

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND RECOMMENDATION

Applicant: Northern Reign Development
c/o Marty Loberg
1615 Buck Way #A
Mount Vernon. WA 98273

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

File No: PL06-0742

Request: Preliminary Plat approval (Long CaRD)
(Plat of Cedar Creek)

Location: South of Mosier Road off of Erna Lane; within the
W1/2NE1/4NW1/4 and W1/2SE1/4NW1/4 Sec. 11,
T35N, R4E, W.M.

Parcel No: P36184

Land Use Designation: Rural Reserve (RRv)

Summary of Proposal: To subdivide approximately 40 acres into nine lots – eight 1-acre lots for residential development and one 28-acre lot designated as Open Space/Recreational Amenities. About eight acres of the open space is to be placed in Protected Critical Area (PCA) easements. The project will be served by a private internal plat road, onsite sewage systems and individual domestic wells.

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on September 12, 2007.

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

FINDINGS OF FACT

1. Northern Reign Development (applicant) seeks approval of a Preliminary Plat involving the creation of nine lots. The Long CaRD process is being used.

2. The property is located north of Sedro Woolley, south of Mosier Road off of Erna Lane, within the W1/2NE1/3NW1/4 and W1/2SE1/4NW1/4 Sec. 11, T35N, R4E, W.M. The land use designation is Rural Reserve (RRv). The Parcel number is P36184.

3. The property is rectangular and lies in a north south configuration. It is about 620 feet wide and approximately 2585 feet long. It was logged in the late 1970's and is currently covered with second growth alder and fir.

4. The proposal is to divide this area of nearly 40 acres into nine lots. The development will be called Cedar Creek. There will be eight 1-acre lots for residential development. The residual lot of approximately 28 acres will be devoted to Open Space/Recreational Amenities (OS-RA) and Protected Critical Areas (PCAs). The remaining acreage will be devoted to the road and the detention pond.

5. The property slopes down moderately to the north and to the west. The residential lots will be clustered in roughly the middle of the parcel on relatively flat ground. Each residential lot will be served by a separate domestic well. A private plat road, extending from Erna Lane, will access all the residences. Each home will be served by a septic tank and drainfield.

6. Lot 9 encompasses the undeveloped land. Approximately 8.82 acres of this area will be placed in Protective Critical Area (PCA) easements. The PCA's will contain three Type 5 streams, a Type 3 stream (Thomas Creek), a Category 3 wetland and a buffer area for an offsite Category 2 wetland. Thomas Creek drains westerly across the property at its north end, flowing under Mosier Road near the northwest corner. South of the creek is a 100-foot wide power-line easement.

7. The OS-RA designation for the rest of Lot 9 is to provide open space to be used for recreational purposes. The areas may be reserved for use by the residential owners within the plat or opened to the general public or both. No specific proposal for the OS-RA lands has yet been made.

8. Erna Lane lies some distance to the east of the subject parcel. The proposed plat road (Summerleaf Lane) will proceed westerly from Erna Lane into the new development and then turn south adjacent to the various residential lots. The total length of the plat road will be about 1,200 feet of which about 500 feet will be within the proposed subdivision. It will remain a private road, will be paved, and will be otherwise built to County private road standards. The road will terminate in a culdesac in order to

permit the turn-around of fire trucks. The project may import approximately 900 cubic yards of material for construction of the road. Appropriate easements have been executed for the use of Erna Lane and the creation of the plat road.

9. Erna Lane is presently paved and 18 feet wide. The development of the proposed subdivision will require that this existing roadway be widened to 20 feet. A metal guard rail will be installed at the Thomas Creek crossing.

10. Rural utilities (power, phone, cable, etc.) will be extended to each residential lot. Adjacent to the most northerly residential lot (Lot 1) will be a detention pond. Approximately 1,200 cubic yards of material will be excavated for this pond and a water quality swale. The excavated material will be dispersed on site. An energy dissipater and a stormwater spreader will be constructed to minimize any downstream land surface or stream bank erosion. Grading permits will address protective requirements for both the creek crossing on Erna Lane and creation of the detention pond. No impact on Thomas Creek is anticipated.

11. In order to proceed with this application, the developers were required to drill and test two water wells on site. The results received indicated an ample supply of water for the residential development proposed. Except the well for Lot 6, the individual wells will be located in open space near each property to be served. The well for Lot 6 will be within that lot. The output of the wells will be limited to 625 gallons per household per day to keep the total project within the 5,000 gallon-per-day permit exemption. A 15,000 gallon water tank and booster pump station will be installed to meet fire flow requirements.

12. The Cedar Creek Group B system furnishes water to eight homes located to the east of the proposed subdivision. The system is supplied by a single well which has a large well protection circle. A portion of this circle extends onto the proposed subdivision site. The arc is shown on the preliminary plat map. A plat note contains specific mitigation measures to insure against use of hazardous materials in the new subdivision that might affect the Group B system. Related to this concern, septic soil logs have been approved for each lot in the new plat, and all County regulations for onsite sewage disposal will have to be met.

13. The project engineer testified that, in light of the performance of the test wells and considering the distances involved, it is highly unlikely that any interference with the Cedar Creek Group B system will result from water withdrawals in the proposed subdivision. Testing may be required, however, to insure that the new domestic wells in the plat do not interfere with each other.

14. Screening of the development will be provided by retaining existing vegetation (evergreens and alders) adjacent to Mosier Road. This should substantially limit any views of the clustered residences from the public road. A 20-foot landscaping

buffer, again using existing vegetation, will be retained along the eastern boundary of the developed lots (Lots 6-8) to provide additional screening.

15. A Wetland Delineation, a Fish and Wildlife Assessment and an addendum thereto were professionally prepared. In addition the applicant submitted a Stormwater Analysis Report, A Hydrogeology Report and a Wellhead Protection Report. The reports confirmed the location of critical areas, recommended appropriate controls for stormwater, evaluated the water supply and removed any concerns about pollution from sanitary wastes.

16. A Mitigated Determination of Non-Significance (MDNS) was issued by the County on July 12, 2007. The determination found that the proposal will not have a probable significant adverse impact on the environment if the following conditions are met.

(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 measures in accordance with the Skagit County Drainage/Erosion/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 the start of road construction.

(3) The applicant shall comply with Northwest Clean Air Agency requirements.

(4) 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.

(5) The plat 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 plat approval.

(6) Operation of equipment/construction and daily operations shall comply with Maximum Environmental Noise Levels, Chapter 173-60 WAC, and address noise and vibration limitation, and SCC 14.16.840 for light and noise conditions. Construction equipment noise is allowed from 7:30 a.m. to 5:00 p.m.

(7) 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.

(8) All critical areas and buffers shall comply with Protective Critical Area Standards per Skagit County Code 14.24.

The MDNS was not appealed.

17. Traffic generated by the development will be well within the capacity of the roads involved. There are no transit stops in the vicinity of the proposed plat.

18. A mitigation agreement with Skagit County Parks will be executed, providing for a per lot payment to compensate for the impact of the development on public recreation facilities.

19. The proposed plat is located within the Sedro Woolley School District. The District's Capital Facilities Plan (CFP) has been adopted by the County as a portion of the County's Comprehensive Plan. The CFP includes calculations relating to the impact of new housing on the District. Home owners will be required to contribute fees in the amount identified in the CFP at the time of building permit issuance.

20. Various County Departments commented on the application, setting forth requirements that must be met before the plat becomes final. Their comments are reflected in conditions of Preliminary Plat approval.

21. A number of neighbors wrote comment letters expressing concerns about the development. Several of these persons also testified at the hearing. Among other things, they were bothered by construction on the plat road which was undertaken prior to the hearing. The developer explained that this was necessary in order to have a good road base for the well drilling rig to access the proposed test well locations. The test wells were requirements for submittal of the application.

22. The neighbors were also concerned with the flooding that occurred over the area where the road work was done. The project engineer noted that the road work was not the cause of the flooding. The finished plat road will be built to County standards with proper culverts, so that it should neither be flooded nor contribute to flooding. Drainage conditions created by the project will be adequately contained and dissipated by the drainage facilities planned.

23. The neighbors expressed worries about road safety along Erna Lane and about whether Thomas Creek will be adequately protected. They also wanted assurance that the homeowners will contribute to the maintenance of Erna Lane. The project engineer said that the improvements to Erna Lane should improve safety. He provided assurance that the side barriers at the Thomas Creek crossing will be adequate and that the creek will not be harmed. The developer promised that the subdivision owners will be obliged to contribute on a prorated basis to the maintenance of Erna Lane.

24. It was requested that the road improvements be made first, before development of the residential lots. The project engineer was sympathetic to this request.

25. The neighbors were concerned about the potential impact of the individual wells on the aquifer and on their community well. As noted, there may be a need for monitoring among the new domestic wells, but interference with the more distant community well is considered unlikely. However, the applicant will be required to comply with all requirements imposed by the Health Department which could include monitoring of the community well if that appears to be needed.

26. The neighbors also suggested the possibility that construction could damage their water line. The project engineer pointed out that avoiding such damage is a responsibility of the road contractor. The contractor will be advised of the water line's location.

27. There is a gate on Erna Lane where it meets Mosier Road. The neighbors want this gate to be kept. The developer has proposed to analyze the gate situation in light of the additional traffic and determine if there is a need for a different type of gate. But it appears that the idea of having a gate has been accepted.

28. According to the developer, the new subdivision will have its own set of CC&R's which will meet or exceed the CC&R's for the adjacent properties.

29. The neighbors urged that the recreational tract not be opened to the public. The project will permanently protect all wetlands and streams. On this record, it appears unlikely that the remaining recreational area will be opened to public use. If it were opened to the public, separate public access would somehow have to be provided.

30. The County's planner testified that the project proposes all the residential development that can be allowed on the property under current zoning. In order for additional development to take place, the zoning would have to be changed.

31. The Staff Report analyzes the application in light of the specific findings required for plat approval under RCW 58.17.110(2). The Staff finds that all of the relevant requirements will be met. The Hearing Examiner concurs with these findings and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

32. The proposed Plat of Cedar Creek makes adequate provisions for public health, safety and general welfare and for open spaces, drainage ways, roads, potable water, sanitary wastes, parks and recreation, schools and all other relevant facts and planning features.

33. The public use and interest will be served by the platting of the subdivision.

34. 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. SCC 14.06.050(1)(c). The application is a Level III application requiring a Hearing Examiner recommendation to the County Commissioners.

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

3. The application requirements for a Long Subdivision have been met. SCC 14.18.100.

4. The proposal meets the purposes of the CaRD provisions. SCC 14.18.300. The proposal complies with the density and dimensional requirements for CaRD approval. SCC 14.18.310. Lot clustering and screening requirements will be satisfied. SCC 14.18.330.

5. As set forth in Findings 28, 29 and 30, the proposed plat, as conditioned, meets the statutory requirements of RCW 58.17.110.

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

CONDITIONS

1. The project shall proceed as described in the application materials, except as the same may be altered by these conditions.

2. To the extent practicable, work on Erna Lane and the access road for the project shall be carried out before other subdivision development.

3. An engineered Grading Permit shall be obtained prior to construction of roadway and drainage facilities. A preconstruction meeting shall be scheduled with Skagit County Public Works personnel as part of the grading permit.

4. The applicant shall obtain all other permits and approvals and shall abide by the conditions thereof.

5. The final plat shall comply with the provisions of SCC 14.18.200, Chapter 58.17 RCW, and the conditions imposed by the MDNS (see Finding 16) prior to approval.
6. All standard plat notes and appropriate departmental signoffs are required on the plat map.
7. Summerleaf Lane is the approved road name and shall be shown on the final plat map. A road name sign shall be installed in accordance with Skagit County Road Standards.
8. Prior to final plat approval, the address range shall be shown on the plat map.
9. Prior to final plat approval, the lot corners shall be set, per SCC 14.18.200(4)(d).
10. Plat notes shall describe requirements for maintenance of the open space designation (Lot 9).
11. The internal road and access from Erna Lane shall be constructed to current Skagit County Road Standards. See Skagit County Road Standards Appendix B, B-1.
12. Prior to starting road construction, and in accordance with Skagit County Road Standards Section 12.09, the applicant must post one or more signs showing the names and business names of the applicant and of the project engineer, as well as contact phone numbers for each.
13. Road construction and drainage facilities shall be inspected and certified by the project engineer for compliance with County standards. (See Section 12.00, Skagit County Road Standards).
14. Erna Lane roadway construction improvements shall coincide with the requirements listed in the October 27, 2006 document from David Sheridan, Engineering Service Manager.
15. The applicant shall provide a document obligating all users of the private road to contribute an appropriate share to the cost of road maintenance.
16. The applicant shall provide a maintenance plan for all stormwater and drainage conveyance systems, including the assignment of responsibility for such maintenance.
17. The road maintenance provisions and the stormwater and drainage maintenance plan shall be recorded with the final plat and noted on the face of the plat.

18. Plat notes shall reference the PCAEs and the relevant Auditors recording file number.

19. Signs showing the location of the edge of the PCAEs shall be located every 200 feet or within a line of sight distance.

20. 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.

21. Fire flow facilities shall be installed, tested and approved, prior to final plat approval.

22. Water service lines from proposed wells to the lot line for Lots 1-5 and 7-8 shall be installed and written confirmation of installation and engineer's approval shall be received at Planning and Development Services (PDS) prior to final plat approval.

23. Installation of lines shall be shown in utility easements.

24. A plat note shall state that each lot is limited to 625 gallons of water per day, and that the entire subdivision may not withdraw in excess of 5,000 gallons per day unless a water right is obtained from the Department of Ecology.

25. Plat Note #6 as shown on the preliminary plat map should be removed.

26. The applicant shall comply with all requirements of the Health Department, including any monitoring requirements they may impose.

27. Prior to issuance of a building permit, a recorded well field protection plan may be required with prescriptive parameters for pumping and interference.

28. A plat note shall state: "No development activity shall take place within the Cedar Creek Group B Water System (ID#08067) well protection area without prior approval or review from Cedar Creek Water System and Skagit County Public Health Department."

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

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

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

32. This preliminary plat shall be valid for a period of five (5) years from the date of the signed resolution of approval by the Board of County Commissioners.

RECOMMENDATION

The preliminary Plat of Cedar Creek, PL06-0742, should be approved, subject to the conditions set forth above.

Wick Dufford, Hearing Examiner

Date of Action : October 1, 2007

Date Transmitted to Applicant: October 1, 2007