



City of Tacoma
Hearing Examiner

August 24, 2016

FIRST CLASS & ELECTRONIC MAIL DELIVERY

Ted Johnson, President
Marathon Development, Inc.
12600 SE 38th Street, Suite 210
Bellevue, WA 98006

Mark Gustafson, CEO
Franke Toby Jones
5340 North Bristol Street
Tacoma, WA 98407

Shanta Frantz, Senior Planner
City of Tacoma
Planning and Development Services
747 Market Street Room 345
Tacoma, WA 98402
(Interoffice & Electronic Mail Delivery)

Re: HEX 2016-017 (LU16-0101) Marathon Development, Inc. / Franke Tobey Jones

Dear Parties,

In regard to the above reference matter, please find enclosed a copy of the Tacoma Hearing Examiner's Findings of Fact, Conclusions of Law, Decision (site plan modification), and Recommendations (rezone/zoning major modification) to the Tacoma City Council entered on August 24, 2016.

Sincerely,

Louisa Legg
Office Administrator

Enclosure (1) – Findings, Conclusions, Decision, and Recommendations

cc: *See attached Transmittal List*

CERTIFICATION

On this day, I forwarded a true and accurate copy of the documents to which this certificate is affixed via United States Postal Service postage prepaid or via delivery through City of Tacoma Mail Services to the parties or attorneys of record herein.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED August 24, 2016, at Tacoma, WA.

ORIGINAL

TRANSMITTAL LIST – MARATHON DEVELOPMENT, INC.
HEX 2016-017 (LU16-0101)

Transmitted via Inter-office Mail Delivery

Pierce County Assessor-Treasurer
Tacoma-Pierce County Health Department (Brad Harper)

Transmitted via Electronic Mail Delivery

Eva Barber, Technical Assistance Coordinator, WA DOE, SW Regional Office
Tina Vaslet, Planner II, Pierce Transit
Clerk's Office, City of Tacoma (Nicole Emery)
Legal (Jeff Capell)
Tacoma Power (Rick Van Allen)
Tacoma Water, Water Distribution (Jesse Angel)
Tacoma Fire (Chris Seaman)
Public Works, RPS, City of Tacoma (Rich Price)
Public Works, City of Tacoma (Sue Simpson)
Environmental Services, Site Development, City of Tacoma (Trevor Perkins)
Public Works Traffic Engineering Division, City of Tacoma (Brennan Kidd)
Planning and Development Services Department, City of Tacoma (Lisa Spadoni)
Planning and Development Services Department, City of Tacoma (Jana Magoon)
Planning and Development Services Department, City of Tacoma (Lihuang Wung)

OFFICE OF THE HEARING EXAMINER
CITY OF TACOMA
REPORT AND RECOMMENDATIONS
TO THE CITY COUNCIL ON REZONE AND REZONE MODIFICATION
AND DECISION ON SITE PLAN AMENDMENT

APPLICANT: Franke Tobey Jones/Marathon Development, Inc.

HEARING EXAMINER FILE NO: HEX 2016-017 (LU16-0101)

SUMMARY OF REQUESTS: The Applicant is seeking a rezone of one parcel, major modifications of prior rezones and major modification of the Planned Residential Development (PRD) site approval for a 19.28 acre retirement community originally established in 1924.

LOCATION: The site is located at 5340 North Bristol Street.

RECOMMENDATIONS:

1. The request for rezone of a parcel from R-2 to R3-PRD is recommended for approval subject to conditions.
2. The requested major modification to existing rezoned PRDs is recommended for approval, in part, and denial, in part, subject to conditions.

DECISION:

The requested site plan modifications are approved, in part, as conditioned.

PUBLIC HEARING:

The Hearing Examiner conducted a public hearing on the proposals on July 21, 2016. The Hearing Examiner also conducted a site visit to view the property and surrounding area on July 25, 2016.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
RECOMMENDATIONS,
AND DECISION**

-1-
ORIGINAL

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION:

FINDINGS OF FACT:

1. The Applicant is proposing to upgrade and expand the Franke Tobey Jones Retirement Community (Franke Tobey Jones). The project would add five buildings to the campus over a 3-5 year period. The improvements include an 84-unit Independent Living/Assisted Living (IL/AL) building, a 16-unit Independent Living building, a 43-bed/24-unit Skilled Nursing Facility and Memory Care building and 2 replacement duplex buildings. When completed, the proposed configuration would include 345 on-site parking spaces, 283 residents, 223,700 square feet of developed structures and approximately 624,810 square feet of site area without building coverage. *Ex. 17.* The plans call for 223,440 square feet of common open space and 63,665 square feet of common recreation space. To accomplish the project Franke Tobey Jones is seeking a zoning change for a parcel at the far northeast corner of their property from R-2 Single-Family Residential District to R-3-PRD Two-Family Planned Residential District. The proposed changes will also require major modification of the existing PRD zoning and PRD site plan approvals relating to density, building height, and required open space. *Ex R-1.*

2. The project would be constructed in three phases:

Phase I

Construct the new 43-bed Health Center, the 24-unit Memory Care building, the two-story Sound View Apartments and two new Duplex Cottages.

At the conclusion of Phase 1, the existing residents will be moved from the two duplex buildings (that will be demolished), as well as existing residents from the Health Center and Memory Care Community to the newly completed Phase I buildings.

Phase II

Demolish two existing duplex buildings, the existing Health Center, Memory Care Community and Maintenance Garage. Construct the new basement garage with 84 parking stalls and 5,000 square foot maintenance and vehicle storage area. Construct the new 84-unit "Aging in Place" independent living apartment community (the addition/replacement of the rear portion of the Lillian Pratt building).

In addition to the apartments, this building will include the following resident amenities: enhanced fitness center, auditorium, bistro, game room, lounge, business/computer room, library, and rooftop deck.

Phase III

Renovate the historic Tobey Jones building into administrative and residential use together with the cosmetic update of the Lillian Pratt building and the Garden Apartments.

Exs. 1 and 5; Johnson Testimony.

3. The Franke Tobey Jones property is 19.48 acres in size. The primary access to the site is off North Park Way from the south and a secondary access is located off North Park Avenue to the north side of the development. The Franke Tobey Jones Community provides independent and assisted living options, 24-hour care, and memory care facilities. On-site improvements include a wellness center, a café, beauty shops, recreational activities, a putting green, and a senior university. The campus has a Tudor-style design theme using a mix of brick, stone, and stucco/cement finishes with wood batten and trim. The site is approximately 940 feet wide by 1,025 feet deep and it slopes from east to west. Rock walls and terraced landscaping are located throughout the property. *Ex. 1; Franz Testimony.*

4. The Franke Tobey Jones property is currently a mix of R-4-PRD Multi-Family Dwelling District, R-3-PRD Two-Family Dwelling District with a Planned Residential Development Overlay, and R-2 Single-Family Dwelling District. Single-family neighborhoods are located to the south, east, and southeast of the site and they are zoned R-2 Single-Family Dwelling District. Point Defiance Park is immediately to the north of the property and is zoned R-1 Single-Family Dwelling District. Two planned residential developments for adults are located adjacent to the subject property to the south and west – Point Defiance Village and Park Place North. Both are zoned R-2-PRD. *Ex. 1; Ex. 7.*

5. The Franke Tobey Jones property has been the subject of several zoning actions over the years.¹ The entire residential neighborhood located south and east of Point Defiance Park, including the subject property, was zoned R-2 One-Family Dwelling District when the City's zoning code was established in 1953. Franke Tobey Jones, Park Place North, and Point Defiance Village were later rezoned to PRD Districts by Ordinance. Park Place North and Point Defiance Village were first established as R-1-PRD in 1981 and changed to R-2-PRD in 1987. The Franke Tobey Jones property had certain nonconforming rights due to its establishment as a retirement home prior to the inception of zoning. In 1992, a portion of the site was rezoned from R-2 District to R-3-PRD along with Site Plan Approval for 8 duplexes on the westerly portion of the site and an addition to Lillian Pratt Hall. The 1992 rezone specifically discussed density and set the maximum at 3,000 square feet per dwelling unit. This restriction was seen as necessary for the zoning change to be consistent with the low intensity residential character for the site contained in the Tacoma *Comprehensive Plan*. A similar concern led to a condition that the broad landscaped areas at the south end of the property not be significantly reduced by future development. *Ex. 9.*

¹ Franke Tobey Jones also received certain land use permits for the site over time, which are outlined in the staff report. The specifics of those permits are not critical to the present applications and they will not be discussed in detail in this decision. *See Ex. 1, p.5.*

6. In 2003, Franke Tobey Jones obtained another rezone and site modification to accommodate plans to construct a new 39-unit independent living apartment complex and an addition to the Lillian Pratt building including a wellness center and expansion of the health care center. The project involved a rezone from R-2 to R-3-PRD for property located at the northeast portion of the site and a rezone of the area around the existing Lillian Pratt Hall from R-3-PRD to R-4-PRD. Site Approval Modifications were also obtained to allow construction of the 39-unit independent living facility known as the “Garden Apartments” and the Lillian Pratt building addition. The up-zone to R-4-PRD would typically allow greater density and taller structures than the R-3-PRD zone. However, in allowing the up-zone to R-4-PRD, the Hearing Examiner’s 2003 Recommendation and the City Council’s approval contained specific conditions limiting some of the attributes of the approved zoning. The Applicant and the City both agreed to conditions limiting the overall density of the R-4-PRD and R-3-PRD property to no greater than 3,000 square feet per dwelling unit. The conditions further limited the height of future development in the R-4-PRD to two stories plus a daylight basement. The approval explicitly provided that the existing broad landscaped area of the site, currently existing along the southerly portions of the property, not be significantly reduced in extent by future development on the site. The conditions were purposely intended to guide future site plan approvals for development on the property. *Ex. 9.*² As to the rezone to R-4, the Hearing Examiner’s 2003 Recommendation observed “the sole purpose of the applicant requesting the zone change to ‘R-4’ PRD is to allow the proposed addition to the north wing of the Lillian Pratt Hall to exceed the 35-foot height limitations of the ‘R-3’ PRD zone.” The Recommendation noted that the design architect had tried to design the project within the 35-foot height limit, but could not accomplish the addition using a style compatible with the existing structure without going to a height of approximately 37 feet. This limited increase in height was a condition of the rezone to R-4-PRD and was a key element of finding the proposal permissible under the criteria for rezone approval contained in the TMC. *Ex. 9, pp. 4, 5, and 8.*

7. In the years since the 2003 rezone and site plan modifications, the types of facilities being developed for aging citizens have changed. Franke Tobey Jones believes it is necessary to add new forms of housing and more modern designs to serve the current expectations of potential residents. The Frank Tobey Jones Community would like to increase the improvements supporting physical fitness, educational, social, and recreational opportunities for residents. The proposed construction would expand the fitness area, create versatile auditorium space, increase gathering areas, and expand educational space. The new Independent Living/Assisted Living building will be designed to allow residents to “age-in-place” in that they will be able to continue living in the same apartment even as they require more assistance with daily tasks. The new Skilled Nursing/Memory Care unit will allow a clustered, secure, and family-like atmosphere for providing more comprehensive services to residents needing skilled nursing or memory care. *Gustafson Testimony.*

8. The Applicant’s rezone requests have been reviewed by a number of governmental agencies and utility providers. None of the reviewing agencies object to approval of the proposed

² The property at the far northeast corner of the site that is being suggested for rezoning under the current application was not involved in prior rezoning because Franke Tobey Jones did not own the property until 2007. *Ex. 1.*

rezone and rezone modifications as long as conditions addressing certain issues such as utilities, contaminated soils, streets, driveways, sidewalks, and stormwater are attached to the project approval. *Ex. 1.* The Applicant has agreed to the conditions proposed by the City Departments. *Gustafson Testimony.*

9. Franke Tobey Jones has submitted a Tree Retention Assessment from Certified Arborist Hugh B. Doran indicating that the large poplar trees located along the south entrance roadway are not a species that performs well in landscaped areas. He indicates the trees are noted for weak structure and poor capacity for retarding the advancement of decay. They are also susceptible to pests and diseases, which further increases the likelihood of branch and stem failure. He did note that the poplar trees' vigor at this site appeared acceptable. He recommended removal of the poplars. Mr. Doran also identified a cluster of maple trees east of the poplars near the southeast corner of the site that he considered in poor condition. The trees were exhibiting structural defects and decay. The cluster of maples is recommended for removal. *Ex. 12.* The landscape plans prepared in connection with the expansion project appear to include standard landscaping for the buildings and parking areas. No evidence is present of a specific effort to replace the line of mature poplars with significantly sized new specimens. *Ex. 4 - Sheets L1.00 and L1.01.*

10. At the Hearing Examiner's request, the parties provided additional information regarding the parking required under the TMC for the project as proposed. The memorandum from the City of Tacoma was admitted as Exhibit 18 and the response from Franke Tobey Jones was admitted as Exhibit 19. The parking being proposed for the project would include a total of 365 parking spaces. The TMC calculates parking in two different ways that could be applicable to the site. Under the most restrictive method, 1.5 parking spaces would be required for each new living unit. The City's calculation of required spaces generated a figure of 319 spaces comprised of 181 for existing units and 138 for the 92 new dwelling units. The Franke Tobey Jones analysis of parking utilized the provisions of TMC 13.06.510 Table 1 Footnote 1.a and b to calculate required parking at one space for every three dwelling units. The Table 1 provisions allow reduced parking ratios for specific uses including residences for retirement age persons. The provisions governing this allowance require an estimated average persons-per dwelling unit factor of 1.5 or less and the presence of yard space where off-street parking could be provided at a later time if the use is converted to an apartment or additional parking is needed. Due to the fact that the proposed parking exceeded the more restrictive standard provisions, the City did not evaluate the applicability of the Table 1 footnote calculation. The facts, however, appear to support use of the Table 1 footnote standard for determining parking associated with the Phase I Skilled Nursing and Memory Care unit. The floorplans show a single occupant style for the dwelling units. *Ex. 4 - Sheet A220.* Accordingly, the parking required to serve the Skilled Nursing Memory Care Unit would be 22 spaces (67-units divided by 3 = 22.3)³.

³ The Franke Tobey Jones submission indicates that the Applicant is not seeking a reduction of the parking depicted on the parking plan. It indicates that reduced parking would result in less convenient conditions for staff, nursing students, family and members of the public visiting the site. A general concern over the impact a parking reduction would have on project financing was also expressed. *Ex. 19.*

11. On June 30, 2016, the City issued a Mitigated Determination of Non-Significance (MDNS) for the proposed project under the State Environmental Policy Act (SEPA). *Ex. 2.* The MDNS was not appealed. *Ex. 1.* Conditions contained in the SEPA MDNS are included in this document as recommended conditions of any project approval.

12. The site was posted with notice of the pending applications and proper written notice of the public hearing was mailed to all owners of property within 400 feet of the site, the neighborhood council and qualified neighborhood groups on June 9, 2016. *Frantz Testimony; Ex. 1.* The Applicant Franke Tobey Jones volunteered to hold a community meeting regarding the project which was conducted on May 18, 2016. Several members of the community attended the meeting and asked questions about the plans for expansion. *Gustafson Testimony; Ex. 5.* No public comments opposing the project were received by Planning and Development Services prior to the hearing on this matter. *Frantz Testimony; Ex. 1.* In addition, no neighbors or other members of the public appeared to testify at the hearing on the proposal held by the Hearing Examiner on July 21, 2016.

13. No area-wide rezone action affecting this property has been taken by the City Council in the two years preceding the instant rezone application. *Ex. 1.*

14. The Staff Report in this matter accurately describes the proposal, general and specific facts about the site, applicable sections of the *Comprehensive Plan*, and applicable regulatory codes. The Report is marked as Exhibit 1, and by this reference, is incorporated herein as though fully set forth.

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

CONCLUSIONS OF LAW:

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding. The Examiner's role on a rezone or a major modification to a rezone is to make a recommendation to the City Council. The final rezone decision is made by the City Council. The PRD site plan modification decision is made by the Hearing Examiner. *See TMC 1.23.050.A.1; TMC 13.05; TMC 13.06.140.*

2. The requirements of SEPA have been met by the City's issuance of a MDNS, which was not appealed. The SEPA mitigation conditions have been included as recommended conditions on the project.

REZONE (Soundview Apartments)

3. Franke Tobey Jones is seeking a rezone of a parcel located at the northeast corner of their property from R-2 to R-3-PRD. The land would be used for a 16-unit independent living building known as the Soundview Apartments. Under TMC 13.06.650.B, the Applicant for a rezone is required to demonstrate consistency with each of the following criteria:

**FINDINGS OF FACT,
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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.

TMC 13.06.650.B. 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 *Comprehensive Plan*

4. The *Comprehensive Plan* Urban Form Element designates the property proposed for rezoning as Multi-Family (low density). This designation allows multi-family development with a less intense style and density than the Multi-Family (high density) category. The *Comprehensive Plan* suggests that low density multi-family projects can serve as a transition between single family uses and higher intensity uses in Multi-Family (high density) areas. The small apartment building proposed for the northeast corner of the Franke Tobey Jones site would serve as such a transition between the neighboring homes across Bristol Street and the more intense uses in the R-4-PRD section of the Franke Tobey Jones property. The rezone would implement Goal UF-1 to "guide development, growth, and infrastructure investment to support positive outcomes for all Tacomans." The rezone request is also generally consistent with the goals and policies of the *Comprehensive Plan* addressing Design and Development and Housing detailed in the Staff Report which include encouraging new and innovative housing types that meet the evolving needs of Tacoma households, expanding housing choices in all

neighborhoods (Policy H-1.3), and supporting a robust and diverse supply of affordable, accessible housing to meet the needs of older adults (Policy H-1.6).

Changed Conditions

5. Case law and the TMC require that the applicant for a rezone show that conditions have changed since the original zoning or latest zoning amendment and that the rezone bears a substantial relationship to the public health, safety, morals or general welfare. *See Bassani v. County Commissioners*, 70 Wn. App. 389, 853 P.2d 945 (1993) citing *Parkridge v. Seattle*, 89 Wn.2d 454, 573 P.2d 359 (1978); *Woodcrest Invs. Corp. v. Skagit Cy.*, 39 Wn. App. 622, 694 P.2d 705 (1985); *TMC 13.06.650.B.2*. No showing of compelling circumstances is required. Under Washington law, a “strong showing” of change is not required and the rule is intended to be flexible and allow consideration of each case on its own facts. *Bassani* at 394.

6. The property proposed for rezoning from R-2 to R-3-PRD was not part of the Franke Tobey Jones campus when the retirement home was first established. Franke Tobey Jones acquired the property in 2007. The nearby retirement home campus has changed the surroundings significantly since the R-2 one-family dwelling district zoning was placed on the parcel in 1953. The physical location is logically related to the Franke Tobey Jones campus geographically and functionally. The site is less desirable for a single-family residence due to the immediately adjoining retirement home uses. Combining the acquired property with the remaining Franke Tobey Jones ownership and allowing zoning consistent with the bulk of the campus property would acknowledge and address the change in circumstances that has occurred in the area since the original zoning.

Consistency with District Establishment Statement

7. The R-3 District Establishment Statement outlines a range of uses including single-family dwellings, two family dwellings, three-family dwellings and some lodging and boarding homes. The PRD District overlay that would apply to the requested R-3 rezone contemplates creative and high quality land development design within each zoning district in its intent statement:

[P]rovide for greater flexibility in large scale residential developments; promote a more desirable living environment than would be possible through the strict regulations of conventional zoning districts; encourage developers to use a more creative approach in land development and stormwater management; provide a means for reducing the improvements required in development through better design and land planning; conserve natural features and retain native vegetation; provide a high quality of urban design pursuant to creating a livable and attractive neighborhood and place-making; facilitate more desirable, aesthetic, and efficient use of open space; promote sustainable building and site design practices; and promote the voluntary incorporation of affordable housing through provision of voluntary density bonuses.

TMC 13.06.140.A.

**FINDINGS OF FACT,
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The proposed rezone to R-3-PRD would be consistent with the R-3 zoning establishment statement when combined with the expressed intent of the Planned Residential Development overlay. The parcel will be incorporated into the larger PRD concept of the Franke Tobey Jones campus.

Recent Area-Wide Rezone

8. The proposed rezone will not modify an area-wide rezone action taken by the City Council in the past two years. The evidence indicated that the City has not undertaken an area-wide rezone action in this vicinity within the relevant time period.

Relationship to the Public Welfare

9. The proposed rezone, to include this parcel within the R-3-PRD zoning of adjacent Franke Tobey Jones property, will be consistent with the public health, safety, morals, and general welfare. The property is located in an area with fully developed public infrastructure including utilities and roads. The project will not create significant impacts on existing public services and there is no evidence the proposed 16-unit apartment for senior citizens will have negative impacts on the surrounding properties. The site abuts Point Defiance Park on one side and existing Franke Tobey Jones campus areas on two other sides. Only the easterly exposure abuts a public street with residential development on the opposite side. The Staff Report indicates that the proposed project will comply with applicable development standards that also serve as a measure of the public health, safety, and welfare. The small apartment complex will further serve a public need for varied housing for aging citizens within the City of Tacoma. Overall, the rezone would enable a project that will be consistent with and further the public's health and welfare.

10. The proposed rezone of Parcel No. 6930000381 from R-2 to R-3-PRD is properly recommended for approval because it is consistent with the criteria for approval of a rezone contained in TMC 13.06.650.B.

REZONE/PRD MAJOR MODIFICATIONS

11. In evaluating a request for major modification to an existing PRD District rezone and/or site approval, the TMC requires that the modification be considered with reference to the original rezone and site approval:

2. In addition to the standard criteria applicable to major modifications to a PRD District rezone and/or site approval, such major modifications to fully or partially developed PRD Districts shall only be approved if found to be consistent with the following additional decision criteria:

a. The proposed modification shall be designed to be compatible with the overall site design concept of the originally approved site plan. In determining compatibility, the decision maker may consider factors such as the design, configuration and layout of infrastructure and community amenities, the

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arrangement and orientation of lots the layout of different uses, and the bulk an sale of buildings, if applicable, with a particular focus on transition areas between existing and proposed development.

- b. The proposed modification shall be generally consistent with the findings and conclusions of the original PRD rezone decision.
- c. If the existing PRD District is nonconforming to the current development standards for PRD District, the proposed modification does not increase the district's level on nonconformity to those standards.

TMC 13.05.080.F.2.

12. In this case, the prior rezone actions that allowed R-3-PRD zoning in 1992 and created a limited area of R-4-PRD in 2003 were conditioned on three distinct limitations agreed to by Franke Tobey Jones. The Hearing Examiner's Recommendation and the Concomitant Zoning Agreement executed by the Applicant were all premised on density limits, height limits, and open space retention. Franke Tobey Jones is now seeking more expansive terms on each of these issues. The relief Franke Tobey Jones is requesting goes beyond what might be necessary to accommodate the existing expansion plan and would create a right to develop the property in the future with higher density, more imposing buildings, and less open space. Franke Tobey Jones is seeking to obtain the maximum allowance under the recently adopted PRD regulations, rather than adhering to the prior restrictions that formed the basis for the original PRD zoning approvals. The TMC directly addresses how existing PRDs will be treated under the new regulations and specifically provides that the terms of their original approvals will remain binding:

- 1. This Section was substantially updated on December 1, 2015. PRD Districts approved prior to that date are subject to the provisions of their approvals, including the amount and designation of required open space. PRD applications submitted after that date shall meet the following standards and requirements.

TMC 13.06.140.C.1.

Given this regulatory backdrop, each of the criteria Franke Tobey Jones is proposing for modification will be addressed separately.

PRD Density

13. The existing zoning approval for the R-3-PRD and R-4-PRD portions of the Franke Tobey Jones Campus was adopted in 2003 and limited overall density to a maximum of 3,000 square feet of area per dwelling unit. This limit was consistent with the low intensity land use designation applicable to the site under the *Comprehensive Plan*. The 2003 proposal to up-zone the area containing the proposed expansion of the Lillian Pratt Hall building was necessary to allow a building height greater

than 35 feet. The new wing could not be constructed with the same roof design as the existing structures without an increase in height to 37 feet. To obtain approval for a building 37 feet in height required a rezone to R-4 because the maximum height in the R-3 zone was 35 feet. However, an unrestricted rezone to R-4 would have been inconsistent with the low intensity designation for the property under the *Comprehensive Plan*. Because consistency with the *Comprehensive Plan* is a required element in obtaining a rezone, the rezone could only be allowed if the density was limited in a manner that would meet the *Comprehensive Plan* provisions. Accordingly, the rezone to R-4-PRD was specifically conditioned on allowing a density in the R-4-PRD no greater than 3,000 square feet per dwelling unit. *Ex. 9; Concomitant Zoning Agreement.*

14. Franke Tobey Jones now seeks to increase the density of the overall site to reflect the new density allowances under the revised PRD provisions. The requested increase in density would allow the future addition of up to 266 units. *Ex. 3.* This would more than double the 191 units allowed by the 3,000 square feet per unit limit currently applicable to the property. Franke Tobey Jones has not provided adequate evidence substantiating this type of increase in the population of the Community. Doubling the density of the campus population would have significant impacts on the neighborhood and the current residents of Franke Tobey Jones. A huge increase in the agreed density level, that formed the basis for allowing the R-4 zoning in the first place, is not warranted by the evidence presented in the record. The proposed expansion project can be completed in compliance with the existing density limits for the campus.

Building Height R-4-PRD

15. Franke Tobey Jones is requesting a revision to the existing restriction on building height established in the 2003 rezone to R-4-PRD. The restriction states that any addition to the building(s) in the R-4-PRD Planned Residential Development Retirement Homes District that may be contemplated or proposed in the future shall not increase the number of stories and the finished floor levels of such future additions shall be no higher than the finished floor levels of the existing buildings. *Ex. 9; Concomitant Zoning Agreement.* This language was crafted to allow the expansion of the Lillian Pratt building proposed in 2003. It explicitly limited the building height allowed to less than the full height normally associated with R-4 zoning. The height limit served to retain the overall look and feel of the campus in a manner consistent with low intensity development. *Ex. 9.* Franke Tobey Jones is now seeking a height modification for the entire R-4-PRD zone. The proposed Independent Living/Assisted Living Building will exceed the height limit contained in the 2003 rezone. The evidence indicated that the topography would allow the proposed height of the structure without a significant visual impact on the surrounding area. The building is behind the existing Lillian Pratt structure and will be largely blocked from view when approaching from the entrance or walking along the perimeter streets. The 2003 height limit was imposed in an effort to retain the low-density characteristics of the campus. Under the circumstances, this goal can be served by allowing a modification of the height restriction on this R-4-PRD zone to the extent necessary to build the Independent Living/Assisted Living structure as proposed. The zone should not be changed to allow 60-foot high buildings throughout the R-4 area, because that raises the possibility of the existing Lillian Pratt building being replaced with a 60-foot structure, which would be entirely inconsistent with the current impact of the building and the visual presence of the campus in the neighborhood. Accordingly, a limited modification to the R-4-PRD zoning to allow

height levels that will accommodate the new building, as proposed, should be allowed. The remaining portion of the R-4-PRD zone should retain the height limit imposed as an element of the 2003 rezone.

PRD Open Space

16. Franke Tobey Jones is seeking a revision to the 2003 PRD zoning conditions relating to required open space. The current restrictions that Franke Tobey Jones agreed to in 2003, state: “The existing broad landscaped area of the site, currently exiting along the southerly portions of the property and depicted on the site plan approved herein, shall not be significantly reduced in extent by future development within the PRD Retirement Homes District.” In 2003, the governing regulations required that 1/3 of the PRD area be set aside as open space. The newly adopted provisions for PRD development require that only 15% of the PRD area be retained as open space. Franke Tobey Jones is seeking a reduction of required open space from 1/3 to 15% together with removal of the existing site-specific restriction on building within the broad grassy areas at the south side of the property.

17. As indicated above, the Code generally requires previously approved PRDs to comply with the open space requirements established as part of their approval process. *TMC 13.06.140.C.1*. The site specific open space requirement that prohibits construction on the large grassy areas at the south side of the property is a measure designed to retain the open and beautiful entrance to the campus and its gentle interface with the adjoining residential area. The proposed Skilled Nursing/Memory Care building would intrude on a previously undeveloped portion of the grassy expanse. The plans for the building show that a significant area of open grassy space would remain after construction of the new facility. Under the specific circumstances depicted on the plans submitted with this application, the restriction on construction in the grassy area can be partially removed to allow the proposed building. This building can be added to the campus without undermining the overall goal of providing a low intensity, aesthetically pleasing interface between the campus and the surrounding area. Any further reduction in the existing protection of the grassy areas to the south of the property would be inconsistent with the goals being served by imposing the condition in the first place. As a result, the proposed duplex that would be placed on the grassy area to the south of the property should not be allowed because no real basis for reducing the grassy area by placing a structure in that protected location has been presented.

18. As to the overall level of open space required for the PRD, some adjustment might be appropriate given the new approach the City is taking toward PRDs in general and the goals of infill development city-wide. The currently proposed additions to the campus appear to leave approximately 26% overall open space. This falls below the previously required 1/3. Taking into consideration the nature of the retirement community use and the large retained grassy areas, it is reasonable to allow the further development that is proposed, even if it falls slightly below the originally contemplated open space. However, rather than eliminating the prior open space requirement entirely and moving to 15% without knowledge of the impacts the particular plans would have on the community, the open space requirement should be modified to 26% as set forth in the project documents. Further reductions in required open space should be evaluated only under the terms of any future application Franke Tobey Jones might pursue.

19. The open space requirement will also impact the recreation space needed for the Franke Tobey Jones Community. It should be noted that significant existing green spaces to the interior of the development will be eliminated by construction of the IL/AL building. Providing better walking path access to the protected existing grassy areas to the south or creating outdoor activity opportunities on the grassy areas would bring an element of recreation to otherwise passive open space. Some combination of recreation spaces will need to be included to meet the revised open space calculation.

SITE PLAN MODIFICATIONS

20. Franke Tobey Jones is also requesting approval for site plan modifications necessary to implement the proposed expansion project. The provisions of TMC 13.06.140.B address the types of items the Hearing Examiner should consider in evaluating a PRD site plan:

1. The site development plan shall be consistent with the goals and policies of the Comprehensive Plan.
2. The plan shall be consistent with the intent and regulations of the PRD District and any other applicable statutes and ordinances.
3. The proposed development plan for the PRD District is not inconsistent with the health, safety, convenience, or general welfare of persons residing or working in the community. The findings of the Hearing Examiner or Director shall be concerned with, but not limited to, the following:
 - a. The generation of noise or other nuisances which may be injurious or to the detriment of a significant portion of the community.
 - b. Availability and/or adequacy of public services which may be necessary or desirable for the support of the development. These may include, but shall not be limited to, availability of utilities; transportation systems, including vehicular, pedestrian, and public transportation systems; and education, police and fire services, and social and health services.
 - c. Adequacy of landscaping, recreation facilities, screening, yards, setbacks, open spaces,, or other development characteristics necessary to provide a sound and healthful living environment and mitigate the impact of the development upon neighboring properties and the community.
 - d. The compliance of the site development plan with any conditions to development stipulated by the City Council at the time of the establishment of the PRD District.

e. The demonstration of urban design excellence in site and building design through establishing Basic Neighborhood Patterns, pedestrian-friendly design, de-emphasized parking, minimized scale contrasts and privacy impacts, usable outdoor spaces, sustainability features and connectivity as appropriate to the site, context and proposed development type and density.

TMC 13.06.140.B. See also, TMC 13.06.140.C.

21. In this case, Franke Tobey Jones has made the required demonstration of consistency with most of the elements identified for site plan consideration. The preceding discussion outlines the project's consistency with the goals and policies of the *Comprehensive Plan* and the intent and regulations of the PRD District. *TMC 13.60.140.B.1 and 2.* The proposed project is designed to have limited impacts on the neighboring properties. The planned development will not strain utility or transportation networks or other public safety services. The exterior design is consistent with the overall aesthetic of the existing campus and uses articulated lines to blend with the residential character of the surrounding properties. *TMC 13.06.140.B.3.b, c, and e.*

22. The areas of concern regarding the site plan involve the adequacy of landscaping and screening, open spaces, usable outdoor spaces, and de-emphasizing parking. *TMC 13.06.140.B.3.c and e.* The proposed development includes the removal of a distinctive line of large poplar trees lining the entrance to the campus. The evidence from a consulting arborist indicated that the trees were appropriate for removal due to characteristics of the species and unsuitability for a landscape use. *Ex. 12.* These large trees, and some additional maple trees slated for removal, contribute significantly to the overall landscaping of the campus. The landscaping plan for the project does not identify the size of the trees contemplated for replacement of these large specimens, but using small replacement trees in this location would not be consistent with maintaining the landscaping present currently on the site. The landscaping plan should be revised to insure that every effort is made to plant larger, visually compelling replacement trees in this area. The landscaping plan should also be modified to provide some screening between the south end of the proposed Skilled Nursing/Memory Care building and the adjacent grassy open space.

23. The open space and usable outdoor space issue has been discussed as a function of the request for relief from open space requirements of the existing PRD zoning. The generous open space at the entry of the site is a hallmark of the site design for the Franke Tobey Jones campus. The present project reduces the existing grassy open space areas at the entrance and also eliminates significant outdoor space to the west of the Garden Court Apartments. The area functioning to some degree as a large internal outdoor space will be largely eliminated by construction of the IL/AL building. No significant alternative outdoor usable space is being created. In light of the Code requirements for recreational open space, Franke Tobey Jones will need to modify the site plan to provide some measure

of additional usable outdoor space. This need can be met by providing exercise/walking paths in the grassy areas, creating outdoor recreation areas utilizing the grassy open space⁴, or other improvements designed to meet both the recreation requirements of the open space criteria and the site plan consideration of usable outdoor space. Any site plan revision must be consistent with retention of the grassy open space areas at the southerly portion of the site.

24. The site plan criteria also discuss de-emphasizing parking. The Franke Tobey Jones project is designed to place the parking for the IL/AL building and the Soundview Apartments in underground facilities, which complies with this requirement. However, the site plan shows additional parking running along both sides of the entrance roadway, immediately adjacent to the required grassy open space. The portion of the proposed parking lying directly adjacent to the easterly grassy open space can be eliminated while still providing adequate parking spaces to serve the campus and the new Skilled Nursing/Memory Care Building. In order to maintain compliance with the directive to de-emphasize parking, the southerly 15 parking spaces on the east side of the entrance drive should be eliminated from the site plan as inconsistent with the goals of the PRD District and with the specific open space amenity retained in the 2003 rezone. The remaining new parking spaces will provide the 22 spaces needed for the Skilled Nursing/Memory Care Building. Other existing parking in the area will also be available to offer additional access for visitors to the proposed new building.

25. The general requirements for PDR site design also discuss a number of design elements such as street frontage characteristics, rhythm of development along the street, building orientation, setbacks, landscaping and trees, topography, architectural features, pedestrian-friendly design, connectivity, transportation and utilities. The Franke Tobey Jones project, as described in the narrative submitted in support of the project, provides evidence that the project design meets the applicable City requirements with the addition of certain conditions. The Applicant has agreed to the following conditions proposed by consulted City departments:

A. SPECIAL CONDITIONS:

1. LAND USE

- a. The Landscaping Plan shall be updated in compliance with TMC 13.06.502 with the following information:
 - i. Verify that the type of street trees are on the City's Approved Street Tree List The Street Tree List.
 - ii. Show that the plans are prepared by Landscape Plans and Landscape Management Plans, when required, shall be prepared by a Registered Landscape Architect, Certified Landscape Technician, or Certified Professional Horticulturalist, unless otherwise approved by the City;

⁴ Compatible recreational pursuits such as a putting green or bocce ball courts can be installed on the grassy areas without further diminishing the required grassy expanse existing near the entrance.

iii. Provide a Landscape Management Plan that provides the following:

- (1) Entity responsible for maintenance of the landscape during the establishment period (3 years following planting); and
- (2) A schedule of maintenance activities, including, but not limited to, pruning, watering, fertilization, and inspection and replacement of dead and/or damaged plant materials.

iv. Provide the required mix of trees and shrubs in the 7-foot perimeter strip behind the new cottage duplexes where there are gaps.

- b. Provide one additional bench along North Bristol Street to comply with TMC 13.06.512.C.
- c. Show that the long-term bicycle parking proposed within the Lillian Pratt Hall and the Sound View Apartments garages will comply with TMC 13.06.512.D. and show the (2) required short-term bicycle parking (i.e., bike rack) is shown on the the Site Plan.
- d. On-site exterior lighting will provide illumination for only the building and parking areas. Such lighting shall be shielded to prevent light and glare from passing beyond the property lines of the site.

2. ENVIRONMENTAL HEALTH

- a. According to the Ecology facility/Site Atlas, the site is located within the Tacoma Smelter Plume with an area that exceeds 20.0 ppm for arsenic levels. Prior to issuance of a development permit, the Applicant shall demonstrate to the City of Tacoma, Planning and Development Services (PDS) Division that they have successfully entered into the Model Toxic Control Act (hereinafter MTCA) provided Voluntary Clean-up Program with the Ecology. Proof of entering into the Voluntary Cleanup Program shall include a written opinion letter from Ecology identifying that in the opinion of the agency, the proposed cleanup action will be sufficient to meet the requirements of MTCA. The plans for the development permit shall be consistent and integrated with the plans reviewed and deemed consistent with MTCA by Ecology.
- b. Prior to a development permit being issued by the City of Tacoma, the Applicant shall attend a pre-construction meeting with representatives of the City. The pre-construction meeting shall also include a representative from Ecology's MTCA staff and the third party special inspector, as identified and required below. The scope of the pre-construction meeting shall be to discuss the conditions of the permit being issued and integration of the development activities with Ecology's approved cleanup plan.

- c. The Applicant, at its expense, shall hire a third party, special inspector to oversee the implementation of the cleanup plan and ensure that the cleanup and associated development activities are properly coordinated. The special inspector, during the course of the cleanup activities, shall provide written notice bi-weekly to Ecology MTCA staff and PDS Division regarding the status of the work.
 - d. Upon completion of the activities covered by the approved cleanup action and development permit the applicant shall provide to PDS Division, a “No Further Action Determination” from Ecology indicating that the cleanup meets the requirement of MTCA for characterizing and remediating the contamination on the developed portions of the site, and that no further remedial actions are required. No further development permits shall be issued for the site until the “No Further Action Determination” from Ecology and has been provided to the City of Tacoma.
 - e. The Applicant shall comply with regulations regarding worker protection for contaminants. The Applicant shall contact the Washington State Department of Labor and Industries for minimum standards and requirements.
3. TRAFFIC ENGINEERING
- a. To accommodate accessibility and pedestrian circulation to/from the site and surrounding neighborhood, including bus transit stops, any site-adjacent and/or site-associated curb ramps and sidewalks that are not in compliance with ADA as determined by the City shall be reconstructed.
 - b. An existing unauthorized traffic control devices, such as pavement striping/markings and raised pavement markers, within the portion of the public right-of-way that connects to the site’s main access drive with North Park Way/Vassault Street shall be removed. If the development desires additional traffic control in the form of a STOP sign and supplemental pavement markings, then a street vacation of the appropriate portion of the right-of-way would be necessary based on the junction point for the access at North Park Way/Vassault Street. Pavement markings such as stop lines and “STOP” pavement legends can only supplement an installed STOP sign. STOP signs are generally not installed in the public right-of-way for driveways and access points which are already required to stop (yield the right of way) per RCW 46.61.205.
 - c. With the projected increase in site-generated traffic using the site access on North Park Way/Vassault Street and to mitigate potential safety concerns, the developer shall replace existing traffic control devices (signs) related to the

Vassault Street/North Park Way roadway curve located at the access point's location:

- i. Replace existing Large Arrow warning sign (MUTCD Code W1-6, 48"Wx24"H) with sign meeting current MUTCD requirements at the northeast corner of the access point driveway with North Park Way/Vassault Street;
 - ii. Replace existing "ROAD NARROWS" sign north of the North 51st Street/Vassault Street intersection with a Curve Warning sign (MUTCD Code W1-10, 36"x36"), with sign's graphical depiction matching the roadway/access configuration and meeting current MUTCD requirements; and
 - iii. Install new sign post (meeting City of Tacoma standards) and new Curve Warning sign (MUTCD Code W1-10, 36"x36") meeting current MUTCD requirements and including graphical depiction matching the roadway/access configuration, on the north side of North Park Way approximately 200 feet east of the site access point.
- d. Based on the new site plan for the development, site traffic may increase to/from the site via North Park Avenue and/or North Bristol Street. To address the increase in traffic and possibly related safety implications at the North Park Avenue/North Bristol Street Traffic Impact Analysis, the site's vegetation and/or property conditions (including limitations on future development of visibility-impacting elements) at the southwest corner of the intersection (Parcel#6930000381) shall be modified to permit adequate intersection sight distance for the uncontrolled intersection operations.

4. STORM AND SANITARY SEWERS

- a. The proposal shall comply with all applicable requirements contained in the City of Tacoma Stormwater Management Manual, 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.
- b. Any utility construction, relocation, or adjustment costs shall be at the Applicant's expense.
- c. A Covenant and Easement Agreement shall be required for all projects with private storm drainage systems.

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

- d. All stormwater shall be managed in compliance with the City of Tacoma Stormwater Management Manual (SWMM).
- e. When projects trigger minimum requirements #1-5 and #10 the applicant shall manage stormwater in accordance with List #1 (Vol. 1, Section 3.4.5.5) or demonstrate compliance with the LID performance standard (Vol. 1, Section 3.4.5.4).
- f. When projects trigger minimum requirements #1-10 the applicant shall manage stormwater in accordance with List #2 (Vol. 1, Section 3.4.5.6) or demonstrate compliance with the LID performance standard (Vol. 1, Section 3.4.5.4).
- g. Per Minimum Requirement #5, projects shall employ, where feasible and appropriate, Onsite Stormwater Management BMPs to infiltrate, disperse, and retain stormwater runoff onsite to the maximum extent feasible without causing flooding or erosion impacts. Design of onsite stormwater systems may require a soil analysis prepared by a qualified soils professional per the SWMM, Volume 3.
- h. 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 Stormwater Management Manual. Pollution-generating impervious surfaces created and/or replaced offsite as a result of this project shall count toward the pollution-generating impervious surface total.
- i. Flow control or other mitigation in accordance with the City of Tacoma Stormwater Management Manual shall be provided for all projects that meet or exceed the thresholds for Minimum Requirement #7 as outlined in the City of Tacoma Stormwater Management Manual. Impervious surfaces created and/or replaced offsite as a result of this project shall count toward the impervious surface total.
- j. Public and private stormwater shall be managed in separate water quality and flow control facilities.
- k. Coverage under the NPDES Construction General Permit is required for any clearing, grading, or excavating that will disturb one or more acres of land area and that may discharge stormwater from the site into surface water(s), or into storm drainage systems that discharge to a surface water, per the Washington State Department of Ecology (Ecology). Contact Ecology's Office of

Regulatory Assistance at 1-800-917-0043 to determine if any additional requirements are necessary.

- l. If an existing side sewer is to be re-used for a new building, it shall be television inspected and pressure tested per City standards. If the side sewer is found through television inspection to have any illegal connections or cannot pass the pressure test, all illegal connections shall be disconnected and the side sewer shall be repaired, replaced, or rehabilitated and retested until the side sewer passes the pressure test to ensure it is watertight. Any abandoned side sewer(s) shall be plugged or capped per Chapter 7, Section 722.0 of the Uniform Plumbing Code. Permits for this work shall be obtained. Environmental Services will make the final determination of side sewer reuse viability.
- m. Peak daily sanitary flow calculations, prepared by a licensed engineer, shall be submitted to the Science & Engineering Division. Peak daily flows shall be calculated in accordance with the Washington State Department of Ecology Criteria for Sewage Works Design (Orange Book). Science & Engineering Division staff will then determine if the sewer system has enough capacity to accommodate the new peak flows in addition to upstream peak flows for fully developed conditions. If the public sewer system does not have enough capacity to accommodate the proposed development, the public sanitary sewer shall be upsized prior to sewer connection.
- n. If pumping of sewage is required due to site conditions, plans and calculations for the pump system shall be prepared per City standards and submitted to Environmental Services - Site Development Group for review and approval prior to issuance of a side sewer connection permit.
- o. Existing public easements are known to exist on the site, the applicant shall comply with all easement provisions.

5. STREETS, DRIVEWAY, AND SIDEWALKS

- a. All broken, damaged, or hazardous curb and gutter along North Bristol Street, Park Way, and North Park Avenue abutting the site shall be removed, and new cement concrete curb and gutter constructed in its place to the approval of the City Engineer.
- b. All damaged or defective sidewalk abutting the site shall be removed and new cement concrete sidewalk constructed meeting Public Right Of Way Accessible Guidelines (PROWAG) and Americans with Disabilities Act (ADA) requirements, and be installed to the approval of the City Engineer.

6. TACOMA WATER

- a. City ordinance 12.10.045 requires a separate water service and meter for each parcel.
- b. Existing Tacoma Water mains are located with the proposed project site. These water mains are located within a 20' water main easement. All conditions of the easement shall be followed.
- c. The proposed expansion appears to interfere with existing water mains located on the property. These water mains will be required to be relocated using the Private Contract process at the developer's expense.
- d. Extension of a permanent water main shall be constructed by private contract. The developer of the privately financed project shall 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 shall be estimated by Tacoma Water. The developer shall be required to pay a deposit in the amount of the estimated cost. The actual costs for the work will be billed against the developer's deposit. The new mains shall be installed by and at the expense of the developer. The developer shall be required to provide a 20-foot wide easement over the entire length of the water main, fire hydrant, service laterals and meters. The developer's Professional Land Surveyor shall prepare and submit the legal description of the easement to Tacoma Water for review and processing. Prior to construction, a second deposit in the estimated amount for construction inspection, testing, and sampling shall be due to Tacoma Water. Upon completion of the project, the developer shall either be refunded the unused amount of the deposit or billed the cost overrun. Approximate design time is ten (10) weeks.
- e. Customer is advised to obtain private utility easements for any property-side water pipes leading from the City meter to the building on any portion(s) existing on adjacent parcels.
- f. If fire sprinklering, the Tacoma Water Permit Counter shall be contacted at (253) 502-8247 for policies related to combination fire/domestic water service connections.
- g. New water services shall be installed by Tacoma Water after payment of the Service Construction Charge and the Water Main Charge. New meters shall

be installed by Tacoma Water after payment of the System Development Charge.

- h. If a new fire hydrant is required at a location with an existing water main, the hydrant shall be installed by Tacoma Water after payment of an installation charge.
- i. If existing water facilities need to be relocated or adjusted due to street improvements for this proposal they shall be relocated by Tacoma Water at the owners' expense.
- j. Sanitary sewer mains and sidesewers shall maintain a minimum horizontal separation of ten 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".

7. TACOMA POWER

- a. Any construction, relocation or adjustment costs shall be at the Applicant's expense.
- b. All new electrical services shall be installed underground unless otherwise approved by Tacoma Power Engineering; additional utility easements may be required.
- c. The builder, developer, and/or owner shall observe the appropriate clearances to Tacoma Power's facilities during construction.
- d. Appropriate clearances shall be maintained between all structures and Tacoma Power's facilities. No building shall be constructed under a primary power line. Buildings in the vicinity of the overhead lines must meet WAC, NEC, NESC and Tacoma Power requirements for clearance.
- e. Submittal Requirements:
 - i. Electric Service Application to Tacoma Power New Services Engineering Department.
 - ii. Application for Electrical Permit to Tacoma Power Electrical Inspection Department.

iii. For services over 400 amps, a set of electrical plans must be submitted to the Electrical Inspection Office for review.

f. Fees for new electrical service or upgrading the existing electrical service shall be determined when the power requirements are submitted to Tacoma Power New Services Engineering Department. Fees for the electrical permit are based on the electrical contractors bid amount and have not been determined.

8. REAL PROPERTY SERVICES

- a. The sanitary sewer shall be more clearly delineated on the plans.
- b. A profile or detail of the trees and retaining wall along North Bristol shall be included. Real Property Service will to determine if a Right-of-Way Occupancy Permit will be required.

9. TACOMA FIRE DEPARTMENT

Future construction shall comply with the adopted Fire Code at the time of building permit submittal.

10. PROTECTION OF ADJACENT PROPERTIES

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

11. MISCELLANEOUS

Prior to obtaining building permits, the proponent shall contact the appropriate City departments to make the necessary arrangements for all required improvements. The required departmental approvals shall be acquired from, but not necessarily limited to, Tacoma Power (253-383-2471), Tacoma Water (253-383-2471), Site Development (253-591-5760) and Planning and Development Services (253-591-5030).

B. USUAL CONDITIONS:

1. THE RECOMMENDATION SET FORTH HEREIN IS BASED UPON REPRESENTATIONS MADE AND EXHIBITS, INCLUDING DEVELOPMENT PLANS AND PROPOSALS, SUBMITTED AT THE HEARING CONDUCTED BY THE HEARING EXAMINER. ANY SUBSTANTIAL CHANGE(S) OR DEVIATION(S) IN SUCH DEVELOPMENT PLANS, PROPOSALS, OR CONDITIONS OF APPROVAL IMPOSED SHALL BE SUBJECT TO THE APPROVAL OF THE HEARING EXAMINER AND MAY REQUIRE FURTHER AND ADDITIONAL HEARINGS.

2. THE AUTHORIZATION GRANTED HEREIN IS SUBJECT TO ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS, AND ORDINANCES. COMPLIANCE WITH SUCH LAWS, REGULATIONS, AND ORDINANCES ARE CONDITIONS PRECEDENT TO THE APPROVALS GRANTED AND ARE CONTINUING REQUIREMENTS OF SUCH APPROVALS. BY ACCEPTING THIS 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, OR ORDINANCES, THE APPLICANT AGREES TO PROMPTLY BRING SUCH DEVELOPMENT OR ACTIVITIES INTO COMPLIANCE.

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

RECOMMENDATIONS AND DECISION:

Rezone/Zoning Major Modification Recommendations:

1. The request to rezone a portion of the Franke Tobey Jones property from R-2 to R-3-PRD is recommended for approval subject to the conditions contained in paragraph 25.

2. The request to modify the density limitations on the existing R-3-PRD and R-4-PRD areas on the site is recommended for denial. The Hearing Examiner recommends retention of the 3,000 square feet per living unit standard that formed a key basis for the original PRD zoning approvals at this site.

3. The request to increase the existing limit on the height of structures in the R-4-PRD zone is recommended for partial approval. The Hearing Examiner recommends approval only to the extent

**FINDINGS OF FACT,
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necessary to allow the Independent Living/Assisted Living building as proposed in the submitted project plans. The remaining R-4-PRD area would remain subject to the height limits agreed to at the time the R-4-PRD zone was approved.

4. The request to reduce the existing open space requirements for the property under the R-3-PRD and R-4-PRD is recommended for partial modification. The large grassy areas at the south of the property should be retained as open space with the exception of the area necessary for construction of the new Skilled Nursing/Memory Care facility, as depicted in the plans submitted for the project at hearing. The overall open space requirement is recommended for reduction from 1/3 to 26 percent, which will allow for a limited decrease in the required open space needed to accommodate the proposed expansion.

PRD Site Plan Modification Decision:

1. The Hearing Examiner's decision on the site plan modification is contingent on the Applicant obtaining zoning approvals from the City Council that allow construction of the project in a manner largely consistent with the submitted plans.

2. PRD Site plan modifications allowing for placement of the Independent Living/Assisted Living building, the Soundview Apartments, the Skilled Nursing Facility/Memory Care building, modifications to the Lillian Pratt building and construction of one duplex as depicted on the submitted site plans is granted subject to the following conditions:

1. The Landscape Plan shall be revised to include larger replacement trees along the property entrance road and to provide some screening between the new Skilled Nursing/Memory Care building and the adjacent large grassy area.
2. The site plan must be revised to increase the outdoor usable space consistent with governing Open Space requirements.
3. Parking spaces adjacent to the easterly grassy open space (approximately 14 spaces) should be eliminated to retain the purpose and intent of the open space requirement.

Any approval of the rezone, zoning modifications, and site plan modification should be conditioned on compliance with the special conditions identified by consulted City departments and set forth in Conclusion 25.

DATED this 24th day of August, 2016.


PHYLLIS K. MACLEOD, Hearing Examiner

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
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25
ORIGINAL

NOTICE

RECONSIDERATION/APPEAL OF EXAMINER'S RECOMMENDATION (REZONE & ZONING MAJOR MODIFICATION)

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. **EACH APPEAL SHALL BE ACCOMPANIED BY A FEE AS SET FORTH IN TACOMA MUNICIPAL CODE (TMC) 2.09.170. THE FEE SHALL BE REFUNDED TO THE APPELLANT SHOULD APPELLANT PREVAIL. 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,
RECOMMENDATIONS,
AND DECISION**

NOTICE

RECONSIDERATION/APPEAL OF EXAMINER'S DECISION (SITE PLAN MODIFICATION)

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 Hearing 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 Hearing Examiner. It shall be within the sole discretion of the Hearing Examiner to determine whether an opportunity shall be given to other parties for response to a motion for reconsideration. The Hearing Examiner, after a review of the matter, shall take such further action as he/she deems appropriate, which may include the issuance of a revised decision/recommendation. (*Tacoma Municipal Code 1.23.140*)

APPEAL TO SUPERIOR COURT OF EXAMINER'S DECISION:

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

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
RECOMMENDATIONS,
AND DECISION**