



Kitsap County Hearing Examiner

ADMINISTRATION BUILDING, 619 DIVISION ST, MS-36
http://www.kitsapgov.com/dcd/lu_env/he/

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NOTICE OF HEARING EXAMINER DECISION

March 31, 2016

To: Interested Parties and Parties of Record

RE: Project Name: Hogan Heights
Applicant: Marana Investment Co.
311 Naval Avenue
Bremerton, WA 98311
Application: Preliminary Plat
Permit Number: 15 02528

Enclosed is the Decision issued by the Kitsap County Hearing Examiner in the above-referenced matter.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at: http://www.kitsapgov.com/dcd/lu_env/he/HE%20Rules%20for%20Kitsap%20County%20-%206-23-09.pdf

The Decision of the Hearing Examiner is final, unless appealed, as provided under Washington law.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review at the Department of Community Development, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to 1:00 PM, except holidays. If you wish to view the case file or have other questions, please contact Constance Blackburn at cblackburn@co.kitsap.wa.us or (360) 337-5777.

Cc Applicant and/or Rep:

Marana Investment Company Inc.: cecil@crwhitlockcpa.com

Map Ltd.: marke@map-limited.com

Interested Parties:

Rene Hume: rwelderchick@msn.com

**BEFORE THE HEARING EXAMINER
FOR KITSAP COUNTY**

In the Matter of the Application of)	No. 15 02528
)	
Marana Investments Company, Inc.)	Hogan Heights
)	Preliminary Plat
)	
)	FINDINGS, CONCLUSIONS,
<u>For Approval of a Preliminary Plat</u>)	AND DECISION

SUMMARY OF DECISION

The request for a preliminary plat to subdivide 10 acres, located off NW Hogan Lane, into 61 single-family residential lots and associated road, open space, and drainage tracts is **APPROVED**. Conditions are necessary mitigate impacts of the proposed project and to comply with the Kitsap County Code.

SUMMARY OF RECORD

Hearing Date:

The Hearing Examiner held an open record hearing on the request on March 10, 2016. The record for the application closed on March 17, 2016, after receiving a response from the Washington State Department of Transportation.

Testimony:

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

Meg Sands, County Planner
Pat Fuhrer, Project Engineer and Applicant Representative

Exhibits:

The following exhibits were admitted into the record:

1. Project Application: Land Use, Environmental, & Site Development, received June 25, 2015
2. Supplemental Application: Preliminary Land Divisions, received June 29, 2015
3. Supplemental Application: Concurrency Test, received June 29, 2015
4. SEPA Environmental Checklist, dated June 25, 2015
5. Water Availability Letter, dated May 4, 2015
6. Sewer Availability Agreement, dated June 24, 2015

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7. Washington State Department of Natural Resources Water Type Modification Form, dated January 16, 2015
8. Geotechnical Engineering Report, EnviroSound Consulting, Inc., dated December 1, 2014
9. Traffic Impact Analysis, Gregory B. Heath, dated May 2015
10. Preliminary Drainage Report, Map, Ltd., dated June 24, 2015
11. Notice of Complete Application, dated June 29, 2015
12. Assessor's Reports, dated July 1, 2015
13. Comprehensive Plan Map, dated July 1, 2015
14. Zoning Map, dated July 1, 2015
15. Critical Areas Map, dated July 1, 2015
16. Critical Aquifers Map, dated July 1, 2015
17. 2012 Imagery Map, dated July 1, 2015
18. Contour Map, dated July 1, 2015
19. Assessor's Parcel Map, dated July 1, 2015
20. Notice of Application, dated July 6, 2015
21. Email from Meg Sands to Renee Hume, dated July 13, 2015, with attached email string
22. Email from John Kiess to Peggy Bakalarski, Candy Mursell, and Meg Sands, dated July 22, 2015, with attached email string
23. Technical Review Summary, dated August 24, 2014
24. Email from Pat Fuhrer to Orion Jones, dated August 28, 2015, with attached exhibits and email string
25. Letter from Map, Ltd., to Scott Diener, dated December 7, 2015
26. Site Plans:
 - a. Preliminary Plat Map, dated June 24, 2015
 - b. Preliminary Civil Site Plan, dated June 24, 2015
 - c. Preliminary Grading Plan, dated June 24, 2015
 - d. Road Profiles (Sheet 1), dated June 24, 2015
 - e. Road Profiles (Sheet 2), dated June 24, 2015
 - f. Preliminary Drainage Plan, dated June 24, 2015
 - g. Preliminary Sewer Plan, dated June 24, 2015
 - h. Hogan Lane Improvements Map dated June 24, 2015
27. Mitigated Determination of Nonsignificance, dated February 11, 2016
28. Email from Pat Fuhrer to Meg Sands, dated February 11, 2016, with attached exhibits
29. Preliminary Site Plan, received February 11, 2016
30. Memo from Candy Mursell to Meg Sands, dated February 22, 2016
31. Notice of Public Hearing, dated February 25, 2016
32. Staff Report, dated March 2, 2016
33. Certification of Public Notice, dated March 2, 2016
34. PowerPoint Presentation (10 slides), dated March 10, 2016
35. Email from Dale Severson to Candy Mursell, dated March 17, 2016

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The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Marana Investment Company, Inc. (Applicant), requests approval of a preliminary plat to subdivide 10 acres into 61 single-family residential lots, two road tracts (Road A and Road B), an open space tract, and a drainage tract. The property, which consists of two, separate five-acre parcels, is located on the north side of NW Hogan Lane, just west of Nels Nelson Road NW, near Bremerton, Washington.¹ County Planner Meg Sands testified that the Applicant may develop the project in two phases. If so, phase one would involve development of 29 of the lots, construction of the development's main entrance, construction of portions of Road A and two temporary cul-de-sacs, construction of Road B; construction of the retaining walls, installation of the stormwater and recreational facilities, and installation of 25 on-street parking spaces. Phase two would then consist of development of the remaining 32 lots, completion of Road A, installation of 14 on-street parking spaces, and removal of the two temporary cul-de-sacs. *Exhibit 1; Exhibit 2; Exhibit 3; Exhibit 10; Exhibit 29; Exhibit 32, Staff Report, page 1; Exhibit 34; Testimony of Ms. Sands.*

2. Kitsap County (County) deemed the application complete on June 29, 2015. On July 6, 2015, the County mailed notice of the application to the Applicant, Applicant Representative, adjacent property owners within 400 feet of the subject property, and interested parties. Four days later, the County published notice of the application in the *Kitsap Sun*. The County posted notice of the open record hearing associated with the application at the property on February 23, 2015. Two days later, the County published notice of the hearing in the *Kitsap Sun* and mailed notice of the hearing to the Applicant, Applicant Representative, adjacent property owners within 400 feet of the properties, and interested parties. *Exhibit 11; Exhibit 33.*

3. The County's notice materials prompted Renee Hume, a neighboring property owner, to comment on the proposal. Ms. Hume explained that traffic on NW Hogan Lane had worsened in recent years and asked the County to require a secondary access point connecting to Hillsborough Drive NW from the north side of the subdivision. Ms. Hume also protested the small lots proposed for the subdivision, which she claimed injured

¹ The subject property is identified by Tax Parcel Nos. 15201-3-004-2009 and 15201-3-005-2008. *Exhibit 1; Exhibit 19.* A legal description of the subject property is included with the Supplemental Application for Preliminary Land Divisions. *Exhibit 2.*

nearby property values. Ms. Hume's concerns are addressed below. *Exhibit 21; Exhibit 32, Staff Report, page 13.*

State Environmental Policy Act

4. The County acted as lead agency and analyzed the environmental impact of the proposed preliminary plat under SEPA, Chapter 43.21C RCW. The County used the optional Determination of Nonsignificance (DNS) process under Washington Administrative Code (WAC) 197-11-355. Accordingly, the County mailed notice of the SEPA comment period to the Applicant, Applicant Representative, adjacent property owners within 400 feet of the property, and interested parties with the notice of application on July 6, 2015. The County published notice of the SEPA comment period in the *Kitsap Sun* on July 10, 2015. The SEPA comment period occurred concurrently with the notice of application. The County reviewed the Applicant's environmental checklist and other information on file with the County. The County determined that, with mitigation measures, the proposal would not have a probable significant adverse impact on the environment. The County issued a Mitigated Determination of Nonsignificance (MDNS) on February 11, 2016. The MDNS includes mitigation measures requiring the Applicant to construct frontage improvements on NW Hogan Lane and to comply with stormwater control provisions of the Kitsap County Code (KCC). Ms. Sands testified that the MDNS was not appealed. *Exhibit 27; Exhibit 32, Staff Report, page 3; Exhibit 33; Testimony of Ms. Sands.*

Comprehensive Plan and Zoning

5. The County designated the property Urban Low-Density Residential in its Comprehensive Plan. The Urban Low-Density Residential designation primarily focuses on single-family dwellings, but also may include innovative dwelling types such as clustered housing. It also includes a goal to regulate environmentally critical areas within the Urban Growth Areas (UGAs) and other areas identified for low-density urban development. *Kitsap County Comprehensive Plan, page 2-19 (August 2012). Exhibit 13; Exhibit 32, Staff Report, page 3.*
6. County staff identified as relevant to the proposed project Comprehensive Plan goals and policies that, among other things, encourage compact, in-fill development in urban growth areas (UGAs); encourage urban amenities such as open space and pedestrian features in areas of more intense development within UGAs; require urban-level sanitary sewer service or equivalent in all UGAs; protect property from excess stormwater runoff, erosion, and sedimentation; encourage the protection of continuous corridors of native vegetation and the enhancement or restoration of wildlife habitat; encourage pedestrian connectivity between residential areas and schools; and provide a transportation system

that allows people to get to and from their destinations in an acceptable time period in a safe manner.² *Exhibit 32, Staff Report, pages 5 through 8.*

7. The County zoned the property Urban Low Residential (UL). The County adopted the UL zone to recognize, maintain, and encourage urban low-density residential areas by including a full range of urban services and facilities that are adequate at the time of development. This zone is also intended to create cost-efficient residential areas capable of allowing the provision of community services in a more economical manner. *KCC 17.330.010*. Development of single-family detached residences is allowed within the UL zoning district. *KCC Table 17.381.040(A)*. Single-family residential lots may be developed in the UL zoning district at a minimum density of five dwelling units per acre (du/ac) and a maximum density of nine du/ac, with density based on net acreage of the property after removal of critical areas. *KCC 17.382.060; KCC 17.382.110(18)*. Lots within the UL zoning district must be a minimum of 2,400 square feet, with minimum 20-foot front-yard setbacks and minimum five-foot side- and rear-yard setbacks. *KCC 17.382.060. Exhibit 2; Exhibit 14; Exhibit 28; Exhibit 32, Staff Report, page 3.*
8. The proposed subdivision satisfies the density requirements of the KCC with a final density of 6.1 units per acre. The proposed lots vary between 45 and 55 feet wide and 75 and 90 feet deep, meeting the lot dimension requirements of the KCC. The lots also satisfy the minimum area requirements of the KCC. Conditions of approval will ensure that the proposed single-family residences comply with the setback provisions of the KCC. *Exhibit 2; Exhibit 28; Exhibit 32, Staff Report, pages 10, 11, and 16.*

Existing Property and Surrounding Property

9. The proposed project site consists of two 5-acre parcels, both of which are rectangular in shape. The project site slopes from the northwest corner to the southwest corner, but no steep slope critical areas are present at the site. Soils at the site are classified as Alderwood series. On-site soils consist of silty sand overlaid by forest duff, with very shallow depth to compact till. The site is forested with a mix of coniferous and deciduous trees. No threatened or endangered species are present at the site. *Exhibit 4; Exhibit 15, Exhibit 17, Exhibit 18, Exhibit 32, Staff Report, page 3; Exhibit 34.*
10. Surrounding properties are also zoned UL. Lots at some distance to the north and northeast have been platted at urban sizes and are developed with detached single-family residences. Silver Ridge Elementary School and Ridgetop Junior High School sit on a

² County staff specifically identified Comprehensive Plan policies LU-16, LU-19, LU-26, LU-27, LU-28, LU-48, LU-58, LU-60, LU-62, LU-65, LU-133, LU-135, LU-136, LU-138, LU-139, LU-162, NS-42, H-13, T-11, T-18, T-25, T-26, T-29, T-30, T-38, T-39, T-63, T-64, T-66, T-85, T-86, T-88, T-91, T-94, T-99, T-101, T-102, and T-104 as relevant to the proposal. *Exhibit 32, Staff Report, pages 5 through 8.*

large lot bordering the project site to the west and north. A County-owned parcel, developed with a ballfield, borders the school to the east and the project site to the north. A mixture of urban-sized lots and larger acreage lots sits across NW Hogan Lane from the project site. Most of the urban-sized lots have been developed with single-family residences. Most of the acreage lots are in the process of subdivision, or likely will be in the future. Acreage lots developed with single-family residences sit to the east of the property. *Exhibit 32, Staff Report, pages 3 through 4.*

Critical Areas

11. Ms. Sands testified that the Kitsap County critical areas map shows a Type N (non-fish habitat) stream crossing the northeastern portion of the western parcel and continuing across the middle of the eastern project parcel. Ms. Sands noted that the Applicant had asked the Washington State Department of Natural Resources to determine whether there was a stream on the property, and it had determined there was not.³ *Exhibit 7; Exhibit 15; Exhibit 32, Staff Report, page 3; Exhibit 34; Testimony of Ms. Sands.*
12. The southeastern corner of project site sits within a Category I Critical Aquifer Recharge Area. The County has defined uses that constitute a threat to critical aquifer recharge areas. *KCC 19.600.620*. Single-family residential development is not among those uses. Ms. Sands testified that the proposed project therefore does not raise concerns about its impacts on the critical aquifer recharge area. *Exhibit 16; Testimony of Ms. Sands.*

Access, Parking, and Traffic Impacts

13. The proposed project would be located off SR-303, also known as NW Waaga Way. Access to SR-303 from the subdivision would be provided by NW Hogan Lane and Nels Nelson Road NW. NW Hogan Lane, the road fronting the proposed project, is currently a paved and maintained County right-of-way for the 327 feet west of its intersection with Nels Nelson Road NW; it is an unmaintained County right-of-way west of the designated maintenance point. MDNS mitigation measures require the Applicant to construct improvements along the property's frontage with NW Hogan Lane. Nels Nelson Road NW is a north-south collector arterial with lanes 11 to 12 feet wide with grassy shoulders. The Applicant would build new public roads, connecting to NW Hogan Lane, to provide access to the lots within the subdivision. These internal roads would have sidewalks 5 feet wide on both sides. *Exhibit 9; Exhibit 32, Staff Report, pages 12 and 13.*
14. Ms. Sands testified that, at its intersection with Nels Nelson Road NW, SR-303 is a "right in and right out" road. Ms. Sands explained that means that cars could not turn across oncoming traffic to turn onto Nels Nelson Road NW. Project Engineer Pat Fuhrer

³ Ms. Sands stated that the County would update its maps to remove the stream to reflect the Department of Natural Resources' determination. *Testimony of Ms. Sands.*

testified that a physical barrier made such left turns onto Nels Nelson Road NW impossible. Both Ms. Sands and Mr. Fuhrer explained that topographical concerns prevent the extension of NW Hogan Lane to State Route 303. Ms. Sands testified that the development around the project site precluded other access points to the proposed subdivision. Accordingly, Ms. Sands testified that accessing the proposed subdivision from the northwest on SR-303 would require driving past Nels Nelson Road NW to Central Valley Road, turning around, and then approaching from the southeast. *Exhibit 32, Staff Report, page 13; Testimony of Ms. Sands; Testimony of Mr. Fuhrer.*

15. The Washington State Department of Transportation (WSDOT) stated that it had no concerns about the proposed subdivision and would not require any mitigation measures for state highways, including SR-303. WSDOT made this determination based on two factors. First, physical features make the intersection between Nels Nelson Road NW and SR-303 safe. These features include the barrier noted by Mr. Fuhrer, a turn lane for vehicles exiting SR-303, and an acceleration lane for vehicles entering SR-303. Second, WSDOT determined that the roadway system around the proposed project site was adequate for the traffic needs of the proposed subdivision. *Exhibit 35.*
16. Heath and Associates, Inc., prepared a traffic impact analysis for the proposed subdivision. Heath and Associates determined that the proposed subdivision would add 581 total trip movements, with 46 trips occurring during the AM peak hours and 61 trips during the PM peak hours. Heath and Associates projected that, by 2022, heavy traffic conditions would exist at the intersection of SR-303 and Central Valley Road, regardless of the project, and determined that the proposed project would account for less than 2 percent of total traffic at the intersection of SR-303. Heath and Associates determined, based on the KCC, that the Applicant would be required to pay \$41,257.35 in traffic impact fees to mitigate project impacts. *Exhibit 9.*
17. KCC 17.345.030 requires two off-street parking spaces per single-family residence. Garage spaces do not satisfy this requirement of the KCC. The Applicant will have to demonstrate compliance with the provisions of KCC 17.345.030 before building permit approval. *Exhibit 32, Staff Report, page 13.*
18. KCC 17.345.030 also requires an additional half space per dwelling unit within the right-of-way to provide on-street parking for guests or visitors. The 61 dwelling units proposed by the Applicant require 31 on-street parking spaces. The Applicant has proposed 39 such spaces, spaced throughout the proposed development. *Exhibit 32, Staff Report, page 13.*

Stormwater Management

19. Stormwater runoff from residential development does not generally require enhanced stormwater treatment. The proposed subdivision would drain to Barker Creek, however, which discharges to Dyes Inlet. Dyes Inlet is listed by the Environmental Protection Agency under Section 303 of the Clean Water Act because of concerns about fecal coliform. Accordingly, Ms. Sands testified that the stormwater runoff from this proposed subdivision would require enhanced treatment. *Exhibit 32, Staff Report, page 12; Testimony of Ms. Sands.*
20. The Applicant would employ a detention pond to provide stormwater flow control. The Applicant would provide enhanced stormwater treatment through the use of an approximately 29,300 cubic foot wetpond planted with emergent wetland vegetation. Mr. Fuhrer testified that the wetpond would be designed to be shallow but lengthy, a design that would allow for the removal of pollutants through uptake by vegetation, biofiltration, and sediment settling. *Exhibit 10; Exhibit 26.c; Exhibit 26.f; Testimony of Mr. Fuhrer.*

Open Space, Recreation, and Landscaping

21. The proposed subdivision would have a density of less than nine units per acre. KCC 16.24.040.H requires subdivisions having densities of less than nine dwelling units per acre to provide 390 square feet of open space per unit. The 61 units proposed by the Applicant require 23,790 square feet of open space under KCC 16.24.040.H. The Applicant has proposed creating a 23,926 square foot open space tract to satisfy the requirements of the KCC. The open space tract is centrally located and would be available for year-round use by all residents of the subdivision. The tract is more than 50 feet wide and 300 feet in length, and it exceeds the 500 square foot minimum for such tracts. Ms. Sands testified that the Applicant would provide greater detail about the types of recreational facilities available at the open space tract at the site development activity permit (SDAP) phase of the project because SDAP approval would be conditioned on compliance with the provisions of KCC 16.24.040.H.4 and .5. *Exhibit 26.a; Exhibit 26.b; Exhibit 32, Staff Report, page 13; Testimony of Ms. Sands.*
22. The Applicant would provide landscaping in easements at the plat entrance and provide street trees spaced approximately 25 feet apart along the frontage with NW Hogan Lane and along Road A and Road B. The Applicant would plant sight obscuring landscaping around the drainage tract. Conditions will ensure that the Applicant submits a final landscaping plan with the SDAP application and that the landscaping conforms to the requirements found in Chapter 17.385 KCC. *Exhibit 32, Staff Report, pages 9 and 16 through 17.*

Utilities and Public Services

23. The single-family homes within the project sit within the service area boundaries of the Silverdale Water District. The Applicant received a non-binding letter of water availability from the District, dated May 4, 2015. *Exhibit 5; Exhibit 22; Exhibit 32, Staff Report, page 4.*
24. The Wastewater Division of the Kitsap County Department of Public Works provides sewer service at the project location. The Applicant proposes installing a gravity sewer system to treat sewage, and the County will review the proposed system at the Site Development Activity Permit (SDAP) phase of the project. The Applicant entered into a sewer availability agreement with the Division, dated June 24, 2015. *Exhibit 6; Exhibit 22; Exhibit 26.g; Exhibit 32, Staff Report, page 4.*
25. The Kitsap County Sheriff and Kitsap County Fire Protection District Number 1 would provide emergency services to the proposed project. The Fire Marshal reviewed the proposed development and recommended conditioning plat approval on the roads complying with International Fire Code section 503, as amended by Kitsap County, and fire flows in dwellings meeting a minimum requirement of 500 gallons per minute for 30 minutes. *Exhibit 32, Staff Report, pages 4 and 22.*
26. Central Kitsap School District Number 401 would serve the proposed subdivision. As noted above, Silver Ridge Elementary School and Ridgetop Junior High School sit on an adjacent parcel located to the west and north of the project site. Mr. Fuhrer testified that the school district was very involved with planning for the proposed subdivision, and the proposed project contains a walking route to the parcel containing the schools laid out in consultation with the school district. If the project is phased, the route would extend north, off one of the cul-de-sacs; if not, or during phase two, the route would extend off Road A, between lots 18 and 19. *Exhibit 32, Staff Report, page 4; Exhibit 34.*

Staff Recommendation

27. County staff recommends approval of the preliminary plat with 63 conditions. The conditions generally require the Applicant to obtain all necessary permits before beginning project construction; submit a Forest Practices Application along with the SDAP application; comply with provisions of the KCC governing parking, landscaping, stormwater control and treatment, open spaces, signage, lighting, and traffic and roads; coordinate with Waste Management; obtain a professional survey and record certain notes on the face of the plat; and comply with Fire Marshal and Health District requirements. Mr. Fuhrer testified that the Applicant agreed to the recommended conditions. *Exhibit 32, Staff Report, pages 14 through 23; Testimony of Mr. Fuhrer.*

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CONCLUSIONS

Jurisdiction

The Kitsap County Hearing Examiner is authorized to approve, approve with conditions, or disapprove of a preliminary plat application through a Type III review process. *KCC 16.04.080; KCC 21.04.050; KCC 21.04.080; KCC 21.04.100.*

Criteria for Review

Preliminary Plat

At the open record hearing, the Hearing Examiner must consider all relevant evidence to determine whether to approve the preliminary plat. The Hearing Examiner must determine whether the proposal includes appropriate provisions for drainage, roads, alleys, and other public ways, and for water supplies, sanitary wastes, parks, playgrounds, fire protection facilities, school sites and grounds, and other public and private facilities and improvements. The Hearing Examiner must determine if the proposed subdivision conforms to the general purposes of the Comprehensive Plan, and whether the public use and interest will apparently be served by the proposal. *KCC 16.04.020; KCC 16.04.080; KCC 16.24.040; KCC 21.04.080; KCC 21.04.100.*

The criteria set forth in the Kitsap County Code are essentially identical to those in the Revised Code of Washington (RCW). The application must also comply with the subdivision criteria described in the RCW before it can be approved:

Appropriate provisions must be made for the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds 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 the public interest must be served by the subdivision.

RCW 58.17.110.

The criteria for review adopted by the Kitsap County Board of County Commissioners are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act and of RCW 58.17.110 to enact subdivision codes. 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 preliminary subdivision would make appropriate provisions for drainage, roads, alleys, and other public ways, and for water supplies, sanitary wastes, parks, playgrounds, fire protection facilities, school sites and grounds, and**

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other public and private facilities and improvements. Single-family residential development is an allowed use within the County's UL zoning district. The Applicant would install a detention pond to control stormwater flow and a wetpond to provide enhanced treatment for the stormwater that would drain to Dyes Inlet by way of Barker Creek. The residential development proposed by the Applicant does not pose a threat to the Category I Critical Aquifer Recharge area under the southeast corner of the property. The Applicant would build two road tracts to serve the development. Safe and adequate roads would thereby serve the proposed project. The proposed project would not materially worsen traffic on nearby roads; those roads would experience traffic delays even without the proposed subdivision. The Applicant would pay traffic impact mitigation fees. The Applicant has obtained a non-binding letter of water availability from the Silverdale Water District stating that it has sufficient capacity for the development. The Applicant would install a gravity sewer system and has signed a sewer availability agreement with the Kitsap County Department of Public Works. The Applicant would build an open space tract meeting the dimensional requirements of the KCC and would develop the tract with recreational facilities for use by the subdivision's residents. The project, with conditions, meets the Fire Marshal's approval. Silver Ridge Elementary and Ridgetop Junior High sit on an adjacent parcel, and the Applicant would install a safe path to school, crossing the subdivision's northern border between lots 18 and 19, a route laid out in consultation with the school district. The Applicant would install sidewalks and street trees along NW Hogan Lane and the subdivision's internal roads. The Applicant would also install landscaping at the entrance to the subdivision and around the drainage tract.

Conditions are necessary to ensure that the Applicant obtains all necessary permits before beginning project construction; submits a Forest Practices Application along with the SDAP application; complies with provisions of the KCC governing parking, landscaping, stormwater control and treatment, open spaces, signage, lighting, and traffic and roads; coordinates with Waste Management; obtains a professional survey and records certain notes on the face of the plat; and complies with Fire Marshal and Health District requirements. *Findings 1-27.*

2. **With conditions, the preliminary subdivision would conform to the general purposes of the Comprehensive Plan, and the public use and interest would be served by the proposal.** The County gave reasonable notice and opportunity to comment on the proposed development. The County determined that, with conditions, the proposed project would not have a probable significant adverse effect on the environment. That determination was not appealed. Single-family residential development on the property is consistent with the property's UL designation under the County Comprehensive Plan. The open space tract associated with the project would provide recreational space to those living in the subdivision. The Applicant would install frontage improvements

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along NW Hogan Lane and build new roads with sidewalks to serve the subdivision. The Applicant would install a walking route to the elementary and junior high schools on the adjacent parcel. The proposed project would not materially worsen traffic conditions on nearby roads.

Conditions are necessary to ensure that the Applicant obtains all necessary permits before beginning project construction; submits a Forest Practices Application along with the SDAP application; complies with provisions of the KCC governing parking, landscaping, stormwater control and treatment, open spaces, signage, lighting, and traffic and roads; coordinates with Waste Management; obtains a professional survey and records certain notes on the face of the plat; and complies with Fire Marshal and Health District requirements. *Findings 1-27.*

DECISION

Based upon the preceding findings and conclusions, the request for a preliminary plat to subdivide 10 acres into 61 residential lots on property located on the north side of NW Hogan Lane, near the intersection with Nels Nelson Road NW, in Kitsap County is **APPROVED**, with the following conditions:⁴

Development Services and Engineering

Engineering General

1. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.
2. Approval of the preliminary plat shall not be construed to mean approval of the total number of lots or configuration of the lots and tracts. These parameters may be required to be revised for the final design to meet all requirements of Kitsap County Code Titles 11 and 12.

Engineering Other

3. Construction of rock walls or other retaining facilities that exceed four feet in height shall require a building permit.
4. Rock and retaining walls shall meet all applicable setback requirements of KCSDM 4.7.5.

⁴ These recommendations include conditions designed to mitigate impacts of this proposed project as well as conditions required by County Code.

Environmental Review

5. A Forest Practices Application (FPA) shall be submitted with the Site Development Activity Permit (SDAP). An approved Conversion FPA for timber harvest of this subdivision will be required prior to approval of the SDAP.

Planning/Zoning

6. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
7. The face of the final plat shall list the required zoning setbacks for the UL zone as follows:
Minimum UL zoning setbacks:
Front = 20 feet for garage or carport, 10 feet for habitable area
Side = 5 feet
Rear = 5 feet
8. If phasing is proposed at the time of SDAP submittal, it shall be consistent with the phasing plan outlined in the subdivision application. Phasing shall comply with Kitsap County Code 16.04.120.
 - a. Phase 1 shall construct or consist of 29 single-family residential lots and all roads, sidewalks, utilities, and landscaping required to support those lots, all project grading, open space/recreation area tract development, stormwater pond, pedestrian access to the elementary school and NW Hogan Lane off-site improvements.
 - b. Phase 2 shall construct or consist of 32 single-family residential lots, the remaining roadway and sidewalks not constructed in Phase 1 and utility infrastructure and landscaping to support the remaining lots.
9. Sidewalks shall be widened in area of clustered mailboxes and comply with Kitsap County Code 16.24.040(C)(1)(d); mailbox locations shall be included on the SDAP and landscape plans.
10. A minimum of 2 off-street parking spaces shall be provided on each lot within the subdivision. Garages are not calculated towards this requirement.
11. A minimum of 31 on-street parking spaces shall be provided for guests/visitors. The SDAP and landscape plan shall delineate all lot/tract access points and each on-street parking space shall be numbered consecutively.

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12. A final landscaping plan shall be submitted with the SDAP application. Street trees shall be provided along the internal roadway and along NW Hogan Lane as reflected on Exhibit 26, Sheet 2 of 8. Street trees shall be provided at a minimum interval of 15 feet and a maximum of 30 feet. Landscape plan shall delineate curb cuts, parking spaces and landscaping elements. The plan shall differentiate between existing vegetation to remain and new plantings. The plan shall include all proposed and required fencing. The plan shall include the final design of all recreational facilities/amenities and landscaping around the stormwater facility. Benches shall be provided within the recreation facility/open space area and be detailed on the plan. The manufacturer's specification and "cut sheets" for the recreation equipment and benches shall be included with the plan. The equipment shall be approved by the National Playground Association. The landscape plan shall conform to the requirements of Kitsap County Code 17.385 and Kitsap County Road Standards 2007, Section 3.8.5. All proposed and required landscaping shall be installed and inspected prior to SDAP final inspection approval and sign off.
13. Landscaping shall be installed and maintained in conformance with the requirements of Kitsap County Code 17.385 and the approved landscaping plan. Maintenance of street trees located within the roadway shall be the responsibility of all lot owners within the plat and/or the plat's Home Owners' Association. Required street trees on private property shall be the responsibility of the lot owner to maintain and replace if it is damaged, diseased or destroyed.
14. To ensure survivability of the required landscaping, a bond for a two year period shall be submitted prior to SDAP final inspection approval and sign off. The bond shall be 100% of the planting and installation cost. A preliminary bid for the landscaping and installation cost shall be provided prior to SDAP final inspection approval and sign off.
15. The survivability bond shall be extended for two year periods if any replanting is required.
16. All recreational facilities/amenities shall be made available to all residents within the plat.
17. All recreational facilities/amenities shall be maintained in good working order by the lot owners within the plat and/or the plat's Home Owners' Association.
18. Street lighting, at a minimum, shall be provided at the access point with NW Hogan Lane. This lighting shall be delineated on the SDAP.

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19. Covenants, Conditions and Restrictions (CC&Rs) shall include requirements for perpetual maintenance of street lighting, street trees, common open space, and recreational facilities and amenities.
20. A monument sign shall comply with Kitsap County Code 17.446. The monument sign shall be located within an easement and landscaping shall be installed around the base.
21. At a minimum, conditions 6, 7, 10, 13, 16, 17, 39 and 43, shall be included on the face of the final plat.
22. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
23. The property owner shall submit a final subdivision application and plat within five years of the Notice of Decision date for the preliminary subdivision approval including any appeals. The submission shall meet all the legal requirements and conditions of approval.
24. The decision set forth herein is based upon representations made and exhibits contained in the project application 15 02528. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.
25. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the Applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the Applicant agrees to promptly bring such development or activities into compliance.

Solid Waste

26. Prior to SDAP approval, Waste Management shall be contacted at (360) 674-3166 for information on implementing the solid waste/recycling storage requirements influenced by the service provider for the project. Pay particular attention to the access requirements of collection trucks. Documentation shall be provided from the solid waste/recycling service provider that their requirements for this project have been met.

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Stormwater

27. The information provided demonstrates this proposal is a Major Development as defined in Kitsap County Code Title 12, and as such shall require a Site Development Activity Permit (SDAP) from Development Services and Engineering.
28. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with Kitsap County Code Title 12 effective at the time the Preliminary Plat application was deemed complete, June 29, 2015. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County ordinances in effect at the time of SDAP application.
29. Should the proponent propose phasing of the project, a phasing plan shall be submitted to Development Services and Engineering for review and approval. The phasing plan shall, as a minimum, address the following items:
 - a. Time tables indicating the anticipated time between initial site grubbing/grading activity and the completion of construction, including site stabilization of that specific phase.
 - b. The extent of drainage improvements to be installed during the various phases.
30. The Applicant proposes phasing of the project; all required road frontage improvements shall be constructed with Phase 1.
31. Any project that includes off-site improvements that create additional impervious surface such as lane widening, sidewalk or shoulder installation or intersection channelization shall provide stormwater mitigation in accordance with Kitsap County Code Title 12 effective at the time the Preliminary Plat application was deemed complete, June 29, 2015.
32. Although the project will not exceed the impervious area threshold that requires stormwater quality enhancement via a wetpond, the Applicant has correctly identified Dyes Inlet as a Listed 303D site for fecal coliform. Because the stormwater runoff ultimately drains to Dyes Inlet, enhanced treatment applies to stormwater discharges and shall be achieved through use of a wetpond.
33. The site plan indicates that greater than 1 acre will be disturbed during construction. This threshold requires a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the State Department of Ecology. More

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information about this permit can be found at:

<http://www.ecy.wa.gov/programs/wq/stormwater/construction/> or by calling Josh Klimek at 360-407-7451, email joshklimek@ecy.wa.gov. This permit is required prior to issuance of the SDAP. Processing time for NPDES permit is a minimum of 37 days.

34. Upon completion of the public roads and storm drainage facilities, the developer will be required to post a two year maintenance bond for the facility. The developer will be responsible for providing regular and adequate maintenance during this two-year period and supportive maintenance records. At the end of this time, the County will inspect the system and, when the facility is acceptable and 80% of the homes have been completed, the County will take over road maintenance and maintenance and operation of the storm system. Wording to this effect shall appear on the final plat and in the covenants before final recording. Areas proposed to be maintained by the County that are not in the right-of-way must be shown as a separate tract(s) or drainage easement(s) with Kitsap County being designated as the grantee.
35. Kitsap County will not be responsible for any damage to any private roads, tracts, and/or easement areas that may occur during routine maintenance activities and that in Kitsap County's judgment occur, in whole or in part, because of any construction materials or techniques, or any maintenance materials or techniques. This includes, but is not limited to, damage to pavement or vegetated areas caused by maintenance trucks.
36. The impervious area per lot accounted for in the overall drainage facilities installed shall be indicated on the face of the final plat. Additional impervious surfaces created on an individual lot beyond the amount accounted for in the overall drainage facilities shall be mitigated in accordance with Kitsap County Code Title 12.

Survey

37. A Final Subdivision Plat shall be prepared by a licensed Land Surveyor in compliance with KCC Title 16.
38. All potential park areas, common open space, buffers and stormwater management areas shall be labeled as separate tracts. The ownership and maintenance responsibility shall be addressed on the face of the final plat, as well as in the CCRs.
39. Access to all lots shall be from roads within the proposed plat boundaries. A note to this effect shall be placed on the face of the final plat.

Traffic and Roads

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40. Submit an Application for Concurrency Test (KCPW Form 1601) as required by KCC 20.04.030. The KCPW 1601 form reserves road capacity for the project.
41. Public roads shall not exceed 12% grade or less depending on the road classification per Kitsap County Road Standards.
42. The interior roads of the proposed plat shall be designed and constructed in accordance with Chapter 11.22 of the Kitsap County Code and the Kitsap County Road Standards for a local access road or an approved higher standard. Roads shall be publicly maintained and the right-of-way dedicated to Kitsap County as proposed.
43. All lots shall access from interior roads only. This note shall appear on the face of the final plat.
44. All traffic control devices on public and private roads shall comply with the Manual on Uniform Traffic Control Devices as amended by the Washington Administrative Code. This is in accordance with 23 Code of Federal Regulations (CFR), Part 655.
45. Sidewalk ramps shall conform to the current requirements of the Americans with Disabilities Act (ADA) per WSDOT standard plans at the time of construction.
46. Curb ramps shall be provided for all movements at all intersections. In the State of Washington, there are three “crosswalks” (marked or unmarked) at a T-intersection unless signage is posted (RCW 46.61.240). The following is United State Department of Justice (USDOJ) guidance/expectations from 2007 ADA Best Practices Tool Kit for State and Local Governments: “When highways, streets, and roads are built or altered post-ADA, they must have curb ramps at certain locations. Curb ramps must be located wherever there are curbs or other barriers to entry from a pedestrian walkway or sidewalk, including any intersection where it is legal for a pedestrian to cross the street, whether or not there is any designated crosswalk. Curb ramps must also be located wherever there are curbs or other barriers to entry at any designated pedestrian crosswalks that are located mid-block. Likewise, when sidewalks or walkways are built or altered post-ADA, they must include curb ramps or other sloped areas wherever they intersect with highways, streets, or roads and pedestrians may legally cross the vehicular way as well as at public transportation stops.”
47. Per RCW 46.61.570, parking spaces shall be placed more than 20 feet from a crosswalk. Crosswalks are defined as any portion of the roadway between the intersection area and a prolongation or connection of the farthest sidewalk line or in the event there are no sidewalks then between the intersection area and a line ten feet therefrom, except as modified by a marked crosswalk.

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48. The property owners within the plat shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, storm drainage facilities, and traffic signage. Maintenance shall include, but not be limited to, mowing of lawn areas. A note to this effect shall appear on the face of the final plat and the accepted construction plans. In addition, Development Services and Engineering reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.
49. Applicant shall dedicate an additional 15 feet of right-of-way along the entire property frontage for NW Hogan Lane.
50. In order for Kitsap County to accept the NW Hogan Lane for maintenance, NW Hogan Lane shall be improved to current County standards for an urban local road minor with a vertical curb, gutter and sidewalk across the property frontage and continuing east to Station 106+56.59 (as shown on the Preliminary Plat); and shall be improved to current County standards for an urban local road minor with a 3-foot shoulder from the end of the sidewalk to the east terminating at the intersection of Nels Nelson Road NW and NW Hogan Lane.
51. Provide surveyed cross-sections at 50-foot intervals along the parcel frontage on NW Hogan Lane and east to its intersection with Nels Nelson Road NW. The cross-sections should show existing and proposed pavement, shoulders, ditches and slopes. The cross-sections should also depict centerline of pavement and right-of-way, the right-of-way lines, and easements.
52. Submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with County rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the Kitsap County Code. Existing approaches may need to be improved to meet current standards.
53. Any required sidewalk shall be constructed prior to roadway paving. This note shall appear on the face of the final construction drawings.
54. The developer's engineer shall certify that there is adequate entering sight distance at the intersection of Road A and NW Hogan Lane. Such certification shall note the minimum required sight distance, the actual sight distance provided, and a sight distance diagram showing the intersection geometry drawn to scale, topographic and landscaping features, and the sight triangle. The sight distance shall meet the requirements of the Kitsap

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County Road Standards. The certification shall also note necessary measures to correct and maintain the minimum sight triangle.

55. All work, equipment & materials for traffic signal and street lighting installations shall meet and be in compliance with all requirements of the Kitsap County Road Standards, Project Contract Provisions of Plans and Specifications accepted for construction by Kitsap County, Manual on Uniform Traffic Control Devices (MUTCD), National Electrical Manufacturer's Association (NEMA), National Electrical Code (NEC), WSDOT Standard Specifications & Standard Plans, and the Occupational Safety & Health Administration (OSHA).
56. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP application. The need for and scope of bonding will be determined at that time.

Wastewater

57. Kitsap County sanitary sewer is available for the project. Applicant needs to submit a complete set of sewer plans, profiles, and specifications designed in accordance with KCPW - Sewer Utility Division Standards and Regulations.

Fire Marshal

58. Fire apparatus access roads shall comply with the International Fire Code (IFC) section 503 as amended by Kitsap County and be maintained. Any proposed revision to these roads must be submitted to, reviewed and approved by the Kitsap County Fire Marshal's Office. Access roads shall comply with the following:
 - a. There shall be an unobstructed width of 20 feet and height of 13 feet 6 inches.
 - b. The access roads shall be designed and maintained to support a 60,000 pound fire apparatus and be provided with an all-weather driving surface.
 - c. The dead end access roads exceeding 150 feet in length shall be provided with an approved turnaround.
 - d. The inside turning radius shall be a minimum of 25 feet.
 - e. The access roads shall extend to within 150 feet of all portions of the exterior walls of the first story of the structure as measured by an approved route around the exterior of the structure or facility.

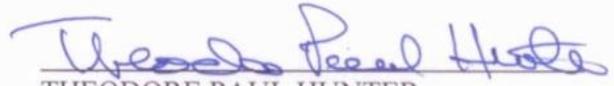
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- f. The road shall not be more than 12% grade.
59. The minimum fire flow requirements for one- and two-family dwellings in subdivisions shall be 500 gallons per minute for thirty (30) minutes.

Health District

60. The project shall be served by Kitsap County Public Works sanitary sewer.
61. The project shall be served by Silverdale Water District.
62. Any existing wells or septic tanks shall be decommissioned in accordance with Kitsap Public Health District requirements.
63. Future building permits shall submit sewered building clearance applications with binding water and sewer letters to Kitsap Public Health District for review and approval. An approved sewered building clearance shall be submitted with the County's building permit application.

Decided this 29th day of March 2016.



THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center

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