

**BEFORE the LAND USE HEARING EXAMINER for the
CITY of DUVALL**

DECISION ¹

FILE NUMBERS: SPR21-001, VAR21-013

APPLICANT: Brown Hound Property Investments, LLC
(Duvall Veterinary Hospital)
Michelle Gengler and Jared Ream
26415 NE Valley Street
Duvall, WA 98019

TYPE OF CASE: Consolidated: 1) Preliminary Site Plan Approval to remodel two commercial buildings and join them with a small expansion; and 2) Variance from Duvall Municipal Code 14.38.090(A), a portion of the Duvall Unified Development Regulations, to reduce the required width of two landscape buffer strips

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: GRANT both applications subject to conditions

DATE OF DECISION: January 18, 2022

INTRODUCTION ²

Brown Hound Property Investments, LLC (“DVH”) seeks two land use entitlements: 1) Preliminary Site Plan Approval (“SPA”) to remodel two commercial buildings and join them with a small expansion; and a Variance from Duvall Municipal Code (“DMC”) 14.38.090(A), a portion of the Duvall Unified Development Regulations (“UDR”), to reduce the required width of two landscape buffer strips from 10 feet to zero feet in some places.

DVH filed a Master Permit Application and Site Plan Review Permit Application for Preliminary SPA on March 12, 2021. (Exhibits 3 & 4³) The Duvall Planning Department (“Planning”) deemed the application to

¹ This written Decision memorializes and expands upon an oral decision rendered on the record at the close of the January 13, 2022, hearing.

² Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

³ Exhibit citations are provided for the reader’s benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. Citations to exhibits that are available electronically in PDF use PDF page numbers, not source document page numbers. While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner’s Decision is based upon all documents in the record.

be complete as of April 1, 2021. (Exhibit 25) Planning issued a Notice of Application on April 8, 2021. (Exhibit 26 & 27)

DVH filed a Variance Permit Application on August 31, 2021. (Exhibit 5) Planning deemed the application to be complete when filed. Planning issued an Amended Notice of Application (covering both the SPA and Variance) on October 21, 2021. (Exhibits 28 & 29)

On December 28, 2021, DVH officially requested that the two applications be consolidated for processing as allowed under DMC 14.08.010(b)(2). (Exhibit 48)

The subject property is located at 26415 NE Valley Street. Its Assessor's Parcel Number is 2131700260 ("Parcel 0260"). (Exhibit 1, PDF 1)

The Duvall Land Use Hearing Examiner ("Examiner") viewed the subject property via Google Earth: Aerial imagery dated August 14, 2020; street view imagery dated August 2008.

The Examiner held an open record hearing on January 13, 2022. The hearing was conducted remotely using the "Zoom" platform due to assembly restrictions attendant to the current COVID-19 pandemic. Planning gave notice of the hearing as required by the DMC. (Exhibits 43 - 45) No testimony or evidence was entered into the record by the general public either in support of or in opposition to the application.

The following exhibits were entered into the hearing record during the hearing:

- Exhibits 1 - 50: As enumerated in Exhibit 1 (PDF 2 & 3), the Planning Staff Report
- Exhibit 51: DVH's PowerPoint hearing presentation ⁴

Section 14.08.020(G) DMC generally requires that decisions on preliminary subdivisions be issued within 90 days of application completeness and that decisions on all other applications which require a quasi-judicial hearing be issued within 120 days of application completeness. The Examiner's hearing was held on or about day 196. (Exhibit 1, PDF 2) DVH and the City have mutually agreed to allow an extension of the 120-day review period as permitted by DMC 14.08.020(H)(2). (Exhibit 47)

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner's knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

FINDINGS OF FACT

⁴ The PowerPoint presentation was the same one that DVH had used when it appeared before the Planning Commission. (Testimony) The complete presentation contains 20 slides. DVH displayed only Slides 1 – 13 during the Examiner's hearing. The Examiner has not viewed the other seven slides.

1. Parcel 0260 is a rectangular tract measuring about 129.50 feet east-west and about 167 feet north-south. Based on those measurements from Exhibit 15, PDF 2, Parcel 0260 contains 21,627 square feet (“SF”), about 0.5 acres.⁵ The bulk of Parcel 0260 is relatively flat from north to south, but exhibits a moderate slope down from east to west, dropping about 12 feet across its width. An area of steep slopes associated with Coe-Clemmons Creek (which flows northwesterly through Taylor Park to the south of Parcel 0260) intrudes into the southwest corner of Parcel 0260. (Exhibit 15, PDF 2)
2. Parcel 0260 contains two single story, wood frame buildings. Both are located roughly 90 - 100 feet south of the north property line (NE Valley Street). The two buildings are parallel to one another and separated by about 10 feet. The easterly building houses DVH’s present operations in its 2,031 SF. The westerly building, whose first floor is about 14 inches lower than the DVH building due to the site’s slope, contains 1,628 SF of currently vacant commercial office space. The easterly building is approximately 17 feet from the east property line; the westerly building is about 15 feet from the west property line. A gravel drive runs between the easterly building and the east property line, providing access to the rear of the veterinary clinic to allow discrete removal of deceased animals from the premises. A row of old, mature, specimen conifers is sandwiched between that drive and the easterly building; DVH wants very much to preserve those trees. A fenced animal exercise area abuts the westerly building and extends into the abutting parcel (Parcel 0290) which is also owned by DVH. (Exhibits 4, PDF 1 & 12; 15, PDF 2; 51, PDF 1 – 4; and testimony)
3. DVH wants to join the two buildings with a 524 SF connecting structure. A 600 SF covered entry porch area (with ADA access ramp) is proposed for the north face of the combined building. The westerly building will be jacked up so the floor levels match. The redesigned entry will exhibit a timber frame design. Interior remodeling will maintain clinic functions in what is now the easterly building with clerical and support functions in what is now the westerly building. The site circulation pattern will remain much as at present, but driveways to and from NE Valley Street will be widened to meet current code, frontage improvements will be provided along Parcel 0260’s frontage on NE Valley Street, the parking lot grade will be reduced (by use of a 0 -4-foot high retaining wall and fill on the western portion of the parcel), the entire parking area will be paved to accommodate 15 – 16 parking stalls (the minimum required is 12), and a pedestrian walk will connect the sidewalk to the building’s access. Substantial landscaping will be added. (Exhibits 15; 16; 51; and testimony)

⁵ There are apparent discrepancies in the property dimension and area figures in the record. Exhibit 15, PDF 2, was prepared by a licensed land surveyor. The stated bearings of the east and west property lines on that exhibit are identical, which means that those property lines are parallel to one another. The bearings of the north and south property lines are also stated to be identical to one another, meaning that those property lines are also parallel to one another. If the bearings are stated correctly, each pair of property lines should be the same length because the intersecting property lines are also parallel. However, Exhibit 15, PDF 2, does not state that each pair is the same length. The Staff Report states that the subject property (which it lists as Parcel 0260) contains 29,586 SF or 0.61 acres. (Exhibit 1, PDF 7 & 10) The Master Permit Application lists Parcel 0260 as the subject property and states its area as 26,586 SF. (Exhibit 2, PDF 1) DVH explicitly stated during the hearing that its application was intended to apply to only Parcel 0260. (Testimony) The length of the north property line and the lengths of the east and west property lines scale reasonably accurately on Exhibit 15, PDF 2. The Examiner will reply on scaled (not stated) dimensions from Exhibit 15, PDF 2, for dimension and area figures.

4. DVH has requested six design departures from provisions of Chapter 14.34 DMC. Design departures are handled administratively by Planning. [DMC 14.34.010] Planning has approved the requested departures. (Exhibit 1, PDF 4 – 6)
5. A Variance is required for portions of the code-required landscape strip along the east and west property lines. Subsection 14.38.090(A) DMC requires a 10-foot wide, Type IV (open area planting) landscape strip along the east and west property lines.⁶ (Exhibit 1, PDF 11)

The 0 – 4-foot high retaining wall will be constructed about 7 feet off the west property line with four diagonal parking spaces to its east. The area between the property line and the parking stalls will be heavily landscaped. One corner of each of the four stalls will intrude into the 10-foot landscape strip. The parking stalls cannot be moved further east because of the required width of the access driveway. No landscaping is proposed between the building and the west property line because of the existence of the fenced animal exercise area. (Exhibits 15, PDF 3 & 7; 51, PDF 2 & 12)

Landscaping will be provided along the east property line except for where the existing gravel drive passes between the east property line and the building. In that area there is no room for any landscaping. The residence on the abutting property is located on the north half of its lot, not near the gravel drive. (Exhibits 15, PDF 3 & 7; 51, PDF 2, 3, & 13)

6. Planning Commission (“Commission”) review of preliminary site plans for sites greater than 0.5 acres is required by DMC 14.08.010(C)(2), Footnote 1, under certain circumstances. The DMC is somewhat unclear regarding the circumstances under which Commission review is required. Planning has consistently interpreted the code provision to require Commission review only of SPA applications involving construction of buildings. Aside from the Examiner’s own analysis, the Examiner accords considerable deference, absent clear error, to the professional opinions and interpretation of regulations rendered by the agencies charged with administering them. [*Mall, Inc. v. Seattle*, 108 Wn.2d 369, 739 P.2d 668 (1987)] Planning’s interpretation has not been challenged and does not appear to be clearly erroneous.

The Commission reviewed the DVH proposed site plan on November 10, 2021. The Commission recommends (by unanimous vote) that the proposal be approved subject to conditions (which Planning has incorporated into its recommended conditions of approval. (Exhibits 1, PDF 10; 36; 38; 40)

7. The Planning Staff Report contains a detailed, criterion-by-criterion analysis of conformance with Chapter 14.26 DMC (Uptown – 1st Avenue Zoning District), Chapter 14.38 DMC (Landscaping Standards), Chapter 14.40 DMC (Tree Protection), Chapter 14.42 DMC (Sensitive Areas), Chapter 14.44 DMC (Parking Standards), Chapter 14.46 DMC (Exterior Lighting Standards), Chapter 14.62

⁶ Type IV landscaping “is intended to provide visual interest and shade in large open areas, particularly parking lots.” [DMC 14.38.080(D)(1)] Type IV landscaping calls for a mixture of trees, shrubs, and groundcover/grass. [DMC 14.38.080(D)]

(Site Plan Criteria), and Chapter 14.70 DMC (Variances). (Exhibit 1, PDF 9 - 19) That analysis was not challenged during the hearing and is adopted by reference as if set forth fully.

8. Planning recommends approval of the proposed site plan and the requested Variance subject to a series of conditions. (Exhibit 1, PDF 20 – 24) Planning expressed some concern that its proposed wording of Recommended Condition 8 regarding the extent of the Variance might not be as clear as was intended. (Testimony)
9. DVH concurs with Planning’s recommended conditions. (Testimony)
10. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

LEGAL FRAMEWORK ⁷

The Examiner is legally required to decide this case within the framework created by the following principles:

Authority

Duvall classifies land use applications into six categories based on their processing requirements (Type I – Type VI). [DMC 14.08.010(A)] When a project requires multiple applications of different types, the applicant may elect to consolidate them for processing. [DMC 14.08.010(B)(2)] Consolidated applications are processed in accordance with the highest numbered procedure in the consolidation. [DMC 14.08.010(B)(2)(a)]

DVH elected to consolidate the SPA and Variance applications for processing. (Exhibit 48)

SPA is a two-step process. Preliminary SPA for a site greater than 0.5 acres is a Type III process ⁸; UDR Variances are also a Type III process. Type III applications are subject to an open record hearing before the Examiner. The Examiner makes a final decision on the consolidated applications which is subject to the right of reconsideration and appeal to Superior Court. [DMC 2.30. 070(A)(2) and 14.08.010(C), Tables 14.08.010.C.1 and .2]

The examiner’s decision may be to grant or deny the application or appeal, or the examiner may grant the application or appeal with such conditions, modifications, and restrictions as the examiner finds necessary to make the application or appeal compatible with the DMC, state laws and regulations, including Chapter 43.21C RCW, and the regulations, policies, objectives, and goals of the Duvall comprehensive plan, the unified development regulations, and other official laws, policies and objectives of the city of Duvall.

⁷ Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

⁸ Preliminary site plan review for sites up to 0.5 acres is a Type II administrative process. [DMC 14.08.010(C)(1)]

[DMC 2.30.070(B)] The Final Site Plan Permit is an administrative Type I process. [DMC 14.08.010(C), Table 14.08.010.C.1]

Review Criteria

SPA Criteria

The review criteria for SPA applications are set forth at DMC 14.62.030. The criteria include standards regarding Consistency [Subsection A], Lot and Block Layouts [Subsection C], Road and Street Access Elements [Subsection D], and Site Plan Elements [Subsection E].

The “consistency determination” required by DMC 14.08.040(A)(2) duplicates the criteria within DMC 14.62.030(A). Therefore, in the case of Preliminary SPA reviews, compliance with DMC 14.62.030(A) suffices for compliance with DMC 14.08.040(A)(2).

UDR Variance Criteria

The review criteria for UDR variances are set forth at DMC 14.70.040:

Applications for variances from the terms of these regulations shall be granted only if the decision making body finds all of the following:

- A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and land use district in which the subject property is located;
- B. Such variance is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property to provide it with use rights and privileges permitted to other properties in the vicinity and in the land use district of the subject property;
- C. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property for improvements in the vicinity and zone in which the subject property is situated;
- D. The denial of the variance would entail undue hardship for the property owner or that the variance, if approved, would contribute significantly to the improvement of the environmental conditions;
- E. The need for the variance is not the result of deliberate actions of the applicant, property owner, or their predecessor in interest;
- F. The variance is consistent with this title and the Duvall comprehensive plan; and
- G. The variance is the minimum necessary to grant relief to the applicant.

Vested Rights

“Vesting” serves to “fix” the regulations against which a development application is judged. [*Potala Village Kirkland, LLC v. City of Kirkland*, 183 Wn. App. 191 (2014), *review denied*, 182 Wn.2d 1004, 342 P.3d (2015)] Over the years state appellate courts developed the “vested rights doctrine” which was applied in cases where there was no statutory vesting. In 2014 the State Supreme Court flatly declared: “While it originated at common law, the vested rights doctrine is now statutory.” [*Town of Woodway v. Snohomish County*, 180 Wn.2d 165, 173, 322 P.3d 1219 (2014)]

If Duvall had a local vesting ordinance applicable to land use applications, the Examiner would be obliged to follow it as enacted. [*Erickson & Associates v. McLerran*, 123 Wn.2d 864, 872 P.2d 1090 (1994); *Abbey Rd. Grp., LLC v. City of Bonney Lake*, 167 Wn.2d 242, 250, 218 P.3d 180 (2009)] But the City has no such local ordinance. Thus, the Examiner must follow the most current case law.

Under the most current case law, there is no vesting for SPA applications because there is no statutory provision providing vesting for such applications.⁹

UDR Variance applications are not the subject of any state vesting statute. The vested rights doctrine has never been applied to variance applications or other applications which seek an exception from established regulations.

No part of this consolidated application enjoys vested rights.

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [DMC 14.62.030(B)]

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

CONCLUSIONS OF LAW

1. This is an uncontested case. The Planning Staff Report and the record evidence in support thereof convincingly demonstrate that the proposal complies with the criteria for Site Plan Approval and for approval of the requested perimeter landscape variance. Instead of repeating Planning's Conclusions (Exhibit 1, PDF 19 & 20), the Examiner incorporates them herein by reference as if set forth in full.
2. The Examiner understands Planning's concern about the wording of Recommended Condition 8. The Examiner believes that it conveys what was intended, but acknowledges that some might find its wording less than crystal clear. The Examiner will try to improve it.

In doing so, the Examiner will address an issue that was discussed near the end of the hearing: What should happen were the animal exercise area ever to be removed? The area between the building and the west property line is wide enough to allow establishment of the code-required 10-foot landscape strip - but not while the animal exercise area is there. Were the exercise area ever to be removed, the required landscape strip should be established because the justification for its absence would have gone away. Therefore, the Examiner will add a new item to Recommended Condition 8 addressing that situation.

⁹ If an SPA application were inextricably intertwined with a preliminary subdivision application, it would enjoy the subdivision application's statutory vested rights.

3. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, the testimony and evidence submitted at the open record hearing, and the Examiner's site view, the Examiner:

- A. **GRANTS** Preliminary Site Plan Approval under File No. SPR21-001 **SUBJECT TO THE ATTACHED CONDITIONS**; and
- B. **GRANTS** a UDR Variance under File No. VAR21-013 **SUBJECT TO THE ATTACHED CONDITIONS**.

Decision issued January 18, 2022.

/s/ John E. Galt

John E. Galt
Land Use Hearing Examiner

HEARING PARTICIPANTS ¹⁰

Kate Cudney
Michelle Gengler

Troy Davis

NOTICE of RIGHT of RECONSIDERATION

This Decision is final subject to the right of any party of record to file a written motion for reconsideration within 10 calendar days of the date this Decision was mailed to the parties. See DMC 2.30.240 for additional information and requirements regarding reconsideration.

NOTICE of RIGHT of APPEAL

This Decision is final subject to the right of a party of record with standing, as provided in RCW 36.70C.060, to file a land use petition in Superior Court in accordance with the procedures of DMC 2.30.230

¹⁰ The official Parties of Record register is maintained by the City's Hearing Clerk.

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and 14.08.060(E). Any appeal must be filed within 21 days following the issuance of this Decision. See DMC 2.30.230 and 14.08.060(E) for additional information and requirements regarding judicial appeals.

The following statement is provided pursuant to RCW 36.70B.130: “Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.”

**CONDITIONS OF APPROVAL
SPR21-001 & VAR21-013
DUVALL VETERINARY HOSPITAL**

This consolidated Preliminary Site Plan Approval and UDR Variance is subject to compliance with all applicable provisions, requirements, and standards of the Duvall Municipal Code, standards adopted pursuant thereto, and the following special conditions:

FROM PLANNING

1. The building permit shall conform to all applicable requirements of DMC Title 14 and the City's 2015 Comprehensive Plan.
2. The building permit shall be in substantial conformance with the conditions of Site Plan Review and Variance approvals.
3. Exhibit 15 Sheet MU A0.1 is the approved Preliminary Site Plan and Exhibit 15 Sheets C1-C3, P1, and MU A0.5.1, are approved supporting plans subject to the following conditions:
 - a. Details of proposed amenities within the pedestrian oriented space shall be provided and comply with the requirements of DMC 14.34.052(H).
 - b. An additional amenity acceptable to the Community Development Director shall be provided within the pedestrian oriented space.
 - c. All required site improvements shall be completed and/or bonded for prior to issuance of a Final Site Plan Permit. A Final Site Plan Permit is needed prior to occupancy.
 - d. Site plan approval shall be effective for a period not to exceed two years from the date of the preliminary approval. Provided, however, that an applicant who files a written request with the director for site plan approval at least thirty (30) days before the expiration of this two-year period shall be granted a one year extension upon a showing that the applicant has attempted in good faith to submit final plans for the issuance of a building permit within the two-year period.
4. Exhibit 15 Sheets L-1.0 through L-1.1 is the approved Landscape Plan subject to the following conditions:
 - a. The gravel encroachment across the southern property line into Taylor Park shall be removed and the area revegetated in compliance with the requirements of DMC Chapter 14.38 (Landscaping Standards).

- b. Final grading within the landscaped areas of the site shall not exceed a 3:1 slope in planted areas or a 4:1 slope in grassed areas.
 - c. Root-barriers with a minimum length of 6 feet and depth of 18 inches shall be placed on-center with every street tree at the back of curb and sidewalk.
 - d. All landscaped areas shall be irrigated. An irrigation plan shall be included with building permit submittal for review.
 - e. The final Landscape Plan shall be approved and bonded for prior to building permit issuance in accordance with DMC 14.38.160.
 - f. A pre-landscape meeting shall be held with a Planner from the City's Community Development Department prior to landscape installation on-site and within the right-of-way.
5. Exhibit 15 Sheet L1.2 is the approved Tree Retention and Protection Plan subject to the following conditions:
 - a. Tree protection measures provided in DMC 14.40.080 shall be included.
 - b. Prior to Final Site Plan approval, an arborist hired by the property owner shall be required to inspect all Significant and Exceptional Trees on-site and provide the City with a written report as to the status of the trees.
6. Exhibit 15 Sheets ES-1.0 through ES-2 is the approved Lighting Plan subject to the following condition:
 - a. Exterior lighting shall not adversely trespass onto adjacent residential property to the east as determined by the Community Development Director.
7. Exhibit 16 Sheets MU A2.0 through MU A5.0 is the approved Elevation Drawings subject to the following condition:
 - a. A blank wall treatment in compliance with DMC 14.34.062(E) shall be provided on the west elevation.
8. The requested Variance is approved subject to the following conditions:
 - a. The Variance granted hereby is solely limited to reduction in the width of the landscape buffer required by DMC 14.38.090, Table 14.38.090.A, along the west and east property lines as shown on Exhibit 15, Sheet L1.0.

- b. The required landscape buffer along the west and east property lines shall be landscaped in accordance with DMC 14.28.080(D) except where reduced/eliminated by the Variance granted herein.
 - c. If the current, fenced animal exercise area adjoining the west edge of the building is ever removed (or altered such that it no longer encumbers the area between the building and the west property line), then landscaping as may be required by the DMC (as it exists at that time) shall be established between the building and the west property line from the south end of the established landscaping to the south line (extended) of the building.
 - d. The Variance shall be recorded with King County.
9. Exhibit 33 is the amended MDNS subject to the following condition:
- a. The project shall comply with the mitigation measures listed in the Amended MDNS dated December 9, 2021.

FROM PUBLIC WORKS/ENGINEERING

General

- 10. The Developer shall submit construction plans and supporting documentation for City review prior to Construction Drawing approval. Construction plans shall be developed in accordance with the Public Works Development Design Standards (PWDDS), as amended, Duvall Municipal Code (DMC), Washington State Department of Transportation (WSDOT), King County Fire District #45 requirements, SEPA Determination, and most recent review comment letter (see Exhibit 41).
- 11. All utility connections shall be located below ground and be brought to the project site underground.
- 12. Frontage improvements shall consist of minor roadway widening, storm utility improvements, streetlights, overhead utility undergrounding, curb, gutter, sidewalk, and landscape in accordance with the approved Construction Drawing plan set.
- 13. As-builts with NAVD 1988/NAD 83 datum shall be provided, reviewed, and approved prior to Bond release. As-builts shall include all infrastructure and utilities, including storm system elevations and slopes, and shall be provided in Mylar and electronic formats upon approval by the City Engineer.
- 14. All retaining walls over four (4) feet shall be engineered with drainage and included on the Construction Drawings to be submitted to the City for review and approval.
- 15. If moisture sensitive soils are present at the site soil admixtures, such as kiln dust, fly ash, or cement will not be allowed without a City-approved application and monitoring plan along with any other associated Washington State Department of Ecology requirements.

Roads

16. Pavement restoration within the Right-of-Way shall consist of ½” HMA type asphalt concrete pavement and placed in accordance with PWDDS.
17. No Traffic Impact Fee credit eligible improvements are proposed as part of this project action.
18. Pedestrian networks shall meet ADA standards and shall be submitted as part of the Construction Drawing review process.
19. All curb, gutter, and sidewalk shall be underlain by a minimum 6-inch thickness of crushed rock over suitable firm and unyielding subgrade or compacted structural fill in accordance with PWDDS.

Water & Sewer

20. Any improvements that change, alter, modify or connect to the City’s sanitary sewer or water system shall be inspected and installed in accordance with DMC and PWDDS.

Storm Drainage

21. A final Technical Information Report (TIR) shall be submitted prior to Construction Drawing approval. The final TIR shall consider existing and future comments and address any downstream drainage issues or required improvements and shall include any restrictions or reductions for proposed LID improvements.
22. Stormwater water quality facilities shall be constructed to accommodate pollution generating impervious surfaces generated by this development. The stormwater water quality facilities shall be designed in accordance with KCSWDM and City requirements.
23. All water quality infrastructure (filters, soils, etc.) shall be approved by the City Engineer.
24. Certification of as-built water quality systems for each facility shall be provided to Public Works and shall identify impervious areas served by each facility.
25. The operation and maintenance of stormwater facilities shall be the sole responsibility of the property owner for perpetuity. The City shall be granted an access easement for stormwater system inspection. Copies of the inspection and maintenance reports shall be submitted to the City annually on or before August 31st of each year to satisfy City and NPDES requirements. A stormwater system access and reporting agreement (Covenant) shall be developed and recorded prior to final construction approval.
26. The stormwater facilities shall successfully operate and shall remain free of defects in workmanship, materials, and design.
27. The water quality facilities and associated infrastructure shall remain free of silt and sediment at all times once those systems have come “online” or are deemed complete by the City Engineer. If water quality facilities become impacted with silt or sediment from construction activities or lack or

construction best management practices the applicant will be responsible for immediately addressing water quality issues and the site may receive a Stop Work Order with associated fines or penalties.