

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF ISSAQUAH**

In the Matter of the Application of)	FP08-001HD
)	
Howland Homes)	Highlands Drive Transit Oriented
)	Development Zero Energy Project
)	Block 9C
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Final Plat</u>)	AND DECISION

SUMMARY OF DECISION

The request for a final plat to subdivide a 0.4488-acre parcel into 10 single-family residential lots and three tracts for utilities, landscaping, open space, private access, parking, and public pedestrian access is **APPROVED**, subject to conditions.

SUMMARY OF PUBLIC MEETING

Request:

Howland Homes requests a final plat to subdivide a 0.4488-acre parcel into 10 single-family residential lots and three tracts for utilities, landscaping, open space, private access, parking, and public pedestrian access. The property is Block 9C of the Highlands Drive Transit Oriented Development, and is located in the southeast corner of the Development, east of the Highlands Drive NE/NE High Street intersection in Issaquah, Washington.

Public Meeting Date:

The Hearing Examiner held a public meeting on the request on October 9, 2008.

Comment:

The following individuals provided comments at the public meeting:

Mike Martin, City MDRT Assistant Planner
Irma Dore, Port Blakely Communities, Inc., for Applicant

Exhibits:

The following exhibits were submitted at the public meeting:

1. Memorandum from Mike Martin, City MDRT Assistant Planner, to Hearing Examiner, dated October 2, 2008
2. MDRT Staff Report, dated October 2, 2008, with the following attachments:
 1. Vicinity Map
 2. Final Plat Application, received August 30, 2008
 3. Proposed Final Plat Map, received October 2, 2008

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4. Affidavit of Service Mailing, Notice of Application, dated September 4, 2008
5. Affidavit of Service Mailing, Notice of Public Hearing, dated September 23, 2008
6. Preliminary Plat Decision Documents
 - A. Urban Village Development Commission Findings, Conclusions, and Recommended Conditions to the City Council for the Highlands Drive Transit Oriented Development Zero Energy Project, dated February 26, 2008
 - B. City Council Notice of Action, Preliminary Plat approval, dated March 20, 2008
7. IMC 18.13.170 - .270 ("Subdivisions")
8. Letter from Bob Brock, City Public Works Engineering Director, to Keith Niven, City MDRT Program Manager, dated September 23, 2008
9. City Council Notice of Action, Highlands Drive Transit Oriented Development Urban Village Development Agreement approval, dated September 20, 2007
10. City MDRT Administrative Minor Modification Notice of Decision, AM08-002HD, dated October 1, 2008
11. Legal Notice, 02-1428, City Notice of Public Meeting, dated September 24, 2008
12. SEPA Mitigated Determination of Nonsignificance, issued July 11, 2007
13. Development Agreement, Highlands Drive Transit Oriented Development, between the City of Issaquah and Grand Glacier LLC, effective October 4, 2007

The Hearing Examiner enters the following Findings and Conclusions based upon the comments and exhibits admitted at the public meeting:

FINDINGS

1. Howland Homes (Applicant) requests a final plat to subdivide a 0.4488-acre parcel into 10 single-family residential lots and three tracts for utilities, landscaping, open space, private access, parking, and public pedestrian access. The property is Block 9C of the Highlands Drive Transit Oriented Development (TOD),¹ and is located in the southeast corner of the Highlands Drive TOD, east of the Highlands Drive NE/NE High Street intersection in Issaquah, Washington.² *Exhibit 2, Attachment 2.*

¹ The Highlands Drive Transit Oriented Development (TOD) Urban Village is a 1.86-acre area comprised of Blocks 9A and 9C, located east of Highlands Drive and north of High Street in Issaquah, Washington. The TOD area has been removed from and is no longer part of the Issaquah Highlands development within the City of Issaquah (City). No units built on the TOD count against the total number of residential units or allowable development within the Issaquah Highlands development as defined and allowed under the agreements governing the Issaquah Highlands, nor do vehicle trips generated by development associated with the proposed final plat count as Issaquah Highlands project vehicle trips or against the Issaquah Highlands concurrency threshold. The TOD is governed by the Highlands Drive TOD Development Agreement (TOD Development Agreement), effective October 4, 2007. *Exhibit 1; Exhibit 2, Attachment 12; Exhibit 2, Attachment 13.*

² The subject property is identified as King County Tax No. 3630230030. The subject property's legal description is found within the proposed final plat map submitted with the final plat application. The subject property was created through a short plat, SP02-0011H, approved October 22, 2002, and a final plat, FP05-0071H, approved October 25, 2005, creating five blocks for future development, two tracts for future right-of-way, and one parcel for future development. A lot line adjustment, LLA06-0021H, approved August 17, 2006, modified Block 9C to incorporate the area within proposed Tract B of the final plat. *Exhibit 2, Staff Report, page 3; Exhibit 2, Attachment 2; Exhibit 2, Attachment 3.*

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2. The City of Issaquah (City) received the final plat application on August 30, 2008, and determined the application was complete on September 4, 2008. On September 4, 2008, the City provided notice of the final plat application by mailing notice to owners of property within 300 feet of the property subject to the application. On September 23, 2008, the City mailed notice of the public meeting associated with the application to owners of property within 300 feet of the subject property and to parties of record. The City published notice of the public meeting in the *Issaquah Press* on September 24, 2008.³ Mike Martin, City MDRT Assistant Planner, commented that the City did not receive any public comment on the final plat application. *Exhibit 2, Attachment 4; Exhibit 2, Attachment 5; Exhibit 2, Attachment 11; Comment of Mr. Martin.*
3. The City acted as lead agency for review of environmental impacts for the proposal, as required by the State Environmental Policy Act (SEPA), through review of the Issaquah Highlands Drive Affordable and Zero Energy TOD proposal for construction, landscaping, utilities, and paving within the 1.86-acre Highlands Drive TOD area. The City determined that with conditions, the proposal for the 1.86-acre Highlands Drive TOD would not have a probable significant adverse environmental impact.⁴ The City issued a Mitigated Determination of Nonsignificance (MDNS) on July 11, 2007. The City staff report states that the MDNS was a project-level evaluation that included review of planned development within the proposed final plat. According to the City staff report, MDNS Condition No. 8 is not applicable to the proposed final plat because the development would not have frontage on Highlands Drive NE; however, all remaining conditions would be enforced through City utility and building permit review. *Exhibit 1; Exhibit 2, Staff Report, page 4; Exhibit 2, Attachment 12.*
4. The subject property is designated Low Density Residential/Urban Village by the City Comprehensive Plan. The purpose and intent of the Urban Village (UV) designation is to encourage innovative uses, sites, and comprehensive planning of large land parcels to provide opportunities for reasonably priced housing; enhanced public services and concurrency; infrastructure solutions and improvements; and creative land development through clustering, permanent preservation of wetlands and other natural areas, integration of recreational facilities, and phasing of infrastructure. The UV designation is implemented by adoption of an UV development agreement and UV zoning by the City Council. An UV development agreement has been adopted for the Highlands Drive TOD. The UV development agreement adopted for the Highlands Drive TOD is the Highlands Drive TOD Development Agreement (TOD Development Agreement), effective October

³ Pursuant to the TOD Development Agreement, the Hearing Examiner reviews and makes a decision on final plat applications following a public meeting. *Exhibit 2, Attachment 13.*

⁴ Fifteen conditions address the following: temporary grading, drainage, erosion, and sedimentation control; the City's Wet Weather Construction Policy; dust reduction; landscape management; landscaping plan; exterior lighting; rooftop equipment and parking lots; pedestrian connections; non-vehicular access plan; recreational amenities; green building or sustainable construction practices; streetscapes; low-impact development techniques; cut-through traffic; and project driveways. *Exhibit 2, Attachment 12.*

4, 2007. *City Comprehensive Plan, Land Use Element, page L-7; Exhibit 2, Staff Report, page 2; Exhibit 2, Attachment 6.A; Exhibit 2, Attachment 13.*

5. The subject property is located within the City's Urban Village (UV) zoning district. The purpose of the district is to encourage innovative uses, sites and comprehensive planning of large (15 acres or more) land parcels. The City Council may adopt the UV zoning district concurrent with approval of a development agreement. Upon City Council approval of a development agreement, the property's development is governed by the substantive provisions of the approved agreement and implemented through subdivisions, short plats, binding site plans or other applicable permits in accordance with the procedures specified in the agreement, or standard City procedures if none are specified in the agreement. *Issaquah Municipal Code (IMC) 18.06.120.* According to the TOD Development Agreement, the TOD would include development of development of up to 10 zero net energy residential units and up to 155 affordable housing units, at a development density of 20-80 dwelling units per acre. The proposed final plat would include 10 zero net energy dwelling units,⁵ and would be developed at a density of 22.28 dwelling units per acre.⁶ *Exhibit 2, Staff Report, pages 2 and 5; Exhibit 2, Attachment 13.*
6. The subject property has been cleared, rough grading has occurred, and some infrastructure improvements have been completed. The improvements required for the plat have been approved by the City through Utility Permit PUB08-001HD for roadway and wet utilities, and through PUB06-0211H, Block 9A (Tract B) landscape plan.⁷ *Exhibit 1; Exhibit 2, Staff Report, pages 2 and 4 - 5.*
7. The City Council approved the preliminary plat for Highlands Drive Transit Oriented Development Zero Energy Project (PP08-001HD) with 18 conditions of approval on

⁵ Appendix C of the TOD Development Agreement defines zero net energy housing as "cutting edge sustainable development attached residential" housing, meeting the following benchmarks: zero net energy usage, defined as the project using no more energy than it generates over the course of a year; home operations carbon dioxide generation neutral on an annual net basis, through on site energy generation, or if necessary, through local energy generation such as wind turbines or heating energy exchange with nearby use; minimized carbon dioxide generation during construction, offset through tree planting throughout the City; 50-percent reduction in water use compared to average residential use within the City; use of salvaged and reclaimed materials, recycled content, regionally produced materials; low toxicity materials, third-party certified materials, and materials manufactured to enhance social, economic, and environmental health, and employee well-being; minimum 90-percent diversion of all construction-related debris through waste prevention, reuse, and recycling; extremely low toxicity and proper ventilation; high durability and low maintenance; reduction of stormwater impacts through low-impact development techniques; socially equitable materials and labor practices; and Green 5 Star certification. *Exhibit 2, Attachment 13.*

⁶ The calculation is 10 dwelling units divided by 0.4488-acres = 22.28 dwelling units per acre.

⁷ A lot line adjustment, LLA06-0021H, approved August 17, 2006, modified Block 9C to incorporate the area within proposed Tract B of the final plat. *Exhibit 2, Staff Report, page 3.*

March 20, 2008.⁸ The preliminary plat application requested subdivision of the subject property into 10 lots for single-family attached homes and four tracts for common open space, vehicular and pedestrian access, stormwater features, utilities, and landscaping.⁹ The comments of City Departments were incorporated into the City Council's decision. The conditions of approval were necessary to ensure compliance with IMC Chapter 18.13 (Subdivisions) and RCW Chapter 58.17 requirements that the public use and interest would be served by the subdivision and dedication; and that appropriate provisions have been made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds, and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from schools. *IMC Chapter 18.13; RCW Chapter 58.17; Exhibit 1; Exhibit 2, Staff Report, page 3; Exhibit 2, Attachment 6.A; Exhibit 2, Attachment 6.B; Exhibit 2, Attachment 7.*

8. The City of Issaquah Major Development Review Team (MDRT) reviewed the final plat application for consistency with the conditions of preliminary plat approval, as approved by the City Council. The following is the MDRT's analysis of how the proposed final plat complies with applicable preliminary plat conditions of approval (numbered below), with staff analysis in italics:

1. Various easements are required to provide access for the individual lot owners. These easements shall be provided with the final plat. These include:
 - Lots 1-6 require pedestrian access and utility easements from public right of way to each interior property. *(Part 1)*
 - Access to retaining walls to allow for maintenance and replacement by the private owners. *(Part 2)*

Part 1, Complies. See 'Easement Provisions' no. 5, 6, and 9 on Sheet3.

⁸ Preliminary plats within the Highlands Drive TOD site are reviewed according to Appendix E, Section D of the TOD Development Agreement. According to Section D, preliminary plats are ultimately decided by the City Council, following a public hearing and recommendation to the City Council on the preliminary plat application by the City Urban Village Development Commission (UVDC). *Exhibit 2, Attachment 13.*

⁹ The UVDC's Findings of Fact, Conclusions, and Recommended Conditions to the City Council, dated February 26, 2008, state that the preliminary plat application submitted to the City was to "subdivide the approximately 0.4-acre [site] into 10 lots for attached single family homes and four tracts [Tracts A, B, C, and D] for common open space, vehicular/pedestrian access, stormwater features, utilities, and landscaping." However, the proposed final plat map submitted with the final plat application contains three tracts: Tract A (approximately 5,018-square feet), for private access, public pedestrian access, private sewer, and utilities; Tract B (approximately 938-square feet) for access and utilities; and Tract C (approximately 2,376-square feet) for public pedestrian/vehicular access. Mr. Martin commented that prior to final plat application submission, Preliminary Plat Tract C was removed and merged with Preliminary Plat Tract A, and the remaining three tracts were renamed Tract A, Tract B, and Tract C. The landscape improvements that were to be placed within Preliminary Plat Tract C have been relocated and placed within proposed Tract A of the final plat. *Exhibit 1; Exhibit 2, Attachment 3; Exhibit 2, Attachment 6.A; Comment of Mr. Martin.*

Part 2, Complies. The retaining wall located along the western boundary of the plat does not require an access easement on the adjacent property as the wall will be designed and constructed to allow any maintenance operations to occur on the subject property.

2. Prior to approval of the final plat, the boundary line adjustment forming the boundary of this plat must be finalized and recorded.

Complies. The Lot Line Adjustment, LLA08-001HD, was approved on August 21, 2008 and was recorded on September 11, 2008, Recording No. 2008911900005, see Legal Description, Sheet 1.

3. The subdivision shall comply with the Highlands Drive TOD SEPA MDNS conditions of approval, except for Condition 8 (which is not applicable).

Compliance with this condition will be verified through future utility permit and building permit reviews.

4. Municipal impact fees shall be paid consistent with the Issaquah Municipal Code. A condition shall be placed on the face of the final plat which requires the payment of all mitigation fees required per Code.

Complies. See 'Restrictions & Notes' nos. 2a., 2b., and 2c. on Sheet 2.

5. A minimum 5' wide pedestrian route accessible to the general public shall be provided east/west across the site (south of lots 7-10). Similarly, a 5' wide pedestrian route shall link the NE High Street sidewalk with the east/west route. Furthermore, a 6' wide pedestrian route in Tract B, which connects 9th Place NE with NE High Street shall be provided, along with pedestrian supportive features such as benches, sitting rocks, widened places in the walls, etc... These routes shall be placed in an easement which allows access by the general public. Surfacing shall be concrete or other durable, comfortable, and safe walking surface.

Easement Provision no. 6 on Sheet 3 allows public pedestrian access across Tracts A and C within this plat. An area 6' in width has been provided across Tract A to provide for an east/west pedestrian path spanning the width of the site. This east/west path is directly connected with the public sidewalk on NE High Street via the pedestrian plaza on Tract A.

Tract B is designed to be a pedestrian plaza. Per the approved Utility Permit PUB06-021IH, the improvements within Tract B will include a 6' wide pedestrian pathway, landscaping, bench, garden lighting and decorative pavers. Public access to Tract B is provided through a Public Access and Utility Easement that encumbers the entire tract. Porous concrete will be used for the woonerf on Tract C. Surface materials used on Tract A will be verified through future utility permit review.

6. Homes on Lots 1 and 4 shall include significant features which create a relationship and interactivity with High Street, such as balconies, entrances, roof decks, patios, and/or Juliet balconies which open onto the street. The homes which abut Tracts A, B, C, and D, as well as Block 9A, shall be designed to foster neighborly communication between the homes and the adjacent public spaces.

This condition will be verified through future building permit review.

7. Any fencing within the project should be low (3' maximum) and open. Tract A shall be designed to foster social interaction between residents and include common elements such as seating, common cooking areas, etc...

This condition will be verified through future utility and building permit review.

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8. Through engineering plan review, a lighting plan shall be proposed for on-site exterior lighting which maintains lighting at the minimum necessary for safety, and balances the goal minimizing night glow and off-site lamp visibility with pedestrian scale lighting. The lighting plan shall comprehensively address building and exterior lighting so that lighting impacts are not compounded in portions of the site by overlapping illumination patterns.

This condition will be verified through future engineering permit review.

9. The plat frontage of 9th Place NE should provide for completion of the street frontage, including a 5' sidewalk and 4' planting strip. These facilities shall be placed in right of way and conveyed to the City with the final plat.

The Administrative Minor Modification, AM08-002HD, (Attachment 9) revised the preliminary plat condition to require the plat frontage improvements along 9th Place NE to be those which are consistent with the City's design criteria for alleys. Through design of the utility permit, it was determined by Staff that the NE portion of the plat should be designed to function as an extension of the alley rather than 9th Place NE.

Preliminary plat condition no. 9 is hereby revised to read as follows: "The plat frontage of 9th Place NE shall provide for completion right of way improvements per Appendix B; § 2.18 (Alley Road Design Standard) of the Highlands Drive TOD Development Agreement".

Compliance with the revised condition has been verified through review and approval of the Utility Permit, PUB08-001HD (see Attachment 9).

10. The woonerf shall be posted as "No Parking" or "No Parking – Fire Lane", depending on the type of service it provides. Prior to issuance of Building Permits, the applicant shall receive approval of a striping and/or signing plan for the woonerf, and the signs installed.

As the woonerf will be designed to provide for fire truck access, "No Parking – Fire Lane" signage shall be provided. All striping and/or signage will be verified during building permit review.

11. When the ROW is located at the back of a sidewalk, woonerf, or other publicly- owned, paved area, and it is determined to be necessary by the Responsible Official, a two-foot maintenance and repair easement shall be granted to the City. For instance, if a building or wall is located at the back of the publicly-owned paved area, the easement is not necessary.

Complies. See 'Easement Provisions' no. 1, on Sheet 3.

12. Achievement of the Appendix C Zero Energy Housing environmental benchmarks shall be verified during building permit review.

Compliance with this condition will be verified through future building permit review.

13. Parking easements for required parking not located on the applicable lot shall be provided on the final plat.

Complies. See 'Easement Provisions' no. 8.

14. The woonerf shall be designed and reviewed consistent with Appendix H in conjunction with utility permit review. Prior to issuance of building permits, site design of the houses fronting on any woonerf, shall limit height or presence of elements (e.g. walls, landscaping) directly abutting the woonerf that would inhibit drivers and pedestrians (especially small children) exiting lots from seeing each other.

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Complies. The woonerf, as permitted under the Utility Permit, PUB08-001HD, is consistent with the design criteria noted in Appendix H. This condition will also be verified through future building permit review.

15. In parks and landscape tracts, design of the above ground facilities, such as walkways, significant plant materials, etc. should take priority over the convenient locations of utilities, unless this would significantly compromise the function of the utilities. This will be reviewed with the Utility Permit.

Complies. Per 'Restrictions and Notes' no's. 23, 24 and 25 on Sheet 2, all tracts within this plat (A, B, and C) contain landscaping or open space. As such, utility infrastructure within these tracts has been designed to not interfere with the surface improvements except when said infrastructure is necessary for environmental design and/or demonstration. Examples include a terraced rain-garden and stormwater conveyance systems which deliver water to cisterns that can be tapped for reuse.

16. Tracts A, B, and C must be substantially complete (landscape, recreational facilities, and other elements whose timing is not specified in other conditions) prior to the Certificate of Occupancy of the last dwelling unit adjacent to the open space. This will be reviewed with the Building Permit. Immediately after recording of final plat, to notify potential purchasers of adjacent units, Tract B shall be temporarily signed as the temporary location of a public trail.

A performance guarantee (bond) in the amount of 100% of the cost of the improvements within Tracts A, B, and C will be provided prior to release of any building permits (see 'Recommendation' no. 5 below). Signs shall be placed at both ends of Tract B to notify potential purchasers of the future trail (see Condition no. 2 under 'Recommendation' below).

17. A water main must be extended through the plat from the point of connection to either the northern or western property line, so that the remainder of the TOD can connect to the main and complete a loop for fire protection purposes.

Complies. Per the approved Utility Plan, PUB08-001HD, a water main within Tract C will extend to the northern boundary at the northwest corner of the plat.

18. The northerly woonerf shall be designed as a fire access, and thus include a fire truck turning radii from 9th Place NE, unless through additional design evaluation during utility permit review it is determined that fire access to the affordable housing site can be adequately provided through other means. Address monumentation along 9th Place NE shall be provided for all lots prior to occupancy, subject to ESFR as part of building permit review.

Fire truck turning radii are shown on the Utility Permit, PUB08-001HD, at the entrance to the Tract C woonerf. Address numbers for each unit have been approved by ESFR and are noted on Sheet 3. The placement of address monumentation and residential addresses will be verified during building permit review in coordination with ESFR.

Exhibit 2, Staff Report, pages 5 - 9.

9. Following City Council preliminary plat approval, the City MDRT reviewed and approved an Administrative Minor Modification to preliminary plat approval condition No. 9. The modification replaced the language of preliminary plat approval condition No. 9 with the following language: "The plat frontage of 9th Place NE shall provide for completion of the right of way improvements per Appendix B; Section 2.18 (Alley 1 Road Design Standard) of the Highlands Drive TOD Development Agreement)."

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According to the City MDRT, preliminary plat condition No. 9 was written with the understanding that the southern portion of 9th Place NE would function as a continuation of the street rather than an alley connecting to 10th Avenue NE, located to the east of the proposed plat. However, City staff determined through design of the plat utility permit that the plat frontage would function better as an extension of the alley rather than a continuation of the street.¹⁰ Because the Alley 1 Standard does not require separated pedestrian improvements, a separate five-foot wide pedestrian pathway is shown on the City-approved Utility Permit for the plat, PUB08-001HD. *Exhibit 2, Attachment 10.*

10. The MDRT reviewed the proposed final plat for compliance with the technical requirements set forth in IMC 18.13.170 through IMC 18.13.200 that govern the final plat application, the general and specific requirements of the final plat, and any dedications and certifications to be contained in the final plat or to accompany the final plat. The MDRT determined that all of these requirements had been satisfied, and recommended approval of the final plat. The City Staff Report contains proposed conditions of final plat approval that would ensure that signs are posted at each end of Tract B to notify of the future trail prior to release of final plat mylars; all easements shown on the plat are recorded prior to release of the final plat mylars; necessary signatures of City representatives are obtained prior to final plat recording; a performance guarantee for 100-percent of the cost of Tract A, B, and C improvements is provided prior to building permit release; the approved final plat is recorded with King County; and a copy of the recorded final plat packages is provided to the MDRT; and would permit minor, non-substantive adjustments to be made to the final plat at the discretion of the Responsible Official prior to recording. *Exhibit 2, Staff Report, pages 5 and 9 – 10.*
11. According to IMC 18.13.260, a final plat shall not be approved by the Hearing Examiner until all required improvements are constructed in a satisfactory manner and approved by the responsible City Departments, or sufficient bond has been satisfactorily posted in lieu of completion. The City Public Works Director must notify the City Planning Department in writing of the improvements deferred, the amount of bond or other security and time limit of such, and any other pertinent information. *IMC 18.13.260.G.* The City Public Works Engineering Director stated in a letter to Keith Niven, City MDRT Program Manager, that the Applicant has deferred improvements for the proposed plat and the amount of the bond for the deferred improvements shall be \$17,285 for earthwork and paving; \$6,869 for storm drainage; and \$23,246 for water improvements. A letter from Port Blakely Communities, Inc., manager of Grand Glacier LLC, states that Grand Glacier LLC authorized a total of \$47,400 on deposit with the City to be used as security guarantee for the earthwork and paving, storm drainage, and water

¹⁰ The portion of the plat that fronts onto 9th Place NE is located at the intersection of an alley connecting with 10th Avenue NE. Mr. Martin commented that the street labeled 10th Place NE on the preliminary plat drawings has now been renamed 9th Place NE. Eastside Fire and Rescue renamed the street 9th Place NE on January 29, 2008. The alley was constructed consistent with the Alley 1 road design standard prior to the plat application to provide access to parking garages within multi-family residential buildings located to the east of the plat, and to provide for access to future development. *Exhibit 2, Staff Report, page 3; Exhibit 2, Attachment 10; Comment of Mr. Martin.*

improvements. Irma Dore, Applicant Representative, commented that the Applicant had either completed or sufficiently bonded for all required improvements. Mr. Martin commented that the City anticipates the Applicant will complete deferred improvements within one year following the start of construction. Ms. Dore also commented that the Applicant has read, understands, and agrees to all proposed conditions of final plat approval. *Exhibit 2, Attachment 8; Comment of Ms. Dore; Comment of Mr. Martin.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide final plat applications pursuant to Issaquah Municipal Code (IMC) 18.13.040.D. According to IMC 18.04.470.B, a final plat is reviewed at a public meeting and does not require review at an open record hearing. *IMC 18.13.040.D; IMC 18.04.470.B.*

The Highlands Drive Transit Oriented Development (TOD) Development Agreement (TOD Development Agreement) governs development within the Highlands Drive TOD. The TOD Development Agreement authorizes the Hearing Examiner to issue a written decision upon requests for Highlands Drive TOD final plats, following a recommendation by MDRT staff and a public meeting. *TOD Development Agreement, Appendix E, Section E.*

Criteria for Review

The criteria for final plat review are found in IMC 18.13.310, which states:

If the Hearing Examiner finds that the proposed plat makes appropriate provisions for the public health, safety, general welfare, and for such open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary sewers, parks, playgrounds, sites for schools and school grounds, and that the public use and interest will be served by the platting of such subdivision, then it shall be approved. If the Hearing Examiner finds that the proposed plat does not make such appropriate provisions or that the public use and interest will not be served, then the Hearing Examiner may disapprove the proposed subdivision.

IMC 18.13.310.

These criteria are nearly identical to the criteria for review of plats set forth in RCW 58.17.110, the state subdivision statute. The City Council addressed consistency of the application with RCW 58.17.110 criteria during preliminary plat review (*see* Decision of the City Council, for Preliminary Plat PP08-001HD, Exhibit 2, Attachment 6.B). As a result of preliminary plat review, the City Council approved the preliminary plat but imposed 18 conditions of approval. Since the application has already undergone review for consistency with the applicable subdivision criteria and conditions of approval were applied to ensure consistency, final plat review is limited to determining whether the conditions of preliminary plat approval and the IMC Chapter 18.13 technical requirements have been satisfied.

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Conclusions Based on Findings

1. **With conditions, the proposed final plat would comply with IMC Chapter 18.13 technical requirements.** The City provided adequate notice of the final plat application and associated public meeting. The City reviewed the environmental impacts of the final plat through SEPA review of the impacts of the greater Highlands Drive TOD development site. The Applicant has generally complied with IMC Chapter 18.13 technical requirements, including improvements, financial guarantees on deferred improvements, and any required dedications and certifications. Conditions of approval are necessary to ensure that the Applicant includes necessary signatures of City representatives on the final plat; posts signs to notify of future trail construction; records all easements prior to release of final plat mylars; posts a performance guarantee for required improvements; properly records the final plat; and properly submits copies of the final plat to the City MDRT. *Findings 1 - 3, 10.*
2. **The final plat would comply with the applicable conditions of preliminary plat approval.** The zero net energy residential development proposed for the subject property is consistent with the subject property's Urban Village Comprehensive Plan designation. The proposed development is consistent with the purpose and requirements of the Urban Village zone, as the subject property would be developed consistent with the type of development and development density set forth in the TOD Development Agreement. The Hearing Examiner is satisfied that this proposal has been adequately reviewed for compliance with the conditions of the preliminary plat approval and accepts City staff comments in that regard, which were uncontroverted. Some infrastructure improvements serving the subject property have already been completed. Completion of other required improvements has been guaranteed through posting of a performance bond by the Applicant. Appropriate provision has been made for the public health, safety, general welfare, and all other items specified in IMC 18.13.310. *Findings 1, 3 - 11.*

DECISION

Based on the preceding Findings and Conclusions, the final plat to subdivide a 0.4488-acre parcel into 10 single-family residential lots and three tracts for utilities, landscaping, open space, private access, parking, and public pedestrian access is **APPROVED**, subject to the following conditions:

1. Minor, non-substantive adjustments may be made to the final plat at the discretion of the Responsible Official prior to recording.
2. Prior to release of the mylars for this final plat, signs shall be posted at each end of Tract B to notify prospective owners of the future trail.
3. All easements shown on the plat must be recorded prior to the release of mylars. This includes the Public Access Easement, Temporary Construction and Grading Easement, and 10' Public Water Easement. A recording no. shall also be provided for the release of the existing 10' Public Water Easement. All recording numbers shall be noted on the final plat mylars.

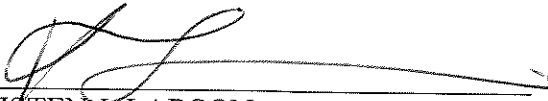
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4. Prior to recording of the Final Plat, the necessary signature of City representatives must be signed on Sheet 1 of 3 and other sheets that apply.
5. A performance guarantee (bond) for 100% of the cost of improvements within Tracts A, B, and C shall be provided prior to the release of any building permits.
6. The applicant shall record the approved Final Plat with the King County Department of Records and Elections.
7. A copy of the recorded Final Plat packages shall be provided to the MDRT with ten (10) days of recording with the King County Department of Records and Elections. The applicant shall also submit an electronic copy of the plats in a format acceptable to the MDRT.

Decided this 23 day of October 2008.


KRISTEN J. LARSON
Hearing Examiner