

OFFICE OF THE HEARING EXAMINER

CITY OF TACOMA

REPORT AND RECOMMENDATION

TO THE CITY COUNCIL

APPLICANT: RPC Tacoma, LLC,¹ the current owner of record of the Subject Property (as defined below), is the applicant for the present rezone request (hereinafter the “Applicant” or “RPC”). RPC was represented at the hearing by Glenna Mahar and Ben Childs of Graves and Associates, formerly Jon Graves Architects & Planners, PLLC, acting as authorized agents for RPC. For purposes of this Report and Recommendation, the references to “RPC” and “Applicant” also include any employees, agents, and/or contractors of the Applicant in regard to conditions and compliance issues set forth below, and in regard to the development of the Subject Property.

HEARING EXAMINER FILE NO: HEX2020-006 (LU19-0208)

SUMMARY OF REQUEST:

The Applicant proposes to rezone one parcel of real property, approximately 34,245 square feet in area, from R-2 Single-Family Dwelling District to R-4-L Low-Density Multiple-Family Dwelling District for the eventual construction of eleven (11) to fifteen (15) units of housing in buildings ranging from two to four units per building. The rezone application also requires review under the State Environmental Policy Act (“SEPA”). The Planning and Development Services (“PDS”) Director issued a final determination of nonsignificance (“DNS”) on March 6, 2020. The DNS was not appealed; there were no development or other mitigation conditions placed on the SEPA review/approval.

LOCATION:

The Subject Property is located in the South End neighborhood of Tacoma, at the newly assigned address of 8632 A Street. The Subject Property was put into its current configuration through a boundary line adjustment on January 31, 2020. The Subject Property is roughly 34,245 square feet in size, or approximately 0.786 acres. The newly assigned Pierce County tax parcel number for the Subject Property is 0320332200. The real property just described is referred to herein as the “Subject Property” or the “Site.”

¹ RPC Tacoma, LLC is a Delaware Limited Liability Company registered to do business in the state of Washington.

RECOMMENDATION:

The Hearing Examiner recommends approval of the rezone, subject to conditions set forth herein below.²

PUBLIC HEARING:

After reviewing the PDS Preliminary Report (herein the “PDS Report”—*Ex. C-1*) and all attendant information on file, the Hearing Examiner convened a public hearing on the rezone request on April 2, 2020.³

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION:

FINDINGS OF FACT:

1. RPC submitted an application through its duly designated representative requesting a rezone of one parcel of real property, approximately 34,245 square feet in size (again the “Site” or “Subject Property”), from R-2 Single-Family Dwelling District to R-4-L Low-Density Multiple-Family Dwelling District for the eventual construction of eleven (11) to fifteen (15) units of housing in buildings ranging from two to four units per building. The rezone application required review under the State Environmental Policy Act (“SEPA” Revised Code of Washington [“RCW”] 43.21C). The PDS Director issued a final determination of nonsignificance (“DNS”) on March 6, 2020. The DNS was not appealed; there were no mitigation or other conditions that were made part of the SEPA review and approval. *Schultz Testimony; Ex. C-1, Ex. C-3~C-5.*

2. The Site is a single, relatively flat, vacant parcel measuring approximately 82 feet along A Street and slightly over 297 feet in depth from east to west. The Subject Property has never been platted. The Subject Property is now Parcel A of Boundary Line Adjustment LU18-0283, recorded under Pierce County Recording Number 202001315011. Previously, the Site was part of a parcel that was split-zoned between C-2 General Community Commercial and R-2 Single-Family Residential. *Schultz Testimony; Ex. C-1, Ex. C-10.*

3. The Site is bounded by A Street on the east and a self-storage facility on the west (facing Pacific Avenue). Much of the abutting property to the north and south is vacant, with two single-family houses adjacent to the Subject Property, facing A Street. Properties to the north and south are zoned R-2. Larchmont Elementary School is located to the east across A Street. A Street is a residential street, 60

² As will be explained further below, the majority of the “conditions” recommended herein are not conditions precedent to approving the rezone. Rather, they are informational, advisory conditions to the Applicant regarding its proposed development of the Subject Property and will require compliance as the proposed development moves forward.

³ Due to National, State of Washington and City of Tacoma Proclamations of Emergency caused by 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 and with telephonic access via call in number on GlobalMeet.

feet in width. The corridor was slated for reconstruction this summer under the City's Streets Initiative. *Schultz Testimony; Ex. C-1.*

4. The surrounding area is a mixed neighborhood with the west property line of the Subject Property being the approximate boundary between high-intensity commercial uses along the Pacific Avenue corridor and the single-family uses more prevalent to the east of A Street. In the vicinity of the Subject Property, several parcels have been short-platted and have private drives that run perpendicular to A Street that do not continue through to Pacific Avenue. Other large vacant parcels remain in the area. *Id.; Ex. C-7, Ex. C-8.*

5. The Site has been zoned R-2 One-Family Dwelling District since zoning classifications first came into being in 1953 when the City's zoning code was first established. In 2003, the area fronting Pacific Avenue was rezoned to C-2, General Community Commercial zone. At that time, there were wetlands identified on the easterly portion of the Site; those wetlands have since been filled in exchange for providing off-site mitigation. The mitigation has been partially completed (and is partially failing) and may be subject to further review and enforcement under critical areas monitoring provisions. *Id., Ex. C-9.*

6. The City's Comprehensive Plan ("Comp Plan") Future Land Use Map designates the Site as being located within the "Multi-Family (Low Density)" land use category. This designation would support zoning of R-3 or R-4-L, the latter of which is proposed. Schultz testified that at some point, PDS plans to submit an area wide rezone that would change the classification of the Subject Property (as part of the surrounding area) to the classification targeted by this rezone request in any event. The target density for the Site under the Comp Plan is 14-36 dwelling units per net acre. The entire area to the east of commercial areas along Pacific Avenue has been designated for low-density multifamily uses. *Schultz Testimony; Ex. C-1.*

7. There have been other rezones in the vicinity along Pacific Avenue as the area has become more commercially-developed. Otherwise the remainder of the neighborhood retains its original R-2 Single-Family Dwelling District zoning for the time being. *Id.*

8. Review under SEPA was required on the way to this Report and Recommendation because rezone applications are not exempted from SEPA review as minor land use decisions. *Id.; Ex. C-3.*

9. Pursuant to the State's *SEPA* Rules (WAC 197-11-340) and the City of Tacoma's Environmental Code (TMC 13.12), the PDS Director issued the DNS (as already referenced above) for the rezone and its proposed project on March 6, 2020. The SEPA appeal period ended March 20, 2020. No appeal of the DNS has been filed. Issuance of the DNS was based on a review of the Applicant's Environmental Checklist, the project plans, written comments received from reviewers, and comments received from outside agencies. *Id., Ex. C-3.*

10. RPC's application was determined to be technically complete on November 5, 2019; however, changes were requested as part of the initial PDS staff review. The Public Hearing Notice was issued on February 11, 2020, and was mailed to owners of record and/or taxpayers of record for property within 400 feet of the Site and mailed and/or e-mailed to the South End Neighborhood Council, qualified neighborhood and business groups, City staff, and outside agencies. In addition, a property

information sign was posted on the Site, and the Public Hearing Notice was posted on the City's website along with the application documents. *Ex. C-1.*

11. No written or telephonic public comments have been received. *Schultz Testimony; Ex. C-1.* No members of the public appeared at the hearing to testify. The Examiner kept the record open for an additional week after the hearing ended in order for members of the public to submit written comments. Signs were posted on both entrances to the TMB the day before the hearing giving directions for how to participate in the hearing by tele-video and telephone, and giving instructions for how to submit written comments during the following week. None were received and the record closed on Thursday April 9, 2020, at the close of business.

12. As part of the project review process, PDS provided notification of this rezone request to various City departments/divisions, and outside governmental and non-governmental agencies. Departmental comments and requirements regarding this proposal are included in the PDS Report. These agencies/departments/divisions recommended important conditions they believed would be properly attached to the rezone were it to be approved by the City Council, but with more of an eye toward the proposed development of the Subject Property. As a result, many of the comments and/or conditions are more appropriately addressed as part of the permit/entitlements process for the Applicant's intended project, as opposed to this rezone process. *Schultz Testimony; Ex. C-6.*

13. In response to questioning at the hearing, the Applicant confirmed that it had reviewed the City's proposed conditions of approval, and that it does not object to any of them. *Mahar Testimony, Childs Testimony.*

14. The PDS Report in this matter accurately describes the requested rezone and resulting proposed use, general and specific facts about the Site, applicable sections of the Comp Plan, and applicable regulatory codes. The PDS Report is marked as Exhibit C-1, and by this reference, is incorporated herein as though fully set forth. To the extent that anything in the PDS Report conflicts with the contents of this Report and Recommendation, this Report and Recommendation shall control.

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

CONCLUSIONS OF LAW:

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding to conduct a hearing and make a recommendation to the City Council. The final rezone decision is made through an ordinance by the City Council. *See TMC 1.23.050.A.1 and TMC 13.05.*

2. The requirements of SEPA have been met by the City's issuance of the DNS,⁴ which has not been appealed.

3. Under TMC 13.05.030.C.b (formerly TMC 13.06.650.B), the applicant for a rezone is required to demonstrate consistency with all of the following criteria:⁵

⁴ See TMC 13.12.430.

⁵ Numbering of the criteria is kept the same as in the TMC for consistency.

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

The Applicant bears the burden of establishing by a preponderance of the evidence that the requested rezone conforms to all of the foregoing criteria. *TMC 1.23.070.A*

Consistency with the Comp Plan (TMC 13.05.030.C.b.(1))

4. With the adoption of the City's current Comp Plan in 2015, land use intensities were replaced with land use designations. As mentioned above (*FoF 6*), the Subject Property currently falls within an area the Comp Plan designates as "Multi-Family (Low Density)." The requested change in classification to R-4-L, as proposed, is entirely "consistent with the applicable land use intensity designation of the property" because it would reclassify the Subject Property from a single-family classification to a Multi-Family (Low Density) R-4-L classification as the Comp Plan intends.

TMC 13.05.030.C.b.(1) further requires general consistency with the "[p]olicies, and other pertinent provisions of the Comprehensive Plan." Both the Applicant's submission (*Ex. C-4*) and the PDS Report (*Ex. C-1 as well as more specifically in Ex. C-8*) set forth numerous Comp Plan policies and goals that are advanced by the Applicant's intended use of the Subject Property for residential housing after the requested change to R-4-L. It is easy to conclude that the proposed use of the Subject Property is generally consistent with the multitude of Comp Plan goals and policies listed in Exhibit C-8. Representative of these consistent goals and policies are the following:

- (1) **Policy DD–4.2** Encourage more housing choices to accommodate a wider diversity of family sizes, incomes, and ages;
- (2) **Policy DD–4.3** Encourage residential infill development that complements the general scale, character, and natural landscape features of neighborhoods;
- (3) **Policy DD–5.8** Improve the livability of places and streets with high motor vehicle volumes; and
- (4) **Goal DD–9** Support development patterns that result in compatible and graceful transitions between differing densities, intensities and activities.

Approving the requested rezone to allow the Subject Property to be developed with a low-density, multi-family use, brings the Subject Property into conformance with its current Comp Plan designation and promotes the various Comp Plan goals and policies set forth in Exhibit C-8 of the City’s submittals, of which the four listed above are representative. As a result, the Examiner concludes that the standards set forth in TMC 13.05.030.C.b.(1) are met.

Substantial Changes (TMC 13.05.030.C.b.(2))

5. In regard to the rezone criteria found in subsection (2) that deals with substantial change, the City determined as follows:

Staff Response – The zoning and use pattern in the area has changed gradually since the 1950s with rezones and commercial development in the area. Pacific Avenue has always been an active transportation corridor and is planned for more activity over time. The City’s Comprehensive Plan contains multiple policies related to providing increased residential densities along and near transit corridors; the proposed rezone would allow development which would support those policies. *Ex. C-1.*

While the Examiner does not disagree with anything in PDS’ determination, it could be said that the substantial changes referenced by PDS staff are part of the basis for the Comp Plan designation for the area that includes the Subject Property being Multi-Family (Low Density). Given that, it could then be further said that granting the requested rezone “[i]mplement[s] an express provision or recommendation set forth in the Comprehensive Plan, [making] it [] unnecessary to demonstrate changed conditions supporting the requested rezone.” As Schultz testified at the hearing, as soon as PDS gets to it, it is likely that the Subject Property’s zoning will be brought into conformance with the Multi-Family (Low Density) designation already in place in the Comp Plan in any event. RPC is simply out in front of the City’s area-wide rezone process in requesting the different classification requested here. The Examiner concludes, therefore, that both aspects of the TMC 13.05.030.C.b.(2) criteria are met, regardless of whether they both need to be.

District Establishment Statement (TMC 13.05.030.C.b.(3))

6. The District Establishment Statement for the R-4-L Low-Density Multiple-Family Dwelling District provides as follows:

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

R-4-L Low-Density Multiple-Family Dwelling District. This district is intended primarily for low-density multiple-family housing, mobile home parks, retirement homes and group living facilities. It is similar to the R-4 Multiple-Family Dwelling District, but more restrictive site development standards are intended to minimize adverse impacts of permitted and conditional uses on adjoining land. The district is characterized by amenities and services associated with single- and two-family residential districts, and it is located generally along major transportation corridors and between higher and lower intensity uses. *TMC 13.06.020.C.7.*

PDS staff had the following to say regarding this criterion:

“As noted in the discussion of the Comprehensive Plan goals and policies, above, the site proposed for rezone to R4-L [sic] is a transition area between land use intensities, with the proposed development meeting the development standards to ensure compatibility with neighboring uses.” *Ex. C-1.*

RPC proposes to develop the Subject Property for low-density multiple-family residential use. Provided that the development of the Subject Property conforms to the Applicant’s current proposal, and complies with all applicable development regulations, the rezone and the resulting use of the Subject Property will be in compliance with the District Establishment Statement for the R-4-L Low-Density Multiple-Family Dwelling District.

Recent Area-Wide Rezone (TMC 13.05.030.C.b.(4))

7. Although possibly on the horizon, no area-wide zoning action involving or affecting the Subject Property has been taken by the Tacoma City Council in the two years preceding the filing of the present rezone application. As a result, the criterion set forth at TMC 13.05.030.C.b.(4) is satisfied.

Relationship to the Public Welfare (TMC 13.05.030.C.b.(5))

8. The TMC and Comp Plan set forth policies and requirements, including design and development standards aimed at regulating growth and development to ensure consistency with the public health, safety, morals and general welfare.

In order to ensure further that this rezone request and the intended development of the Subject Property are consistent with the public health, safety, morals and general welfare of the community, the City and related agencies reviewed and commented on the proposed development, supplying various conditions that will ensure compliance with applicable laws and development regulations. Requiring compliance with applicable development regulations and standards helps safeguard the public, and ensures compatibility with the surrounding community.

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

increasing the available supply of housing, and by increasing the supply, hopefully helping to stabilize or even reduce costs.

The Examiner finds that the requirements of TMC 13.05.030.C.b.(5) are met or will be met through compliance with the conditions set forth below as the development of the Subject Property unfolds, and by facilitating the increased supply of housing in the Tacoma market.

9. Findings entered herein, based on substantial evidence in the hearing record, support a conclusion that the proposed rezone is consistent with applicable criteria and standards for rezones, provided the conditions set forth herein are imposed at approval and complied with by the Applicant when developing the Subject Property.

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

A. RECOMMENDED CONDITIONS OF APPROVAL: “Conditions” set forth herein are derived primarily from the PDS Report, other submissions in the record, and testimony from the hearing. Nearly all of the conditions below have more to do with compliance issues related to the Applicant’s intended development of the Subject Property after approval of the requested rezone than they do with the rezone request itself, i.e., they are not recommended herein as conditions precedent to approving the rezone. Compliance with later development conditions prior to approving the rezone is physically and temporally impossible.

As set forth at FoF 14 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, if this rezone is approved, the Applicant should not still reference helpful language from the PDS Report as guidance for its development process, and it also does not mean that some of these very general “conditions” *will not* apply to later development of the Subject Property.

To the extent that any express language in the PDS Report conflicts with the language in this Report and Recommendation, this Report and Recommendation shall control if adopted as part of the City Council’s approval of the rezone. Omission of any language from the PDS Report in this Report and Recommendation does not constitute a conflict.

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

Therefore, should this request be approved, the Examiner recommends making the following conditions from the reviewing City and Tacoma Public Utility staff conditions of approval for the rezone as applicable to the redevelopment of the Subject Property.

1. LAND USE

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

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

B. ADVISORY COMMENTS:

The following comments are advisory and will be applicable to required building and development permits associated with the development proposed as part of this rezone request:

- 1. Refuse and recycling containers must have 4 feet clearance between them when placed out for service. Parcels with a triplex or larger will need to have a shared service to ensure adequate spacing. Duplexes will be required to have individual service per unit. The proposed site plan would not allow adequate spacing for all units to have individual services for solid waste services. TMC 12.09.
- 2. The proposed road width would not support parking on either side of the road. The road must be widened if parking is to be permitted on either side of the street.
- 3. A fire hydrant will be required to be installed at the turnaround.
- 4. Existing streetlights shall remain or they will need to be replaced. No lighting requirements for the private road to the units per Public Works standards. Lighting standards for access roads and sidewalks will depend on if the Site is subdivided or if this is an internal path for the development. See TMC 13.06.512 – especially B.6.
- 5. See below for Site Development comments.

POWER

6. There is an existing Tacoma Power pole that appears to conflict with the new access road. If the pole needs to be relocated, it will be at the developer/Applicant's expense. The pole has an overhead service on it that feeds a house on the parcel to the north of the Site/project. Due to an existing tree on the Site, Tacoma Power may not be able to relocate the service to the new pole if the pole needs to be moved north. As a result, the Applicant/developer would need to work with Tacoma Power and the adjacent parcel owner to modify the tree or service, so Tacoma Power will be able to serve the house from the new pole location. The only solution may be to convert the service to underground at the Applicant/developer's expense.

POWER EASEMENT REQUIREMENTS (FOR INFORMATIONAL PURPOSES ONLY)

7. Tacoma Power typically requires a 10' easement for primary line extensions along the back of sidewalk (on the south side of the road where the structures are). The 5' setback of the proposed most easterly lot would conflict with a 10' easement. Tacoma Power prefers not to run power under the road or poured concrete walk. If it is just a gravel walk, Tacoma Power may be able to locate the easement 5' north so that half of the 10' easement is under the walkway. Alternatively, the power easement and trench may be able to be moved to the north side of the road with a 10' easement on the north side of this walk. Additional easements would still be needed between where the secondary service boxes will be located on the properties to the south of the road and walk.
8. The developer can work with Tacoma Power to determine the best location for routing power and as well as the easement locations and dimensions. If these 4 lots will be established via short plat, Tacoma Power will provide the easement information and language for the developer to add to the short plat for recording. Otherwise Tacoma Power will need to communicate to the developer the easement that it need and the developer's engineer will have to provide the surveyed easement description and exhibit. Tacoma Power will draft the easement document once the developer's engineer provides them with those documents. It can take up to 8 weeks for Tacoma Power to develop the document, so it is much easier and preferred for the easement to be recorded on the short plat.

WATER

9. The project Site has no existing water services from A Street. Existing service is from Pacific Avenue and serves the existing building (not part of the Subject Property). Calculated pressure from A Street is approximately 78 psi. Calculated pressure from Pacific Avenue is approximately 84 psi.
10. Fire has indicated that a new fire hydrant is required at the end of the driveway. Therefore, extension of a permanent water main is required and shall be constructed by private contract. The Applicant/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 Applicant/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 Applicant/developer's deposit. The

new mains will be installed by and at the expense of the Applicant/developer. The Applicant/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 Applicant/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 Applicant/developer will either be refunded the unused amount of the deposit or billed the cost overrun. Approximate design time is ten weeks. Contact Jesse Angel at (253) 502-8280.

11. If 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. Contact Tacoma Water at (253) 396-3057 for commercial sizing/pricing. Call Water Permit Counter at 253-502-8247 for residential sizing and pricing.
12. The Uniform Plumbing Code requires that a pressure-reducing valve (PRV) be installed on the customer's property side service line if pressure exceeds 80 PSI.
13. New water services and meters will be placed directly in front of each parcel where possible. Prior approval by Tacoma Water is required for other non-typical locations.
14. If fire sprinkling, contact the Tacoma Water Permit Counter 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.
15. 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.
16. If existing water facilities need to be relocated or adjusted due to street improvements for this proposal they will be relocated by Tacoma Water at the Applicant/owners' expense.
17. 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.
18. Sanitary sewer mains and side sewers shall maintain a minimum horizontal separation of ten (10) feet 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".
19. For large diameter steel water mains (24 inch and larger) the proposed facilities shall have a minimum horizontal separation of ten (10) feet and vertical separation of two (2) feet from Tacoma Water facilities. Crossing of steel water main with proposed steel facilities may require the addition of cathodic protection. Contact Michael Duffy at (253) 502-8903 for additional information.
20. For large diameter non-steel water mains (24 inch and larger) the proposed facilities shall have a minimum horizontal separation of ten (10) feet and vertical separation of twelve (12) inches from Tacoma Water facilities.

21. For utilities other than sanitary sewer and large diameter water mains, the proposed facilities shall have a minimum horizontal separation of five (5) feet and vertical separation of twelve (12) inches from Tacoma Water facilities.

STORM AND SANITARY SEWERS

22. The development of the Subject Property must comply with all applicable requirements contained in the City of Tacoma Stormwater Management Manual (“SWMM”), Side Sewer and Sanitary Sewer Availability Manual, Tacoma Municipal Code 12.08, Tacoma Municipal Code 2.19, Tacoma Municipal Code 10.14, Tacoma Municipal Code 10.22 and the Right-of-Way Design Manual in effect at time of vesting land use actions, building or construction permitting.
23. Any utility construction, relocation, or adjustment costs shall be at the Applicant's expense.
24. All stormwater shall be managed in compliance with the City of Tacoma SWMM.
25. The Applicant shall review SWMM Minimum Requirements #1-10 and comply with all applicable requirements.
26. Per Minimum Requirement #5, projects that meet or exceed the SWMM thresholds shall employ, where feasible and appropriate, Onsite Stormwater Management BMPs to infiltrate, disperse, and retain stormwater runoff onsite to the maximum extent feasible.
27. Water quality shall be provided for all projects that meet or exceed the thresholds for Minimum Requirement #6 as outlined in the City of Tacoma SWMM. Pollution-generating hard surfaces created and/or replaced offsite as a result of the proposed project shall count toward the pollution-generating hard surface total.
28. Flow control or other mitigation in accordance with the City of Tacoma SWMM shall be provided for all projects that meet or exceed the thresholds for Minimum Requirement #7 as outlined in the City of Tacoma SWMM. Hard surfaces created and/or replaced offsite as a result of the proposed project shall count toward the hard surface total.
29. All projects shall comply with Minimum Requirement #10: Off-Site Analysis and Mitigation.
30. Public and private stormwater shall be managed in separate water quality and flow control facilities.
31. 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 City of Tacoma SWMM, Volume 3, Chapter 13. Separate tracts or easements for the location of shared stormwater facilities shall be shown on the short plat, if applicable.
32. All public stormwater facilities shall be located in right of way, a tract dedicated to the City of Tacoma or other easement per City of Tacoma SWMM Volume 3 Chapter 13 and as approved in writing by Environmental Services.
33. 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 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. Notice of this requirement will be recorded on title of this parcel.

34. 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.

STREETS, DRIVEWAYS, AND SIDEWALKS

35. Please be advised: The City of Tacoma's Environmental Services will be redeveloping A Street fronting the proposed project with a Low Impact Development (LID) design. All utility connections shall be coordinated with Environmental Services to ensure there are no conflicts with the City designed improvements.
36. The type, width, and location of all driveway approaches serving the Site shall be approved by the City Engineer. The driveway approach shall be constructed of asphalt at an alignment and grade which will allow for the City's LID project to construct a concrete driveway approach without causing a drainage issue or forcing work to take place on private property.
37. An approved fire turn-around, shall be designed and construction for the dead end private accessway, subject to approval by the City Engineer and Tacoma Fire Department.
38. A Street fronting the Subject Property shall be restored in accordance with the City's Right-of-Way Restoration Policy. The City's records indicate that A Street is existing asphalt. Restoration shall be in accordance with Tacoma standard plan SU-15A.
39. Once the City project is completed, utility cuts within A Street will not be allowed as the street will be under a construction moratorium per the City of Tacoma Public Works Department Right-of-Way Restoration Policy.
40. Future Private Accessway(s) shall be improved to Public Works Standards to a minimum width of 24 feet and shall include sidewalks along the lot frontages. Combination sidewalks will require cement concrete curb and gutter. When a planting strip and street trees are provided, asphalt wedge curb may be allowed. The minimum roadway section shall meet City Design Standards at time of submittal. It shall include necessary drainage. The private access easement shall be a minimum 32 feet wide.
41. 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.

C. USUAL CONDITIONS:

1. The recommendation 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 **substantial** 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. If the recommendation made herein leads to approval of the requested rezone, such approval shall be subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such law, regulations, and ordinances are conditions precedent to the approval granted and are continuing requirement of such approvals. By accepting any resulting approval, the Applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, and ordinances, the Applicant shall promptly bring such development or activities into compliance.

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

RECOMMENDATION:

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

DATED this 16th day of April, 2020.



JEFF H. CAPELL, Hearing Examiner

NOTICE

RECONSIDERATION/APPEAL OF EXAMINER'S RECOMMENDATION

RECONSIDERATION:

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

APPEALS TO CITY COUNCIL OF EXAMINER'S RECOMMENDATION:

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

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

GENERAL PROCEDURES FOR APPEAL:

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

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

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