

BEFORE THE CITY OF GIG HARBOR HEARING EXAMINER

IN RE:) HEARING NOS. PL-PPLAT-21-0001,
SUMMIT POINTE PRELIMINARY) PL-DR-22-0001 & PL-SEPA-22-0001
PLAT,) FINDINGS OF FACT,
) CONCLUSIONS OF LAW AND
) DECISION

OWNER: Rush Residential, Inc.
6622 Woolochet Drive
Gig Harbor, Washington 98335

APPLICANT: Grant Middleton
Larson & Associates
9027 Pacific Avenue, Suite 4
Tacoma, Washington 98444

REPRESENTATIVE: William Lynn
Gordon Thomas Honeywell
1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402

PLANNER: Robin Bolster-Grant, Principal Planner

LOCATION: 6302 112th Street and 11302 Burnham Drive

SUMMARY OF REQUEST:

The Applicant seeks Preliminary Plat approval for the development of 16.71 acres into 56 single-family residential lots. The subdivision also includes a private internal road, access tracts, open space tracts, and a storm tract.

The site is located at 6302 112th Street and 11302 Burnham Drive. It is located on the north and south sides of 112th Street approximately 950 feet west of the intersection of 112th Street and Burnham Drive. The site is partially located on a reclaimed rock quarry and slopes steeply from west to east.

SUMMARY OF DECISION:

The requested Preliminary Plat is **approved** subject to slightly modified conditions from those recommended by City Staff.

DATE OF DECISION: November 13, 2023.

PUBLIC HEARING

The public hearing commenced at approximately 2:30 p.m., on Tuesday, November 7, 2023. The hearing took place remotely utilizing the Zoom platform with the City Staff serving as host. The City appeared through Robin Bolster-Grant, Principal Planner. The Applicant appeared through Scott Clark and Grant Middleton of Larson & Associates, and was represented by William Lynn. Other City Staff and Applicant representatives were also present. No members of the public were present. Testimony was received from Robin Bolster-Grant, Scott Clark and Grant Middleton. There was no public testimony. All testimony was taken under oath and a verbatim recording of the proceedings was maintained.

The following exhibits were received in advance of the public hearing or during the public hearing:

- A. Public Notices.
- B. Preliminary Civil Plat Plan set dated May 16, 2023.
- C. Landscape Plan, received December 28, 2012.
- D. Development Agreement and Comprehensive Plan Amendment, dated November 2016.
- E. Geotechnical Report prepared by GeoResources, dated April 11, 2022, updated May 18, 2023.
- F. SEPA Determination of Nonsignificance dated September 13, 2023.
- G. Notice of Application Comments.
- H. Determination of Nonsignificance comments.
- I. Notice of Public Hearing Comments.
- J. Water Availability Letter prepared by Washington Water Service, dated January 12, 2022.
- K. Preliminary Sewer Hydraulic Report, prepared by Larson and Associates, dated May 17, 2023.
- L. Traffic Impact Analysis, prepared by Heath & Associates, Inc., dated April 27, 2023.
- M. Transportation Capacity Reservation Certificate dated May 4, 2023.
- N. Sewer Capacity Reservation Certificate dated June 16, 2023.
- O. Preliminary Storm Drainage Report, prepared by Larson and Associated, dated May 19, 2023.
- P. Recorded Sanitary Sewer Easement, dated June 9, 2023.
- Q. Public Works SEPA Memo dated July 6, 2023.
- R. City PowerPoint presentation.
- S. Revised Exhibit C to Development Agreement (Exhibit D).

1 **City's Presentation:**

2 The hearing commenced with the testimony of Robin Bolster-Grant, Principal Planner. Ms.
3 Bolster-Grant relied primarily on her Staff Report dated October 16, 2023. As laid out in her
4 report, the proposed Preliminary Plat known as the "Summit Pointe Preliminary Plat", consists of
5 16.71 acres straddling 112th Street, with a street address of 6302 112th Street and 11302
6 Burnham Drive. The Preliminary Plat proposes the subdivision of this acreage into 56 single-
7 family residential lots along with a private internal road (Tract A), three access tracts (Tracts D,
8 C and E), a storm tract (Tract G), and two open space tracts: a large open space tract along the
9 south and west boundary of the portion of the plat lying north of 112th Street (Tract B), and a
10 second open space tract along the south boundary of the proposed lots located south of 112th
11 Street (Tract F) all as identified in the Conceptual Plans found at Exhibit B.

12 The site is currently vacant. It previously served as a rock quarry. The portion of the site north
13 of 112th Street is sparsely vegetated in keeping with its former use as a quarry. The strip of
14 property south of 112th contains scattered native vegetation including several mature Douglas
15 Fir. The site slopes from west to east, at first steeply (with grades of approximately 50%) and
16 then more gradually as it extends across the former quarry site.

17 The site is zoned Medium Density Residential (R-2). Property to the north is undeveloped and
18 zoned Low Density Residential (R-1); property to the east is undeveloped and zoned General
19 Business District (B-2) as well as Low Density Residential (R-1); property to the south is an
20 existing residential area zoned R-1 as well as areas that are within unincorporated Pierce County;
21 and to the west is an existing residential area zoned R-1. The property is designated as Medium
22 Residential in the City's Comprehensive Plan.

23 The property was annexed into the City in 2009. Its zoning designation was amended to
24 Medium Residential in 2016. At the same time, the property owner entered into a Development
25 Agreement (Exhibit D) allowing for its further development but subject to various conditions.
26 Among other things, the Development Agreement restricted the site's development to no more
27 than 85 lots and required that it be rezoned to R-2. The Agreement also imposed various
28 perimeter buffers as depicted on Exhibit C of the Agreement. This Exhibit C was later amended
29 (Exhibit S).

30 Comments from local and state agencies and area tribes have been relatively minimal. Some
31 public comment has been received (Exhibits H and I) from nearby property owners. Their
32 comments have largely focused on three issues: (1) the lack of any recreational facilities within
33 the development; (2) the use of 112th Street for parking by its residents, especially those living
34 south of 112th Street; and (3) and concerns over the loss of mature trees and other vegetative
35 buffering currently existing along the south boundary of the portion lying south of 112th Street.
36 Although City Staff has carefully considered these comments, they have not resulted in any
37 changes to the proposed plat as discussed more fully below. At the conclusion of her testimony

1 Ms. Bolster-Grant asked that the Preliminary Plat be approved subject to the conditions set forth
2 in the Staff Report commencing at page 19.

3 At the conclusion of Ms. Bolster-Grant's testimony, the Hearing Examiner asked several
4 questions relating to the concerns expressed by nearby residents. Ms. Bolster-Grant was asked
5 why the plat does not include a recreational open space tract. She explained that the R-2 zoning
6 does not require this and that the City does not impose this condition on relatively small
7 residential developments. Instead, the City will impose a park impact fee. Ms. Bolster-Grant
8 was then asked about parking along 112th Street. With the assistance of Public Works Staff, she
9 explained that 112th is designated as a "local road" by the City and that it must have parking on
10 one side of the street. The side of the street to be allowed parking will be determined by the City
11 Engineer based upon safety and other considerations. Public Works Staff added, however, that
12 the Hearing Examiner could direct that "no parking" signs be installed along the opposite side of
13 the road to better ensure that parking was limited to one side. The Hearing Examiner indicated
14 his intent to impose this requirement. Discussion then turned to proposed landscaping and the
15 issue of whether existing vegetative buffering would be preserved. Ms. Bolster-Grant noted that
16 existing vegetation would be preserved within the required 25-foot boundary along the south
17 portion of the site located south of 112th Street and that all significant trees would either be
18 retained or replaced in accordance with the Significant Tree Replacement requirements. This led
19 to a further discussion regarding the buffering requirements found in the Development
20 Agreement and its requirement for various buffers as identified on Exhibit C to the Development
21 Agreement. It was explained that this exhibit was later amended to better reflect the required
22 buffers (Exhibit S). Ms. Bolster-Grant stated that the final Landscaping Plan will comply with
23 all requirements for buffering as found in the amended Exhibit C to the Development
24 Agreement.

25 **Applicant's Presentation:**

1 At the conclusion of the City's presentation the Applicant's attorney, William Lynn, spoke
2 briefly. In further response to the Hearing Examiner's questions regarding the lack of any
3 recreational open space, Mr. Lynn explained that Gig Harbor and other cities have moved away
4 from such requirements in smaller developments as they have been found to be difficult to
5 maintain and can become a liability. Instead, this development and similar ones will be imposed
6 substantial park impact fees to assist with the development of regional park facilities. Mr. Lynn
7 also helped explain the earlier difficulties with the original Exhibit C to the Development
8 Agreement and its replacement by an amended Exhibit C. He confirmed that the project must
9 comply with the buffer requirements as found in the amended Exhibit C and that the proposed
10 Landscaping Plan is intended to accomplish this.

11 Following Mr. Lynn's comments the Applicant appeared through its representatives, Scott Clark
12 and Grant Middleton. Their presentation was brief and largely confirmed that the Applicant has
13 no objection to the conditions recommended by City Staff. Mr. Clark also noted that each

1 residence along 112th Street will have four parking spaces (two garage spaces, two driveway
2 spaces) and so parking along 112th Street should not be significant.

3 **Public Testimony:**

4 At the conclusion of the Applicant's presentation the hearing was opened for public comment.
5 There were no members of the public present and no public testimony.

6 **ANALYSIS**

7 The Preliminary Plat application is fairly straightforward and has been carefully reviewed by
8 City Staff. Although there has been some neighborhood concerns regarding recreational
9 facilities, street parking and vegetative buffering, these concerns have been carefully considered
10 by Staff when suggesting conditions of project approval. Nonetheless, I conclude that additional
11 conditions should be imposed which: (1) provide "no parking" signage along the opposite side
of the street where parking will be allowed, and (2) clarify that all landscaping must comply with
the buffering requirements found in the Development Agreement as demonstrated in the
amended Exhibit C to the Agreement. Subject to these additional conditions, I conclude that the
Preliminary Plat should be approved. I therefore make the following:

12 **FINDINGS OF FACT**

13 1. Any Findings contained in the foregoing Background, Public Hearing or Analysis
14 Sections are incorporated herein by reference and adopted by the Hearing Examiner as his
Findings of Fact.

15 2. The Hearing Examiner has admitted documentary evidence into the record, heard
16 testimony, and taken this matter under advisement.

17 3. The City Staff, as responsible official, issued a SEPA Determination of Nonsignificance
(DNS) on September 13, 2023. The DNS has not been appealed and is final (Exhibit F).

18 4. Notice of the application was posted at the site on January 20, 2022, and also published in
19 the Tacoma News Tribune, sent to State agencies, and mailed to all property owners within 300
feet of the subject site on January 20, 2022. The notice generated four comments from agencies
20 and tribes and nine comments from nearby residents. The comments from agencies and tribes
21 were relatively straightforward. The comments from members of the public expressed concern
over the lack of recreational facilities; parking along 112th Street; and retention of existing
22 mature trees and other vegetation along the south boundary of the site.

23 5. Notice of the Determination of Nonsignificance was also mailed to property owners
24 within 300 feet of the subject site on September 14, 2023, submitted to the Department of

1 Ecology and published in the Tacoma News Tribune. The City received one additional comment
2 in response to the DNS from Pierce Transit which merely indicated that it does not serve the area
3 and that it has no other comments.

4 6. Notice of the Public Hearing before the Hearing Examiner was posted on the subject site
5 on September 29, 2023, published in the Tacoma News Tribune on October 3, 2023, and mailed
6 to all property owners within 300 feet of the subject site on October 3, 2023. The City received
two additional written comments in response: (1) a nearby landowner was concerned that
construction activity might cause damage to her property; and (2) another nearby resident who
had earlier provided comment sought assurance that his earlier comments were being considered.

7 7. The scheduled hearing date was canceled and rescheduled to November 7, 2023. A new
8 Notice of Hearing was posted onsite, published and mailed to all property owners on October 20,
9 2023. The revised notice did not generate any additional public comment. All legal notices of
the proposed action have therefore been satisfied.

10 8. The Applicant proposes to develop a former rock quarry contained 16.71 acres into 56
11 single-family residential lots. The proposed development also includes an internal private
12 roadway proving circular access to the development (Tract A); three access tracts (Tracts C, D
13 and E), a storm tract (Tract G), a large open space tract along the south and west portion of the
14 site located north of 112th Street (Tract B), and an additional open space tract along the south
15 boundary of the portion located south of 112th Street (Tract F). All of these tracts and other
16 development are shown on the Conceptual Plans (Exhibit B). As shown on the Conceptual Plans,
the westerly portion of the main site will be retained in open space to preserve a steep slope
formed by earlier use as a rock quarry. The site descends easterly from this steep slope in a more
gentle descent. The primary site north of 112th Street is largely void of vegetation as a result of
early quarry activities. The portion located south of 112th Street contains an existing vegetative
buffer including several larger Douglas Fir.

17 9. The parcel is located in the Medium Density Residential (R-2) zoning designation. This
18 zoning designation is intended to allow for a moderate density of land use that is greater than is
19 permitted in the R-1 district but less than that permitted in the R-3 district, and is intended to
20 provide a transition between higher density residential districts in order to preserve the primary
21 residential character of existing lower density residential areas. Abutting properties to the north
22 are undeveloped and have a zoning designation of Low Density Residential (R-1); properties
abutting to the east are also undeveloped and have a zoning designation of General Business
District (B-2) and Low Density Residential (R-1); properties abutting to the south contain
existing residential areas having either an R-1 zoning designation or are located in
unincorporated Pierce County; and properties abutting to the west contain existing residential
areas with a zoning designation of R-1.

1 10. The subject property is designated as Medium Residential in the Future Land Use Map of
2 the City's Comprehensive Plan. This land use category is intended to provide medium density
3 single and duplex residential development and serve as a buffer between higher and lower
intensity uses.

4 11. Access to the site is via 112th Street. Internal access into the site will be provided by a
5 new private internal road (Tract A). Three access tracts (Tract C, D and E) will extend from this
primary roadway to provide access to individual lots.

6 12. As noted previously, the majority of the site was used as a rock quarry and has undergone
7 substantial excavation. The project proposes an additional 25,881 cubic yards of excavation
8 along with 27,430 cubic yards of fill to be imported. The discrepancy between these two
amounts is consistent with the approved Development Agreement.

9 13. There are no wetlands or streams on or near the subject property but it does contain steep
10 slopes of approximately 50% due to the historic gravel mining operations. A Geotechnical
Report was prepared for the project (Exhibit E) which determines that these slopes do not pose a
landslide hazard.

11 Findings Relating to Consistency with the Comprehensive Plan.

12 14. The site is designated as Medium Density Residential in the City's Comprehensive Plan.

13 15. The Staff Report, commencing at page 7, analyzes the project's consistency with the
14 Comprehensive Plan. Staff finds that the project, as conditioned, is consistent with Goal 2.2 and
15 Policies 2.2.3.B and 2.2.3.K; Goal 2.3 and Policies 2.5.1 and 2.5.2. Staff concludes that the
16 project, as conditioned, is consistent with the City's Comprehensive Plan. The Hearing
Examiner concurs.

17 Findings Relating to Compliance with the Municipal Code.

18 16. Prior to obtaining Preliminary Plat approval, the Applicant must show that the request
19 satisfies the criteria set forth in GHMC 16.05.003. The purpose of these regulations is to
20 promote public health, safety and general welfare in accordance with the standard established by
21 the State. Per GHMC 16.05.003, the Hearing Examiner shall make an inquiry into the public use
and interest proposed to be served by the establishment of the subdivision and shall make
findings as to each criteria.

22 17. Per GHMC 16.05.003.1, the Preliminary Plat must conform to Chapter 16.08, General
23 Requirements for Subdivision Approval. Staff finds that the Preliminary Plat conforms to the
General Requirements for Subdivision Approval as set forth more fully below. The Hearing
24 Examiner concurs.

1 18. Per GHMC 16.05.003.2, it must be demonstrated that appropriate provisions are made
2 for, but not limited to, public health, safety and general welfare, for open spaces, drainage ways,
3 streets or roads, alleys, or other public ways, transit stops, potable water supplies, sanitary waste,
4 parks and recreation, playgrounds, schools and schoolgrounds, and shall consider all relevant
facts, including sidewalks and other planning features, that assure safe walking conditions for
students who only walk to and from school.

5 19. The Staff Report, commencing at page 9, examines these criteria and finds that all
requirements have been satisfied:

6 • The project satisfies requirements for open spaces by providing a 40-foot
7 landscape buffer adjacent to property to the east and north, and a 25-foot landscape perimeter
8 buffer abutting residential development to the north, west and south. All buffers must conform
9 to the requirements of the Development Agreement including the amended buffer map attached
to the Agreement. In total, the project will provide 232,304 square feet of perimeter buffer open
space.

10 • The City Engineer has reviewed the proposal and recommends approval subject to
11 various conditions relating to stormwater design including compliance with the City public work
12 standards and the Stormwater Design Manual. The project includes new stormwater drainage
13 pipes within private access roads leading to a new stormwater infiltration pond (Tract G) located
in the northern portion of the site. The Applicant will be required to treat stormwater runoff
prior to discharge to 112th Street with the use of a riser control structure to meter runoff rates.

14 • The Applicant proposes one new private road (Tract A). On-street parking is
15 proposed on both sides of the private road unless the City Engineer later determines this to be
unnecessary. On-street parking is also provided on one side of 112th Street. As noted earlier,
16 adjoining property owners have expressed valid concerns over parking along 112th Street such
that steps should be taken to ensure that such parking occurs on only one side of the street. To
17 that end, "no parking" signs need to be placed along the opposite side of the street to ensure that
on-street parking is limited to one side of the street.

18 • The City requested public comment from Pierce Transit and did not receive any
19 objection or proposed conditions.

20 • The project is located outside of the City water service area. The subdivision will
21 be served by Washington Water.

22 • A Sewer Concurrency Reservation Certificate application (Exhibit N) and Sewer
23 Hydraulic Report (Exhibit K) were submitted for preliminary approval. The project includes
15-foot sanitary sewer easement between the developer and the property owner to the east in
order to connect to the City's sewer main north of 112th Street (Exhibit P). The City Engineer
24 has determined that the City has sufficient capacity for the project's sanitary waste.

1 • There are existing sidewalks along both sides of 112th Street fronting Lots 1-9
2 and at the intersection with the proposed new private road (Tract A). As a result, no new
3 sidewalks will be needed along 112th Street. Internal sidewalks will be constructed along both
4 sides of the new private road as indicated in the Conceptual Plans.

5 20. Based upon all of these Findings, the City Staff concludes that the project, as
6 conditioned, has made all appropriate provisions as required by GHMC 16.05.003.2. The
7 Hearing Examiner concurs.

8 21. GHMC 16.05.003.3 requires that the public interest will be served by the subdivision and
9 dedication. City Staff finds that the project, as conditioned, has been found to be consistent with
10 the Comprehensive Plan; Title 16 of the GHMC, Title 17 (Zoning) and Title 18 (Environment).
11 City Staff therefore finds that the public will be served by this subdivision and its dedication.
12 The Hearing Examiner concurs.

13 Findings Relating to Chapter 16.08 - General Requirements for Subdivision Approval.

14 22. In addition to the requirements found in GHMC 16.05.003, all subdivisions must also
15 meet the general requirements for subdivision approval found within GHMC 16.08.001.A-F.
16 The Staff Report, commencing at page 11, contains extensive findings relating to each of these
17 requirements and concludes that the project, as conditioned, satisfies all general requirements for
18 subdivision approval as required by GHMC 16.08.001. The Hearing Examiner concurs.

19 Findings Relating to Compliance with Chapter 17.20 GHMC.

20 23. The project is located within the R-2 zoning district. Within this district, a minimum lot
21 area is 5,800 square feet, minimum lot width is 0.7% of the lot area in lineal feet, and maximum
22 density is six units per acre.

23 24. The project will have a net developable area of 14.77 acres. Based upon the maximum
24 density of six units per acre, the project is consistent with the land use and density requirements.
25 The Hearing Examiner concurs.

26 Findings Relating to Compliance with Chapter 17.72 GHMC - Off-Street Parking and Loading.

27 25. Each single-family dwelling will require two off-street parking spaces per GHMC
28 17.72.030 together with one guest parking space for every four new dwellings, for a total of 70
29 parking spaces.

30 26. Compliance with off-street parking requirements will be reviewed at the time of building
31 permits.

1 27. City Staff finds that the requirements of Chapter 17.72 for off-street parking are therefore
2 met. The Hearing Examiner concurs.

3 Findings Relating to Compliance with Chapter 17.78 GHMC - Trees, Landscaping and
Screening.

4 28. As earlier noted, the property is subject to a Development Agreement which, among
5 other things, establishes requirements for perimeter buffers as identified on Exhibit C to the
6 Development Agreement.

7 29. The original Exhibit C to the Development Agreement was unclear as to the exact buffer
8 requirements. As a result, the Exhibit C has been amended to provide greater clarity (Exhibit S).
The project's landscaping and buffers must be consistent with the amended Exhibit C to the
Development Agreement.

9 30. The Applicant has provided a Landscape Plan (Exhibit C) which describes a proposed
10 planning schedule for trees, shrubs and groundcover. City Staff finds that the Landscape Plan
11 provides sufficient buffer protection for residential neighborhoods surrounding the project and
that the plan is consistent with the amended Exhibit C to the Development Agreement.

12 31. All significant trees within the perimeter landscape area will be retained per GHMC
13 17.78.060.B.1 along with one deciduous tree a minimum of 2-inch caliper or one 6-foot
14 Evergreen tree per 200 square feet, to be distributed throughout the perimeter landscape area in a
natural planting pattern per GHMC 17.78.060.B.2.d.

15 32. City Staff finds that the project, as conditioned, satisfies all requirements for trees,
landscaping and screening pursuant to Chapter 17.78 GHMC. The Hearing Examiner concurs.

16 Findings Relating to Compliance with GHMC 17.99.240 - Natural Site Conditions.

17 33. GHMC 17.99.240 encourages site development to be designed to reflect the natural
18 conditions of the site including topography and existing vegetation. These goals are further
19 analyzed through Subsections A-G. The Staff Report, commencing at page 15, examines each of
these requirements and finds that the project, as conditioned:

20 A. Limits clearing to no more than 50% of significant trees and retains
21 vegetation in all required buffers and setbacks.
22 B. Retains natural vegetation on undeveloped portions of the site, with minimal tree
removal anticipated.
23 C. Maintains natural topography to the extent practicable, recognizing that the
majority of the site was historically used as a rock quarry and was substantially

excavated. As earlier noted, the project anticipates approximately 25,881 cubic yards of excavation along with approximately 27,430 cubic yards of fill to be imported. The minor discrepancy between these amounts is consistent with the Development Agreement.

- D. The project incorporates approximately 25% of significant trees into the project by retaining existing trees along the perimeter of the project in numbers exceeding the 25% requirement.
- E. The project has been conditioned on requiring the replacement of any lost trees.
- F. The project retains the natural symmetry of trees as no tree trimming is proposed.
- G. The Landscape Plan is designed to maintain the health and fullness of natural vegetation in all buffer areas and the project has been conditioned on satisfying this requirement.

Staff therefore concludes that the project is consistent with all criteria set forth in GHMC 17.99.240. The Hearing Examiner concurs.

Findings Relating to Chapter 18.08 - Critical Areas.

34. Critical area review is required for all development including subdivisions. GHMC 18.08.034.A.5.

35. The City recognizes land subject to natural hazards as Critical Areas. This includes properties with slopes in excess of 50%. The site contains slopes of up to 40% along the northeastern and eastern portions and up to 30% at the eastern and southern portions.

36. The Applicant has provided a Geotechnical Report dated April 11, 2022, amended March 9, 2023 (Exhibit E). The report finds a large landslide south and east of the site. In addition, portions of slopes both onsite and offsite to the east have moderate to high susceptibility for shallow landslides but no active or historic landslides are mapped on or within 300 feet of the site. The report recommends the use of undisturbed buffers to ensure that the proposed project will not be impacted by steep slopes. The project has been designed to incorporate expanded buffers consistent with those imposed by the Development Agreement along the western portion of the site to mitigate against impacts to the proposed development.

37. The report also finds that there are no slopes on or in the immediate vicinity of the site that meet the definition of a ravine or bluff. The report also finds no evidence of landslide activity or landslide hazards observed onsite. No evidence of erosion or erosion hazards were observed. The report concludes that the site is suitable for the proposed development.

Findings Relating to Cultural Resources.

38. In response to the SEPA Determination, the Squaxin Island Tribe provided comment stating that they had no specific concerns for the proposal but if the Washington State

1 Department of Ecology and Historic Preservation (DAHP) recommends any survey or study, the
2 Tribe concurs with the recommendation. DAHP has not recommended a survey or study.

3 Other general Findings.

4 39. The Staff Report, commencing at page 17, contains Findings that the project has
5 undergone extensive review by operations and engineering staff; that appropriate provisions for
6 potable water supplies and an adequate water supply have been met; that the project complies
7 with all development regulations, is consistent with the City's Comprehensive Plan, and is
8 otherwise compliant with all applicable local, State and federal laws; that no further mitigation is
9 required under SEPA; that the City has adequate sewer capacity for the project; that the project
10 has provided an adequate preliminary drainage control plan which will provide both water
11 quality control and water quantity control consistent with the City's Stormwater Management
12 and Site Development Manual; and that the project will satisfy all traffic requirements.
13 Operations and engineering staff therefore find that the project satisfies all City requirements.

14 40. The Fire Marshal/Building Official has also reviewed the project and has no objection.

15 41. City Staff recommends approval of the project subject to the conditions set forth in the
16 Staff Report. The Applicant has no objection to any of the proposed conditions.

17 42. As previously noted, two additional conditions should be imposed to better ensure that
18 the project satisfies all requirements:

19 A. "No parking" signs shall be installed along 112th Street on the opposite side of the
20 street on which on-street parking will be allowed.

21 B. The final Landscape Plan shall comply with all landscaping and buffering
22 requirements as set forth in the Development Agreement and as identified on amended
23 Exhibit C to the Agreement.

24 Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

25 **CONCLUSIONS OF LAW**

- 26 1. The Hearing Examiner has jurisdiction over the parties and the subject matter.
- 27 2. Any Conclusions of Law contained in the foregoing Background, Public Hearing,
28 Analysis, or Findings of Fact are hereby incorporated by reference and adopted by the Hearing
29 Examiner as his Conclusions of Law.
- 30 3. All notice requirements have been met.

1 4. All SEPA requirements have been met.

2 5. The project, as conditioned, is consistent with the City's Comprehensive Plan.

3 6. The Preliminary Plat conforms to Chapter 16.08 GHMC, General Requirements for
4 Subdivision Approval.

5 7. Appropriate provisions have been made for the public health, safety and general welfare,
6 for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable
7 water supplies, sanitary waste, parks and recreation, playgrounds, schools and schoolgrounds,
8 and has considered all relevant facts, including sidewalks and other planning features, to assure
9 safe walking conditions for students who only walk to and from school.

10 8. The public interest will be served by the subdivision and dedication.

11 9. All of the general requirements for subdivision approval found in GHMC 16.08.001.A-F
12 have been met.

13 10. All bulk and density requirements set forth in Chapter 17.20, Medium Density
14 Residential (R-2) have been met.

15 11. All requirements for off-street parking and loading per Chapter 17.72 GHMC have been
16 met.

17 12. All requirements for trees, landscaping and screening per Chapter 17.78 GHMC have
18 been met.

19 13. All requirements for landscaping and buffering per the Development Agreement have
20 been met.

21 14. The goals of GHMC 17.99.240 for natural site conditions have been satisfied.

22 15. All requirements of the Critical Areas Ordinance, Chapter 18.08 have been met.

23 16. All requirements for the protection of cultural resources have been met.

24 17. The proposed Preliminary Plan should be approved subject to slightly modified
25 conditions from those set forth in the Staff Report.

DECISION

The Preliminary Plat is **approved** subject to the following conditions:

1 **Land Use Special Conditions:**

2 1. All required perimeter landscape and screening buffers shall be vegetated to meet or exceed
3 the requirements for residential plats and consistent with the Consistency Review Map
4 prepared by Larson and Associates, dated 4/15/22. This requirement shall be met prior to
final plat approval.

5 2. The required buffer, including the 25-foot wide perimeter landscape buffer and 40-foot
6 transition zone buffer shall be established as a covenant on the final plat and labeled to
identify the nature of the buffer.

7 3. Final landscape construction plans consistent with the landscape plans approved by the land
8 use permit process shall be submitted with civil permit applications and shall include the
required tree protection measures.

9 4. The owner shall ensure that all recommended requirements of the geotechnical report
10 prepared by Georesources dated April 11, 2022, revised March 9, 2023, or as otherwise
11 amended by revised reports, are implemented.

12 5. The tree protection measures as specified in GHMC 17.78.092 shall be implemented prior to
13 any major excavation with heavy equipment. The owner shall contact the Planning Division
14 to conduct an inspection of the final tree protection fencing location prior to beginning
15 work.

16 6. Any trees required to be retained pursuant to this land use approval which are subsequently
17 removed or damaged shall be replaced per the requirements in GHMC 17.99.240.E.

18 7. Any dedication, donation, or grant as shown on the face of the plat shall be considered to all
19 intents and purposes as a quitclaim deed to the said donee(s) or grantee(s) for their use for
20 the purpose intended by the donor(s) or grantor(s).

21 8. "No parking" signs shall be installed along 112th Street on the opposite side of the street on
which on-street parking will be allowed.

22 9. The final Landscape Plan shall comply with all landscaping and buffering requirements as
set forth in the Development Agreement and as identified on amended Exhibit C to the
Agreement.

22 **Engineering Conditions:**

23 1. The owner shall pay stormwater mitigation fee prior to the approval of the final plat.

1 2. School and park impact fees, as required by GHMC 19.12.050.C.11 shall be collected for all
2 residential development prior to the issuance of a building permit.

3 3. The owner shall execute and record a Sanitary Sewer Maintenance Agreement, as approved
4 by the City, with the Pierce County Auditor's office. The recording number (Auditor's File
4 Number [AFN]) shall be noted on the final plat.

5 4. The owner shall execute and record a Stormwater Maintenance Agreement, as approved by
6 the City, with the Pierce County Auditor's office. The recording number (AFN) shall be
6 noted on the final plat.

7 5. At the time of civil permit review, the Final Drainage Control Plan shall include a tabulation
8 of the current and proposed impervious, pollution generating pervious and impervious,
8 disturbed pervious, and undisturbed areas.

9 6. At the time of civil permit review, the Final Drainage Control Plan shall include the current
10 storm drainage configuration.

11 7. The City may remove any traffic control devices placed or constructed within the City right-
12 of-way not approved by this division. Any liability incurred by the City due to
12 nonconformance by the Applicant shall be transferred to the Applicant.

13 8. Permanent survey control monuments shall be placed to establish public street centerlines,
14 intersections, angle points, curves, subdivision boundaries, and other points of control. A
15 minimum of two permanent survey control monuments shall be installed at locations
15 determined by the City in accordance with the City's PWS and recorded with the Pierce
County Survey Control Division prior to final engineering approval of civil improvements.

16 9. The final plan map shall note (where quoted) or delineate the following:

17 a. "WARNING: City of Gig Harbor has no responsibility to build, improve, maintain or
18 otherwise service private roadways or driveways within, or providing access to,
18 property described in this plat".

19 b. "Increased stormwater runoff from the private road(s), building(s), driveway(s) and
20 parking area(s) shall not be directed to City infrastructure. Increased stormwater
20 runoff shall be retained/detained on site and discharged at the approved outfalls".

21 c. "Where seasonal drainage crosses subject property, existing natural drainage
21 pathways and outfalls shall be maintained".

22 d. Stormwater drain connections for runoff from buildings and parking surfaces shall be
22 shown on individual building lots.

23 e. Provisions shall be made for the private roads and easements to be open at all times
23 for emergency and public service vehicle use.

- f. "This plat is subject to a stormwater maintenance agreement recorded under the primary AFN.
- g. "Stormwater/drainage easements are hereby granted for the installation, inspection, and maintenance of utilities and drainage facilities as delineated on this plat map. No encroachment will be placed within the easements shown on the plat that may damage or interfere with the installation, inspection, and maintenance of utilities. Inspection, maintenance, and expense thereof of the utilities and drainage facilities shall be the responsibility of the property owner(s) or its heirs or assigns, as noted under the stormwater maintenance agreement for the plat".
- h. The private road shall not be gated at the entrance without providing access to all water meters for reading.

DATED this 13th day of November, 2023.

Mark C. Scheibmeir
City of Gig Harbor Hearing Examiner

APPEAL OF HEARING EXAMINER'S DECISION

This is the final Decision of the City of Gig Harbor Hearing Examiner and may be appealed in accordance with Chapter 36.70C RCW.