

**NOTICE OF DECISION OF
THE SKAGIT COUNTY HEARING EXAMINER**

- Applicant:** KSA Investments, LLC
- Request /File No:** No. PL21-0216
- Location:** Located at 16850 Peterson Road, on property situated within Skagit County, Washington, identified as tax assessor parcel number P20974; and minimally described as:
- DR 19; THAT PORTION OF THE NE1/4 NE1/4 OF SEC 2, TWP 34, RNG 3 DESCRIBED AS FOLLOWS; BEGINNING AT THE NORTHEAST CORNER OF THE NE1/4 OF SECTION 2, TWP 34, RNG 3; THENCE WEST 20 RODS (330 FEET) TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 49 RODS (808.50 FEET); THENCE WEST 60 RODS (990 FEET); THENCE NORTH 49 RODS (808.50 FEET); THENCE EAST 60 RODS (990 FEET) TO THE TRUE POINT OF BEGINNING; EXCEPT THE EAST 377.5 FEET THEREOF; EXCEPT THAT PORTION THEREOF LYING WITHIN THE WEST 495 FEET OF THE NE1/4 NE1/4 OF SAID SECTION 2; EXCEPT STATE HWY 1-C RUNNING ALONG THE NORTH LINE THEREOF; AND EXCEPT DITCH RIGHTS OF WAY
- Land Use Designation:** Bayview Ridge Residential
- SEPA Determination:** The County acted as lead agency and analyzed the environmental impacts of the proposal, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The County determined that, with mitigation measures, the proposal would not have a probable significant adverse impact on the environment. Accordingly, the County issued a Mitigated Determination of Nonsignificance (MDNS) on August 10, 2021, with a comment deadline of August 27, 2021, and an appeal deadline of September 10, 2021. The MDNS was not appealed.
- Public Hearing:** The Skagit County Hearing Examiner held an open record hearing on the application on June 8, 2022, as required by SCC 14.06.160(1)(b).

Summary of Decision: The request for a preliminary plat to subdivide a 2.24-acre property into nine single-family residential lots, two multifamily residential lots, and a stormwater tract, located at 16850 Peterson Road, is **APPROVED**, with conditions.

Decision Date: **July 26, 2022**

Appeal: As provided in SCC 14.06.120(9), the decision of the Hearing Examiner after the open record hearing shall be final, unless appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the Hearing Examiner decision, or decision on reconsideration, if applicable. The appeal fee must accompany the Notice of Appeal, and the Notice of Appeal is not considered filed unless the appeal fee accompanies it.

The entire decision can be obtained at Skagit County Planning and Development Services, 1800 Continental Place, Mount Vernon, WA.

**BEFORE THE HEARING EXAMINER
FOR SKAGIT COUNTY**

In the Matter of the Application of)	No. PL21-0216
)	
KSA Investments, LLC)	KSA Investments Long Subdivision
)	
)	
)	
<u>For Approval of a Preliminary Plat</u>)	FINDINGS, CONCLUSIONS, AND DECISION

SUMMARY OF DECISION

The request for a preliminary plat to subdivide a 2.24-acre property into nine single-family residential lots, two multifamily residential lots, and a stormwater tract, located at 16850 Peterson Road, in the Burlington area of unincorporated Skagit County, is **APPROVED**. Conditions are necessary to address specific impacts of the proposed project.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on June 8, 2022, utilizing a hybrid approach allowing for live participation or participation through remote access technology. The record was left open until June 14, 2022, to allow the Applicant to provide a response to concerns raised by members of the public at the open record hearing.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

Brandon Black, County Planning Manager
Pat Severin, Applicant Representative
Robert Hill
James Lanning
James Smith
Sheryl Dunn
Kate Atkinson, Applicant
Caroline Omdal
David Allen
Randall Fuller
Michael Griffin
Gretchen Barden
Shawn Christensen, County Stormwater Review Technician

*Findings, Conclusions, and Decision
Skagit County Hearing Examiner
KSA Investments Long Subdivision
No. PL-21-0216*

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report, dated May 31, 2022
2. Preliminary Plat Application, received April 14, 2021
3. Lot of Record Certification (Auditor File No. 202001290083), recorded January 29, 2020
4. FEMA FIRM Map Panel No. 530151 0250 C, dated January 3, 1985
5. Notice of Application, published May 20, 2021, with Site Plan, Mailing Labels, Mailing List, and 300-Foot Radius Map; Affidavit of Publication, dated May 20, 2021, with ad copy
6. Comments received during Notice of Application comment period:
 - a. Comment from Michael Baith, received May 22, 2021
 - b. Comment from James Lanning, received May 25, 2021
 - c. Comment from James Smith, received May 26, 2021
 - d. Comment from Doug and Jan Hollenbeck, received May 27, 2021
 - e. Comment from Robert Hill, received May 28, 2021
 - f. Comment from Patti Baith, received May 28, 2021
 - g. Comment from Marcia Smith, received May 30, 2021
 - h. Comment from Linda Stotts, received June 1, 2021
 - i. Comment from Sally Abdel-Rassoul, received June 1, 2021
 - j. Comment from Lou Ann and Roger Knutsen, received June 1, 2021
 - k. Comment from Dan and Lauren Mireles, received June 1, 2021
 - l. Comment from Brenton Peterson, received June 3, 2021
 - m. Comment from Charles Rust, received June 3, 2021
 - n. Comment from Ross Johnston, received June 3, 2021
 - o. Comment from Brandon Atkinson, received June 4, 2021
 - p. Comment from Jared Cannedy, received June 4, 2021
 - q. Comment from Dan and Lauren Mireles, received June 4, 2021
 - r. Comment from Bruce and Connie Grandy, received June 4, 2021
 - s. Comment from Cammy Alumbres, received June 4, 2021
7. Comments received after close of Notice of Application comment period:
 - a. Comment from Sheryl and Kirk Dunn, received June 7, 2021
 - b. Comment from Caroline Omdal, received June 7, 2021
 - c. Comment from Robin Day, received June 7, 2021
8. Request for Additional Information Letter, dated June 9, 2021
9. Applicant Response to Request for Additional Information, dated July 20, 2021
10. Landscape Plan, received July 26, 2021
11. SEPA Environmental Checklist, dated March 30, 2021
12. Mitigated Determination of Nonsignificance, dated August 10, 2021
13. SEPA Environmental Review Comments:
 - a. Comment from James Lanning, received August 25, 2021
 - b. Comment from Marcia Smith, received August 27, 2021

14. Applicant Response to comments received after the close of Notice of Application comment period, received September 1, 2021
15. City of Burlington Sanitary Sewer Availability Letter, dated March 19, 2021
16. Skagit Public Utility District Water Availability Letter, dated March 31, 2021
17. Washington State Department of Ecology Well Construction and Licensing Website Will Search, dated March 29, 2021
18. Geotechnical Investigation and Engineering Report, Materials Testing and Consulting, Inc., dated July 16, 2020
19. Title Report, received April 14, 2021
20. Lot Closure Calculations, received May 3, 2021
21. Parcel Map Check Report, received April 14, 2021
22. Stormwater Site Plan, Sound Development Group, LLC, dated March 26, 2021
23. Preliminary Plat Map (2 Sheets), received April 14, 2021
24. Skagit County Code (SCC) 14.16.210; SCC 14.16.215
25. SCC 14.16.340
26. SCC 14.06.050; SCC 14.06.120
27. International Fire Code Appendix D
28. Vicinity Map; Assessors Section Map; Screenshot of Zoning District Overlay
29. Three (3) Skagit County IMap Aerial Photographs
30. Existing Conditions, Proposed Preliminary Plat Layout Plan, and Preliminary Plat Map (4 Sheets), received May 3, 2021
31. Notice of Public Hearing
32. Letter of Transmittal, received May 12, 2022, with 300-Foot Radius Map and Mailing List
33. Comment from Marcia Smith, dated June 2, 2022
34. Comment from Michael Griffin, dated June 7, 2022
35. Comment from Robert Hill, received June 8, 2022
36. Comment from Jim Lanning, received June 8, 2022
37. Applicant Response to Additional Public Comments, dated June 13, 2022

The Hearing Examiner enters the following findings and conclusions based upon the testimony and admitted exhibits:

FINDINGS

Application and Notice

1. KSA Investments, LLC (Applicant), requests a preliminary plat to subdivide an approximately 2.24-acre property into 11 residential lots and a 16,639 square foot stormwater tract. The proposed residential lots would range in size from 6,879 square feet to 9,318 square feet. Two of the residential lots are proposed for multifamily dwellings (duplexes) and the remaining nine lots are proposed for single-family residences. Access to the proposed lots would be provided by a new private roadway extending north and south along the eastern portion of the parcel and connecting to

Peterson Road to the north. The property is located at 16850 Peterson Road, in the Burlington area of unincorporated Skagit County.¹ *Exhibit 1, Staff Report, page 1; Exhibit 2; Exhibit 3; Exhibits 19 through 21; Exhibit 23; Exhibit 28; Exhibit 30.*

2. The Skagit County Planning & Development Services Department (County) determined that the application was complete on May 12, 2021. On May 20, 2021, the County published notice of the application in the *Skagit Valley Herald*, posted notice on the subject property, and mailed notice to all adjacent property owners within 300 feet of the site, as required by Skagit County Code (SCC) 14.06.150, with a comment deadline of June 4, 2021. On or about May 12, 2022, the Applicant mailed notice of the open record hearing associated with the application to property owners within 300 feet of the property as required per SCC 14.06.150(3). *Exhibit 1, Staff Report, page 4; Exhibit 5; Exhibit 31; Exhibit 32.*
3. The County received several comments on the proposal in response to the notice materials, specifically:
 - Michael Baith raised concerns about the project’s proposed density and about the inclusion of two duplex lots.
 - James Lanning expressed concerns that a critical areas assessment was not conducted prior to the site being cleared. He also raised concerns about the density of the proposal, the proposed location of a retention pond on the north side of the property, and previous clearing and grading on the property. In addition, Mr. Lanning raised concerns that the proposal would not be consistent with the Bayview Ridge Subarea Plan, about aspects of the geotechnical report prepared for the proposal, and about the proposal’s temporary construction impacts and impacts to schools, roads, and parking.
 - James Smith expressed concerns about the density of the proposed development, asserting that it would be incompatible with existing residential development in the vicinity. He also raised concerns about the proposal’s stormwater impacts, traffic impacts, noise impacts, and light impacts.
 - Doug and Jan Hollenbeck raised concerns about the density of the proposed development and about the proposal's stormwater impacts.
 - Robert Hill raised concerns about the accuracy of the Applicant’s site plans, the inclusion of duplex units, the proposed density of the project, stormwater impacts, the ability of the proposed private road to process adequate emergency vehicle access, privacy impacts, noise impacts, traffic impacts, and the ability to provide adequate off-street parking space for the proposed duplex lots. Mr. Hill also raised concerns that the proposed subdivision would be inconsistent with the Bayview Ridge Urban Growth and Development Plan and about previous activity

¹ The subject property is identified by Tax Assessor’s Parcel No. P20974. *Exhibit 1, Staff Report, page 1; Exhibit 3.* A legal description of the property is provided with the preliminary plat application. *Exhibit 2.*

on the property. In addition, he inquired about several aspects of the proposal related to applicable setbacks, utilities and easements, wildlife impacts, and street lighting.

- Patti Baith raised concerns about the proposed lot size and density for the project.
- Marcia Smith raised concerns that the project's proposed density would not be compatible with the surrounding area. She requested that, if approved, the proposal include a tree buffer between the development and neighboring properties to minimize noise impacts, that the proposed private road be set back further from adjacent properties, and that the new private road not include street lighting.
- Linda Stotts raised concerns about the proposed density of the project and its traffic and parking impacts.
- Sally Abdel-Rassoul expressed concerns about the proposed density of the project and its impacts to the existing character of the neighborhood.
- Lou Ann and Roger Knutzen expressed concerns about the proposed density of the project, stating that it would be incompatible with the existing character of the area.
- Dan Mireles expressed concerns about the Applicant's prior use of the property and about the proposed density of the project. He also raised concerns about the proposal's safety, parking, lighting, and stormwater impacts.
- Brenton Peterson echoed concerns about the project's proposed density being incompatible with the existing character of the neighborhood.
- Charles Rust expressed concerns about the Applicant's previous use of the property and about the proposed density of the development project.
- Ross Johnston expressed opposition to the proposed density of the project and its inclusion of duplex structures. He asserted that the proposed development would impact the privacy and quality of life of neighboring property owners and would have adverse parking impacts.
- Brandon Atkinson echoed concerns about the project's proposed density and stormwater impacts. He also expressed concerns about the Applicant's previous use of the property.
- Jared Cannedy expressed concerns about the accuracy of the Applicant's application materials and about whether the proposed private street would provide adequate emergency vehicle access. He also raised concerns about the proposed density of the project, as well as about the proposal's stormwater impacts, privacy impacts, lighting impacts, and parking impacts.
- Bruce and Connie Grandy echoed concerns about the project's proposed density being incompatible with the existing character of the neighborhood and about the proposed location for the stormwater tract. They also raised concerns that the private street would not provide sufficient space for emergency vehicles to turn around.

- Cammy Alumbres echoed concerns about the project’s proposed density, the ability of the proposed private road to provide adequate emergency vehicle access, and about the proposal’s stormwater impacts.
- Sheryl and Kirk Dunn expressed concerns about the accuracy of the Applicant’s application materials, the inclusion of duplex structures, the project’s proposed density, stormwater impacts, privacy impacts, noise impacts, parking impacts, light impacts, traffic impacts, and the ability of the proposed private road to provide adequate emergency vehicle access.
- Caroline Omdal echoed concerns about the project’s proposed density, the ability of the proposed private road to provide adequate emergency vehicle access, and about the proposal’s stormwater impacts.
- Robin Day expressed concerns about the project’s parking impacts, as well as about the proposed density of the project and its impacts to home values in the vicinity.
- Cory Russell inquired about what the average selling price would be for the proposed single-family residences, whether the multifamily dwellings would be available for rental or for purchase, and whether there would be a homeowner’s association.

Exhibit 1, Staff Report, pages 4 and 5; Exhibit 6; Exhibit 7; Exhibits 33 through 36.

4. The Applicant provides responses to the concerns expressed by members of the public, which note:
 - The proposed housing density would not exceed that allowed under the existing zoning code.
 - The proposed lot sizes comply with the zoning code.
 - Duplex lots are allowed under the existing zoning code.
 - The new private roadway would be paved with asphalt and would include a hammer head turn around consistent with applicable dimensional standards. The County Public Works Department and the Fire Marshal would review and verify that the site plan shows the minimum fire truck turn around as defined by Skagit County Roadway Standards (Figure C-1a).
 - Sidewalks would be installed on one side of the new private road.
 - Utilities serving the property would be extended from Peterson Road and would be placed underground.
 - The proposal would not require installation of a turn lane from Peterson Road.
 - The project would address stormwater runoff during civil design in accordance with County and Washington State Department of Ecology stormwater regulations. No parking would be allowed on the west side of the new private street or within the turnaround area.
 - The Applicant would be required to design the stormwater system to collect developed runoff and to not impact neighboring properties.

- Site dimensions would be verified by the County Planning Department, the County Public Works Department, and the Fire Marshal.
- Parking, street lighting, and stormwater management features would be designed and installed in compliance with applicable County and state regulations. Street lighting would not be required for the private access road.
- Residents would park vehicles within their garages, driveways, or along the east side of the proposed private roadway. Parking restrictions would be enforced by the homeowner's association and by the County Sheriff.
- Sound barriers are not proposed. There would be minimal noise pollution outside development activities.
- Security of the property would improve without a vacant lot.
- The proposed development would include a homeowner's association.
- Traffic impacts would be reviewed during civil design. The anticipated traffic generated by the proposed development would impact Peterson Road but should have little to no impact to Jacqueline Drive.
- Trees would be planted within the eastern vegetated strip.
- The proposed private roadway would meet setback requirements.
- The property does not contain any critical areas.
- The proposal would provide approximately 40 percent landscaped areas.
- The proposed retention pond would be located on the northern side of the property because the site slope to the north. The property only appears to slope south due to a natural ridge. Surrounding developments have sited detention ponds on the northern ends of their properties.
- There are no known enforcement actions related to previous uses of the property, and all previous work on-site was resolved to the satisfaction of the County.
- The proposed development would be compatible with surrounding uses, which are currently residential.
- The construction of additional homes would help to alleviate the current housing crisis.
- Hours of construction would be from 7 AM to 6 PM Monday through Friday, with any weekend work to occur in compliance with County regulations.

Exhibit 9; Exhibit 14; Exhibit 37.

5. The County received the following comments on the proposal from reviewing departments and agencies:
 - County Public Works reviewed the proposal and provided comments noting several permitting requirements related to road construction and utility work within the right-of-way, which have been incorporated with County's staff recommended conditions of preliminary plat approval.
 - County Planning and Development Services reviewed the proposal and provided comments noting several requirements for the proposed subdivision, which, as

deemed appropriate, have been incorporated with County's staff recommended conditions of preliminary plat approval.

- The County Stormwater Department noted that a right of access easement would be required to allow for future drainage inspections on each lot, that drainage easements for proposed stormwater facilities must be shown on the plat, and that maximum impervious surface allowed for each lot must be shown on the face of the plat.
- County Environmental Health noted that sewer service would be provided by the City of Burlington and that all sewer lines and stubouts would be required to be installed prior to final plat approval. It also noted that the Applicant would be required to provide documentation that adequate water supply would serve the subdivision and that all lots must be stubbed at the property line for each proposed lot.
- The County Fire Marshall noted the requirements for fire hydrant spacing and for road width and turnaround space for the proposed private road, which comments have been incorporated with County's staff recommended conditions of preliminary plat approval.
- The County treasurer noted that all required property taxes must be paid prior to final approval and recording of the plat.

Exhibit 1, Staff Report, pages 6 through 10; Exhibit 15; Exhibit 16.

State Environmental Policy Act

6. The County acted as lead agency and analyzed the environmental impacts of the proposal, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The County reviewed the Applicant's environmental checklist and other information on file and determined that, with mitigation measures, the proposal would not have a probable significant adverse impact on the environment. Accordingly, the County issued a Mitigated Determination of Nonsignificance (MDNS) with 10 mitigation measures on August 10, 2021. The MDNS provided for a comment deadline of August 27, 2021, and an appeal deadline of September 10, 2021. The County did not receive any comments specific to SEPA from reviewing departments and agencies.

The County received comments on the MDNS from two members of the public. James Lanning raised concerns about previous clearing and grading activity on the property and about the critical areas assessment of the site being conducted after the clearing and grading activity. He also raised concerns about whether the proposed private road would provide adequate access and turnaround space for emergency vehicles, the proposed lot sizes, stormwater impacts of the proposed development, the proposed location for a retention pond, wildlife impacts, temporary noise and pollution impacts from construction activity. In addition, Mr. Lanning inquired about whether sidewalks would be required to be installed on the private roadway, whether the proposed development

would include fencing, and whether local schools have capacity to handle additional students residing in the subdivision. Marcia Smith also raised concerns about previous clearing and grading activity on the site, the proposal's stormwater impacts, and temporary noise impacts from construction activity at the site.

The MDNS was not appealed. The mitigation measures have been incorporated, below, as required conditions of approval. *Exhibit 1, Staff Report, pages 5 and 6; Exhibits 11 through 14.*

Comprehensive Plan and Zoning

7. The subject property is located within the Bayview Ridge Urban Growth Area (UGA) and is designated "Bayview Ridge Residential" by the County Comprehensive Plan. The Bayview Ridge Subarea is comprised of 3,586 acres located approximately one mile west of the City of Burlington and is "characterized by a mix of industrial/business uses, airport and aviation-related uses, pastureland, and a variety of residential uses." *Comprehensive Plan, page 34.* The land use designations within the Bayview Ridge UGA, including the Bayview Ridge Residential designation, were "created to respond to the existing and anticipated future growth conditions within the subarea based on an extensive community-based planning process including environmental review." *Comprehensive Plan, page 34.* The Bayview Subarea Plan notes that the Bayview Ridge Residential designation "accommodates a variety of housing types and options including detached single-family residences, apartments, condominiums, duplexes, townhouses, and accessory dwelling units." *Bayview Ridge Subarea Plan, page 4-2. Exhibit 1, Staff Report, page 1.*
8. The subject site and all surrounding properties are located in the "Bayview Ridge Residential" (BR-R) zoning district. The purpose of the BR-R zoning district is "to maintain an urban residential community that continues to reflect a high quality of life and to implement the Subarea Plan policies." *SCC 14.16.340(1).* Detached single-family dwelling units and multifamily dwellings, including duplexes, are listed as permitted uses in the BR-R zone. *SCC 14.16.340(2)(b), and (h).* Subdivisions of land within the BR-R zone are required to achieve a net density of at least four and no more than six units per acre. *SCC 14.16.340(5)(a)(ii).* The proposed subdivision would achieve a density of 5.82 dwelling units per acre, consistent with this requirement. The BR-R zone requires single-family lots to have a minimum lot area of 6,000 square feet and minimum lot width of 50 feet and requires multifamily lots to have a minimum lot area of 8,400 square feet for each two units and a minimum lot width of 60 feet. *SCC 14.16.340(b).* The Applicant's project plans show that each single-family residential lot would be 55 feet wide, with eight of the lots measuring 6,879 square feet and the remaining lot measuring 7,061 square feet, and that each duplex lot would be 74.5 feet wide, with both duplex lots measuring 9,318 square feet. Accordingly, as proposed, the lots within the subdivision would comply with the dimensional requirements for lots within the BR-R zone.

Applicable structure setback requirements for each lot would be determined and documented prior to final plat approval. *Exhibit 1, Staff Report, pages 1, 4, 11, and 15; Exhibit 2; Exhibit 25; Exhibit 30.*

Existing Site, Critical Areas, and Surrounding Development

9. The approximately 2.24-acre property was previously developed with a residential structure fronting Peterson Road, as well as with associated accessory structures, which were removed in 2021. The property is now vacant with vegetation consisting of native grasses, brush, and trees. The site is relatively flat, with slopes ranging from 1 percent to approximately 5 percent, sloping north and south from a high area in the middle of the site. Materials Testing and Consulting, Inc. (MTC) prepared a geotechnical investigation and engineering report for the proposed development, dated July 16, 2020, which did not identify any geologic hazard areas on-site and which determined that the proposed development would be feasible from a geotechnical perspective. The subject property is not located within a designated flood hazard area identified by FEMA's Flood Insurance Rate Map. County Critical Areas staff reviewed and approved the proposal as compliant with the County's Critical Areas Ordinance, noting that there were no critical areas indicators identified on or within 200 feet of the site. All surrounding properties are zoned BR-R and are developed with single-family residences. *Exhibit 1, Staff Report, pages 1, 2, and 6; Exhibit 4; Exhibit 8; Exhibit 22; Exhibit 28; Exhibit 29.*

Access and Traffic

10. Access to the site and the proposed lots would be provided by a new private road running along the eastern portion of the site and connecting to Peterson Road to the north. The proposed private road would be required to be constructed in accordance with Skagit County Public Works Standards, which would require installation of curbs, gutters, and sidewalks. The proposed private road would be approximately 700 feet long within a 50-foot-wide access and utility easement, include a driving surface width of 26 feet, and include a hammerhead turnaround between proposed Lots 9 and 10 to provide adequate emergency vehicle access and turning radius in accordance with requirements of the Fire Code. A commercial access permit would be required for the connection to Peterson Road, and the Applicant would be required to complete frontage improvements along Peterson Road, including replacement of curb and sidewalk at the old access location and installation of sidewalk ramps meeting ADA requirements.

County staff determined that a traffic impact analysis would not be required for the proposal because the level of service standard of Peterson Road is such that the addition of the proposed lots would not create an impact on the existing transportation network. The property is located near a Skagit Transit public transportation bus route along Peterson Road. The Skagit Transit trip route map shows a bus stop located along the north side of Peterson Road approximately 208 feet to the east of the subject property. *Exhibit 1, Staff Report, pages 6, 12, 16, and 17; Exhibits 27 through 30.*

Stormwater

11. Sound Development Group, LLC, prepared a stormwater site plan for the proposed development, dated March 26, 2021. The Applicant proposes to manage stormwater by capturing runoff from pollution-generating hard surfaces within catch basins that would discharge to bioretention cells for water quality treatment before being conveyed to a new detention pond at the northwest corner of the site that would provide flow control before discharging from the site at predevelopment rates and entering the existing stormwater collection system within Peterson Road. The Applicant's proposed stormwater management design was reviewed by County Planning and Development Services Stormwater review staff. County Stormwater Review staff provided comments on the stormwater design aspects of the proposal, as described in the above findings, and would continue to review the proposal to ensure that it would with the County's Stormwater Ordinance prior to final approval of development permits. *Exhibit 1, Staff Report, pages 6 and 10 through 12; Exhibit 22.*

Open Space, Parks, and Landscaping

12. As noted above, the proposed development would include a 16,639 square foot stormwater tract at the northwest corner of the site. The proposal would not include any other open space within the plat. County staff determined that the provision of open space would not be required as a condition of preliminary plat approval, noting that the subject property is located within the Bayview Ridge UGA and that the Comprehensive Plan encourages maximizing development patterns where adequate public facilities and services exist or can be provided. The proposed development also does not include any provisions for recreational facilities within the subdivision. SCC 14.18.000(5)(f) requires that land divisions either provide parkland and facilities within the subdivision or pay a fee in lieu of such required facilities. Accordingly, the Applicant would be required to either pay a fee in lieu of \$100 per lot or provide a plat note referencing the required park fee that would require payment at the time of building permit submittal. The Applicant would be required to provide a minimum four-foot planting strip along all road frontages. *SCC 14.16.215(3)(a)(iii)*. County staff reviewed and preliminarily approved the Applicant's landscape plan, which shows that the proposal would provide the required planting strip along road frontages. The Applicant would be required to install required landscaping prior to final plat approval. *Exhibit 1, Staff Report, pages 7, 12 and 13; Exhibit 10; Exhibit 30.*

Utilities and Services

13. Students residing in the subdivision would be served by the Burlington-Edison School District. The school district adopted a Capital Facilities Plan (CFP) that includes calculations related to the impacts of new housing within the district's service area. If applicable at the time of development, mitigation for school impacts would be addressed by requiring the lot owners to contribute fees in the amount included in the district's CFP

at the time of building permit issuance. As noted above, the proposed new private road would include sidewalk installation, and required frontage improvements along Peterson Road would include sidewalk replacement and installation of sidewalk ramps meeting ADA requirements, which would ensure safe walking conditions for students residing in the subdivision. Skagit County PUD would provide water service to the property and issued a letter of water availability on March 31, 2021, indicating that it has sufficient supply to furnish water to the property. The water system for the proposed lots would be required to be installed and approved by Skagit County PUD prior to final plat approval. The City of Burlington would provide sanitary sewer service to the subdivision and issued a letter of sewer availability on March 19, 2021, indicating that a sewer permit would be required prior to making a sewer connection. The connections would be required to conform the criteria outlined in the permit, and final approval would be contingent on a sewer inspection by the sewer department representative. *Exhibit 1, Staff Report, pages 12 and 13; Exhibit 15; Exhibit 16; Exhibit 30.*

Testimony

14. County Planning Manager Brandon Black testified generally about the application, the review process that occurred, and how the proposal would be consistent with the County's Comprehensive Plan, zoning ordinances, critical areas ordinances, and the specific criteria for approval of preliminary plat. He provided a description of the proposal, existing site conditions, and surrounding development, consistent with the findings above. Mr. Black stressed that the application was reviewed by several reviewing departments and agencies that provided comments on the proposal, as noted in the findings above, which have been incorporated with County staff's recommended conditions of preliminary plat approval. He explained that the County received several comments on the proposal from neighboring property owners, which generally raised concerns about the project's proposed density and about various impacts to surrounding residential land uses. Mr. Black stressed that the proposed density for the project would be 5.82 dwelling units per acre, in accordance with the density requirements for the BR-R zoning district. He stated that the Applicant's proposed stormwater management design was reviewed and preliminarily approved by County Stormwater Review staff, noting that staff would continue to review the proposal for compliance with applicable stormwater regulations prior to final approval of development permits. Mr. Black explained that the proposed private roadway providing access to the lots would be required to be constructed to County Public Works Road Standards and that a traffic impact analysis is not required for the proposal because it is not anticipated to generate traffic at a level sufficiently impacting the County's transportation network. He noted that the proposed lots would be adequately served with public water and sanitary sewer. Mr. Black stated that the proposed subdivision would be located within the Burlington-Edison School District and that the school impact fees would be required at the time of building permit issuance. *Testimony of Mr. Black.*

15. Applicant Representative Pat Severin, of Sound Development Group, LLC, testified that he agrees with County staff's analysis of the proposed subdivision as provided in the staff report and Mr. Black's testimony. *Testimony of Mr. Severin.*
16. Robert Hill testified that the proposed subdivision would be inconsistent with the Bayview Ridge Urban Growth and Development Plan and with the density and character of surrounding residential development in the neighborhood, particularly with regard to the proposed duplex structures. He also inquired about several aspects of the proposal related to the private access road, setbacks from the private road, street parking, utilities and easements, stormwater drainage, previous clearing activity on the site, noise impacts, privacy impacts, and street lighting. *Testimony of Mr. Hill.*
17. James Lanning testified that he has concerns about the notice that was provided for the proposed subdivision. He also raised concerns that the proposed subdivision would be contrary to the Bayview Ridge Subarea Plan, which provides that densities within the urban residential area will maintain an average of four units per acre, that infill development within existing neighborhoods be of a style and manner of design consistent with the housing stock in the neighborhood, and that new development be compatible with the character and future vision of the community. In addition, Mr. Lanning raised concerns that the Applicant's site plan, particularly with respect to the proposed location of the stormwater detention pond, does not align with the findings of the geotechnical report prepared for the proposal. He noted that the County's Capital Facilities Plan states that upgrades would be required along Peterson Road, which would be financed by developers of adjacent properties. Mr. Lanning asserted that unpermitted development activity has occurred on the site in violation of County regulations. He also echoed concerns raised in his written comments on the proposal, detailed in the findings above, including concerns about stormwater drainage, the proposal's compatibility with existing residential development, and site clearing activity taking place prior to a critical areas assessment being conducted. Mr. Lanning inquired about who would enforce parking restrictions related to the new private road and about whether fencing would be installed to screen the private roadway from adjacent residential development. *Testimony of Mr. Lanning.*
18. James Smith echoed concerns about stormwater drainage and about the density of the proposal, stating that Federal airport regulations prohibit a density above four units per acre and multifamily housing types. He also expressed concerns about fire safety issues related to the spacing of the proposed residential dwellings and about potential impacts from street lighting along the private road. Mr. Smith stated that the proposed development would not provide any benefit to the public. *Testimony of Mr. Smith.*
19. Sheryl Dunn expressed concerns about the proposal's compatibility with the surrounding neighborhood, consistency with the Comprehensive Plan, privacy impacts, stormwater

impacts, fire safety impacts, parking impacts, and impacts to surrounding property values. *Testimony of Ms. Dunn.*

20. Applicant Kate Atkinson, of KSA Investments, LLC, testified that the property was purchased in 2005 with the intent to develop it with residential units. She stated that understands the concerns raised by neighboring property owners and that the property would be developed in accordance with code requirements and would fulfill a housing need in the area. Ms. Atkinson noted that some homebuyers desire smaller lots without large yard areas. *Testimony of Ms. Atkinson.*
21. Caroline Omdal expressed concerns about safety issues related to parking along the new private road and about the proposal's stormwater impacts, noting that existing drainage issues have occurred since the property was previously cleared. *Testimony of Ms. Omdal.*
22. David Allen testified that he shares the concerns expressed by other testifying members of the public. *Testimony of Mr. Allen.*
23. Randall Fuller echoed concerns about the stormwater impacts of the proposal, noting that there have been existing flooding issues to his property and other neighboring properties, which have occurred since the time that the site was cleared. He also raised concerns about parking impacts and safety impacts that may occur due to the proposed density of the project. *Testimony of Mr. Fuller.*
24. Michael Griffin inquired about whether the proposed residences would be market rate or low-income units. *Testimony of Mr. Griffin.*
25. Gretchen Barden testified expressed concerns about the proposal's impacts to surrounding property values. *Testimony of Ms. Barden.*
26. In response to concerns raised at the hearing, Mr. Severin testified that the preliminary stormwater plan for the proposal has been designed consistent with the findings and recommendations of the geotechnical analysis of the site. He noted that the proposed private road would be designed and constructed in accordance with applicable road standards, with parking allowed on one side of the private road. Mr. Severin stated that the subdivision application has been processed in accord with code requirements and that the proposed development would comply with all applicable code requirements and other applicable regulations. *Testimony of Mr. Severin.*
27. Tammy Zempel, of Sound Development Group, LLC, also testified in response to concerns raised by members of the public at the hearing. She noted that the County Fire Marshal reviewed the Applicant's project plans and requested the proposed private road be redesigned to provide adequate turnaround space for emergency vehicles and that no

parking signs be installed on the left side of the road. Ms. Zempel stressed that the private roadway was redesigned in accordance with the Fire Marshal's request and that the Fire Marshall approved the redesign. *Testimony of Ms. Zempel.*

28. Mr. Black also responded to concerns raised at the hearing, noting:
- All residential structures constructed on the proposed lots would be required to comply with setback requirements for the BR-R zoning district, which would ensure adequate spacing between the structures consistent with the International Building Code.
 - The subject property is within the Airport Compatibility Zone overlay 6, which allows for the proposed density and housing types.
 - The Bayview Ridge Subarea Plan provides general guiding principles for development in the area, which are implemented thorough the long-range planning process and through the specific development regulations adopted by the Board of County Commissioners and expressed in the County code. Development proposals within the BR-R zone are reviewed against the specific development regulations, which provide for a density between four and six dwelling units per acre. The proposed development would comply with this requirement. Moreover, the Comprehensive Plan provides that development in this area should be constructed to urban density standards.
 - The County Fire Marshal reviewed the proposal for consistency with the fire code, building code, and applicable street standards. The Applicant would be required to demonstrate that there would be adequate access and turnaround space for emergency vehicles.
 - The proposed private road would be required to be constructed to County Public Works Road Standards. The County does not want the proposed road to be a county-maintained road due to its length and due to it being a dead-end street.
 - The proposed development would be required to comply with landscaping requirements and with the County's noise ordinance.

Testimony of Mr. Black.

29. County Stormwater Review Technician Shawn Christensen testified that the final stormwater management design for the proposed development would be required to comply with the County's adopted stormwater manual as modified by the stormwater provisions under Chapter 14.32 SCC, as well as with stormwater regulations applicable to properties within the National Pollutant Discharge Elimination System (NPDES) permit area. He noted that these requirements would include easements to allow for annual inspections of the stormwater management system and a limitation on the impervious surfaces allowed on the property. Mr. Christensen stated that additional analysis of the final stormwater system would ensure that stormwater runoff would be discharged at predevelopment rates and would, therefore, not adversely impact neighboring properties.

Testimony of Mr. Christensen.

Staff Recommendation

30. Mr. Black testified that the County staff recommends approval of the preliminary plat, with conditions. Mr. Severin testified that the Applicant understands and would comply with the proposed conditions. *Testimony of Mr. Black; Testimony of Mr. Severin.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide requests for a preliminary long subdivision with between 9 and 50 lots. *Chapter 14.06 SCC; SCC 14.06.120; SCC 14.18.100(3)(c).*

Criteria for Review

The [preliminary plat] review process shall determine conformity with the applicable approval requirements of SCC 14.18.000(5) and any additional applicable approval requirements in SCC Chapters 12.05 [On-Site Sewage Code-Rules and Regulations], 12.48 [Rules and Regulations of the Skagit Board of Health Governing Individual and Public Drinking Water Systems], 14.16 [Zoning Code], 14.18 [Land Divisions], 14.28 (Critical Areas Ordinance), 14.28 (Concurrency), 14.32 (Stormwater Management), and 16.12 [SEPA]. The proposed subdivision shall be approved, approved with conditions, or denied. *SCC 14.18.100(3)(e).*

SCC 14.18.000(5) provides:

General Requirements. The following requirements shall be met for any land division under this Chapter to be approved. In addition to these general requirements, any specific requirements relevant to each individual type of land division are found in their respective sections of this Chapter.

- (a) The proposed land division shall comply with the applicable provisions of the Skagit County Comprehensive Plan and Skagit County Code.
- (b) Adequacy of Access. Each lot within a land division shall have approved access to a street conforming to County road standards, unless an alternative standard has been approved by the County Engineer in a pre-application meeting and documentation of such approval is submitted with the development application. To assure safe and adequate access, the County Engineer:
 - (i) May approve private streets, provided the private street requirements contained in the County road standards as adopted in Chapter 14.36 SCC are met, and provided adequate provision should be made for access to the private street by future land divisions;

- (ii) May limit direct access to certain streets and require on-site public or private streets in lieu of individual driveways, in accordance with the County road standards;
 - (iii) Shall be satisfied that the applicant has demonstrated sufficient access right, and appropriate pro-rata contributions for the entire access route, where access to the land division is gained via a private road;
 - (iv) Shall require off-site improvements to public or private streets needed to provide access from the subdivision to a road acceptable to the County Engineer; and
 - (v) May assure that the number of lots to be served by the road system complies with the road standards.
- (c) **Safe Walking Conditions for School Children.** In cases where a school is located within a quarter mile of a long subdivision, where it is likely the children will walk to school, information regarding pedestrian needs generated by the project will be required and reviewed. Where deemed necessary, safe walkways between the land division and the school may be required.
- (d) **Public Street Rights-of-Way.** Dedication or deeding to the County of right-of-way or a portion thereof for public streets shall be required within or along the boundaries of all land divisions or of any lot(s) within them where facts support that such dedication is reasonably necessary as a result of the impact created by the proposed development and where 1 or more of the following circumstances are met:
- (i) The County's transportation plan indicates the necessity of a new or additional right-of-way or portion thereof for street purposes;
 - (ii) The dedication is necessary to extend or to complete the existing or future neighborhood street pattern to provide a public transportation system that supports future development of abutting property consistent with the Skagit County Comprehensive Plan or Skagit County Zoning Code;
 - (iii) Where necessary to provide additions of right-of-way to existing County right-of-way to meet County road standards.
- (e) Minimum road frontage of each lot shall be 70 feet except when located on a cul-de-sac, then 40 feet. Individual lots may be accessed by a 20-foot right-of-way. Panhandled lots will only be allowed if there is no other feasible access, as determined by the Administrative Official in a pre-application meeting and documentation is submitted with the development application. Newly constructed contiguous or adjoining easements for access purposes are not permitted.
- (f) **Parkland and Facilities.** 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.

- (g) Open Space Corridors. Open space easements shall be provided by any land division when such divisions are located within any community or regional open space corridor identified by the Skagit County Park and Recreation Plan. The residents or lot owners of the development shall be provided access to the open space easement. The area of the open space easement shall be counted as part of the site for purposes of density and floor area calculations. Maintenance of the open space easement shall be the responsibility of the County.
- (h) The proposal shall be located within an official designated boundary of a Skagit County Fire Protection District, unless the division is to divide land for sale only and no development right is desired. In the case of Industrial Forest—NRL zoned lands, parcels must have been within the boundaries of a fire district as of July 26, 2005, to be considered for development additional to that which is allowed pursuant to SCC 14.16.850(6)(b)(iii). The one exception is for land divisions for residential purposes on certain saltwater islands, as further described and allowed under SCC 14.16.850(6)(b)(iv). Prior to approval of any residential land division outside of a Skagit County Fire District, there shall be a water supply to each lot that meets the minimum flow and pressure requirements for operation of a fire sprinkler system installed per National Fire Protection Association (NFPA) 13D or such other fire protection system as approved by the Skagit County Fire Marshal.
- (i) Evidence must be supplied from the applicable purveyor of the availability of water to serve the projects and adequate provision for sewage disposal. The method of sewage disposal shall also be provided, including soil data, if individual sewage disposal is to be used, or if public sewer or community septic disposal is used, the name of the system. If individual wells are to be utilized, documentation approving the well sites must be provided, pursuant to SCC Chapter 12.48. A land division within a seawater intrusion area (as defined in SCC 14.24.380) may not propose to use a well where chloride levels are 200 ppm or greater.
- (j) Evidence of concurrency of services, per Chapter 14.28 SCC.
- (k) If access is proposed off of a State highway, a State access permit shall be obtained by the applicant. The application for such permit shall be provided with the land division application. The access permit must be approved prior to the start of construction of on-site improvements, or final plat, whichever is sooner.
- (l) If any portion of a proposed land division is located within a flood control zone as provided in Chapter 86.16 RCW, written approval must be obtained from the State Department of Ecology (RCW 58.17.120).

- (m) Proposed land divisions bordering upon waters of the State may be required to provide public access to and along such waters.
- (n) All construction and site development activities related to the land division are prohibited until (1) the preliminary land division is approved, and (2) engineering plans are approved which are based on the approved preliminary land division.

The requirements for preliminary plat approval under the Skagit County Code are similar to the state subdivision criteria codified at Chapter 58.17 RCW, which must also be met by the application before a decision of approval can be made. Specifically, RCW 58.17.110(2) provides:

A proposed subdivision and dedication shall not be approved unless the city, town, or county legislature body makes written findings that: (a) appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication.

The criteria for review adopted by the Skagit County Board of County Commissioners are designed to implement the requirement of chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with County development regulations considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Conclusions Based on Findings

1. **With conditions, the proposed preliminary plat would satisfy the requirements for a land division under the Skagit County Code.** The County provided reasonable notice and opportunity to comment on the proposal and to allow public testimony at the open record hearing. The County received numerous comments on the proposal from members of the public in response to its notice materials, and several members of the public testified at the open record hearing. Comments and testimony on the proposal from members of the public expressed opposition to the proposed subdivision, generally raising concerns about the proposed density of the development; the proposed development's compatibility with the existing character of the neighborhood, particularly with respect to the proposed density and the inclusion of duplex housing types on two of the lots; previous site activity; stormwater drainage; fire safety issues related to the proposed private road providing access to the lots and the spacing of dwelling units on

the lots; impacts from street lighting on the private road; parking impacts; privacy impacts; noise impacts; and impacts to property values in the area.

While the Hearing Examiner recognizes that several neighboring residents have expressed opposition to the proposal, it must be noted at the outset that community displeasure, alone, cannot be the basis of a permit denial. *Kenart & Assocs. v. Skagit Cy.*, 37 Wn. App. 295, 303, 680 P.2d 439, *review denied*, 101 Wn.2d 1021 (1984). Rather, the Hearing Examiner must review the proposal for compliance with governing regulations.

The subject property and all surrounding properties are designated Bayview Ridge Residential by the County Comprehensive Plan and are within the Bayview Ridge Residential (BR-R) zoning district. Development of detached single-family dwellings and multifamily dwellings, including duplexes, is a permitted use in the BR-R zone. Subdivisions of land within the BR-R zone are required to achieve a net density of at least four and no more than six units per acre. The proposal to subdivide the 2.24-acre property into nine single-family lots and two duplex lots would result in a density of 5.82 dwelling units per acre, and all proposed lots would meet the minimum lot width and area requirements for the BR-R zone. Accordingly, although several members of the public expressed concerns that the development would be incompatible with existing residential development in the vicinity and BR-R zone, as proposed and conditioned herein, the preliminary plat would comply with the density and dimensional requirements for the BR-R zone, as well as with permissible housing types in the BR-R zone. Concerns about any previous unpermitted site development activity on the property are beyond the scope of the preliminary plat request before the Hearing Examiner.

Access to the proposed lots would be provided by a new private road running along the eastern portion of the site and connecting to Peterson Road to the north. The proposed private road would be required to be constructed in accordance with Skagit County Public Works Standards, which would require installation of curbs, gutters, and sidewalks. The final design for the proposed private road would be reviewed by the Fire Marshal to ensure compliance with fire code and road standard requirements for adequate emergency vehicle access and turnaround space. Parking would be restricted to one side of the street, and this restriction would be enforced by the homeowner's association. The Applicant indicates that street lighting would not be required along the private roadway. The Hearing Examiner determines that it would be appropriate to impose a condition restricting street lighting along the private road unless otherwise required by County Public Works Road Standards and, if required, that street lighting be shielded and directed away from neighboring residential properties to the extent allowed by County Public Works Road Standards. County staff determined that a traffic impact analysis would not be required for the proposal because the level of service standard of Peterson Road is such that the addition of the proposed lots would not create an impact on the

existing transportation network. The subject property is located along a Skagit Transit public transportation bus route on Peterson Road, with a public bus stop located approximately 208 to the east of the property.

County Stormwater Review staff reviewed and preliminary approved the Applicant's stormwater management design for the site, which proposes to capture runoff from pollution-generating hard surfaces, to treat runoff within catch basins that would discharge to bioretention cells for water quality treatment before being conveyed to a new detention pond at the northwest corner of the site that would provide flow control before discharging from the site at predevelopment rates and entering the existing stormwater collection system within Peterson Road. County Stormwater Review staff would review the Applicant's final stormwater management design to ensure compliance with applicable stormwater regulations designed to prevent adverse impacts to adjacent properties. County staff reviewed and preliminary approved the Applicant's landscape plan, which shows that the proposal would provide the required planting strip along road frontages. The Applicant would be required to install required landscaping prior to final plat approval.

County staff determined that the Applicant would not be required to provide open space within the subdivision because it is located within a UGA and because the Comprehensive Plan encourages maximizing development patterns where adequate public facilities and services exist or can be provided. The Applicant would pay a fee in lieu of providing park facilities. Students residing in the subdivision would be served by the Burlington-Edison School District, and school impact fees would be required to mitigate for the proposed development's impacts to the school district. The required installation of sidewalks on the new private road and required frontage improvements along Peterson Road that would include sidewalk replacement and installation of sidewalk ramps would ensure safe walking conditions for students residing in the subdivision. The proposed subdivision would be adequately served by public water and sanitary sewer. The City of Burlington issued a letter of sewer availability on March 19, 2021, and Skagit County PUD issued a letter of water availability on March 31, 2021.

The County reviewed the Applicant's environmental checklist and other information on file and determined that, with mitigation conditions, the proposal would not have a probable significant adverse impact on the environment. Accordingly, the County issued a Mitigated Determination of Nonsignificance (MDNS) with mitigation measures, which was not appealed. County Critical Areas staff reviewed and approved the proposal as compliant with the County's Critical Areas Ordinance, noting that there were no critical areas indicators identified on or within 200 feet of the site. The Hearing Examiner determines that the public use and interest would be served by the platting of the subdivision. Conditions, as detailed below, are necessary to ensure that the proposal

satisfies the criteria for a preliminary plat and that the proposed development complies with all other applicable local, state, and federal regulations. *Findings 1 – 30.*

2. **With conditions, the requirements of RCW 58.17.110 would be satisfied.** The requirements for a land division set forth in the Skagit County Code are similar to and encompass the criteria for a land division under the Revised Code of Washington. Accordingly, with conditions as detailed in full below, the proposal would satisfy all local and state requirements for plat development. *Findings 1 – 30.*

DECISION

Based on the preceding findings and conclusions, the request for a preliminary plat to subdivide a 2.24-acre property into nine single-family residential lots, two multifamily residential lots, and a stormwater tract, located at 16850 Peterson Road, in the Burlington area of unincorporated Skagit County, is **APPROVED**, with the following conditions:²

1. Bay Heights Place is the chosen and approved road name. The approved road name shall appear on the face of the final plat.
2. The address range request will be forwarded to Skagit County GIS for review and assignment after preliminary approval has been granted. The address range shall be shown on the face of the plat map before final approval.
3. The Land Division application number is #PL21-0216 and shall be shown on each page of the map packet prior to final approval.
4. The final plat map shall be of a scale not less than 100' to the inch on 18" x 24" sheets, with a 2-inch border on the left edge, and ½-inch border on all other sides.
5. In accordance with Section 14.18.200(4)(d) of the Skagit County Code, all lot corners must be set prior to final plat approval.
6. The final plat shall include, at a minimum, the following:
 - Name and address of the owners of record, developer, registered land surveyor/engineer.
 - Legal description
 - Section subdivision showing the boundary of the plat in relation to the section.
 - Vicinity sketch at a minimum scale of 2 inches = 1 mile clearly identifying where the site is physically located within Skagit County in relation to surrounding towns, the port, and any other physical features (rivers, bays, etc.).

² This decision includes conditions designed to mitigate impacts of this proposed project as well as conditions required by County Code.

7. An updated title report will be required with the final plat submittal.
8. The Applicant shall show compliance with SCC 14.18.200 prior to final approval.
9. If any portion of the parent parcel is in an Open Space taxation program with the Skagit County Assessor's Office, please contact them at (360) 416-1780 prior to proceeding with the land division.
10. The acreages and square footages of each lot, and for any individual tracts, shall be shown on the face of the plat. The square footage of the parent parcel shall also be added to the acreage within the Density Calculation table or called out within a separate plat note (acreage and square footage for the parent, and all proposed lots/areas within the plat).
11. A Landscape Plan has been provided pursuant to SCC 14.16.830 for review and has been accepted as preliminarily approved. Landscaping shall be installed and completed prior to Final Plat Approval.
12. The exact setbacks for each individual lot shall be determined and documented prior to Final plat approval. A plat note, or table, referencing the setback for each lot shall be included on the final plat.
13. [Removed].
14. All standard plat notes and appropriate departmental signoff are required. Please ensure that there are the appropriate number of acknowledgement blocks for all parties to the land division and County staff. A signature line for the Health Officer needs to be added and the "Plat Administrator" should include, or add, "Planning Director" under the signature line.
15. A signature line for the Chairperson of the Board of County Commissioners shall be added to the face of the plat for final signature and approval.
16. At a minimum, the following plat notes shall be shown on the face of the final plat map:
 - Plat number and date of approval shall be included in all deeds and contracts.
 - Maintenance and construction of road shall be the responsibility of the homeowners association with the lot owners as members.
 - No building permit shall be issued for any residential and/or commercial structures, which are not, at the time of application, determined to be within an officially designated boundary of a Skagit County Fire District.
 - A Skagit County Address Range has been applied to the road system in this subdivision _____ to _____ Road. At the time of application for building and/or access, Skagit County GIS will assign individual addresses in

accordance with the provision of Skagit County Code 15.24. Change in location of access may necessitate a change in address, contact Planning and Development Services for specifics.

- A Lot of Record Certification has been issued for all lots included in this Land Division. By virtue of recording this land division and issuance of the Lot Certification, all lots therein shall be considered lots of record for conveyance and development purposes unless otherwise restricted. See Auditor File No. _____.
- Zoning/Comprehensive Plan Designation = Bayview Ridge Residential (BR-R).

17. Please ensure that the plat map shows all existing and proposed easements/restrictions.
18. Prior to final plat approval, the developer shall pay the per lot Parks and Recreation mitigation fee and shall provide proof that a voluntary mitigation agreement for payments to offset impacts on County parks and recreation facilities has been entered into and shall also note on the face of the plat. If necessary, the payments (\$100 per lot) shall be addressed in the CC&Rs. The payments shall be made prior to the issuance of individual building permits.
19. The property is located within the Airport Environs for Skagit Regional Airport. The Airport Compatibility Zone (ACZ) overlay on the property is 6. A plat note will be required referencing the airport environs, Prohibited Uses and Restrictions within the zone, and other Compatibility Requirements (see SCC 14.16.210).
20. An Avigation Easement in favor of the Port of Skagit and a notice and acknowledgement of airport operations shall be included on the face of the plat or prepared as separate documents to be recorded with the land division and cross referenced on the face of the plat in the notes (see SCC 14.16.210(5)). Since these documents have already been recorded, the Port of Skagit has recommended the following condition be added to the face of the plat map:

“The Subject property is located within the Skagit County Airport Environs Overlay Zone and additional Compatibility Zone 6, see Skagit County Code 14.16.210. The property and all lots created by this land division are subject to the following:

1)AVIGATION EASEMENT in favor of the Port of Skagit County recorded under AF#202002100118.

2)NOTICE AND ACKNOWLEDGEMENT OF AIRPORT AND AIRCRAFT OPERATIONS AND NOISE DISCLOSURE SKAGNT REGIONAL AIRPORT ENVIRONS recorded under AF#202002100119.”
21. Please provide copies of any proposed covenants for review. Also, provide any copies of Homeowners association agreements and/or Road Maintenance Agreements for review

- prior to final approval and appropriate plat notes and Auditor's file number cross reference lines.
22. 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. Please also provide a list of those individuals.
 23. Any outstanding preliminary plat fees shall be paid within 30 days of the preliminary plat decision.
 24. Final plat fees will be assessed at the time of Final Plat submittal. All outstanding final plat fees shall be paid prior to final plat approval.
 25. The plat map must show and label all utility easements on the face of the plat map.
 26. The project shall comply with all conditions of the SEPA Threshold Determination (MDNS) issued on August 10, 2021, and published on August 12, 2021.
 27. All required property taxes shall be paid prior to final approval.
 28. A commercial access permit will be required for connection to the County Road (Peterson Road). Frontage improvements will be required along Peterson Road. Curb/Sidewalk will need to be replaced along Peterson Road at the old access and the sidewalk ramps will need to meet ADA requirements.
 29. Long Plat roads (serving more than 4 lots) become County Roads and shall be designed and constructed in accordance with the Skagit County Road Standards. The minimum right-of-way width is 50 feet. The roadway will need to be constructed as shown in drawing B-8 of the Road Standards Manual. A project engineer and inspections, construction staking, bonding and electronic record drawings are required in accordance with Skagit County Road Standards section 12.02. Should the applicant wish to retain the plat road as a private road, a request for this deviation will need to be submitted to Public Works for consideration.
 30. A Grading Permit will be required for construction of the roadway and drainage facilities. Construction plans shall be prepared by a civil engineer currently licensed in the State of Washington.
 31. Right-of-Way-Utility permits are required for any utility work within the Right-of-Way.
 32. Add the following "right of access easement" to the plat notes as required by SCC 14.32.100(3). *"Each lot grants a right of access for future drainage inspections. Advanced notification will be provided to the landowner in advance of the inspection except in the event of a declared emergency."*

33. Add/show drainage easements for the proposed stormwater facilities on the plat as required by SCC 14.32.080(2).
34. Add/show maximum impervious surface allowed for each lot on face of the plat as required by SCC 14.32.070(2)(b).
35. All sewer lines and stubouts will be required to be installed before final plat approval per SCC 12.05.201(3)(c).
36. The City of Burlington sewer permit is required prior to making the sewer connection. The permit may be obtained at the Permit Center in Burlington City Hall. The connections must conform to the criteria outlined on the permit, and final approval will be contingent on a sewer inspection by the representative of the City of Burlington Sewer Department.
37. Per Chapter 12.48 Rules and Regulations Governing Drinking Water Systems, documentation that adequate water supply will serve the land division. For final plat approval, all lots must be stubbed at the property line for each proposed lot.
38. Install, have inspected and approved, and have accepted by the PUD board, the proposed water service lines. Supply written confirmation from PUD board of the water line acceptance.
39. Provide plat water supply notes per SCC 12.48.240-3.
40. Show approximate water line(s) location(s) (---W---) on the plat map and indicate proposed meter locations. Show the approximate locations of the Sanitary Sewer line(s) (--SS--) on the face of the plat map and the proposed stubout locations for each lot.
41. Fire Hydrants spacing must comply with the Skagit County Coordinated Water System Plan (CWSP) for the required fire flow and hydrant spacing.
42. Access road shall comply with 2018 IFC Appendix D for road width and required to have the turnaround meet table D103.4 or acceptable alternative in Appendix D.
43. The Applicant shall call 811 prior to groundwork commencing.
44. Stop sign and road name sign must be installed on the private road in accordance with Skagit County Road Standards.
45. Additional review may result in additional conditions or requirements.
46. Per SCC 14.18.100(6), Preliminary long subdivision approvals shall be valid for the time period listed in RCW 58.17.140, as amended. If any condition is not satisfied and the final subdivision is not recorded within the approval period, the preliminary plat approval shall be

null and void.

47. Development shall comply with the SEPA Mitigated Determination of Nonsignificance (MDNS), issued August 10, 2021, as follows:
- A. Temporary erosion/sedimentation control measures, as approved by the Skagit County Planning and Development Services, 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 Stormwater Management Ordinance. Said measures shall remain in place until the completion of the project [**Mitigation Measure #1**].
 - B. The Applicant shall comply with Northwest Clean Air Agency requirements [**Mitigation Measure #2**].
 - C. The Applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code (SCC), the Skagit County Stormwater Management Ordinance, as it relates to increased runoff resulting from additional impervious surfaces [**Mitigation Measure #3**].
 - D. The Applicant shall comply with Fire Code Standards [**Mitigation Measure #4**].
 - E. An engineered soils compaction report shall be required for all structures placed on fill material [**Mitigation Measure #5**].
 - F. The Applicant shall comply with all relevant provisions of 14.24 of the Skagit County Code (Skagit County Critical Areas Ordinance) [**Mitigation Measure #6**].
 - G. Landscaping, per Skagit County Code 14.16.215 and SCC 14.16.830, shall be installed prior to Final Plat approval [**Mitigation Measure #7**].
 - H. This project may be subject to one of Ecology's National Pollutant Discharge Elimination Systems (NPDES) permits. A Construction Stormwater General or Industrial Permit may be required by the Department of Ecology (WSDOE) for this project [**Mitigation Measure #8**].
 - I. Should any human remains, archaeological, historic or cultural materials be discovered during construction, work in the affected area shall cease immediately and the area shall be secured. Within 24 hours, of the discovery, or as soon thereafter as possible, the developer shall notify the Skagit County Sheriff's office, Skagit County Planning and Development Services, the Washington State Department of Archeology and Historic Preservation and affected tribes. If following consultation with the above parties it is determined that an archaeological and cultural resource assessment is required, the project developer shall retain the services of a professional archaeologist to prepare such an assessment. Project work in the affected area shall only continue when in conformance with applicable state and federal laws [**Mitigation Measure #9**].
 - J. The project shall be designed and constructed in accordance with the Skagit County Road Standards. The project shall require a commercial access permit and any public roadway improvements deemed necessary from Skagit County Public Works [**Mitigation Measure #10**].

48. The Applicant shall submit a lighting plan to the County for review and approval to ensure that outdoor lighting would be appropriately shielded to prevent, to the extent feasible, light impacts on neighboring residential properties. The Applicant shall not install street lighting along the private street providing access to the lots unless required by County Public Works Road Standards. If street lighting is required, it shall be shielded and directed away from neighboring properties to the extent allowed by County Public Works Road Standards.

DECIDED this 26th day of July 2022.



ANDREW M. REEVES
Hearing Examiner
Sound Law Center