

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

In the Matter of the Application of)	No. SUB 22-003
)	
Jeffrey Bruton, on behalf of)	Effie Estates Proposal
GMB USA Limited)	
)	(Corrected December 12, 2022)
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Preliminary Plat</u>)	AND DECISION

SUMMARY OF DECISION

The request for a preliminary plat to create a 15-lot subdivision for single-family residential development, on approximately 2.72 acres located on the northeast corner of South 7th Avenue and West Hemlock Street, is **APPROVED**. Conditions are necessary to address specific impacts of the proposal.

SUMMARY OF RECORD

Hearing:

The Hearing Examiner held an open record hearing on the request on October 27, 2022, utilizing a hybrid approach allowing for live participation or participation by remote access technology. The record was left open until October 31, 2022, to allow for the Applicant and the City to submit a finalized list of recommended conditions of approval.

Testimony:

The following individuals testified under oath at the open record hearing:

Steven Lachnicht, City Director of Community Development
Travis Simmons, City Assistant Planner
Jeffrey Bruton, Applicant Representative
Shawnie Peters, City Development Engineer

Exhibits:

The following exhibits were admitted into the record:

1. Major Subdivision Application, undated
2. Draft Preliminary Plat Plan Set (9 Sheets), dated May 25, 2022
3. SEPA Environmental Checklist, dated April 12, 2022
4. SEPA Mitigated Determination of Nonsignificance, dated July 26, 2022
5. Preliminary Stormwater Control Plan, dated May 3, 2022
6. Traffic Impact Analysis, dated April 15, 2022
7. Title Report, dated August 1, 2016

Findings, Conclusions, and Decision (Corrected)
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8. Notice of Complete Application, dated June 1, 2022
9. Affidavit of Mailing (Notice of Application), dated June 22, 2022
10. Notice of Application, dated June 22, 2022
11. Agency Comments
 - a. Comment from Jamestown S’Klallam Tribe, dated August 3, 2022
 - b. Comment from Washington State Department of Ecology, dated August 10, 2022
12. Revision Request from City to Applicant, dated July 22, 2022
13. Applicant Response Materials:
 - a. Applicant Response Letter, dated July 22, 2022
 - b. Revised Preliminary Plat Plan Set (9 Sheets), dated September 23, 2022
 - c. Declaration of Protective Covenants, Conditions, Restrictions and Easements for Effie Estates, dated May 2022
 - d. Revised Traffic Impact Analysis, dated September 1, 2022
 - e. Email from Jim Fetzer, Clallam Transit System, dated August 4, 2022
 - f. Email Thread between Jeffrey Bruton and Travis Simmons, dated August 4, 2022, to August 23, 2022
 - g. Email from Don Ctibor, City Public Works Deputy Director, dated August 31, 2022
14. Notice of Public Hearing, undated
15. Affidavit of Mailing (Notice of Public Hearing), dated October 10, 2022
16. Staff Report
17. Staff Presentation, dated October 27, 2022
18. Letter from Applicant on Conditions of Approval, dated October 27, 2022
19. Revised Staff Report with Approved Edits

The Hearing Examiner enters the following findings and conclusions based upon the testimony at the open record hearing and the admitted exhibits:

FINDINGS

Application and Notice

1. Jeffrey Bruton, on behalf of GMB USA Limited (Applicant), requests approval of a preliminary plat to create a 15-lot subdivision for single-family residential development on an approximately 2.72-acre property. Associated improvements would include installation of utilities and the construction of two roads internal to the plat, Effie Lane and Carpe Diem Place. The Applicant would also install frontage improvements along South 7th Avenue that would include a bike lane and an ADA compliant sidewalk. Access to the individual lots within the subdivision would be provided by Effie Lane, Carpe Diem Place, or a shared private access driveway. Utilities would be connected to the site through a 20-foot-wide access easement dedicated to the City of Sequim. The water main at the intersection of South 7th Avenue and West Hemlock Street would be extended to loop through the property. The property is located at the northeast corner of

South 7th Avenue and West Hemlock Street.¹ *Exhibits 1; Exhibit 2; Exhibit 5; Exhibit 7; Exhibit 13; Exhibit 19, Staff Report, pages 1 through 3.*

2. The City of Sequim (City) determined that the application was complete on June 1, 2022. On June 22, 2022, the City provided notice of the application by mailing or emailing notice to property owners within 300 feet of the subject property and to reviewing departments and agencies, publishing notice in the City's publishing newspaper of record, and posting notice on-site and on the City website, with a comment deadline of July 12, 2022. On October 10, 2022, the City provided notice of the open record hearing associated with the application by mailing or emailing notice to interested parties and to property owners within 300 feet of the subject property, publishing notice in the City's publishing newspaper of record, and posting notice on-site and on the City website. The City did not receive any comments on the proposal from members of the public in response to its notice materials. The City received comments from reviewing agencies that were specific to the environmental review of the proposal, as discussed in detail below. *Exhibits 8 through 10; Exhibit 14; Exhibit 15; Exhibit 19, Staff Report, pages 2 and 11.*

State Environmental Policy Act

3. The City acted as lead agency and analyzed the environmental impacts of the proposal as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The City reviewed the Applicant's environmental checklist and other information on file and determined that, with mitigation measures, the proposal would not have a probable significant adverse impact on the environment. Accordingly, the City issued a Mitigated Determination of Nonsignificance (MDNS) on July 26, 2022, with a comment deadline of August 10, 2022, and an appeal deadline of August 16, 2022. The City received the following comments on the MDNS from reviewing agencies during the applicable comment period:
 - The Jamestown S'Klallam Tribe recommended that an archaeological survey of the project area be conducted prior to ground disturbing activities.
 - The Washington State Department of Ecology (DOE) provided general comments, noting that all grading and filling activity must utilize only clean fill; all removed debris must be disposed of at an approved site; and erosion control measures must be in place prior to any clearing, grading, or construction activity. DOE also provided guidance on construction activities that would require coverage under a Construction Stormwater General Permit.*Exhibit 3; Exhibit 4; Exhibit 11; Exhibit 19, Staff Report, pages 5, and 11 through 13.*

¹ The subject property is identified by Tax Assessor Parcel No. 033019-349180. *Exhibit 19, Staff Report, page 1.*

4. The MDNS was not appealed. The MDNS requires that the Applicant comply with the following mitigation measures:
- All site construction shall be conducted in compliance with the most current Stormwater Manual for Western Washington.
 - Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or storm drains that lead to waters of the state.
 - The Applicant shall obtain coverage under the Construction Stormwater General Permit for certain construction activities.
 - If contamination is suspected, discovered, or occurs during the proposed SEPA action, testing of the potentially contaminated media must be conducted. If contamination of soil or groundwater is readily apparent, or is revealed by testing, DOE must be notified.
 - If there are known soil/ground water contaminants present on-site, additional information (including, but not limited to: temporary erosion and sediment control plans; stormwater pollution prevention plan; list of known contaminants with concentrations and depths found; a site map depicting the sample location(s); and additional studies/reports regarding contaminant(s)) will be required to be submitted.
 - To mitigate the potential for noise impacts to surrounding properties, construction activities through complete buildout of this proposed development shall be limited from 7:00 am to 7:00 pm Monday through Saturday.
 - It shall be the responsibility of the Applicant to take all necessary steps to prevent the incidental taking of protected species under the Endangered Species Act through habitat modification or degradation during the life of the project or development authorized by this permit or approval. The Applicant shall immediately notify the City through its Public Works Director or designee, and the federal agencies with responsibility for enforcement of the Endangered Species Act, in the event of damage or degradation to endangered species habitat by or from the project or the development subject to this permit or approval. In any such case, the Applicant shall, at its sole cost and expense, take all action necessary to prevent the furtherance of the damage or degradation and to restore the habitat as required by the federal, state, and local agencies with jurisdiction.
 - While there are currently no known archaeological resources on this site, in the event archaeological artifacts are uncovered during construction, activity shall be halted immediately, and the State Historic Preservation office and the local tribes shall be contacted. The Applicant shall follow the applicable sections of the Inadvertent Archaeological and Historic Resources Discovery Plan for Sequim, WA.
 - Prior to final subdivision approval, the Applicant shall submit final construction plans for review and approval by the City of Sequim Public Works Department.

In accordance with Sequim Municipal Code (SMC) 17.20.040, the plans shall demonstrate to the satisfaction of the City engineer that curb, gutter, sidewalk, trail connections, transit stops, streets, storm drainage, sanitary sewer lines, water lines, and other utilities as required, would be installed at the expense of the Applicant and would meet City specifications and applicable ordinances.

Exhibit 4; Exhibit 19, Staff Report, pages 11 through 13.

Comprehensive Plan and Zoning

5. The approximately 2.72-acre subject property is designated “Low Density Residential” under the City Comprehensive Plan. The Low Density Residential land use designation is intended to “[m]aintain Sequim’s ‘friendly, small-town’ qualities by fostering the growth of low-density neighborhoods consisting of single and small multi-family neighborhoods that are social, walkable, and safe and provide a variety of housing types.” *City Comprehensive Plan - Land Use, page 8.*

City staff reviewed the proposal and determined that it would be consistent with the Comprehensive Plan, identifying the following Comprehensive Plan goals and policies as relevant to the proposed development:

- Maintain Sequim’s “friendly, small-town” qualities by fostering the growth of low-density neighborhoods consisting of single-family and small multi-family neighborhoods that are social walkable, and safe, and provide a variety of housing types. [LU Goal 3.2]
- Support the character and lifestyle of existing single-family residential neighborhoods by limiting multifamily housing to fourplexes or smaller units and special housing population such as low-income or subsidized senior housing as conditional uses and/or through innovative zoning techniques such as a planned residential development (PRD) process. [LU 3.2.1]
- In all new residential subdivisions, create local access streets that enhance neighborhood friendliness, safety, and visual quality. [LU 3.4.5]
- Provide a complete transportation network that safely accommodates all modes of travel while increasing efficiency and safety for all users. [TR Goal 4.2]
- Develop and maintain a Layered Network recognizing that not all streets provide the same quality of travel experience and as such, classifies streets as Boulevards, Urban Avenues, Downtown Main Streets, School Connections, Active Alleyways, Local Streets and Rural Transitions. [TR 4.2.1]
- Ensure the Layered Network continues to provide for all varieties of street uses including: regional mobility and cross-town trips, commuting, shopping and recreational travel, property access, vehicle storage, parking, transit use, walking, biking, and use of mobility carts. [TR 4.2.2]

- Guide development of new Local Streets to form a well-connected network that provides for safe, direct, and convenient access to the existing roadway network for automobiles, bicycles, and pedestrians. [TR 4.2.3]
- Require all urban development and improvements to be consistent with the Layered Network, Bicycle Network, Pedestrian Priority Routes, Mobility Cart Network and ADA requirements. [TR 4.2.4]
- Develop and enforce design standards consistent with the Layered Network for all arterial and local street types. [TR 4.2.5]
- Form a street network system that provides better connectivity, safety, and mobility for all modes of circulation. [TR Goal 4.3]
- Develop and maintain all City streets and intersections, and US 101 within the city limits, to provide a minimum of LOS D, except for Washington Street, which is required to meet a minimum of LOS E. [TR 4.3.8]
- Apply minimum standards of safety and comfort in the design of all new sidewalks to promote walking as alternative transportation, as good for personal health, and as a place of friendly encounters. [TR 4.4.3]
- Meet community quality-of-life expectations by institutionalizing the connections among citizens' desires, adopted levels of service, and city capital budgeting. [CFG Goal 5.1]
- Increase the number of housing options and opportunities to meet the needs of a diverse, growing community. [H Goal 6.1]
- Ensure availability of lands for residential development, including facilities to meet special housing needs throughout the City. [H Goal 6.4.3]
- Formalize the community's expressions of desired "quality-of-life" in adopted levels of service for each category or type of service delivery. [CFU 5.1.1]
- Maintain LOS as the community grows by ensuring that new development pays the full costs of increases in service demands created by the development. [CFU Goal 5.3]
- Ensure that adequate public facilities and utility services, including water, wastewater, and solid waste, are available at the time of occupancy and use. [CFU 5.3.1]

Exhibit 19, Staff Report, pages 2, 4, and 7 through 9.

6. The property is within the Residential (R4-8) zoning district. The intent of the R4-8 zone is to "provide land for districts of detached, single-family homes within the city. The R4-8 zone provides for consistency and predictability in the character of single-family neighborhoods." *SMC 18.20.050*. Detached single-family residences are a permitted use within the R4-8 zone. *SMC 18.20.050*. The R4-8 zone generally requires a minimum density of four dwelling units per net acre and a maximum density of eight dwelling units

per net acre. *SMC 18.20.050*. The Applicant proposes a net residential density of 6.8 dwelling units per acre, consistent with the density requirements of the R4-8 zone. *Exhibits 1 through 5; Exhibit 19, Staff Report, page 4.*

7. Development standards for detached single-family residences within the R4-8 zoning district generally require minimum lot sizes of 5,400 square feet; maximum lot sizes of 14,500 square feet; minimum front and rear yard setbacks of 15 feet; minimum side setbacks of 6 feet on each side; two off-street parking spaces per residence; and a maximum lot coverage of 40 percent for lots measuring 10,000 square feet or larger, with an additional 0.4 percent of lot coverage for each 100 square feet of lot area less than 10,000 square feet. *SMC 18.20.050*. The property is also located within the central height district, which limits the maximum height of residential structures to 18 feet. *SMC 18.20.050*. The Applicant's project plans demonstrate that the proposed development would comply with the development standards for the R4-8 zone and the central height district. *Exhibit 1; Exhibit 2; Exhibit 12; Exhibit 19, Staff Report, pages 2, 4, and 5.*

Existing Site, Critical Areas, and Surrounding Development

8. The 2.72-acre property slopes gently down to the north, with the steepest slope along the north side of the lot at a five percent gradient. The property is currently undeveloped, with vegetation consisting of tall grasses. The property is bordered by West Hemlock to the south, South 7th Avenue to the west, single-family residences to the north, and Sequim Health and Rehabilitation Nursing Care and a short-term rehabilitation facility to the east. The property does not contain any delineated wetlands or other critical areas. *Exhibit 1; Exhibit 13; Exhibit 19, Staff Report, page 5.*

Preliminary Plat

Access, Parking, and Traffic

9. The Applicant would construct two public roads internal to the plat: Effie Lane and Carpe Diem Place. The new roads would be 45 feet in width, in compliance with neighborhood road standards. The minimum distance between intersections must be 125 feet unless a different distance is approved by the City engineer. *SMC 17.32.020(C)*. Effie Lane would be 85 feet from the intersection of South 7th Avenue and West Hammond Street and 65 feet from the private driveway intersection to the south. City Engineer and Public Works Deputy Director Don Ctibor reviewed and approved the proposed street design on August 31, 2022. Access to the individual lots would be provided by Effie Lane, Carpe Diem Place, and a shared private driveway connecting to Effie Lane. The Applicant would also install half-street frontage improvements along the portion of the subject property that borders South 7th Avenue, which is designated as a "proposed collector" street, a "school connection," and a "pedestrian and mobility scooter priority route" under the City's Transportation Master Plan. Frontage improvements would include a six-foot-wide bike lane, a four-foot-wide planter strip with landscaping and street lighting, and a six-foot ADA-compliant sidewalk. The Applicant would also

be required to connect the ADA-compliant sidewalk on South 7th Avenue with the existing ADA curb ramp at the intersection of South 7th Avenue and West Hemlock Street, which would ensure safe conditions for students walking to school bus stops on South 7th Avenue. The Applicant would be required to provide a minimum of two off-street parking spaces per dwelling unit. *SMC 18.48.050.B.1.a*. Compliance with this off-street parking requirement would be verified during building permit review for each lot. *Exhibit 13.a; Exhibit 13.b; Exhibit 19, Staff Report, pages 2, 4, 6, 10, and 16.*

10. Heath and Associates, Inc., prepared a traffic impact analysis (TIA) for the proposed development, revised September 1, 2022. The TIA was revised to include historical counts to determine whether there were traffic volume impacts related to COVID-19. The TIA determined that the proposed development would generate 141 new average weekday daily trips, with 11 new AM peak-hour trips and 14 new PM peak-hour trips. The TIA further determined that all studied intersections would continue to operate at acceptable levels of service (LOS) following a full build out of the project. The new proposed intersections, where the project access points meet South 7th Avenue and West Hemlock Street, would also operate at acceptable LOS. City Assistant Planner Travis Simmons testified at the open record hearing that the TIA demonstrated that the project would have a negligible impact on roads in the surrounding area. *Exhibit 6; Exhibit 13.d; Exhibit 19, Staff Report, pages 10 and 11; Testimony of Mr. Simmons.*

Stormwater

11. Zenovic and Associates, Inc., prepared a Preliminary Stormwater Control Plan for the proposed development, dated May 3, 2022. The Applicant designed the project to meet low impact development (LID) performance standards. Stormwater runoff from roofs and the right-of-way would be collected and conveyed to infiltration trenches located on each lot. Driveway runoff would be conveyed to rain gardens located on each lot. Permanent inlet filters would be installed in all catch basins to provide pretreatment of stormwater and to protect the infiltration trenches from sediment deposition. The City would review the Applicant's final stormwater management plan to ensure compliance with the City's currently adopted stormwater regulations. *Exhibit 5; Exhibit 13; Exhibit 19, Staff Report, pages 18 and 19.*

Trees, Open Space, and Landscaping

12. The Applicant would not be required to provide any new public facilities, such as parks, trails, and playgrounds. The lot owners would be required to pay park and traffic impact fees as the individual lots are developed. Half-street improvements along South 7th Avenue would include a landscape strip containing trees. The only existing tree that would be removed would be one street tree on West Hemlock, which would be removed to accommodate the construction of Carpe Diem Place where it intersects with West Hemlock. Additional street trees would be added to West Hemlock to meet spacing standards required under SMC 17.12.020(A) and SMC 17.28.030(A). The City would

review the Applicant's final landscape plan to ensure that it would comply with applicable landscaping requirements prior to final plat approval. *Exhibit 13.a; Exhibit 13.b; Exhibit 19, Staff Report, page 15.*

Utilities and Services

13. The proposed shared private driveway would contain a 20-foot-wide utility easement, which would include a sewer main. The water main would connect to an existing main at the intersection of South 7th Avenue and West Hemlock Street and would be extended to loop through the property. The Lion bus route would provide transportation for students in the proposed developments to elementary, middle, and high schools in the area. Sidewalks on both sides of South 7th Avenue would provide safe walking access to the Lion bus route. *Exhibit 1; Exhibit 13; Exhibit 19, Staff Report, pages 2, 10, and 15.*

Preliminary Plat Criteria

14. City staff analyzed the proposal under the criteria for a preliminary plat under SMC 17.20.040, and determined the following:
- The proposed development would satisfy the standards of the current zoning regulations and is consistent with the goals and policies of the Comprehensive Plan.
 - Each lot would abut a public street, including lots that are accessed from the shared driveway. Lots 1 and 13 through 15 would abut South 7th Avenue. All other lots would abut either Effie Lane or Carpe Diem Place.
 - Preliminary plans show that all required improvements and utilities would be provided. As conditioned, site construction permits prior to the Final Plat would ensure that they meet City standards.
 - The final plat/site construction review process would ensure that all necessary utility easements would be established and shown on the face of the final plat prior to recording of the map. It would be the Applicant's responsibility to demonstrate that all necessary utility transmission easements have been obtained, consistent with City standards.
 - The two proposed streets are required to be dedicated, conveyed to, and accepted by the City, and all easements that are required as conditions of approval are to be granted in a form acceptable to the City.
 - Pursuant to SMC 17.64.010(A), a final plat and/or final binding site plan shall not be considered for approval unless the Applicant has guaranteed to complete all required improvements within a reasonable period consistent with approved working drawings and specifications and has guaranteed to maintain the improvements until they are accepted by the City. The guarantee of completion and maintenance shall provide that the Applicant would reimburse the City for any maintenance work that is required upon failure of the Applicant to perform the work after receiving due notice from the City. The guarantee shall be by at least one of the three methods established in SMC 17.64.020 and shall be in

addition to requirements of SMC 17.64.010(B). Only one method of plat completion guarantee shall be applied for each specific improvement.

- The project is not required to provide any new public facilities, such as parks, trails, and playgrounds, but the lot owners would be required to pay park and traffic impact fees consistent with SMC 22.12.110 and SMC 22.04.110 as the individual lots are developed.
- There are no identified wetlands on the subject property. SEPA mitigation conditions are included as conditions of approval.
- The proposed development is not within an identified floodplain.
- The proposed development would improve sidewalks and crosswalks to be ADA compliant and would stripe a bike lane along South 7th Avenue, improving connectivity within the community, which serves the public interest of providing safe connections and roads.
- The proposed development would be consistent with the applicable zoning codes, the City Comprehensive Plan, environmental protection standards, and Chapter 58.17 Revised Code of Washington (RCW). The City code is consistent with Chapter 58.17 RCW and does not omit any of the requirements provided by the chapter.
- There is no proposed phasing for the project.
- There are no mapped irrigation ditches abutting or traversing the subject property.

Exhibit 19, Staff Report, pages 6 and 7.

Testimony

15. City Director of Community Development Steven Lachnicht testified that he visited the site with the Applicant. He noted that some of the conditions of approval would be addressed at the site development plan or building permit stages. *Testimony of Mr. Lachnicht.*

16. City Assistant Planner Travis Simmons testified generally about the proposal and how, with conditions, it would comply with the requirements for a preliminary plat. He noted that the Applicant proposes to create a 15-lot subdivision in a single phase. He described how the proposed development would be consistent with City Comprehensive Plan goals of promoting single-family residential development and neighborhoods that are safe, sociable, and walkable. He noted that the proposal's traffic impacts would be negligible in the surrounding area and that the two proposed new intersections are projected to operate at LOS A. Mr. Simmons clarified that the internal roads would be required to be consistent with neighborhood street standards rather than local street standards. He noted that the City has adopted the most recent version of the DOE Stormwater Management Manual for Western Washington. *Testimony of Mr. Simmons.*

17. Applicant Representative Jeffrey Bruton testified generally about the proposal and expressed concern about some of the City’s recommended conditions of approval. For instance, he asserted that the municipal code does not require protection of man-made grade changes and that that it would be common for a retaining wall to be installed perpendicular to the existing retaining wall. *Testimony of Mr. Bruton.*
18. City Development Engineer Shawnie Peters responded to concerns raised by Mr. Bruton during the hearing about the City’s recommended conditions of approval. She explained that the municipal code requires that all landscaping plans be maintained for two years, which would require appropriate irrigation. Ms. Peters noted that the Applicant would be required to show where the irrigation main connects; the irrigation main was not shown to connect to the water line in the preliminary plans, and the property is not located in an irrigation district. She stated that sidewalks must comply with ADA requirements if they are on a public street, regardless of whether they are located on an alley or driveway. Ms. Peters noted that the preliminary plans needed to demonstrate the grading on Lot 6 more accurately and that an appropriate setback would be required for any block wall that would be installed on the property. *Testimony of Ms. Peters.*

Staff Recommendation

19. Mr. Simmons testified that City staff recommends approval of the preliminary plat, with conditions. *Exhibit 19, Staff Report, pages 14 through 20; Testimony of Mr. Simmons.*

Additional Materials

20. After the close of the open record hearing, the Applicant submitted a letter elaborating on the City’s recommend conditions of approval that the Applicant wished to alter or remove. The Hearing Examiner left the record open until October 31, 2022, to allow the Applicant and City staff to meet and discuss the recommended conditions of approval. After meeting with the Applicant, City staff submitted a revised staff report with edits to the recommended conditions of approval that were accepted by the Applicant. *Exhibit 18; Exhibit 19; Oral Ruling of Hearing Examiner.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for a preliminary plat. *SMC 2.10.070.B; SMC 17.25.030; SMC 17.20.040; SMC 20.01.100.*

Criteria for Review

Preliminary Plat

SMC 17.20.040 sets forth the criteria for approval of a preliminary plat application:

The city will not approve applications for subdivisions unless it is demonstrated by the applicant that each of the following criteria has been met or will be met:

- A. Each lot resulting from the subdivision must conform with the comprehensive plan and zoning regulations;
- B. Each lot will adjoin a public street or a private street in the subdivision;
- C. Curb, gutter, sidewalk, trail connections, transit stops, streets, storm drainage, sanitary sewer lines, water lines and other utilities as required must be installed at the expense of the applicant and meet city specifications and applicable ordinances and the city engineer must have certified or approved the proposed plans;
- D. The applicant must provide an easement for utilities transmission services, if necessary;
- E. Private property necessary for public use for streets will be dedicated by a deed of dedication acceptable to the city or by preparing a plat to be recorded;
- F. A bond meeting city requirements (Chapter 3.78 SMC) is posted to ensure completion of those improvements required under these criteria but not yet installed or provided;
- G. Adequate public facilities will be provided, as required by the adopted capital facilities plan. These facilities may include, but not necessarily be limited to, parks, playgrounds, schools, open spaces, transit stops, and trails and trail connections;
- H. All requirements of the environmentally sensitive areas and wetlands sections of the SMC and the State Environmental Policy Act (SEPA) have been met;
- I. No development may occur which causes a flooding hazard, and until any development occurring within an identified floodplain has been properly mitigated;
- J. The public interest will be served by the proposal;
- K. All the requirements of Chapter 58.17 RCW have been met;
- L. The proposed project phasing schedule, if applicable, meets the requirements contained in SMC 17.20.090; and
- M. Only irrigation districts organized under Chapter 87.03 RCW may require improvements and only in accordance with RCW 58.17.310.

The criteria set forth in the Sequim Municipal Code are similar to the state subdivision criteria codified at Chapter 58.17 RCW, which must also be met by the application before a decision of approval can be made. Specifically, RCW 58.17.110(2) provides:

A proposed subdivision and dedication shall not be approved unless the city, town, or county legislature body makes written findings that: (a) appropriate provisions are made for the public health, safety, and general welfare and for such

open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication.

The criteria for review adopted by the Sequim City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

1. **With conditions, the proposed preliminary plat would satisfy the requirements of SMC 17.20.040.** The City provided reasonable notice and opportunity to comment on the proposal and to testify at the open record hearing. The City did not receive any comments on the proposal from members of the public in response to its notice materials. The approximately 2.72-acre subject property is designated Low Density Residential under the Comprehensive Plan. The proposed residential development would be consistent with several Comprehensive Plan goals and policies by increasing housing opportunities while providing needed updated public infrastructure, including ADA-compliant sidewalks and bike lanes. The property is located in the R4-8 zone, which lists detached single-family residences as a permitted use. The proposed development would comply with applicable development regulations for the R4-8 zone, including regulations related to maximum permissible density, lot dimensions, maximum lot coverage, and minimum structure setbacks. The proposed development would also comply with the 18-foot building height maximum of the central height district. The property does not contain any critical areas or other environmentally sensitive areas. The City analyzed the environmental impacts of the proposal; determined that, with conditions, it would not have a probable significant adverse impact on the environment; and issued an MDNS that was not appealed. The mitigation measures required under the MDNS address concerns raised by the Jamestown S’Klallam Tribe and DOE and are incorporated in the Hearing Examiner’s conditions of preliminary plat approval.

Access to the site would be provided by South 7th Avenue and West Hemlock Street. The Applicant would construct two internal roads: Carpe Diem Place and Effie Lane. The Applicant would be required to construct the new internal public roadways to comply with neighborhood road standards. The Applicant would also construct half-street frontage improvements, including bike lane striping, a planter strip, and ADA-compliant sidewalk, along the portion of the property that borders South 7th Avenue. Access to the individual lots would be provided by Effie Lane, Carpe Diem Place, or a

shared private driveway that would also contain a 20-foot utility easement. The sidewalks along South 7th Avenue would provide a safe walking route to school bus stops for students residing in the subdivision. The Applicant's TIA determined that the proposed development would generate 141 new average weekday daily trips, with 11 new AM peak-hour trips and 14 new PM peak-hour trips. The TIA further determined that all existing studied intersections and the two proposed intersections would operate at acceptable levels of service. City staff testified at the open record hearing that the impacts of the proposed development on traffic in the surrounding area would be negligible.

The Applicant would remove only one tree to accommodate the connection of Carpe Diem Place with West Hemlock Road. The four-foot planter strip on South 7th Avenue would be used for landscaping and street lighting. The Applicant would be required to submit a final landscaping plan with the final plat application. The Applicant is not required to provide any open space areas within the proposed plat. The Applicant proposes to manage stormwater on-site by collecting and conveying runoff to infiltration trenches on each lot. Rain gardens on each lot would catch runoff from driveways. Permanent inlet filters would be installed in all catch basins to provide pretreatment of stormwater and to protect the infiltration trenches from sediment deposition. The City would review the Applicant's final stormwater management plan to ensure compliance with the City's currently adopted stormwater regulations. The City's engineers have reviewed the proposal and have preliminarily approved the utility locations in a 20-foot utility easement located in the shared driveway.

The Hearing Examiner determines that, as proposed and conditioned herein, the platting of the subdivision would be in the public interest. Conditions, as detailed below, are necessary to ensure that the proposal meets the requirements for preliminary plat approval under SMC 17.20.040. *Findings 1 – 20.*

2. **With conditions, the requirements of RCW 58.17.110 would be satisfied.** The criteria for preliminary plat approval under SMC 17.20.040 include the requirement that the provisions of the state subdivision act, Chapter 58.17 RCW have been met. The proposal's compliance with these provisions has been addressed above in Conclusion 1. With conditions, as detailed in full below, the proposal would satisfy all local and state requirements for plat development. *Findings 1 – 20.*

DECISION

Based on the preceding findings and conclusions, the request for a preliminary plat to create a 15-lot subdivision for single-family residential development, on approximately 2.72 acres,

located on the northeast corner of South 7th Avenue and West Hemlock Street, is **APPROVED**, with the following conditions:²

MDNS Mitigation Measures:

1. All site construction shall be conducted in compliance with the most current Stormwater Manual for Western Washington.

Erosion control measures must be in place prior to any clearing, grading, or construction. These control measures must be effective to prevent stormwater runoff from carrying soil and other pollutants into surface water or storm drains that lead to waters of the state. Sand, silt, clay particles, and soil will damage aquatic habitat and are considered to be pollutants. Any discharge of sediment-laden runoff or other pollutants to waters of the state is in violation of Chapter 90.48 RCW, Water Pollution Control, and WAC 173-201A, Water Quality Standards for Surface Waters of the State of Washington, and is subject to enforcement action.

The following construction activities require coverage under the Construction Stormwater General Permit:

Clearing, grading and/or excavation that results in the disturbance of one or more acres and discharges stormwater to surface waters of the State; and

Clearing, grading and/or excavation on sites smaller than one acre that are part of a larger common plan of development or sale, if the common plan of development or sale will ultimately disturb one acre or more and discharge stormwater to surface waters of the State. This includes forest practices (including, but not limited to, class IV conversions) that are part of a construction activity that will result in the disturbance of one or more acres, and discharge to surface waters of the State; and

Any site construction activity discharging stormwater to waters of the State that Ecology:

- a. Determines to be a significant contributor of pollutants to waters of the State of Washington.
- b. Reasonably expects to cause a violation of any water quality standard.

If contamination is suspected, discovered, or occurs during the proposed SEPA action, testing of the potentially contaminated media must be conducted. If contamination of soil or groundwater is readily apparent, or is revealed by testing, Ecology must be notified. Contact the Environmental Report Tracking System Coordinator for the Southwest Regional Office (SWRO) at (360) 407-6300.

² Conditions include both legal requirements applicable to all developments and requirements to mitigate the specific impacts of this development. For ease of reference, this decision has renumbered the conditions recommended by City staff in a manner providing each imposed condition with its own number.

If there are known soil/ground water contaminants present on-site, additional information (including, but not limited to: temporary erosion and sediment control plans; stormwater pollution prevention plan; list of known contaminants with concentrations and depths found; a site map depicting the sample location(s); and additional studies/reports regarding contaminant(s)) will be required to be submitted.

You may apply online or obtain an application from Ecology's website at:

<http://www.ecy.wa.gov/programs/wq/stormwater/construction/> - Application.

Construction site operators must apply for a permit at least 60 days prior to discharging stormwater from construction activities and must submit it on or before the date of the first public notice.

2. To mitigate the potential adverse impacts to air quality due to dust emissions during construction, the proponent shall employ the use of watering all dust generating surfaces a minimum of three times daily or more as needed during construction phase of the project.
3. To mitigate the potential for noise impacts to surrounding properties, construction activities through complete buildout of this proposed development shall be limited from 7:00 am to 7:00 pm Monday through Saturday.
4. It shall be the responsibility of the Applicant to take all necessary steps to prevent the incidental taking of protected species under the Endangered Species Act through habitat modification or degradation during the life of the project or development authorized by this permit or approval. The Applicant shall notify the City through Its Public Works Director or designee and the Federal Agencies with responsibility for enforcement of the Endangered Species Act immediately, in the event of damage or degradation to Endangered Species habitat by or from the project or the development subject to this permit or approval. In any such case, the Applicant shall, at its sole cost and expense, take all action necessary to prevent the furtherance of the damage or degradation and to restore the habitat as required by the Federal, State, and local agencies with jurisdiction.
5. While there are currently no known archaeological resources on the site, in the event archaeological artifacts are uncovered during construction, activity shall be halted immediately, and the State Historic Preservation Office and the local Tribes shall be contacted. The Applicant shall follow the applicable sections of the *Inadvertent Archaeological and Historic Resources Discovery Plan for Sequim, WA* (copy available at the City of Sequim Department of Community Development).
6. Prior to final subdivision approval, the Applicant shall submit final construction plans for review and approval by the City of Sequim Public Works Department. In accordance

with SMC 17.20.040, the plans shall demonstrate to the satisfaction of the City engineer that curb, gutter, sidewalk, trail connections, transit stops, streets, storm drainage, sanitary sewer lines, water lines and other utilities, as required, will be installed at the expense of the Applicant and meet City specifications and applicable ordinances.

General Conditions:

7. Within five years following approval of a preliminary major subdivision, or as otherwise stipulated in RCW 58.17.140, a final plat shall be submitted to the City for review and approval. Two, one-year extensions may be granted by the City Council.
8. A final plat must be approved by the City prior to recording. An electronic version of the final plat shall be submitted to the City of Sequim DCD.
9. After recordation of the final map with the Clallam County Auditor, one copy of the recorded final plat shall be provided to the City of Sequim's Department of Community Development.
10. The responsibility for the maintenance and operation of any common facilities including, but not limited to private drainage facilities, private open space, parks, and landscape areas, must be determined prior to final plat approval. Said facilities may be maintained and operated by the land divider, a lot owners' association, a public agency, or a private agency consistent with applicable state requirements. Any maintenance obligations shall be noted on the final plat.
11. If said common facilities are to be owned and managed by a lot owners' association, said lot owner's association shall be established prior to final approval. The association is responsible for operating and maintaining all common facilities that have been dedicated or deeded to it by the land divider. The by-laws of the association shall authorize, at a minimum, the following responsibilities and authorities:
 - To enforce covenants and conditions required by Title 17 SMC, or in the lot owner's association.
 - To levy and collect assessments against all lots to adequately accomplish the association's responsibilities.
 - To collect money from unit owners to finance future improvements.
 - To collect delinquent assessments through the courts, including money to pay for the costs of court action.
 - To enter into contracts to build, maintain, and manage common facilities required by the Sequim Municipal Code.
 - To allow amendments to the by-laws for improvements required by Title 17 SMC, which may or may not require a plat alteration to be submitted, approved, and finalized in accordance with Title 17 SMC.

12. If a Homeowners Association is formed, the final plat shall include a statement that requires indefinite existence of the association and automatic membership in the association upon assumption of ownership of a lot within the plat. The Association by-laws shall be submitted and approved by the City prior to final plat approval. The by-laws required for this section shall be separate from any by-laws or private covenants established by the subdivider. Any private covenants or restrictions proposed by the subdivider shall not be included with any requirements set forth by the Sequim Municipal Code.
13. The Covenants, Conditions, and Restrictions (CC&Rs) document will be provided with the final plat submittal. The City's review and approval of the CC&Rs document does not mean the City will assume any responsibility for enforcing private covenants between the lot owners nor maintaining any roads or other amenities not specifically dedicated to the City on the public's behalf.
14. In the CC&Rs, add a section for Drainage Facility Maintenance. Please make clear who is responsible for the stormwater facilities, each element of this system, and reference the Operation and Maintenance Manual for the stormwater system. Reference the Stormwater Operation and Maintenance (O&M) Manual. Additional HOA conditions will be provided in the Staff Report. The shared private driveway has a 20LF infiltration trench and catch basin that will require routine inspections and maintenance.
15. A City-approved HOA stormwater O&M Manual will be required prior to final plat approval.
16. Final Plat shall account for all on-lot stormwater drainage by prescribing the method of permanent stormwater management for each lot which shall be recorded on the final plat.
17. The Applicant shall coordinate with the U.S. Postal service for the provision of mailboxes.
18. A final as-built landscaping plan must be submitted with the final plat application. The plan shall address required street trees, right-of-way, landscaping, and any other areas in common ownership of the homeowners.
19. Landscaping materials shall be those which best serve the intended function and shall be appropriate for the soil and other environmental conditions of the site. Drought-tolerant, low water plant materials shall be encouraged.
20. Maintenance of all landscape areas shall comply with Section 18.22 of the SMC.

21. Any on-site wells or septic systems shall be removed/decommissioned in each phase in accordance with the requirements of the Clallam County Health District, prior to approval and recording of the final plat for each phase.
22. All fire hydrants must have two (2) 2-1/2" NST ports and one (1) 5" Storz fitting steamer port or as otherwise approved by the Fire Marshal.
23. Any future signage will require separate review by the Department of Community Development, at which time it will be reviewed for compliance with the City's sign regulations.
24. All mitigation measures in the MDNS shall be conditions for the Effie Estates Preliminary Subdivision (SUB 22-003).

External Roadway Improvements:

25. Half-width frontage improvements are required for South 7th Avenue to Collector street standards. City staff has determined the South 7th Avenue roadway curb and gutter to meet current standards; however, a landscape strip including trees and lighting, and new 6-foot sidewalk are required in the frontage following the City Adopted Engineering Standard Figure 4-00 and 4-03. If the curb, gutter, or road surface in South 7th Ave is deemed to need repair, resurfacing, or replacement after improvements (including utility trenching) in the road right-of-way is complete, the Applicant will perform the needed repairs at their expense, at the City engineer's discretion. [July 2013 Transportation Master Plan, SMC 17.20.040, Chapter 17.48 SMC, and RCW 58.17.110(2).]
26. Half-width frontage improvements are required for West Hemlock Street to Local street standards. City staff has determined the West Hemlock Street roadway curb and gutter and sidewalk satisfactorily meet current standards; however, installation of additional trees and lighting are required in the frontage following the City Adopted Engineering Standard Figure 4-00 and 4-02. If the curb, gutter, sidewalk, or road surface in West Hemlock Street is deemed to need repair, resurfacing, or replacement after improvements (including utility trenching) in the road right-of-way is complete, the Applicant will perform the needed repairs at their expense, at the City engineer's discretion. [July 2013 Transportation Master Plan, SMC 17.20.040, Chapter 17.48 SMC, and RCW 58.17.110(2).]

Utility Easements:

27. The "Shared Private Driveway" contains an eight-foot sewer main which shall be in a City-dedicated utility easement measuring 20 feet (ten feet on either side of the sewer main) for ingress, egress, maintenance, and repair of the sewer main.

28. Coordination with PUD is required. If necessary, please provide additional easements on westerly boundary for fiber-optic, telephone, and cable placed underground along this boundary.
29. Show limits of proposed 10' utility easement on each lot. Lot 1 and Lot 9 do not show the easement termination. Please show easements with shading or hatching for readability on final plat.

Roadways Improvements:

30. The northeast intersection of South 7th Avenue and West Hemlock Street must be ADA compliant. Proposed ADA connection to existing ADA curb ramp at S 7th Ave and Hemlock appears to be less than six feet in width. Please demonstrate improvements in the South 7th Avenue and West Hemlock Street right-of-way are ADA compliant. Directional curb ramps will be required per the City Engineering Standard Figures 4-25, 4-26 and 4-27.
31. Internal roadways Effie Lane and Carpe Diem Avenue must follow "Neighborhood" street standards following the City Adopted Engineering Standard Figure 4-00 and 4-01 [July 2013 Transportation Master Plan, SMC 17.20.040, Chapter 17.48 SMC, and RCW 58.17.110(2)].
32. Provide a geotechnical analysis addressing, but not limited to, pavement design, cut and fill earthwork, slope inclination/stability, stormwater infiltration and pavement design, establishing average high ground water tables and any potential geological hazards. Provide an infiltration analysis (percolation test) and existing high water ground table if proposing to infiltrate stormwater. [SMC 17.28.020(B)(1), SMC 18.82.070, SMC 18.82.090(E), Chapter 13.104 SMC, International Building Code (IBC) 1801, IBC 1803, IBC 1804.]
33. Provide haul route for cut material being exported, and location of dump site.
34. Sidewalk crossing at "Shared Private Driveway" must be ADA compliant per City Engineering Standard Drawing Figure 4-22A and 4-22B.

General Utilities

35. Page C003/C005: Demonstrate the minimum horizontal separation of ten feet between sewer mains, water mains, irrigation mains, and stormwater facilities. See City Standard Drawing Figure 4-15 separation requirements. Separation requirements appear to not be met at the north end of the driveway, and at the Effie Lane and Carpe Diem Place intersection. See City Standard Drawing Figure 4-15 Standard Utility Location, for pipe location and separation requirements.

- Water main shall be sleeved when within ten feet horizontally or 1.5 feet vertically of the sewer main, stormwater infrastructure and irrigation main.
 - If unable to meet minimum separation requirements, sleeving is allowed. Please add sleeving to pipes five feet prior and five feet after the sleeving need. Add sleeving detail and show sleeving in profiles and plans.
36. Please show telephone, power, and fiber-optic in right-of way of South 7th Avenue, near or on the west property line. Coordination with PUD is required to locate and protect infrastructure. Revise plans to show location of these utilities. Provide proof of coordination with PUD.
37. Please show the location of power meter and underground power to the streetlights in the rights-of-way of South 7th Avenue, West Hemlock Street, Carpe Diem Place, and Effie Lane.

Sewer Main:

38. Washington State Department of Ecology (Ecology) review and approval is required.
39. Washington Department of Health review and approval is required.
40. All sewer mains must have a minimum of eight-foot cover. See City Standard Drawing Figure 4-15 Standard Utility Location. See City Standard Drawing Figure 4-15 for depth requirements.
41. Add sewer manholes at the terminus of all sewer mains.
42. All sewer mains will be a minimum of eight feet in diameter.
43. Provide pipe size, slope, depth, and separation on plans and profiles for sewer conveyance piping on the plans. After this information is provided, a hydraulic analysis will be conducted by a third party to verify adequacy of the system. This will be payable by the Applicant. Sewer hydraulic modeling results will be given to the Applicant along with additional requirements, if any.
44. Page C005: Lot 6 sewer lateral will have less than two feet of cover at the property line. Sewer laterals shall have five-foot minimum cover at the property line per the Engineering Standard Figure 6-11, Standard Side Sewer Connection. Please address.

Water Main:

45. Provide size and type of the proposed water system piping on the Plans. Please include details for water system piping on the plans including burial depth, valve box locations, pipe size, vertical and horizontal separation from sewer line, and meter box locations.

After this information is provided, a hydraulic analysis will be conducted by a third party to verify adequacy of the system. This will be payable by the Applicant. Water hydraulic modeling results will be given to the Applicant along with additional requirements, if any.

46. Page C003: Lots 14 and 15 are each shown with a water lateral from the main in South 7th Avenue. Please consolidate the two laterals to one lateral that splits at the property line to two individual meters, one for each lot. This consolidation of laterals that tap the main should be typical throughout the subdivision. Please update all parallel laterals to be consolidated into one lateral splitting at the property line.

Stormwater:

47. Stormwater Report and plan must account for all on-lot stormwater drainage by prescribing the method of permanent stormwater management for each lot. [SMC 13.104]
48. This project will be required to obtain coverage under the Construction Stormwater General Permit (CSWGP) from WA State Dept. of Ecology prior to any ground disturbing activities.
49. National Pollutant Discharge Elimination System (NPDES) construction stormwater permit may be required. Please contact the NPDES permitting authority to find out if this is needed. Provide coordination to the City.
50. Provide a Construction Stormwater Pollution Prevention Plan prior to site construction permit issuance.
51. Add Type 1 catch basin detail for the situations when the catch basin is located in gutter at curb. Meet City-adopted Engineering Standard Figure 4-21.
52. Indicate the Emergency Overflow for infiltration trenches. It appears overflow will be sent to lot 6 if the catch basins are blocked or the infiltration trenches reach capacity. Prior to site construction issuance, address how stormwater will be captured in Effie Lane prior to leaving the roadway and entering Lot 6.
53. Page C006: Provide detail showing driveway construction over infiltration trench, including shared driveway and individual driveways.

Preliminary Stormwater Control Plan:

54. Page 2: Existing Conditions: Please add information about stormwater drainage in West Hemlock Street and South 7th Avenue.

55. Page 4: On-site Stormwater Management: Stormwater Report and plan shall account for all on-lot stormwater drainage by prescribing the method of permanent stormwater management for each lot.
56. Page 25: Land-use Basin Data for Right-of-Way areas: Please address how this stormwater is being infiltrated on-site. Please reference which area this is on the basin map.
57. Page 27: Mitigated Land Use, “Driveways flat” are included in the basin data; however, Minimum Requirements 7 on page 4 states driveway stormwater will be infiltrated via rain gardens. Please address.
58. Page 36: Mitigated Routing Gravel Trench Bed (TYP) The rise height is listed as three feet with a ten-foot diameter. Assuming this is the rim of the catch basin, this calculation forces discharge at three feet. Please demonstrate 100 percent infiltration.
59. Page 36: Routing Elements all have bottom width of four feet listed; however, on the stormwater site plan detail, C/C006 shows the trenches with a three-foot bottom width. Please address.
60. Please indicate the type of filter system to be used in the catch basins collecting stormwater from pollution generating surfaces.

Traffic Impact Analysis:

61. Please state how the site triangles would be kept clear and unobstructed.

Details:

62. Please add the street tree planting detail per the City-adopted Engineering Standard Figure 4-29.
63. Page C006; Detail G-C006: Pedestrian Scale Street Lighting must meet the Engineering Standards Figure 4-28A/B and be consistent with SMC17.32.190, SMC17.48.020
64. Shared Private Driveway:
 - a. Driveway Detail C/C002: Shared Driveway Section: Add valley gutter, show eight-foot sewer main.
 - b. Page C002: Add valley gutter.
65. Page C006; Detail A/C006: Please correct detail to match plans. Water main is on the north and east side of the road; sidewalk and sewer are on the south and west sides of the road.

66. Please provide details for pipe connection and manhole connections.
67. Please provide a thrust block detail per the City-adopted Engineering Standard Figure 5-07.
68. Please include detail for water system valve boxes.

Grading:

69. Show on-lot grading.
70. Slope, grading and wall elevations at the northeast corner of Lot 6 shall be accurately shown.

DECIDED this 21st day of November 2022.³
(Corrected December 12, 2022)



ANDREW M. REEVES
Hearing Examiner
Sound Law Center

³ After the decision on this matter was issued on November 21, 2022, the Applicant filed a request for reconsideration, which sought corrections to certain factual findings in the decision that would not affect the ultimate determination on the preliminary plat request, or the conditions imposed therein. *Applicant's Request for Reconsideration, dated December 1, 2022.* The Hearing Examiner granted the Applicant's request for consideration in a decision issued concurrently with this corrected decision on the preliminary plat application. *Decision on Request for Reconsideration, dated December 12, 2022.*