

NOTICE OF DECISION

BEFORE THE HEARING EXAMINER FOR SKAGIT COUNTY

- Applicant:** Richard Johnson
4511 Concrete Sauk Valley Road
Concrete, WA 98237
- Contact:** Tuttle Engineering and Management
c/o Matt Randall
275 W. Rio Vista Avenue
Burlington, WA 98233
- Request:** Long CaRD Preliminary Plat, PL18-0015
- Location:** North of 59365 State Route 20, along Tessa Lane at 7868 Tessa Lane, Marblemount, within a portion of Secs. 12 and 13, T35N, R10E, W.M. Parcel Nos. P45176, P45178, P118022
- Land Use Designation:** Rural Reserve (RRv)
- Summary of Proposal:** To create 14 residential lots and one open space lot (with an associated one-acre building envelope) on approximately 82.05 acres using the Conservation and Reserve Development land division process. The residential lots will be approximately 30,000 square feet in size and will be clustered along the southern portion of the property along Tessa Lane. The remaining 76.88 acres (minus the building envelope, and PCA tracts or easements) will be designated Open Space Recreational Amenities (OS-RA).
- SEPA Compliance:** Mitigated Determination of Non-Significance (MDNS), dated March 15, 2005 and SEPA Addendum, dated May 11, 2018. No comments or appeals.
- Public Hearing:** July 11, 2018. Testimony by Planning and Development Services (PDS) staff, and applicant. No public testimony.
- Decision/Date:** The application is approved, subject to conditions. July 25, 2018
- Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to the Board of County Commissioners by filing with PDS with 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. Richard Johnson seeks the creation of the Heavenly Acres subdivision north of State Route 20 in Marblemount. He is a new applicant, reviving a 2007 approved project that expired.

2. The project will be situated on 82.05 acres along Tessa Lane, north of 59365 State Route 20 within a portion of Secs. 12 and 13, T35N, R10E, W.M. The Parcel Numbers are P45176, P45178 and P118022. The zoning of the property is Rural Reserve (RRv).

3. The proposal is to create 14 building lots of 30,000 square feet (.68 acres) each. The property will also contain a one-acre building envelope, a .72-acre well easement, water line and tank easements, drainage and access easements. The remaining property, approximately 76.88 acres will be retained in open space. The open space will be allocated to Protected Critical Area easements with the residual area designated Open Space Recreation Amenities (OSRA).

4. The site is irregularly shaped, generally undeveloped and forested. A Seattle City Light power-line easement runs across the southeast portion of the site. The 14 building lots will be clustered north of this easement, arranged on either side of Tessa Lane which will run between them. A building envelope has been placed in the residual area near the southwest corner of the property.

5. Most of the parcel is relatively flat, and the building lots will be on flat ground. The land slopes up in the northwest portion, which is the southeastern flank of Helen Butte which is over 5,000 feet tall.

6. Tessa Lane is a private road constructed in 2007 on the north side of SR 20. It extends approximately 2,100 lineal feet. An access connection permit has been issued by the Washington State Department of Transportation (WSDOT).

7. An unpaved extension of Tessa Lane will provide access to a water tank located in the northern portion of the site, as well as an existing telecommunication tower. Two wells are located on the property. The most northerly is owned and operated by Skagit County Public Utility District #1. The other well, identified as the "Jones Well" is privately owned.

8. The proposed lots will be supplied with water by Marblemount Water Supply/Public Utility District #1 Group A public water system. The PUD currently owns and operates a water pipeline on Tessa Lane fronting on all 15 of the proposed lots. The District has sufficient supply to furnish domestic water to the property. More than adequate fire flow is available.

9. From preliminary analysis it appears that the minimum requirements for on-site sewage treatment will be met for the initial 14 subdivision home sites. Soil logs for the home in the building envelope on proposed Lot #15 will be required for final approval.

10. A Stormwater Report regarding the subdivision was submitted on November 30, 2017. It noted that most of the project was reviewed and approved earlier under stormwater standards in effect when the subdivision process began in 2003. The portions of the project that

remain unchanged (Lots 1-14 and Tessa Lane) are not required to be re-evaluated under new stormwater standards. It is not expected that stormwater will sheet flow very far, if at all, off of the proposed site. Stormwater runoff from Tessa Lane flows off of the gravel surface into roadside ditches and is conveyed to a stormwater infiltration pond east of the Lots 1-14. The Lot 15 buildable area tied to the remaining open space parcel will be required to meet current standards. The proposed stormwater management design for this lot will use existing soil, native vegetation and dispersion techniques to manage runoff.

11. Adequate public services will be available to serve the development, assuming final approval of soil site evaluations, achievement of all roadway improvements and final approval of the public water system. Either land donation or fees will ensure that parks and recreation requirements are met. Mitigation of school impacts will be made by requiring lot owners to contribute fees in the amount included in the Concrete School District's Capital Facilities Plan at the time of issuance of building permits. The subdivision is within the boundaries of a Skagit County Fire Protection District.

12. There are two critical areas onsite, a known rock fall area requiring a 105 foot buffer from the base of the slope, and a Type N stream requiring a 50-foot buffer from the edge of the stream. These areas will be placed within Protected Critical Area Easements and will not affect or be affected by the development. Over half of the open space lot will be included in the PCAE areas.

13. Environmental review resulted in issuance of Mitigated Determination of Non-significance (MDNS) in conjunction with the Forest Practice Conversion Application (#PL04-0898) on March 15, 2005. No comment letters were received. The MDNS contains the following conditions:

- a. Skidder, tractor, cat and/or shovel yarding shall be prohibited at times of high soil moisture. Skidding shall stop if soil rutting exceeds 10 inches in depth.
- b. The public right-of-way shall be kept clean. Tracking of mud and debris off site shall not be allowed.
- c. The applicant shall comply with Northwest Clean Air Agency requirements.
- d. Temporary erosion/sedimentation control measures or drainage control measures may be required at the discretion of the Department of Natural Resources or the County.
- e. No harvest, road construction or any development activities shall occur on or within 50 foot the type 4 stream onsite.

14. Because the applicant included an additional lot (Lot #15) in this current proposal, a SEPA addendum was required. The SEPA Addendum was completed on May 11, 2018 and revealed no significant new environmental information.

15. A Nitrate Loading Assessment dated September 29, 2017 was prepared by Associated Earth Sciences. A Review of the 2007 Critical Area Assessment, dated July 25, 2017, was prepared by Northwest Environmental Consulting LLC. A Geohazard Assessment, dated October 5, 2017 was prepared by Associated Earth Sciences. As noted, a Stormwater Report, dated November 30, 2017 was prepared by Tuttle Engineering and Management.

16. The application and reports were circulated to the appropriate County Departments. Their comments are reflected in conditions of approval.

17. Notice of the application was posted, published and mailed to adjacent owners as required by law. No public comments were received. The public hearing was held on due notice on July 11, 2018. No public testimony was offered.

18. The Staff reviewed the application for compliance with the requirements of the State platting statute (RCW 58.17.110(2)) and the requirements of the Skagit County Code (SCC 14.18.100, 300) and determined that, as conditioned, the proposed CaRD land subdivision will meet the requirements for approval. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

19. 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. SCC 14.06.050(1)(b)(vi).

2. The requirements of State Environmental Policy Act (SEPA) have been met.

3. As conditioned, the proposal meets the criteria for approval of a preliminary plat. RCW 58.17.110(2), SCC 14.18.100.300.

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

CONDITIONS

1. The subdivision will be developed as described in the application materials, except as the same may be modified by these conditions.

2. The applicant shall comply with the condition of the MDNS, issued March 14, 2004 (See Finding 13 above).

3. The address range assigned to Tessa Lane begins at 7638 and ends at 8051. The existing addresses 7866 and 7868 Tessa Lane for the two water towers will change because the accesses will change due to the road extension. The address range shall be shown on the face of the plat map before final approval. Note #7 and Note #19 should be combined into one note.
4. The total square footage and acreage for the project shall be shown on the face of the plat. Also the square footage and acreage for each lot, tract, PCA, etc., shall be shown, either in a table or on each individual lot, tract, PCS etc.
5. The Long CaRD division number is #PL18-0015 and can be added to the face of the plat on each page.
6. All corners must be set prior to final plat approval, per SCC 14.18.200(4)(d).
7. The vicinity map shall be revised to show surroundings, towns, cities, rivers, and other geographical features that locate this property within the County.
8. The signature block for PDS should read “Planning and Development Service Director.: A signature/approval line is required for the Health Officer, County Engineer, and the Chairperson of the Board of County Commissioners. Final plat approval requires a public meeting, per SCC 14.06.050(1)(d).
9. An updated title report will be required with the final plat submittal.
10. Copies of any proposed covenants, homeowners association agreements, or road maintenance agreements shall be provided for review prior to final approval.
11. Landscaping shall be provided per SCC 14.18.330(3). A landscape plan shall be submitted for review prior to final approval.
12. The setbacks for the RRv zone, as well as the setback for CaRD land divisions, shall be included on the face of the plat, either in a plat note, a table or on the lots themselves.
13. Note #12 shall be changed to reflect the correct open space designation: OS-RA. No OS-RO is proposed.
14. The applicant shall show compliance with SCC 14.18.200 (Final Subdivisions) prior to final approval.
15. If any portion of the parent parcel is in an Open Space taxation program, the County Assessor’s Office shall be contacted ((360) 416-1780) prior to proceeding with the land division.
16. All standard plat notes and appropriate departmental signoffs are required. Ensure that there are the appropriate number of acknowledgement blocks for all parties to the land division and relevant County personnel.

17. Final plat fees will be assessed at the time of final plat approval.
18. A set of stamped envelopes addressed to all neighboring property owners and occupants within 300 feet of the subject property (with appropriate postage) will be required for the final plat submittal. The envelopes shall show no return address. A list of the individuals to whom the stamped envelopes are addressed shall be provided.
19. The layout of existing and proposed easements must be shown on the plat map, per SCC 14.18.100(1)(a)(vii). Easements shall be labelled and easement widths must be shown.
20. All required property taxes shall be paid prior to final approval.
21. All paved long plat roads require centerline monumentation.
22. The applicant shall provide drainage easements for all stormwater and drainage conveyance systems that are not located in public rights-of-way or tracts. The infiltration pond shall be included within an easement or a separate tract.
23. In addition to the PCA easement area indicated for the type N stream (50 foot buffer), a PCA easement area shall be shown from the base of the rockfall area (105 foot buffer), as prescribed by the geohazard assessment, dated October 5, 2017,
24. Each PCA shall be identified as a separate critical area tract or easement. Each such tract or easement shall be labelled with a letter. Different letters may be used for the stream area and rockfall hazard area, or both may be included in a single tract or easement but labeled separately to identify the type of PCA.
25. The square footage or acreage of each critical area tract or easement and associated buffer shall be shown. This information may be listed under "Survey Notes." Note that Lot 15 OS-RA (open space/recreational amenities) will be significantly reduced as over half of Lot 15 is to be included in the PCA easement areas for the stream and rockfall area.
26. The type of each critical area tract or easement shall be shown on the plat map (e.g., "fish and wildlife habitat conservation area" by the stream and "geologic hazard area" for the rockfall slope).
27. The plat map shall show the location of PCA easement signs on the critical areas boundaries. PCA easement signs shall be placed every 300 feet or line-of-sight, whichever is closer.
28. Plat Note 11 is incorrect and shall be removed. Critical areas review for the entire area has been completed. Plat Note 12 should be rewritten. No OS-PA or OS-RO is indicated on the plat map. Remove that portion of the note referring to Open Space Protection Areas and Open Space Rural Open. The PCA's should be labelled as stated. The remaining area should be labelled OS-RA.

29. The applicant shall submit the PCA easement agreement(s) for review and approval.
30. A plat note shall be added referencing the PCA easement agreement(s) with the auditor's file number.
31. Approved Soil Site Evaluations shall be completed for proposed Lot #15.
32. The plat must show the approximate location and side of the road where the PUD water service line is (--W--). Approval of installation of the water line for Lot #15 shall be provided and the location of the line and the meter location shall be shown.
33. The public use well off of Lot #14 shall be shown, along with its zone of influence (WPA) as determined by the hydro-geo study. (The previous plat map shows the approximate location and size and label, identifying the WPA as Marblemount #AA6423) The 200 foot WPZ radius for the public use well shall be added to the plat map and labelled accordingly. Place the tag label (AAHB745) in the 200 foot WPZ for the public use well.
34. Provide the State identification number (#AA6423) for Marblemount water in the plat water note for the land division water source, per SCC 12.48.240.
35. Provide a plat note that states that no development or activity shall occur within the WPA until review has been completed and approved by State Health, Skagit PDS, and the Marblemount Water System. (This affects lots #1-4 and #13-15 and perhaps Lot #5.) Address any restricted activities in the WPA, the 100' WPZ and the 200' WPZ per the Wellhead Protection Plan.
36. Provide a plat note addressing the Skagit Instream Rule (Chapter 173-503 WAC), stating the following:
- This development is in a watershed basin, identified by the Washington State Department of Ecology (WSDOE) as having groundwater withdrawal restrictions. Legal access to groundwater for future development is not guaranteed. Contact WSDOE for more information.*
37. Add a plat note that accessory dwelling units (ADUs) shall be limited by the approved capacity of the water system.
38. Label the monitoring well with tag number AER 323 in the 100' WPZ and as "monitoring-observation use only."
39. Provide a Health Department signature approval line.
40. Additional review will require additional fees: one and a half hours of review time was charged for review on 3-30-18. The hydro-geo (HG) nitrate report is currently under review.

41. The project must comply with fire flow requirements per Skagit County Coordinated Water System Plan, Table 6.1 Minimum Fire Flow and Hydrant Spacing for CaRD's of 5 or more lots.

42. The project must comply with International Fire Code 2015 Appendix D for Fire Apparatus Access Roads with regard to approved turnarounds and cul-de-sacs.

43. If impervious areas change, a revised drainage report will be required.

44. Plat note #2 shall be revised. "*Effect*" shall be changed to "*Affect adjacent properties.*"

45. The following plat note shall be added to the plat map:

"Future development may be subject to the stormwater management rules in effect at the time of development, and may require additional analysis and flow control to comply with stormwater management rules."

46. The developer shall either provide parkland and facilities within the land division in accordance with the standards in the Skagit County Comprehensive Park and Recreation Plan or a fee in lieu of required land and/or facilities.

47. Lot owners shall be required to contribute fees in the amount included in the Concrete School District's Capital Facilities Plan at the time of issuance of building permits.

48. The appropriate property taxes shall be paid prior to final approval.

49. Any outstanding preliminary plat fees shall be paid within 30 days of the preliminary plat decision.

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

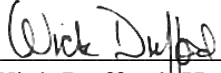
51. A pre-development meeting shall be required prior to the submittal of the final plat.

52. Per SCC 14.18.100(6)(b), this preliminary long subdivision approval shall be valid for the time listed in RCW 58.17.140, as amended. This is currently for a period of five (5) years from the date of preliminary approval by the Hearing Examiner.

ORDER

The requested preliminary plat for Heavenly Acres Long CaRD land division (PL18-0015) is approved. The conditions set forth above shall be satisfied prior to final plat approval.

SO ORDERED, this 25 day of July, 2018.



Wick Dufford, Hearing Examiner

Transmitted, to: Applicant, Project consultant, and Staff, July 25, 2018.