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3 **BEFORE THE HEARING EXAMINER**
4 **FOR SKAGIT COUNTY**
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6 **Applicant:** Aloha Lumber Company
7 attn: Mark Stahl
8 111 Market Street, Suite 245
9 Olympia, WA 98501

10 **Agent:** Marianne Manville-Ailles
11 Skagit Surveyors & Engineers
12 806 Metcalf
13 Sedro Woolley, WA 98284

14 **File No:** PL05-0457

15 **Request:** Preliminary Plat for the subdivision of approximately 118.29 acres
16 into 13 lots ranging in size from one acre to 108 acres. The
17 subdivision would be pursuant to the CaRD subdivision process, the
18 northern portion of the non-building open space lot will be placed
19 in Open Space Preservation Area (OS-PA) and the southern portion
20 will be placed in Open Space Natural Resource Land (OS-NRL).

21 **Location:** 7773 and 7779 Pinelli Road, Sedro Woolley, WA, within Section 8,
22 Township 35 North, Range 7 East, W.M., Skagit County,
23 Washington

24 **Land Use Designation:** Rural Resource Natural Resource Lands/Mineral Resource
25 Overlay

Assessor's Parcel Nos: P42294 P42295 P42296 P42280

Public Hearing: After reviewing the report of the Skagit County Planning and
Development Services, the Hearing Examine, *pro tem*, conducted a
public hearing on September 28, 2005.

Recommendation: The application is recommendation for approval subject to
the conditions stated herein.

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FINDINGS OF FACT

1. Aloha Lumber seeks approval of a preliminary plat using the conservation and resource development (CaRD) process.
2. The proposed project will be located on approximately 118.29 acres located at 7773 and 7779 Pinelli Road within Section 8, Township 35 North, Range 7 East, W.M., Skagit County, Washington. The property is at the northerly end of Pinelli Road, and north of SR 20. The zoning is Rural Resource Natural Resource Lands and the property is subject to the rural resource overlay.
3. The site is occupied by one single family residence and approximately ten acres of pasture. The remainder of the site consists of a mixed stand of timber. Adjacent property on the west is pasture, property lying to the north is commercial forest land, property to the east is mixed timber and has the community water system facilities. Property to the south has timber and a single family residence.
4. The proposal is to divide the property into 13 lots. The lots will range in size from one acre to 108 acres. The existing homesite will be contained on a one acre site. The following items were noted in the staff report prepared by the Skagit County Department of Planning and Development Services:

Environmental Health – Septic and Water:

Septic: Lots 1-13 approved with SW05-0249-0260.

Water: We have reviewed PL05-0457 for compliance with SCC 12.48 "Rules and Regulations of the Skagit County Board of Health Governing Individual and Public Drinking Water Systems" and SCC 14.24.350 "Aquifer Recharge" section of the "Skagit County Critical Areas Ordinance". Our findings and recommendations are as follows:

Water Supply

1. A Public Drinking Water Evaluation from Skagit County Water District #1 has received on signed by Kelly Wynn, system operator on January 31, 2005 confirming availability of water to serve the plat. Water lines must be installed to the property lines of each of the lots prior to final plat approval or appropriately bonded. Documentation of installation and acceptance of installation would need to be by the Water Districts "Designated Person" if that is their standard operating practice or by the applicant's Engineer if not.
2. The soil log holes for the on-site septic system reserve area on lot 1 or drainfield replacement area need to be identified on the face of the plat.

1 **Aquifer Recharge**

- 2 1. A hydro-geologist's report has been received from Associated Earth Sciences. The report is still under review by Skagit County's Hydro-geologists.
- 3 2. Per the Hydro-Geologist's report the drain-field for lot 2 must be located out of the Well Head Protection Zone (WHPZ) for the wells for Skagit County Water
- 4 District # 1, therefore the plat map should delineate the location for the lot 2 drain-field and reserve areas or note the above requirement in the plat notes.
- 5 3. Because a portion of lot 2 was within the delineated "Well head Protection Area" a plat note is needed stating that a Well Health Protection Zone mitigation
- 6 plan will need to be filed on the title for lot 2 prior to building permit issuance.
- 7 4. Even though lots 1 and 12 were determined to be within the 1 year Calculated Fixed Radius from Water District #1 source wells the Hydrogeologist's report
- 8 states that the delineated Well Head Protection Area does not include them, therefore mitigation plans will not be required for lots 1 or 12.

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10 **Critical Areas:**

11 Critical areas review of the proposed plat indicated the following:

- 12 1. Critical areas was completed and approved with forest practice conversion application PL04-0778. Approval included the recording of a PCA.
- 13 2. The plat map shall indicate the location of PCA (OS-PA) signage. Typically signs should be located every 200 feet or line of sight, whichever is closer.
- 14 Signage shall be placed along lots 2 through 6.
- 15 3. As per SCC 14.24.170 (1), The Protected Critical Area Easement Agreement and the plat map shall be amended to include a note that any future
- 16 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 the proposed
- 17 development area(s).

18 **Fire Marshal:**

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20 The Skagit County Fire Marshals Office has the following comments on the grading permit BP05-0626 related to the subdivision application:

- 21 1. A portion of the proposal appears to be within the boundaries of RFPD #10. The remainder appears to not be within the boundaries of a RFPD.
- 22 2. Provision of fire flow per the Skagit County Coordinated Water System Plan (CWSP) Table 4-3 will be required.
- 23 3. Provide submittals that show how CWSP requirements will be met as part of land use application.
- 24 4. At the time of application for a building permit the access roads and the driveway to any building sites will be required to meet the Skagit County
- 25

1 Emergency Vehicle Access/ Driveway Standards. This should be taken into
2 consideration when locating and building logging roads to reduce environmental
3 damage.

4 The Fire Marshall has indicated that comments related to the subdivision
5 application are the same as discussed at the pre-application meeting.

6 The following comments were offered at that time:

- 7 1. Driveways must be constructed to the lot line of each lot prior to final plat
8 approval.
- 9 2. Fireflow must be provided within 450 feet of each lot as per CWSP table 4.3.
- 10 3. The Fire Marshall must approve the water plans prior to the water line
11 extension.

12 5. Pursuant to RCW 58.17.110(2)(a), the following findings are made:

13 A. Public Health, Safety and General Welfare:

14 It appears the proposed plat has met the minimum requirements relating to on-
15 site sewage disposal. Prior to final approval, conditions required from the Water
16 Resources Division will need to be approved. Other recommended conditions
17 would be to provide adequate standards for transportation safety and provide for
18 adequate provisions relating to parks, recreation and schools.

19 B. Open Spaces

20 The applicant has proposed a CaRD (Conservation and Reserve Development)
21 Land Division and the proposal is to cluster eleven (11) residential lots, each one
22 (1) acre in size, and an additional one (1) acre lot to contain an existing
23 residence. Approximately 101.47 acres will be designated open space area as
24 outlined within Skagit County Code 14.18. The open space will be designated
25 Open Space Protected Area (OS-PA, 77.27 acres) and Open Space NRL (OS-NRL,
26 24.2 acres).

27 C. Drainage Ways

28 Storm drainage and access easements will be provided along with the
29 stormwater facilities. A maintenance plan for all drainage facilities is required
30 detailing the nature and frequency of required maintenance. A Homeowner's
31 Association will privately maintain the drainage facility. Skagit County Public
32 Works has previously detailed the requirements that are to be met prior to final
33 approval and those requirements have been made conditions of final approval
34 within this preliminary plat approval request.

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2 D. Streets or roads, alleys and other public ways, transit stops:

3 The proposed land division is accessed by a private road tentatively noted as
4 Windsong Lane, which will access the site from Pinelli Road. The internal plat
5 roads will be built to County Road Standards as required by Skagit County Public
6 Works, and the proposal is to maintain the roadway as a private roadway.

7 There are no established transit stops in the vicinity of the proposed plat.

8 E. Potable Water Supplies

9 The applicant is proposing to use a public water system that meets State Health
10 and Department of Ecology standards for approval. The proposal is also required
11 to be in compliance with the Skagit County Coordinated Water System Plan
12 (CWSP). Skagit County Water Resources has previously detailed the
13 requirements that are to be met prior to final plat approval and those
14 requirements have been made conditions of final approval within this preliminary
15 plat approval request.

16 F. Sanitary Wastes

17 The proposal is to utilize on-site septic systems. The Skagit County
18 Environmental Health Unit (Septic) reviewed the proposal and noted that Lots 1-
19 13 have been approved with septic permits SW05-0249-0260.

20 G. Parks and Recreation, playground

21 Skagit County Code section 14.18.000 (5) (e) states "Parkland and facilities."
22 The developer shall either provide parkland and facilities within the land division
23 in accordance with the standards in the Skagit County Comprehensive Park and
24 Recreation Plan or a fee in lieu of required land and/or facilities. Even though
25 the applicant is providing 101.7 acres of open space per SCC 14.18, a voluntary
mitigation agreement with Skagit County Parks shall be set up to compensate for
the increase in parks and recreation/playground use. This voluntary mitigation
shall be in the amount of \$100/lot and paid prior to the issuance of building
permit applications. This shall also be spelled out in the "plat notes" on the face
of the plat as well as addressed within the CC & R's for this development.

H. Schools and Schoolgrounds

The proposal is located within the Sedro-Woolley School District #101. The
School District has adopted a Capital Facilities Plan that includes calculations
relating to the impact of new housing on the District. Skagit County has adopted

1 the Capital Facilities Plan as a portion of the County's Comprehensive Plan.
2 Mitigation of the school impacts are generally made through the payment of
3 school district impact fees at the time of building permit issuance for each lot.

4 I. Public Use and Interest

5 This proposal is not contrary to the public use or interest of the area. The
6 property is designated as Rural Resource (RRC-NRL) with a density requirement of
7 one home per 40 acres of land, unless the land is divided through the use of the
8 CaRD land division, then smaller lots will be allowed. As provided by SCC 14.18.310,
9 if developed through the CaRD process, a density of one home per 10 acres is
10 permitted. This proposal meets the density requirements of this section of Skagit
11 County Code. All or a portion of the residential lots proposed are located within Fire
12 District 10. A plat note has been listed indicating that no building permit shall be
13 issued for any residential/or commercial structure which is not, at the time of
14 application, determined to be within an official designated boundary of a fire district.
15 Adequate services will be provided, assuming that prior to final approval positive soil
16 site evaluation can be achieved and the public water system is approved.

17 6. A specific concurrency review pursuant to chapter 13.28 SCC was not conducted
18 by the Skagit County Planning Department. Upon inquiry, Mr. Brent Morrow, on
19 a separately written supplemental response stated as follows: "Although a
20 specific review section for concurrency was not documented by the County in the
21 staff report submitted for review, the specific elements related to concurrency
22 were reviewed." Mr. Morrow indicated that specific County departments were
23 queried concerning the project and provided responses which were, in Mr.
24 Morrow's opinion, a satisfactory basis to conclude, "In essence, a concurrency
25 review was conducted, but as previously stated, not in a documented review
section of the staff report. In addition, the SEPA MDNS did not require that
additional infrastructure improvements be made related to impacts on surfaces
to the area adjacent to the plat."

In a submission submitted by the applicant, it was asserted by the applicant's
representative that the Planning Department has established rules providing that
the plat application "serves as the concurrency application" and otherwise
governing concurrency review. These "rules" if promulgated have not been
brought to the attention of the Hearing Examiner, making it impossible to judge
compliance on this basis.

1 **CONCLUSIONS OF LAW**

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- 3 1. The Hearing Examiner has jurisdiction over persons and subject matter of this
- 4 proceeding. Level III procedures apply. SCC 14.06.050(c)(i).
- 5 2. The requirements of SEPA have been met.
- 6 3. As conditioned, the proposed preliminary plat meets the requirements of the
- 7 subdivision statute, RCW 58.72.110(2)(a).
- 8 4. CaRDs are expressly permitted in the Rural Resource zone. As conditioned, the
- 9 proposed preliminary plat will be consistent with the regulations of the CaRD
- 10 subdivision with five or more lots.
- 11 5. Although the Planning Department failed to conduct a formal concurrency review
- 12 as required by Chapter 14.28 SCC, the basic elements of concurrency were
- 13 reviewed outside the formal process. Therefore, although the letter of Chapter
- 14 14.28 SCC was not met, the spirit was and therefore it is determined that the
- 15 project is in compliance with concurrency requirements as contained in Chapter
- 16 14.28 SCC.
- 17 6. Any finding herein that may be deemed a conclusion is hereby adopted as such.
- 18 7. Any conclusion herein that may be deemed a finding is hereby adopted as such.

19 **CONDITIONS OF APPROVAL**

- 20 1. ALL long plat roads require centerline monumentation, whether public or
- 21 private.
- 22 2. Section 14.32.100 (3) (a) of the Skagit County Code states that the applicant
- 23 must provide a Maintenance Plan for all stormwater
- 24 and drainage conveyance systems. The maintenance plan will be required prior
- 25 to final plat approval.
- 3 3. Road construction and drainage facilities shall be inspected and certified by the
- 4 project
- 5 engineer to be in accordance with the approved plans and in compliance with all
- 6 Skagit County codes and standards. See section 12 of the Skagit County Road
- 7 Standards. The deviations from these standards per the letter from Mr. David
- 8 Sheridan dated 12/3/2004 are approved.
- 9 4. In accordance with Section 14.18.200(4)(d) of the Skagit County Code, the lot
- 10 corners
- 11 must be set prior to final plat approval.

1 5. Prior to final plat approval an address range and associated plat note must
2 be shown on the face of the plat map.

3 6. Prior to final plat approval, all requirements outlined within Skagit County
4 Code section 14.18 must be met.

5 7. All property taxes must be paid prior to final plat approval.

6 8. A plat note must be added stating that a \$100/lot park impact fee will be
7 paid. The applicant has the option of designating this fee as being paid prior to
8 final plat or prior to a building permit being issued.

9 9. A plat note must be added stating that school impact fees must be paid at
10 the time a building permit is issued.

11 10. If covenants and restrictions are to be placed on the plat map, it should be
12 described by a plat note.

13 11. The applicant shall comply with the conditions outlined within the SEPA
14 threshold determination (MDNS) published on July 28, 2005. Conditions are
15 outlined within Departmental Findings # 3.

16 12. The plat map shall indicate the location of PCA (OS-PA) signage. Typically
17 signs should be located every 200 feet or line of sight, whichever is closer.
18 Signage shall be placed along lots 2 through 6.

19 13. As per SCC 14.24.170 (1), The Protected Critical Area Easement Agreement
20 and the plat map shall be amended to include a plat note that any future
21 development within the area designated as OS-PA shall require a critical areas
22 site assessment for that portion of the OS-PA within 200 feet the proposed
23 development area(s).

24 14. Fireflow must be provided within 450 feet of each lot as per Coordinated
25 Water System Plan (CWSP) table 4.3. The Fire Marshall must approve the
water plans prior to the water line extension. Driveways must be constructed
to the lot line of each lot prior to final plat approval.

15. Driveways must be constructed to the lot line of each lot prior to final plat
approval.

16. Prior to final plat approval all Skagit County Health Department
requirements for water supply and aquifer recharge must be met.

1 17. Per Skagit County Code section 14.18.100(6)(b), the preliminary plat shall
2 be valid for a period of 5 years from the date of preliminary plat approval by
3 the Skagit County Board of County Commissioners.

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5 **RECOMMENDATION**

6 The Hearing Examiner hereby recommends that the proposed preliminary plat be
7 approved, subject to the conditions set forth above.

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11 _____
12 BRADFORD E. FURLONG
13 Hearing Examiner Pro Tem

14 Date of Action: November 23, 2005

15 Date of Transmittal to applicant: November 23, 2005