BEFORE THE HEARING EXAMINER
FOR THE CITY OF SEQUIM

In the Matter of the Application of	)	No. SUB-24-005
	)	
Maliandra Apartments, LLC, and	)	**Heckman Subdivision**
Paragon Residential Real Estate, LLC,	)	**Partial Plat Alteration**
	)	
	)	FINDINGS, CONCLUSIONS,
For Approval of a Partial Plat Alteration	)	AND DECISION

SUMMARY OF DECISION

The request for an alteration to a final plat, to revise the layout of Lots 5 through 15 of the Heckman Subdivision and to provide a shared private road, consistent with the terms of a settlement agreement between the City of Sequim and the property owner (Maliandra Settlement of Tort Claim), is **APPROVED**. Conditions are necessary to ensure that the plat alteration complies with applicable legal requirements.

SUMMARY OF RECORD

Hearing:
The Hearing Examiner held an open record hearing on the request on April 3, 2025.

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

Travis Simmons, City Senior Planner
Nicholas Dostie, City Engineer
Brody Broker, Applicant Representative
Arnold Bleicher
Judith Pasco
David Meissner

Exhibits:
The following exhibits were admitted into the record:

1. Plat Alteration Application, dated June 21, 2024
2. Signed Plat Alternation Application, dated December 21, 2023, and August 7, 2024
3. Notice of Decision (No. SUB05/001, dated March 2, 2005, with Decision Approving Heckman Preliminary Major Subdivision, approved February 22, 2005, and SEPA Environmental Checklist, dated January 10, 2005
4. SEPA Environmental Checklist, dated June 3, 2024, with City staff review comments, dated February 24, 2025

5. Maliandra Settlement of Tort Claim, dated October 10, 12, and 18, 2023
6. Hickman Subdivision Final Plat (2 Sheets), recorded August 31, 2005
7. Proposed Plat Alteration (3 Sheets)
8. Declaration of Covenants, Conditions, and Restrictions, dated August 31, 2005
9. Vicinity Map, dated December 5, 2023
10. Preliminary Project Plans (8 Sheets), dated December 5, 2023
11. Preliminary Stormwater Control Plan, Zenovic and Associates, Inc., dated December 4, 2023
12. Road Maintenance Agreement and Declaration of Easements for Greentrust Short Plat, dated August 12, 2004
13. Notice of Complete Application, dated July 19, 2024
14. Notice of Application, dated September 7, 2024
15. Notice of Application Classified Proof, published August 20, 2024
16. Statement of Mailing, dated August 20, 2024
17. Affidavit of Posting, dated August 15, 2024
18. SEPA Determination of Nonsignificance Adoption of Existing Document, dated February 27, 2025
19. Public Comments:
    a. Comments from Ben Fisher, undated, and dated August 23, 2024, and March 24, 2025
    b. Comment from Richard De La Tour, dated August 31, 2024
    c. Comment from Shatoiya De La Tour, dated August 31, 2024
    d. Comment from Edward and Gwelda Bowman, dated September 1, 2024
    e. Comment from Ben Fisher, undated
    f. Comment from Susan Schneider, received September 3, 2024
    g. Comment from Judith Pasco, dated September 4, 2024
    h. Comment from Jean Dager, dated September 11, 2024
    i. Comment from John Coulson, dated September 12, 2024
    j. Comment from Debbie Minch, dated September 13, 2024
    k. Comment from Margaret Garrington, dated September 20, 2024
    l. Comments from Arnold Bleicher, dated September 21, 2024, and April 2, 2025
    m. Comment from Jerry Ouzts, dated September 22, 2024
    n. Comment from Eugene and Jo Roberts, dated September 25, 2024
    o. Comment from Joyce Pardee, dated September 27, 2024
20. Staff Report, dated March 27, 2025; Updated Staff Report, (updated to include correct image of proposed altered plat), submitted April 3, 2025
21. City Staff Presentation

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

FINDINGS

Background

1. On March 5, 2005, the City of Sequim (City) Planning Commission approved, with conditions, a preliminary major subdivision (Heckman Subdivision) to subdivide an approximately 5-acre property, located at the southwest corner of Silberhorn Road and 7th Avenue SW, into 15 residential lots, with associated improvements and infrastructure. At the time of the approval, the subject property was located in the City's former R-IV residential zoning district, which allowed up to 16 dwelling units per acre. The approved lots range in size, from approximately 12,000 square feet to 15,000 square feet, and were proposed to be developed with two-story duplex units. The final plat of the Heckman Subdivision was recorded on August 31, 2005. Lots 1 through 3 of the Heckman Subdivision have since been developed with duplex units and are not part of the current plat alteration proposal. Lot 4 is currently undeveloped but is also not part of the proposed alteration. *Exhibit 3; Exhibit 6; Exhibit 20, Staff Report, pages 1 through 7; Testimony of Travis Simmons.*

2. The remaining, currently undeveloped lots (Lots 5 through 15) of the Heckman Subdivision are owned by Maliandra Apartments, LLC, and Paragon Residential Real Estate, LLC (Property Owners). In October 2023, the City and Property Owners entered into a settlement agreement related to future development of the remaining lots of the Heckman Subdivision. Pertinent terms of the agreement provide that the property owners would develop the property consistent with the City's current stormwater regulations and would, to the extent practicable, complete other improvements identified in the conditions of subdivision approval in accordance with current City development standards, except for a condition requiring a landscaped area between the curb gutter and the sidewalk, which the City agreed to waive. The settlement agreement included as an exhibit a preliminary layout plan that revised the configuration and dimensions of Lots 5 through 15, which represents the City and Property Owners' agreed conditions for future development of the remaining portion of the Heckman Subdivision. *Exhibits 1 through 3.*

Application and Notice

3. Zenovic and Associates, Inc., on behalf of Maliandra Apartments, LLC, and Paragon Residential Real Estate, LLC (hereinafter "Applicant"), requests approval of an alteration to Lots 5 through 15 of the Heckman Subdivision final plat to revise and reorient the lots, and to provide a shared private road, consistent with the terms of the settlement agreement, which would, to the extent feasible, facilitate development of the lots and supporting infrastructure in compliance with current engineering standards and development regulations. The partial plat alteration would consist of reconfiguring lot lines and private driveways for the remaining undeveloped lots, as well as eliminating designated private open space areas within private easements on Lots 7 and 8. The Applicant does not propose any alterations to the existing built portions of the plat on

Lots 1 through 3 or on the undeveloped Lot 4, which is not owned by the Applicant. As noted above, the Heckman Subdivision is located at the southwest corner of Silberhorn Road and 7th Avenue SW, with Lots 1 through 4 located along Silberhorn Road, and the remaining, approximately 3.7-acre portion of the subdivision that is subject to this partial plat alteration request located directly to the south of Lots 1 through 4 and to the west of 7th Avenue SW.[1] *Exhibits 1 through 10; Exhibit 12; Exhibit 20, Staff Report, pages 1 through 7; Exhibit 21.*

4. The City determined that the application was complete on July 22, 2024. On August 15, 2024, the Applicant posted notice of the application on-site. On August 20, 2024, the City mailed notice of the application to property owners within 300 feet of the subject property and published notice in the *Peninsula Daily News*, with a comment deadline of September 9, 2024. *Exhibit 7; Exhibit 20, Staff Report, page 2.*

5. The City did not receive any comments from agencies or tribes in response to its notice materials. The City received several comments from members of the public, which expressed concerns about the following topics:
   - **Access and Traffic:** Comments on this topic expressed concerns that lots within the subdivision would have access to and from Comfort Way, a private street maintained by a neighboring Homeowner's Association. Several of these comments inquired about whether residents of the subdivision would have a legal right to utilize the private street and noted that the additional traffic to the private street could increase maintenance costs. Other comments on this topic expressed concerns about the existing conditions of 7th Avenue SW, including a lack of bicycle infrastructure, and about the proposal's traffic impacts to the intersection of Silberhorn Road and 7th Avenue SW.
   - **Stormwater:** Comments on this topic expressed concerns about the stormwater impacts of the proposal, with several comments noting that an existing ditch located along Silberhorn Road should not be utilized to convey stormwater runoff from the site because it drains to a swale on neighboring property that is maintained by a neighboring homeowner's association. Other comments noted that an existing stormwater pipe under Silberhorn Road is not large enough to handle additional runoff and expressed concerns about potential flooding of the roadway from the proposed development.
   - **Building Height/Design:** Comments on this topic expressed concerns about the potential height of residential structures that would be constructed on the property and about potential privacy impacts that could occur from windows facing neighboring residential developments.

[1] The subject property is identified by Tax Assessor Parcel Nos. 033030-550050, 033030-550060, 033030-550070, 033030-550080, 033030-550090, 033030-550100, 033030-550110, 033030-550120, 033030-550130, 033030-550140, and 033030-5501580. *Exhibit 20, Staff Report, page 2.*

- **Water Pressure:** Comments on this topic expressed concerns that the proposed development would exacerbate existing water pressure issues experienced by residential developments in the area.
- **On-street Parking:** Comments on this topic noted that 7th Avenue SW should not be utilized for overflow parking from the proposed development.
- **Light impacts:** Comments on this topic expressed concerns that outdoor lighting associated with the proposed development could impact wildlife and neighboring residences.
- **Environmental Impacts:** Comments on this topic expressed concerns about the accuracy of the Applicant's SEPA environmental checklist and about tree removal associated with the proposal. Other comments reiterated concerns about the proposal's light impacts, particularly impacts to migratory birds.

Exhibit 19; Exhibit 20, Staff Report, pages 3 and 9.

6. In response to some of the concerns raised by members of the public, City staff notes that the Applicant has legal access easement rights to Comfort Way, which were established in 2004 as part of a Road Maintenance Agreement and Declaration of Easements associated with an earlier short subdivision of the subject property and other properties in the vicinity served by the private street system. City staff also notes that the final plat for the Heckman Subdivision depicted access to the subdivision from Comfort Way. Regarding stormwater impacts of the proposal, City staff notes that stormwater management review would occur prior to the issuance of site development permits and that the City would require development of the site to comply with the City's most current stormwater regulations. *Exhibit 20, Staff Report, pages 9 and 10.*

State Environmental Policy Act

7. As noted above, the City Planning Commission approved the original Heckman Subdivision preliminary plat on March 5, 2005. In association with the previous permit approval, the City analyzed the environmental impacts of the proposed action, determined that it would not have a probable significant adverse impact on the environment, and issued a Determination of Nonsignificance (DNS), which was not appealed. The City acted as lead agency and analyzed the environmental impacts of the proposed partial plat alteration under the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The City reviewed the documents associated with the previous environmental review of the Heckman Subdivision, as well as the Applicant's updated environmental checklist, and determined that it would be appropriate to adopt the previously issued DNS. Accordingly, the City issued a DNS Adoption of Existing Document on February 27, 2025, with a comment deadline of March 13, 2025. As described above, the City received comments from members of the public in response to its notice of application materials, which related to the environmental review of the proposal. The City's DNS Adoption of Existing Document

was not appealed. *Exhibits 3; Exhibit 4; Exhibit 18; Exhibit 19; Exhibit 20, Staff Report, page 9.*

Comprehensive Plan and Zoning

8. The subject property and all surrounding properties are designated "Low Density Residential" under the City Comprehensive Plan. The Low Density Residential 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 proposed plat alteration and determined that it would be consistent with the intent of the Low Density Residential designation because it would allow for the previously approved plat to be developed with a needed housing type in the community on modified lots meeting current zoning standards. *Exhibit 20, Staff Report, page 8.*

9. The property is within the City's Residential R4-8 (R4-8) zone. The intent of the R4-8 zone is to "provide land for residential development within the city. The R4-8 zone provides for consistency and predictability in the character of residential neighborhoods. New subdivisions must provide a minimum of four dwelling units per net acre." *Sequim Municipal Code (SMC) 18.20.050*. Detached single-family residences are allowed outright in the R4-8 zone, and attached residences not exceeding fourplexes are allowed in the R4-8 zone with an administrative conditional use permit. Although the Applicant has not proposed a specific housing type with the partial plat alteration request, the requested plat alteration would allow for residential development of the property in compliance with the current four unit per acre minimum density requirement for the R4-8 zoning district. *SMC 18.20.050. Exhibit 7; Exhibit 20, Staff Report, pages 2, and 5 through 7.*

10. Chapter 18.20 SMC provides dimensional and development standards for the R4-8 zoning district. The maximum residential lot size allowed in the R4-8 district is 14,500 square feet. *SMC 18.20.050.* The Heckman Subdivision was approved prior to a zoning change imposing this maximum lot size requirement, but the requested plat revision would bring the subject lots into conformity with this requirement, with lot sizes ranging from 12,001 square feet to 12,955 square feet. Minimum lot sizes within the R4-8 are dependent on the residential building type, with detached single-family residences required to have a minimum lot size of 5,400 square feet, duplexes required to have a minimum lot size of 9,000 square feet, triplexes required to have a minimum lot size of 10,500 square feet, and fourplexes required to have a minimum lot size of 12,000 square feet. *SMC 18.20.050.* Because all of the adjusted lots would exceed 12,000 square feet, the Applicant would be allowed to construct all housing types allowed in the R4-8 zoning district, subject to minimum density requirements. City staff reviewed the proposed plat alteration for compliance with all other dimensional and development standards for the

R4-8 zoning district and determined that it would be feasible for future residential development of the modified lots to comply with these standards, including standards related to maximum building height, minimum building setbacks, minimum off-street parking, and maximum lot coverage. *SMC 18.20.050.* City staff would review the Applicant's plans to ensure that the individual lots would comply with applicable standards at the time of residential building permit submittal and/or during the administrative conditional use permit review process. *Exhibit 6; Exhibit 7; Exhibit 9; Exhibit 10; Exhibit 20, Staff Report, pages 6 and 7.*

Plat Alteration

11. As noted above, the Applicant requests approval of a partial plat alteration to revise and reorient Lots 5 through 15, and to provide a shared private road, consistent with the terms of a settlement agreement, which would, to the extent feasible, facilitate development of the lots and supporting infrastructure in compliance with current engineering standards and development regulations. SMC 17.25.050.B provides the criteria for approval of an alteration to a final plat and provides:

> The alteration may be approved, approved with conditions or denied after a written determination, with findings and conclusions, is made whether the public use and interest will be served by the alteration. If any land within the alteration area is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

City staff reviewed the proposed plat alteration and determined that it would satisfy these criteria, noting:

- The proposed plat alteration would serve the public use and interest by updating the infrastructure currently platted. As currently platted, the lots do not have built-out street access or utilities on the lots included with the alteration request. The plat alteration would allow for uninstalled infrastructure to meet current City standards and would satisfy the settlement agreement between the City and the Applicant.
- The proposal would satisfy the standards of the current zoning regulations and the goals of the Comprehensive Plan.
- The land is not part of an assessment district and there are no outstanding assessments to be levied against the lots within the subdivision. The only land dedicated by the original plat was dedicated to the City. Although there were open space easements depicted on Lots 7 and 8 of the original plat, these areas were not designated as open space tracts and were not dedicated at final plat recording. These easements are proposed to be

eliminated, and the underlying lots are unencumbered on the plat alteration drawing. There is no requirement for common open space for the plat.

- Concurrency requirements were reviewed at the time of original plat approval. No new concurrency review is required because the proposed alteration would allow for development that more closely meets current development standards.
- The settlement agreement would ensure that existing utility infrastructure could be retained and utilized, and the proposed plat alteration acknowledges that further development of the plat would require additional infrastructure necessary to support a build-out of the plat. The plat alteration is restrained by an existing sewer main that runs north/south through the middle of the property. The right-of-way alignment cannot be altered without removing existing active utilities, which impacts lot layout and sizes. The current sewer main location and proposed right-of-way alignment are consistent with current City standards.

Exhibit 20, Staff Report, pages 7 through 9.

Testimony

12. City Senior Planner Travis Simmons testified generally about the proposal and how it would be consistent with the Comprehensive Plan and would meet the criteria for approval of a partial alteration to the final plat of the previously approved Heckman Subdivision. He explained that the proposed alteration would reorient Lots 5 through 15 of the Heckman Subdivision, eliminate private open space and recreation easements on Lots 7 and 8, and facilitate construction of a private access roadway meeting road standards consistent with the terms of the Maliandra Settlement of Tort Claim. Mr. Simmons noted that, after reviewing the Applicant's updated environmental checklist, the City determined that it would be appropriate to adopt the SEPA DNS threshold determination issued with the original approval of the Heckman Subdivision. He stated that, with the proposed alterations, the Heckman Subdivision would remain consistent with the low-density residential development envisioned for property designated Low Density Residential under the City Comprehensive Plan.

Mr. Simmons initially testified that some of the lots would still exceed the minimum lot size allowed under the current R4-8 zoning of the property following the alteration, but he later clarified that the alteration would bring all of the subject lots into conformity with current lot size requirements. He explained that a full concurrency review is not required for the plat alteration because concurrency requirements were addressed with the original subdivision approval, which would have allowed for up to 60 residential units. Mr. Simmons stated that the proposed plat alteration would serve the public use and interest by facilitating improvements to infrastructure serving the subdivision that would, to the extent practicable, be constructed to current City standards. He explained that any

future development of the lots with multiplex units would require approval of an administrative conditional use permit and that any residential structures built on the lots would be required to meet current development standards, including standards related to minimum density, maximum building height, and minimum structural setbacks. Regarding concerns expressed by members of the public in their written comments about access to and from Comfort Way, Mr. Simmons explained that the subdivision has legal access easement rights to a private road network serving other nearby developments, which were established in a 2004 Road Maintenance Agreement and Declaration of Easements. Regarding stormwater concerns, Mr. Simmons stressed that stormwater management features for the site would be required to comply with the City's most currently adopted stormwater regulations and that compliance with these regulations would be reviewed at the site development permit stage. *Testimony of Mr. Simmons.*

13. Applicant Representative Brody Broker testified that he agrees with City staff's analysis of the proposal as presented by Mr. Simmons. He explained that a geotechnical analysis of the soils on the property indicates that it may be feasible to fully infiltrate all stormwater runoff on-site. Mr. Broker stated that he understands the concerns raised by members of the public regarding stormwater impacts but explained that a professional engineer would design the stormwater management facilities to ensure compliance with applicable regulations. Regarding concerns about access to and from Comfort Way, he reiterated that the subdivision has legal access rights to the private roadway and stressed that a portion of Comfort Way crosses over the subject property. *Testimony of Mr. Broker.*

14. Arnold Bleicher testified that he does not oppose the proposed development generally but that he has some concerns about potential impacts to neighboring developments and residents. He inquired about whether it would be possible to reconfigure the plat to provide access to the lots from 7th Avenue SW, as opposed to Comfort Way, which would avoid impacts to the private street network maintained by a homeowner's association. Mr. Bleicher also expressed concerns about existing drainage and high-water table issues in the area, noting that the full extent of impervious surfaces that would be created by a full build-out of the subdivision is currently unknown. In addition, he requested that a fence be installed on the subject property to prevent residents and guests of the new subdivision from accessing private open space areas on neighboring properties. *Testimony of Mr. Bleicher.*

15. Judith Pasco testified that she has concerns about residents of the subdivision utilizing Comfort Way and other roads within the private street network that are maintained by a homeowner's association. She also raised concerns about existing water pressure issues in the area and about the proposed development exacerbating these issues. Ms. Pasco stressed that she is not opposed to the development but wants to ensure that these impacts to neighboring property owners are addressed. *Testimony of Ms. Pasco.*

16. David Meissner testified that he shares the concerns expressed by other members of the public at the hearing. Regarding access to and from Comfort Way, he inquired about whether the proposed development would contribute to maintenance of the roadway. Regarding concerns about water pressure, Mr. Meissner noted that these issues have increased with other nearby developments. Finally, regarding stormwater concerns, he noted that there has been some flooding issues in the area. *Testimony of Mr. Meissner.*

17. In response to the concerns raised by members of the public at the hearing, Mr. Simmons reiterated that the 2004 Road Maintenance Agreement and Declaration of Easements governs access and maintenance issues related to Comfort Way. Regarding the open space area on neighboring properties, Mr. Simmons noted that the City does not have any buffering or fencing requirements for abutting residential developments and that the neighboring homeowner's association has a right to construct a fence on its property. *Testimony of Mr. Simmons.*

18. City Engineer Nicholas Dostie testified that he has previously met with several members of the public who expressed concerns about the proposal to address those concerns. Regarding access to and from Comfort Way, he reiterated that the lots within the subdivision would have legal access rights to the private street. Mr. Dostie stated that he understands the concern regarding potential residents of the new subdivision improperly accessing other private streets within neighboring developments and that he had communicated to the neighboring homeowner's association that it could install signage, gates, or other measures to prevent intrusion. He also noted that the Applicant and neighboring homeowner's association could go through the process of converting the private road network into a public system that would be maintained by the City. Mr. Dostie also stressed that an existing sewer line running through the subject property has dictated the location of the private street connecting to Comfort Way that would serve the subdivision and that realigning the street and access point would not be feasible because it would require a right-of-way easement on lots in the subdivision, which would impact the subject property's buildable area. Regarding stormwater impacts, he acknowledged that the area is known to have drainage issues. Mr. Dostie stated that the Applicant's preliminary stormwater plans indicate that stormwater runoff from new impervious surfaces would be conveyed to a detention facility for full infiltration, with an overflow structure that would discharge to an existing drainage ditch. He stressed that the City would review the Applicant's final stormwater management plan for compliance with the most recent version of the Department of Ecology Stormwater Management Manual for Western Washington during the site construction permit process. Finally, regarding water pressure issues, Mr. Dostie noted that the water system model currently shows that water pressure is within acceptable limits but that the City is in the process of field verifying current water pressure in the area to ensure that the water system model accurately reflects field conditions. *Testimony of Mr. Dostie.*

19. Mr. Broker noted that the stormwater management facilities for the site would account for the new impervious surfaces that would be installed as part of the development. He also noted that the subdivision has already been approved and that the proposed alteration is intended to bring the development more in compliance with current City development regulations. *Testimony of Mr. Broker.*

Staff Recommendation

20. Mr. Simmons testified that City staff recommends approval of the requested plat alteration, with conditions. Mr. Broker testified that the Applicant would have no issue complying with City staff's recommended conditions. *Exhibit 20, Staff Report, pages 9 and 10; Testimony of Mr. Simmons; Testimony of Mr. Broker.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for an alteration to a final plat. *SMC 2.10.070.B; SMC 17.25.030; SMC 17.25.050; SMC 20.01.030; SMC 20.01.100.*

Criteria for Review

SMC 17.25.050.B provides the criteria for approval of an alteration to a final plat and provides:

> The alteration may be approved, approved with conditions or denied after a written determination, with findings and conclusions, is made whether the public use and interest will be served by the alteration. If any land within the alteration area is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

Alterations to a final plat are also subject to the requirements of RCW 58.17.215, which provides:

> When any person is interested in the alteration of any subdivision or the altering of any portion thereof, except as provided in RCW 58.17.040(6), that person shall submit an application to request the alteration to the legislative authority of the city, town, or county where the subdivision is located. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered. If the subdivision is subject to restrictive covenants which

were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.

Upon receipt of an application for alteration, the legislative body shall provide notice of the application to all owners of property within the subdivision, and as provided for in RCW 58.17.080 and 58.17.090. The notice shall either establish a date for a public hearing or provide that a hearing may be requested by a person receiving notice within fourteen days of receipt of the notice.

The legislative body shall determine the public use and interest in the proposed alteration and may deny or approve the application for alteration. If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

After approval of the alteration, the legislative body shall order the applicant to produce a revised drawing of the approved alteration of the final plat or short plat, which after signature of the legislative authority, shall be filed with the county auditor to become the lawful plat of the property.

This section shall not be construed as applying to the alteration or replatting of any plat of state-granted tide or shore lands.

Conclusions Based on Findings

With conditions, the proposal would meet the requirements for a partial alteration to a final plat under the Sequim Municipal Code and the Revised Code of Washington. The City reviewed the Applicant's updated environmental checklist and determined that it would be appropriate to adopt the SEPA Determination of Nonsignificance issued in association with the approval of the original Heckman Subdivision. The City's determination was not appealed. The City provided reasonable notice of the application and opportunity to comment on the proposal and to testify at the open record hearing. The City received several comments on the proposal from members of the public in response to its notice materials, and members of the public provided testimony at the open record hearing. The public comments and testimony on the proposed partial plat alteration largely raised concerns about access to and from the subdivision from the private roadway of Comfort Way, which is maintained by a neighboring homeowner's association; stormwater impacts; and impacts to water pressure in the area. Other concerns

raised by members of the public related to the height and design of future residential buildings within the subdivision impacting privacy of neighboring residents, light impacts, and potential overflow on-street parking along 7th Avenue SW.

It should be noted that there is no specific development proposal currently before the Hearing Examiner in this partial plat alteration matter and that any potential impacts from a specific development proposal would be analyzed as part of a separate review process. Instead, the Hearing Examiner must determine whether the proposed plat alteration, to reorient Lots 5 through 15 of the approved Heckman Subdivision and to establish the infrastructure necessary to serve the lots, would serve the public use and interest.

Nevertheless, the concerns raised by members of the public regarding potential future development of the reoriented lots have been fully addressed by City staff and the Applicant. The legal right to access to and from the subdivision from Comfort Way has been established, and is governed by a 2004 Road Maintenance Agreement and Declaration of Easements. Moreover, the proposed plat alteration does not alter the Comfort Way access location that was included on the final plat of the previously approved Heckman Subdivision. The Applicant would be required to install stormwater maintenance features in compliance with the City's most recently adopted stormwater management manual, which would ensure that stormwater runoff would be addressed consistent with current stormwater regulations. City staff would review the Applicant's final stormwater management plan to ensure compliance with these regulations at the site development permit review stage. The City is currently in the process of addressing any water pressure issues in the area. Environmental impacts of the proposal were reviewed and addressed by the City, and the City issued a DNS Adoption of Existing Document, which was not appealed. City staff reviewed the proposed plat revision and determined that future development of the lots with residential units could be accomplished in accordance with current City density and development standards, including development standards related to parking and building height and design. City staff would review the Applicant's development plans to ensure compliance with applicable zoning requirements at the building permit review stage and/or with the administrative conditional use permit application stage if the Applicant proposes multiplex development on any of the reoriented lots.

City staff determined that the Applicant's application materials contained all the information required under SMC 17.25.040.B and RCW 58.17.215, including the signature of the owners of all the lots within the subdivision subject to the partial plat alteration. City staff also determined that the property is not within an assessment district and that no restrictive covenants have been identified that would be violated by granting the requested plat alteration. The property is designated "Low Density Residential" by the Comprehensive Plan and is within the R4-8 zone. The proposed plat alteration would result in the adjusted lots meeting applicable lot size requirements of the R4-8 zone and would therefore render the property suitable for the low-density development envisioned by the Low Density Residential land use designation. It is important to note that the proposed plat alteration would not intensify any uses that were

previously analyzed with the Heckman Subdivision approval and, thus, would not affect the City's previous concurrency analysis and determination. Instead, the proposed alteration would facilitate, to the extent feasible, development of the lots and supporting infrastructure in accordance with current development regulations. Accordingly, the Hearing Examiner determines that the requested plat alteration, as conditioned, would serve the public use and interest. Conditions, as detailed below, are necessary to ensure that the proposal complies with the requirements for an alteration to a final plat, consistent with the terms of the Maliandra Settlement of Tort Claim. *Findings 1 – 20.*

DECISION

Based on the preceding findings and conclusions, the request for an alteration to a final plat, to revise the layout of Lots 5 through 15 of the Heckman Subdivision and to provide a shared private road, consistent with the terms of a settlement agreement between the City and the property owner, is **APPROVED**, with the following conditions:

1. Prior to recording the Plat Alteration, the Applicant must apply and receive approval for a Site Construction permit to complete the buildout of the necessary infrastructure as detailed in the Settlement Agreement and City Standards and Code.

2. All conditions of the previous Subdivision Approval SUB 05/001 are still in effect unless otherwise noted in these conditions.

3. Conditions 7, 11-15, 17-21, and 23-25 from SUB 05/011 must be completed in accordance with current City of Sequim development standards to the extent practicable as outlined in the Settlement Agreement.

4. The Applicant shall coordinate with the U.S. Postal Service for the provision of mailboxes, if necessary.

5. All fire hydrants must satisfy the requirements of the International Fire Code (IFC), specifically IFC Chapter 507, Appendix B and Appendix C.

6. Development must comply with the City's current stormwater regulations.

7. All required easements identified by the City during the final plat review must be clearly shown on the face of the final plat drawing before final recording.

8. All final plat language must be consistent with adopted "Guidelines for Standard Land Use Certification, Dedication and Declaration Language," per SMC 17.04.040.B.

9. Any future signage will require separate reviews by the City Department of Community and Economic Development per chapter 18.58 SMC, which will be reviewed for compliance with the City's sign regulations at the time of application.

10. All terms outlined in the Settlement Agreement (Section III. Agreement and Release and Indemnification(2)(a-i) are incorporated as conditions of approval.

11. Upon approval, a final plat depicting all relevant and required information must be presented to the City for approval and signature within 60 calendar days. The City will record the plat at the Applicant's cost as per SMC 17.25.070. The Applicant must reimburse the City with 30 calendar days of invoicing by the City.

DECIDED this 17th day of April 2025.



PEREGRIN K. SORTER
Hearing Examiner
Laminar Law, PLLC