

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Schmidt Family & Marital Trust
c/o Doyle Schmidt
2927 Colby "Avenue, Suite 100
Everett, W 98201

Agent: Skagit Surveyors & Engineers
c/o Marianne Manville-Ailes
806 Metcalf Street
Sedro-Woolley, WA 98284

Request/File No: Preliminary Plat for *Swan Ridge Estates* PL95-0001

Location: End of Sinnes Road, northeast of Conway, northeast of 20184 Sinnes Road, within a portion of Secs 14, 15, 16, T33N, R4E, W.M.

Land Use Designation: Current: Secondary Forest and Industrial Forest Natural Resources Land (SF-NRL and IF-NRL).
Time of Vesting: Forestry/Rural Residential (4/10/95)

Summary of Proposal: Preliminary plat proposal for Long Conservation and Reserve Development (Long CaRD), subdividing roughly 640 acres into 32 one-acre lots with associated open space tracts and infrastructure.

SEPA Compliance: Mitigated Determination of Non-Significance (MDNS), published May 30, 2013. No appeal.

Public Hearing: September 25, 2013. Testimony by County Staff and applicant's representative. Planning and Development Services (PDS) recommended approval. No public testimony.

Decision/Date The application is approved, subject to conditions. October 8, 2013

Reconsideration/Appeal: A Request for Reconsideration may be filed with PDS within 10 days of this decision. An appeal to the Board of County Commissioners may be filed with PDS within 14 days of the decision or decision on reconsideration, if applicable.

Online Text: The entire decision can be viewed at [www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. The Schmidt Family & Marital Trust (applicant) seeks approval of a preliminary plat for a subdivision called "*Swan Ridge Estates*." The type of division sought is a Long Conservation and Reserve Development (Long CaRD).

2. The application is vested to Skagit County Code provisions in effect on April 10, 1995, when a complete application was filed. The zoning/comprehensive plan designation under which the project is vested is Rural Residential.

3. The property is located at the end of Sinnes Road, northeast of Conway, within a portion of Secs. 14,15,16, T33N. R4E, W.M. The site contains approximately 640 acres and consists of Parcel Numbers P16627, P16628, P16637, P16638, P16643 and P96039.

4. The property is bordered on the south by a preliminarily approved land division, "*The Welts Plat*," adjacent to Lake 16. Access to the proposed residential lots will be from SR 534 through the neighboring prior-approved plat via Bulson Road and the extension of Sinnes Road.

5. The property is located on a topographic ridge between Johnson Creek to the north and Bulson Creek off-site to the south. The ridge ranges in elevation from 740 feet at the peak to 360 feet on the southern flank. The slope of the area proposed for home sites is generally less than 36 percent. The proposed roadways have been designed to have a finished grade of less than or equal to 12 percent.

6. The site is bounded by timber land and rural residences to the west, forest and a creek (Johnson Creek) to the north and northeast, forest to the east, Lake 16 to the southeast, and a capped historic landfill and the *Welts Plat* to the south. The property is undeveloped, covered by second and third growth mixed forest.

7. The proposal is for 32 one-acre lots clustered on the western portion of the property. The remaining acres will be placed in a non-buildable open space lot (Lot 33). This lot will consist of tracts containing wetlands, a landslide area, a water tank, greenbelts, drainfields and drainfield access easements, drainage and pond easements, public road right-of-way and 563.11 acres of OS-NRL or OS-PA open space for a total open space acreage of 610.85.

8. The applicant submitted numerous professional evaluations, including a stormwater report; a critical areas evaluation; geotechnical analysis; a hydrogeologic assessment; a wetland, stream & wildlife assessment; and a traffic study.

9. Potable water for the development is to be provided by the Skagit County Public Utility District. A pump station will be installed along with the water tank. Sewage treatment will be provided by individual septic systems. In some cases the drainfields will be on individual residential lots. Where this will not work, such facilities will be located in the open space and appropriate easements will be executed.

10. A lined ditch is proposed to provide stormwater conveyance from impervious surfaces to a detention pond. The pond will be lined to prevent infiltration and will provide adequate capacity for anticipated major storms. The design is in accordance with the Department of Ecology's 2005 Stormwater Management Manual for Western Washington. Discharges will be at rates that are consistent with pre-development conditions.

11. The development will entirely avoid an ancient landslide area in the southern portion of the western 280 acres of the property. Pursuant to geotechnical advice, the stormwater pond was moved away from this area. The landslide area has been designated as a Protected Critical Area (PCA).

12. The subdivision will be served by a public roadway built to County road standards and dedicated to the County. The completed roadway will contain a 60-foot wide easement and encompass about 7.9 acres. Sinnes Road will be extended and improved from the southern boundary of the development. No transit stops are proposed. The property is within the boundaries of a County fire protection district.

13. A voluntary mitigation agreement with Skagit County Parks will provide for per lot payments for the impacts of the development on parks and recreation usage. Lot buyers will also be obliged to pay school impact fees in the amount included in the Conway District's Capital Facilities Plan at the time of building permit issuance. There are no schools within walking distance of the subdivision.

14. The application was reviewed for compliance with the State Environmental Policy Act (SEPA). A Mitigated Determination of Non-Significance (MDNS) was issued on May 30, 2013. No appeals were filed. A single comment letter was received. The letter was from the State Department of Ecology, indicating that a NPDES Construction Stormwater Permit may be required.

15. The MDNS contains the following conditions:

- a. Temporary erosion and sedimentation control shall be provided, including the implementation of appropriate best management practices (BMP's), prior to and throughout project construction.
- b. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the start of work. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage Ordinance. Said measures shall remain in place until completion of the project.
- c. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage Ordinance.
- d. Permanent stabilization using appropriate erosion and sedimentation control

BMP's shall be provided and installed prior to completion of construction of plat improvements for the project as a whole or for each phase of the development if project phasing is proposed.

e. The public right-of-way shall be kept clean. Tracking of mud and debris off site shall not be allowed.

f. An engineered soils compaction report shall be required for all structures or roadways constructed on fill material.

g. Roadways serving the plat shall be constructed in accordance with the Skagit County Road Standards Manual and accepted by the County prior to final plat approval of each individual phase of the project.

h. The applicant shall comply with Northwest Clean Air Agency requirements. Dust suppression shall be provided during construction.

i. The applicant shall comply with all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance).

j. Prior to or concurrent with final plat approval, a Protected Critical Area easement approved by the County shall be recorded with the Skagit County Auditor's office identifying the areas designated as PCAs and specifying the limitations on development applicable to such areas.

k. Prior to final plat approval, the outer limits of all PCAs shall be permanently marked using signage or fencing approved by the County. Maintenance of approved signage or fencing shall be the responsibility of the property owner.

l. All required permits from state and federal agencies shall be obtained and copies of such permits and approvals shall be provided to the County prior to the beginning of construction of plat improvements.

m. Washington State WAC's 173-201A and 173-200 shall be complied with as required to address surface water quality issues and ground water issues. Best management practices shall be utilized to prevent interference and/or degradation of water quality.

n. Operations, maintenance and construction shall comply with WAC 173-60 for noise and vibration thresholds.

o. The applicant shall comply with the Fire Marshal requirements.

p. Potable water service to the developments shall be provided by Public Utility District No.1 of Skagit County consistent with District requirements in place at the time of installation.

q. A Construction Stormwater General Permit (NPDES) will be required by the Department of Ecology (WSDOE) for this project. The developer shall obtain the NPDES permit as required by law.

r. Should any human remains, archaeological, historic or cultural materials be discovered during construction, work in the affected area shall cease immediately and the area shall be secured. Within 24 hours of the discovery, or as soon thereafter as possible, the developer shall notify the Skagit County Sheriff's office, Skagit County Planning and Development Services, the Washington State Department of Archeology and Historic Preservation and affected tribes. If following consultation with the above parties it is determined that an archaeological and cultural resource assessment is required, the project developer shall retain the services of a professional archaeologist to prepare such an assessment. Project work in the affected area shall only continue when in conformance with applicable state and federal laws.

s. The project shall comply with noise, vibration, and light/glare limitations as established under SCC 14.16.840.

t. The project is limited to those activities described in the SEPA checklist and supporting documents. Significant deviation from the proposal may require additional review and approval by Skagit County Planning and Development Services.

16. The parcel was reviewed under the Critical Areas Ordinance (CAO) and comments were made by Staff. The applicant submitted a revised site plan and a detailed response. The outcome of this exchange, assuring compliance with the CAO, is set forth in the conditions of approval.

17. The application was circulated to various County departments and numerous comments were received. These are reflected in conditions of approval.

18. The land use designation at the time of vesting had a minimum lot size requirement of 20 acres. The 640 acre property was, thus, eligible for 32 development rights. The CaRD division process allows for the clustering of lots in one portion of the ownership at a density of one development right per 20 acres, while preserving the balance of the site as open space. This is the pattern adopted here.

19. The Staff reviewed the application in light of the land division requirements of the Code. They determined that, as conditioned, this proposal will meet the Code's provisions. The Hearing Examiner concurs in this analysis and adopts the same. The Staff report is by this reference incorporated herein as though fully set forth.

20. The Examiner finds that appropriate provisions are made for the public health, safety and general welfare, including provisions for open spaces, drainage, public facilities and relevant infrastructure. The public interest will be served by the proposed subdivision.

21. The application and the hearing were given notice as required by law. There was no public comment at the hearing. Just prior to the hearing several letters were received. Two raised concerns about traffic and drainage. Improvements made through subdivision development should adequately address these worries.

22. The other communications were from Friends of Skagit County (FOSC), which opposes this kind of development outside of an urban growth area and asks for a Comprehensive Plan amendment. The FOSC position does not take into account the provisions of the CaRD ordinance under which projects such this one can proceed where vesting has occurred.

23. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding. SCC 14.06.050(!)(b)(vi).

2. A prior denial of this subdivision was overturned by the Hearing Examiner in 2011 and the application was remanded to the PDS for further consideration. At that time, the Examiner determined there was no proof that the original plat application had been abandoned. Accordingly the determination of vesting is sustained.

3. The requirements of SEPA have been met.

4. The proposal, as conditioned, is consistent with the applicable provisions for CaRD approval. SCC 14.18.310.

5. The proposal, as conditioned, is consistent with general County requirements for preliminary plat approval. SCC 14.18.000, 100.

6. The proposal, as conditioned, meets the requirements of the State platting statute. RCW 58.17.110(2)(a)..

7. Any finding herein, which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The activities conducted pursuant to this preliminary plat approval shall be consistent with the application materials, except as the same may be altered by these conditions.

2. Unless otherwise noted, the conditions which follow shall be completed prior to final plat approval.

3. The Protected Critical Area (PCA) Easement shall be signed, noted on the final plat and recorded.

4. The applicant shall clearly demonstrate that all development and land clearing, including the proposed detention facility, will be located a minimum of 50 feet from the boundary of the landslide identified by Geo Test.

5. The applicant shall clearly show that there will be a minimum of 15 feet between the wetland or stream buffers and all proposed development or land clearing.

6. Permanent buffer edge markers shall be placed along the wetland, stream and landslide buffers/setbacks adjacent to the proposed development and land clearing activities.

7. The areas where CAO review has not been completed will be placed in OS-PA or OS-NRL status. To allow for continued commercial timber harvest, a NRLE will be required. Standard critical areas review is required prior to harvest of timber in the open space.

8. The applicant shall comply with all conditions set forth in the SEPA MDNS, published May 30, 2013. See Finding No. 15 above.

9. Roadways constructed for this project shall require centerline monumentation.

10. Maintenance and restoration surety is required for public plat roads. See Section 14.02, County Road Standards manual.

11. Electronic record drawings shall be provided for public plat roads.

12. A Grading Permit is required for the construction of roadway and drainage facilities. The permit application shall include engineered plans consisting of title sheet, plan and profile, erosion control plan, stormwater drainage plan, specifications and details. A preconstruction meeting shall be scheduled with Skagit County Public Works prior to the start of road construction.

13. Prior to starting road construction, and in accordance with Section 12.09, Skagit County Road Standards, the applicant shall post one or more signs showing the names or business names of both the applicant and the project engineer as well as contact telephone numbers for each.

14. Construction of roadway and detention facilities shall require certification by the engineer that all items have been built in conformance with the approved construction plans. See Section 12, Skagit County Road Standards.

15. The applicant shall provide a right-of-way deed or appropriate dedication for additional right-of-way for the new County road.
16. Road signs shall be installed in accordance with Skagit County Road Standards.
17. Roads serving the plat shall have a curb and gutter section.
18. The applicant shall provide a Maintenance Plan for all stormwater and drainage conveyance systems. See SCC 14.32.100(3)(a).
19. The Drainage Report shall be revised. The revised report shall take into account logging that is proposed for this year. The revised report shall be submitted with the grading permit application.
20. The address range(s) shall be forwarded to Skagit County GIS for review and assignment after preliminary approval has been granted and road names have been selected. The address range(s) shall be shown on the face of the final plat map.
21. Road names shall be selected and placed on the face of the final plat. (Road name options have been submitted and preliminarily approved as "Swan Ridge Lane" and "Whistling Court.")
22. An updated title report shall be provided.
23. Lot corners shall be set. See 14.18.200(4)(d).
24. Compliance with SCC 14.18.330, "Screening of Cluster Pods," shall be achieved.
25. Compliance with SCC 14.18.200, "Final Subdivisions", shall be accomplished.
26. If any portion of the parent parcel is in an Open Space taxation program, the Skagit County Assessor's Office shall be contacted prior to proceeding with the land division.
27. All standard plat notes and appropriate departmental signoffs are required.
28. Copies of any proposed covenants, any homeowners association agreements, and any road maintenance agreements shall be provided to PDS for review and approval.
29. Final plat fees per lot will be assessed at the time of final plat submittal. The fees shall be in accordance with the schedule in affect at that time.
30. All utility easements shall be shown and labeled on the face of the plat map.
31. The applicant shall supply a set of stamped envelopes addressed to all neighboring property owners within 300 feet of the subject property with the final plat submittal. A list of these individuals shall also be provided to PDS.

32. The applicant shall provide proof that a voluntary mitigation agreement for payments to offset impacts of the development on County parks and recreation facilities has been entered into. This agreement shall be noted on the face the plat. Such payments shall be addressed in any CC&Rs that may be used. The agreement shall provide for payments to be made prior to the issuance of individual building permits.

33. If applicable, a Timber Resource Management Plan shall be prepared and submitted for review and approval for Forestry designated portions of the property. A note referencing any such plan shall be placed on the face of the plat and may be required to be recorded with the final plat.

34. Plat revisions requiring additional review may result in additional conditions or requirements.

35. All outstanding final plat fees shall be paid.

36. At least one soil log hole shall be required for each lot and in some cases more may be required. (To date 29 holes have been dug for 32 lots. It is not clear whether even the 29 holes are spread out enough to accommodate the 29 lots.)

37. Soil holes shall be shown and numbered on the plat map.

38. Site evaluation fees shall be paid for each lot.

39. All septic transport lines shall be installed from each lot to its respective drainfield area. The lines shall be shown on the plat map.

40. Appropriate plat notes shall be added identifying the location of drainfields, whether off or on the site of the building lots they serve.

41. All PUD requirements shall be met. A current letter from the PUD shall be required in regard to public water supply. All current and proposed changes to the plat shall be submitted to the PUD for review. All lines and side service lines shall be installed, approved, and accepted by the PUD with written confirmation to PDS. Water lines are to be identified (--W--) on the plat in their approximate location. Such lines shall meet setbacks per Chapters 12.48 SCC and 12.05 SCC.

42. The plat shall show all proposed drainfields and reserve areas. See SCC 12.48.240. Easement notes are required where systems are off of the proposed lots. (Note-- Minimum lot size per SCC 12.48 is based on soil types per WAC 246.272A-0320). The applicant shall demonstrate how water and septic lines meet separation requirements.

43. State surface and ground water quality standards shall be met. Degradation of water quality shall not be allowed. See Chapters 173-200 and 173-201A WAC. The State Department

of Ecology and Skagit County Public Works shall be contacted regarding state and local discharge regulations.

44. Additional information shall be provided to the County hydrogeologist concerning background nitrate concentration in the area and the calculated nitrate concentration down gradient from the proposed development. Upon review of this information, more requirements may be identified.

45. Based on the Skagit County Coordinated Water System Plan and the International Fire Code, the County Fire Marshal's Office requires fire flow to be provided by one of the following methods:

a. A public water system that can provide 500 gpm for 30 minutes, over and above that required by health and other regulations, with fire hydrants spaced not to exceed 900 feet apart. The fire hydrant spacing has been determined to mean that each one-acre building lot be within 450 feet of a fire hydrant. No fire hydrants are required to protect open space or other non-buildable areas.

b. An approved water storage system that holds the equivalent of 500 gpm for 30 minutes or 15,000 gallons, and has approved fire department connections spaced per the hydrant spacing above. This does not necessarily have to be a potable or pressurized system.

c. A Fire Marshal approved fire prevention water system that provides adequate pressure and flow to support NFPA 13D sprinkler systems. A water system and water lines capable of supplying NFPA 13D systems must be installed to the lot line of each of the buildable lots. (Note -- NFPA 13D sprinkler system designs usually require less than 500 gallons of water and it is assumed in the design that only one sprinkler would be involved at a time.) Use of this system requires that a condition be placed on the face of the plat stating, "*At the time of application for a building permit, applicant will be required to install NFPA 13D fire sprinklers in each dwelling.*"

46. Plans for the proposed fire flow or alternate system shall be submitted and approved by the Fire Marshall prior to installation. Thereafter, the fire flow or alternate system shall be installed, tested and approved. The Skagit County Fire Marshal must be called for final fire code inspection of the plat, including fire hydrants.

47. Appropriate property taxes shall be paid.

48. Final plat review may result in additional conditions or requirements.

49. Failure to comply with conditions of approval may result in revocation of approval.

DECISION

The preliminary plat for *Swan Ridge Estates* (PL95-0001) is approved, subject to the conditions set forth above.

DONE, this 8th day of October 2013.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on October 8, 2013

See Notice of Decision, Page 1, for Reconsideration and Appeal information.