

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND RECOMMENDATION**

**Applicant:** Hapi Mangat  
PMB 57, 10013-D Shoultes Road  
Marysville, WA 98270

**Agent:** Barbara Jones  
Cascade Surveying and Engineering, Inc.  
PO Box 326  
Arlington, WA 98223

**File No:** PL06-0442

**Request:** Preliminary Plat (Mangat Estates)

**Location:** 4501 State Route 9, within the S1/2SW1/4SE1/4 and E1/2SW1/4 and Govt Lots 3 and 4, Sec. 30, T36N, R5E, W.M.

**Parcel Nos:** P51105, 51106, 51115, 51117, 51119

**Land Use Designations:** Rural Reserve (RRv) and Rural Resource-NRL (RRc-NRL)

**Summary of Proposal:** Preliminary Plat for a division of 140 acres into 10 lots using the CaRD process. There would be nine one-acre residential lots and one 128-acre open space lot. The open space would consist of 11+ acres designated as Open Space Reserve (OS-RSV) and 116+ acres as Open Space Protected Area (OS-PA). An internal road, on-site sewage disposal, and individual drilled wells will serve the project.

**Public Hearing:** After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on May 23, 2007. The record closed on May 29, 2007, when the Washington State Department of Transportation responded to an inquiry Staff had been directed to make.

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

## **FINDINGS OF FACT**

1. Hapi Mangat (applicant) seeks approval of a preliminary plat on approximately 140 acres of land. Nine acres will be allocated to one-acre residential lots. The remainder of the property will be left in open space. The development will be called Mangat Estates. The application is designed to utilize the Conservation and Reserve Development (CaRD) process.

2. The property is located at 4501 State Route 9, within S1/2SW1/4SE1/4 and E1/2SW1/4 and Govt Lots 3 and 4, Sec. 20, T36N, R5E, W.M. The property is on the east side of the highway north of Sedro Woolley.

3. The site is shaped like a backwards “L”. The long dimension runs north and south along the highway. The western portion is in pasture and basically flat. The land slopes upward toward the eastern portion where forest predominates. The southeast (the foot of the “L”) contains some pasture and an area of dense tree cover on a hillside.

4. The nine one-acre residential lots are ranged in a tier near the north boundary, running east from the highway to the area in mid-property where an existing house is located. There is a north-south mineral rights easement that crosses through proposed Lots 5 and 6. The existing residence is within proposed Lot 9. To the east of the residential lots are power transmission easements and a gas pipeline easement.

5. The residential lots will be served by a 1,200 foot-long culdesac road that borders the southern boundary of the lots. Entry into the site will be off of SR 9 at a point approximately 450 feet south of the northwest property corner. The plat road will be 50 feet wide and will comprise 1.5 acres. It will be dedicated to the public and will become a County road called Mangat Lane. The development is to be served by on-site sewage systems on each residential lot and individual water wells on each residential lot. The property is within a Fire District.

6. The approximately 128 acres left in open space will be divided between Open Space-Reserve (OS-RSV) and Open Space Protected Area (OS-PA). The reserve open space (11+ acres) is to be located directly south (on the opposite side of the internal plat road) of the residential lots being created through this application. At some future time, this reserve area may be subdivided for additional homes. By far the larger open space portion (116+ acres) will be set aside as protected area. The protected area includes a Type 5 stream and an alluvial fan area.

7. The westerly 660 feet of the property is in Rural Reserve (RRv) zoning. The easterly part is in Rural Resource-Natural Resource Land (RRc-NRL) zoning. The property is not located in a flood hazard zone.

8. Test pits were dug for the residential lots and, on evaluation, the soils were deemed suitable for septic system development. A re-evaluation of the existing system on Lot 9 is needed to insure that it is functioning properly and will fit into the overall scheme.

9. Cascade Surveying and Engineering prepared a Conceptual Drainage Report for the project, dated February 5, 2007. At present, runoff onsite, including water in the stream, is contained onsite and naturally infiltrates into the ground.

10. Storm drainage from the new residential area will be routed to a biofiltration swale located just south of the plat entrance and from thence will go to an infiltration pond. These features will be control runoff from all proposed impervious surfaces and are designed to accommodate the full potential ultimate development of 18 lots. The bioswale will be 192 feet long, designed to treat the six-month 24-hour storm event. The pond bottom will measure 20 by 100 feet surrounded by 5:1 side slopes. The pond will be excavated into the native gravelly medium sand layer that has a high infiltration rate. It will be able to accommodate the 100-year storm.

11. Associated Earth Sciences, Inc. (AESI), prepared an Aquifer Recharge and Hydrogeologic Site Assessment, dated August 20, 2006 to evaluate aquifer testing data for wells and probable water quality impacts of the development. A supplemental Technical Memorandum was prepared in November 2006. The report looked at pumping information from the existing well on Lot 9 as well as new wells drilled on proposed Lots 3 and 7. The proposal is for each residential lot to contain its own well. Fire flow requirements will be handled by a 15,000 gallon storage tank installed at the inner end of the plat road. An eight inch waterline will parallel the road connecting the storage tank to two fire hydrants.

12. Drainfields at the site are to be located no closer than 100 feet from any of the domestic water supply wells. Wells are to be completed so that the bases are a minimum of 25 feet below the static groundwater level. Based on the horizontal distances and the well depths, plus the hydrogeologic setting, and results of a nitrate loading estimate, AESI concluded that the proposed drainfields will likely have an insignificant effect on water quality in the underlying regional aquifer.

13. The AESI assessment also concluded that the proposed development will not have significant impacts on aquifer recharge or other water supply wells located within 1,000 feet of the site. In addition, if well depth recommendations are followed, there should be minimal well interference between the several wells to be located at the site.

14. Ron Palmer, Environmental Health Specialist for the County, testified that the conclusions of the AESI analysis are credible.

15. Critical areas review for the proposed lots and the reserve area disclosed no indicators within 200 feet. The applicant presented a draft Protected Critical Area Easement (PCAE). Livestock within the OS-PA will need to be removed prior to final plat approval.

16. A landscaping plan was submitted showing landscaping within the west 30 feet of the property along Highway 9. Planting strips will be at least 20 feet wide with two alternating rows of evergreen (western red cedar, western hemlock, Douglas fir) trees planted at no greater than 20 feet on center. The trees will be backed by a sight obscuring fence, a minimum of five feet high. The fence may be removed when the trees reach 10 feet in height or after increasing the width of the planting area. In addition, shrubs will be planted between the trees. Plantings will be designed to provide complete ground cover within three years. The purpose of the landscaping is to produce a sight-obscuring buffer.

17. The adjoining properties to the north and south are designated RRv-NRL. The development will observe the 200-foot building setback from adjacent NRL designated parcels.

18. Mitigation fees for parks and schools were addressed. The applicant will be required to provide a mechanism for collection and distribution of fees for County parks and recreation. The applicant may either pay \$100 per lot prior to final plat approval or place a note on the plat stating that \$100 per lot will be assessed at the time of building permit application. The proposed plat is located within the Sedro-Woolley School District which has adopted a Capital Facilities Plan (CFP). The County has incorporated the CFP within its Comprehensive Plan. Mitigation of school impacts will be made by requiring lot owners to contribute fees as provided in the CFP at the time of issuance of building permits.

19. Because the development is accessed by a state highway, traffic impact analysis was deferred to the Washington State Department of Transportation (WSDOT). WSDOT issued an Access Connection Permit to State Route 9 on March 1, 2007. The permit allows the construction, use and maintenance of the road approach connection involving the plat road. WSDOT expressed no traffic concerns.

20. In response to issues raised at the hearing, Planning and Development Services contacted WSDOT and asked several questions: why wasn't a traffic study required, what would trigger a left turn pocket, and, what can be done to lower the speed limit? WSDOT's response was: a) 10 new single family residences are needed to trigger a traffic study; b) Turn lanes may be warranted by increased accidents or substantial increases in traffic volumes. Neither are documented here. In any event, in this case the majority of the traffic will be turning right into the development; (c) Changing the speed limit is a complex process, but a lower limit is not necessarily a guarantee of slower driving.

21. Environmental review was conducted in accordance with the State Environmental Policy Act (SEPA). A Mitigated Determination of Non-Significance (MDNS) was issued on January 18, 2007. The MDNS 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 application shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measure shall remain in place until completion of the project.
- b. The applicant shall comply with Northwest Air Pollution Authority requirements.
- c. The applicant shall provide a formal mechanism for the collection and distribution of the proposed mitigation for the Skagit County Park and Recreation fees prior to final plat approval.
- d. The water system will be required to meet the fire flow requirements of the Coordinated Water System Plan (CWSP). The water system is to be installed prior to final plat approval.
- e. Operation of equipment/construction and daily operations shall comply with Maximum Environmental Noise Levels, Chapter 173-60A, WAC and address noise and vibration limitations, and SCC 14.16.840 for light and noise conditions. This includes ventilation for safety, heating and cooling of any office and storage/garage/preparation/barns or recreational buildings, as well as operation of daily use and activities.
- f. 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.
- g. 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).
- h. An approved access permit from the Washington State Department of Transportation will be required prior to final approval.

22. The application was routed to various County Departments who provided preliminary approval, subject to the completion of tasks identified in the conditions of approval.

23. Eleven public comment letters were received. Five citizens testified at the hearing. In general, neighborhood concerns were over the protection of existing domestic water supplies, increased traffic on a road where speeding is too common, and a sense that too much growth is being allowed to occur in rural areas.

24. The technical work on water quality and quantity done for the applicant was carefully reviewed and the Staff concluded that adverse impacts from the new wells and the new septic systems are unlikely. It was pointed out that existing water users have senior water rights and can enforce them against interference by new users if harm can be documented. If a second tier of houses is proposed for this property, review of the new wells and of any effects they may have had will be necessary.

25. The amount of traffic added by nine new houses will be within the capacity of the existing State Highway. The problems caused by speeders and by increased truck traffic from Canada are problems independent of the creation of this proposed subdivision. It was not demonstrated that a left turn lane is called for here.

26. CaRDs are a form of single-family residential development that is allowed in rural areas. CaRDs are characterized by lots smaller than typical of the zone, allowing significant open space to be retained to protect ecological functions and to preserve rural character. Here approximately 90% of the total acreage is allocated to open space. As a result of the total acreage, there are 18 development rights on this property of which only nine are being developed at this time. The remaining developable area is being placed in Open Space – Reserve. This area will be maintained through a plat restriction until the property is further platted. The ultimate development will not and cannot exceed the allowable development rights of the original parcel. The growth represented by this project is permissible under the Code.

27. RCW 58.17.110(2) requires specific findings relating to whether a proposed plat will make appropriate provisions for various items of infrastructure and relating to whether there are adequate public facilities to accommodate the development. After review of the record and the proposed conditions, the Examiner finds that the subdivision application makes appropriate provisions for the public health, safety, and general welfare, and for such open spaces, drainage ways, streets or roads, potable water supplies, sanitary wastes, parks and recreation, schools and all other relevant facts. Moreover, the Examiner finds that the public use and interest will be served by the platting of this subdivision and the dedications made therein.

28. Any conclusion herein which may be deemed a find is hereby adopted as such.

## **CONCLUSIONS**

1. The Hearing Examiner has jurisdiction over the subject matter and the persons of this proceeding. SCC 14.06.050(1)(c). The request is a Level III application that involves a recommendation from the Examiner to the Commissioners after a pre-decision hearing.
2. The procedural requirements of SEPA have been met.
3. The subject CaRD is consistent with the purposes of the CaRD process. SCC 14.18.300, Comprehensive Plan Chapter 4, Policies 4D-3.2, 3.5, 3.8.
4. As set forth in Finding 27, the proposed plat, as conditioned, meets the statutory subdivision requirements of RCW 58.17.110.
5. Noxious weed removal from the OS-PA is not inconsistent with the purposes of such open space.
6. Any finding herein which may be deemed a conclusion is hereby adopted as such.

## **CONDITIONS**

1. The platting process shall proceed as proposed in the application materials, except as the same may be altered by these conditions.
2. The applicants shall obtain all other necessary permits and approvals.
3. The final plat shall comply with the provisions of SCC 14.18.200, Chapter RCW 58.17, and the conditions included in the MDNS, prior to final approval.
4. All standard plat notes and appropriate departmental signoffs are required on the plat map.
5. Mangat Lane is the approved road name and must be shown on the final plat map.
6. Prior to final plat approval, the address range will be shown on the plat map along with the correct plat note.
7. Prior to final plat approval, the lot corners must be set, per SCC 14.18.200(4)(d).
8. Prior to final plat approval, the applicant shall submit lot closures that correspond with the lot lines as shown on the face of the plat.

9. Prior to final plat approval, either a donation of \$100 per lot for the mitigation of Skagit County Park and Recreation impacts shall be paid or a plat note shall be placed on the plat map state that \$100 per lot will be assessed at the time of building permit application.

10. Plat notes shall be required for the maintenance of different open space designations.

11. Prior to final plat approval, the approved landscaping must be planted or bonded.

12. Per SCC 14.18.200(2)(b)(v), all parties of interest must sign the mylar.

13. Lots 5 though 8 shall observe a 200-foot setback from adjacent natural resource designated land which shall be noted on the plat map.

14. The application must provide a right-of-way deed or appropriate dedication for the additional right-of-way for the County Road. See Sec. 3.13, Skagit County Road Standards.

15. The internal plat road shall be constructed to current Skagit County Public Road Standards. See Sec. 3.07, Skagit County Road Standards.

16. The plat road requires centerline monumentation. See Sec. 3.05D, Skagit County Road Standards.

17. Maintenance and restoration surety shall be required in accordance with Sec. 14.02, Skagit County Road Standards.

18. Prior to final plat approval, acceptable formatted as-built plans shall be submitted to the appropriate departments for all roads and drainage facilities.

19. Road name sign(s) shall be installed in accordance with Skagit County Road Standards.

20. Prior to construction of roadway or drainage facilities, a Grading Permit shall be obtained. A preconstruction meeting shall be scheduled with Skagit County Public Works as part of the Grading Permit process.

21. A copy of the State approved access permit shall be submitted prior to issuance of the Grading Permit.

22. Prior to starting road construction, the applicant must post one or more signs showing the names or business names or both of the applicant and the project engineer, as



well as contact telephone numbers for each. See Sec. 12.09, Skagit County Road Standards.

23. Road construction and drainage facilities shall be inspected and certified for compliance with County standards by the Project Engineer. See Sec. 12.00, Skagit County Road Standards.

24. The applicant shall supply a Maintenance Plan for all stormwater and drainage conveyance systems. See SCC 14.32.100(3)(a). This plan shall be recorded with the final plat and noted on the face of the plat.

25. The livestock located with the proposed OS-PA shall be removed prior to final approval. With the approval of Planning and Development Services, the owners/managers of the OS-PA area are encouraged to engage a program to eliminate noxious weeds.

26. Plat notes shall reference the PCAE and the Auditors recording file number.

27. 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.

28. Prior to final plat approval, the fire flow system shall be installed, tested and approved.

29. Prior to final approval, piping for the fire flow system shall be installed to each lot and flow tested.

30. Prior to final plat approval, a soil site evaluation shall be submitted for Lot 9.

31. A Well Field Protection Plan shall be required with prescriptive parameters for pumping and interference. The following well field mitigation issues shall be addressed:

--Store all chemicals (solvents, fuels, oils, pesticides, etc.) with secondary containment or in a building with a concrete floor. It is assumed that these will be on the site in normal household quantities only.

--All applications and disposal of all chemicals shall be according to the manufacturer's label directions or best available County disposal practice. Consult Skagit County Health Department for additional information.

--No industrial, commercial or agricultural activities that utilize chemicals that could injure the aquifer will be conducted on this property.

-- On-site sewage system disposal, installation, alteration, or repair shall be in

accordance with Chapter 12.05 Skagit County Code or applicable County rules and regulations governing on-site sewage disposal systems.

32. The declaration of covenant shown on the plat map that addresses the overlapping proposed well protection zones shall apply to all nine lots.

33. Plat notes addressing AESI's recommendations shall be included. At a minimum a note shall read: "New wells shall be six-inch diameter welded steel casing and shall be completed such that the bases of the wells are a minimum of 25 feet below the static groundwater level."

34. Plat notes shall reflect any requirements of the County's hydrogeologist at final review.

35. The applicant shall comply with the provisions of SCC 14.16.870, Notification of Development Activities on or Adjacent to Designated Natural Resource Lands.

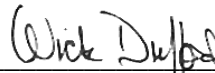
36. Prior to final plat approval, the applicant shall submit a copy of any CC&R's for review.

37. All preliminary plat outstanding review fees shall be paid prior to submittal of the final plat.

38. The preliminary plat shall be valid for a period of five years from the date of approval by the Board of County Commissioners.

### **RECOMMENDATION**

The Preliminary Plat for Mangat Estates, PL06-0442, should be approved, subject to the conditions set forth above.



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Wick Dufford, Hearing Examiner

Date of Action: June 6, 2007

Date Transmitted to Applicant: June 6, 2007