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

**FINDINGS, CONCLUSIONS AND DECISION  
APPROVING**

**THE “BLUE HERON”  
PLANNED RESIDENTIAL DEVELOPMENT AND  
PRELIMINARY PLAT APPLICATIONS**

**APPLICANT/OWNER:**       ORIGINALLY, RUEL JOHNSON, SUBSEQUENTLY PURCHASED BY:  
  
  QUADRANT HOMES, REPRESENTED BY COREY WATSON  
  15900 SE EASTGATE WAY, SUITE 300  
  BELLEVUE, WASHINGTON 98008

**LOCATION/TAX PARCEL NUMBERS:** 2650 NE HERON POND LANE – TPN No. 242601-4-003-2006; 18208 NOLL ROAD NE – TPN No. 242601-4-033-2000; AND 18230 NOLL ROAD NE – TPN No. 242601-4-034-2009, ALL LOCATED ON THE EAST SIDE OF NOLL ROAD NE, ABUTTING THE EASTERN EDGE OF THE POULSBO CITY LIMITS AND URBAN GROWTH AREA.

**APPLICATIONS:**    PLANNED RESIDENTIAL DEVELOPMENT AND PRELIMINARY PLAT UNDER CITY CODES IN EFFECT AT THE TIME THE PROJECT VESTED FOR PURPOSES OF REVIEW (DECEMBER OF 2007), INCLUDING WITHOUT LIMITATION CH. 18.80 PMC (FOR PLANNED RESIDENTIAL DEVELOPMENT), TITLE 17 PMC (FOR PRELIMINARY PLAT), AND ZONING PROVISIONS IN TITLE 18 PMC, TO SUBDIVIDE APPROX. 24 ACRES INTO AN 85-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION WITH ASSOCIATED IMPROVEMENTS, INCLUDING WITHOUT LIMITATION ONSITE STORMWATER FACILITIES, NEW INTERNAL STREETS, NEW FIRE HYDRANTS, LANDSCAPE STRIPS ALONG PUBLIC STREET FRONTAGE, OPEN SPACES, TRAILS, AND OTHER AMENITIES, ALL ON PROPERTY ZONED LOW DENSITY RESIDENTIAL (RL, WHERE MAX. DENSITY IS 5/ACRE) WITH A DENSITY OF 3.57 UNITS PER ACRE, WITH WATER AND SEWER SERVICE PROVIDED BY THE CITY OF POULSBO.

**SUMMARY OF DECISION:**                    *APPROVED*, SUBJECT TO CONDITIONS

**DATE OF DECISION:** DECEMBER 20, 2018

## CONTENTS OF RECORD

Exhibits entered into evidence as part of the record, and an audio recording of the public hearing, are maintained by the City of Poulsbo, in accord with applicable law.

### ***Exhibits:***

City of Poulsbo “Staff Report” and recommendation (of APPROVAL) to the Hearing Examiner regarding “Blue Heron PRD & Preliminary Plat,” dated October 29, 2018;

*Exhibits A – M, as marked and numbered on page 33 of the Staff Report provided to the Examiner;*

*Exhibit N – Post-Hearing materials submitted as directed by the Examiner at the public hearing, from the applicant and City staff, clarifying some corrections to several exhibits, and suggesting language for a proposed condition of approval addressing a stormwater easement issue raised at the public hearing.*

### ***Testimony/Comments:***

All people who provided factual information were sworn and provided testimony under oath at the open-record public hearing, including Edie Berghoff, an Associate Planner for the City of Poulsbo, and the primary staff representative at the public hearing; Michael Bateman, PE, Development Review Engineer for the City of Poulsbo; Corey Watson, with the applicant, Quadrant Homes; Mark Kuhlman, the applicant’s project engineer, with Team 4 Engineering; and local residents who generally expressed appreciation for the lengthy review process for this project, which involved numerous revisions and extensive public input that resulted in detailed conditions intended to address site-specific utility infrastructure needs, environmental issues, and concerns raised by abutting property owners and surrounding residents. There was no evidence or testimony provided in this hearing record that would serve as a basis to deny the pending applications.

## APPLICABLE LAW

### ***Jurisdiction.***

There is no dispute that relevant provisions of the Poulsbo Municipal Code expressly provide the hearing examiner with jurisdiction and authority to review most Type III land use matters, which

include both Planned Residential Development and Preliminary Plat applications. See PMC 19.20.010(C) and Table 19.20.020.

***Criteria for Approval of the pending PRD and Preliminary Plat Applications.***

The relevant approval criteria for this project is found in older versions of the Poulsbo Municipal Code. Without objection or modification from the applicant, the Staff Report explains that the review criteria for the Blue Heron project are versions of development regulations in effect when the application vested, which was December 10, 2007, the date City staff deemed the application to be Technically Complete. Specifically, this project has been reviewed using the following code provisions: PMC Title 18 Zoning (Ordinance 2003-10), including PMC 18.80 regarding Planned Residential Developments (PRD) (Ordinance 2007-25); PMC Title 17 Subdivisions (Ordinance 2003-16); and PMC 16.20 Critical Areas (Ordinance 2007-24). The Staff Report explains that the City's zoning ordinance was updated December 17, 2007 (Ordinance 2007-56), however, it is not applicable to this matter. In 2003, PMC 18 Zoning provided for Planned Unit Development (PUD) subject to review under PUD requirements and standards. PRD requirements and standards replaced Planned Unit Development (PUD) requirements and standards in 2007 (Ordinance 2007-25).

In any event, as mandated by state law, the provisions of city codes addressing preliminary plat review for this project are substantially similar to state subdivision mandates found in RCW 58.17.110(2).

The burden of proof rests with the applicant, and any decision to approve or deny a Preliminary Plat must be supported by evidence that is substantial when viewed in light of the whole record. See RCW 36.70C.130(1)(c).

**ISSUE PRESENTED**

Whether substantial evidence demonstrates that the applicant has satisfied its burden of proof to satisfy the criteria for Preliminary Plat and Planned Residential Development approval?

**Short Answer:** Yes, subject to conditions of approval.

## FINDINGS of FACT

Upon consideration of all the evidence, testimony, codes, policies, regulations, and other information contained in the file, the undersigned Examiner issues the following findings, conclusions and Decision approving the Blue Heron preliminary plat and planned residential development as set forth below.

1. Any statements in previous or following sections of this document that are deemed findings of fact are hereby adopted as such and incorporated by this reference.
2. If approved, the requested preliminary plat would authorize the subdivision of a 23.83-acre site into 85 single-family residential lots. The Planning and Economic Development Department's Staff Report and Recommendation of Approval, shared with the Examiner in the week before the hearing, (*the "Staff Report"*), includes a number of specific findings and conditions that credibly and convincingly establish how the underlying plat application satisfies provisions of applicable law, is consistent with the city's Comprehensive Plan, and is designed or conditioned to comply with applicable development standards and guidelines.

### ***Procedural background.***

3. The Record for this matter is very large, and includes reports and written analysis of virtually every aspect of the proposed new development. Part of this is due to the scale of the project, some environmental issues associated with the site, the need for sufficient utility infrastructure to serve the project, and the project timeline associated with this matter. Without question, the review period for this project has been lengthy, but the record shows that the timeline was repeatedly extended to accommodate the applicant's requests, to provide sufficient time to generate detailed reports on specific issues associated with the site, and the like. Obviously, the effects of the "great recession" that commenced shortly after this project vested, also had some effect on the review timeline for this project. The Staff Report notes that the review timeline for this project was suspended for a variety of reasons including: multiple clarification and information requests; wetland review by the Department of Ecology; regional sewer main design and implementation issues; a change of applicant, from Mr. Johnson to Quadrant; upon Applicant request; and to address stormwater redesign issues. (*Staff Report, page 32*).
4. The original applicant, Ruel Johnson, submitted application materials for the Blue Heron project on or about November 27, 2007, which were examined by staff and deemed complete for purposes of vesting and review as of December 10, 2007. Before formal submittal, the applicant was required to hold a neighborhood meeting, which occurred for this project on September 11, 2006. Comments received as part of the neighborhood meeting are included as part of *Exhibit M-1*. (*Staff Report, page 32*). Staff issued a formal Notice of Application on the date the

application materials were deemed complete. Comments received after the first Notice of Application are included in the record as part of *Exhibit M-2*.

5. Due to the length of time this proposal has been under review and on a suspended processing timeline, City staff appropriately provided a Revised Notice of Application that was issued on January 6, 2017. Comments received following the most recent, revised notice of application are included in the record as part of *Exhibit M-3*.

6. After reviewing the SEPA Checklist that was completed and submitted by the applicant (*Ex. K-3*), and other, extensive environmental reports and other information, including a 3<sup>rd</sup> party review of the applicant's proposed wetland mitigation, the City issued its SEPA threshold determination for the Blue Heron project, which was a Mitigated Determination of Non-Significance (MDNS) issued on September 28, 2018 (*Ex. K-1; other SEPA materials are also included as part of Ex. K*). Notices related to the SEPA MDNS were issued in accord with applicable law, and no one offered any comments. (*Staff Report, page 31*).

7. By operation of WAC 197-11-545 (re: Effect of no comment), if a consulted agency does not respond with written comments within the time periods for commenting on environmental documents, the lead agency may assume that the consulted agency has no information relating to the potential impact of the proposal as it relates to the consulted agency's jurisdiction or special expertise; further, lack of comment by other agencies or members of the public on environmental documents within the applicable time period shall be construed as lack of objection to the city's environmental analysis. Again, the record establishes that the no one submitted any timely comments regarding the MDNS or appealed the determination by the deadline, which would have been on or about the date of the public hearing.

8. A copy of the Staff Report and a Notice of Public Meeting was issued at least 7 days prior to a Poulsbo Planning Commission meeting that occurred on November 6, 2018. The Staff Report confirms that all notices were published, posted and mailed in accord with applicable requirements. (*See Ex. M, copies of notices and confirmation of distribution, posting, publication*). Following their meeting, the Planning Commission recommended approval of the Blue Heron project, subject to conditions of approval recommended in the Staff Report. (*Testimony of Ms. Berghoff*).

9. Shortly thereafter, on November 16, 2018, the undersigned Hearing Examiner conducted a duly-noticed public hearing regarding the Blue Heron project applications, at Poulsbo City Hall, where applicant representatives, project-review staff, and interested members of the public were present and provided an opportunity to provide input regarding the final project proposal, as shown on the most updated site plans. Several additional items were submitted after the close of the public hearing, as directed by the Examiner, copies of which are now included in the record as part of *Exhibit N*. These materials reflect limited revisions and clarifications requested by the applicant, and the staff's concurrence or alternative language to consider on specific topics. The Examiner visited the site of the proposed project and the surrounding street network on the day of the hearing, and via online mapping resources, to reconfirm site lines from adjacent

residential neighborhoods, the street network design in the vicinity, and the visible critical areas in the immediate area.

9A. At the public hearing, and in follow-up correspondence between reviewing staff and applicant representatives (included in the Record as part of post-hearing *Exhibit N*), the parties agree that, notwithstanding any typographical or other manifest errors included in portions of the Staff Report of other exhibits that are included in the record, the following corrections shall control and apply with respect to this project – 1) internal streets in the new plat consist of two street classifications, Residential Collector and Residential Access streets, *not* Neighborhood Collector/Neighborhood Access streets; and 2) the Planning and Economic Development Department Condition of Approval 21(d) correctly describes fencing that is intended to limit access to critical areas and buffers as 5-feet high, whereas the legend for Map 9 on page 15 incorrectly identifies the “Deco” fence as a 6 foot tall fence. Finally, as requested by the applicant, and using language accepted or recommended by the City’s Engineering staff, two additional conditions regarding offsite drainage have been added by the Examiner, found in a new Section VII of the attached Conditions of Approval.

***Description of Proposal and Location.***

10. The project is known as the Blue Heron Planned Residential Development and Preliminary Plat, and would entail development of an 85-lot single-family residential subdivision with onsite stormwater facilities, associated utility infrastructure, new streets, and open spaces, on approximately 23.83 acres. The Staff Report explains that the average lot size will be 7,538 square feet and range in size from 5,000 to 10,376 square feet.

11. The preliminary plat application seeks authorization to move forward in two phases, with each phase designed and conditioned to stand alone with regard to fire department access, utility service requirements, and the like.

12. The project review involved a great deal of time and attention addressing the project’s potential impacts on critical areas on the site and adjacent property. The Staff Report explains that these include an off-site Category IV wetland with buffers that extend onto the subject property, two on-site Category IV wetlands that are each less than 1,000 square feet in size, and the “Type 3” Lemolo Creek with associated wetlands that run adjacent to the site on the east. There is an on-site steep slope area, and the project site is within an Aquifer Recharge Area of Concern.

13. Over time, presumably due in some part to “fresh eyes” brought to the project with a new owner with their own set of experience and team of consultants, the Preliminary Plat proposal has been modified and revised to what is now before the Examiner for approval. The Staff Report explains that these revisions added a lot, added some park area, reconfigured some lots, adjusted road alignments, revised critical area details to seek filling an on-site wetland that would be mitigated using substantial off-site wetland enhancement measures, added a public trail

connection, and other refinements, all of which took years to study and acquire rights or approvals to make the changes possible.

14. The project site is currently developed with three homes, some accessory structures, and an equestrian facility, all of which will be removed as the project is developed. Addresses of properties included as part of the project and Kitsap County Assessor's Parcel Numbers are as follows: 2650 NE Heron Pond Lane | 242601-4-003-2006; 18208 Noll Road NE | 242601-4-033-2000; and 18230 Noll Road NE | 242601-4-034-2009. The properties are located on the east side of Noll Road NE and adjoin the eastern limits of the City of Poulsbo and Poulsbo Urban Growth Area.

***Project review, notable features.***

15. The new plat/PRD would include three internal roads that will provide connectivity and looping for traffic and pedestrians using the new roads, which must be built to satisfy city standards. Appropriate frontage improvements along the abutting Noll Road are also included as a condition of approval. The plat will also include a shared driveway depicted in the site plans.

16. State subdivision statutes mandate that appropriate provisions be made for the public health, safety, and general welfare including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school. *See RCW 58.17.110(2)*. Public schools are located across the street and up the road from the new plat, and sidewalks will be included throughout the plat to provide safe walking conditions for pedestrians and students in the area.

17. The Staff Report thoroughly explains how the project has been designed or can be conditioned to comply with applicable provisions of the City's Zoning codes in effect at the time the project vested. *(See Staff Report, Section III(A), on pages 7 – 11)*. No one offered any evidence or testimony to rebut any of the Staff findings regarding zoning.

18. The Staff Report includes a detailed explanation and findings specifying how the project has been designed or can be conditioned to comply with Planned Residential Development requirements included in PMC Chapter 18.80. *(See Staff Report, Section III(B), on pages 11 – 22)*. No one offered any evidence or testimony to rebut such findings.

19. The Staff Report provides a comprehensive summary of Critical Area issues addressed as part of this project review. *(See Staff Report, Sec. IV, on pages 22 – 28)*. As with all exhibits in the record, the Examiner reviewed detailed reports generated by the applicant's consultants, as well as 3<sup>rd</sup> party peer reviews and comments from the Department of Ecology, addressing various critical area issues. The SEPA Mitigated Determination of Non-Significance (MDNS) issued for this project included 7 specific mitigation measures addressing critical area requirements, including without limitation wetland mitigation, stream buffer rehabilitation, and salmon habitat protections. The MDNS also included a pedestrian safety mitigation measure that is fully supported by city engineering analysis included as part of the record, and another that

simply explains that school impact fees are included as part of the project, payable at the time of building permit issuance. No one submitted any comments questioning or challenging any part of the MDNS.

20. The MDNS notice included explicit language informing readers that the MDNS could be appealed within 10 working days of its issuance, which was September 28, 2018. (*See Ex. K(1), SEPA MDNS*). At the public hearing, Ms. Berghoff confirmed that no one appealed the SEPA threshold determination for this project, i.e. the MDNS. As a matter of law, the mitigation measures imposed in the MDNS stand unchallenged and shall also be included as conditions of approval issued as part of this Decision. Substantial, un rebutted evidence in the record supports all of the mitigation measures imposed in the MDNS, all of which are reasonable and capable of accomplishment. (*See Staff Report; Exhibit K, particularly Environmental Reports and Documents numbered Ex. K(4), subparts (a) through (q)*).

***The Preliminary Plat satisfies applicable approval criteria.***

21. Substantial evidence in the record, including without limitation the summary of relevant reports and analyses provided in the unchallenged Staff Report, and testimony by applicant witnesses, particularly Mr. Kuhlman, fully supports a finding that the proposed plat has been designed or can be conditioned to satisfy applicable approval criteria for the proposed preliminary plat, including without limitation the state subdivision statute found at RCW 58.17.110(2), and the City's subdivision codes in effect when the pending application vested, previously codified in PMC 17.08.070. (*See Staff Report, Sec. V, pages 28 – 31*).

22. The Finance Director confirmed the Latecomer assessments owing for each of the three properties included as part of this project. A condition of approval is included to recognize this obligation.

23. The City's Engineering Department reviewed the Blue Heron project and recommended 47 conditions of approval addressing various engineering issues, including without limitation some addressing clearing, grading, stormwater, sewer connection requirements, water system construction and looping, street standards for new roadways built as part of the plat, streetlight requirements, bonding and the like. Each of these items are included as Conditions of Approval imposed as part of this Decision approving the project.

24. Another 30 conditions were recommended by the City's Planning and Economic Development Department staff, on issues ranging from park impact fees to tree retention, setbacks, buffers, fencing and the like. These items are also included as Conditions of Approval for this project.

25. The Staff Report explains how the proposed plat has been designed or can be conditioned to comply with all applicable Comprehensive Plan provisions and development regulations.

26. The Staff Report recommended approval, subject to conditions. The City's Planning Commission reviewed the Staff Report and recommendation of approval, and issued their own findings recommending approval of the Blue Heron PRD/Preliminary Plat. The Examiner concurs with the staff and the Planning Commission, and has included conditions of approval to clarify general requirements commonly imposed on all new plats in the state.

27. As noted in the Staff Report, existing and surrounding utilities, with proper extensions and connections can adequately serve the utility demands associated with the new plat.

28. The record contains substantial evidence to demonstrate that, as conditioned, the proposed plat makes appropriate provisions for considerations listed in applicable law, particularly RCW 58.17.110(2):

A. The public health, safety, and general welfare: *See Staff Report; all Findings above.*

B. Open Spaces: The Staff Report explains that open space is provided in seven Tracts, A through G. Landscape Tracts A, B, and G are located at project entrances buffer homes from Noll Road, Tract C is located north of Lots 7 through 14 buffers lots from adjacent property north, and Tract D is a mid-block park access path. A park, Tract E, with gazebo, play structure, picnic table, bench, open play area, and pathway is also provided. Critical area buffers and trail are incorporated into the largest landscape area Tract F. The trail also passes along the storm pond in Tract H. Amenities located in open space meet project requirement that two Group 1 and two Group 2 amenities be provided. *Staff Report, page 28, describing open space tracts, trails, play equipment, benches and other amenities that will be included as part of the project; See discussion in item H.*

C. Drainage Ways: the project will be consistent with all applicable standards for stormwater system design, including without limitation the 2014 Department of Ecology Stormwater Management Manual. The applicant proposed a detention pond for water quantity, and oil-water-separator and bio-retention for water quality control. Discharge from the stormwater tract will be conveyed to an existing discharge point for the site. This point has a 12-inch diameter pipe which may be upgraded to a 24-inch diameter pipe as part of this project. The discharge is directed into a draw that flows southerly and easterly approximately 200 feet to Lemolo Creek and eventually to Liberty Bay. City approval of an alternative the flow path is required. *Staff Report, page 28; and Storm Water conditions of approval.*

D. Streets or roads, alleys, other public ways: the proposed plat has been reviewed by the City for compliance with applicable street system design requirements, and, subject to conditions, has been deemed consistent with all applicable city standards for city roads, streets, driveways, access, circulation, transportation concurrency and the like. All new public streets will include sidewalks. Traffic Impact Fees are required by the city's code, and shall be paid at the time of building permit issuance, according to impact fee rates in effect at such time. *Staff Report, discussion on pages 29, 30.*

E. Transit stops: To the extent transit stops are or may be located nearby to serve residents of the proposed plat, or Poulsbo residents generally, the subdivision design, access and internal circulation patterns, as conditioned, are appropriate to allow for pedestrians and vehicles to access arterials and other routes that could direct users to existing or future transit stops and facilities. The proposed plat is within the Kitsap Transit service area, though the agency did not request a transit stop to be provided as part of plat approval. *Staff Report, page 30.*

F. Potable water supplies: The new subdivision will receive its domestic water supply from the City of Poulsbo. Staff confirms that adequate capacity is available within the city's water supply system to provide both domestic water and fire flow service to the new plat. Water system infrastructure built in the new plat will be constructed by the developer in accord with applicable city standards. (*Staff Report, page 30; Conditions of Approval re: water system*).

G. Sanitary systems: The new plat will be served by the City's sanitary sewer utility. As a condition of approval, the system is required to be constructed by the developer to City standards. The utility plan identifies the site's sewer will be connected to the existing Noll Road basin gravity sewer which runs through this property. A segment of the existing sewer main will be relocated to coincide with proposed plan Road 3. Conditions of approval address modification of the existing sewer main. The preliminary utility plan is project drawing set sheet 8. (*Staff Report, page 30*).

H. Parks and recreation, playgrounds: Onsite recreation facilities include a park (Tract E) with play structure, bench, picnic table, open play area, gazebo, and pathway. A mid-block park access path (Tract D) is also provided. The park connects to the perimeter trail located in Tract F at one of four access points. Additional access points are the shared drive and utility and access easement north of Road 3, the Wyatt property north of the project, and at the storm pond maintenance road at the south entrance. Project park and recreation amenities are under Homeowners Association authority and not dedicated to the City. The perimeter path is a public use path provided in consideration of wetland mitigation being located on City property. The public use path is, in part, in wetland and stream buffer and will have interpretive signs at the access locations. (*Staff Report, page 30*). Park impact fees are required as a condition of project approval for all new residential development, including this new plat. Fees will be collected and assessed based on rates in effect on the date of building permit issuance.

I. Schools, Planning features to assure safe walking conditions for students: The proposed plat includes walking paths and sidewalks that will adequately provide safe walking routes and conditions for school children. Public schools are within a quarter mile to a mile away from the new subdivision. The project will include sidewalks within the plat and frontage improvements along Noll Road. Crossing Noll Road is necessary to access the current pathway system along the west side of Noll Road. The developer is required to install

a Rectangular Rapid Flashing Beacon where the plans show a mid-block crosswalk crossing Noll Road NE. This requirement is consistent with RCW 58.17.110 and PMC 17.60.040 as the proposed mitigation satisfies subdivision criteria. The mid-block crosswalk with flashing beacon will link this site to the schools with safe walking routes. Also, the North Kitsap School District receives a school impact fee from the project developer, as determined by the school district to help offset impacts from the new development's residents. The crosswalk with flashing beacon is both a mitigation measure imposed by the MDNS, and a condition of approval for the plat. (*Staff Report, page 30; Ex. K-1, MDNS; Ex. K-2, Engineering comments and analysis justifying crosswalk safety features*).

29. Throughout the process, no one presented any substantive or credible basis in fact or law that would serve as a basis to deny the pending plat application. No one presented credible or convincing evidence or testimony sufficient to rebut the City's determination that the proposed plat meets applicable development standards and comprehensive plan policies.

30. The Staff Report and recommendation of approval includes a number of specific findings and conditions that establish how the proposed Preliminary Plat application satisfies provisions of applicable law, is consistent with the city's Comprehensive Plan, and is designed or conditioned to comply with applicable development standards and guidelines. Except as modified in this Decision, all Findings, and statements of fact contained in the Staff Report, are incorporated herein by reference as Findings of the undersigned hearing examiner.<sup>1</sup>

31. Based on all evidence, exhibits and testimony in the record, the undersigned Examiner specifically finds that the proposed plat, as conditioned below, makes appropriate provision for the considerations detailed in applicable law, and that the public use and interest will be served by the proposed PRD/preliminary plat and associated improvements.

32. The Conditions of Approval included as part of this Decision are reasonable, supported by the evidence, and capable of accomplishment.

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<sup>1</sup> For purposes of brevity, only certain Findings from the Staff Report and recommendation of approval are highlighted for discussion in this Decision, and others are summarized, but any mention or omission of particular findings should not be viewed to diminish their full meaning and effect, except as modified herein.

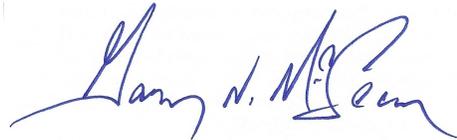
## CONCLUSIONS of LAW

1. Based on the Findings as summarized above, the undersigned examiner concludes that the proposed Blue Heron Planned Residential Development and Preliminary Plat, as conditioned below, conforms to all applicable zoning and land use requirements and appropriately mitigates adverse environmental impacts. Upon reaching such findings and conclusions as noted above, the plat meets the standards necessary to obtain approval by the City.
2. Any Finding or other statements in previous or following sections of this document that are deemed Conclusions of Law are hereby adopted as such and incorporate herein by reference.
- 3.

## DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, evidence presented through the course of the open record hearing, all materials contained in the contents of the record, and the Examiner's site visits, the undersigned Examiner APPROVES The Blue Heron Planned Residential Development and Preliminary Plat, subject to the attached Conditions of Approval.

Decision issued: December 20, 2018.



Gary N. McLean  
Hearing Examiner for the City of Poulsbo

## CONDITIONS OF APPROVAL

### *For the Blue Heron Planned Residential Development and Preliminary Plat*

*File No. 11-27-07-1*

*[NOTE: For convenience of the parties, these conditions are generally organized as they were presented with the Staff Report. The use of captions, numbering, or sections has no substantive effect regarding the full scope or applicability of any condition to various aspects of the project].*

#### **Index:**

- Sec. I – General conditions;**
- Sec. II – MDNS Mitigation Measures included as Conditions of Approval;**
- Sec. III – Latecomer’s Agreement Assessments;**
- Sec. IV – Engineering Department Conditions of Approval;**
- Sec. V – Public Works Department’s Conditions of Approval;**
- Sec. VI - Planning and Economic Development Department Conditions of Approval; and**
- Sec. VII – Additional Conditions of Approval, added by the Examiner upon request of the applicant, with concurrence of Engineering staff (See Ex. N).**

#### ***I. General.***

- A. Preliminary Plat approval shall be null and void if any condition enumerated herein is not satisfied.
- B. No construction or site development activities related to the plat may be undertaken until required land-use and engineering approvals become effective, and the City and other regulatory authorities with jurisdiction issue applicable permits.
- C. The applicant shall comply with all professional report conclusions and recommendations submitted in connection with the preliminary plat and engineering reviews, as approved and or amended by the City.
- D. Applicant shall be responsible for consulting with state and federal agencies, and tribal entities with jurisdiction (if any) for applicable permit or other regulatory requirements. Approval of a preliminary plat does not limit the applicant’s responsibility to obtain any required permit, license or approval from a state, federal, or other regulatory body. Any conditions of regulatory agency permits/licenses/approvals shall be considered conditions for this project.
- E. The final engineering plans and submittals necessary to obtain final approvals for each phase of the plat shall conform to all applicable provisions of the Poulosbo Municipal Code and the Conditions of Approval herein.

## ***II. MDNS Mitigation Measures included as Conditions of Approval.***

The following conditions are a restatement of mitigation measures imposed on the project as part of the SEPA MDNS issued on September 28, 2018. Each mitigation measure is also included as a condition of approval for the preliminary plat.

1. It is the responsibility of the applicant to receive any necessary state and federal approvals (including JARPA approval, and Jurisdictional Determination, ESA consultation) for work within this project, including Wetland A fill, voluntary wetland and stream buffer rehabilitation, and stormwater outfall.
2. Wetland B shall be protected with construction fencing. Signs identifying the critical area shall be posted. Fencing shall be shown on construction drawings.
3. Wetland A mitigation area on Wyatt wetland and buffer enhancement onsite are to be shown on construction drawings
4. Development shall occur consistent with the Wetland Mitigation Plan, dated June 26, 2017, and Wetland Mitigation Proposal Third Party Review, dated August 14, 2017.
  - a. Pre-construction meetings with project biologist and landscape contractor are required prior to mitigation commencing.
  - b. Removal of blackberry thickets and root masses by hand and disposing of removed material away from the wetland and its buffer.
  - c. Installation of native trees and shrubs according to the planting plan shown in Wetland Mitigation Plan Figure 5 will be around native volunteers currently within the mitigation area.
  - d. Potted planting material, no smaller than 2 gallon potted plants, is required to be used in the wetland mitigation area.
  - e. The project biologist must be on site during blackberry removal and planting to ensure goals and objectives of the mitigation are met.
  - f. Plant installation will be in late fall to early spring.
  - g. Maintenance includes removal and control of non-native species, fertilization of plants as necessary, and replacement of dead or failed plants. Wetland enhancement and stream buffer rehabilitation area will be maintained for 5 years.
  - h. Wetland mitigation monitoring will be annually for 7 years. Monitoring reports are to be provided to planning department in years 1, 2, 3, 5, and 7, by December 31 of the monitoring year, and review performance standards.
  - i. An as-built report will be provided following installation of plantings. Monitoring units will be identified in the as-built report and drawing.
  - j. A contingency plan is required if performance standards for wetland mitigation are not met by the 5th year of monitoring.
  - k. Performance bonds to ensure fulfillment of the wetland mitigation project, monitoring program, and contingency measures shall be posted in the amount of one hundred fifty (150) percent of the expected cost of compensation as required in PMC 16.20.725.B.7.i.

5. Project proponents shall file notice to title for this project regarding critical areas, critical area buffers, and setback from critical area buffers located on development property lots which will be encumbered by a critical area buffer or setback to buffer with Kitsap County Auditor per PMC 16.20.135. Critical area requirements will be identified on the approved notice to title. The proponent shall submit proof that the required notice has been filed before the Director will issue the underlying permit's notice of decision.
6. The developer shall be responsible for voluntary wetland buffer enhancement and stream buffer rehabilitation. Rehabilitation of stream buffer shall follow Blue Heron Farms Plat, Lemolo Creek Stream Buffer Enhancement, Figure 1, prepared by Ecological Land Services, dated January 25, 2018. Planting of the wetland buffer enhancement shall follow the Wetland Mitigation Plan for the Blue Heron Plat Figure 5, prepared by Ecological Land Services, dated June 26, 2017. The following is required: 1). Vegetation planted may be at a minimum bare root, but 2 gallon pots are recommended; 2). Inspection of plantings will occur each year to determine survival; 3). Weeding will be undertaken on a yearly basis; 4). The City will be notified each year when these steps are taken; 5). Plant survivorship be monitored for a period of three (3) years to document the success of the plantings with a report provided to the City at the end of 3 years; and 6). Bonding. City process for review of the survival report is required.

#### ANIMALS

7. 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 Superintendent and the Federal agencies with responsibility for enforcement of the Endangered Species Act immediately, in the event of any damage or degradation to salmon 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 actions necessary to prevent the furtherance of the damage or degradation and to restore the salmon habitat as required by the Federal, State, and local agencies with jurisdiction.

#### TRANSPORTATION

8. The developer is to install a Rectangular Rapid Flashing Beacon where the plans show a mid-block crosswalk across Noll Road NE.

#### PUBLIC SERVICES

9. School mitigation fees are required for this project. Fees shall be paid prior to building permit issuance. Payment will be to the North Kitsap School District directly, and the developer will present a receipt of payment to the City.

#### **III. Latecomer's Agreement Assessments.**

1. As of the date of this Decision, the Finance Director confirms that Latecomer's Agreement #66 reflects the following amounts owing for each of the three properties which make up the Blue Heron development: (shown using Kitsap County Assessor's Parcel Numbers):
  - Parcel No. 242601-4-003-2006 = \$ 46,124.50;
  - Parcel No. 242601-4-033-2000 = \$ 33,400.50; and
  - Parcel No. 242601-4-034-2009 = \$52,486.50.

#### **IV. Engineering Department Conditions of Approval.**

##### GENERAL

1. All water, wastewater, and stormwater facilities and streets shall be designed by a professional civil engineer licensed in the State of Washington. The applicant is responsible for the design and installation of the facilities. In the event that there is a conflict between standards, the more restrictive standard shall apply as determined by the City Engineer.
2. Land use permit approval shall not waive any requirements for the applicant to (a) obtain all appropriate permits; (b) pay all required fees and deposits; and (c) provide the City with adequate construction plans for approval which conform to City codes and standards. *Any utility plans, details, and drawing notes associated with the approved preliminary plat drawing are approved in concept only and are not considered approved for construction. Approval of the preliminary plat does not constitute approval of any construction drawings submitted with the preliminary plat approval documents.* Civil construction drawings must be submitted directly to the Engineering Department. For site plans, it is not acceptable to submit the civil drawings with the building plans to the Building Department.
3. Construction plans for the following shall be reviewed and approved by the Engineering Department and Public Works Department: storm drainage and street improvements (including signage and pavement markings), sanitary sewer, water, and interim and permanent on-site erosion control systems. Prior to final plat approval the applicant shall: construct the required improvements per City standards, and submit “as-built” drawings on mylar, paper, and electronically (compatible with the AutoCAD version utilized by the City at the time of submittal), dedicate easements, convey utility ownership as determined by the City, and post a maintenance bond(s).
4. All plan review and project inspection and administration expenses shall be paid for at the developer’s expense consistent with the fee and deposit schedule adopted by City ordinance in effect at the time of construction. Plan review fees shall apply to the original drawing submittal and one re-submittal. Subsequent submittals will require payment of hourly charges. Fees are non-refundable. Deposits are required for payment of actual expenses incurred by Engineering Department staff for project administration and inspection. If the City Engineer determines that the magnitude or complexity of the project requires full or part-time on-site inspection in addition to the inspection by City staff, he may contract with a duly qualified inspector or hire additional personnel to provide inspection, testing, or other professional services for the City in connection with the construction. Deposits for Engineering Department services or outside professional services shall be paid in advance. The deposits are estimates and may require replenishment. Deposits may be required at the time of, or after, payment of any fees. Unused deposits are refundable.
5. At any point in the process of application approval, construction plan review, or construction, the City Engineer may hire an independent consultant to review and comment on any, or all, utilities or sitework (for example, storm sewer, sanitary sewer, water, roads/streets, retaining walls, slopes) proposed by the applicant. The applicant shall make a cash deposit which will be used to pay for any independent review required by the City Engineer. If additional funds are required, the applicant shall immediately deposit the requested amount. Any unused funds will be

refunded. Acceptance of the proposal and consultant comments shall be at the discretion of the City Engineer.

6. The applicant shall adhere to all recommendations of the applicant's geo-technical engineer and the City's consultants as determined by the City Engineer.
7. City of Poulsbo Construction Standards and Specifications are published on the City website within the Public Works/Engineering Department page. Unless specified otherwise within Conditions of Approval these standards shall be followed.
8. The civil construction drawings shall include plans for: grading, water, sewer, storm, streets, dry utilities, street lighting, signage/stripping, and composite wet utilities. Other plans may be required depending on site-specific conditions. Profiles and details for the wet utilities shall also be provided.
9. Construction drawings will be rejected, without review, if the following drafting requirements are not met:
  - a. Construction plan size shall not exceed 24"x36". The minimum drawing scale shall be 1:40 horizontal and 1:5 vertical. A larger scale may be required for legibility.
  - b. Utilities shall be shown on plan/profile sheets. Each sheet shall have the corresponding plan/profiles on the same sheet with aligned stationing.
  - c. Labels from the various overlapping AutoCAD layer shall be legible.
  - d. All elements on the drawings shall be legible as determined by the City Engineer.
10. All infrastructure must be installed before Final Plat approval. If the applicant wishes to construct the project in phases, those phases must be defined as divisions in the preliminary plat approval. At the time of Final Plat approval for each division, that division shall be "stand alone". A division shall be considered "stand alone" if it contains complete utilities and access for the future residents of that division and is not dependent on other as yet un-built divisions for this purpose. Any infrastructure outside of the plat that is necessary to serve the division or allow it to function must be completed as well.

#### CLEARING, GRADING, AND EROSION CONTROL

11. A Clearing and Grading Permit is required prior to any land-disturbing activity on the site (PMC 15.35). The permit may include restrictions as to the limits of any area or phase that can be cleared and graded at any one time or during any construction season. Additional restrictions may be placed on the permit for seasonal weather conditions. At any time, the City Engineer may restrict activities or access to portions of the site that would be detrimental to maintaining erosion and sediment control. A final geotechnical report shall be submitted with the construction drawings to provide recommendations for site grading and compaction. The report shall include a section with recommendations for wet season construction methods.

#### STORMWATER

12. All temporary and permanent storm system and erosion control measures shall be designed, constructed, maintained, and governed per the following, as adopted by the City of Poulsbo:
  - a. All temporary and permanent storm system and erosion control measures shall be designed, constructed, maintained, and governed in accordance with PMC Chapters 12.02 and 13.17.

- b. City of Poulsbo standards and ordinances.
  - c. All conditions of approval associated with any clearing and/or grading permits.
  - d. Recommendations of the geo-technical engineer.
13. Provision shall be made for the conveyance of any upstream off-site water that naturally drains across the applicant's site.
  14. The design of the detention system shall include appropriate access for maintenance as determined by the Public Works Department.
  15. A final geotechnical report shall be submitted with the construction drawings to support the pond design and provide guidance on pond construction.
  16. The developer shall be responsible for providing regular and adequate maintenance and supportive maintenance records for the stormwater detention system for a minimum of two-years or until 80% of the residences have been completed, whichever is longer. At the end of this time, the City will inspect the system and, if acceptable, the City will take over maintenance and operation of the system.
  17. The entire perimeter of the ponds shall be fenced per City Public Works Department requirements. Gate locations and design shall conform to the requirements of the Public Works Department.
  18. A spill control type oil/water separator shall be installed in the stormwater system at the most downstream point of the site.
  19. All secondary storm systems and easements shall be in compliance with the City standards and remain privately maintained.

#### SANITARY SEWER

20. Refer to Public Works Department comments for sewer connection requirements and construction standards.
21. The sewer system serving the plat was installed as a condition of approval of the Mountain Aire plat. The Blue Heron plat properties are in the benefitting area of the Mountain Aire sewer latecomer agreement #66, AFN 201601280194 associated with that construction. The applicant shall pay the fees established in the latecomer agreement no later than the time of construction drawing approval/issuance.

#### WATER

22. Refer to Public Works Department comments for water construction standards, connection and looping requirements.

#### ALL UTILITIES

23. For utilities not within City right-of-way, the Public Works Director will determine if the City will assume ownership and maintenance of the utility.

24. All water mains and all primary sanitary sewer and storm drainage mains shall be within public right-of-way or within easements dedicated to the City, which meet the City's criteria for dimensions and access. All water, sewer, and storm service laterals and all secondary sanitary sewer and storm drainage lines located within easements or private property shall remain privately owned and maintained by the Homeowner's Association or applicable lot owners.
25. Easements for access and maintenance of utilities determined to be City-owned shall be legally described and dedicated to the City on the Final Plat drawings. Easements shall be fifteen feet (15') wide minimum and comply with all City requirements. Additional width is required to accommodate turning radii, more than one utility or deep utilities. The City Engineer may require an all-weather surface, conforming to City standards, to be constructed over the easement to provide vehicular access for maintenance. Ownership of the pipe and appurtenances shall be conveyed to the City on the Final Plat drawings. The easements shall be shown on the construction drawings, "as-built" drawings, and Final Plat drawings.
26. When private storm or sewer pipe is located in an easement that is adjacent and parallel with the property line between two lots/parcels, the easement shall be located entirely on one property and not split between the adjacent properties OR the utilities shall be off-set from the property line a minimum of 2 feet due to the high potential for fence posts to be placed on the property line.
27. All street ends with the possibility for extension must have utilities stubbed out of the paved area a minimum of six feet or as directed by the City Engineer. Pavement and sidewalks shall be extended to within six feet of the property line at the end of the road. Appropriate barricades in compliance with current MUTCD standards shall be constructed at the road ends.

#### STREETS

28. Unless otherwise approved by the City Council, street sections shall conform to adopted City standards (refer to Developer's Guide – Section 2 – Street Standards).
29. The intersection of Road #3 and Noll Road NE/Heron Pond Lane shall be improved to meet City/AASHTO standards. Detailed intersection improvement drawings shall be submitted with construction drawings for review.
30. The developer's engineer shall certify that there is adequate entering sight distance at the intersection Road #1 and Noll Road, and the intersection of Road 3# and Noll Road NE/Heron Pond Lane at construction plan submittal. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The certification shall also note necessary measures to correct and maintain the minimum sight triangle.
31. At time of construction plan submittal, the applicant shall submit site distance and stopping report at all intersections which have K values that do not meet the standard as stated in Section 2 of the City's current Construction Standards.
32. All intersections, crosswalks at intersections, sidewalks and driveway drops shall meet current ADA standards. Construction drawings shall include sufficient intersection grade and slope details to determine ADA compliance.

33. GMA Transportation Impact Fee Ordinance (PMC 3.86) has been approved by City Council. This establishes a transportation impact fee assessment of \$355.00 per ADT payable at time of Building permit issuance as of the date of this memo. The application shall provide accurate occupancy information for each building to assign accurate ADTs. Average week day trips shall be determined using the latest version of the Trip Generation Manual published by the Institute of Transportation Engineers (ITE) for the land use(s) that are the subject of the permit. The impact fee is due at the time of each single-family home building permit and shall be calculated using the most current ADT for a single family home identified in the ITE manual (10th edition identifies an ADT of 9.44) and multiplying the most current traffic impact fee established by PMC 3.86.090.
34. Streetlights shall be installed per City of Poulsbo and Puget Sound Energy specifications. New streetlights shall be LED light fixtures.
35. The applicant's engineer shall obtain approval of the postmaster and the City Engineer for all mailbox installation locations.
36. As a condition of site plan development, the construction of frontage improvements is generally required in accordance with PMC Section 17. The applicant is responsible for frontage improvements to Noll Road NE consistent with the Noll Road corridor plan. Additional dedication of ROW as shown on the plat may be required to complete the require frontage improvements.
37. Street end of proposed Road #3 provide future access to adjacent properties. The street end shall be marked following either MUTCD Section 3C.04 (OM4 series signs) or MUTCD Section 3F.01 (Type III Barricade). Incorporated into the MUTCD installations shall be an information sign with white background and black lettering that reads; "FUTURE STREET EXTENSION". All of the above elements shall appear as details on the site construction plans subject to Public Works Department approval.
38. A temporary truck route has been established by the City Police Chief in accordance with PMC 10.24. The project's construction truck traffic shall use Noll Road NE to SR305 to the South and/or Noll Road NE to NE Lincoln Road to the North. The project's construction truck traffic shall not use NE Hostmark, NE Mesford or NE Bjorn Street.

#### OTHER

39. All bonds, conveyances, and easements dedicated to the City shall be on the City's forms.
40. A Public Property Construction Permit is required when connecting to City-owned utilities or performing other work within the City right-of-way or other public/City-owned property (PMC 12.08). The permittee shall be responsible for repair and/or restoration of any damage to City property (such as sidewalks, curbs, gutters, pavement, and utilities) that occurs as a result of operations under this permit.
41. Shared driveways shall be dedicated easements or tracts benefiting the property owners served by the driveway. The face of the plat and the covenants shall state that the responsibility for

maintenance of any shared driveway shall be the responsibility of the property owners served by the driveway.

42. No rockeries/retaining walls may be constructed within the ten-foot (10') wide utility easement fronting all lots or within any other utility easement. No permanent structures of any kind are allowed within any utility easement. If construction, maintenance, repair, or reconstruction of any utility is required, the property owner shall be responsible for the removal and relocation of any permanent structure and plantings that were removed. Such relocation shall not be in conflict with City codes. The face of the plat shall state this requirement.
43. Any agreements made between the applicant and another property owner related to utilities, easements, right-of-ways, or ingress and egress shall not be in conflict with City codes or ordinances. No agreements between the applicant and the property owner shall exempt either party from obtaining proper City approval for land use activities regulated under the Poulsbo Municipal Code.
44. The covenants shall state that no fence shall be placed within two feet of the back of any sidewalk.
45. All public utilities shall be provided within the plat and shall include power, telephone, natural gas, and cable television. All utilities shall be placed underground (PMC 17.08.140 for PrelimPLat PMC 13.20 for All other ). A ten-foot easement fronting all lots shall be dedicated for public utilities. The developer shall provide and install a minimum of one additional empty four-inch conduit trunk line with road crossings, in parallel with the aforementioned utilities, with appropriate termination points within junction boxes, for future telecommunications use (PMC 12.02.015). Ownership of the conduit shall be conveyed to the City on the Final Plat drawings. All existing and new utilities shall be underground. A plan sheet titled Dry Utilities shall be included with Construction Plan submittal and include all above mentioned utilities.
46. The applicant shall be responsible for obtaining all required offsite easements and rights-of-way. Copies of all recorded easements shall be provided to the City Engineer.
47. Demolition permit(s) are required through the building department for the removal of existing structures. Demolition permit(s) shall be acquired prior to issuance of grading permit.

**V. Public Works Department's Conditions of Approval:**

**WATER**

1. All lots shall be connected to city water.
2. Service connection to the City water system shall be the responsibility of the property owner and shall comply with state and local design and development standards.
3. Water main looping shall be in compliance with City and Department of Health water design standards.

4. Locate meters in a single bank when possible.
5. All water systems shall be publicly owned up to and through the water meter. All water mains and fire hydrants shall be located in public right-of-way or easements dedicated to the City of Pousbo. Dedicated water lines shall be centered in an easement of 15 feet in width minimum.
6. Domestic and fire flow may share the same water line. The domestic service must exit the water line before the fire service.
7. Meters for all lots shall be located adjacent to public right-of-way.
8. Existing on-site well(s) shall be decommissioned per Department of Health requirements prior to commencement of site grading.
9. Individual PRV is required on the property owner side of the meter when pressure exceeds 80 psi.

#### IRRIGATION

10. Irrigation water shall come from a separate connection. Please show irrigation connection(s) on the utility drawing(s).
11. A double check valve assembly shall be installed within 18-inches of the downstream side of the water meter.
12. The double check valve assembly shall be tested by a “city approved” state certified tester upon installation. A copy of the test report must be sent to the Public Works and Engineering Departments.

#### SEWER

13. Development of the plat requires installation of gravity sewer to serve all lots. Connection shall be to the sanitary sewer system installed through the property. A portion of this existing sewer will be realigned to follow the road #3 right of way. A construction sequencing plan for this work shall be submitted with the construction drawings.
14. Sewer stubs for extension of the gravity system shall be provided to adjacent properties where road connections are provided.
15. Sanitary sewer manholes shall not be located in roadway curb and gutter, sidewalk or landscaping strip adjacent to roadway. Sewer mains shall not be located generally parallel to and under road curb and gutter, sidewalk, or landscaping strip adjacent to the roadway.
16. All side sewers shall enter public right-of-way as gravity flow.
17. Service connection and alterations to the City sewer system shall be the responsibility of the property owner.
18. All septic systems on the subject properties shall be decommissioned according to Health District regulations prior to commencement of site grading.

## SOLID WASTE

19. Solid waste service shall be provided by the City of Poulsbo.
20. Garbage and recycle cans shall be placed curbside on the 'no parking' side of the road. The requirement shall be stated in the CC&R's prior to final plat approval.
21. Lots accessed by private easement will be required to place solid waste containers curbside on public right-of-way. The requirement shall be stated in the CC&R's prior to final plat approval.

## GENERAL CONDITIONS

22. Design: All water, wastewater, stormwater system facilities and streets shall be designed by a professional engineer registered in the State of Washington. Design and installation of the improvements shall be the property owner's responsibility.
23. Design and Development Standards: Design shall be subject to the following Standards:
  - a. City of Poulsbo Utility Comprehensive Plan
  - b. City of Poulsbo Design, Development and Construction Standards
  - c. City of Poulsbo Municipal Code
  - d. Washington State Department of Health Design Standards
  - e. Washington State Department of Ecology's Criteria for Sewage Works Design
  - f. American Public Works Association/Department of Transportation Standard Specifications
24. In the event that there is a conflict between construction standards, the more restrictive standard shall apply as determined by the City Engineer.
25. No walls or structures shall be permitted in utility easements unless approved at time of construction review.
26. Placement of landscape plantings and/or street trees shall not interfere with utilities. Required landscape vegetation may need to be relocated in the final landscape plan. Landscape vegetation not required by city code may need to be relocated or removed from the final landscape plan.

## SUBMITTAL AND APPROVAL

27. The applicant shall be required to submit to the City for approval, the plans and specifications associated with design and construction of utility system improvements.
28. Utility systems include, but are not limited to, distribution and collection mains, pumping facilities, storage reservoirs, detention/retention facilities or any improvements to be dedicated to the city under a deed of conveyance.
29. Upon completion of the project, the developer shall supply the Public Works Department with a copy of drawings of record; these drawings shall be in hard copy form and in electronic form compatible with the most recent version of AutoCAD.

## CONNECTION FEES AND ASSESSMENTS

30. Utility service for the noted property is subject to application and payment of the applicable fees and assessments.

31. Utility connection fees are required paid at the time of building permit issuance and are based on the current fee schedule in effect at that time. Early payment and reservation of utility connection are not provided for in Poulsbo Municipal Code.

***VI. Planning and Economic Development Department Conditions of Approval:***

1. Development shall be consistent with drawing revisions dated 6-19-18. Preliminary landscape plans dated 3/26/18.
2. Setbacks, building lot coverage, and building height shall be reviewed at time of building permit submittal. Critical area buffer building / impervious setbacks from buffer shall be shown and identified on building permit submittal documents. Minor structural improvements may be located in the setback from buffer. Review of setbacks, and structural improvements shall be on a case-by-case basis and reviewed with building permit. Building permit drawings are to clearly identify critical area buffer setbacks.
3. Park impact fee is required with this project. Fee is determined at the time of building permit issuance according to current code requirement.
4. The construction of all single-family homes in the proposed development shall substantially conform to the conceptual architectural drawings and elevations, and the identified location of each housing type on the lots, as shown in Exhibit H. This condition shall bind the applicant and any subsequent developers or assignees of the project. Comparison of the architectural drawings and house placement will occur at Building Permit submittal.
5. The Planning Department will review each building permit submitted for the Blue Heron PRD to determine compliance with 18.80.060.E and to ensure substantial compliance with the architectural renderings submitted.
6. The applicant shall submit a Streetscape Plan with the building permit application, which will show plot plans, elevations, and unit types for the adjacent properties. The Streetscape Plan shall ensure architectural variety is provided in accordance with PMC 18.80.060.E.2.e and E3. Building footprint and exterior design on adjacent lots is to be varied and will be reviewed with building permit. Reverse building plans, or left/right “flip” of the footprint, are considered the same footprint.
7. Homes on Lots 30 through 33 are to be setback 10 feet, and garages 20 feet, from the 20 feet wide access and utility easement. Homes located on the shared driveway are to be reviewed with building permit for fire sprinkler requirement.
8. A setback of 5 feet from the 10 feet utility easement fronting all public roads is implemented to provide utility work space away from structure foundations and provide space for street trees in front yards where necessary.

9. Street trees are required along Noll Road frontage spaced 40 feet on center and may be clustered along the frontage. Internal project Roads 1 and 3 street trees are required 30 feet on center and may be location adjusted around hardscape and utilities. Street trees along Road 2 is at the developer option. Placement of street trees may be within right-of-way or in residents front yards. Irrigation and maintenance shall be addressed in developments CCRs. Bonding for street trees is required prior to final plat recording.
10. The park play structure is to accommodate 20 or more individuals 5 to 12 years of age. Design information for the play structure is required submitted with the final landscape plan. A similar structure which meets the intent of the requirement may be proposed with the final landscape plan.
11. The final landscape plan shall include details on the recreational amenities approved for the Blue Heron PRD, including: play area structure, gazebo, seating/picnic areas, and hard and soft surface walking path sections.
12. The development monument sign located in Tract A shall be shown on the final landscape plan. A building permit is required for construction of the monument sign.
13. A final landscape plan and irrigation plan shall be submitted with the construction drawings and shall be approved prior to final plat. The final landscape plan shall address required street trees, any right-of-way landscaping, and any other areas in common ownership of the homeowners. Planting specifications shall be consistent with PMC 18.130, and are subject to approval by the Planning Department. The final landscape plan shall be suitable for contractor bid, as this will be the basis for calculating the required two-year landscape maintenance bond. The plan shall include plant species, common name, number to be planted, and minimum size at time of planting. Street trees may be under separate landscape bond.
14. Bonding for landscaping is required prior to final plat recording. Landscape bond(s) will be required and based on current City requirements. Landscape bid estimates for material and labor shall match the final landscape plan, itemizing plant species, common name, number to be planted, and minimum size at time of planting. An estimate for material and labor matching the irrigation plan shall also be required.
15. Tree Retention:
  - a. Construction drawings must show: 1). Trees identified for retention; 2). Protective fencing detail and location;
  - b. Enhancement plantings among retention trees and along the buffer area are to follow stream buffer rehabilitation plans.
  - c. Construction drawings shall be reviewed by the City Arborist. The Arborist may provide recommendations to be implemented prior to construction activity.
  - d. Protective fencing is required and shall be inspected by the City Arborist prior to construction activity.

16. Permanent wetland protective fencing shown on Lot 85 is required in the event the applicant is unable to secure permit(s) for fill of Wetland A. Until all permits for fill of Wetland A are approved, and approval copies provided to the City, temporary protective fencing is required around the wetland.
17. The Director has determined interrupted buffer provisions are applicable to the southeast of the property. The buffer is determined to end on the stream side of Heron Pond Lane to the point where the lane intersects city limits, then following city limits north; the interruption ends 220 feet north of the property corner.
18. Critical area buffers and setback from buffers are to be shown on all construction and recording documents. Tract F and Tract H common boundary shall be at the fence line along the north edge of the pond, and shall be shown on construction and recording documents.
19. Trail through Tract F, Tract G, and over access and utility easement at Lots 30 through 33 are to be identified as public trail easement on the final plat drawing.
20. Perimeter trail constructed onsite, including through wetland and stream buffers, shall include 4-foot high perimeter fencing located on the wetland and streamside of the trail, and interpretive signage installation at project entrances to the trail consistent with PMC 16.20.230.J and 16.20.315.E. General interpretive signage locations are shown in Exhibit E. Signage may require a building permit.
21. Fencing:
  - a. Perimeter sight obscuring fencing, 6 feet high, is to be located along the west project boundary between the south entrance and rear line of Lot 21.
  - b. Split rail fencing, a minimum 4 feet in height, is to be located along the south and southeast storm pond tract boundary.
  - c. Split rail fencing, a minimum 4 feet in height, is to be located along the north and east side of the perimeter trail in Tract F.
  - d. Rear property boundaries of Lots 21 through 49, north side of Lot 30, and southwest side of Lot 49 will be fenced with a minimum 5 feet high fence which limits access to critical area buffers and storm water tract.
  - e. All fences design section(s) and detail(s) are required shown on construction drawings.
22. The final project Covenants, Conditions and Restrictions (CCRs) shall be submitted with the final plat application, and shall be recorded prior to the final plat. The CCRs are subject to review and approval of the Planning Department and City Attorney to ascertain if the documents are sufficient to assure compliance with the Conditions of Approval and SEPA Mitigations. At a minimum, the CCRs shall include provisions for repair, maintenance and performance guarantee of any tracts, landscaping, facilities, utilities or amenities which are private and commonly owned by the homeowners of the plat. Language shall also be included in the CCRs that require notification to the City of Poulsville Planning Director of any amendments to the CCRs, and that the City shall have the authority to object to any modification that is inconsistent with any condition lawfully placed upon the subdivision by the City of Poulsville.

23. In lieu of the required RV storage, the applicant shall include a provision in the CCRs that addresses recreational vehicle parking, which shall be reviewed by the Planning Department and the City Attorney prior to final plat approval and recording of plat documents.
24. CCRs are required to address ownership and maintenance of open space tracts within the development. Street tree maintenance shall be identified in the CCRs.
25. All required critical area buffers are to be dedicated as open space tracts, an easement or conveyance encumbering the buffer. The dedication, easement or covenant shall be recorded together with the final plat, and shown on final plat drawings.
26. Modifications to preliminary subdivisions are reviewed under PMC 17.60.070, as currently written or as may subsequently be amended. Where significant deviation from the approved plan is proposed, the revision will be considered a major modification under the initial approval review authority.
27. Project Covenants, Conditions and Restrictions shall include provisions that the Homeowner's Association will own, maintain and enforce all open space tracts, perimeter buffers, fences, recreation amenities, private roads, parking bays, and all other applicable project condition(s) regarding ownership, maintenance and enforcement of all commonly owned elements.
28. Project CCRs and face of the final plat or final development plan shall include the following statement: "Open space areas not proposed to be improved with recreational amenities or purposes shall remain as natural vegetation or appropriately landscaped. Removal of preserved and approved open space in natural vegetation shall only be permitted for public safety reasons and upon review and approval of the Planning & Economic Development Director and City Arborist. Enhancement of critical are buffer vegetation shall be as allowed and prescribed in the Poulsbo Critical Areas Ordinance."
29. The face of the final plat or final development plan shall include statement(s) that the project's Homeowner's Association will own, maintain and enforce all open space tracts, perimeter buffers, fences, recreational amenities, private roads, parking bays, and all other commonly owned elements. The City will not join the Homeowners Association as enforcers of the project's CCRs.
30. Within five years following the approval of the PRD and preliminary plat, or as otherwise stipulated in RCW 58.17.140, a final plat shall be submitted to the City for review and approval.

***VII. Additional Conditions of Approval, added upon request of the applicant, with concurrence of Engineering staff (See Ex. N).***

1. Outfall for the stormwater pond is proposed to flow through a new 24" culvert under NE Heron Pond Lane into Lemolo Creek via a natural channel. Prior to clearing and grading permit

issuance, the developer is to provide easements for access and maintenance to the City, substantially in a form as approved by the Director, or provide alternate method(s) to be approved by the City Engineer.

2. Surface and shallow underground water flowing from Wetland A shall be intercepted via a curtain drain or other approved means, and conveyed to the project stormwater management system as required to prevent said flows from entering the adjacent property (Erickson), located to the south of Lot 85. The curtain drain and conveyance shall remain in private ownership and maintenance responsibility and any easement(s) required shall be dedicated on the face of the plat. Flows from the conveyance shall be accounted for in the final drainage report.

NOTE – In the event of a need for clarification regarding the application or interpretation of any term or condition of approval set forth above, either the applicant or the city can invoke the jurisdiction of the Hearing Examiner to issue a written clarification of a particular term or condition, through a written request detailing the matter, and the basis for such request. Such request shall be made as a Request for Reconsideration, submitted within ten (10) calendar days of the date this Decision is issued.

## **Notice of Rights to Request Reconsideration or Appeal This Decision**

### ***Reconsideration –***

Sec. 2.22 of the Poulsbo Hearing Examiner Rules of Procedure reads as follows:

#### ***“Reconsideration –***

(a) The Hearing Examiner may reconsider a decision on an application, if it is filed in writing within 14 calendar days of the date of issuance. Designated parties to the appeal who participated in the hearing may have standing to seek reconsideration. Any request for reconsideration shall be served on all parties of record and to any party’s designated representative or legal counsel on the same day as the request is delivered to the Hearing Examiner. The Examiner will seek to accept or reject any request for reconsideration within 3 business days of receipt. If the Examiner decides to reconsider a decision, the appeal period will be tolled (placed on hold) until the reconsideration process is complete and a new decision is issued. If the Examiner decides to reconsider a decision or recommendation, all parties of record shall be notified. The Examiner shall set a schedule for other parties to respond in writing to the reconsideration request and shall issue a decision no later than 14 calendar days following the submittal of written responses. A new appeal period shall run from the date of the Hearing Examiner’s Order on Reconsideration.”

### ***Appeal –***

PMC 19.70.020 explains that all decisions of the hearing examiner on Type I and II appeals, and all decisions of the hearing examiner on Type III permits may be appealed to the city council. (See definition of “permit application” in PMC 19.10.030, and Table 19.20.020, where “preliminary subdivision/plat” is listed as a permit type). The city council will make a final decision on such matters in a closed record appeal proceeding in which no new evidence may be submitted. The deadline and filing requirements for appeals are detailed in the city’s code, including without limitation PMC 19.70.020.

***NOTE:*** *The Notice provided on this page is only a short summary, and is not a complete explanation of fees, deadlines, and other filing requirements applicable reconsideration or appeals. Individuals should confer with advisors of their choosing and review all relevant codes, including without limitation the city code provisions referenced above and the Land Use Petition Act (Chapter 36.70C RCW) for additional information and details that may apply.*