

**RESOLUTION** 2009-11

**A RESOLUTION GRANTING FINAL PLAT APPROVAL FOR SPYGLASS ESTATES, LOCATED IN AREA 4, MT. BAKER NEIGHBORHOOD, GENERALLY LOCATED BETWEEN NORTH OF BARKLEY BOULEVARD BETWEEN SUSSEX DRIVE AND CHANDLER PARKWAY.**

**WHEREAS**, the City has received a request to finalize the Spyglass Estates Preliminary Plat, consisting of 23 single-family detached lots and a stormwater detention tract (Attachment 1), said preliminary plat having received Hearing Examiner approval on March 22, 2006 by Order No. HE-05-PL-045; 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 the Spyglass Estates Preliminary Plat and finds that the public use and interest will be served and that the 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 Hearing Examiner's Order, March 22, 2006 (Attachment 2),

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


Spyglass Estates Preliminary Plat, consisting of 23 single-family detached lots and a stormwater detention tract (Attachment 1), has been presented for acceptance, approval, and filing, and is hereby accepted, approved, and ordered filed, subject to the Hearing Examiner Order HE-05-PL-045, dated March 22, 2006, 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: The North half of the Northwest quarter of the Northeast quarter of Section 21, Township 38 North, Range 3 East of W. M., except the east 10 acres thereof, and except that portion as deeded to the City of Bellingham under Auditor's File Number 930129265.

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


**PASSED** by the Council this 13th day of April, 2009.

  
\_\_\_\_\_  
Council President

**APPROVED** by me this 20th day of April, 2009.

  
\_\_\_\_\_  
Mayor

**ATTEST:**

  
\_\_\_\_\_  
Finance Director

**APPROVED** as to form:

  
\_\_\_\_\_  
Office of the City Attorney

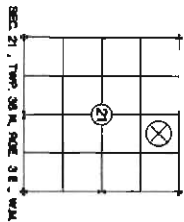
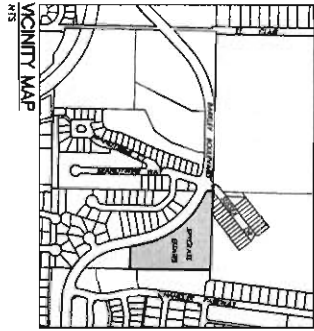
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STATE IN A PORTION OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 15 NORTH, RANGE 3 EAST OF WM. CITY OF BELLINGHAM, WHATCOM COUNTY, WASH., 1101

**PLAT OF  
 SPYGLASS ESTATES**

EX-0096



**VICINITY MAP**

DATE JANUARY 14, 2008 AND APPROVED BY THE BOARD OF SUPERVISORS OF THE CITY OF BELLINGHAM, WASHINGTON, AS SHOWN ON THE PLAT OF SPYGLASS ESTATES, PLAT NO. EX-0096, FILED IN THE OFFICE OF THE CLERK OF THE COUNTY OF WHATCOM, WASHINGTON, ON JANUARY 14, 2008.

**PLAT TITLE**

PLAT OF SPYGLASS ESTATES

**OWNER**

SPYGLASS ESTATES, INC.

**PREPARED BY**

PACIFIC SURVEY & ENGINEERING, INC.

**APPROVED BY**

[Signature]

**DATE**

JANUARY 14, 2008

**FILED IN**

OFFICE OF THE CLERK OF THE COUNTY OF WHATCOM, WASHINGTON

**BOOK**

EX-0096

**PAGE**

1 OF 1

**DATE**

JANUARY 14, 2008

**CITY CLERK APPROVAL**

I, \_\_\_\_\_, City Clerk of the City of Bellingham, Washington, do hereby certify that the above described plat of land is in accordance with the provisions of the City of Bellingham, Washington, Ordinance No. \_\_\_\_\_, and that the same has been duly recorded in the Office of the Clerk of the County of Whatcom, Washington, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT**

I, \_\_\_\_\_, Planning and Community Development Director of the City of Bellingham, Washington, do hereby certify that the above described plat of land is in accordance with the provisions of the City of Bellingham, Washington, Ordinance No. \_\_\_\_\_, and that the same has been duly recorded in the Office of the Clerk of the County of Whatcom, Washington, on this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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# ATTACHMENT 2

## Hearing Examiner Summary and Decision

Hearing Examiner No.	HE-05-PL-045
Planning No.	SUB2005-00028
Incident No.	
Filing Date	07/08/2005
City Contact	Kathy Bell
Hearing Date	03/08/2006
Description	Subdivision request of Spyglass Associates LLC re Spyglass Plat
Decision Date	03/22/2006
Decision Summary	Approved with conditions.

THE HEARING EXAMINER OF THE CITY OF BELLINGHAM

WHATCOM COUNTY, WASHINGTON

**IN RE:**

**SPYGLASS HILLS ASSOCIATES LLC,  
APPLICANT  
Barkley Boulevard between Sussax Drive and  
Chandler Parkway  
SUB2005-00028 / Spyglass Estates Preliminary  
Plat**

HE-05-PL-045

**FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDER**

Dawn Sturwold, Hearing Examiner

Hearing Date:

This matter came before the Bellingham Hearing Examiner for hearing on the 8th day of March 2006 on the application of Spyglass Hills Associates for Preliminary Plat approval for a 23-lot single-family residential subdivision for property located north of Barkley Boulevard between Sussex Drive and Chandler Parkway.

Testimony was received from Kathy Bell, Planning and Community Development Department; Adam Morrow, Applicant's engineer; Geri Reinart, Applicant's traffic engineer; Darlene McLeod, 3232 Cypress Court; and Phil DeKoster, 3209 Chandler Parkway.

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. Spyglass Hills Associates, LLC applied for preliminary plat approval for a residential subdivision on approximately 5.3 acres located north of Barkley Boulevard between Sussex Drive and Chandler Parkway.

2. The subject property is legally described as a portion of the northwest quarter of the northeast quarter of Section 21, Township 38 north, Range 3 east of W.M., except the east 10 acres thereof, and except that portion as deeded to the City of Bellingham under Auditor's File No. 930129265.

3. The property is located in Area 4 of the Mt. Baker Neighborhood and is designated Residential Multi, Multiple, Planned, 10,000 square feet per unit overall density.

4. The property slopes steeply downhill from east to west. The eastern portion of the site contains a steep bluff and rock outcroppings. Existing grade at the southeast corner of the site is approximately 140 feet higher than the grade at the northwest corner.

5. Neighboring properties are developed, or proposed for development, with residential units.

6. Barkley Boulevard is developed as an arterial street between Orleans Street and Britton Road. Adjacent to the subject property it is improved with one travel lane in each direction, bicycle lanes, curbs, gutters and sidewalk and planting strip on the development side of the street. The street slopes downhill from east to west and curves to the west adjacent to the westerly portion of the property and to the south and east adjacent to the easterly portion of the property and beyond.

7. The Applicant proposes to create 23 single-family lots and a stormwater tract. All but two of the lots would front on a new cul-de-sac accessed from Barkley Boulevard. Lots 17 - 23 would be accessed by a private roadway extending eastward from the cul-de-sac and along the eastern boundary of the plat. Due to the extreme topography along the eastern portion of the property retaining walls will be required to support the roadway.

8. The stormwater/open space tract would be located in the northwestern corner of the plat, at the lowest grade.

9. The proposed lots range in size from approximately 5,000 square feet to approximately 13,700 square feet.

10. City staff has recommended approval of the proposed plat, subject to conditions set forth in *Exhibit B* to the Staff Report. The Applicant indicates agreement with the recommended conditions, except for the recommendation for a left turn lane for eastbound Barkley Boulevard at the plat entrance.

11. Neighbors in the vicinity of the proposal expressed concerns regarding the addition of traffic on Barkley Boulevard, access to the site, adequacy of the traffic study, stormwater runoff from the site, and topography of the property.

12. Neighbors indicated that access to and from Barkley Boulevard at the entrance to the subject property will be difficult and dangerous due to the high speed of traffic traveling westbound downhill, the vertical and horizontal curves at this location and the limited sight-distance.

13. The Applicant provided a limited scope traffic analysis prepared by Geralyn Reinart, P.E. to address the staff's request for information as to whether the proposed plat entrance meets City codes for sight distance and/or warrants the construction of additional access management strategies.

14. The traffic analysis included a speed and volume study near the proposed site access conducted for seven days in August 2005, a time when public schools are not in session and some

residents may be away due to vacations. The speed study concluded that the average uphill speed at this location was 36 mph and the average downhill speed was 40 mph. The 85th percentile speed uphill was 39 mph and the 85th percentile speed downhill was 43 mph. The posted speed limit at this location is 35 mph.

15. The volume study concluded that the peak hour was between 5:00 and 6:00 p.m. and the average peak hour volume was approximately 860 vehicles. The highest peak hour volume was recorded on a Monday, at 912 vehicles. Average total weekday volume was 9,355 vehicles.

16. The analysis concluded that the proposed plat would add 220 vehicle trips daily and 23 vehicle trips during the peak hour.

17. Sight distance requirements were determined under the City's Development Guidelines and Improvement Standards and AASHTO standards, utilizing both the posted speed limit and actual speeds. The measured sight distances were approximately 400 feet from the southeast and 380 feet from the northwest on Barkley Boulevard, and 450 feet to the southeast and 440 feet to the northwest at the site intersection. The analysis concluded that the sight distances satisfied the City's standards and were about 30 feet short of meeting the AASHTO standards for downhill traffic. Application of the City's standards required interpolation for speeds in excess of 35 mph and did not adjust for the 12% grade of Barkley Boulevard at this location.

18. The traffic analysis looked at the accident history in this location. A total of seven accidents were recorded during a five-year period ending December 2004. A fatal bicycle collision with a tree also occurred at this location in July 2005.

19. Left-turn storage requirements were determined using the WSDOT Design Manual Figure 910-8a. The analysis concluded that 1.2% of the total peak hour volume of 913 vehicles would turn left into the development. This volume was below the curve for 40, 50 and 60 mph traffic, indicating that no left turn storage was necessary for capacity purposes.

20. An Addendum to the Traffic Analysis was provided to address the need for left turn storage to accommodate future traffic growth. The Addendum uses an increase in traffic volume of approximately 50%, for a total peak hour volume of 1,350 vehicles. The WSDOT Manual Figure 910-8a has a maximum of 1,200 vehicles per hour so the analysis interpolates the curves for 1,350 vehicles. The formula for the curve is not shown in the analysis. The analysis concludes that no left turn storage is necessary with a 50% increase in the volume of traffic.

21. Most, but not all, of the intersections on Barkley Boulevard have left turn lanes. Other steeply sloped arterial streets, such as Alabama Street, have left turn lanes at nearly all intersections.

22. A left turn lane at the development intersection on Barkley Boulevard will only serve traffic entering the development. It would mitigate impacts of the development traffic on traffic east and west bound on Barkley Boulevard.

23. It is not clear that the development will provide for safe ingress from Barkley Boulevard without providing left turn storage on Barkley. Testimony of residents of the area indicates that travel on Barkley Boulevard in the vicinity of the proposed development is difficult and potentially dangerous due to

the slope, curves and speed of traffic. It is likely that the traffic analysis that was performed underestimates the amount of existing traffic on the roadway due to the timing of the volume study. The sight distance at the development intersection falls somewhat short of that required under AASHTO standards, although it may comply with City standards for 35 mph speeds. The Addendum to the Traffic Analysis evaluated the impact of future traffic by arbitrary selection of a 50% increase factor. This factor may or may not be adequate to account for future traffic increases. At volumes over 1,200 total vehicles the curves representing warrants (for capacity) for left turn storage on the WSDOT Manual Figure 910-8a approach the right edge of the graph-0-2% of total vehicles turning left. The curves for 40, 50 and 60 mph speeds begin to converge. With the projected future traffic off the top of the chart it appears that a relatively small volume of traffic turning left is sufficient to warrant left turn storage for capacity purposes. The specific conditions found at this location should be considered to determine whether left turn storage is necessary for safety as well as capacity. Additional traffic analysis is required to demonstrate that left turn storage is not necessary to provide for the safe movement of traffic. Without left turn storage vehicles traveling eastbound, uphill, may utilize the bicycle lane to veer around another vehicle attempting to turn left into the development in order to avoid losing forward momentum while going up the hill during the time it may take for the turning vehicle to complete the left-hand turn. Traffic stacking behind a turning vehicle may also pressure the turning vehicle to complete the turn before it is safe to do so.

24. A Geotechnical Engineering Report was prepared for the site by Associated Earth Sciences, Inc. in September 2005. The report concludes that the site is suitable for the proposed development provided the recommendations contained in the report are properly followed.

25. Slopes on the site exceed 30% and are regulated as critical areas.

26. The Whatcom Transportation Authority does not currently operate transit buses on Barkley Boulevard. The closest transit stop to the subject site is located on Woburn Street near the Barkley Boulevard intersection.

27. The subject site is served by the Bellingham Public School District. Children from the proposed development will attend Northern Heights Elementary School, Shuksan Middle School, and Squalicum High School. The elementary and high schools are located to the northeast. The middle school is located to the west. Most children will be bussed to schools.

28. The proposed development will be served by City water and sanitary sewer.

29. The proposal will be required to comply with best management practices for stormwater management as provided in BMC Chapter 15.42 and the Department of Ecology Stormwater Management Manual.

30. Preliminary plats are required to comply with provisions of BMC Title 18 and RCW 58.17.

31. Impact fees for transportation, schools and parks will be collected for each lot.

32. A Determination of Nonsignificance was issued for the proposal by the City's Responsible Official pursuant to the State Environmental Policy Act.

33. Subject to conditions set forth below the proposed development makes appropriate provisions for public health, safety and welfare, including open spaces, drainage, streets, transit, water,

sanitary sewer, parks, schools and safe school routes.

## II. CONCLUSIONS OF LAW

1. Applicants for Preliminary Plat approval are required to demonstrate that the proposed plat makes appropriate provisions for the public health, safety and welfare, including provisions for streets and other necessary improvements and infrastructure.
2. Subject to the conditions set forth below the proposed preliminary plat is in conformance with the requirements of BMC Title 18 and RCW 58.17.
3. The proposed plat should be approved subject to the conditions set forth below.
4. 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 preliminary plat of **Spyglass** Estates is approved, subject to the conditions set forth below:

1. The plat shall contain no more than 23 single-family residential lots and shall be generally as shown on **Exhibit A** attached hereto and as described in the materials submitted in support of the application, except as otherwise set forth herein. Minor amendments may be approved by the Technical Review Committee as specified in BMC 18.20.020.
2. All construction on the property, including infrastructure and development on the lots, shall conform to all recommendations provided in the Surface Exploration, Geologic Hazard, and Geotechnical Engineering Report prepared by Associated Earth Sciences, Inc. in September 2005, and the recommendations from further studies that are recommended in that report. Development of the property shall comply with all requirements of the Bellingham Municipal Code applicable to the critical areas on the property.
3. Building permit applications for lot development may not be accepted by the City until the plat has received final approval and has been recorded with the Whatcom County Auditor.
4. Plat improvements and lot design shall comply with the requirements of BMC 18.28 and 18.32.
5. Two street trees per lot shall be installed within the plat prior to final plat approval. A street tree plan shall be submitted for review and approval prior to installation. Bonding may be accepted in lieu of installation for a period not to exceed one year if installation is not feasible prior to final plat approval due to seasonal limitations.
6. A clearing and grading plan for the property, including rights-of-way, shall be submitted for review and approval of the Public Works and Planning Departments concurrent with review of civil drawings for the infrastructure.
7. The access road for the plat shall be dedicated to the City and shall be improved to full standard for a Residential Access Street, including vertical curbs. All sidewalks shall have a minimum

width of five feet.

8. All street improvements shall be installed in accordance with plans and specifications approved by the Public Works and Fire Departments.

9. Unless additional traffic analysis is performed to clearly establish that left-turn storage for eastbound traffic turning from Barkley Boulevard into the development is not warranted or necessary to mitigate impacts of the development to the safety of travelers on the arterial or provide for the safety of those attempting to enter or exit from the arterial, an eastbound left turn lane shall be constructed in Barkley Boulevard at the entrance to the development to provide adequate storage for vehicles turning left, in accordance with a plan approved by the Public Works Department. If additional traffic analysis is provided it shall include a traffic volume study conducted during a week prior to June or after August, when Bellingham public schools and Western Washington University are in session. The analysis shall consider estimated traffic growth from a full build-out of property accessed from Barkley Boulevard and other areas within the City and urban growth area likely to use Barkley Boulevard. The analysis shall also consider the actual speeds of traffic on Barkley and shall provide for a margin of safety due to the slope and curves on the roadway and the limited sight distance at the entrance to the development. Distribution of trips to and from the development shall be based on common engineering assumptions and information specific to this development proposal, including, but not limited to the location of work opportunities, schools and recreational facilities. Additional traffic analysis shall be reviewed by the Technical Review Committee. Any disputes regarding interpretation of the results shall be resolved by the Hearing Examiner after a Supplemental Hearing.

10. Vehicular access to Barkley Boulevard to and from individual lots is prohibited. This prohibition shall be noted on the face of the plat.

11. Buffering shall be provided along Barkley Boulevard across the full frontage of the plat with a mixture of drought resistant native trees, shrubs and ground cover, in accordance with a landscape plan approved by the Planning and Community Development Department. Selection of species type and location of plantings should take into consideration preservation of views from the property. Landscaping within the right-of-way shall be approved by the Public Works and Planning Departments. If development of the through lots is oriented towards Barkley Boulevard with housefronts, front yards and the main pedestrian entry facing Barkley Blvd. with walkways to the sidewalk, landscape buffering may not be required, however fencing adjacent Barkley Blvd. shall comply with height limitations set forth in the BMC for front yards.

12. A Stormwater Site Plan (SSP) shall be submitted for review and approval of the Planning and Public Works Departments concurrent with review of civil drawings for the necessary infrastructure. The SSP shall include mitigation for stormwater quality to a standard compliant with the 2005 Washington State Department of Ecology's Stormwater Management Manual and BMC 15.42. Areas outside required fencing shall be landscaped with drought resistant native trees, shrubs and ground cover in accordance with a plan approved by the City.

13. A surety in the form of a bond or assignment of funds, in a form approved by the Planning

Department, shall be submitted for 150% of the total cost of implementing the buffer, open space and stormwater landscaping requirements. The surety shall be based on a current estimate for all work, including, but not limited to, plant materials, installation, maintenance for five years, and any other contingency requirements. The estimates shall be approved by the Planning Department prior to submission of the surety. The surety shall be approved by the Planning Department prior to final plat approval.

14. The stormwater facility shall be provided in a separate tract and dedicated to the City of Bellingham.

15. Any retaining wall supporting public or private infrastructure constructed of concrete or block material exposed greater than two feet above grade shall be designed to blend visually with the site. Concrete walls shall be finished with a material that will hide form panel seams and tie holes. Any block walls shall be textured.

16. The plat shall comply with all Fire Department standards for fire suppression and emergency vehicle access. The design and location of the private driveway accessing Lots 17-23 shall be submitted for review and approval of the Fire and Public Works Departments and shall be constructed prior to final plat approval.

17. Additional geotechnical review of the proposed lot design and layout shall be performed, if necessary, prior to final plat approval, to insure that each lot contains sufficient buildable area unencumbered by access or utility easements to construct a fully functional single-family dwelling with vehicular access without variances from land use development codes.

18. Street lights and street name signs shall be installed as required by the Public Works Department prior to final plat approval.

19. All utilities (public water and sewer, electrical, gas and cable) shall be installed across the full frontage of the plat and each lot in accordance with plans and specifications approved by the Public Works Department. Necessary easements shall be shown on the face of the plat.

20. Electric power and communication facilities shall be installed underground prior to final plat approval.

21. A seven-foot wide easement adjacent to public rights-of-way shall be reserved for utility purposes and shall be shown on the face of the plat.

22. Development on single family lots shall comply with BMC 20.30.040. All setbacks shall be shown on the face of the plat.

23. Single-family residences shall be designed with front porches and garages setback from the porches to provide a pedestrian orientation to the street.

24. Preliminary Plat approval shall expire as provided in BMC 18.16.010.

25. Monumentation shall be provided as required in BMC 18.28.180.

26. Heavy equipment work shall be limited to the hours between 7:00 a.m. and 7:00 p.m.

27. Provisions for parklands shall comply with BMC 18.44.

28. Impact fees for transportation, schools and parks shall be paid in accordance with

Bellingham Municipal Code requirements.

29. Design and construction of the plat and improvements thereon and development of the lots shall comply with all applicable requirements of the Bellingham Municipal Code.

ENTERED this 22nd day of March 2006.

**Bellingham Hearing Examiner**

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Dawn Sturwold