

CITY OF SPOKANE VALLEY HEARING EXAMINER

RE: Rezone from the R-3 Zoning District to the R-4 Zoning District, and Preliminary Plat;
File No. REZ-01-09/SUB-01-09
Applicant: Leonard and Virginia Hritsco
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**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND DECISION**

I. SUMMARY OF DECISION

Hearing Matter: Consolidated application requesting approval of a rezone from the R-3 zoning district to the R-4 zoning district, and a preliminary plat to create 12 lots for single-family dwellings; on 2.25 acres of land.

Summary of Decision: Approve consolidated application, subject to *revised* conditions of approval. The preliminary plat will expire on June 14, 2019; unless a time extension is approved under Section 20.30.060 of the Spokane Valley Municipal Code (SVMC).

II. FINDINGS OF FACT

1. The consolidated application (“application”) proposes a rezone of approximately 2.25 acres of land from the Single-Family Residential (R-3) zoning district to the Single-Family Residential Urban (R-4) zoning district; and a preliminary plat to divide such acreage into 12 lots for single-family dwellings, in the R-4 zoning district.
2. The site is located north of and adjacent to Valleyway Avenue, directly north of the intersection of Union Road and Valleyway; in Spokane Valley, Washington.
3. The site is referenced as County Assessor tax parcel nos. 45164.0239 and 45164.0225; and is addressed at 11817 E. Valleyway Avenue, Spokane Valley.
4. The applicant and site owner is Leonard and Virginia Hritsco; addressed at 11817 E. Valleyway Avenue, Spokane Valley, WA 99206.
5. On May 11, 2009, the application was submitted as a complete application for the proposal. The preliminary plat map of record was submitted on November 17, 2009.
6. On April 13, 2012, the City Community Development Department issued a Determination of Nonsignificance (DNS) for the application. The DNS was not appealed.
7. On May 31, 2012, the Hearing Examiner conducted a public hearing on the application. The notice of hearing requirements were met for the application. The Hearing Examiner conducted a site visit on May 30, 2012.

8. The following persons testified at the public hearing:

Christina J. Janssen, Assistant Planner
Spokane Valley Planning Division
11707 E. Sprague Avenue, Suite 106
Spokane Valley, WA 99206

Duane Helt
909 N. Argonne Road
Spokane Valley, WA 99212

9. The following documents in the application file were given exhibit numbers prior to the hearing, as follows:

- Exhibit 1: Vicinity Map
- Exhibit 2: Zoning Map
- Exhibit 3: Comprehensive Plan Map
- Exhibit 4: 2010 Aerial Map
- Exhibit 5: Rezone Application Materials
- Exhibit 6: Subdivision Application Materials
- Exhibit 7: Preliminary Plat Map of Record
- Exhibit 8: Determination of Completeness
- Exhibit 9: Notice of Application Materials
- Exhibit 10: SEPA Determination
- Exhibit 11: SEPA Checklist
- Exhibit 12: Notice of Public Hearing Materials
- Exhibit 13: Agency Comments
- Exhibit 14: Public Comments

10. The Hearing Examiner heard the application pursuant to Chapters 17.80, 18.20, 19.30 and 20.30 of the Spokane Valley Municipal Code (SVMC); and Appendix B (Hearing Examiner Scheduling Rules and Rules of Conduct) of the Uniform Development Code (UDC) portion of SVMC (SVMC Titles 17-24).

11. The Hearing Examiner takes notice of the SVMC, the City Comprehensive Plan, other applicable development regulations, and prior land use decisions in the vicinity.

12. The record includes the testimony submitted at the public hearing, the documents in the application file at the time of the public hearing, and the items taken notice of by the Hearing Examiner.

13. The site is L-shaped, relatively flat in topography and approximately 2.25 acres in size; slopes up slightly to the north; and is comprised of two (2) residential lots. Each lot is improved with a single-family dwelling and detached accessory buildings.

14. The site is also being used for a construction business; which includes the parking or storage of large and small trucks, equipment and construction implements on the site; and which is not authorized under the R-3 zoning of such parcel. See 2010 aerial photo, and Hearing Examiner site visit.

15. The preliminary plat map illustrates rectangular lot sizes ranging from 6,006-11,559 square feet, lot frontages and widths ranging from 50-85 feet, lot depths ranging from 76-139 feet, and an average lot size of 7,400 square feet.
16. The preliminary plat map illustrates the retention of the two (2) residences on the site; removal of the outbuildings on the site; and extension of an internal private road northerly from Valleyway, terminating in a hammerhead turnaround in the north end of the proposed subdivision.
17. The site and neighboring land are designated in the Low Density Residential category of the Comprehensive Plan, and zoned R-3; except the land lying north and northeast of the site, and the land lying several lots east or southeast of the site, which are designated in the Medium Density Residential category and zoned Medium Multifamily Residential (MF-1).
18. Further to the east, along Pines Road (State Route No. 27); and further to the north, north of Broadway Avenue; the land is designated in the Office category of the Comprehensive Plan. Further to the south, and southwest, along Sprague Avenue, the land is designated in the Neighborhood Commercial or Corridor Mixed Use categories of the Comprehensive Plan.
19. The site is located 900 feet from Broadway Avenue, less than one-fourth (1/4) mile west of Pines Road, less than one-fourth (1/4) mile east of Bowdish Avenue, and one-fourth (1/4) mile north of Sprague Avenue. Public transit is located within one-fourth (1/4) mile of the site.
20. Pines Road (SR-27) is a 5-lane state highway, Sprague Avenue is a 5-lane street designated as a City Principal Arterial, Broadway Avenue is a 3-lane street designated as a City Minor Arterial, Bowdish Avenue is designated as a City Minor Arterial, and Valleyway Avenue is a 2-lane street without curb or sidewalk that is designated as a Local Access street. See Transportation section of Comprehensive Plan, and Hearing Examiner site visit.
21. Neighboring land uses generally consist of single-family dwellings on lots ranging from 8,000 square feet to 45,000 square feet in size; with an average lot size of perhaps 20,000 square feet. Commercial, office and more intensive land uses and zoning are found along Pines Road, Sprague Avenue and Bowdish Avenue in the area.
22. The only public comments submitted regarding the application was an email submitted by Mrs. Rusty Clemons, on behalf of her and her husband; who reside on a 1-acre parcel (45164.0387) lying approximately 135 southeast of the site, on the south side of Valleyway Avenue.
23. Mrs. Clemons expressed opposition to the project based on the applicant's use of the site for an intrusive construction business; the use of Valleyway by traffic attempting to avoid traffic signals along Pines and Sprague Avenue, delivery vehicles and speeding vehicles; increased traffic along Valleyway; and the excessive number of homes planned in the project. See email dated 5-22-12 from Mrs. Rusty Clemons to Christina Janssen.

24. Duane Helt, the applicant's engineer, indicated at the public hearing that the purpose of the proposed rezone is to take advantage of the smaller lot sizes permitted in the R-4 district, compared to the R-3 district.

25. The Low Density Residential category of the Comprehensive Plan addresses a range of single-family residential densities from 1-6 dwelling units per acre; and is implemented by the R-1, R-2, R-3 and R-4 zoning districts.

26. The Staff Report sets forth relevant policies of the Comprehensive Plan for the application. The policy most relevant to the proposed rezone is Policy LUP-1.7; which states that zone changes should be allowed within the Low Density Residential category of the Comprehensive Plan when specific criteria are met. This may include substantial changes within the area, the availability of adequate facilities and public services, and consistency with residential densities in the vicinity of the rezone site.

27. SVMC 19.40.040 and SVMC 19.40.050 describe both the R-3 district and the R-4 district as low density residential development that is intended to preserve the character of existing development, subject to the dimensional standards of SVMC Chapter 19.40 that are respectively established for such districts.

28. The minimum lot size, width and depth in the R-3 district are respectively 7,500 square feet, 65 feet and 90 feet; and are respectively 6,000 square feet, 50 feet and 80 feet in the R-4 district. The maximum lot coverage in the R-3 district is 50%, and is 55% in the R-4 district. The minimum setbacks and maximum building height are the same in both districts.

29. The R-3 and R-4 districts each permit single-family and duplex dwellings. The R-4 district permits multi-family dwellings, townhouse dwellings, and certain institutional-type residential uses not permitted in the R-3 district.

30. The Staff Report recommended no conditions of approval for the rezone application; but recommended the adoption of the conditions recommended by the City Community Development Department, other city departments, and other public agencies for the preliminary plat application.

31. The City Engineering conditions of approval recommended in the Staff Report for the preliminary plat require the applicant to install frontage improvements along Valleyway Avenue; including the installation of additional asphalt, curb, gutter, sidewalk and swale. Such conditions inadvertently failed to include condition #4 recommended in the July 31, 2009 memorandum from Mary May of City Engineering to Christina Janssen, regarding the proposed private road in the project. This condition should be added as a condition of approval.

32. The applicant submitted a trip distribution letter for the project from Ann Winkler, a qualified traffic engineering consultant. The letter found that the project would generate 10 PM peak hour trips; with 70% of the trips distributed east to Pines Road, 25% west to Bowdish Avenue and 5% to Union Road to the south; and that no intersections would have 20 or more new PM peak hour trips generated by the project.

33. City Traffic Engineering issued a certificate of transportation concurrency for the application. The certificate found that the application would generate less than 20 PM peak hour trips, and is exempt from traffic study requirements; sufficient roadway capacity exists, or is programmed to exist with future roadway improvements, on the City street system to accommodate the uses and densities proposed in the project; city intersections impacted by the project will not be significantly affected in terms of level of service; and meets the transportation concurrency requirements of the SVMC. See certificate issued on March 29, 2012 by Inga Note, City Traffic Engineer.

34. The application was submitted to the Washington State Department of Transportation (WSDOT), which advised that it had no comments on the project. See email dated 12-5-09 from Gregg Figg. This indicates that WSDOT has no concerns regarding the impact of the project on Pines Road (SR-27), a state highway.

35. There is no competent evidence in the record, of a traffic engineering nature, establishing that the application fails to meet transportation concurrency requirements, or will have any adverse impacts on City streets or neighboring intersections.

36. The project will be served with public sewer and water. County Utilities, and Modern Electric Water Company, respectively certified that the preliminary plat meets the public sewer and public water concurrency requirements set forth in the SVMC.

37. Central Valley School District #356 submitted a letter regarding the project dated July 7, 2009; in which it advised that it did not see any issues between the project and the district's current facilities, although it could not ensure that students in the project would attend the nearest school. The district advised that the potential exists to transport students to schools in various areas of the district; based on current enrollment growth rates, and the availability of facilities and student enrollment "at that point in time".

38. Central Valley School District #356 (CVSD) further stated in its letter that it could not presently guarantee room for students from the proposed homes in the project. The district requested, based on the added enrollment that would be generated by the project, that the City either postpone approval of the project in accordance with the provisions of RCW 58.17.110, the State Growth Management Act (GMA), and the County and City comprehensive plans, pending the availability of additional school facilities; or condition approval of the project on the developer paying the City a per dwelling unit fee "...equal to the district's eligibility for school impact fees."

39. The Comprehensive Plan does not adopt levels of service for public schools, and allows each school district to adopt its own levels of service.

40. The Comprehensive Plan provides current information regarding enrollment issues involving CVSD. The Plan finds that the most urgent need to for CVSD is to add more elementary classroom space in the east end of the district, CVSD has recently required two (2) properties in the east part of the district for a new elementary school, CVSD will need to construct a new high school and middle school in the 20-year time frame of the Comprehensive Plan, CVSD has a site for a middle school in the east end of the district, and a number of elementary schools need to

be completely remodeled (including Opportunity in the west end of the district). See page 5 and 30-31 of Chapter 4 of Comprehensive Plan.

41. CVSD did not appeal the DNS issued for the project, nor has it updated its comments since 2009. The site is not located in the east end of the district, where capacity issues are greatest. Further, CVSD in its 2009 comments advised that it could transport students within the district to keep up with current enrollment rates.

42. CVSD did not establish that it will have insufficient capacity to accommodate the students in the project at the time of build out, or to support a school mitigation fee imposed through a voluntary agreement under the authority of RCW 58.17.110 and RCW 82.02.030.

43. The SVMC does not require direct concurrency for schools or parks. The City has not established a mechanism to collect school impact fees through a voluntary agreement under RCW 82.02.030, or a GMA impact fee under RCW 82.02.050. The Hearing Examiner lacks authority to condition or deny the proposal based on insufficient school capacity.

44. The City Parks and Recreation Department did not comment on the project. The Comprehensive Plan indicates that with the 2007 acquisition of 8.3-acres of land in the Greenacres area of Spokane Valley, the City has adequate park capacity to meet the level of service for parks adopted in the Comprehensive Plan. See page 6 of Chapter 9 of Comprehensive Plan. The Hearing Examiner takes notice that the City recently opened a park on such acreage for public use.

45. As set forth in the Staff Report, the preliminary plat complies with the zoning standards of the R-4 district; except for Lot 7, which has only 76 feet of depth instead of the required 80 feet. The applicant has applied for an administrative exception from the Community Development Department to allow such deviation, and the Department has indicated that it plans to approve such application. See testimony of Christina Janssen.

46. As set forth in the Staff Report, the preliminary plat, as conditioned, complies with all applicable standards and requirements set forth in the UDC.

47. Public agencies and neighboring property owners did not object to either application, or the environmental impact generated by the proposal.

48. The environmental checklist submitted by the applicant, and the DNS issued by the Community Development Department, properly addressed the environmental impacts of the application.

49. As set forth in the Staff Report, and as supplemented by the above findings, the preliminary plat is consistent with the Comprehensive Plan; will serve the public use and interest; and makes appropriate provisions for the facilities, services and factors set forth in RCW 58.17.110 and SVMC 20.20.100.

50. The initial version of the Staff Report, on page 3, analyzed the application under obsolete rezone criteria; which required that a change of conditions be shown by the proponent of the

rezone in support of the rezone. On May 30, 2012, page 3 of the Staff Report was revised to analyze the proposed rezone under the rezone criteria currently set forth in SVMC 19.30.030. The current criteria was adopted in 2008, prior to the current application being submitted; and does not require proof of changed conditions.

51. The proposed rezone to the R-4 district meets the direct concurrency requirements for transportation, public sewer and water set forth in SVMC 22.20; because any development of the site proposed in such district must meet such requirements and the site, the area is served by public sewer and water, and the preliminary plat meets the direct concurrency requirements of the SVMC.

52. The proposed rezone, in conjunction with the preliminary plat, is consistent with the Comprehensive Plan; bears a substantial relation to the public health, safety and welfare; is appropriate for reasonable development of the property; is adjacent and contiguous to property of a higher zone reclassification; will not be materially detrimental to uses or property in the immediate vicinity of the site; and has merit and value for the community as a whole. The following facts support such findings:

(a) The site is designated in the Low Density Residential category of the Comprehensive Plan, and the R-4 district is an implementing zone for such category.

(b) The land adjoining the site to the north and northeast of the site is zoned MF-1, a more intense zone than the R-3 or R-4 district; and the proposed R-4 district provides zoning transition between such MF-1 zoning and the R-3 zoning located south of the site.

(c) The R-4 district is a residential zone similar to the R-3 district, but with somewhat more intense development standards and allowed uses.

(d) The site is developed well below the density permitted in the R-3 district, the R-4 district provides more flexible development standards for the fill-in development of residential land, and the preliminary plat takes advantage of the more flexible development standards of the R-4 district.

(e) The preliminary plat proposes the development of single-family dwellings, the same use as neighboring properties; has an average lot size of 7,400 square feet, that is close to the minimum lot size of 7,500 square feet required in the R-3 district; will not adversely impact the character of neighboring land uses; and is consistent with the Comprehensive Plan.

(f) The site is served by a high level of public services and facilities, including public sewer and water, and modern utilities; will provide proportionate road improvements along Valleyway Avenue; and is located close to major transportation and commercial corridors in the City.

53. The preliminary plat has been conditioned for compliance with the R-4 district, the UDC, and other applicable development regulations.

Based on the above findings of fact, the Hearing Examiner enters the following:

III. CONCLUSIONS OF LAW

1. Certain minor changes should be made to the conditions of approval to ensure clarity and compliance with the development regulations applicable to the project.
2. The proposed rezone to the R-4 zone complies with the rezone criteria set forth in SVMC 19.30.030.
3. SVMC 19.30.030 erroneously states that site-specific zoning map amendments shall be processed pursuant to SVMC 17.80.140, which section applies to Comprehensive Plan amendments and area-wide rezones processed through the Planning Commission and City Council. SVMC 18.20.030(A)(5)(h) expressly vests the Hearing Examiner with authority over site-specific rezones that are not processed at the same time as an implementing Comprehensive Plan amendment for the same site, such as the proposed rezone.
4. Washington case law requires the proponent of a rezone to establish, by a preponderance of the evidence, that the proposed rezone bears a substantial relationship to the public health, safety or general welfare; and that a substantial change of circumstances has occurred in the area. However, proof of a substantial change of circumstances is not required if the rezone implements the comprehensive plan of the local government.
5. The proposed rezone to the R-4 zone implements the Comprehensive Plan; and bears a substantial relationship to the public health, safety or welfare.
6. As conditioned, the preliminary plat application complies with the direct concurrency requirements set forth in SVMC Chapter 21.20 (Concurrency).
7. The preliminary plat application, as conditioned, complies with the R-4 district, zoning, subdivision and other requirements for land development set forth in the UDC; and with other applicable development regulations.
8. The preliminary plat and dedication, as conditioned, conform to the Comprehensive Plan and will serve the public use and interest.
9. The preliminary plat and dedication, as conditioned, make appropriate provision for the public health, safety and general welfare; for all other requirements found to be necessary and appropriate and for which written standards and policies have been adopted; and for open spaces, streets, alleys, drainage ways, schools and school grounds, playgrounds, parks and recreation, sidewalks and other planning features for children who only walk to and from school, noise and dust emissions, sanitary wastes and sewer, public potable water supplies, easements, utilities, critical areas, and all other relevant facts as specified in RCW 58.17.110 and SVMC 20.20.100.
10. The procedural requirements of the State Environmental Policy Act and SVMC Title 21 (Environmental Controls) have been met.

11. Any conclusion of law above that is a finding of fact is hereby deemed such.
12. The approval of the preliminary plat and rezone application, as conditioned, is appropriate under SVMC 19.30.030, SVMC Title 20 (Subdivision Regulations), SVMC Chapter 18.20 (Hearing Examiner), and RCW Chapter 58.17.

IV. DECISION

Based on the Findings of Fact and Conclusions of Law above, the consolidated application for a preliminary plat and zone reclassification in the above file is hereby *approved*, subject to the conditions of the various agencies specified below.

Any conditions of approval of public agencies that have been added or significantly altered by the Examiner are *italicized*.

This approval does not waive the applicant's obligation to comply with all other requirements of other public agencies with jurisdiction over land development.

Conditions of Approval:

The "applicant", as referenced in the conditions of approval below, shall be deemed to include the owner and developer of the site, and their successors-in-interest.

A. General Conditions:

SPOKANE VALLEY COMMUNITY DEVELOPMENT DEPARTMENT-PLANNING DIVISION:

1. *The final plat shall be designed in substantial conformance to the preliminary plat map of record submitted on November 17, 2009, and shall have a maximum of twelve (12) lots for single-family dwellings; unless a preliminary plat modification is approved pursuant to Section 20.50 (Preliminary Plat, Short Plat, and Binding Site Plan Alterations) of the Spokane Valley Municipal Code (SVMC).*
2. Pursuant to SVMC 20.30.060 (Extensions of Time), an application form and supporting data for any time extension requests must be submitted to the Director at least thirty (30) calendar days prior to the expiration of the preliminary plat approval.
3. Pursuant to SVMC 20.20.050 (Prohibition against sale, lease or transfer of property) of the SVMC, any sale, lease, or transfer of any lot or parcel created pursuant to the SVMC that does not conform to the requirements of the preliminary plat approval or that occurs without approval, shall be considered a violation of Chapter 58.17 RCW, and shall be restrained by injunctive action and shall be illegal, as provided in Chapter 58.17 RCW. Each sale, lease, or transfer of each separate lot or parcel of land in violation of any provision of this ordinance shall be deemed a separate and distinct offense.

4. SVMC 20.20.050.80 (Professional Land Surveyor) requires the preparation of all preliminary and final subdivisions be made by or under the supervision of a professional land surveyor. The professional land surveyor shall certify on the final plat that it is a true and correct representation of the lands actually surveyed. A survey is required on all final plats. All surveys shall comply with the Survey Recording Act (RCW 58.09), Survey and Land Descriptions (WAC 332-130).

5. Pursuant to SVMC 20.30.050 (Expiration of Preliminary Approval), the preliminary plat approval shall automatically expire on June 14, 2019, unless a time extension is approved for the preliminary plat. If a request for an extension of time is not timely submitted and approved, the preliminary approval will expire and the preliminary plat is null and void.

6. Pursuant to SVMC 20.40.030 (Filing Short Plat, Plat, or Binding Site Plan) the City of Spokane Valley shall record with the Spokane County Auditor's Office the final plat, upon receipt of all required signatures on the face of the plat.

7. Pursuant to SVMC 20.80.40 (Recordation), all fees for recording shall be paid by the applicant prior to recording.

8. *The official City zoning map shall be revised to indicate that the zoning of the site has been reclassified to the Single-Family Residential Urban (R-4) district.*

B. Prior to or in conjunction with the submittal of a proposed final plat, the applicant shall comply with the following requirements:

SPOKANE VALLEY COMMUNITY DEVELOPMENT DEPARTMENT-PLANNING DIVISION:

1. The submitted final plat application shall comply with all submittal requirements specified in SVMC 20.40. *The final plat dedication shall indicate that the primary use on each lot in the final plat is limited to a single-family dwelling.*

2. The final plat dedication shall state: "All lots within this plat shall comply with the building setback requirements, maximum building height standard, maximum lot coverage standard and other applicable lot development standards for the R-4 zoning district or successor zoning designation to the extent permitted by Washington State law in effect at the time of building permit application."

3. The following addresses have been assigned and shall be designated on the final plat:

Lot 1 – 11827 E. Valleyway Avenue

Lot 2 – 405 N. Union Lane

Lot 3 – 409 N. Union Lane

Lot 4 – 415 N. Union Lane

Lot 5 – 419 N. Union Lane

Lot 6 – 423 N. Union Lane

Lot 7 – 427 N. Union Lane

Lot 8 – 420 N. Union Lane

Lot 9 – 416 N. Union Lane
Lot 10 – 410 N. Union Lane
Lot 11 – 406 N. Union Lane
Lot 12 – 1903 E. Valleyway Avenue

SPOKANE VALLEY PUBLIC WORKS DEPARTMENT–DEVELOPMENT ENGINEERING
DIVISION:

4. A Professional Engineer, licensed in the State of Washington, shall prepare required engineering documents (including civil/street plans, drainage plans, drainage calculations, traffic studies, shared access driveway plans, etc.). Plans shall conform to the 2001 Spokane County Standards for Road and Sewer Construction (or as amended), the 2008 Spokane Regional Stormwater Manual (or as amended) the SVMC and all other federal, state and local regulations, as applicable.
5. Frontage improvements are required on Valleyway Avenue, which is designated as a Local Access Street. Frontage improvements shall include 15 feet of asphalt width from road centerline, Type B curb and gutter (2 feet), a 10-foot roadside swale, and a 5-foot sidewalk. The total width of improvements is 32 feet. The current right-of-way is 40 feet; with ½ the right-of-way being 20 feet. The minimum ½ right-of-way width, which is to 2 feet behind the back of curb, is 19 feet. A border easement, which extends from the right-of-way to back of sidewalk, of 12 feet is required. This shall be designated on the final plat language and map. The border easement width was determined assuming that the center of the road coincides with the center of right-of-way. The applicant shall confirm the right-of-way location and width(s). Note: the building setback begins at the edge of the border easement.
6. The applicant shall provide street name signs, stop signs, pavement markings and all other necessary permanent traffic control measures for all streets. The location of the signs must be called out on the civil plans.
7. *The internal street layout shall be coordinated with Development Engineering. Private streets shall have an “Urban Driveway-Separated Sidewalk” approach or a “Cement Concrete Approach”, as applicable, where they connect to public streets. Full cul-de-sacs or hammerhead turnarounds need to be provided at the ends of the street.*
8. In accordance with the SVMC 19.40.020 (Residential Standards), all residential driveways shall be paved prior to final plat approval. Off street parking areas are required to be paved at the time of development. Paving for driveways shall conform to the following requirements:
 - a. Driveways 150 feet or less in length shall be constructed to City of Spokane Valley standards. A letter is required from the contractor building the driveway that certifies the standards are met.
 - b. Shared access driveways, those serving two or more lots, require an engineered design.
 - c. Driveways over 150 feet in length require an engineered design and soils report (SVMC 24.50.060).

- d. Driveways with areas over 5,000 square feet require storm water treatment (SVMC 22.150.060), and require an engineered design.
9. Driveway approach design shall follow the 2001 Spokane County Road and Sewer Standards, or as amended.
10. All storm water utilities are to be designed per the Spokane Regional Stormwater Manual (SRSRM). Linear roadside facilities such as swales shall be located within the right-of-way and/or border easements when adjacent to public streets or within a tract or easement when adjacent to a private road or driveway serving more than one lot. Non-roadside facilities, such as ponds (especially consolidated ponds, which are those receiving runoff from more than one lot), shall be within a tract (see SRSRM 11.2).
11. A thorough search for all survey monuments shall be conducted. Any found monuments shall be referenced on the civil plans and/or final plat.
12. A landscaping plan, which shows the landscaping proposed to be placed in vegetated storm water facilities, such as channels, ditches, swales, ponds, etc., must be submitted with the site construction plans for review.
13. A Temporary Erosion and Sedimentations Control (TESC) plan must be prepared and submitted with the site construction plans for review.
14. An Operations and Maintenance Manual shall be submitted with the initial submittal of final design plans for the street and/or storm water systems. This manual shall include a discussion of the design life of the various components, recommended repair and maintenance schedules, calculated annual costs for repair and maintenance, and calculated replacement costs for each component of the systems. The manual shall specify the recommended individual monthly homeowner financial assessment to accomplish the identified maintenance and replacement tasks.
15. A Homeowner's Association (HOA) shall be formed to perpetually operate and maintain the on-site private street and associated facilities including but not limited to storm water systems at the end of the service life of the respective components, and any other improvements that may be legally required in the future. A draft copy of the CC&R's for the HOA shall be included with the drainage submittal.
16. All utility easements (i.e. telephone, power, etc.) shall be shown on the final plat. The permittee is responsible for arranging for all necessary utility adjustments, relocations, or improvements as required for completion of the project. The developer needs to contact the purveyors of each affected utility regarding private service, utility improvement, and any relocation and adjustment costs. All rigid objects shall be located out of the clear zone. These clear zone requirements are found in the Spokane County Road and Sewer Standards, as amended.
17. If sewer and/or water needs to be brought to the properties and to do this requires an Engineering design, copies of the approved sewer and water plans shall be submitted to

Development Engineering. The civil plans for the project shall show the extents of pavement removal and replacement.

18. All new dry wells and other injection wells must be registered with the Underground Injection Control program (UIC) at Department of Ecology prior to use and the discharge from the well(s) must comply with the ground water quality requirement (non-endangerment standard) at the top of the ground water table. Contact UIC staff at UIC Program, Department of Ecology, PO Box 47600, Olympia, WA 98504-7600 (360) 407-6143, or go to http://www.ecy.wa.gov/programs/wq/grndwtr/uic/registration/reg_info.html for registration forms and further information. Copies of the registration for drywells, which receive public road stormwater runoff, are to be sent to Development Engineering. The City of Spokane Valley NPDES Permit Number is WAR04-6507.

19. A Construction Stormwater Permit shall be obtained from the Department of Ecology, if both of the following two conditions apply:

- a. The Construction project disturbs one or more acres of land (area is the cumulative acreage of the entire project whether in a single or in a multiphase project), and
- b. If there is a possibility that storm water could run off the site during construction, and into surface waters or into conveyance systems leading to surface waters of the state.

Construction site operators must apply for a permit 60 days prior to discharging storm water. More information can be obtained from <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>

20. The review of civil plans and supporting documents cannot proceed until an application for a grading permit has been received. All documents (plans, reports, etc.) must be submitted through the Building Department Permit Center located at 11703 E. Sprague Avenue, Suite B-3.

21. Plans and calculations submitted for review shall be comprehensive, per Standards (e.g. sheet size) and have gone through an independent in-house review. It is recognized that minor errors and omissions may occur, but if the documents do not appear adequate for determining compliance with requirements or previous comments have not been addressed, they will be returned for revision. Copies of the checklist that is used to review and assess completeness will be provided to the applicant upon the request of the project engineer.

22. Border easements shall be designated on the final plat map.

23. The Homeowner's Associations UBI number shall be referenced on the face of the final plat.

24. Plat language will be determined at the time of final plat submittal. Plat language shall be obtained from Development Engineering after civil plan approval and/or prior to the first submittal of a proposed final plat.

SPOKANE COUNTY DIVISION OF UTILITIES:

25. The final plat dedication shall state: "Public sewers shall be constructed to provide for the connection of each parcel to the county's system of sewerage. Uses on properties within the project shall be required to connect to the sewer and pay applicable charges per the County Sewer Ordinance. Sewer connection permits shall be required."

26. The applicant shall submit expressly to Spokane County Division of Utilities, under separate cover, only those plan sheets showing sewer plans and specifications for the public sewer connections and facilities for review and approval. Prior to plan submittal, the applicant is required to contact Billy Urhausen at 477-3604 to discuss the details of sewer plans.

27. Sewer plans acceptable to the Division of Utilities shall be submitted prior to the submittal of a final plat.

28. Security shall be deposited with the Division of Utilities for the construction of the public sewer connection and facilities, and for the prescribed warranty period. Security shall be in a form acceptable to the Division of Utilities, and in accordance with the Spokane County Sanitary Sewer Ordinance.

29. Security will be submitted to the Division of Utilities prior to approval of the Sewer Design Plans.

30. Any water service for this project shall be provided in accordance with the Coordinated Water System Plan for Spokane County, as amended.

SPOKANE REGIONAL HEALTH DISTRICT:

31. The final plat shall be designed substantially as indicated on the preliminary plat of record and/or any attached sheets as noted.

32. Appropriate utility easements shall be indicated on copies of the preliminary plat of record for distribution by the Community Development Department to the utility companies, Spokane Valley Engineer, and the Spokane Regional Health District. Written approval of the easements by the utility companies shall be received prior to submittal of the final plat.

33. Sewage disposal method shall be as authorized by the Director of Utilities, Spokane County.

34. Water service shall be coordinated through the Director of Utilities, Spokane County.

35. Water service shall be by an existing public water supply when approved by the Regional Engineer (Spokane), State Department of Health.

36. Prior to filing the final plat, the applicant shall demonstrate to the satisfaction of the Spokane Regional Health District that an adequate and potable water supply is available to each lot of the plat.

37. Prior to filing the final plat, the applicant shall present evidence that the plat lies within the recorded service area of the water system proposed to serve the plat.

38. A plan for water facilities adequate for domestic use, domestic irrigation use, and fire protection use shall be approved by the water purveyor. Said water plan must have been approved by the fire protection district and the appropriate health authorities. The health authorities, water supplier (purveyor), and the fire protection district will certify, prior to the filing of the final plat, on the face of said water plan that the plan is in conformance with their respective needs. Said water plan and certification will be drafted on a transparency suitable for reproduction.

39. The purveyor will also certify prior to filing the final plat on a copy of said water plan that appropriate contractual arrangements have been made with the plat sponsor for construction of the water system, in accordance with the approved plan and time schedule. The time schedule will provide, in any case, for completion of the water system and inspection by the appropriate health authorities prior to application for building permits within the plat. The contractual arrangement will include a provision holding City of Spokane Valley, Spokane Regional Health District, and the purveyor harmless from claims by any lot purchaser refused a building permit due to failure of the plat sponsor to satisfactorily complete the approved water system.

40. Prior to filing the final plat, the applicant shall demonstrate to the satisfaction of the Spokane Regional Health District that the existing system serving the residences located on Lot 2 are wholly located within their respective boundaries of the tract or connect to public sewer prior to final approval.

41. A public sewer system will be made available for the lot and individual service will be provided to each lot prior to sale. The use of individual on-site sewage disposal shall not be authorized.

42. The final plat dedication shall state: "A public sewer system will be made available for the plat and individual service will be provided to each lot prior to the sale. The use of individual on-site sewage disposal systems shall not be authorized."

43. The final plat dedication shall state: "The use of private wells and water systems is prohibited."

44. The final plat dedication shall state: "The public water system, pursuant to the Water Plan approved by Regional and State health authorities, the local fire protection district, City of Spokane Valley and water purveyor, shall be installed within this subdivision, and the applicant shall provide for individual domestic water service as well as fire protection to each lot prior to sale of each lot and issuance of a building permit for each lot."

SPOKANE COUNTY FIRE DISTRICT 1 (SPOKANE VALLEY FIRE DEPARTMENT):

45. Fire apparatus access road/driveway and turnaround shall be posted on both sides as "No Parking-Fire Lane."

C. Prior to or during on-site construction, the applicant shall comply with the following requirements:

SPOKANE VALLEY COMMUNITY DEVELOPMENT DEPARTMENT – DEVELOPMENT ENGINEERING DIVISION:

1. A pre-construction conference with Development Engineering is required prior to the start of construction. The grading permit is to be taken out prior to scheduling the pre-con meeting with proof of the permit issuance provided at the meeting. During this meeting, standards and submittal requirements for the Construction Certification will be given to the project engineer/inspector.
2. For construction affecting public right-of-way, fourteen (14) days prior to construction, a sign shall be securely posted at each ingress point to the project area. The sign shall be clearly visible from the right-of-way and provide project construction details. See section 0.7 of the Street Standards.
3. Permits are required for any access to or work within the right-of-way of the Spokane Valley roadway system. A traffic control plan will be required to accompany the right-of-way obstruction permit.
4. The TESC structures (such as filter fence, silt ponds, silt traps) shall be installed prior to the start of site work and maintained throughout the duration of construction and until the site has stabilized.
5. All survey monuments shall be protected during construction. Any disturbed or damaged monuments shall be replaced prior to certification / final plat and / or release of surety.
6. Construction within the proposed public streets and easements shall be performed under the supervision of a licensed Washington State Professional Engineer / Land Surveyor. All work is subject to inspection by the City Senior Development Engineer or by his staff.
7. Upon completion of the improvements, a Construction Certification package and record drawings are required for the improvements, and shall be submitted and approved prior to releasing the performance surety or final plat approval.

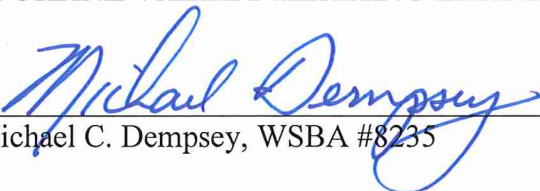
SPOKANE REGIONAL CLEAN AIR AGENCY:

8. Dust emissions during demolition, construction, and excavation projects shall be controlled. Appropriate measures shall include but are not limited to the use of water sprays, tarps, sprinklers or suspension of activity during certain weather conditions.
9. Measures shall be taken to avoid the deposition of dirt and mud from unpaved surfaces onto paved surfaces. If tracking or spills occur on paved surfaces, measures must be taken immediately to clean these surfaces.
10. Debris generated as a result of this project shall be disposed of by means other than burning.

11. If objectionable odors result from this project, effective control apparatus and measures shall be taken to reduce odors to a minimum.
12. Special attention shall be given to proper maintenance of diesel powered construction equipment to reduce the impact of diesel exhaust, a suspended carcinogen.
13. A Notice of Construction and Application for Approval shall be submitted and approved by SCAPCA prior to the construction, installation, or establishment of an air pollution source. This includes emergency generators rated at 500 hp (375 kW) or higher, natural gas heating equipment units rated at 4 MMBTU/hr or higher (input), and heating equipment units fired with other fuels (e.g. diesel) rated at 1 MMBTU/hr (input) or higher. Contact SCAPCA for a Notice of Application.
14. A Notice of Intent shall be submitted to SCAPCA prior to any demolition project or asbestos project. An asbestos survey must be done by an AHERA accredited building inspector prior to the demolition or renovation of buildings to determine if asbestos-containing material is present at the site. Contact SCAPCA for a Notice of Intent application.

DATED this 14th day of June, 2012

SPOKANE VALLEY HEARING EXAMINER



Michael C. Dempsey, WSBA #8235

NOTICE OF FINAL DECISION AND NOTICE OF RIGHT TO APPEAL

Pursuant to Chapter 17.90 of the Spokane Valley Municipal Code (SVMC), the decision of the Hearing Examiner on a site-specific amendment to the City of Spokane Valley zoning map (i.e. site specific rezone) is final and conclusive unless within fourteen (14) from the date the Examiner's decision was mailed, a party with standing appeals the decision to the Spokane Valley City Council pursuant to Section 17.90.070 of the SVMC.

This decision was mailed by regular mail to the Applicant, and to all government agencies and persons entitled to notice under Section 17.80.130(4) of the SVMC, on June 14, 2010. **THE APPEAL CLOSING DATE FOR THE PORTION OF THE DECISION APPROVING THE SITE-SPECIFIC MAP AMENDMENT IS JUNE 28, 2012, counting to the next business day.**

Pursuant to SVMC 17.90 and RCW Chapter 36.70C, the decision of the Hearing Examiner on an application for a preliminary plat is final and conclusive unless within twenty-one (21) calendar days from the date of issuance of the Examiner's decision, a party with standing files a land use petition in Superior Court pursuant to RCW Chapter 36.70C. Pursuant to RCW Chapter 36.70C, the date of issuance of the Hearing Examiner's decision is three (3) days after it is mailed.

The date of issuance of the Hearing Examiner's decision regarding the preliminary plat, under RCW Chapter 36.70C, is June 18, 2012, counting the next business day. **THE APPEAL CLOSING DATE FOR THE PORTION OF THE DECISION APPROVING THE PRELIMINARY PLAT IS JULY 9, 2012.**

The complete record in this matter, including this decision, is on file during the appeal period with the Office of the Hearing Examiner, Third Floor, Public Works Building, 1026 West Broadway Avenue, Spokane, Washington, 99260-0245; and may be inspected by contacting Kristine Chase at (509) 477-7490. The file may be inspected during normal working hours, listed as Monday-Friday of each week, except holidays, between the hours of 8:00 a.m. and 4:30 p.m. After the appeal period, or if transferred sooner than the expiration of the appeal period, the file may be inspected at the City of Spokane Valley Department of Community Development-Planning Division, 11707 E. Sprague Avenue, Spokane Valley, WA, 99206; by contacting Christian Janssen at (509) 921-1000. Copies of the documents in the record will be made available at the cost set by the City of Spokane Valley.

Pursuant to RCW 36.70B.130, affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.