

**NOTICE OF DECISION**

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**Applicant:** PS 103 LLC  
Pat Stephens  
P.O. Box 32330  
Bellingham, WA 98228

**Request/File No:** Preliminary Plat, PL10-0383  
Plat of Blanchard Knob

**Location:** North side of Wood Road between 16595 and 16887 Wood Road,  
within a portion of NE1/4 Sec. 23, T36N, R3E, W.M.  
Parcel Nos: P48084, P48085

**Land Use Designation:** Rural Resource - Natural Resource Land (RRC-NRL)

**Summary of Proposal:** To divide approximately 90 acres into 10 lots. Nine of the  
lots, ranging from .63 acres to .98 acres, will be for residential  
development. One lot of 82+ acres will be devoted to open  
space. An internal plat road, Class B community water system,  
and individual on-site septic systems will serve the project.

**SEPA Compliance:** Mitigated Determination of Non-Significance (MDNS issued  
November 18, 2010. No appeals.

**Public Hearing:** August 31, 2011. Two members of the public testified. Planning  
and Development Services (PDS) recommended approval.

**Decision:** Approval, subject to conditions

**Reconsideration/Appeal:** A Request for Reconsideration may be filed with PDS within 10  
days of this decision. The decision may be appealed to the Board  
of County Commissioners by filing an appeal with PDS within 14  
days of the date of the decision or decision on reconsideration, if  
applicable.

**Online Text:** The entire decision can be viewed at  
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

## **FINDINGS OF FACT**

1. Pat Stephens, for PS 103 LLC, seeks preliminary plat approval for a project known as "Plat of Blanchard Knob."

2. The request is to divide approximately 90 acres into ten lots. Nine of these lots, ranging in size from .63 acres to .98 acres will be for residential development. The tenth will be an 82+ acres open space lot. The project will be served by an internal plat road (public), a Class B community water system, and individual onsite septic systems.

3. The project is located on a mountainous site on the north side of Wood Road between 16595 & 16887 Wood Road, within a portion of the NE1/4 Sec. 23, T36N, R3E, W.M. The parcel numbers are P48084 and P48085.

4. The zoning of the property is Rural Resource-Natural Resource Land (RRC-NRL). At present the site is vacant and timbered. The surrounding property is undeveloped forested land. The proposal is to subdivide by using the Long CaRD provisions.

5. The residential lots will be grouped on a knob in the northwest portion of the overall property. This cluster pod will be located roughly 200 feet from the northern property boundary, 200 feet from the western property boundary and 1,900 feet from the eastern property boundary. For CaRD land divisions, a 200-foot setback is established for all building within the development from adjacent NRL designated parcels. The adjacent parcels are also in RRC-NRL zoning.

6. The southerly lot will be set back 100 feet from the southern property boundary. This setback was established by variance PL09-0476. An identical 100-foot setback was requested for another possible 10-lot CaRD to the south. Given the topography and existing vegetation, the setbacks provided on all sides should provide adequate screening and separation between the development and adjacent lands and roads in the vicinity.

7. No application has been filed for a CaRD to the south and the instant proposal is solely for the subject 10-lot Blanchard Knob subdivision. The instant request is therefore being considered alone on its own merits. If another development to the south is proposed at some point, the relationship of the two will have to be considered then.

8. The lots are grouped so as to accommodate steep slopes in the southwest corner of the building area. This corner will serve as a view easement area for three of the lots. The open space lot (Lot 10) will occupy the large area sloping down to the east from the knob where the houses will be built. Lot 10 will be Open Space-Protection Area (OS-PA). The purpose is to protect critical areas there without the expense of a detailed sited assessment.

9. The road into the proposed plat winds north from Wood Road for about 5,473 linear feet before reaching the subject property. The entire roadway both within and outside the subdivision will be about 8,599 linear feet in length. The subdivision will be located about 700

vertical feet above the adjacent existing county road (Wood Road). The County has requested that the plat road be dedicated as a public road.

10. The lots will be served by individual onsite septic systems. The lots will be located on the west side of the internal plat road with the drainfields and reserve areas situated in an area northeast of the road within the open space lot. There will be easements for the septic system for each of the building lots.

11. The water system will be a Group B community water system. It will be supplied by one well located off site on property to the south. The system will also contain a pump house, a treatment facility, two storage reservoirs and a distribution system. The well will be near Wood Road at an elevation 700 to 800 feet below the proposed lots.

12. The water from the well will be filtered at the treatment facility near the wellhead and stored in an intermediate storage tank. It will then be pumped through approximately 7,100 feet of pipe to be stored in a large reservoir located at the top of the hill across the plat road from Lot 6.

13. The water system is designed for 9 ERU's (equivalent residential units) with a proposed maximum usage of 5,000 gallons per day. This is the maximum that may be pumped from a domestic well without a water rights permit.

14. Fire flow requirements of the Coordinated Water System Plan will be met. Two hydrants will be placed in the development. The system plan has received conceptual approval from the County Health Department.

15. A hydrogeo report was professionally prepared and reviewed by county health officials and geology experts. No adverse impacts on wells in the vicinity or on aquifer recharge were found to be likely. Nitrogen loading analysis was not considered necessary. Final approval of the water system will have to be obtained from the State Department of Health.

16. A wetland reconnaissance was conducted and no wetlands or streams were found on the property in the vicinity of the development proposal. No evidence of natural wetland hydrology was found within or near the project site.

17. The applicant submitted a Geologic Hazard Evaluation prepared by Associated Earth Sciences, Inc. Erosion and landslide hazards were identified. The consultant concluded that erosion hazards on site can be mitigated by "proper cover measures and prudent best management practices." As to landslide hazards, the steepest slopes are in the area of the ravine located in the southwest corner of the property. Lots have been located away from these slopes and the consultant determined that no landslide hazard area exists within the proposed lot boundaries.

18. A Stormwater Report was prepared by Skagit Surveyors and Engineers to address runoff from the residential lots and from the approximately 8,600 foot roadway. A system was designed to meet the requirements of the Department of Ecology Surface Water Management

Manual. A 50' x 50' detention pond will be constructed south of the residential lots, and a rock lined ditch with check dams every 50 feet will be built along the road. Runoff will flow from natural discharge points and will be adequately controlled. There will be an underlying infiltration zone under the ditch. Much of the site will be undeveloped and existing vegetation will remain to provide natural energy dispersion.

19. A Notice of Application was posted and published on October 7, 2010. No correspondence was received during the initial comment period.

20. A Mitigated Determination of Non-Significance (MDNS) was issued on November 8, 2010. No appeals of the MDNS were filed. The conditions imposed are as follows:

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/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 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 plat 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, heating and cooling of any office and storage/garage/preparation/barns or recreational buildings, 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. 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.

8. 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.

9. The public right-of-way shall be kept clean. Tracking of mud and debris off site shall not be allowed.

10. Prior to preliminary approval all Skagit County Health Department initial requirements per Skagit County Code 12.48 shall be satisfied.

21. The application was circulated to interested County departments. Their comments are reflected in conditions of approval.

22. Written comments were received from six citizens prior to the public hearing. One of these also testified at the hearing. The major concerns of the commenters were over environmental impacts and possible cumulative effects. There was a perception that this proposal is really just a part of a larger project which will include another subdivision immediately to the south. This overall project would require more water than can be supplied by the groundwater permit exemption and the approach of doing it in phases was seen as an effort to subvert the water rights permit requirement.

23. The County Health Department testified that they are well aware of the potential water rights problem. However, they feel it is premature to get into this issue at present. The instant application is a stand-alone proposal for a development that can fit within the permit exemption. The problem of stacking exempt rights will not come into play until a proposal for further development is received.

24. Another development south of the instant proposal has been suggested, but there is no application for such a thing before the County and there is insufficient basis on this record to conclude that the Blanchard Knob plat is going to be part of anything else. If a proposal for subdivision of adjacent lands is received, the issues inherent in the overall development pattern will need to be addressed.

25. The commenters' general environmental fears involved effects on the local aquifer and Colony Creek and the effects of clearing and runoff on conditions in Samish Bay. The applicant appears to have responded sufficiently to these concerns through the professional studies caused to be prepared.

26. Some commenters also felt that residential development should be confined to existing settled areas and that if this project is just a precursor to further development in the area, the character of the rural area will be drastically changed. A desire was also expressed that the developers here should be obliged to pay for whatever upgrades are needed to Wood Road as a result of the development.

27. The subject subdivision fits the Comprehensive Plan policies relative to the intent of the CaRD land division technique in rural areas, including Natural Resource Lands. Policy 2G-

1.1 states, "The CaRD land division concept is attractive because it provides future land use options and protects and conserves open space, natural resource lands, rural character and critical areas." Here 82+ acres are being protected as open space, so that the vast majority of the property will retain its rural character and resource potential.

28. The applicant is being required to improve a portion of Wood Road.

29. After review of the entire record, the Examiner finds that the proposed plat, as conditioned, will make "adequate provisions" for:

a. Public health, safety and general welfare -- Requirements for potable water and sewage disposal will be met. Adequate measures will be provided for impacts on public facilities and on the environment.

b. Open Spaces -- The open space lot constitutes approximately 90 percent of the total acreage.

c. Drainage Ways -- The drainage plan has been approved by the County. An adequate stormwater control and treatment system will be built. Much of the property will remain natural and provide natural dispersion and infiltration.

d. Roads, public ways -- The plat road will be constructed to county road standards. It will be paved and consist of 10-foot wide driving lanes, two-foot paved shoulders and ditches to convey stormwater runoff. The portion of Wood Road starting at Mile Post 1.9 to the west side of the parcel in which access is gained shall be improved to a 24-foot wide gravel road.

e. Potable water -- The development will be served by an approved Group B community system with infrastructure to provide adequate domestic water and fire flow.

f. Sanitary Wastes -- The development will be served by onsite septic systems. Site evaluations have been approved for all but Lots 7 and 8. All lots will have to demonstrate approved soil site evaluations prior to final approval.

g. Parks and Recreation -- Mitigation fees will be paid to Skagit County Parks to compensate for the increase in park and recreation use related to the new housing.

h. Schools -- Mitigation of school impacts will be made through paying fees to the Burlington-Edison School District as identified in the district's Capital Facilities Plan.

i. Public Use and Interest -- The proposal will conform to the CaRD provisions which allow for building lots that are much smaller than typical of the zone, leaving space for continuity of ecological functions and preservation of rural character. The proposal is within the boundaries of a Fire Protection District.

30. 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 subject matter of this proceeding. SCC 14.06.050(1)(b)(vi). This is a Level II application.

2. The requirements of SEPA have been met.

3. The proposal, as conditioned, makes "adequate provisions" for public health, safety and welfare and for infrastructure and facilities as required by RCW 58.110(2)(a). The public use and interest will be served by the platting of the subdivision.

4. The proposed plat, as conditioned, meets applicable County regulations and complies with general requirements for the approval of plats.

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

### **CONDITIONS**

Prior to final plat approval the following conditions shall be completed or, where appropriate, bonded for:

1. The Final Plat shall comply with the provision of SC 14.18.200, Chapter 58.17 RCW, and the conditions included in the MDNS.

2. All standard plat notes and appropriate departmental signoffs are required on the plat map.

3. Prior to final plat approval, per SCC 14.18.200(4)(d), the lot corners must be set.

4. Except as otherwise noted, all plat notes shown on the approved preliminary plat map shall be on the final plat map. Plat Note #2 on the preliminary plat shall be deleted.

5. Per SCC 14.18.100(1)(b)(iv), proposed articles of incorporation, bylaws, and covenants, conditions and restrictions (CC&Rs), if any, shall be submitted to PDS for review.

6. The approved road name is Blanchard Knob Trail. Prior to final plat approve, the address range including road name will be shown on the plat map along with the correct plat note.

7. Prior to final plat approval, the developer shall pay the per lot park impact fee. The developer shall insure that any required school impact fees are paid by purchasers of lots.

8. Prior to final plat approval, as-built plans approved by the appropriate department are required for all road, drainage, septic and water lines.

9. A Grading Permit is required for the construction of the roads and drainage facilities. Construction plans must be prepared by a licensed civil engineer.

10. Prior to road construction a preconstruction meeting shall be scheduled with Public Works.

11. 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 or business names of the applicant and project engineer as well as contact telephone numbers for each.

12. Centerline monumentation shall be supplied for the paved long plat road.

13. The right-of-way for the new county road shall be dedicated on the face of the plat.

14. As-built plans shall be provided for the plat road, both mylar and electronic.

15. An Access Permit is required for connection to the county road.

16. The "primitive road" portion of Wood Road starting at Mile Post 1.9 to the west side of the parcel in which access is gained shall be improved to a 24' wide gravel road.

17. The road name sign must be placed in accordance with Skagit County standards.

18. The construction of the roadway and detention facilities for the plat will require certification by the engineer that all items have been build in accordance with the approved construction plans. (See Section 12, Skagit County Road Standards).

19. In accordance with SCC 14.32.100(3)(a), the applicant shall provide a Maintenance Plan for all stormwater and drainage conveyance systems. This plan shall be recorded with the final plat and noted on the face of the plat.

20. The applicant shall submit a Protected Critical Area Easement (PCAE) agreement to PDS for review and approval of the OS-PA area.

21. The final plat map shall indicate the location of PCA (Os-PA) signs. Typically signs should be located every 200 feet or line of sight, whichever is closer.

22. A Forest Practice permit shall be required for any timber harvest, the construction of roads and the clearing for home sites.

23. Prior to final plat approval, soil site evaluations shall be provided for Lots 7 and 8.



24. Except as to Lot 9, transport lines from each lot shall be installed across the road with stub out at the beginning of easement. The tight-lines shall be installed 10 feet from water lines or installed in compliance with the Department of Ecology's "Criteria for Sewage Works Design -- Section C1.9."

25. OSS system transport lines and respective easements shall be shown on the final plat map.

26. The State ID# of the public water system shall be shown via plat note.

27. Designation of a Satellite Management Company shall be shown via plat note.

28. The final plat map shall show water line locations or easements.

29. Approved plans and specifications from the State Department of Health shall be submitted in relation to the water system.

30. The Skagit County Health Department shall make written confirmation that the water system installation has been approved by the State Department of Health and certified by a licensed professional engineer.

31. The final plat map shall show the approximate locations of the water line(s) to each lot from the source and shall show on which side of the driveway each line is installed.

32. Water service line must front all proposed lots.

33. The location of the proposed water tank servicing the land division shall be shown on the final plat map.

34. The applicant shall be aware of setbacks required for water and sewage lines by Chapters 12.05 SCC and 12.48 SC. Line location could require additional review time.

35. Per Chapter 12.48 SCC, a field visit by the County Health Department is required to view the water system and verify that all lots have been stubbed.

36. As-built documents for the water system shall be provided to the County Health Department.

37. Approval of septic sizing and locations for all nine lots is required. Septic and water line crossings must comply with WAC 246-272A-0210(6).

38. Additional fees for any review time by staff are required for final plat.

39. Proposed fire flow facilities or an alternate system shall be installed, tested and approved prior to final plat approval.

40. A Building Permit shall be required before starting construction on the water tank. The tank shall comply with the 2009 International Building Code (IBC).

41. Any future development of the water system or fire flow will require further review under the Coordinated Water System Plan (CWSP Section 5, Table 4-3).

42. 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.

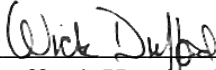
43. All preliminary plat outstanding review fees shall be paid prior to submittal of the final plat.

44. This preliminary plat shall be valid for a period of seven (7) years from the date of this decision.

### **DECISION**

The proposed preliminary plat for the Plat of Blanchard Knob (PL10-0383) is approved, subject to the conditions set forth above.

**DONE** this 26th day of September, 2011.

  
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Wick Dufford, Hearing Examiner

Transmitted to Applicant on September 26, 2011

See Notice of Decision, Page 1, for Reconsideration and Appeal information.