



200906110001

Skagit County Auditor

6/11/2009 Page

1 of 11 8:31AM

AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
1800 CONTINENTAL PLACE
MOUNT VERNON, WA 98273

DOCUMENT TITLE: ORDER ON PRELIMINARY PLAT OF AMBLESIDE PL07-0680

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: RACE BANNON VENTURES, LLC % PHIL GREGER

PARCEL NUMBER: P46841, P46842, P46934

LEGAL DESCRIPTION: The proposed project is located at 5525 Guemes Island Road, Anacortes, WA; the N 1/2 of the SE 1/4 of the SE 1/4 and Government Lots 4 & 5 of Section 36, Township 36 North, Range 01 East, W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS AND RECOMMENDATION

Applicant: Race Bannon Ventures, LLC
c/o Phil Greger
13343 Bel-Red Road
Bellevue, WA 98005

Counsel: Nancy Bainbridge Rogers
Cairncross & Hempelmann, P.S.
524 Second Avenue, Suite 500
Seattle, WA 98104

File No: PL07-0680

Request: Preliminary Plat of Ambleside (CaRD)

Location: Northeast shore of Guemes Island at 5525 Guemes Island Road, within N1/2SE1/4SE1/4 and Gov. Lots 4 & 5, Sec. 36, T36N, R1E, W.M.

Parcel Nos: P46841, P46842, P46934

Land Use Designations: (1) Zoning: Rural Reserve
(2) Shorelines: Rural Residential

Summary of Proposal: To divide approximately 65.5 acres into seven lots through the CaRD process. The project includes six one-acre lots for residential development and one nearly 60-acre lot designated as open space. Thirty-three acres of the open will be within protected critical areas. A private internal plat road, individual wells, and individual on-site septic systems will serve the project.

Public Hearing: A public hearing was requested by Friends of Guemes Island. After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on May 13, 2009.

Recommendation: The application should be approved, subject to conditions.



FINDINGS OF FACT

1. Race Bannon Ventures, LLC, (applicant) seeks approval of the Preliminary Plat of Ambleside, a division of 65.5 acres into seven lots using the Conservation and Reserve Development (CaRD) process. The applicant is a family-owned entity.
2. The project will involve the creation of six one-acre lots for residential development and one nearly 60-acre lot designated as open space. Approximately 33 acres of this open space will be in protected critical areas. A private internal plat road, individual domestic wells and individual on-site septic systems will serve the project.
3. The site lies on the northeast shore of Guemes Island, and is addressed as 5525 Guemes Island Road. It is located within N1/2SE1/4SE1/4 and Gov. Lots 4 & 5, Sec. 36, T36N, R1E, W.M.
4. The property borders Padilla Bay on the north and the area 200 feet from the Ordinary High Water Mark (OHWM) has a shoreline designation of Rural Residential. However, no aspect of the project will require a shoreline permit. The Comprehensive Plan zoning of the property is Rural Reserve.
5. The property is largely forested, although there is a sizable meadow in the northwest portion. From the shoreside bluff there is a gentle upward slope inland. An existing residence and an existing cabin are present in the meadow. The cabin will be removed. The house will remain and become the residence on the westernmost residential lot (Lot 1).
6. Guemes Island Road abuts the property along the northerly part of the western boundary. The residential lots will be accessed via a private unpaved road with a 50-foot right-of-way (Ambleside Loop) that will lead off Guemes Island Road on the inland side of these properties. The current driveway access from the Road will be abandoned.
7. The individual domestic wells are or will be located south of the internal loop formed by the access road. Currently there are four domestic water wells on the site. One, located on Lot 2 will be abandoned. Two will serve residential lots. Four new wells will be drilled. In addition, reserve well sites will be established for all six residential lots. One of these contains the fourth existing domestic well.
8. A larger well serving the Guemes Seaview Water system is located in the southeastern part of the property. This well and its well protection area will be undisturbed.



9. A 15,000 gallon water tank containing fire flow will be located within the access road loop. Two hydrants will be installed. The plat will be required to meet fire flow requirements of the Coordinated Water System Plan.

10. Testing of the wells on-site indicates that domestic water yields will be adequate for residential needs without the likelihood of significant drawdowns or of interference with other wells. The wells will draw from a shallow sand and gravel stratum, the base of which is located about 50 feet above sea level. This aquifer does not appear to be in direct hydraulic continuity with the waters of Padilla Bay. Under the circumstances there is little risk of seawater intrusion.

11. Site evaluations for septic systems have been approved for all proposed sites. Off-lot drainfields or reserve areas will be located in the open space (Lot 7) for proposed Lots 1, 2 and 6. The others will be located on the respective numbered lots. The drainfields will be located in a surface layer of low-permeability glacial till. There is adequate separation to prevent the septic systems from affecting the drinking water source.

12. Along the shore of the subject property is a significant coastal bluff, giving way at the bottom to a gravel beach. The bluff increases in height from approximately five feet near the property's northwest corner to 80 to 100 feet at the site's northeast corner. There are about 1400 linear feet of beach. The residential lots will be located at the north end of the property near the bluff.

13. There is evidence of shallow soil creep on the bluff face. Erosional undercutting by waves along the toe of the bluff is also present. The lower portion of the bluff is nearly vertical in some areas. However, no indication of deep-seated rotational type slope failure has been observed.

14. The bluff meets the definition of a geologically hazardous area. There is a landslide risk. Expert evaluation recommended that the parcels be set back from 25 to 68 feet from the top of the slope, depending on the height of the slope. The Critical Areas Ordinance (CAO) requires a minimum set back of 30 feet in such areas. The proposed plat meets these recommendations and requirements.

15. Recently some trees were cut on and adjacent to the slope. The cut or topped trees were primarily Douglas fir, with a few red alder. Many of the understory shrubs were cut back or trimmed as well. Investigation determined that the cut trees were all either dead or dying. The trimmed shrubs were species that can tolerate trimming and regeneration is expected. The vegetation removal resulted in minimal impact to slope stability. Nevertheless, a buffer restoration mitigation plan was submitted requiring replanting of Western Hemlock and Douglas Fir at 15 feet on center through the geologically hazardous buffer area on top of the bluff.

16. Based on the record, the Examiner finds that, if the setbacks are observed and the restoration plan is carried out, the development is not likely to contribute to instability



of the bluff or otherwise adversely affect shore processes. The property touches on Shorelines of Statewide Significance, but will not conflict with any of the special policies for such shorelines. A footpath to the beach using an old roadbed will be available to the residents and guests of the development. This will be a plus in terms of public access. No impact on shoreline biological resources is probable.

17. A drainage report was prepared and submitted for review. Based on the report's analysis, no detention of storm water will be needed. The developed site conditions will produce a less than 0.5 cubic feet per second increase in the 100-year, 24-hour storm peak discharge. There will be no new point discharges from the site to adjacent property. Dispersion best management practices (e.g., splashblocks for roof downspouts) will be implemented for the newly created concentrated flows on site. Soils exposed during construction will be re-vegetated after construction is complete. The site will continue to be bounded by native vegetation. Water quality will be addressed by means of dispersion through native vegetation and by using grass-lined drainage ditches adjacent to the gravel entrance road and driveways.

18. The Critical Areas Site Assessment identified a Type 5 stream (50-foot buffer) in the eastern portion of the property and Category II (100 foot buffer) and III (50 foot buffer) wetlands on the eastern portion of the site. These areas will be placed within Protected Critical Areas (PCA's) and kept free of development. In addition, a large wetland is located in the southwest corner of the property. This wetland was not delineated or characterized but will be placed in an Open Space-Protected Area (OS-PA) tract as allowed by the CaRD ordinance.

19. In the open space lot (Lot 7) about 14.6 acres will be placed in PCA's and 18.5 acres will be designated OS-PA, totaling about 33 acres of protected open space. The balance of the open space lot will be designated as Open Space Rural Open (OS-RO) which may be used for recreational purposes.

20. The applicant submitted a set of Covenants, Conditions, Restrictions, Easements and Reservations for the Ambleside development. A Homeowner's Association will manage and maintain the common areas of the property, which will include the open space lot.

21. Pursuant to the CaRD ordinance, the residential lots are clustered and the cluster will be screened from outside views by topography and existing vegetation. A landscaping plan was submitted, demonstrating that the existing vegetation is sufficient to meet the requirements of the Code.

22. Environmental review was conducted under the State Environmental Policy Act. As a result of Mitigation Determination of Non-Significance (MDNS) was issued on September 16, 2008. The MDNS was not appealed. The conditions set forth were as follows:



1. Temporary erosion/sedimentation control measures, as approved by Skagit County Department of Public works, shall be in place prior to the placement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measures shall remain in place until completion of the project.
2. The applicant will be required to schedule a preconstruction meeting with Public Works prior the start of road construction.
3. The applicant shall comply with Northwest Air Pollution Authority requirements.
4. The development will be required to meet the fire flow requirements of the Coordinated Water System Plan (CWSP). The system is to be installed prior to final plat approval.
5. Operation of equipment/construction and daily operations shall comply with Maximum Environmental Noise Levels, Chapter 173-60 WAC and address noise and vibration limitations, and SCC 14.16.840 for light and noise conditions. This includes ventilation for safety, heating and cooling of any office and storage/garage/preparation/barns or recreational buildings, as well as operation of daily use and activities.
6. 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. There shall be no maintenance of vehicles or equipment on the property.
7. All critical areas and buffers shall comply with Protective Critical Area Standards per Skagit County Code 14.24.
8. The applicant shall provide a formal mechanism for the collection and distribution of the proposed mitigation for Skagit County Park & Recreation fees prior to final plat approval.
9. The reserve wells shall be located in the southwest portion of the property, as far away from the Guemes Seaview Water System (02164V) and the shoreline as possible.
10. Prior to preliminary approval, at least one demonstration well shall be drilled and approved in the reserve well area. This well can serve as an active well site for one of the proposed lots.



23. During the course of application review, comments were received from several members of the public. Friends of Guemes Island expressed initial concern about salt water intrusion and visual impacts on rural character. (They requested a hearing, but no one from the organization appeared at the hearing.) Skagit River System Cooperative expressed concern that development on the shoreline bluff would result in adverse effects on nearshore processes and on the bluff and the fish habitat associated with it. Based on the information provided at the hearing, the Examiner finds that the project as designed will not impose the negative impacts with which these letter writers were concerned.

24. Four nearby neighbors wrote letters in support of the proposal. Two members of the Guemes Island Planning Advisory Committee both wrote and testified that the project is a "perfect example of the kind of development of large tracts of land that our sub-area draft plan proposes."

25. The record demonstrates that a very thorough job of professional evaluation was performed on all relevant project aspects. Phil Greger, for the applicant, took pains to explain that this development is designed to be sensitive to the environment in this rural setting and to fit into the low density development pattern on the island. The Examiner finds that this is the case.

26. The utilities and public facilities required – e.g. electricity, telephone, water supply, fire protection, septic systems, area roads -- are all available with adequate capacity to serve the proposal. The impacts of the project on parks and recreation can be mitigated by the payment of an impact fee. Schools in the area do not impose impact fees on new development, but in any event, it is not likely that a development this small will have a significant impact on schools.

27. The application was circulated to various departments and agencies. They had no objections. Their comments are reflected in conditional of approval.

28. Planning and Development Services (PDS) evaluated the application under the criteria set forth in RCW 58.17.110(2)(a), including (a) public health, safety and general welfare, (b) open spaces, (c) drainage, (d) roads, (e) potable water supplies, (f) sanitary wastes, (g) parks and recreation, (h) schools and school grounds, (i) public use and interest. They concluded that the infrastructure and planning considerations statutorily required for preliminary plat approval have all be adequately provided for by the proposal, as conditioned. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report and analysis is hereby incorporated herein as though fully set forth.

29. Any conclusions herein which may be deemed findings are hereby adopted as such.



CONCLUSIONS OF LAW

1. Under SCC 14.06.050(1)(A)(iv) a long subdivision of fewer than nine lots is to be processed as a Level 1 administrative decision unless a public hearing is requested. If a public hearing is requested, the application is to be processed as a Level III Hearing Examiner Decision. SCC 14.06.110(15). The Level III process requires the Examiner, after a hearing, to make a recommendation to the Board of County Commissioners for their final decision. SCC 14.06.130(8).

2. The Hearing Examiner has jurisdiction over the subject matter and persons of this proceeding and is following the Level III process.

3. Although a portion of the subject property is within shoreline jurisdiction, no shoreline permits are required for the subdivision proposed. The development as proposed does not conflict with any Shoreline Management Act policies or local Shoreline Master Program policies, including policies for Shorelines of Statewide Significance.

4. The requirements of SEPA have been met.

5. The proposal, as conditioned below, is consistent with SCC 14.18.000, 100, and 300. In particular, CaRD requirements on density, open space, lot size, setback, avoidance of critical areas, clustering and screening are met.

5. The proposal, as conditioned below, meets the requirements of Chapter 58.17 RCW.

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

CONDITIONS

1. The project shall be carried out as described in the application materials, except as the same may be modified by these conditions.

2. The final plat shall comply with the provisions of SCC 14.18.200 and Chapter 58.17 RCW.

3. The conditions included in the MDNS (see Finding 22) shall be met prior to final plat approval.

4. All standard plat notes and appropriate departmental signoffs are required on the plat map.



5. Prior to final plat approval, the address range including road name will be shown on the plat map along with the correct plat note.
6. The lot corners must be set, per SCC 14.18.200(4)(d), prior to final plat approval.
7. All plat notes shown on the approved preliminary plat map shall be on the final plat map.
8. All proposed articles of incorporation, bylaws, and CC&R's must be submitted for review, per SCC 14.18.100(1)(b)(iv).
9. The driveways must be constructed prior to final plat approval, per SCC 14.18.200(4)(h).
10. Prior to final plat approval, as-built plans shall be approved by the appropriate department for all roads, drainage facilities and water lines.
11. A Grading Permit is required for the construction of roads and drainage facilities. Construction plans must be prepared by a licensed civil engineer.
12. Prior to road construction, a preconstruction meeting shall be scheduled with the Public Works Department.
13. Prior to starting road construction, and in accordance with Skagit County Road Standards, Section 12.09, the applicant shall post one or more signs showing the names or business names of the applicant and the project engineer, as well as contact telephone numbers for each.
14. The applicant shall submit a list of lot closures that correspond with the face of the plat.
15. The applicant shall submit a Protected Critical Area Easement (PCAEE) agreement for review and approval.
16. The plat map shall indicate the location of PCAEE signs. Typically signs should be located every 200 feet or line of sight, whichever is closer.
17. Per SCC 14.24.170(1), the PCAEE agreement and the plat map shall include a note that any future development within the area designated as OS-PA shall require a critical areas site assessment for that portion of the OS-PA within 200 feet of the proposed development.



18. Prior to final plat approval, the Buffer Restoration Plan shall be fully implemented, critical area signs shall be in place and any needed performance bond(s) shall be received by the County.

19. Plat notes for regarding the water systems and well protection zones shall be provided as required by SCC 12.48.240(3) and 12.38.240(5).

20. A plat note shall be provided that addresses compliance with the 5,000 gallon per day water use threshold for the project to develop without a water right.

21. Well field mitigation plat notes shall be provided:

- Store all chemicals (solvents, fuels, oils, pesticides, etc.) with secondary containment or in a building with a concrete floor. It is assumed that these are normal household quantities only.
- All application and disposal of chemicals will be according to the manufacturer's label directions or best available County disposal practice. (See Skagit County Health Department for more information.)
- No industrial, commercial or agricultural activities that utilize chemicals that could injure the aquifer will be conducted on this property.
- On-site sewage system disposal installation, alteration, or repair shall be in accordance with Skagit County Code 12.05 or applicable Skagit County Rules and Regulations governing on-site sewage disposal systems.
- No future development activity is to take place within existing and future well protection zones.

22. Before final plat approval, all demonstration wells shall have installed a limiting restrictor valve so the wells shall not exceed 4.5 gpm per the HG report requirements, the sounding tube and the meter. The applicant shall provide confirmation in writing of these installations for WA 07-0192 (copy of receipt from certified well driller of installation). All other wells shall comply at time of future development activity (building permit). The applicant shall provide written confirmation of these installations.

23. The final plat map shall show the water line easements.

24. Prior to final plat approval, all water lines from the existing wells must be installed to the respective lot lines.

25. All future development activity shall comply with the Salt Water Intrusion (SWI) Policy Resolution R#15570. All new wells for project shall be drilled into the upper Vashon Advance aquifer.

26. The project engineer shall coordinate specifications for the water system and fire hydrants with the Fire Marshal.



27. Prior to installation, the applicant shall submit engineered plans for the water tank, hydrants and associated water lines for Fire Marshal approval.

28. The installing contractor shall hydrostatically test the waterline to 200 psi for two hours prior to covering any pipe joint with backfill material.

29. At least a week in advance, the applicant shall coordinate any inspections and final test of the water tank with the Fire Marshal and Fire District 17.

30. Property taxes for the current year along with advance taxes for the next year and any delinquent taxes shall be paid prior to final plat approval.

31. All preliminary plat outstanding review fees shall be paid prior to submittal of the final plat.

32. The preliminary plat shall be valid for a period of five years from the date of the signed resolution by the Board of County Commissioners.

RECOMMENDATION

The Preliminary Plat of Ambleside (PL07-0680) should be approved, subject to the conditions set forth above.

DONE this 8th day of June, 2009.



Wick Dufford, Hearing Examiner

