parcel where possible. Prior approval by Tacoma Water is required for other non-typical locations.
- j. If fire sprinkling, contact the Tacoma Water Permit Counter at (253) 502-8247 for policies related to combination fire/domestic water service connections. If fire service is required it will be sized by your fire consultant and installed by Tacoma Water. Approved fire plans must be submitted to Tacoma Water.
- k. If a new fire hydrant is required at a location with an existing water main, the hydrant will be installed by Tacoma Water after payment of an installation charge.
- l. If existing water facilities need to be relocated or adjusted due to street improvements for this Plat they will be relocated by Tacoma Water at the Applicant/owner's expense.
- m. Tacoma Water facilities must remain accessible at all times. Any damage to Tacoma Water facilities will be repaired by Tacoma Water crews at the expense of the

Applicant/developer.

**General utility clearances:**

- n. Sanitary sewer mains and side sewers shall maintain a minimum horizontal separation of ten feet (10') from all water mains and water services. When extraordinary circumstances dictate the minimum horizontal separation is not achievable, the methods of protecting water facilities shall be in accordance with the most current State of Washington, Department of Ecology "Criteria For Sewage Works Design".
- o. For utilities other than sanitary sewer, the proposed facilities shall have a minimum horizontal separation of five feet (5') and vertical separation of twelve inches (12") from Tacoma Water facilities.
- p. For aerial utilities, Tacoma Water requires a minimum of 20 feet above our water facilities.

8. FIRE PROTECTION

A fire hydrant is required to be installed at the dead-end at the north of the Plat. Approval of hydrant placement will be through coordination with Tacoma Water.

9. SOLID WASTE

Garbage and recycling will be serviced at the curb in front of each lot/parcel. Containers must have 4-foot clearance between them when placed out for service. TMC 12.09.040.

10. REAL PROPERTY SERVICES

- a. The property owner must contact Lee Russell with RPS to determine LID fees ([lrussell@cityoftacoma.org](mailto:lrussell@cityoftacoma.org)).
- b. A stamped and signed legal description and exhibit for right-of-way dedication deed must be included. Contact Ronda Van Allen at [rcornforth@cityoftacoma.org](mailto:rcornforth@cityoftacoma.org).

11. TACOMA-PIERCE COUNTY HEALTH DISTRICT

All grading and filling of land must utilize only clean soil as defined by Environmental Health Code, Chapter 12, Solid Waste Handling Standards. All other materials, including waste concrete and asphalt, are defined to be solid waste and approval must be obtained through the Tacoma-Pierce County Health Department prior to filling. Please contact David Bosch at (253) 798-6574 for further information.

12. CRITICAL AREAS

- a. A protective covenant such as a Conservation Easement shall be recorded with the Pierce County Assessor's Office protecting the wetland tract created as part of the permitting process. The City shall be a named beneficiary/grantee in trust for the public in the Conservation Easement and shall have enforcement rights/authority under the easement.
- b. A homeowner's association or similar mechanism shall be established for the maintenance of common areas including the wetland and wetland buffer identified on the current site plans as "Tract A". Documents must be submitted prior to approval of the final plat to establish the entity responsible for maintenance of wetland and wetland buffer tract. The

documents must include language identifying the restrictions for the wetland and wetland buffer. Maintenance must include methods for the continued management of Himalayan blackberry and Japanese knotweed.

c. All owners in the plat shall retain equal ownership of the wetland and wetland buffer tract (Tract A). This must be recorded on the face of the final plat.

d. The buffer must be enhanced per the Wetland and Fish and Wildlife Habitat Assessment and Buffer Reduction and Enhancement plan prepared by Soundview Consultants LLC dated January 15, 2020.

e. Upon completion of invasive plant management, an as-built will be submitted to the City with the number, species, and placement of native vegetation as prescribed in the enhancement plan.

f. Monitoring reports for the mitigation must be submitted with appropriate fees to the City on a yearly basis for review. Mitigation will require monitoring for a minimum of 5 years or until the time performance standards outlined in the enhancement plan have been met. The five year monitoring period will commence after the 2 year invasive plant management process and installation of native plant species is completed.

g. The Applicant is required to obtain a performance and monitoring and maintenance bond per TMC 13.11.290. The performance surety will be held until documented proof is submitted showing that all plantings, structures, and improvements, including management of invasive plants, have met the requirements of the approved enhancement plan. The maintenance and monitoring surety will be held until a determination that the performance standards outlined in the enhancement plan have been met.

### 13. MISCELLANEOUS

- a. The basis of bearing for the final plat shall conform to the City of Tacoma grid system. Coordinates for all lot corners and angle points shall be submitted with the final plat on the NAD 83 WASHINGTON STATE PLANE South Zone Grid System. The final plat shall be drawn to a scale of 1"=100' unless, prior to submittal, written approval for a different scale is granted in writing by the Public Works Department. Mylar size shall be 18 inches by 24 inches.
- b. The final plat shall be submitted with a section breakdown from the land surveyor. The final plat shall agree with and be compatible with existing facilities and rights-of-way within the area.
- c. Per *TMC* 13.04, rebar shall be installed at all lot corners. Plat monuments shall be set at all perimeter boundary locations and street monuments shall be set in all necessary locations meeting the approval of the City Engineer.
- d. The final plat shall incorporate lot/block numbers and a house numbering system to the approval of the City Engineer.
- e. As part of the final plat submittal, a "100 feet to the inch" scaled final plat map shall be provided to Planning and Development Services.

- f. If improvements required prior to final plat approval are not constructed prior to final plat approval, such improvements shall be bonded for or an assignment of funds given meeting the approval of the City Attorney to guarantee that all required improvements will be designed and constructed. This is required if the Applicant wishes to proceed with the final plat prior to the physical construction of those conditions. If conditions are to be bonded for, the Applicant shall post the necessary bond at the time of, or prior to filing for final plat approval, and the following warning statement shall be incorporated on the plat map page, or additional page, of the final plat:

**WARNING:** Purchasers of the lots herein are advised that the City of Tacoma holds certain financial guarantees to insure completion of certain improvements and utilities, including but not limited to sanitary, road and storm facilities, power, water and street lights. Purchasers are advised that building permits may not be issued until these improvements are completed. Should these improvements/utilities not be completed, the City of Tacoma reserves the right to enter the property to complete these improvements and to seek reimbursement via the aforementioned financial guarantees or through other remedies at law, and the property grantor, heirs, owners, executors, successors or assigns shall save the City harmless from any damage that may be suffered by said re-entry and construction upon said premises.

- g. Building setback variances for lots created by this subdivision may not be approved by the City. Therefore, the owner/Applicant should plan ahead to develop lots that have dimensions that will allow construction of homes without the need for variances. This shall include the Applicant's foresight to provide for required driveway grades, topography, future sidewalk installation, necessary cuts and fills, soil bearing and geotechnical constraints, drainage courses, etc.
- h. Should any evidence of archaeological material be uncovered during the course of the project, all work in the vicinity shall cease and the City of Tacoma Historic Preservation Officer, as well as the Puyallup Tribe of Indians Historic Preservation Office, shall be contacted.

**Advisory Note:** The Applicant shall understand that it is the Applicant's responsibility to closely review the Zoning and Platting sections of the TMC and, specifically, the final plat/subdivision procedures in TMC 13.04.100. This is to alert the Applicant that if specific dates are not met and if specific items are not filed on time with the appropriate departments the plat may expire or otherwise become null and void.

### **SECTION B. USUAL CONDITIONS:**

1. The 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 hearings.
2. The preliminary plat approval granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approval granted and is a continuing requirement of such approval. By accepting the approval granted herein, the Applicant represents that the

development of the Plat will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development does not comply with such laws, regulations, and ordinances, the Applicant shall promptly bring such development into compliance.

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

**DECISION:**

Based on the foregoing, the Steven's Canyon Preliminary Plat is hereby APPROVED subject to the conditions set forth herein.

The accompanying Wetland Minor Development Permit is also APPROVED subject to the SECTION A.12 conditions specific to the wetland and its maintenance.

**DATED** this 16th day of April, 2021.

  
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**JEFF CAPELL, Hearing Examiner**

**NOTICE OF RECONSIDERATION/APPEAL OF EXAMINER'S DECISION**

**RECONSIDERATION TO THE OFFICE OF THE HEARING EXAMINER:**

Any aggrieved person or entity having standing under the ordinance governing this 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. (*Tacoma Municipal Code 1.23.140*).

**NOTICE**

**APPEAL TO SUPERIOR COURT OF EXAMINER'S DECISION**

Pursuant to the Official Code of the City of Tacoma, Section 1.23.160, the Hearing Examiner's decision may be appealable to the Superior Court for the State of Washington. Any court action to set aside, enjoin, review, or otherwise challenge the decision of the Hearing Examiner will likely need to be commenced within 21 days of the issuance of the decision by the Examiner, unless otherwise provided by statute.