



City of Tacoma
Hearing Examiner

November 10, 2016

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Fulcrum Real Estate Services
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Re: HEX 2016-028 (LU16-0194)

Applicant: LPI Holdings, LLC/Nick Parodi

Dear Parties,

In regard to the above referenced matter, please find enclosed a copy of the Tacoma Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendation to the Tacoma City Council entered on November 10, 2016.

Sincerely,

Louisa Legg
Office Administrator

Enclosure (1) – Findings, Conclusions, and Recommendation

Transmitted via First Class Mail Delivery

LPI Holdings, 2715 64th Avenue NE, Tacoma, WA 98422
Daniel Mullerleile, 2701 61st Ave NE, Tacoma, WA 98422
Paula Olsen, 6106 27th Street NE, Tacoma, WA 98422
Patrick McClure, 6116 27th Street NE, Tacoma, WA 98422
Northeast Tacoma Neighborhood Council, 6716 Eastside Dr. NE STE 1, PMB 222, Tacoma, WA 98422

Transmitted via Inter-office Mail Delivery

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Transmitted via Electronic Mail Delivery

Clerk's Office, City of Tacoma (Nicole Emery)
Legal (Jeff Capell)
Tacoma Power (Dan Reed)
Tacoma Water, Water Distribution (Jesse Angel)
Tacoma Fire (Chris Seaman)
Public Works, City of Tacoma (Sue Simpson)
Environmental Services, Site Development, City of Tacoma (Karina Stone)
Public Works Traffic Engineering Division, City of Tacoma (Jennifer Kammerzell)
Planning and Development Services Department, City of Tacoma (Craig Kuntz)
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)

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 November 10, 2016, at Tacoma, WA.

Louisa Legg

OFFICE OF THE HEARING EXAMINER
CITY OF TACOMA
REPORT AND RECOMMENDATION
TO THE CITY COUNCIL

APPLICANT: LPI Holdings, LLC

HEARING EXAMINER FILE NO: HEX 2016-028 (LU16-0194) (Norpoint Landing)

SUMMARY OF REQUEST:

LPI Holdings, LLC (LPI) is seeking a rezone of approximately 1.5 acres from “R-2” Single-Family Dwelling District to “C-1” Neighborhood Commercial District to allow construction of 47 apartment units and associated parking for 60 vehicles. The project is known as Norpoint Landing.

LOCATION:

The primary address is 6016 29th Street NE, Parcels 6350000880, 6350000940, 6350000890, 6350000920, 6350000900, 6350000930, and 6350000910. The site is at the southeast corner of 29th Street NE and Norpoint Way NE in Northeast Tacoma.

RECOMMENDATION:

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

PUBLIC HEARING:

After reviewing the report of the City’s Planning and Development Services Department and reviewing information on file, the Hearing Examiner convened a public hearing on the rezone request on October 27, 2016. The Hearing Examiner has visited the site of the proposed rezone and surrounding area.

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

ORIGINAL

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION:

FINDINGS OF FACT:

1. LPI Holdings, LLC (LPI) submitted an application seeking a rezone of approximately 1.5 acres from “R-2” Single-Family Dwelling District to “C-1” Neighborhood Commercial District to allow construction of 47 apartment units and associated parking for 60 vehicles. The project is known as Norpoint Landing. *Ex. 1.*

2. The subject property is located at the southeast corner of Norpoint Way NE and 29th Street NE, Tacoma, Washington. A small commercial area in Federal Way is located a few blocks to the east of the project site. The property proposed for rezoning is currently undeveloped and contains vegetation dominated by invasive species including blackberries and Scotch Broom. The property is gradually sloped rising from the west to the east. Along the western edge of the property, the site is above the grade of Norpoint Way NE by amounts of up to 10 feet and is steeply sloped up from the road cut. *Ex. 1; Ex. 11.*

3. The site is bordered on the west by Norpoint Way NE which is a principal arterial. An apartment building and a daycare are located to the west across Norpoint Way NE. To the north, there is currently cleared but undeveloped property across 29th Street NE from the project area and a gas station/minimart/carwash diagonal across the intersection to the northwest. The easterly site boundary fronts on 61st Avenue NE, which is a street lacking full street improvements and stormwater infrastructure. The property across 61st Avenue NE to the east is improved with residential townhouse units and single-family residences on large lots. The area directly to the south of the project boundary is undeveloped and is currently used as a City of Tacoma materials holding area. Additional single-family homes are located further to the south off 61st Avenue NE and an open space area, including Julia’s Gulch, is south of the nearby residential area. *Ex. 1; Ex. 11; Parodi Testimony.*

4. The adjacent properties have a variety of zoning, resulting in part, from rezones in past years. The area to the north is zoned T Neighborhood Commercial/Low-Density Multiple-Family. The property to the east is zoned R-3 Low-Density Multiple-Family. To the south, the zoning remains R-2 Single-Family and Open Space. To the west (across Norpoint Way NE) the property is a mix of R-2 and R-4-L Neighborhood Commercial/Low-Density Multiple-Family. Diagonal across the intersection the property is zoned C-2 Commercial. *Exs. 4 and 6.*

5. The *Comprehensive Plan* Amendment adopted in 2015 designates the property fronting on the intersection of 29th Street NE and Norpoint Way NE as Neighborhood Commercial on all four corners. The existing townhouses to the east of the subject property retain a designation Low-Density Multiple-Family and the property to the east of the townhouses is Neighborhood Commercial. The remaining area to the east and south of the proposed development remains Single-Family Residential and Parks and Open Space under the *Comprehensive Plan* Amendment. *Ex. 5.*

6. The primary streets adjacent to the site are Norpoint Way NE and 29th Street NE which are both categorized as principal arterials at this location. The access to the project site would be from 61st Avenue NE which adjoins the property on the east. Vehicles exiting the project would most likely turn onto 29th Street NE from 61st Avenue NE. *Ex. 10; Jacobs Testimony*. Unlike the major arterials to the north and west of the site, 61st Avenue NE is not currently fully developed with curbs, gutters, and sidewalks. These improvements would be added to the street as part of the project in question. *Schultz Testimony*. Traffic along 29th Street NE can be very congested during certain times of the day and vehicles can back up waiting to turn left from 29th Street NE to Norpoint Way NE to travel down the hill toward SR 509. *Kammerzell Testimony; Mullerlie Testimony; Olsen Testimony*. The project would add additional vehicle trips to the traffic pattern at this location, including 29 new net PM peak hour trips. *Ex. 10-Table 2R¹*. Public transit is available in the area with bus routes running along 29th Street NE and Norpoint Way NE. *Ex. 10, p. 4*.

7. LPI submitted a Traffic Impact Analysis for the project prepared by Jake Traffic Engineering, Inc. The traffic study focuses on the PM Peak period because the heaviest traffic at the intersection of Norpoint Way NE and 29th St. NE occurs at that time. The study concludes that the existing level of service (LOS) at the intersection of Norpoint Way NE and 29th Street NE is functioning at an overall level of C. However, the westbound left turn from 29th Street NE to Norpoint Way NE is operating at LOS D. The traffic analysis considered the anticipated new trips based on background growth, as well as the anticipated PM Peak trips generated by the proposed project and concluded that the post-project conditions would remain LOS C for the overall intersection and LOS D for the westbound left turn as currently exists. *Ex. 10, Table 1R*. The LOS of D for the westbound left turn meets the City's minimum standard, which requires a LOS of D for the turn. *Jacobs Testimony*.

8. The Traffic Impact Analysis also addresses traffic movement at the intersection of 29th Street NE and 61st Avenue NE, which would be the access point used by drivers entering and exiting the proposed apartment complex. The LOS for the 61st Avenue NE location varies from LOS A (overall) to LOS D for the turn west onto 29th Street NE. The additional trips generated by the apartment project would not cause a decline in the LOS at this location. *Ex. 10, Table 1R*.

9. The City's Traffic Engineering Division reviewed and accepted the Applicant's Traffic Impact Analysis. *Ex. 8*. The City acknowledges that there are traffic delays at this intersection during the peak traffic hours. The City is recommending that the rezone be conditioned on LPI modifying the traffic signal to add a flashing yellow arrow and sign governing left turns from 29th Street NE to Norpoint Way NE. This modification would reduce the current wait times for making the turn onto Norpoint Way NE and lessen the length of the queue on 29th Street NE. As a result, the traffic analysis indicates that the project would actually improve the function of the intersection, rather than make the traffic delays worse. The City is recommending the traffic signal modification in recognition that the problems at the intersection are pre-existing and that the Applicant has the responsibility only to account for the additional impacts of the proposed use. The City also pointed out that vehicles coming out of

¹ Tables 2R and 1R are located in the latter half of the exhibit. The tables are a revision to the Traffic Impact Analysis's original Table 1 and Table 2 as a result of an increase in the number of apartment units from 40 to 47.

61st Avenue NE could proceed east to 64th Avenue NE and use an existing loop road to access a signalized intersection that would assist in heading south during particularly busy times. *Kammerzell Testimony*.

10. The evidence addressing traffic demonstrates that the intersection of 29th Street NE and Norpoint Way NE is congested during the peak PM hours. However, the evidence also demonstrates that the traffic signal modification being required for the project would actually improve function of the problematic left turn from 29th Street NE onto Norpoint Way NE. The improved function would more than offset the increased number of vehicles generated by the proposed multiple-family development during the PM peak hours. *Ex. 10, Table 1R*. The post-project traffic would continue to meet the City's established LOS standards. *Id.; Jacobs Testimony*.

11. In accordance with the requirements of Tacoma Municipal Code (TMC) 13.05.020 regarding notice of rezone applications, written notice of the application was mailed to all owners of property within 400 feet of the site, the appropriate neighborhood council, and qualified neighborhood groups on September 6, 2016. *Ex. 1*.

12. The City received comments from the Northeast Tacoma Neighborhood Council (NETNC) expressing strong concerns about the proposed development based on the difficult traffic conditions already existing at the intersection of 29th Street NE and Norpoint Way NE. The NETNC suggested that the current conditions would be further degraded by traffic generated by the apartment residents. *Ex. 7, Attach. D*. Yvonne McCarty, NETNC Board Member and resident of Northeast Tacoma, submitted a comment raising similar concerns about the traffic situation at the intersection of 29th Street NE and Norpoint Way NE. The left hand turn from 29th Street NE to go downhill on Norpoint Way NE creates a backup. The commenting resident believes significant re-engineering of the intersection would be needed to accommodate any increase in traffic. *Ex. 7, Attach. D*. A second letter was received from two co-chairs of the NETNC indicating the Executive Committee's disappointment with the SEPA DNS.² They expressed a specific concern that people exiting the apartments and wanting to access Norpoint Way NE would be likely to turn right and then seek a location to make a U-turn which would not be safe. *Ex. 14*.

13. At the hearing, two residents of the immediate neighborhood testified in opposition to the project. Daniel Mullerleile opposes the multi-family complex. He thinks that traffic is a big issue. During the peak evening hours, traffic routinely backs up beyond the access point at 61st Avenue NE. Vehicles exiting the complex would have no option but to turn right and then try to turn around to get back to the Norpoint Way NE intersection. Mr. Mullerleile is concerned added traffic will make things more difficult for people living in the neighborhood. He thinks the property should remain zoned for single-family residential or duplexes, which would generate less traffic and other impacts. He also indicated that in his opinion owner-occupied homes would help retain and enhance the character of the neighborhood. *Mullerleile Testimony*. Neighbor Paula Olsen also testified at the hearing. She has lived in the area for 23 years and has seen the traffic grow substantially over that time. During heavy times of

² The Committee is referring the State Environmental Policy Act Determination of Environmental Nonsignificance (SEPA DNS).

the day she observes traffic backing up significantly on 29th Street NE. She is concerned that residents of the apartments would be blocked from turning onto 61st Avenue NE to access their homes because of the traffic backed up at the intersection. She is also concerned about safety for residents of the apartments due to incidents that have occurred involving transients living in the nearby Julia's Gulch area. *Olsen Testimony.*

14. As part of the project review process, Planning and Development Services provided notification of this rezone request to various City, outside governmental, and non-governmental agencies. Departmental comments and requirements regarding this proposal are included as attachments to the City's Staff Report. If a rezone is approved, departments have recommended important conditions that should be attached to such an approval. *Ex. 1.*

15. On October 3, 2016, the City issued a DNS for the proposed project under the SEPA. *Ex. 7.* The DNS was not appealed. *Ex. 1.*

16. 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; Schultz Testimony.*

17. 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.

18. Any conclusion of law herein which may be 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. The Examiner's role is to make a recommendation to the City Council. The final rezone decision is made 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 a DNS, which was not appealed.

3. Under TMC 13.06.650.B, the applicant for a rezone is required to demonstrate consistency with all of the following criteria:

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* includes the project site within the "Neighborhood Commercial" designation. Neighborhood Commercial areas are appropriate for zoning as C-1 General Neighborhood Commercial District or T Transitional District. In this case, the proposed rezone to C-1 would be consistent with the contemplated zoning in the applicable "Neighborhood Commercial" *Comprehensive Plan's* designation for the property. The proposed development is also consistent with the *Comprehensive Plan's* residential density for the area which is 14-36 dwelling units/acre. *Ex. 1 at p. 8.* The proposal advances a number of other stated policies in the *Comprehensive Plan* addressing location of residential development, design of residential development, pedestrian improvements, housing choices, infill development, and affordable housing. *See Comprehensive Plan Policies: UF-1.1, DD-1.8, DD-4.2, DD-4.3, DD-4.5, DD-4.6, H-1.6, H-3.2, H-4.4, and H-4.14.* Overall, the rezone proposal is consistent with the policies and provisions of the *Comprehensive Plan*.

Changed Conditions

5. The proposed rezone from R-2 to C-1 will implement the provisions of a 2015 *Comprehensive Plan* Amendment which assigned the Neighborhood Commercial designation for this site. The rezone from R-2 to C-1 would create greater consistency between the zoning for the site and the revised *Comprehensive Plan* designation. When a rezone implements a comprehensive plan amendment the applicant does not need to demonstrate that the area has undergone substantial changes in conditions. *See TMC 13.06.650.B.2.*

Consistency with District Establishment Statement

6. The District Establishment Statement for the C-1 district provides:

C-1 General Neighborhood Commercial District. This district is intended to contain low intensity land uses of smaller scale, including office, retail, and service uses. It is characterized by less activity than a community commercial district. Building sizes are limited for compatibility with surrounding residential scale. *Residential uses are appropriate.* Land uses involving vehicle service or alcohol carry greater restriction. This classification is not appropriate inside a plan designated mixed-use center or single-family intensity area. (Emphasis added).

TMC 13.06.200.B.2.

7. The Norpoint Landing project is consistent with the C-1 District Establishment Statement which specifically states that residential uses are appropriate in the zone. The proposed building configuration is in keeping with the concept of limiting the scale of development in the C-1 zone to achieve compatibility with residential uses in the area. This project will be a low-rise complex and will serve as a buffer between the residential neighborhoods to the south and east and the busy arterials and commercially designated property at the intersection of 29th Street NE and Norpoint Way NE.

Recent Area-Wide Rezone

8. No area-wide zoning involving or affecting the rezone site has been taken by the Tacoma City Council, acting in its legislative capacity, in the two years preceding the filing of LPI'S, rezone application.

Relationship to the Public Welfare

9. The evidence showed that the proposed rezone will further the public health, safety, morals or general welfare of the area. The proposed neighborhood commercial zoning is more consistent with the *Comprehensive Plan's* provisions for the area and with the development already present at this busy intersection than the existing R-2 zoning. The proposed multiple-family housing will help provide needed residential options for families in Northeast Tacoma and will include participation in the City's affordable housing program. The multiple-family development will provide a transition between the heavy arterial traffic on Norpoint Way NE and 29th Street NE and the single-family neighborhood to the east and south of the site. The project will also upgrade street improvements in the vicinity, including constructing a sidewalk connecting to transit access and installing stormwater facilities.

10. While traffic congestion is a legitimate concern in this location, the expert testimony in the case demonstrated that the additional traffic generated by residents of the complex will be more than offset by the improvements to the traffic signal pattern at the 29th Street NE and Norpoint Way NE intersection. While the project will cause some change in the existing level of the traffic along 61st

Avenue NE, the street will be improved significantly along the project frontage. The project will also be required to comply with applicable development regulations which include standards governing landscaping, design, and parking. On balance, the benefits to the public welfare outweigh the impacts of project, as conditioned.

11. 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 and complied with by the Applicant.

12. Accordingly, the proposed rezone requested should be approved subject to the following conditions:

A. RECOMMENDED CONDITIONS OF APPROVAL

1. The site shall be developed in substantially the same manner as the proposal: uses shall be limited to residential. The intent of this condition is to maintain the integrity of the associated environmental (SEPA) review and findings thereof.
2. The final design of the multiple-family development shall include private and public usable open space for the development in compliance with the TMC. This can include a mix of private balconies or patios, as well as shared porches, courtyards, and green spaces. Each unit shall have direct access to at least one such space. Outdoor covered spaces (e.g., picnic pavilion or play area) can be counted toward this space. The intent of this condition is to fulfill the goals and policies of the *Comprehensive Plan*, which point out that usable open space is critical to the livability of residential uses.
3. The final design of the development shall include accessible pedestrian access from each building, through the development, to the adjacent public sidewalk on 61st Avenue NE or 29th Street NE. The intent of this condition is to insure the development meets the TMC for pedestrian access, as well as to respond to the *Comprehensive Plan's* policies and to support transit use.
4. The final design of the development shall comply with all landscaping and parking standards, as well as all applicable building and site development code requirements.
5. Site access - Site access shall conform to TMC 10.14 Driveways. In addition, due to topography, speed, and volumes, vehicular site access cannot be located on Norpoint Way NE or 29th Street NE.
6. Signal phasing - As indicated in the TIA, existing westbound left turn queues will block access to 61st Ave NE. A revision to the signal at Norpoint Way NE and 29th Street NE will improve turning movements adjacent to the development. In

addition to providing a permitted and protected left turn phase to westbound and eastbound traffic, permitted and protected left turn phases are required for northbound and southbound traffic. The permitted left turn shall include a flashing yellow arrow and sign, as well as associated signal revision signage. The improvements to the signal phasing and timing may require upgrades to the signal cabinet and wiring.

7. Sight distance - Sight lines at 61st Avenue NE and 29th Street NE shall be improved and maintained for the appropriate traffic speeds, specifically eastbound traffic. A sight line evaluation should be completed as part of the Building Permit to ensure that structures, landscaping, and/or signage do not block visibility.
8. Off-site improvements - Pedestrian access shall be provided to the nearest transit stop, as well as along 61st Avenue NE and the portion of 28th Street NE improved for a turnaround. Parking restrictions may be required on 61st Avenue NE to improve sight lines, which can be completed with signage.
9. Prior to approval of the required building permits, the applicant shall provide documentation to Planning and Development Services that the requirements of TMC 1.39 - Affordable Housing Incentives and Bonuses Administrative Code – have been met through one of the two following methods:
 - 1) Incorporation of 25% of the units resulting from increased density (with a base density of 14) into the City’s affordable housing inventory per the requirements of TMC 1.39; or
 - 2) Payment of a fee-in-lieu at the rate of \$5,000 per dwelling unit resulting from increased density (with a base density of 14 dwelling units/acre) into the City of Tacoma Housing Trust Fund. This is predicated on payment prior to Certificate of Occupancy, and prior to price adjustment in July of 2017. Payment at a later date or at a later stage of development will result in a different amount.

B. USUAL CONDITIONS:

1. The recommendation set forth herein is based upon representation made and exhibits, including development plans and proposals, 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 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 law, regulations, and ordinances are conditions precedent to the approval granted and are continuing requirement of such approvals. By accepting this approval, the applicant represents that the development and activities allowed will comply with such laws,

regulations, and ordinance. 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.

C. ADVISORY COMMENTS:

In addition to the development conditions recommended for the requested rezone, the following advisory comments have been provided by agencies to guide the Applicant regarding regulations that could apply to the development as further permitting is obtained.

1. TACOMA WATER

- a. City ordinance 12.10.045 requires a separate water service and meter for each parcel.
- b. An existing water meter serves the proposed parcel.
- c. Existing water meter to subject parcels may be utilized by the owner provided size requirements for intended use are adequate, as approved by Tacoma Water. Tacoma Water shall review proposed plans prior to final approval. Contact the Tacoma Water Permit Counter at (253) 502-8247 with any questions. If the existing water service is not able to be used it shall be retired by Tacoma Water crews on a T&M basis at the developers cost.
- d. If fire sprinklering, contact the Tacoma Water Permit Counter at (253) 502-8247 for policies related to combination fire/domestic water service connections.
- e. New water services will be installed by Tacoma Water 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.
- f. 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.
- g. 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 owners' expense.
- h. 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”.

2. TACOMA POWER

General Notes:

- a. Any construction, relocation or adjustment costs shall be at the applicant’s expense.
- b. All new electrical services will be installed underground unless otherwise approved by Tacoma Power Engineering; additional utility easements may be required.

Submittal Requirements:

- c. Electric Service Application to Tacoma Power New Services Engineering Department. Review the Commercial Project Development Process online to determine additional submittal requirements.
- d. For services over 400 amps, a set of electrical plans must be submitted to the Electrical Inspection Office for review.

Fees:

- e. Fees for new electrical service or upgrading the existing electrical service will be determined when the power requirements are submitted to Tacoma Power New Services Engineering Department.
- f. Fees for the electrical permit are based on the electrical contractors bid amount and have not been determined.
- g. Forms and information are available online at <http://www.mytpu.org/tacomapower/permitting>
- h. General language for OH clearance issues and or existing easements, can be added to general comments section:
 - The [builder, developer, and/or owner] must observe the appropriate clearances to Tacoma Power's facilities during construction.
 - Appropriate clearances must 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. Alternatively,

the [builder, developer, and/or owner] shall incur all costs associated with relocating Tacoma Power's facilities in order to obtain the appropriate

clearances. Costs of relocation include demolition of existing facilities, construction of new facilities, restoration of property as necessary, and relocation of other utilities as necessary.

- Tacoma Power requests to retain all existing easements and facilities in the subject area(s). Alternatively, the [builder, developer, and/or owner] shall incur all costs associated with relocating Tacoma Power's facilities. Costs of relocation include demolition of existing facilities, construction of new facilities, restoration of property as necessary, and relocation of other utilities as necessary. The [owner, developer, and/or builder] shall assist Tacoma Power and other affected utilities in obtaining all necessary easements for said relocated facilities.
- The (builder, developer, and/or owner) shall provide Tacoma Power and other affected utilities with all necessary easements.

3. PLANNING AND DEVELOPMENT SERVICES

The geotechnical report indicates it is preliminary. Please provide completed report. The report and associated addendum must be signed and stamped by the qualified professional licensed in the State of Washington.

4. TACOMA FIRE

The Applicant is advised that drawings included with the land use permit are not reviewed in their entirety for compliance with the Fire Code. Future construction shall comply with the adopted Fire Code at the time of building permit submittal. Any required improvements to adjoining roads for fire department vehicle access and any required fire hydrants will be specified at the time of building permit submittal.

5. ENVIRONMENTAL SERVICES, SITE DEVELOPMENT GROUP

These comments and conditions are based on the following information provided for review:

- Site Plan, Dated 11/04/15
- Preliminary Geotechnical Report, Dated June 2016

Additional comments and conditions may be forthcoming upon changes to the submitted information.

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. Portions of the site, including offsite improvements, are not presently served by the City stormwater drainage system. The City stormwater drainage system shall be extended to serve the project site and/or the required street improvements through the City's work order process, or another method of stormwater management meeting all requirements of the City of Tacoma Stormwater Management Manual shall be provided. To start the work order, apply online at <https://aca.accela.com/tacoma/>. If the public storm system is extended, it shall be extended in such a manner as to allow for further extension in the future to serve neighboring properties. Public and private stormwater shall be managed in separate water quality and flow control facilities.
- d. 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.

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

- e. Per Minimum Requirement #5, projects that meet or exceed the SWMM thresholds shall employ, where feasible and appropriate, On-Site Stormwater Management BMPs to infiltrate, disperse, and retain stormwater runoff onsite to the maximum extent feasible. On-Site Stormwater Management BMPs include: Roof Downspout Control BMPs, Dispersion of all impervious surfaces and Soil Quality BMPs. If drainage cannot be managed on-site, it shall be conveyed to

the City storm system in accordance with the Stormwater Management Manual and Public Works Design Manual.

- f. 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 hard surfaces created and/or replaced offsite as a result of this project shall count toward the pollution-generating hard surface total.
- g. 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. Hard surfaces created and/or replaced offsite as a result of this project shall count toward the hard surface total.
- h. All projects shall comply with Minimum Requirement #10: Off-Site Analysis and Mitigation.
- i. All public stormwater facilities shall be located in right of way, a tract dedicated to the City of Tacoma, or easement per City of Tacoma Stormwater Management Manual Volume 3 Chapter 13 and as approved in writing by Environmental Services.
- j. This project is located in the natural drainage course of abutting properties. Adequate provisions shall be made to collect drainage that naturally flows across the project site.
- 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. Contact Ecology's Office of Regulatory Assistance at 1-800-917-0043 to determine if any additional requirements are necessary. Additional information is also available online at <http://www.ecy.wa.gov/programs/wq/stormwater/construction/>. City approval does not release the applicant from state or other permitting requirements.

Streets, Driveways, and Sidewalks:

- l. 61st Avenue NE fronting the property shall be improved to a width of 26 feet and shall include necessary drainage. The minimum roadway section shall meet City Design Standards at time of submittal. Any additional unsuitable foundation excavation material must be removed as directed by the City Engineer.

- m. Cement concrete curb and gutter shall be constructed along the western edge of 61st Avenue NE, fronting the property, at an alignment to be determined by and to the approval of the City Engineer.
- n. An asphalt wedge curb shall be constructed on the eastern edge of the required improvement to 61st Avenue NE.
- o. Cement concrete sidewalk shall be constructed along the western side of 61st Avenue NE, fronting the property, meeting Public Right Of Way Accessible Guide-lines (PROWAG) and Americans with Disabilities Act (ADA) requirements, and be installed to the approval of the City Engineer.
- p. All broken, damaged, or hazardous sidewalk, curb and gutter along 29th Street NE abutting the site shall be removed, and new cement concrete sidewalk, curb and gutter constructed in its place to the approval of the City Engineer.
- q. 29th Street NE fronting the property shall be restored in accordance with the Right-of-Way Restoration Policy.
- r. The curb ramps on the south side of the intersection of 29th Street NE and 61st Avenue NE shall be removed and replaced to current Public Works standards. The crossing shall be constructed to facilitate pedestrian crossing in the east-west direction only.
- s. The type, width, and location of all driveway approaches serving the site shall be approved by the City Engineer.
- t. 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 Public Works Private Development at (253) 591-5760. A performance bond is required for all work orders per TMC 10.22.070.F.

13. Any finding of fact herein which may be deemed properly 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 10th day of November, 2016.

PHYLLIS K. MACLEOD, Hearing Examiner

ORIGINAL

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. **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.