

RESOLUTION 2009-21

A RESOLUTION GRANTING FINAL PLAT APPROVAL FOR DIVISION 1 OF THE HIGHLANDS PRELIMINARY PLAT, PHASE 2, CONSISTING OF 17 SINGLE FAMILY LOTS, LOCATED IN AREA 8, WHATCOM FALLS NEIGHBORHOOD, GENERALLY LOCATED OFF LOPEZ STREET, WEST OF YEW STREET.

WHEREAS, the City has received a request to finalize Division 1 of The Highlands, Phase 2, consisting of 17 single family lots (site plan attached as Attachment 1), said plat having received preliminary plat approval by the Hearing Examiner on November 10, 2003, by Findings of Fact, Conclusions of Law and Order No. HE-03-PL-032 (Attachment 2); and

WHEREAS, the public improvement requirements associated with Division 1 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 phase of the 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 preliminary plat design and the plat conditions as set out in the Hearing Examiner's Findings of Fact, Conclusions of Law and Order No. HE-03-PL-032 (Attachment 2),

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

Division 1 of The Highlands, Phase 2, attached hereto as Attachment 1, consisting of 17 single-family detached lots has been presented for acceptance, approval, and filing, and is hereby accepted, approved, and ordered filed, subject to Hearing Examiner Order No. HE-03-PL-032, dated November 10, 2003, 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 as a portion of Lot A, The Highlands Lot Line Adjustment as recorded under Whatcom County Auditor's File Number 2050405300.

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360)778-8270

PASSED by the Council this 29th day of June, 2009.




Council President

APPROVED by me this 1st day of July, 2009.




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

ATTACHMENT 1

THE HIGHLANDS - PHASE 2, DIVISION 1

EX-0090

A PORTION OF THE NE 1/4 OF THE SE 1/4 & THE SE 1/4 OF THE NE 1/4 SEC 32, T 38 N R 3 E, W. M.
CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON STATE

LEGAL DESCRIPTION

A PORTION OF LOT "A" OF "THE HIGHLANDS" LOT LINE AGREEMENT NO. 114,114-1 AS PROVIDED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 114,114-1 AND BEING A PORTION OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER AND OF THE BELTCAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32, T38N R3E, W. M., MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO-WIT:

COMMENCING AT THE NORTH EAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION; THENCE N 89°42'45" W ALONG SAID QUARTER A DISTANCE OF 162.00 FEET TO A POINT ON THE EASTERN LIMITS OF SAID LOT "A"; AND THE TRUE POINT OF BEGINNING; THENCE S 89°42'45" W ALONG SAID LIMITS A DISTANCE OF 184.00 FEET; THENCE S 89°17'00" W A DISTANCE OF 100.00 FEET; THENCE N 89°42'45" W A DISTANCE OF 171.00 FEET; THENCE S 89°17'00" W A DISTANCE OF 162.00 FEET; THENCE N 89°42'45" W A DISTANCE OF 184.00 FEET TO A POINT ON THE WESTERN LIMITS OF SAID LOT; THENCE S 89°42'45" W ALONG SAID LIMITS A DISTANCE OF 184.00 FEET; THENCE S 89°42'45" W A DISTANCE OF 184.00 FEET; THENCE S 89°42'45" W A DISTANCE OF 184.00 FEET; THENCE S 89°42'45" W A DISTANCE OF 184.00 FEET; THENCE S 89°42'45" W A DISTANCE OF 184.00 FEET; THENCE S 89°42'45" W A DISTANCE OF 184.00 FEET; THENCE S 89°42'45" W A DISTANCE OF 184.00 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING AN AREA OF 4.467 ACRES
SITuate IN THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON STATE.
END OF DESCRIPTION.

SURVEYOR'S NOTES

- 1. REFER TO BELLINGHAM HEARING EXAMINER ORDER NO. 03-01-032 FOR PRELIMINARY PLAT APPROVAL AND CONDITIONS OF APPROVAL.
- 2. A NON-COLLUSIVE RED POST WAS EMBEDDED IN ALL DESIGNATED CORNERS-OF-WAY IN THIS PLAT AS QUANTIFIED FOR RECORD AS REQUIRED BY CITY OF BELLINGHAM MUNICIPAL CODE TITLE 16.00.00.
- 3. FIELD SURVEY'S PERFORMED BY LARRY STEELE, P.L.S., P.U.J.M., UNDER THE DIRECTION OF THE UNDERSIGNED SURVEYOR.
- 4. FIELD SURVEY'S WERE ACCOMPANIED BY FIELD ENGINEER USING A RECONCILING TOTAL STATION.
- 5. THIS SURVEY COMPLIED WITH THE MINIMUM SURVEY PRECISION FOR FIELD ENGINEER AS SET FORTH IN WAC 320-20-005.

OPEN SPACE SUMMARY

OPEN SPACE FOR ALL PHASES OF THE HIGHLANDS SHALL BE A MINIMUM OF 1% OF THE TOTAL AREA PER HEARING EXAMINER ORDER # 11.

DESCRIPTION	OPEN SPACE AREA	R.O.P. AREA
PHASE 1, DIV. 1, LOTS AND PUBLIC REVENUE TRACT A	2.81 AC	4.99 AC
REVENUE TRACT C	0.32 AC	
PHASE 1, DIV. 2		3.33 AC
THE HIGHLANDS 10A REVENUE TRACT	2.28 AC	
PHASE 2, DIV. 1	0.40 AC	4.47 AC
FUTURE PHASES	0.17 AC	18.43 AC
TOTAL OPEN SPACE AREA	4.98 AC	36.62 AC
MINIMUM	18.00	
TOTAL AREA		33.97 AC

BUILDING SETBACK REQUIREMENTS

BUILDING SETBACKS SHALL BE IN COMPLIANCE WITH EITHER THE CLUSTER SUBDIVISION ORDINANCE SET FORTH IN SMC TITLE 16.00.00 OR THE STANDARD SUBDIVISION REGULATIONS IN SMC TITLE 16.00.00.

TREE PLANTING REQUIREMENTS

FOR HEARING EXAMINER ORDER NO. 03-01-032, STREET TREES SHALL BE INSTALLED IN ACCORDANCE WITH SMC 16.00.00. FOR HEARING EXAMINER ORDER NO. 11, THE UNDERSIGNED SURVEYOR HAS MADE THE NECESSARY REPLACEMENT PLAN FOR ALL LOTS WITHIN THE DEVELOPMENT SUCH THAT THERE WILL BE AN AVERAGE OF ONE (1) TREE PER LOT AT LEAST A FOOT (6") IN HEIGHT.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS PLAT OF "THE HIGHLANDS, PHASE 2 DIVISION 1" IS BASED UPON AN ACCURATE SURVEY AND UPON CORRECTLY IDENTIFIED LOCATIONS CONTROLLING THE SUBDIVISION OF THE NORTHEAST QUARTER OF SECTION 32, T38N R3E, W. M., CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, AND THAT THE COURSE AND DISTANCES ARE CORRECTLY SHOWN HEREON, AND THAT THE HIGHLANDS HAVE BEEN SET AND LOTS AND BLOCK CORNERS STAKED CORRECTLY ON THE GROUND, AND THAT I HAVE FULLY COMPLIED WITH THE PROVISIONS OF THE STATUTES AND SUBDIVISION REGULATIONS OF THE CITY OF BELLINGHAM, COUNTY OF WHATCOM, AND THE STATE OF WASHINGTON.



JOHN D. WILSON, INC.
CONSULTING ENGINEERS AND LAND SURVEYORS 6000 1ST AVE. SUITE 200 BELLINGHAM, WA 98225
DATE: _____

COMMENTS

THE DECLARATION OF COMMENTS, CONDITIONS, RESTRICTIONS & RESERVATIONS OF THE PLAT OF THE HIGHLANDS, PHASE 2 DIVISION 1, ARE FILED FOR RECORD WITH THE WHATCOM COUNTY AUDITOR UNDER AUDITOR'S FILE NUMBER _____.

DECLARATION AND DEDICATION

KNOW TO ALL MEN BY THESE PRESENTS THAT WE THE UNDERSIGNED BEING OWNERS IN FEE SIMPLE OF THE LAND HEREON PLATTED, HEREBY DECLARE AND ACKNOWLEDGE THIS PLAT OF "THE HIGHLANDS, PHASE 2 DIVISION 1" AND DEDICATE TO THE PUBLIC FOREVER ALL ROADS AND PUBLIC EASEMENTS SHOWN ON THIS PLAT, ALSO THE RIGHT TO MAKE ALL NECESSARY EASEMENTS FOR DRAINAGE AND UTILITIES AND TO MAKE ANY NECESSARY EASEMENTS OF ROAD, ALLEYS AND EASEMENTS, AND HEREBY WAIVER ALL CLAIMS FOR DAMAGES AGAINST ANY COMMERCIAL AUTHORITY WHICH MAY BE OCCASIONED TO ADJACENT LAND BY ESTABLISHED CONSTRUCTION, MAINTENANCE AND IMPROVEMENT OF SAID ROADS AND EASEMENTS.

ROBERT T. WOODS, MANAGER
1700 STREET REVENUE, L.L.C. HORTON BANK _____
A WASHINGTON LIMITED LIABILITY COMPANY

RESTRICTION FINANCIAL SERVICES CORPORATION

ACKNOWLEDGMENT

STATE OF WASHINGTON)
COUNTY OF WHATCOM) ss.
ON THIS _____ DAY OF _____, 2008, JOHN D. WILSON, INC., THE UNDERSIGNED SURVEYOR PERSONALLY APPEARED BEFORE ME, SCOTT W. WOODS, MANAGER OF 1700 STREET REVENUE, L.L.C., AND PERSONALLY KNOWN TO ME OR KNOWN TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE A MEMBER OR PERSONAL AGENT OF THE LIMITED LIABILITY COMPANY THAT CREDITED THIS INSTRUMENT AND ACKNOWLEDGED THIS INSTRUMENT TO BE THE FREE AND VOLUNTARY ACT AND DEED OF THE LIMITED LIABILITY COMPANY BY AUTHORITY OF STATE, ITS APPLICABLE ORGANIZATION OF ITS OPERATING AGREEMENT, FOR THE USE AND PURPOSES THEREIN MENTIONED, AND ON THAT STATE THAT HE IS AUTHORIZED TO EXECUTE THIS INSTRUMENT AND IN FACT EXECUTED THE INSTRUMENT ON BEHALF OF THE LIMITED LIABILITY COMPANY.

SCOTT W. WOODS
MANAGER
1700 STREET REVENUE, L.L.C.
HORTON BANK _____
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
RECORDING IN _____
MY APPOINTMENT EXPIRES _____

ACKNOWLEDGMENT

STATE OF WASHINGTON)
COUNTY OF WHATCOM)
I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT _____ IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT HE/HIS/HERSIGNED THIS INSTRUMENT, ON THAT STATE THAT THE SIGNED WERE AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE VOLUNTARY ACT OF SAID PARTY FOR THE USE AND PURPOSES MENTIONED IN THE INSTRUMENT.

ACKNOWLEDGMENT

STATE OF WASHINGTON)
COUNTY OF WHATCOM)
I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT _____ IS THE PERSON WHO APPEARED BEFORE ME, AND SAID PERSON ACKNOWLEDGED THAT HE/HIS/HERSIGNED THIS INSTRUMENT, ON THAT STATE THAT THE SIGNED WERE AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS THE VOLUNTARY ACT OF SAID PARTY FOR THE USE AND PURPOSES MENTIONED IN THE INSTRUMENT.

CITY OF BELLINGHAM DEPT. OF PARKS AND RECREATION

CLAIMED AND APPROVED BY THE CITY OF BELLINGHAM DEPARTMENT OF PARKS AND RECREATION
THIS _____ DAY OF _____, 2008.

CITY OF BELLINGHAM DEPT. OF PLANNING AND COMMUNITY DEVELOPMENT

CLAIMED AND APPROVED BY THE CITY OF BELLINGHAM DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
THIS _____ DAY OF _____, 2008.

CITY OF BELLINGHAM DEPARTMENT OF PUBLIC WORKS

CLAIMED AND APPROVED BY THE CITY OF BELLINGHAM DEPARTMENT OF PUBLIC WORKS THIS _____ DAY OF _____, 2008.

CITY OF BELLINGHAM FINANCE DIRECTOR'S CERTIFICATE

I, JOHN CARVER, FINANCE DIRECTOR OF THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT I AM THE OFFICER IN CHARGE OF THE COLLECTION OF SPECIAL ASSESSMENTS LEVIED BY THE CITY OF BELLINGHAM ON ALL LAND COVERED BY THIS PLAT OF "THE HIGHLANDS, PHASE 2 DIVISION 1" AND THAT ALL DELINQUENT SPECIAL ASSESSMENTS FOR SUCH THE PROPERTY COVERED BY THIS PLAT MAY BE LIABLE AT THE DATE THIS DEED IS FILED, AND THAT ALL SPECIAL ASSESSMENTS AGAINST THE PROPERTY IN THIS PLAT WHICH UNDER THIS PLAT REQUIRES EASEMENTS AND RECREATION USES HAVE BEEN PAID IN FULL THIS _____ DAY OF _____, 2008.

JOHN CARVER, FINANCE DIRECTOR
CITY OF BELLINGHAM

CITY OF BELLINGHAM MAYOR

I HEREBY CERTIFY THAT THE PLAT OF "THE HIGHLANDS, PHASE 2 DIVISION 1" IS ONLY APPROVED BY THE CITY OF BELLINGHAM CITY COUNCIL THIS _____ DAY OF _____, 2008.

DANIEL G. FINE, MAYOR
CITY OF BELLINGHAM
JAMES R. CARVER, FINANCE DIRECTOR
CITY OF BELLINGHAM

WHATCOM COUNTY TREASURER'S CERTIFICATE

I, BARBARA A. COY, TREASURER OF WHATCOM COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT ALL TAXES ACCRUED BY LAW TO BE PAID UNDER THIS PORTION OF REAL ESTATE COVERED BY THIS PLAT OF "THE HIGHLANDS, PHASE 2 DIVISION 1" AND ALL DELINQUENT ASSESSMENTS HAVE BEEN FULLY PAID AS SHOWN IN THE RECORDS OF MY OFFICE THIS _____ DAY OF _____, 2008.

BARBARA A. COY
TREASURER, WHATCOM COUNTY, WASHINGTON
TREASURER'S SEAL

WHATCOM COUNTY AUDITOR'S OFFICE

I HEREBY CERTIFY THAT THIS PLAT WAS FILED FOR RECORD IN THE OFFICE OF THE AUDITOR OF WHATCOM COUNTY, WASHINGTON, AT THE REQUEST OF _____ ON THIS _____ DAY OF _____, 2008 AT _____ MINUTES PAST _____ O'CLOCK _____ AND THAT THIS IS RECORDED UNDER AUDITOR'S FILE NUMBER _____, RECORDS OF WHATCOM COUNTY, WASHINGTON.

SHIRLEY FERRIS
AUDITOR, WHATCOM COUNTY, WASHINGTON

JONES
ENGINEERS

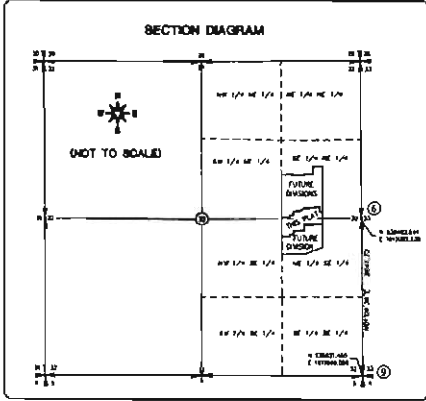
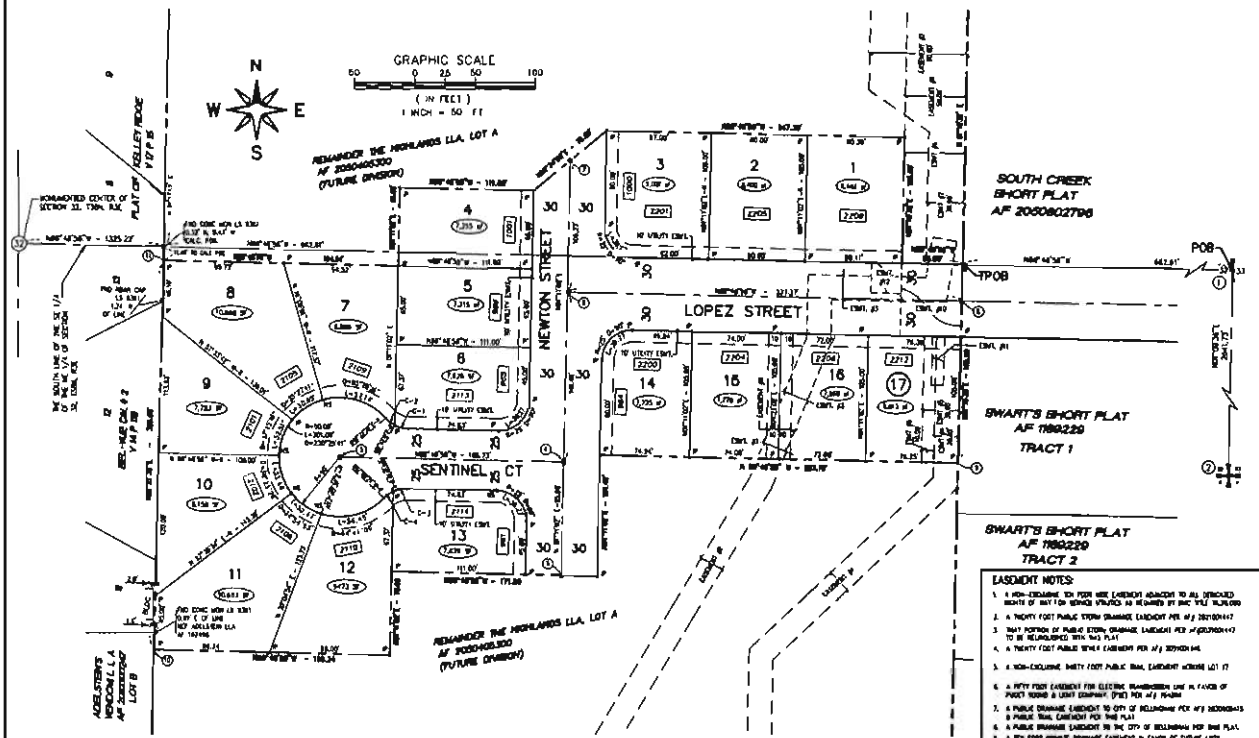
SHEET 1
OF 2

4040 Markham Street • Suite 200 • Bellingham, Washington 98226

THE HIGHLANDS - PHASE 2, DIVISION 1

EX-0090

A PORTION OF THE NE 1/4 OF THE SE 1/4 & THE SE 1/4 OF THE NE 1/4 SEC 32, T 38 N R 3 E, W. M.
CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON STATE



LEGEND

- SECTION CORNER
- SECTION QUARTER CORNER
- FOUND CONCRETE MON.
- SET CONCRETE MON.
- FOUND BRASS DISK
- SET BRASS DISK "15 4905"
- FOUND IRON PIPE OR NAIL
- SET IRON PIPE OR NAIL "15 4905"
- SET NAIL/SPRINK "15 4905"
- CONVEYER
- PLAT BOUNDARY
- LOT LINE (ON 94'S)
- SECTION SUB DIVISION LINE
- PROPERTY LINE (OWNER)
- EASEMENT LINE
- LOT NUMBER
- SPR AREA (DRAINAGE FEET)
- STREET ADDRESS
- SURVEY POINT REF. NUMBER
- CLARK GEOMETRY REF. NUMBER
- LINE SEGMENT REF. NUMBER

LINE SEGMENT TABLE

LINE	BEARING	DISTANCE
L-1	S 29° 52' 28" W	141.75

CURVE DATA

CURVE	BEARING	ANGLE	CHORD	CHORD BEARING	ARC LENGTH
C-1	S 71° 11' 00" W	107° 11' 00"	87.25	S 71° 11' 00" W	87.25
C-2	S 71° 11' 00" W	107° 11' 00"	87.25	S 71° 11' 00" W	87.25
C-3	S 71° 11' 00" W	107° 11' 00"	87.25	S 71° 11' 00" W	87.25
C-4	S 71° 11' 00" W	107° 11' 00"	87.25	S 71° 11' 00" W	87.25

COORDINATE TABLE

POINT	NORTHING	EASTING
(1)	N 638492.84	E 1817002.54
(2)	N 638481.46	E 1817449.06
(3)	N 638375.57	E 1816853.00
(4)	N 638301.08	E 1815028.19
(5)	N 638275.70	E 1815007.25
(6)	N 638453.70	E 1815012.12
(7)	N 638582.35	E 1815014.37
(8)	N 638448.34	E 1815338.41
(9)	N 638211.37	E 1815338.41
(10)	N 638153.06	E 1815068.82
(11)	N 638478.57	E 1816477.33

- SWARTZ'S SHORT PLAT AF 186220 TRACT 2**
- EASEMENT NOTES:**
- A NON-EXCLUSIVE, 20 FOOT WIDE EASEMENT ADJACENT TO ALL DETACHED DWELLS TO BE SET TO SERVICE UTILITIES TO BE LAYED BY THE CITY OF BELLINGHAM.
 - A 10 FOOT PUBLIC TRUCK DRIVEWAY EASEMENT PER AF 200500417 TO BE RELOCATED WITH THIS PLAT.
 - A 10 FOOT PUBLIC TRUCK DRIVEWAY PER AF 200500417.
 - A NON-EXCLUSIVE, 10 FOOT PUBLIC TRUCK DRIVEWAY ADJACENT TO LOT 17.
 - A 10 FOOT EASEMENT FOR ELECTRIC TRANSMISSION LINE IN FAVOR OF PUBLIC SERVICE & LIGHT COMPANY (PSE) PER AF 217846.
 - A PUBLIC DRIVEWAY EASEMENT TO CITY OF BELLINGHAM PER AF 200500417.
 - A PUBLIC DRIVEWAY EASEMENT TO THE CITY OF BELLINGHAM PER THIS PLAT.
 - A 10 FOOT PUBLIC TRUCK DRIVEWAY EASEMENT IN FAVOR OF FUTURE LOTS TO BE SET.
 - A NON-EXCLUSIVE EASEMENT IN FAVOR OF PUBLIC SERVICE COMPANY FOR ELECTRICAL TRANSMISSION PER AF 200500417.
 - A NON-EXCLUSIVE EASEMENT IN FAVOR OF PUBLIC SERVICE COMPANY FOR ELECTRICAL TRANSMISSION PER AF 200500417.
 - A NON-EXCLUSIVE EASEMENT IN FAVOR OF PUBLIC SERVICE COMPANY FOR ELECTRICAL TRANSMISSION PER AF 200500417.



CONTROL DATUM

VERTICAL: CITY OF BELLINGHAM DATUM (1972)
 HORIZONTAL: NAD 83 UTM ZONE 18 Q
 POINT: 1815014.37, 1815338.41
 DATE OF SURVEY: 1/15/2018
 SCALE: AS SHOWN ON PLAN

UNES ENGINEERS

10000 Douglas Street • Suite 200 • Bellingham, Washington 98220

SHEET **2** OF 2

Hearing Examiner
Summary and Decision

ATTACHMENT 2

Hearing Examiner No.	HE-03-PL-032
Planning No.	SUB2001-00028
Incident No.	
Filing Date	06/27/2003
City Contact	Chris Spens
Hearing Date	10/22/2003
Description	Preliminary Plat request of Dick Skeers re Brenda Highlands; Phase II
Decision Date	11/10/2003
Decision Summary	Approved with condtions.

THE HEARING EXAMINER OF THE CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON

IN RE:

YEW ST. TERRACE LLC, APPLICANT
The Highlands, Phase II
SUB2001-00028 / Preliminary Plat

HE-03-PL-032

FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER

Dawn Sturwold, Hearing Examiner

Hearing Date: 10/22/2003

This matter came before the Bellingham Hearing Examiner for hearing on the 22nd day of October 2003 on the application of Yew Street Terrace, LLC for a cluster preliminary plat consisting of seventy-two (72) single-family lots on approximately twenty (20) acres located at the south end of Newton Street and west of Yew Street in Bellingham.

Testimony was received from Chris Spens, Bellingham Planning and Community Development Department; Pat Jones, Applicant's Engineer; Chet Lackey, Applicant's Attorney; Dick Skeers, Applicant's Representative; Annette Jensen, 1200 Newton Street; Roy Sprague, 1205 Newton Street; Greg . Breathauer, 1220 Powell Street; Nancy Corbin, 1216 Newton Street; Phil Pierce, 1226 Newton Street; Howard Cummings, 2214 Old Lakeway Drive; David Ranney, 1208 Newton Street; Christy Lieurance, 2119 Old Lakeway Drive; Monte Thompson, 2106 Old Lakeway Drive; J. Scott Williams, 1919 Dakin Street; Craig Sutter, 1221 Newton Street; Uros Lukic, 1138 Xenia Street; Robert Blum, 1020 Kelly Ridge Court; and Joe Tarrida, Applicant's Representative.

In addition to the Bellingham Municipal Code and Comprehensive Plan the following documents were considered as part of the record: See Exhibit List.

I. FINDINGS OF FACT

1. Yew Street Terrace, LLC applied for preliminary plat approval for the subdivision of land located north of San Juan Boulevard, west of Yew Street and south of the end of Newton Street, known as "The Highlands." Phase I of this project was approved in May, 2002, creating twenty-seven (27) lots on thirteen and one-half (13.5) acres south of Cemetery Creek and north of San Juan Boulevard. Consideration of Phase II for the remainder of the property was placed on hold at the Applicant's request in 2002.
2. The Findings of Fact, Conclusions of Law and Order dated May 7, 2002 for Phase I of this proposal are hereby incorporated by reference.
3. The proposal for Phase II consists of seventy-two (72) single-family lots on approximately twenty (20) acres. The applicant proposes a cluster subdivision, including at least fifteen percent (15%) open space.
4. The subject property is located in Area 8 of the Whatcom Falls Neighborhood. This area is designated Residential Single, Detached, Cluster Detached, 10,000 square feet minimum detached lot size, one lot per 10,000 square feet average overall cluster density, minimum cluster lot size 7,200 square feet. Special conditions include clearing, and no traffic allowed to access residential streets north of subarea boundary. A Prerequisite Consideration is that the Byron-Consolidation and Yew Street arterials should be upgraded to recommended standards before the area is developed.
5. The proposal includes construction of Lopez Street between Yew Street and the subject property and Newton Street from the northerly project boundary to the southern portion of Phase II. The lots would be accessed by Lopez and Newton Streets and six (6) cul-de-sacs branching off of Newton Street. Both Newton and Lopez Streets would be classified as residential access streets.
6. Newton Street north of the proposal slopes downhill to Old Lakeway Drive. Newton Street northbound traffic then turns right on Old Lakeway Drive to Yew Street. Portions of Newton Street are steep and narrow. There are no sidewalks north of Whatcom Street. Traffic on Newton Street and Old Lakeway Drive must negotiate curves with limited sight distance. Entry from Old Lakeway Drive to Yew Street is at an angle. Non-local traffic currently uses Old Lakeway Drive as a shortcut around traffic signals and back-ups on Lakeway Drive. Residents of the area report many speeding vehicles, accidents and near collisions, as well as difficulty in icy conditions.
7. Increased traffic on Newton Street and Old Lakeway Drive resulting from the proposed development would exacerbate the existing conditions. Routing traffic from the proposal to the north on Newton Street, without major improvements to the street and to Old Lakeway Drive and the intersections with Lakeway Drive, is not in the public interest and is contrary to the special conditions set forth in the Neighborhood Plan. Vehicular access from the proposed development to Newton Street can be limited to emergency vehicles.
8. To the north of the proposed development is the plat of Woodhill. To the south is Cemetery Creek and Phase I of the Highlands. To the east are Cemetery Creek, several large tracts and vacant land. To the west is the plat of Kelly Ridge with single-family lots of at least 10,000 square feet.
9. The proposed lots range in size from approximately 7,200 to 14,810 square feet. The average lot size is approximately 8,839 square feet.
10. Approximately eighteen percent (18%) of the land area is proposed for right-of-way. Approximately 3,015 linear feet of trail is included in the proposal.
11. A stormwater detention and water quality facility of approximately 1.64 acres is proposed for the northeast portion of the property. A portion of this facility will be located on an adjacent tract.
12. The requirements for preliminary plats are set forth in Title 18 of the Bellingham Municipal Code. Cluster plat requirements are set forth in BMC Chapter 18.32. Minimum cluster performance criteria include requirements that the design address special conditions, prerequisite considerations and significant environmental elements identified in the Neighborhood Plan and that it is compatible with the existing topography and preserves natural resources such as mature trees and wooded areas, significant wetlands, streams and wildlife habitat; that connecting links between existing parks and open spaces are provided along streams, ridgelines, ravines, hillsides and wooded areas whenever possible and that fifteen percent (15%) of the total site area be set aside as open space.
13. The open space for the proposed cluster plat is primarily located south of the proposed lots, in the Cemetery Creek corridor.
14. The City's responsible official issued a Mitigated Determination of Nonsignificance pursuant to the State Environmental Policy Act for this proposal on October 8, 2003.

15. Subject to development in accordance with BMC Title 18 and other applicable regulations the proposed plat makes appropriate provisions for streets, public ways, drainage, water, sewer, parks, schools and other relevant features necessary to serve the public interest.
16. The proposed plat makes adequate provisions for the public health, safety and welfare.

II. CONCLUSIONS OF LAW

1. The proposed plat is consistent with the requirements of the Bellingham Municipal Code and Comprehensive Plan, subject to the conditions set forth below.
2. Subject to the conditions set forth below the proposed plat should be approved.
3. Any Finding of Fact that should be denominated a Conclusion of Law shall be deemed to be a Conclusion of Law. Any Conclusion of Law that should be denominated a Finding of Fact shall be deemed to be a Finding of Fact.

III. ORDER

The proposed cluster plat of The Highlands, Phase II, consisting of seventy-two (72) single-family lots, is approved subject to the conditions set forth below:

1. The plat shall be substantially as set forth in *Exhibit 1-8*, except as modified to comply with the conditions set forth herein.
2. Vehicular access to the development shall be from Lopez Street to Yew Street. Lopez Street shall be completed to three-quarter ($\frac{3}{4}$) standard of a twenty-eight foot (28') pavement width street, with vertical curb, gutter and five foot (5') sidewalk with enclosed storm drainage from the property boundary to Yew Street.
3. Yew Street shall be marked to provide a left-turn lane from northbound Yew Street onto Lopez Street.
4. Construction traffic shall access through Lopez Street. A construction management plan shall be submitted for review and approval of the Planning and Community Development Department prior to plat construction. Hours for heavy equipment operation shall be limited to 7:00 a.m. to 7:00 p.m. Seasonal shutdowns may be required if necessary to avoid environmental degradation.
5. All internal streets shall be constructed to full standard for residential access streets with curb, gutter, enclosed storm drains and sidewalks on both sides. Newton and Lopez Streets within the plat shall be twenty-eight feet (28') in pavement width with vertical curb, provided that rolled curb is permitted on Newton Street south of the intersection with Lopez Street. Newton Street shall be constructed to connect with the existing termination of the improved portion of the street for pedestrian, cyclist and emergency vehicle access. A barrier, designed in accordance with plans approved by the Fire and Public Works Departments, shall be installed at or near the northern boundary of the plat on Newton Street that will allow emergency vehicle access to and from the plat but restrict regular vehicle access. A turn-around, consistent with Fire Department requirements, shall be provided at or prior to the barrier. Any future proposal for removal of the barrier shall be subject to review and approval of the city. Dead-ends and cul-de-sacs shall be twenty-four feet (24') in pavement width with rolled curbs permitted; provided, the Technical Review Committee may allow a modification for pavement width of twenty-two feet (22') with parking pockets if consistent with Fire Department requirements. Street lighting, signage and marking shall be provided as required by the Public Works Department. All street improvements shall be completed in accordance with BMC 18.28.030.
6. Street trees shall be installed in accordance with BMC 18.28.200.
7. Water and sanitary sewer shall be provided in accordance with BMC 18.28.100 and .110. The location of utility easements shall be approved by the Public Works and Planning and Community Development Departments and shown on the plat map.
8. A stormwater management plan shall be submitted for review and approval in accordance with BMC 15.42, and the applicable DOE Stormwater Manual. The location of all open stormwater facilities shall be reviewed and approved by the Planning and Community Development and Public Works Departments. Stormwater flows of two (2) year and more frequent events shall be released into natural drainages in locations as close to pre-development locations as practical. A stormwater system that will reintroduce low flows into the ground via infiltration is strongly encouraged. Stormwater facilities shall

be designed to be compatible with adjacent surroundings. Facilities located adjacent to residential lots shall provide for a gentle grade transition, vegetative screening, safety fencing and other design amenities as necessary to provide an attractive visual dimension. Facilities located adjacent to open space tracts shall provide for a natural grade transition, vegetative transition from natural to managed, and avoid creating an unstable timbered edge within the open space tract. All open stormwater facilities shall include a landscape plan to be reviewed and approved by the Public Works and Planning and Community Development Departments.

9. All lots and streets shall meet minimum fire apparatus loading and access requirements. Planters within cul-de-sacs are not permitted. No Parking-Fire Lane signs shall be installed at the head of all cul-de-sacs. All water supply system specifications and hydrant spacing requirements shall be in accordance with applicable codes.

10. Streams and setbacks are regulated in BMC 16.50. Stream setbacks for Cemetery Creek shall be provided for a Type 3 stream, combined with a minimum total corridor width equal to the 50 year Site Index for on-site soils as determined by the Soil Survey of Whatcom County. Suitable setbacks shall be determined by the Planning and Community Development Department in accordance with the regulations. Substantial replanting of three to four foot (3'-4') conifers within those areas of the setback that have been previously logged shall be required. No trails, utility easements or clearing shall be permitted within the stream corridor except as may be approved by the Planning and Community Development and Parks and Recreation Departments.

11. Wetlands are regulated as provided in BMC 16.50. Wetland impacts of over one-tenth (1/10) of an acre shall be reviewed and approved by other agencies with jurisdiction prior to issuance of a City wetland permit.

12. Trails and trail corridors shall be dedicated/constructed in accordance with a plan approved by the Parks and Recreation Department and generally consistent with *Exhibit 1-4*. Any other trail location proposed by the developer must be approved by the Parks and Recreation and Planning and Community Development Departments. No trail shall be located within fifty feet (50') of Cemetery Creek without the approval of the Planning and Community Development Department.

13. A minimum of fifteen percent (15%) of the total site area shall be provided as open space, defined as space set aside as natural area, greenway corridor or for recreational purposes. The Cemetery Creek corridor and adjacent or associated wetlands shall be top priority for preservation and dedication. Required open space shall not contain stormwater facilities. Natural areas/greenway corridors used in calculation of required open space shall not be cleared or graded, except as necessary to provide approved amenities such as trails, or contain utilities that are inconsistent with preservation of natural areas. Open space shall be designated on the face of the plat and approved by the Planning and Community Development and Parks and Recreation Departments.

14. Each lot shall be a minimum of 7,200 square feet in area. Lots abutting the northern and western boundaries of the plat should attempt to represent the existing neighborhood patterns in lot size, although they need not be larger than 10,000 square feet. Lots constrained by easements should compensate by being larger in size. Joint driveways shall be used for pipestem and adjacent lots, and should be considered where feasible to reduce impervious surface.

15. Any lot other than a corner lot that abuts on more than one (1) street shall be restricted to vehicular access on one (1) street only. Driveway access for such lots shall be reviewed and approved by the Public Works Department. The access prohibition shall be shown on the face of the plat

16. Setbacks shall be reviewed and approved by the Planning and Community Development Department and shown on the face of the plat.

17. A clearing and grading plan shall be submitted for review and approval of the Planning and Community Development Department prior to significant land disturbance other than surveying. Mature trees, wooded areas, significant wetlands, streams and wildlife habitat should be preserved to the extent feasible. The subdivision shall be designed to preserve the greatest amount of existing on-site vegetation, including trees with trunk diameter of six inches (6") or greater, and other natural ground cover, in accordance with BMC 18.28.210. Trees removed shall be replaced where practical.

18. Transportation, school and all other applicable impact fees shall be paid (or waived in consideration of accepted improvements) in accordance with applicable ordinances in effect at the time of building permits. Park fees or dedication/improvements in lieu of fees shall be paid in accordance with BMC 18.44.

19. The Mitigated DNS requires a native tree replacement plan for all lots within the development

such that there will be an average of six (6) native trees per lot of at least four feet (4') in height.
20. The development shall comply with all other requirements of the Bellingham Municipal Code and other applicable regulations.

ENTERED this 10th day of November 2003.

Bellingham Hearing Examiner

Dawn Sturwold