

RESOLUTION 2010-13

A RESOLUTION GRANTING FINAL PLAT APPROVAL FOR THE PLAT OF EMERALD COTTAGES (a.k.a. 1010 TELEGRAPH), CONSISTING OF 15 SINGLE FAMILY LOTS, A PUBLIC TRACT FOR RIGHTS OF WAY PURPOSES, AND PRIVATE TRACTS FOR PARKING, PEDESTRIAN, AND OPEN SPACE PURPOSES, LOCATED IN AREA 9, KING MOUNTAIN NEIGHBORHOOD AT 1010 TELEGRAPH ROAD.

WHEREAS, the City has received a request to finalize the Plat of Emerald Cottages, consisting of 15 single family lots, a public tract, and three private tracts (site plan attached as Attachment 1), said plat having received preliminary plat and Planned Unit Development approval by the Whatcom County Council on January 18, 2007 (Attachment 2); and

WHEREAS, the subject property was annexed into the City of Bellingham on March 6, 2009 by Ordinance No. 2008-12-106; and

WHEREAS, the interlocal agreement with Whatcom County requires the City to continue processing subdivisions for annexed properties; and

WHEREAS, all procedures steps necessary to transfer three development units to this site have been fulfilled; and

WHEREAS, Tract A and portions of Lots 1, 2, and 4 are protected by a conservation and public access easement; and

WHEREAS, the site plan modification allowing 2 guest parking spaces in Tract B was determined to be generally consistent with the approved site plan; and

WHEREAS, the public improvement requirements associated with the plat have been installed or bonded for at time of approval; and,

WHEREAS, the Council has reviewed said plat and finds that the public use and interest will be served by this plat and that said plat meets the requirements of the City Subdivision Ordinance and other State or Local Ordinances pertaining thereto, and conforms to the Planned Unit Development, preliminary plat design and the plat conditions as set out in Whatcom County Council approval dated January 18, 2007 (Attachment 2),

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360)676-6903

NOW THEREFORE, BE IT RESOLVED BY THE BELLINGHAM CITY COUNCIL THAT:

The Plat of Emerald Cottages, consisting of 15 single-family lots, a public tract, and three private tracts(site plan attached as Attachment 1) is hereby accepted, approved, and ordered filed, subject to the Planned Unit Development and Preliminary Plat approvals issued by the Whatcom County Council on January 18, 2007, attached hereto as Attachment 2, and made a part hereof by reference as though set forth fully herein. The property is in the City of Bellingham on property legally described in Attachment 3.

PASSED by the Council this 29th day of March, 2010.



Council President

APPROVED by me this 6th day of April, 2010.




Mayor

ATTEST: 

Finance Director

APPROVED as to form:



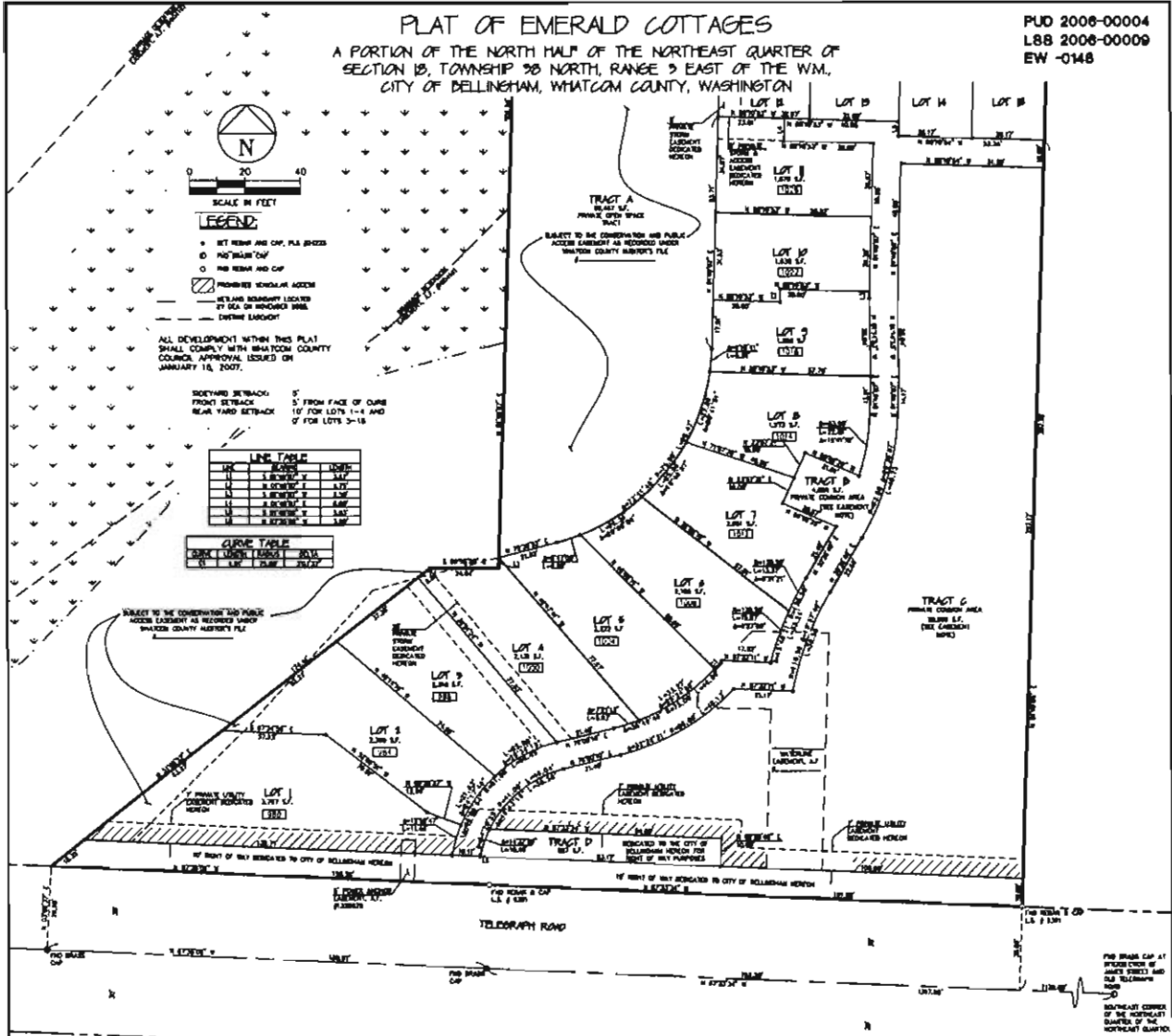
Office of the City Attorney

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360)676-6903

PLAT OF EMERALD COTTAGES

A PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 28 NORTH, RANGE 3 EAST OF THE 11TH MERIDIAN, WHATCOM COUNTY, WASHINGTON

PUD 2006-00004
L88 2006-00009
EW -0148



EASEMENT NOTE:
 A PRIVATE NONEXCLUSIVE UTILITY EASEMENT OVER AND ACROSS TRACTS B AND C IS GRANTED HEREON FOR THE BENEFIT OF ALL LOTS WITHIN THE PLAT.



DAVID EVANS ASSOCIATES INC.
 111 1/2 3rd Avenue, Suite 10
 Bellingham, Washington 98220
 Phone: 360.877.1131

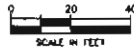
SHEET 2 OF 3
 SCALE: 1" = 20'
 DESIGN: []
 DRAWN: SLD
 CHECKED: DPM
 DWD: []
 DATE: 3-21-18
 JOB NO. EDEL000/MAR5001

PLAT OF EMERALD COTTAGES

A PORTION OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 36 NORTH, RANGE 3 EAST OF THE W.M., CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON

PUD 2008-00004
LSS 2008-00009
EW -0148

THE NEAR S. CAP
LA. 2 851.62'
3000' OF CALCS
000002



LEGEND

- SET BACK AND CAP, PLS. OTHER
- TWO BEARS CAP
- TWO BEARS AND CAP
- ▨ PROPOSED VEHICULAR ACCESS
- WETLAND BOUNDARY LOCATED BY WLA OR WOODRUM BSM
- - - - - EXISTING EASEMENT

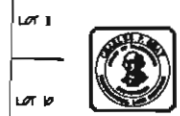
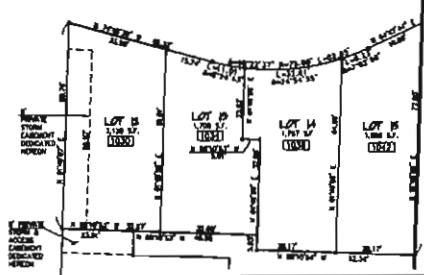
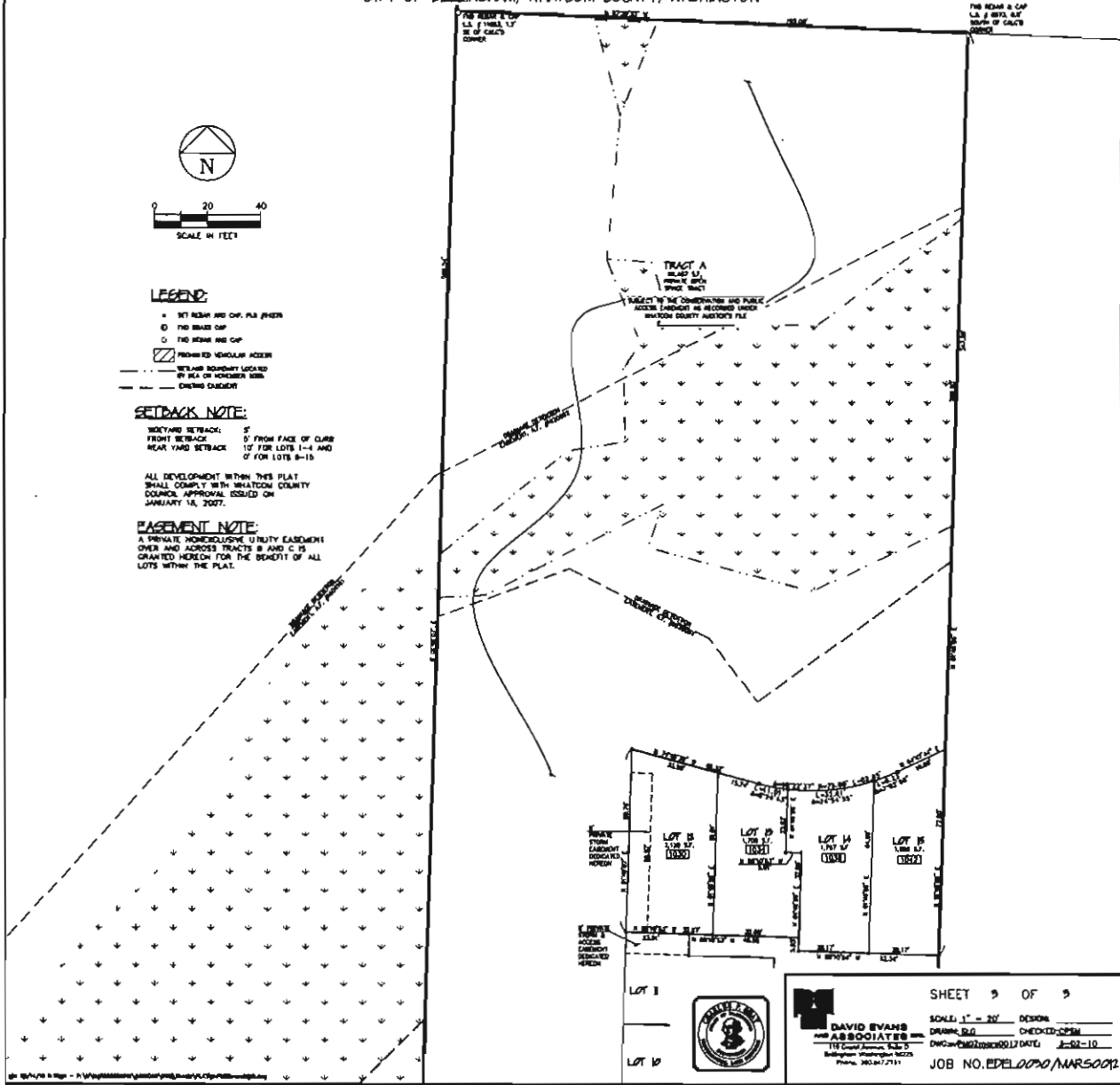
SETBACK NOTE:

- REAR YARD SETBACK: 5'
- FRONT SETBACK: 5' FROM FACE OF CURB
- REAR YARD SETBACK: 10' FOR LOTS 1-4 AND 15'

ALL DEVELOPMENT WITHIN THIS PLAT SHALL COMPLY WITH WHATCOM COUNTY COUNCIL APPROVAL ISSUED ON JANUARY 18, 2007.

EASEMENT NOTE:

A PRIVATE NONEXCLUSIVE UTILITY EASEMENT OVER AND ACROSS TRACTS B AND C IS GRANTED HEREON FOR THE BENEFIT OF ALL LOTS WITHIN THE PLAT.



DAVID EVANS
and ASSOCIATES, INC.
115 Grand Avenue, Suite 5
Bellingham, Washington 98225
Phone: 360.817.7171

SCALE: 1" = 20' DESIGN: _____
DRAWN: BLD CHECKED: CPM
DWG NO: EM0208000017 DATE: 2-21-10
JOB NO. EDEL0000/MAR5002

SHEET 3 OF 3

ATTACHMENT 2

BEFORE THE COUNTY COUNCIL WHATCOM COUNTY, WASHINGTON

RE:
Preliminary Long Subdivision
Planned Unit Development

Application for

Cabochon Construction
"1010 Telegraph Road Plat"

LSS06-0009
PUD06-0004

Council Agenda Bill No. 2006-471

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION

This matter was considered by the Whatcom County Council at its regularly scheduled meeting on January 16, 2007. Said meeting was duly convened and took place in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given, and a legal quorum of the Whatcom County Council was present throughout the meeting.

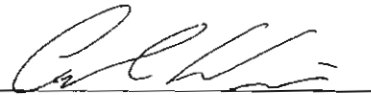
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

The Whatcom County Council, having reviewed the record and file herein, including the record of the Planning and Development Committee in this matter, adopted the findings of fact and conclusions of law as presented by the Hearing Examiner, and concurred with and adopted the recommendation of the Hearing Examiner, as presented in the Hearing Examiner's "Findings of Fact, Conclusions of Law, and Recommendation to the Whatcom County Council" herein dated December 13, 2006.

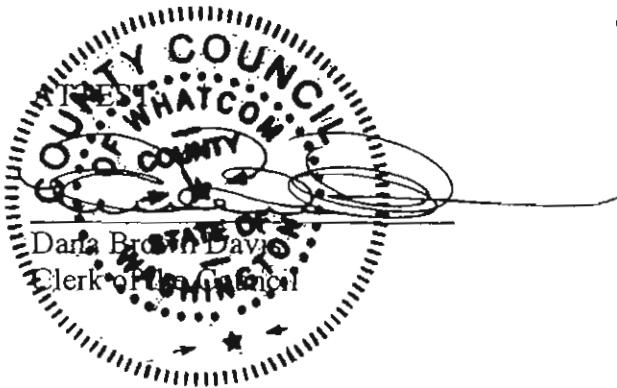
Furthermore, be it known that a legally sufficient number of members of the Council voted in the proper manner for the acceptance of the above described Hearing Examiner's Recommendation, and, since the January 16, 2007 vote of the Council, such acceptance has not been repealed, superseded or amended and remains in full force and effect as of the date of this document.

DATED this 18 day of January, 2007.

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



Carl Weimer
Council Chair



WHATCOM COUNTY HEARING EXAMINER

RE: Planned Unit Development)	PUD06-0004
Preliminary Long Subdivision)	LSS06-0009
Application for)	
)	FINDINGS OF FACT,
<i>Cabochon Construction</i>)	CONCLUSIONS OF LAW,
<i>"1010 Telegraph Road Plat"</i>)	AND RECOMMENDATION TO
)	WHATCOM COUNTY COUNCIL

SUMMARY OF APPLICATION AND RECOMMENDATION

Application: The Applicant seeks Preliminary Long Subdivision and Planned Unit Development Approval for the proposed creation of 15 single-family residential lots, with associated wetland buffer open space and other open space tracts on a 2.99-acre parcel located at 1010 Telegraph Road, Bellingham, Washington. The property is within the City of Bellingham Urban Growth Area.

The Technical Review Committee of Whatcom County Planning and Development Services has recommended approval of the proposed subdivision and PUD, subject to conditions.

Recommendation: The Whatcom County Hearing Examiner recommends the Whatcom County Council grant Preliminary Long Subdivision and Planned Unit Development Approval to the proposed 15-lot development, to be called "1010 Telegraph Road," subject to conditions. The Hearing Examiner is recommending that the Whatcom County Council eliminate Condition #19 in the Staff Recommendation, which would require a note be placed on the face of the plat prohibiting accessory dwelling units.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted and evidence presented at the public hearing.

I.

Applicant: Cabochon Construction and Development, Inc.

Site Location/Address: 1010 Telegraph Road
Bellingham, WA 98226

Legal Description: within a portion of the NW¼ of the NW ¼ of Section 18, T38N, R3E, W.M.
Assessor's Parcel Nos: 440465 and a portion of 384481

Zoning: Urban Residential Mixed Use (URMX)

Comprehensive Plan: Bellingham Urban Growth Area (UGA)

Subarea: Bellingham Urban Fringe (URF)

Number of Lots: 15 single-family lots

Open Space: four open space tracts

Total Acreage 2.99-acres

Roads: Private

Water Supply: City of Bellingham Water and Sewer District

Sewage Disposal: City of Bellingham Water and Sewer District

Fire Protection: Whatcom County Fire District No. 4

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Bellingham No. 501

Topography: Flat with a creek corridor (wetland depression) in the northern part of the site

Vegetation: Mixture of coniferous and deciduous trees, shrubs, grass and wet soil plants.

Adjacent Land Use: Mixture of undeveloped woodland, single-family residences, commercial uses

Utility Easements: Necessary utility easements will be established prior to recording the final plat.

Variances: No variances requested

SEPA Review: Determination of Non-significance, issued September 29, 2006

Authorizing Ordinances:

- 1) Revised Code of Washington Chapter 58.17
- 2) Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance
- 3) Whatcom County Code Title 21, Subdivision Regulations
- 4) State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11
Whatcom County Environmental Policy Administration Chapter 16.08
- 5) Whatcom County Code Chapter 12.08, Development Standards
- 6) Whatcom County Code Chapter 16.16, Critical Areas

Legal Notices: Posted – November 21, 2006
 Mailed – November 16, 2006
 Published – July 19 and November 23, 2006

Hearing Date: December 6, 2006

Parties of Record:

Cabochon Construction and Development, Inc.
Ali Taysi
114 West Magnolia, Suite 501
Bellingham, WA 98225

Mary White
Division of Engineering

Marilyn Bentley
Planning and Development Services

Steve and Cathi LeCocq
1275 East Bakerview Road
Bellingham, WA 98226

Exhibits:

- 1 Land Use Application
- 2 Legal Notice, dated July 19, 2006
- 3 DNS, dated September 29, 2006
- 4 Staff Report, dated November 20, 2006
- 5 Wetland Agency Comments
- 6 Certificate of Mailing, dated November 16, 2006

- 7 Legal Notice, dated November 23, 2006
- 8 Memorandum, dated August 1, 2006 from neighboring property owner
- 9 Zoning Map
- 10 Vicinity Map
- 11 Aerial Map
- 12 Wetland Delineation, November 2005
- 13 Mitigation Plan, January 2006
- 14 Preliminary CC&Rs
- 15 Deeds
- 16 Revised Site Plan
- 17 Posting Notice, dated November 21, 2006
- 18 Addendum to Staff Report, dated December 6, 2006 re: Condition #19 of the Staff Report
- 19 Revised Preliminary Stormwater Report, dated August 2006

II.

The Applicant is requesting Preliminary Long Subdivision and Planned Unit Development Approval for the proposed creation of 15 small, single-family residential lots and associated open space tracts on a 2.99-acre parcel, located at 1010 Telegraph Road, within the City of Bellingham's Urban Growth Area. Sewer and water will be supplied to the proposed subdivision by the City of Bellingham, under the terms of a Utility Service Zone Agreement entered into between the Applicant and the City.

III.

The proposed lots range in size from 5,094-square feet to 1,207-square feet. All but two of the lots will have less than 2,000-square feet. The Applicant is proposing an unique Planned Unit Development, which consists of small cottages on very small lots, plus an off-lot parking area, all to be located in the southeast portion of the parcel.

Most of the parcel will remain in open space. An open space tract containing a large on-site wetland and its buffers will set aside 54% of the parcel. More than 50% of the parcel will be in open space, including the wetland and its buffer, and the associated 100-foot protective buffer of a fish-

bearing tributary to Baker Creek.

The proposal includes requirements for significant restoration of an existing degraded buffer and an additional wetland restoration.

The applicant has agreed to a request by the City of Bellingham Parks Department that the Applicant grant Parks a trail easement through open space areas, with the easement location to be determined in future.

The proposal allows maximum development of a site which will mostly remain in open space due to critical areas by using an innovative combination of small cottage style houses on very small lots, with an associated off-lot parking area. The zoning regulations require a minimum density of six dwelling units per acre in this Urban Residential zone. This proposal meets this requirement through the creation of small lots using the PUD modification process.

IV.

The Technical Review Committee has recommended in Condition No. 19 of the Staff Report a condition requiring "a note shall be placed on the face of the plat prohibiting accessory dwelling units." The Hearing Examiner is forwarding a recommendation to the County Council which would eliminate this condition. The Hearing Examiner is sending to the County Council with this recommendation a memorandum discussing the issue of placing notes on the face of the plat which prohibits accessory dwelling units.

In this case, accessory dwelling units would be probably infeasible on all but the single lot of 5,094-square feet. However, the proposed subdivision is within the Urban Growth Area for the City of Bellingham and will likely be annexed to the City in the future. Placing a note on the face of the plat forbidding accessory dwellings is not required by the Whatcom County Code and could unnecessarily limit future flexibility regarding land use on this site.

V.

The Technical Review Committee of Whatcom County Planning and Development Services has recommended approval of this proposal in a Staff Report, Exhibit #4 in the Hearing Examiner file, a copy of which is attached hereto and incorporated herein by this reference.

There was no public comment on this proposal at the public hearing. The Applicant has indicated that the Factual Findings set forth in the Staff Report are accurate. The Applicant has indicated no objection to any of the Conditions of Approval recommended by Staff. The Findings of Fact set forth in the Staff Report are supported by the record as a whole and are hereby adopted by the Hearing Examiner as Findings of Fact herein.

VI.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following

CONCLUSIONS OF LAW

I.

Subject to the Conditions of Approval recommended by the Hearing Examiner, the proposed Preliminary Long Subdivision and Planned Unit Development will be consistent with the requirements of RCW 58.17, the requirements of the State Environmental Policy Act, the requirements of Chapter 12.08 of the Whatcom County Code, Development Standards, the requirements of Chapter 16.16 of the Whatcom County Code, Critical Areas, the applicable requirements of WCC Title 20, the Official Whatcom County Zoning Ordinance, and the applicable requirements of WCC Title 21, the Subdivision Regulations.

II.

The Technical Review Committee of Whatcom County Planning and Development Services has indicated in the attached Staff Report the Technical Committee's conclusions in regard to the proposed Long Subdivision and Planned Unit Development's conformance with both the requirements of State and local law, as indicated above. The Technical Review Committee has concluded, as does the Hearing Examiner, that the proposal does meet these requirements. The conclusions set forth in the Staff Report by the Technical Committee are adopted as Conclusions of Law by the Hearing Examiner.

Based on the above Findings of Fact and Conclusions of Law, the Whatcom County Council should granted approval to the proposed Preliminary Long Subdivision and Planned Unit Development, subject to conditions.

III.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following

RECOMMENDATION

The Whatcom County Hearing Examiner recommends that the Whatcom County Council grant Preliminary Long Subdivision and Planned Unit Development Approval for the proposed 15 single-family residential lot development on a 2.99-acre parcel located at 1010 Telegraph Road, within the Urban Residential Mixed Use District, and within the City of Bellingham Urban Growth Area, subject to the following conditions:

- 1) The use and location on the site shall not be amended or changed in any way without further

approval of the Whatcom County Hearing Examiner.

- 2) The applicant shall comply with all of the conditions of the Whatcom County Division of Engineering, memorandum dated September 7, 2006, unless modified by the Division of Engineering or appealed to the appropriate agency.
- 3) The applicant shall comply with the conditions of the Whatcom County Deputy Fire Marshal, memorandum dated May 18, 2006, unless modified by the Deputy Fire Marshal or appealed to the appropriate agency.
- 4) The applicant shall comply with the conditions of the Whatcom County Chief Plans Examiner, memorandum dated November 14, 2006, unless modified by the Chief Plans Examiner or appealed to the appropriate agency.
- 5) The applicant shall comply with the conditions of the Whatcom County Critical Areas Administrator, memorandum dated November 14, 2006, unless modified by the Critical Areas Administrator or appealed to the appropriate agency.
- 6) The applicant shall comply with the conditions of the Whatcom County Health Department, memorandum dated August 1, 2006, unless modified by the Health Department or appealed to the appropriate agency.
- 7) The applicant shall comply with all conditions of the City of Bellingham Utility Service Zone Agreement, as outlined in the City of Bellingham Public Works Department, memorandum dated November 15, 2006, unless modified by the City of Bellingham Public Works Department or appealed to the appropriate agency.
- 8) Should archaeological materials (bone, shell midden, cobble tools, etc.) are observed during project activities, all work in the immediate vicinity shall stop and the area shall be secured. The State Office of Archaeology and Historic Preservation (360-586-3065), the Lummi Nation (LNTHPO) (384-2298) and the Whatcom County SEPA Administrator (676-6907), shall be contacted immediately in order to help assess the situation and determine how to preserve the resource(s). Compliance with all other applicable laws pertaining to archaeological resources is required.
- 9) All outside lighting shall be installed pursuant to WCC 20.80.523 to reduce impacts to adjacent residential uses and streets.
- 10) The applicant shall provide some type of screening/protective barrier along the eastern property boundary, by agreement with the neighboring property owner on that side. If these parties cannot agree, the issue shall be submitted to the Hearing Examiner for resolution.
- 11) All trash collection areas shall be enclosed on three sides by a 4-foot high, solid wood fence. In addition, the applicant shall contact the local service provider to determine if the proposed


location will allow adequate maneuverability for garbage and recycling trucks.

- 12) Written verification of a Contract to Purchase TDRs is required prior to preliminary plat approval.
- 13) The final CC&Rs shall be modified to specifically indicate the type of facilities (i.e. playground equipment) to be installed on the playground, and safety and maintenance of the playground shall be included in the CC&Rs as the responsibility of the Community Association.
- 14) The playground and all equipment shall be installed prior to final plat approval.
- 15) Community identification signs shall be permitted pursuant to WCC 20.80.470 (4) Exemptions.
- 16) No sign shall be located closer than 10-feet to any right-of-way, per WCC 20.80.410 (1), and a building permit shall be obtained for any and all signs installed on the site.
- 17) Proper inscriptions shall be placed on the face of the mylar.
- 18) All appropriate deed, dedications, and easements will be established on the face of the plat during the final review process, and recorded on the face of the mylar.
- 19) The Applicant shall comply with the request of the City of Bellingham Parks Department for a trail easement through the open space areas of the parcel, with the final location to be decided in the future.

This recommendation of the Hearing Examiner will be forwarded to the Whatcom County Council for Council approval, disapproval, or other action, within twenty-one days, as set forth in WCC 20.85.340.

No land comprising any part of a proposed Planned Unit Development and subdivision to be established henceforth per this decision shall be sold, leased or offered for sale or lease until such plan or subdivision has been approved as provided by Whatcom County Code Title 21, and in the case of a subdivision, until the final plat thereof has been filed for record with the Whatcom County Auditor, except as provided in Section 21.20.130.6. Any person so selling, leasing or offering for sale any such lot, tract or portion thereof shall be guilty of a gross misdemeanor, and subject to a fine of not more than five thousand dollars (\$5,000.00) or imprisonment for not more than ninety (90) days, or both.

DATED this 13th day of December 2006.


Michael Bobbink, Hearing Examiner

LEGAL DESCRIPTION

That, according to those public records which, under the recording laws, impart constructive notice of matters relative to the following described real property:

The West 192 feet of the South one-half of the Northeast quarter of the Northeast quarter of Section 18, Township 38 North, Range 3 East of W.M., except Old Telegraph Road.

Also

That portion of the East half of the Northwest quarter of the Northeast quarter of Section 18, Township 38 North, Range 3 East of W.M., except the North 320 feet thereof; less roads more particularly described as follows:

Beginning at the Southeast corners of said property thence N 87°34'14" W along the South line of said property and the Northerly margin of Telegraph road for a distance of 158.19 feet; then N 51°45'52" E for a distance of 174.47 feet; thence S 89° 55'59" E for a distance of 24.64 feet to a point on the East line of said property; thence S 01°49'07" W along said East line for a distance of 114.71 feet to the point of beginning.

Situate in Whatcom County, Washington.