

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND RECOMMENDATION

Applicant: Windward Real Estate Services, Inc.
7981 168th Ave NE #118
Redmond, WA 98052

Agent: Greg Krabbe
1726 Holbrook Ave.
Everett, WA 98203

File No: PL07-0489

Request: Preliminary Plat (Creekside Meadows)

Location: Southwest of the intersection of Knapp Road and Baker Heights Road, within a portion of the NE1/4 Sec. 23, T34N, R4E, W.M.

Parcel Nos: P27650, 27604, 27647, 27611

Land Use Designation: Rural Reserve

Summary of Proposal: To subdivide 82 acres into residential lots and one open space lot through the Conservation and Reserve Development (CaRD) process. The residential lots will range in size from .95 acres to 1.03 acres. The open space lot will be approximately 68 acres in size. There will be four private internal roads, each accessing the adjacent public road. The project will be served by individual on-site sewage disposal systems and by potable water from Skagit County Public Utility District #1.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on March 12, 2008.

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

FINDINGS OF FACT

1. Windward Real Estate Services, Inc. seeks approval of the preliminary plat of Creekside Meadows through the Conservation and Reserve Development (CaRD) process.

2. The property is located southwest of the intersection of Knapp Road and Baker Heights Road, within a portion of the NE1/4 of Sec. 23, T34N, R4E, W.M. The parcel numbers are P27650, P27647, P27604, and P27611. The zoning designation is Rural Reserve.

3. The site is approximately 82 acres in size, south of the Knapp Road and west of Baker Heights Road. It is irregularly shaped, sloping down from the east to Nookachamps Creek which forms the west property line. Undeveloped 2nd and 3rd growth forest borders the roads and occupies the southern half of the property. On the northern half, the forest gives way to pasture land downslope.

4. Running diagonally through the property from southeast to northwest is a Category 2 wetland which requires maintenance of a 100 foot-wide buffer. Nookachamps Creek is a Type 1 water requiring a 200 foot-wide buffer. East of the creek in the pasture near the north boundary is a small Category III wetland with a 50-foot buffer requirement. The wetlands were delineated in a Critical Area Study by Gribble Environmental Consulting Company.

5. The proposal is to create 14 residential lots, ranged along the roads on the north and east boundaries. The plan includes three four-lot clusters with a culdesac road serving each cluster. The remaining two lots are adjacent to the westerly cluster and will be served by a joint driveway. The residential lots will range in size from .95 acres to 1.03 acres.

6. The balance of the property will be a 68-acre open space lot. Of this, about 44 acres are taken up by the critical wetland and stream areas and their buffers and will be placed within a Protected Critical Area. The remaining 24 acres will be Open Space – Recreational Amenities (OS-RA) land devoted to equestrian activities.

7. The proposal includes a 30-foot wide landscape border along the roadways. In the northwesterly area along Knapp Road where there are no trees at present, a native plant buffer will be installed. Along the rest of the roadway perimeter, the existing vegetation will remain but be supplemented by native trees and shrubs to provide a better screen. The landscaping is described in a Landscape Plan. The plan does not describe landscaping and planting between the clusters, but the applicant is willing to supplement the planting plan to provide for that.

8. Each of the access roads will be a short straight 50-foot wide culdesac just long enough to reach the interior lots. These roads will remain private. Two (Skiyou

Court and Methow Court) will access off of Baker Heights Road. Skiyou will be about 325 feet south of the Knapp Road/Baker Heights intersection. Methow will be about 450 feet south of Skiyou. The third road (Deschutes Court) will access off of Knapp Road approximately 393 feet west of the Knapp Road/Baker Heights intersection. The roads will be built to County Private Road Standards.

9. All lots will be served by individual on-site sewage disposal systems. Septic soil logs have been submitted and approved. The sewage systems will be required to meet the treatment standards and setbacks of the On-Site Sewage Code. The applicant provided a hydrogeo report canvassing existing wells in the area. Two wells located on the project site will be abandoned when the new plat is built. The only remaining well downstream of the proposed project will be over 1000 feet from any proposed drainfield.

10. All lots will be supplied with potable water by the Public Utility District. An eight inch water pipeline extension will be installed from where the District's six-inch line ends to the south of the property line of proposed Lot 14. All waterline improvements within the plat will be provided by the developer. The development will be obliged to meet the fire flow requirements of the Coordinated Water System Plan. The County Fire Marshall has verbally agreed to fire hydrant locations. The site lies within a fire district.

11. There is adequate residential lot space and open space on the property to manage all stormwater runoff by dispersion. Individual houses will discharge directly to splash blocks and the storm flow will then be dispersed in the immediate vicinity. Runoff generated by the paved access drives will be collected, conveyed to the west and then discharged through level spreaders. The spreaders will be at least 100 feet upstream of the any critical area and will discharge into areas that will remain forested.

12. The stormwater system was professionally designed by GFK Consulting and complies with current Department of Ecology standards. Evaluation indicates no adverse impacts on Nookachamps Creek from either the stormwater management or the sewage disposal systems.

13. The developer intends to dedicate additional right-of-way along the subject property's boundaries with Knapp Road and Baker Heights Road. However, there are no plans for roadway widening. Indeed, only about one acre will be cleared for the subdivision project. This will be for the construction of the three short access drives and utilities. Clearing for new home construction will be done by lot purchasers at the time of building permit issuance.

14. A homeowners association will be created. The association will own and maintain the open space lot and insure that protection contemplated for the critical areas is provided.

15. The developer will provide a mechanism for the collection of a fee in lieu of facilities for impacts on County parks. This is voluntary mitigation in the amount of \$100 per lot paid prior to the issuance of individual building permits. School impacts will likewise be paid for on a per lot basis following the Capital Facilities Plan of the Sedro-Woolley School District.

16. After environmental review, the County, on December 6, 2007, issued a Mitigated Determination of Non-Significance (MDNS) under the State Environmental Policy Act (SEPA). The MDNS was not appealed. It contained the following conditions:

- (1) 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/Erosions/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 to 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 place 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, hearing and cooling of any office and storage/garage/preparation/barns or recreational building 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 and Recreation fees prior to final plat approval.

17. The application was routed to appropriate County departments for review. Their comments are reflected in conditions of approval.

18. Appropriate public notice was given of the preliminary plat application and of the hearing. Comment letters were received from seven people. Some of these wrote multiple letters. Six members of the public testified at the hearing. Most of the testimony was by or on behalf of people who also wrote letters. The main concerns expressed were about the adequacy of the vegetative buffer along the roads, the multiple access points into the development, and the effect of the development on rural character. A particular point was made about the asserted inadequacy of sight distance in relation to the access on Knapp Road. There were also allegations that the PUD assessments for water line improvements in the area have been unfair, dissatisfaction expressed about loss of forest at the access points, and a complaint concerning the effect of headlights from one access way on a house across the street.

19. According to the Staff Report no minimum landscape buffer/screen was required by Code at the time this application vested. The proposed 30 foot buffer exceeds the minimum 25 feet now required between the road and beginning of a cluster pod.

20. At the hearing it was made clear that the homeowners association could be given an easement over the buffer and charged with responsibility for its maintenance. Individual lot owners could be prohibited from cutting down trees in the buffer. A condition of approval addresses this matter.

21. The multiple access points were explained as a means to reduce the amount of impervious surface created by the development. According to the project engineer, if one road built to public road standards were constructed to access all the houses, ten times more pavement would be required than is needed for the proposed design. A representative of Public Works agreed, and termed the project a low-impact proposal.

22. The project engineer said that sight distance for the access on Knapp Road meets the standards established for the speed limit in effect. Public Works agreed, adding that measurements will be taken at the time of construction and adjustments made as necessary to assure sight distance. The public testimony emphasized that people do not observe the speed limit in this area. (Also noted was the lack of any shoulder in this area and the danger that poses to bicyclists.)

23. 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.

24. 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. 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.

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

26. 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. The application is a Level III application pursuant to SCC 14.18.100(3)(c).

2. The requirements of SEPA have been met.

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

4. The purposes of the CaRD provisions include “to retain the rural landscape, character and lifestyle.” SCC 14.18.310. Some of the neighbors argued that this aim is not met. However, the subject proposal complies with the specific requirements for CaRD approval. It meets the density and dimensional requirements. SCC 14.18.310. Indeed the density is less than the maximum allowed. Lot clustering and screening requirements are satisfied. SCC 14.18.330. Substantial open space is preserved and critical areas are protected. See SCC 18.18.310(3-5).

5. The problem with any development is that it changes things. The idea of the CaRD approach is to hold onto significant unchanged open space through the clustering of development. As a matter of law, compliance with the specific CaRD requirements satisfies the CaRD purposes in regard to rural landscape, character and lifestyle. The subject development is appropriately termed “low impact.”

6. It should be noted that the Rural Reserve zoning is not being changed. The code allows CaRD development in the Rural Reserve zone.

7. The proposal, as conditioned, complies with the requirements of RCW 58.17.100 for preliminary plat approval.

8. Certain of the public concerns raised were not completely answered. In particular, the Examiner urges the developer to consider whatever actions might be available to insure the safety of the Knapp Road accesses and to improve conditions for bicycle riders. In sum though, the objections to the proposal do not appear sufficient to support its rejection.

9. 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 required by local or state laws.

4. The final plat shall comply with the provisions of SCC 14.18.200, Chapter 58.17 RCW, and the conditions included in the MDNS (see Finding 16) prior to final approval.

5. All standard plat notes and appropriate departmental signoffs are required on the plat map. Dedications and easements shall be described on the plat.

6. All plat notes shown on the approved preliminary plat map shall be shown on the final plat.

7. Prior to final plat approval, the address range shall be shown on the plat map along with the correct plat note.

8. Prior to final plat approval, lots corners must be set per SCC 14.18.200(4).

9. A homeowners association shall be required for the maintenance of the open space lot and of the vegetative buffer along Knapp Road and Baker Heights Road. The homeowners agreement shall be submitted to Planning and Development Services (PDS) for review.

10. Easements shall be executed to the homeowners association granting it the power to maintain the vegetative buffer along the public roads. A plat note shall prohibit

individual homeowners from harvesting trees in the buffer or otherwise interfering with its effectiveness.

11. The applicant shall comply with the provisions of SCC 14.16.870, Notification of Activities On or Adjacent to Designated Natural Resources Lands.

12. The landscaping plan shall be supplemented to provide for plantings between the residential clusters. The approved landscaping plan must be planted or bonded in compliance with SCC 14.16.830(5)(g).

13. A road maintenance agreement shall be developed and noted on the face of the plat. This document shall be recorded with the plat.

14. The three internal plat roads shall be constructed to current Skagit County Private Road Standards. See Road Standards Section 3.07.

15. All plat roads require monumentation per Section 7.05D in the Skagit County Road Standards Manual.

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

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

18. A preconstruction meeting shall be scheduled with the Department of Public Works as part of the grading permit process.

19. Prior to the start of construction, one or more signs shall be posted showing the names or business names of the applicant and project engineer, as well as telephone contact numbers for each.

20. The Project Engineer shall inspect the road construction and certify that the roads are in compliance with County standards. See Section 12.00, Skagit County Road Standards.

21. The applicant shall provide right-of-way dedication along Knapp Road and Baker Heights Road to provide a minimum 25-foot half width.

22. Prior to final plat approval, the drainage report shall be revised as directed by the County. The Project Engineer shall add more landscaping area to each lot for the developed condition. A maintenance and operations section shall be added to the drainage report. A reduced set of construction plans for the dispersion trenches shall be included in the final drainage analysis.

23. Prior to final plat approval, acceptably formatted as-built plans shall be submitted to appropriate departments for all roads, drainage facilities and water lines.
24. A Protected Critical Area Easement (PCAE) agreement shall be submitted to PDS for review and approval.
25. Plat notes shall reference the PCAE and the Auditors recording file number.
26. The PCA must be fenced to prevent access by livestock. Permanent PCA buffer edge markers shall be installed on site and their locations shall be shown on the plat map.
27. Prior to final plat approval, the fire flow water system shall be installed and approved.
28. If the fire flow system is connected to the public water system, final approval by the purveyor will be required.
29. All water side services lines shall be installed and approved in writing by the land division engineer.
30. Bonding for water service shall be approved per SCC 12.48.190.
31. The final plat map shall show which side of the driveway/roads the water lines lie on and any easements for them.
32. Any line installation required by the water service company shall be installed, approved and acceptance by the water management company engineer and board shall be submitted in writing to PDS.
33. Any overlapping well protection zones shall be identified per SCC 12.48.240(5).
34. A plat note shall be added addressing low flow impervious surfaces limitations for development in low flow areas, quoting the language of SCC 14.24.350(5)(a)(iii).
35. Prior to final plat approval, full site evaluations for septic system operation for each lot shall be submitted to PDS.
36. The final plat map shall show approved septic soils and reserve locations per SCC 12.48.240.
37. Prior to final plat approval, a copy of any CC&R's shall be submitted to PDS for review and approval.

38. If applicable CC&R's shall be recorded with the plat and the Auditor's file number shall be noted on the face of the plat.

39. 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.

40. The fee to be paid to County Parks and Recreation shall be noted on the face of the final plat. The fee shall be in the amount of \$100 per lot land shall be paid prior to each application for a building permit.

41. Mitigation of school impacts shall be made by lot owners in accordance with the Sedro-Woolley District Capital Facilities Plan at the time of issuance of building permits.

42. 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.

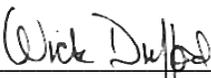
43. Additional conditions or requirements may be included in the final plat approval, as necessary to meet Code requirements.

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

RECOMMENDATION

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

DONE this _____, day of April, 2008.



Wick Dufford, Hearing Examiner

Transmitted to Applicant: April _____, 2008.

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.