

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND RECOMMENDATION

Applicant: Tim Roberson
Cleeland-Roberson Construction & Development Corp.
18407 Majestic Ridge Lane
Mount Vernon, WA 98274

Agent: Young Soo Kim
Summit Engineers & Surveyors
2218 Old Highway 99 South Road
Mount Vernon, WA 98273

File No: PL07-0429

Request: Preliminary Plat (Ehrlich Estates)

Location: The proposed project is located at the end of Lee Road off of Highway 9 south of Big Lake. It is within the NW1/4NE1/4 and a portion of NE1/4 & SE1/4 of NW1/4 Sec. 6, T33N, R5E, W.M.

Land Use Designation: Rural Village Residential and Rural Resource-NRL

Summary of Proposal: To subdivide 61 acres into 23 residential lots and one open space lot through the CaRD process. The residential lots will range in size from .23 acres to .80 acres. The open space lot will be 52+ acres in size. About 42 acres of the open space designation will become Open Space-Natural Resource Lands (OS-NRL) and the remaining 10+ acres will be placed in an Open Space-Recreational Amenities designation. A standard County internal road, public sewer and public water will serve the project.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on March 26, 2008.

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

FINDINGS OF FACT

1. Cleeland-Roberson Construction and Development Corp (applicant) seeks approval of the preliminary plat of Ehrlich Estates through the Conservation and Reserve Development (CaRD) process.

2. The property is located south of Big Lake at the end Lee Road which leads easterly from Highway 9, in Govt Lot 2 and Blocks 5-7, 15, 16, 18, and 19 of the Plat of the Towne of Montborne; within NW1/4NE1/4 and a portion of NE1/4 & SE1/4 of NW1/4 of Sec. 6, T33N, R5E, W.M.

3. Approximately 19+ acres are located within the Rural Village Residential (RVR) zone and about 42 acres are located in the Rural Resource-Natural Resource Lands (RRc-NRL) zone.

4. The site is approximately 61 acres in size, lying in an east-west configuration. The western portion, is the RVR area where the proposed residential lots will be. It has an irregular shape and there is an “exception” located in the middle of this portion that is not included in the proposed subdivision. The residential area slopes to the southwest. The east part is rectangular and lies within the RRc-NRL zone. The entire property is currently vacant. It is heavily vegetated with remnant second growth forest and undergrowth consisting mainly of blackberry brambles.

5. The surrounding uses are residential and forest to the south and residential to the east, west and north.

6. The proposal is to divide the property into 23 residential lots and one open space lot. The residential lots will range in size from .23 acres to .8 acre. The open space lot will comprise about 52 acres, with about 42 acres designated as Open Space-Natural Resource Land and approximately 10 acres designated Open Space-Recreational Amenities.

7. The residential area will be divided into four cluster pods. Two of the pods will have eight lots each, one pod will have five lots, and one pod will have two lots. The residential development will essentially be built on a hillside.

8. The project will be served by public roads – a continuation of Lee Road which will proceed into the property and then turn right, and an internal road branching off of Lee Road near its new end. The branch road will serve one of the large cluster pods. Both roads will have a 50-foot right-of-way and will be built to public road standards.

9. Because the Lee Road connects to SR 9, the application was routed to the Washington State Department of Transportation (WSDOT) for review. A traffic study was requested and supplied. The study recommended that the SR 9/Lee Road intersection be improved to current WSDOT and Skagit County Road Standards. This

will involve some widening of Lee Road near the highway intersection. This activity will take place on the opposite side of Lee Road from the nearest residence. A developer's agreement will be required for this work.

10. The project will be served by Public Utility District (PUD) water and by the Big Lake Sewer District. An eight-inch water pipeline extension will be required to be installed into the development from where the PUD's line currently ends on the lower portion of Lee Road. The project is within the Big Lake Sewer District boundaries. A side sewer permit will be required. The developer provided a hydrogeo report on neighboring wells. The plan calls for meeting applicable fire-flow requirements. A water tank and booster pump will be installed to the east of proposed Lot 15 and a total of three fire hydrants are proposed.

11. The eastern portion of the site designated as OS-NRL will be protected with a Natural Resource Land Easement (NRL). Within this open space are two existing utility easements. Most of the OS-RA open space will be southwest of the residential lots. This area contains two small Category 3 wetlands with 50 foot buffers which will be preserved within a Protected Critical Area (2.7 acres). In addition this OS-RA area will be the location of a detention pond tract. There is a small triangle of OS-RA land located northeast of the residential lots next to the OS-NRL area through which a part of a pipeline easement runs. Williams Northwest Pipeline allows no buildings or obstructions within its right-of-way. No decision has been made as to whether the OS-RA uses will be solely for the owners within the plat or open to the general public. A plat note states that a homeowners association will maintain the open space properties.

12. A geohazard assessment was submitted. The site slopes to the southwest. The site plan shows a pronounced slope across the southern portion of the residential area. On this slope steepness ranges from 30 to 40 percent over a vertical relief of about 50 feet. Below the toe the slope is less than 10 percent. Above the top the slope is 10 to 40 percent. The elevation of the plat ranges from 183 feet to 300 feet. The assessment concludes that the slopes on site are stable and will remain so provided appropriate steps are taken to prevent potential erosion. The mitigation measures suggested were imposed as conditions in the Mitigated Determination of Non-Significance (MDNS).

13. A drainage report was submitted, calling for a stormwater detention pond and a wet-pond at the southwest portion of the site. There are existing natural ditches which connect to the wetland ditch. This ditch ultimately crosses SR 9 and conveys water westerly to Big Lake. According to the report, the runoff generated by the site development will be adequately controlled prior to leaving the detention system.

14. The developer intends that appropriate impact fees for parks and recreation and for schools will be paid by homebuyers prior to obtaining building permits. In the case of schools, the fees are significant. Plat notes will provide notice of these obligations.

15. As required by Code, the cluster pods will be screened from adjacent public roads and from other cluster pods. A landscaping and screening plan has been submitted. Existing alder trees on the site will be supplemented by deciduous street trees. A 20 foot landscape easement will run along the southern border. A 10 foot landscape easement will run along the front of the lots. Plat notes address maintenance of the landscaping.

16. Environmental review resulted in the issuance of a Mitigated Determination of Non-Significance (MDNS) on February 8, 2008. No comments were received. The MDNS was not appealed. The following conditions were imposed:

- 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.
- The applicant will be required to schedule a preconstruction meeting with Public Works prior to the start of road construction.
- The applicant shall comply with Northwest Clean Air Authority requirements.
- The applicant shall provide a formal mechanism for the collection and distribution of the proposed mitigation for Skagit County Park and Recreation fees prior to final plat approval.
- The plat will be required to meet fire flow requirements of the Coordinated Water System Plan (CWSP). The water system is to be installed prior to final plat approval
- 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.
- 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.
- All critical areas and buffers shall comply with Protective Critical Area Standards per Skagit County Code 14.06.145(1) and 14.18.310(5)(a).

- The public right-of-way shall be kept clean. Tracking of mud and debris off site shall not be allowed.
- The applicant will adhere to the geohazard mitigations listed in the Geotechnical Report prepared by Materials Testing and Consulting, dated November 28, 2007.
- The applicant will adhere to the construction traffic mitigation measures listed in the Traffic Impact Analysis Report prepared by Summit Engineers & Surveyors, Inc., dated December 12, 2007.

17. The application was routed to appropriate County departments for review. All items to be addressed on preliminary review have been accomplished. Other items are reflected in conditions of approval.

18. Public comments and testimony mainly related to the control of runoff and provisions for improving Lee Road. Some concern for the protection of wetlands and wildlife was also voiced. The owners of the “exception” expressed worries about their continued access and access easement rights. An extra week was provided to Jerry Lindquist, an owner within the old Town of Montborne, to provide an additional statement for the record if he so chose after discussing the project with the developer and the engineer.

19. The applicant’s engineer explained the proposed stormwater control system and stated that the proposed system should improve the drainage situation. He noted that the wetlands on site will be fully protected. He also advised that the Lee Road intersection will be widened from 18 to 24 feet, but that the amount of traffic generated by the project is not enough to require a turning lane on SR9.

20. The engineer stated further that he thinks adverse construction impacts can be avoided if the project is undertaken in the spring. Tim Roberson, the developer, provided assurance that he and his company will work with the neighbors to solve any problems that may arise from the project.

21. RCW 58.17.110(2) sets forth the criteria for approval of a preliminary plat. Under the statute “appropriate provisions” must be made for public health, safety and welfare, and for various items of project design and infrastructure. As applicable here, these include open space, drainage, roads, potable water, sanitary wastes, parks and recreation and schools. In addition there must be a finding that the public use and interest will be served by the platting of the subdivision.

22. The Staff report analyzes the development against the statutory criteria and determines that the proposal, as conditioned, will be consistent with them. The Hearing Examiner concurs with this analysis and adopts the same. The Staff report is incorporated herein by this reference as though fully set forth.

23. The foregoing findings show that the plat, as proposed, will provide infrastructure sufficient to accommodate the impacts of development in the particular setting. The proposal will provide adequate services for water supply, sewage disposal, drainage control and fire protection. Roads built to County standards will be constructed. The modest traffic generated will not exceed the capacity of surrounding roads. The plat design will preserve substantial open space and will protect critical areas from adverse impacts.

24. The project makes such “appropriate provisions” as are called for in RCW 58.17.110(2). The public use and interest will be served by the plat.

25. 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 persons and the subject matter of this proceeding. Because of the vesting date, the application is being processed as a Level III matter, involving a recommendation to the Board of County Commissioners.

2. The requirements of SEPA have been met.

3. The application requirements for a long subdivision have been met. SCC 14.18.100.

4. As conditioned, the proposal is consistent with the statutory requirements for preliminary plat approval. RCW 58,17.110(2).

5. The subject proposal, as conditioned, complies with the specific requirements for CaRD approval. It meets the density and dimensional requirements. SCC 14.18.310. Lot clustering and screening requirements are satisfied. SCC 14.18.330. Substantial open space is preserved and critical areas are protected. See SCC 14.18.310(3-5).

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

CONDITIONS

1. The preliminary plat shall be developed as set forth in the application materials, except as the same may be modified by these conditions.

2. The applicant shall acquire a grading permit for construction of roadway and drainage facilities. Construction plans must be prepared by a licensed civil engineer. Building permits shall be required for the individual residences.

3. The applicant shall obtain any other permits that may be required by local or state laws.
4. The final plat shall comply with the provisions of SCC 14.18.200 and Chapter 58.17 RCW.
5. Prior to final approval, all conditions included in the MDNS, dated February 8, 2008, shall be met. (See Finding 16).
6. All standard plat notes and appropriate departmental signoffs are required on the plat map. Dedications and easements shall be identified.
7. All plat notes shown on the approved preliminary plat map shall be shown on the final plat.
8. Prior to final approval, the address range shall be shown on the plat map, along with the correct plat note.
9. Prior to final approval, lot corners must be set per SCC 14.18.200(4).
10. The applicant shall comply with the provisions of SCC 14.16.870, Notification of Development Activities on or Adjacent to Designated Natural Resource Lands.
11. Per SCC 14.18.100(b)(iv), proposed articles of incorporation, bylaws and Covenants, Conditions and Restrictions, if any, shall be submitted to the Department of Planning and Development Services (PDS) for review.
12. A plat note shall provide for the maintenance of landscaping along the boundary of the open space lot.
13. Planting in accordance with the approved landscaping plan shall be accomplished or bonded pursuant to SCC 14.16.830(5)(g).
14. Prior to final approval, the Natural Resource Land Easement (NRLE) document shall be submitted to PDS for review. The approved NRLE shall be noted on the face of the plat and recorded with the plat.
15. A preconstruction meeting shall be scheduled with the Department of Public Works (DPW) as part of the grading permit process.
16. Prior to starting road construction, per 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.

17. Prior to the issuance of the grading permit, a corrected Traffic Impact Report shall be submitted and approved by WSDOT.

18. Prior to issuance of the grading permit, a developer agreement issued by WSDOT must be submitted to DPW.

19. Prior to final approval, written approval from WSDOT shall be provided.

20. All plat roads require monumentation per Section 7.05D of the Skagit County Roads Standards Manual.

21. Maintenance and restoration surety is required in accordance with Section 14.02 of the Skagit County Road Standards.

22. The plat roads as well as the existing portion of Lee Road shall be constructed to the standard defined in drawing B-2 of the Skagit County Road Standards.

23. Road name signs shall be installed in accordance with Skagit County Road Standards.

24. The applicant shall provide a right-of-way deed or appropriate dedication of right-of-way for the new portion of County road.

25. Road and detention facility construction shall be inspected by the Project Engineer and certified to be in compliance with County standards. See Section 12.00 Skagit County Road Standards,

26. Prior to final approval, acceptably formatted as-built plans for all roads, drainage facilities, water lines and sewer lines shall be submitted to the appropriate department.

27. Per SCC 14.32.100(3)(a), the applicant shall provide a Maintenance Plan for all stormwater and drainage conveyance systems. The plan shall be noted on the face of the plat and recorded with the final plat.

28. The final plat map shall show which side of the roads the water and sewer lines lie on and any associated easements.

29. Any line installation by the water service company shall be installed and approved, and acceptance by the water management company engineer and board shall be submitted in writing to PDS.

30. Any side service lines off of the main line to service any lots fronted by the main line are required to be installed and accepted by the land division engineer. Such acceptance shall be submitted in writing to PDS.

31. Prior to final approval, all PUD requirements shall be met and accepted by the PUD.

32. Prior to final approval, all septic lines and stubouts shall be installed or bonded.

33. The applicant shall submit a Protected Critical Area Easement agreement to PDS for review and approval.

34. The plat map shall show the location of PCAE signs. Typically such signs should be located every 200 feet or line of sight, whichever is closer.

35. Prior to final approval, the Fire Flow water system meeting CWSP Table 4-3(5) shall be installed, inspected and approved by the purveyor and the Fire District.

36. A plat note shall be added noting that a fee for mitigation of school impacts in accordance with the Sedro-Woolley School District Capital Facilities Plan shall be made by lot owners at the time of issuance of building permits.

37. 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.

38. Prior to final plat submittal, all outstanding preliminary plat review fees shall be paid. Prior to final plat recording, any outstanding final plat review fees shall be paid.

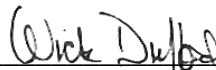
39. Additional conditions or requirements may be included in the final plat approval, as necessary to meet County Code requirements.

40. Per SCC 14.18.100(6)(b), the preliminary plat shall be valid for a period of five years from the date of approval thereof.

RECOMMENDATION

The preliminary plat of Ehrlich Estates should be approved, subject to the conditions set forth above.

DONE this 8th day of April 2008.



Wick Dufford, Hearing Examiner

Transmitted to Applicant: April, 2008