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4 Applicant Presentation

5 Scott Clark, appeared on behalf of the Applicant, Oakbrook Property, LLC. Mr. Clark is a land use
6 planner with Larson and Associates, Tacoma Washington. Mr. Clark noted that also present at the
7 hearing was project engineer Grant Middleton, and Oakbrook Property LLC representatives Ken
8 Ritter and Fred Wagnor, Mr. Clark testified that the Applicant has provided all the necessary land
9 use and environmental applications, studies, reports, and the city staff has reviewed all the materials
and is recommending approval of the project. Mr. Clark made comments regarding the written
findings and determinations required for Planned Development Districts

10 Mr. Clark testified there are eleven (11) key findings that support approval of the proposal, as
11 follows:

12 A. The Oakbrook Park Planned Development District project is consistent with the City of
Lakewood comprehensive plan.

13 B. Using the permitted flexibility and variation in design of a PDD is a development practice
14 that results in better urban design features than found in traditional development. The Oakbrook
15 Park PDD can demonstrate net benefit to the City by the development of interconnected usable open
space, the addition of recreation facilities within open space, conservation of natural features, the
preservation of existing trees, and views.

16 C. There will be no greater burden on public utilities. Public facilities currently have capacity to
provide service to the proposed residences.

17 D. The size, scale, mass and architectural design along the perimeter of the PDD is compatible with
18 the existing land use of the abutting project which include condominiums, single family residences
and townhomes. Mr. Clark testified that the supplement to Exhibit Z, which was admitted, includes
19 alternative architectural home designs for the PDD layout. It includes seven different presentations
of homes. Three different internal designs. Additionally, in the supplemental exhibit there is
20 information regarding the concerns about the ground floor size of the homes. Architectural Data is
including on the Supplement

21 E. Landscaping within and along the perimeter of the PDD is superior to traditional
22 development and enhances the visual compatibility of the development with the surrounding
neighborhood. In addition, superior streetscape, buffer by the sidewalk, additional landscaping is
23 also provided with the open space tract in order to provide aesthetically harmonious zone.

24 F. The project is served by two developed rights-of-way, making the need for a major circulation
point unnecessary.

25 G. The required PDD open space has been designed to be centrally located in the current
26 neighborhood in order to help preserve the natural character of the existing vegetation and promote
the use of the proposed open space and recreational facility by project residents as well as their

1 neighbors. The Oakbrook Park open space area is a superior design in that it promotes the
2 aesthetics and retention of neighborhood characteristics. The open space amply provides for open
3 field sports, picnicking, nature viewing, and relaxation for development and area neighbors. The
4 open space is usable space that is interconnected with pedestrian facilities that serves both the
5 development and existing neighborhood. The open space is 0.57 acres in area. The open space
6 includes tree preservation as well. A number of large mature trees will be preserved. They will be
7 adding additional trees and plants.

8 H. The project has been carefully designed to ensure compatibility with the existing character,
9 appearance, quality of development and physical characteristics of the project site and immediate
10 vicinity. The proposed site layout, superior landscaping, open space and recreational designs, along
11 with the quality of the new homes and the architectural designs will benefit the area and contribute
12 to the harmonious design of the exiting neighborhood.

13 I. No new roads are necessary for the PDD. Driveways will serve new homes which will be
14 constructed as well as furnish improvements which will both comply with state guidelines for
15 construction

16 J. A traffic study has been completed confirming the existing and proposed street sidewalks
17 improvements are simple and adequate to carry anticipated traffic within the proposed project and
18 vicinity.

19 K. The PDD contains the required parking spaces, open spaces, recreation spaces, landscaping
20 and utility area necessary for the creation of sustainable, desirable, and stable environment.

21 Public Comments

22 Guy McFadden, neighbor, lives 200 yards from the proposal. He is a member of the 4th Addition
23 Homeowners Association. He testified that this is the third developer for this tract. Mr. McFadden
24 said that the current developer is working with them, unlike the last developer. The current
25 developer addressed his concern about the size of ground floors by submitting alternate house plans
26 and it does satisfied a major concern of the 4th Addition Homeowners Associations covenants. The
exteriors satisfy covenants or matching what they have in the 4th Addition. They would like to
support the proposal.

Mr. Clark responded to questions from Nancy Dilworth, a neighbor, by noting that the open space
would have landscaping improvements and that there would be community access to the open space.
He noted that the open space would have open ground amenable to field sports and other forms of
active recreation.

Ms. Dilworth commented she would like the addition of two stop signs to be placed at the two
intersections of Ruby and Zircon. One at the west side and one to the far east. She believes it is very
problematic with traffic now. In concept she is not opposed to the project, but she believes that they
should reduce the number of homes from 16 to 13 or 14. Then there could be an open space at the
other end of the development, an open space on each side. Ms. Dilworth lives almost across from
the property. She does not believe the Applicant's development rendering is at all representative of

1 what it purports to be. Ms. Dilworth stated that people drive Zircon drive like it's an arterial. The
2 25 mph speed limit is always exceeded. It's difficult to see. There will be an issue with additional
3 cars.

4
5 Leo Bundick, neighbor, objects to the plan because of health safety and welfare. He said that Zircon
6 has too many driveway cuts. Mr. Bundick believes there are more than 500 units serviced by
7 Zircon. This development is offering more high density driveways that go to Zircon. He believes
8 the project should be redesigned to an internal lane for the driveways with a single ingress and
9 egress.

10 Applicant Rebuttal

11 Grant Middleton is the project engineer. He testified regarding Mr. Bundick's comments. Mr.
12 Middleton made clear that Zircon and Rub are not arterial streets. They allow direct lot access.
13 There has been a study on traffic regarding the proposed 16 homes and no need was found for
14 additional street improvements or redesign.

15 Exhibits

16 Exhibits A-Z identified at p. 16 of the August 8, 2019 staff report were admitted into the record
17 during the August 8, 2019 hearing. Exhibit AA and Exhibit BB were also admitted.

18 FINDINGS OF FACT

19 Procedural:

- 20 1. Applicant. Oakbrook Park, LLC
- 21 2. Hearing. A hearing was held on the subject application on August 8, 2019 in the Lakewood
22 City Hall Council Chambers.

23 Substantive:

- 24 3. Project Description. The Applicant has applied for preliminary plat and planned
25 development district approval to subdivide 2.83 acres located at 7701 Ruby Drive SW into sixteen
26 single family lots. Because the Oakbrook Park subdivision is utilizing the PDD overlay, they are
subject to a maximum density of 7dua as opposed to 4.8dua and a minimum lot size of 6,000gsf
instead of 7,500gsf.

1 4. Surrounding Area. Surrounding uses are residential with higher density townhomes to the
2 north and lower density single family homes to the south.

3 5. Adverse Impacts. There are no significant adverse impacts associated with the project. A
4 SEPA Determination of Nonsignificance, Ex.1(Y), was issued for the proposal on April 6, 2018.
Pertinent impacts are addressed as follows:

5 A. Critical Areas. There are no critical areas on the project site as identified in Section B8h of the
6 SEPA checklist. A public comment raised a concern about soil stability. In the absence of any
7 geologically hazardous critical areas at the project site, there is no basis for concluding that the
project site contains unstable soils under City regulations.

8
9 Despite the SEPA statement identifying no critical areas, Nancy Dilworth makes a compelling
10 point in her written comments that the project site is located within an aquifer recharge area.
11 However, even if the project site is within an aquifer recharge area, critical area restrictions on
residential development in such areas tend to be nominal if nonexistent. A condition of
12 approval requires that staff verify whether the project site is located with an aquifer recharge
area and require conformance to any applicable aquifer recharge standards.

13 Ms. Dilworth asserts that a protected squirrel species is located at the site and that the project
14 site may potentially house other protected species. In the absence of any documented sightings
or mapped critical areas regarding species protected by the City's critical areas ordinance, there
15 is no basis for concluding that protected species are located at the site.

16 B. Compatibility. The perimeter of the PDD consists of Ruby Drive SW, Zircon Drive SW,
17 condominiums, single family residences and townhomes. The single-family homes in the PDD
will be compatible with the surrounding land uses.

18 To enhance compatibility, the Applicant is proposing streetscape landscaping buffers along the
19 property frontages of Ruby Dr. SW and Zircon Dr. SW, as well as, an 8ft vegetative buffer
20 between the subject site and the existing multifamily development to the east. The proposed
landscaping plan shows that the streetscape buffer will abut the proposed 5ft sidewalk and will
21 provide new trees 30' on center. Landscaping is also being provided within the open space tract
in order to provide aesthetically pleasing features and a harmonious design. The proposed
22 landscaping will enhance the visual compatibility of the development with the surrounding
neighborhood, not only due to its design, but also because it is a generous upgrade to a piece of
23 property which currently sits vacant, disheveled and overgrown.

24 Several comments were submitted objecting to the proposed density, apparently on the basis
25 that the density is not consistent with private covenants. As outlined in Conclusion of Law No.
1, the hearing examiner has no authority to impose private covenants. Beyond the covenants,
26 there is no basis to conclude that the density is not compatible with surrounding density. As
shown in the Applicant's preliminary plat map, Ex. D, townhomes of a greater density are

1 located to the north of the project site and single-family homes with lower density are located to
2 the south. The proposal serves as an appropriate transitional density with its intermediate
3 density buffered by the open space and other PDD amenities offered by the Applicant.

4 C. Trees. The proposal complies with the City's tree preservation standards and so does not
5 adversely affect trees. Pursuant to LMC 18A.50.320.B.1.a and LMC 18A.50.320.B.2.b for
6 subdivisions where the proposed lots are less than 17,000 square feet, no specific tree
7 preservation is required for interior or perimeter trees except for the open space Tract A. A
8 total of 3 trees are proposed to be removed from Tract A, of which, two (2) are Garry Oaks in
9 poor condition. Trees determined to be in poor condition by the arborist report and tree
10 retention plan do not meet the definition of a significant tree per 18A.50.300. Staff have
11 determined that the proposed tree retention meets applicable standards. Ms. Dilworth outlines
12 numerous concerns over the Applicant's tree retention plan. The tree retention plan was
13 prepared by an arborist and reviewed by City staff and is found to adequately address the
14 City's tree retention standards.

15 D. Soils. A public comment was submitted expressing concern over soil contamination from the
16 Asarco plant and requesting soil testing as recommended by the Department of Ecology for
17 other projects. Compliance with the DOE recommendation is a condition of approval.

18 6. Adequacy of Infrastructure/Public Services. The project will be served by adequate and
19 appropriate infrastructure and public services. Staff have determined that public facilities have
20 adequate capacity to serve the proposal. Adequacy is more specifically addressed as outlined below:

21 A. Water and Sewer Service. Water will be provided by the Lakewood Water District and sewer
22 by Pierce County Public Works.

23 B. Drainage. Lakewood has adopted the Stormwater Management Manual for Western
24 Washington, published by the Washington State Department of Ecology. See LMC
25 12A.03.020. The Manual requires detailed calculations on projected stormwater flows and
26 numerous standards pertaining to water quality treatment to ensure that off-site properties are
not impacted by any increases in stormwater runoff and that any waters discharged from the
site are cleared of pollutants that could adversely affect public waters and environmental
resources. A key requirement is that the Applicant design a stormwater control system that
prevents off-site stormwater flows from exceeding pre-development, forested conditions. The
Applicant has to submit a detailed drainage report that mathematically establishes that pre-
development flow rates are not exceeded. The Applicant's drainage plans will be reviewed by
City staff for final plat approval. The requirements of the stormwater manual assure that the
proposal will include an adequate and appropriate drainage system that will prevent adverse
stormwater impacts to neighbors and the environment.

1 As outlined in Section B(3) of the SEPA checklist, to meet the requirements of the stormwater
2 manual, the Applicant proposes infiltration trenches to meet the requirements of the
3 stormwater code.

4 One written comment expressed numerous concerns over stormwater issues, but identified no
5 compliance issue with the City's detailed stormwater requirements. As previously noted, the
6 public works department will be undergoing detailed review of the Applicant's proposed
7 stormwater facility design. In the absence of any expert testimony identifying potential
8 problems with the adequacy of the City's stormwater standards or review process, there is no
9 basis for concluding that the project will create any adverse stormwater impacts.

- 10 C. Parks/Open Space. City regulations do not require any open space dedication for subdivisions.
11 PDD standards require a minimum of 20% open space, which is 24,655 square feet for this
12 project. The Applicant exceeds this minimum amount by proposing 25,034 square feet of
13 open space by dedication of Tract A for this purpose.

14 The open space portion of this PDD has been located as to integrate the elements of the open
15 space tract into the surrounding community rather than centrally locate it within the residential
16 development. This will help preserve the natural character of the existing vegetation and
17 promote the surrounding community to utilize the new community recreation space.

- 18 D. Schools. The record contains almost no information on schools. As far as can be ascertained
19 from Lakewood's development regulations, Lakewood has not adopted any school impact
20 fees. In the absence of requiring school impact fees, there is little that can be legally required
21 of a developer to mitigate impacts to school facilities. The record also contains very little
22 information on walking conditions to and from school. State law (specifically RCW
23 58.17.110(2)) and City regulations require a finding that walking conditions are safe for
24 students walking to and from school. The Applicant is proposing sidewalks along project
25 street frontage, thus providing its proportionate share contribution to safe walking conditions
26 to and from schools should any schools be within walking distance.

- 27 E. Streets and Traffic. Initial review from the City of Lakewood Public Works Department
28 indicate the proposal appears to comply with City standards for construction of streets if
29 recommended conditions area adopted, which are adopted by this decision. See Ex. O. Public
30 Works staff will review final street design as part of the site development permit process to
31 ensure compliance with any and all road standards for construction of streets, as well as,
32 development standards for construction of the required frontage improvements.

33 A traffic study was prepared by Heath and Associates, Inc. Public Works Engineering
34 assessed the existing conditions surrounding the site, reviewed the Traffic Impact Analysis
35 and determined that the addition of 16 new single family residences would likely have only a
36 minor impact on the existing community and that the number of new trips generated

1 (approximately 151 per the TIA published by Heath and Associates) did not warrant the need
2 for full frontage or road improvements.

3 Comments were submitted objecting to the number of driveway cuts included in the proposal.
4 The proposal has been reviewed by the City's Public Works Department and Public Works
5 found no inconsistency with the City's street access standards. In the absence of any City
6 standards limiting driveway access and the absence of any indication in the record that such
7 driveway cuts are unsafe, there is no basis to conclude that the driveway cuts are unsafe or
8 create any adverse impacts to traffic circulation.

9 F. Landscaping. Staff have determined that the proposal generally conforms to the City's
10 landscaping requirements but have recommended a condition of approval requiring more
11 detail and specificity. Written comments from Nancy Dilworth also bring up numerous
12 concerns over the specificity of the landscaping plans. The conditions of approval require
13 staff to consider Ms. Dilworth's comments when assessing the adequacy of the final
14 landscaping plan.

15 7. Superior Design. The Oakbrook Park PDD includes several design features that qualify it as
16 having superior design. An interconnected usable open space will be centrally located to the
17 Oakbrook community instead of the Oakbrook Park PDD development to invite community use
18 beyond the immediate vicinity of existing homes. A recreation facility is being provided within the
19 open space tract to allow for active recreation space for local youth. Tree preservation will be used
20 to the maximum extent feasible within the open space to allow for low impact development of the
21 parcel.

22 **Conclusions of Law**

23 1. Authority over Applications and Private Covenants. LMC 18A.02.502 Table 3 classifies
24 preliminary plat applications as Process III applications subject to hearing examiner review. LMC
25 18A.40.530 and .540 authorizes the hearing examiner to hold hearings and make decisions on PDD
26 applications.

Several comments were submitted asserting that the proposal allegedly doesn't comply with
covenants applicable to the project area. The hearing examiner has no authority to adjudicate
compliance with private covenants. A hearing examiner's authority is limited to that expressly
granted by statute and ordinance and those additional powers impliedly necessary to carry out its
responsibilities. *See, LeJeune v. Clallam County*, 64 Wn. App. 257 (1992). The courts have
historically strictly applied this standard *See, Id.* (absent an express code provision, County
Commissioners have no authority to reconsider their quasi-judicial decisions); *Chaussee v.*
Snohomish County Council, 38 Wn. App. 630 (1984), (hearing examiner has no authority to
consider equitable estoppel defense because the examiner was not given this authority by ordinance

1 or statute); *Exendine v. City of Sammamish* 127 Wn. App. 574, 586-87 (2005)(hearing examiners do
2 not have the authority to enforce, interpret or rule on constitutional challenges). For this
3 application, the Hearing Examiner’s authority is limited to applying the code criteria applicable to
4 preliminary plats and PDDs. Enforcement of the private covenants is a private matter between the
5 Applicant and project opponents. Approval of the applications under review does not establish
6 conformity to any private covenants.

7 Comments were also made that the PDD ordinance was not validly enacted and should not be
8 applied to the proposal. For the reasons identified in the preceding paragraph, the Examiner has no
9 authority to invalidate City ordinances, including the PDD ordinance. There is no City ordinance or
10 state law that authorizes the hearing examiner to adjudicate the validity of City ordinances. That
11 also is a function left to the courts upon judicial review.

12 2. Zoning Designations. R3.

13 3. Review Criteria. LMC 17.14.030 governs the criteria for preliminary plat approval. LMC
14 18.A.540 governs he criteria for PDD approval. Applicable criteria are quoted below in italics and
15 applied through corresponding conclusions of law.

16 **LMC 17.14.030:** *A proposed subdivision and dedication shall not be approved unless the Examiner
17 makes written findings that:*

18 *A. Appropriate provisions are made for the public health, safety, and general welfare, for open
19 spaces, drainage ways, streets or streets, alleys, other public ways, transit stops, potable water
20 supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all
21 other relevant facts, including sidewalks and other planning features that assure safe walking
22 conditions for students who walk to and from school; and*

23 *B. The public use and interest will be served by the platting of such subdivision and dedication. If the
24 Examiner finds that the proposed subdivision and dedication make such appropriate provisions and
25 that the public use and interest will be served, then the Examiner shall approve the proposed
26 subdivision and dedication.*

4. As conditioned, the proposal meets the criteria quoted above. The proposal provides for
appropriate infrastructure such as streets and water for the reasons identified in Finding of Fact No. 6
The proposal makes appropriate provision for public health, safety and welfare because it provides for
adequate infrastructure as outlined in Finding of Fact No. 6 without any associated adverse impacts as
identified in Finding of Fact No. 5. For the same reasons and the fact that it provides for the
reasonable use of land and accommodates urban growth in urban growth areas as encouraged by the
Growth Management Act, the proposal is in the public interest.

1 **PLANNED DEVELOPMENT DISTRICT**

2 **LMC 18A.40.540:** *A PDD shall only be granted after the Hearing Examiner has reviewed the*
3 *proposed use and has made written findings that all of the standards and criteria set forth below*
4 *have been met or can be met subject to conditions of approval:*

5 *A. The PDD is consistent with the comprehensive plan; and*

6 5. The project parcel is currently listed as an underutilized portion of land per Pierce County
7 Buildable Lands Report and is consistent with the compatibility objectives of the comprehensive
8 plan.

9 **LMC 18A.40.540(B):** *The PDD, by the use of permitted flexibility and variation in design, is a*
10 *development practice that results in better urban design features than found in traditional*
11 *development. Net benefit to the City may be demonstrated by one or more of the following:*

12 *1. Placement, type or reduced bulk of structures, or*

13 *2. Interconnected usable open space, or*

14 *3. Recreation facilities, or*

15 *4. Other public facilities, or*

16 *5. Conservation of natural features, or*

17 *6. Conservation of critical areas and critical area buffers beyond, or*

18 *7. Aesthetic features and harmonious design, or*

19 *8. Energy efficient site design or building features, or*

20 *9. Use of low impact development techniques;*

21
22
23 6. The Oakbrook PDD design demonstrates net benefit to the City by providing many of the
24 above listed elements as outlined in Finding of Fact No. 7.

25 **LMC 18A.40.540(C):** *The PDD results in no greater burden on present and projected public*
26 *utilities and services than would result from traditional development and the PDD will be served*
by adequate public or private facilities including streets, fire protection, and utilities; and

1
2 7. As determined in Finding of Fact No. 6, the proposal will be served by adequate public
3 and private facilities. The greater density of the PDD means that greater demand will be placed
4 upon public and private facilities¹, but the demand for such facilities is fully mitigated.

5 **LMC 18A.40.540(D):** *The perimeter of the PDD is compatible with the existing land use or*
6 *property that abuts or is directly across the street from the subject property. Compatibility*
7 *includes but is not limited to size, scale, mass and architectural design of proposed structures;*
8 *and*

9 8. As determined in Finding of Fact No. 5(B), the perimeter of the proposal provides for
10 compatibility due to the Applicant's proposed residential use.

11 **LMC 18A.40.540(E):** *Landscaping within and along the perimeter of the PDD is superior to*
12 *that required by LMC 18A.50.425 and 18A.50.430, and landscaping requirements applicable to*
13 *specific districts contained in LMC 18A.50.430, and enhances the visual compatibility of the*
14 *development with the surrounding neighborhood; and*

15 9. The landscaping within and along the perimeter of the PDD is superior to that required by
16 LMC 18A.50.425 and 18A.50.430 for the reasons identified in Finding of Fact 5B.

17 **LMC 18A.40.540(F):** At least one major circulation point is functionally connected to a public
18 right-of-way; and

19 10. The proposed development is surrounded by public right-of-way on the north, south and
20 west boundary. A major circulation point will not be necessary for 16 single-family homes as
21 each will utilize a residential driveway to existing public right-of-way.

22 **LMC 18A.40.540(G):** *Open space within the PDD is an integrated part of the project rather*
23 *than an isolated element of the project; and*

24 11. The open space portion of this PDD has been located as to integrate the elements of the
25 open space tract into the surrounding community rather than centrally locate it within the
26

¹ It could be argued that making greater demand upon public services is equivalent to greater burden and that hence the criterion is not met. However, taking this position would render the density bonus of PDD provisions completely meaningless, since any time a PDD would qualify for a density bonus it would have to be denied under LMC 18A.40.540(C). In order to harmonize LMC 18A.40.540(C) with the PDD density bonus, it is concluded that a density burden doesn't create a greater burden on public utilities and services if there is adequate capacity and the impacts of demand are fully mitigated.

1 residential development. This will help preserve the natural character of the existing vegetation
2 and promote the surrounding community to utilize the new community recreation space.

3 **LMC 18A.40.540(H):** *The design is compatible with and responds to the existing or intended*
4 *character, appearance, quality of development and physical characteristics of the subject*
5 *property and immediate vicinity; and*

6 12. For the reasons identified in Finding of Fact 5(B), the proposal is fully compatible with
7 surrounding uses as required by the criterion above. As further noted in the staff report, the
8 project is designed to not only be compatible with the existing character of the surrounding area
9 and community but also to bring life and vibrancy to a piece of property that has been ill-
10 maintained. The homes and properties in the immediate vicinity are well maintained and cared
11 for; thus, the proposed design including site layout, landscaping, open space, and quality
12 architecture, will benefit the neighborhood and contribute to the harmonious design that currently
13 exists in the immediate vicinity. Instead of overgrown vegetation, dead trees, and miscellaneous
discarded demolition material from the previous use, the community and those in the immediate
vicinity will experience a visually appealing piece of property with well-maintained landscaping
and open space, as well as, new sidewalks and quality built homes as a result of the PDD
approval.

14 **LMC 18A.40.540(I):** *Roads and streets, whether public or private, within and contiguous to the*
15 *site comply with guidelines for construction of streets; and*

16 13. There are no proposed new roads or street. Only driveways to homes will be constructed.
17 As outlined in Finding of Fact No. 6, public works staff have reviewed the project for required
18 frontage improvements and have recommended several conditions adopted by this decision too
assure compliance with City road standards. Ex. O.

19 **LMC 18A.40.540(J):** *Streets and sidewalks, existing and proposed, are suitable and adequate*
20 *to carry anticipated traffic within the proposed project and in the vicinity of the proposed*
21 *project; and*

22 14. As determined in Finding of Fact No. 6(F), preliminary road and sidewalk design
23 complies with City street standards and the Applicant's traffic study finds no need for additional
24 off-site road improvements. The inclusion of sidewalks on all street frontages assures that the
proposal will provide for suitable and adequate sidewalks.

25 **LMC 18A.40.540(K):** *Each phase of the proposed development, as it is planned to be*
26 *completed, contains the required parking spaces, open space, recreation space, landscaping and*
utility area necessary for creating and sustaining a desirable and stable environment.

1
2 15. As determined in Finding of Fact No. 6, as mitigated and designed the proposal will be
3 served by adequate and appropriate infrastructure and utilities, including all those required in the
4 criterion above. City parking requirements only require parking for each individual residential
5 lot. The lots contain enough space for parking and parking standards will be enforced during
6 building permit review.

7 **DECISION**

8 The proposed preliminary plat and PDD satisfies all review criteria as conditioned for the reasons
9 identified in the Conclusions of Law and qualifies for the maximum density and minimum lot areas
10 authorized by PDD regulations. The preliminary plat and PDD applications are approved subject to
11 the following conditions:

- 12 1. The developer/Applicant shall abide by the requirements set forth in the agency comment letter
13 issued by Washington State Department of Ecology, dated January 11, 2019 (Exhibit N). Soil
14 testing shall be completed prior to any ground disturbance.
- 15 2. The developer/Applicant shall abide by the requirements set forth in the agency comment letter
16 issued by Tacoma-Pierce County Health Department, dated January 18, 2019 (Exhibit Q).
- 17 3. The developer/Applicant shall abide by the requirements set forth in the original agency comment
18 letter issued by City of Lakewood Public Works Department, dated February 7, 2019 (Exhibit O)
19 and the revised memo dated July 26, 2019 (Exhibit P).
- 20 4. The Washington State Department of Fish and Wildlife Priority Habitat and Species interactive map
21 indicates the potential presence of Little Brown Bat breeding areas in the general project vicinity;
22 however, WDFW Wildlife Biologists have not been able to confirm that a population is established
23 on the project site. If Little Brown Bat populations or breeding nests are discovered on-site, the
24 developer shall inquire with WDFW and abide by their management regulations specific to the
25 Little Brown Bat species.
- 26 5. A Site Development Permit is required. There shall be no site work or improvements made prior to
issuance of an approved Site Development Permit through the City of Lakewood Public Works
Department. The Site Development Permit shall be evaluated for compliance with standards set
forth in this PDD approval and the Hearing Examiners final decision.
6. A Tree Removal Permit is required prior to the removal of any trees on the subject site. An arborist
report and tree survey shall accompany the tree removal permit application.
7. Final landscaping plans shall be submitted as part of the Site Development Permit Process. The City
requests that the Applicant honor the proposed landscaping plan depicted in Exhibit C. Although
staff can allow for flexibility regarding the planting style and schedule, the City requests the basic
foundation of the plan (location, buffer widths, etc.) to be a set standard for the project. Staff shall

1 consider the written comments of Nancy Dilworth in assessing the adequacy of the final landscaping
2 plan.

- 3 8. Building elevations shall remain visually and architecturally similar to those provided in Exhibit Z.
4 Future building permits for the individual homes will be evaluated against the exterior building
5 elevations approved for the PDD to ensure compliance and harmonious design.
- 6 9. Pursuant to LMC 18A.50.465, if any required landscaping or fencing is not completed and/or
7 installed by the time the Final Plat is ready for approval, the Applicant shall be required to reserve a
8 cash guarantee in the amount of one hundred fifty (150) percent of the estimated cost of the required
9 landscaping/fencing. The cash guarantee or other appropriate security shall forfeited to the City if
10 the work is not completed within one hundred eighty (180) days of the date of posting of the cash
11 guarantee or other appropriate security, or upon such other date as agreed to between the City and
12 the property owner or authorized person acting on the property owner's behalf.
- 13 10. The project will comply with Low Impact Development Standards (LID's) set forth in the 2014
14 Department of Ecology Stormwater Manual for Western Washington or the 2015 Pierce County
15 Stormwater Site Development Manual. Public Works shall evaluate the Site Development permit
16 for compliance with these standards.
- 17 11. Exhibit R represents the assigned addresses for the Oakbrook Park Development. These addresses
18 shall be recorded on the final plat.
- 19 12. Pursuant to LMC 17.14.040, the associated Final Plat, meeting all of the requirements of law shall
20 be submitted to the City within five years of the date of preliminary plat approval if the date of
21 preliminary plat approval is on or after January 1, 2015. The approval of a preliminary plat shall be
22 automatically null and void if final plat approval is not obtained within the time limitations
23 specified herein.
- 24 13. Any major modifications to the proposal shall require an amendment to the original application,
25 additional review and a new public hearing before the Hearing Examiner. Fees for additional review
26 time, consultations and the new hearing shall apply.
14. Prior to final plat approval, staff shall verify whether or not the project site is located within an
aquifer recharge area and impose conditions as necessary to conform to aquifer recharge standards.

DATED this 22nd day of August, 2019.



Kristen Olbrechts
Pro Tem Hearing Examiner for Lakewood

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Appeal Right and Valuation Notices

LMC 18A.02.502 Table 3 provides that the final preliminary plat decision of the Hearing Examiner is subject to appeal to superior court. LMC 18A.40.550(C) provides that PDD decisions are also final. Appeals of final land use decisions to superior court are governed by the Land Use Petition Act (“LUPA”), Chapter 36.70C RCW. LUPA imposes short appeal deadlines with strict service requirements. Persons wishing to file LUPA appeals should consult with an attorney to ensure that LUPA appeal requirements are correctly followed.

Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.