

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Thomas J. Kilpatrick
8002 Unon Road
Sedro-Woolley, WA 98284
- Agent:** Ravnik & Associates
c/o John Ravnik
P. O. Box 361
Burlington, WA 98233
- Request:** Preliminary Plat (Long CArd), PL17-0123
- Location:** 8002 Union Road, Sedro Woolley, within a portion of Secs. 10 & 11, T35N, R4E, W.M. Parcel Nos: P36163, P36197, P36142, P36195, P36120, P36188.
- Zoning:** Rural Reserve (RRv)
- Summary of Proposal:** To create nine residential lots and one open space lot on a 51.1 acre site using the Conservaton and Reserve Development (CsRd) land division process. Each residential lot will be about one acre in size and the remaining acreage (approximately 42.08 acres) will be placed in open space designations.
- SEPA Compliance:** Mitigated Determination of Non-Significance (MDNS), dated October 3, 2017.
- Public Hearing:** March 28, 2018. Testimony by Planning and Development Services (PDS) staff, Public Works Department staff, Applicant's consultant, Applicant, and six members of the public.
- Decision/Date:** The application is approved, subject to conditions. April 11, 2018
- Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to the County Commissioners by filing with PDS within 14 days of this decision, or decision on reconsideration if applicable.
- Online Text:** The entire decision can be viewed at:
www.skagitcounty.net/hearingexaminer

FINDINGS OF FACT

1. Thomas Kilpatrick (Applicant) seeks approval of a preliminary long CArd on a 51.1 acre site.
2. The property is located at 8002 Union Road, Sedro Woolley. It is within a portion of Sections 10 and 11, Township 35 North, Range 4 East, Willamette Meridian. The Parcel Numbers are: P36163, P36197, P36142, P36195, P36120 and P36188.
3. The zoning of the property is Rural Reserve (RRv), a transitional district intended to provide residential opportunities coupled with the establishment of long term open space.
4. The property is at the north end of Union Road and west of the City of Sedro Woolley. It slopes generally from northeast to southwest. A portion of Thomas Creek crosses the extreme northwest corner. Most of the acreage is currently in a pasture-like condition covered with long grass. Burlington Northern Rail Line tracks are located along the east property line.
5. There is an existing residence in the southeasterly portion of the site, built in about 1998. Historical photographs show that the property was formerly forested except for about 7.5 acres where the house is. A 2010 Forest Practice Conversion allowed removal of the trees except for the area where 'Thomas Creek crosses the property.
6. The subdivision of the property will create nine residential lots of about one acre each, leaving about 42.08 acres in open space. The development lots will be clustered along the southern portion of the property. The project is designed to conform to the conservation and reserve development (CaRD provisions of the County Code.
7. The open space lot (Lot #10), as proposed, will have 6.15 acres (Tract A) designated as Open Space Protection Areas (OS-PA) and 32.68 acres (Tract B) designated as Open Space Recreational Amenities (OS-RA). Lot #10 will also include 1.93 acres (Tract C) allocated to ingress, egress and utilities, and 1.14 acres (Tract D) for the well site.
8. Lots will be served by on-site sewage disposal systems. Soil approvals have been received for most but not all of the lots.
9. A nine-lot public water supply system plus one individual use well will serve the subdivision. The plat will comply with limitations for water-right-permit-exempt wells. Fire flow requirements and fire access standards will be met.
10. The drainage system will provide for collected stormwater runoff to be conveyed to biofiltration swales and then to dispersion trenches where it will be allowed to infiltrate. Water which does not infiltrate will be captured in an above-ground detention pond in the southwest corner of the site and discharged via controlled releases to an existing ditch and storm pipe system leading to ultimate release into dense undergrowth and Thomas Creek. As designed the project's system will provide appropriate water quality treatment and will comply with relevant flow control and discharge duration standards.

11. Union Road commences at its intersection with the F&S Grade Road and continues north a half mile to its end at the entrance to the subject project. The plat lots will be accessed by a paved private roadway leading from the north end of Union Road. Internally within the plat, approximately 1,520 lineal feet of new private road will be constructed. A road maintenance agreement that includes all users of the private road will have to be provided.

12. Improvements will also be required for Union Road itself, leading to the development. The road currently has an asphalt width varying from 20 to 22 feet with a ditch located along the east side of the road. County Road Standards, call for this road to be widened to provide a 24-foot wide asphalt width.

13. Traffic generated by the project is expected to generate approximately 86 vehicle trips per day for all lots. Each lot is expected to generate one afternoon peak hour trip. All owner's vehicles are expected to be cars or pickups, so the quantity of commercial vehicles will be insignificant. Use of the Union Road by agricultural equipment will be limited.

14. Each one-acre lot will have adequate space to provide parking on site. No on street parking is proposed. The site is not served by public transit.

15. The developer shall be required either to provide parkland and facilities or pay a fee in lieu thereof.

16. The proposed plat is within the Sedro-Woolley School District. Mitigation of school impacts from the new housing will be made by requiring the lots owners to contribute fees in the amount included in the District's Capital Facilities Plan at the time of building permit issuance.

17. Environmental review of the proposal resulted in the issuance of a Mitigated Determination of Non-Significance (MDNS), issued on October 3, 2017. The MDNS was not appealed. It contained the following conditions:

- a. Temporary erosion/sedimentation control measures, as approved by the 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 Ordinance. Said measures shall remain in place until completion of the project.
- b. The applicant shall comply with Northwest Clean Air Agency requirements.
- c. The applicant shall comply with the provisos of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage, Water, Sedimentation Control Ordinance, as it relates to increased runoff resulting from additional impervious Surfaces.

- d. The applicant shall comply with Fire Code Standards.
- e. An engineered soils compaction report shall be required for all structures placed on fill material.
- f. The applicant shall comply with all relevant provisions of 14.24 of the Skagit County Code (Skagit County Critical Areas Ordinance).
- g. The proposal shall comply with all applicable requirements of SCC 14.16 and SCC 14.18. Most notably, SCC 14.16.830 Landscaping, SCC 14.16.840 Performance standards, and SCC 14.16.850 General provisions.
- h. This project may be subject to one of Ecology's National Pollutant Discharge Elimination System (NPDES) permits. A Construction Stormwater General or Industrial Permit may be required by the Department of Ecology (WSDOE) for This project. Contact the WSDOE Bellingham Field Office at (360) 715-5200 to Determine if an NPDES permit is required.
- i. The applicant shall comply with Skagit County Road Standards.
- j. 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 Archaeology 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.

18. A Notice of Development Application for the project was posted on the property, mailed and published as required by law. Four public comment letters were received.

19. One comment letter was from Skagit Conservation District expressing concerns about impacts on the water quality of Thomas Creek. The Applicant responded that Thomas Creek is over 300 feet away from the project and that adverse effects on the creek will be avoided through septic placement and design.

20. The other three comment letters dealt with the required 24-foot width of Union Road. The 24-foot width would closely approach the front entry ramp to the home of Milo and Patricia Dralle. The ramp is needed for handicapped access.

21. On July 20, 2017, applicant's consultant forwarded a request to Skagit County Public Works asking for a waiver allowing the approved paving width of Union Road to be 20 feet rather than 24 feet.

22. Public Works reviewed the request for a narrower road and, by letter dated September 21, 2017, denied it, saying they do not deem the 24-foot standard to be unreasonable. They did however, leave the door open to considering the matter further upon the submission of further documentation.

23. On March 14, 2018, the applicant's consultant forwarded to Planning and Community Development a more detailed request for narrowing the Union Road to 20 feet. In this report and at the hearing the consultant went to extraordinary lengths to make a case for reducing the required width, arguing among other things that the widening would impose unnecessarily burdensome costs on the project.

24. At the hearing, Tom Kilpatrick, the applicant testified in favor of the 20-foot width, urging that it is and will be safe. He noted that widening such as required here has not occurred on many county roads.

25. Several members of the Dralle family also testified, urging that any widening of the road be to the east, in order to leave the front door access of Milo and Patricia Dralle as it is. This approach would require piping the drainage ditch on the east side of the road.

26. It is not clear to the Examiner that the Department of Public Works has reviewed the latest formal submission on road widening. (Ravnik and Associates, March 14, 2018, Exhibit 14.)

27. Also at the hearing, the some owners of property west of the proposed plat asked for assistance in being able to access portions of their property east of Thomas Creek. The instant project make no provision for providing such access and need not do so.

28. The application was circulated to Critical Areas staff and to other County offices with an interest. None had significant objections. Their comments are reflected in the conditions of approval herein.

29. The Staff reviewed the application for compliance with provisions of the State Platting Statute, RCW 58.17.110(2)(a), in regard to open space, various items of layout and infrastructure, and the availability of public services. They likewise reviewed the proposal for compliance with the Land Division provision of SCC 14.18.100 and SCC 14.18.300. The Staff found that, as conditioned, the plat will meet the relevant standards for preliminary approval. The Hearing Examiner concurs with this finding and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

30. The Examiner finds that the proposal makes adequate provisions for public health safety and general welfare and for open spaces, drainage ways roads, potable water and sanitary wastes. He finds further that the public use and interest will be served by the platting of the subdivision.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over this proceeding under Level II review procedures. SCC 14.06.050(1)(b)(vi).

2. The requirements of the State Environmental Policy Act (SEPA) have been satisfied. The conditions of the MDNS are incorporated into the conditions of approval for the project.

3. As conditioned the project will comply with the Critical Areas Ordinance, Chapter 14.24 SCC.

4. As conditioned the project will comply with the requirements for the preliminary approval of long subdivisions, SCC 14.18.100, including requirements for conservation and reserve developments (CaRDs), SCC 14.18.300.

5. As conditioned, the project will meet the requirements of Chapter 58.17 RCW.

6. The denial of the request for reducing the required width of Union Road is within the discretion of the Department of Public Works and, under all the facts and circumstances, it does not appear that this discretion was abused in their decision of September 21, 2017.

7. However, the Examiner is unclear as to whether Public Works has formally responded to the Ravnik and Associates submission of March 18, 2018. Before foreclosing the road-width issue on this record, the Examiner refers the matter again to the Department of Public works and requests that they provide a formal response in writing to Exhibit 24. The preliminary plat approval will contain whatever width is approved by Public Works after this further review (See Condition No. 33).

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

CONDITIONS

1. The land division and plat preparation shall be carried out as described in the application materials, except as the same may be modified by these conditions.
2. All required permits shall be obtained and their conditions complied with.
3. The applicant shall comply with all applicable State and County regulations.
4. The address range(s) will be forwarded to Skagit County GIS for review and assignment after a road name has been selected. The address range(s) shall be shown on the face of the plat map before final approval (Currently Note #14).
5. Three road name options shall be provided for review and approval.
6. Note #3 shall be revised to reflect the correct zoning designation: Rural Reserve (RRv).
7. The Long CaRD land division number is #PL17-0123 and can be added to the face of the plat on each page.
8. In accordance with SCC 14.18.200(4), all lot corners must be set prior to final plat approval.
9. The vicinity map shall be revised to show surroundings, towns, cities, rivers, geographical features that locate this property within the County.
10. A signature/approval line is required for the Chairperson of the Board of County Commissioners. Final plat approval requires a public meeting with the Board per SCC 14.06.050(1)(d).
11. An updated title report shall be required with the final plat submittal.
12. Copies of any proposed covenants, homeowners association agreements, and road maintenance agreements shall be provided to Planning and Development Services (PDS) prior to final approval.
13. The open space lot shall be labeled as Lot #10 and shall include all of the separate tracts within the area calculation.
14. Landscaping shall be provided per SCC 14.18.330(3). A landscape plan shall be provided for review and approval prior to final plat approval.
15. Compliance with all provisions of SCC 14.18.200 (final plats) shall be shown prior to final approval.

16. 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.

17. All standard plat notes and appropriate departmental signoffs are required. The applicant shall ensure that the plat shows the appropriate number of acknowledgment blocks for all parties to the land division and the County staff.

18. The following note shall be shown on the face of the final plat:

“This parcel lies within an area or is within 500 feet of an area designated as a Natural resource land (agricultural, forest and mineral resource lands of long-term commercial significance) in Skagit County. A variety of natural resource land commercial activities occur or may occur in the area that may not be compatible with non-resource uses and may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals, or from spraying, pruning, harvesting, or mineral extraction with associated activities, which occasionally generate traffic, dust, smoke, noise, and odor. Skagit County has established natural resource management operations as a priority use on designated natural resource lands, and area residents should be prepared to accept such incompatibilities, inconveniences, or discomfort from normal, necessary natural resource land operations when performed in compliance with best management practices and local, State, and Federal law. In the case of mineral lands, application might be made for mining-related activities including extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals. In addition, greater setbacks than typical may be required from the resource area consistent with SCC 14.16.810. Contact Skagit County Planning and Development Services for details.”

19. The project shall comply with all conditions of the SEPA Threshold Determination (MDNS) issued on October 3, 2017. (See Finding #17 above.)

20. The applicant shall call 811 prior to commencing ground work.

21. Final plat fees shall be assessed at the time of final plat submittal.

22. A set of stamped envelopes addressed to all neighboring property owners and occupants within 300 feet of the subject property (with appropriate postage) is required for the final plat submittal. Envelopes with no return address shall be used. A list of the addressees shall be provided.

23. The face of the final plat map must show and label all utility easements.

23. All required property taxes shall be paid prior to the final approval.

24. Additional review may result in additional conditions or requirements.

25. All outstanding final plat fees shall be paid prior to final plat approval.
26. The new access road serving the plat shall be retained as a private road.
27. All paved long plat roads require centerline monumentation, whether public or private.
28. Roads and driveways within easements must be constructed prior to final plat approval in accordance with the Skagit County Code.
29. An access permit is required.
30. 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 & details. A preconstruction meeting shall be scheduled with Skagit County Public Works prior to the start of road construction.
31. Prior to starting road construction, and in accordance with Section 12.09 of the Skagit County Road Standards, the applicant must post one or more signs showing the name(s) or business name(s) of both the applicant and the project engineer as well as contact telephone numbers for each.
32. The construction of the roadway and detention facilities for the subdivision shall require certification by the engineer that all items have been built in concordance with the approved construction plans. (See Section 12, Skagit County Road Standards.)
33. The improvements to Union Road must be completed prior to final plat approval. Union Road must be improved to a 24 foot wide asphalt or BST driving surface, or whatever lesser width has been approved by Public Works. A right-of-way permit must be obtained and construction completed, and all necessary bonding for said improvements must be in place prior to final plat approval.
34. Road name sign(s) must be installed on the private road in accordance with Skagit County Road Standards.
35. The applicant shall provide a road maintenance agreement that includes all users of the private road.
36. The wetland area located in the northern portion of the property shall be included within the OSPA designation area.
37. The plat map shall show the location of the PCA (OSPA) signs on the critical areas boundary. PCA signs shall be placed every 200 feet or line of sight, whichever is closer.
38. The applicant shall submit a PCAE agreement for review and approval.

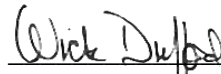
39. A plat note shall be added referencing the PCAE with the auditors file number.
40. Septic sites shall be approved for ALL lots and shown on the land division map for final plat approval. At the date of preliminary plat approval, there have been no soil approvals for Lots 2,4 and 6. The final plat map must show all approved soils, existing septic systems and 100% reserve areas.
41. Preliminary construction approval has been received from the Washington State Department of Health (DOH) for a Group B "Union Square" nine lot public water supply (ID#AD487) plus one individual use well. DOH requires full installation and written confirmation to Skagit PDS of DOH approval for the completed water system construction prior to final plat approval.
42. The final plat shall show approximate water lines for all lots and locations (--W--) and all proposed meter locations.
43. A plat note shall be added for Water System source(s) and ID numbers (per Chapter 12,48 SCC) and for limitations of volume per lot. The plat map shall include second well tag serving Lot #1 within the well protection zone (WPZ) serving that lot.
44. For final plat, all lots/existing home shall be metered and home lot #1 well shall be shown with a 100' WPZ out of all roads/drives or tight lined in the 100' WPZ. (Confirmation of installation of tight lines shall be made in writing by engineer.) Home lot #1 shall have an automatic shutoff valve or a limiter valve to comply with permit-exempt well limitations. Verification of installation shall be submitted in writing to PDS. (See Group B design manual 1.2/1.4.)
45. A plat note shall be added addressing water volumes allocated per lot and the square footage of irrigated ground allowed per lot for compliance with the permit-exempt well limitation of ½ acre total irrigated area.
46. The project shall comply with fire flow requirements per Skagit County Coordinated Water System Plan, Table 6.1, Minimum Fire Flow and Hydrant Spacing with regard to CaRD of 5 or more lots.
47. With regard to approved turnaround and cul-de-sacs, the project shall comply with International Fire Code 2015, Appendix D for Fire Apparatus Access Roads.
48. Any outstanding preliminary plat fees shall be paid within 30 days of this preliminary plat decision.
49. The developer shall either provide parkland and facilities within the land division in accordance with the standards of the Skagit County Comprehensive Park and Recreation Plan or provide a fee in lieu of required land and/or facilities.

50. Dimensions/size of stormwater facilities shall be added to the site plan.
51. Pre-developed conditions should be forested not pasture for storm calculations.
52. Appropriate property taxes shall be paid prior to final plat approval.
53. This preliminary long subdivision approval shall be valid for a period of five years from the date of this preliminary approval.

ORDER

The Preliminary Plat for Union Station, PL17-0123, is approved, subject to the conditions set forth above.

SO ORDERED, this 11th day of April, 2018.



Wick Dufford, Hearing Examiner

Transmitted to applicant, staff and interested parties, April 11, 2018