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Skagit County Auditor

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AFTER RECORDING RETURN TO:  
SKAGIT COUNTY HEARING EXAMINER  
302 SOUTH FIRST STREET  
MOUNT VERNON, WA 98273

DOCUMENT TITLE: RECOMMENDATION ON PRELIMINARY PLAT PP 05 0457

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: ALOHA LUMBER

ASSESSOR PARCEL NO: P42294 350708-4-001-0005  
P42295 350708-4-001-0104  
P42296 350708-4-002-0004  
P42280 350708-1-003-0009

PROPERTY LOCATION: The project is located at 7773 and 7779 Pinelli Road, Sedro-Woolley, WA.; within Section 8, Township 35 North, Range 7 East, W.M., Skagit County Washington.

**BEFORE THE HEARING EXAMINER  
FOR SKAGIT COUNTY**

**Applicant:** Aloha Lumber Company  
attn: Mark Stahl  
111 Market Street, Suite 245  
Olympia, WA 98501

**Agent:** Marianne Manville-Ailles  
Skagit Surveyors & Engineers  
806 Metcalf  
Sedro Woolley, WA 98284

**File No:** PL05-0457

**Request:** Preliminary Plat for the subdivision of approximately 118.29 acres into 13 lots ranging in size from one acre to 108 acres. The subdivision would be pursuant to the CaRD subdivision process, the northern portion of the non-building open space lot will be placed in Open Space Preservation Area (OS-PA) and the southern portion will be placed in Open Space Natural Resource Land (OS-NRL).

**Location:** 7773 and 7779 Pinelli Road, Sedro Woolley, WA, within Section 8, Township 35 North, Range 7 East, W.M., Skagit County, Washington

**Land Use Designation:** Rural Resource Natural Resource Lands/Mineral Resource Overlay

**Assessor's Parcel Nos:** P42294 P42295 P42296 P42280

**Public Hearing:** After reviewing the report of the Skagit County Planning and Development Services, the Hearing Examiner, *pro tem*, conducted a public hearing on September 28, 2005.

**Recommendation:** The application is recommendation for approval subject to the conditions stated herein.

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## FINDINGS OF FACT

1. Aloha Lumber seeks approval of a preliminary plat using the conservation and resource development (CaRD) process.
2. The proposed project will be located on approximately 118.29 acres located at 7773 and 7779 Pinelli Road within Section 8, Township 35 North, Range 7 East, W.M., Skagit County, Washington. The property is at the northerly end of Pinelli Road, and north of SR 20. The zoning is Rural Resource Natural Resource Lands and the property is subject to the rural resource overlay.
3. The site is occupied by one single family residence and approximately ten acres of pasture. The remainder of the site consists of a mixed stand of timber. Adjacent property on the west is pasture, property lying to the north is commercial forest land, property to the east is mixed timber and has the community water system facilities. Property to the south has timber and a single family residence.
4. The proposal is to divide the property into 13 lots. The lots will range in size from one acre to 108 acres. The existing homesite will be contained on a one acre site. The following items were noted in the staff report prepared by the Skagit County Department of Planning and Development Services:

### **Environmental Health – Septic and Water:**

**Septic:** Lots 1-13 approved with SW05-0249-0260.

**Water:** We have reviewed PL05-0457 for compliance with SCC 12.48 "Rules and Regulations of the Skagit County Board of Health Governing Individual and Public Drinking Water Systems" and SCC 14.24.350 "Aquifer Recharge" section of the "Skagit County Critical Areas Ordinance". Our findings and recommendations are as follows:

### **Water Supply**

1. A Public Drinking Water Evaluation from Skagit County Water District #1 has received on signed by Kelly Wynn, system operator on January 31, 2005 confirming availability of water to serve the plat. Water lines must be installed to the property lines of each of the lots prior to final plat approval or appropriately bonded. Documentation of installation and acceptance of installation would need to be by the Water Districts "Designated Person" if that is their standard operating practice or by the applicant's Engineer if not.
2. The soil log holes for the on-site septic system reserve area on lot 1 or drainfield replacement area need to be identified on the face of the plat.



## **Aquifer Recharge**

1. A hydro-geologist's report has been received from Associated Earth Sciences. The report is still under review by Skagit County's Hydro-geologists.
2. Per the Hydro-Geologist's report the drain-field for lot 2 must be located out of the Well Head Protection Zone (WHPZ) for the wells for Skagit County Water District # 1, therefore the plat map should delineate the location for the lot 2 drain-field and reserve areas or note the above requirement in the plat notes.
3. Because a portion of lot 2 was within the delineated "Well head Protection Area" a plat note is needed stating that a Well Health Protection Zone mitigation plan will need to be filed on the title for lot 2 prior to building permit issuance.
4. Even though lots 1 and 12 were determined to be within the 1 year Calculated Fixed Radius from Water District #1 source wells the Hydrogeologist's report states that the delineated Well Head Protection Area does not include them, therefore mitigation plans will not be required for lots 1 or 12.

## **Critical Areas:**

Critical areas review of the proposed plat indicated the following:

1. Critical areas was completed and approved with forest practice conversion application PL04-0778. Approval included the recording of a PCA.
2. The plat map shall indicate the location of PCA (OS-PA) signage. Typically signs should be located every 200 feet or line of sight, whichever is closer. Signage shall be placed along lots 2 through 6.
3. As per SCC 14.24.170 (1), The Protected Critical Area Easement Agreement and the plat map shall be amended to include a note that any future development within the area designated as OS-PA shall require a critical areas site assessment for that portion of the OS-PA within 200 feet the proposed development area(s).

## **Fire Marshal:**

The Skagit County Fire Marshals Office has the following comments on the grading permit BP05-0626 related to the subdivision application:

1. A portion of the proposal appears to be within the boundaries of RFPD #10. The remainder appears to not be within the boundaries of a RFPD.
2. Provision of fire flow per the Skagit County Coordinated Water System Plan (CWSP) Table 4-3 will be required.
3. Provide submittals that show how CWSP requirements will be met as part of land use application.



1 4. At the time of application for a building permit the access roads and the  
2 driveway to any building sites will be required to meet the Skagit County  
3 Emergency Vehicle Access/ Driveway Standards. This should be taken into  
4 consideration when locating and building logging roads to reduce environmental  
5 damage.

6 The Fire Marshall has indicated that comments related to the subdivision  
7 application are the same as discussed at the pre-application meeting.

8 The following comments were offered at that time:

- 9 1. Driveways must be constructed to the lot line of each lot prior to final plat  
10 approval.  
11 2. Fireflow must be provided within 450 feet of each lot as per CWSP table 4.3.  
12 3. The Fire Marshall must approve the water plans prior to the water line  
13 extension.

14 5. Pursuant to RCW 58.17.110(2)(a), the following findings are made:

15 A. Public Health, Safety and General Welfare:

16 It appears the proposed plat has met the minimum requirements relating to on-  
17 site sewage disposal. Prior to final approval, conditions required from the Water  
18 Resources Division will need to be approved. Other recommended conditions  
19 would be to provide adequate standards for transportation safety and provide for  
20 adequate provisions relating to parks, recreation and schools.

21 B. Open Spaces

22 The applicant has proposed a CaRD (Conservation and Reserve Development)  
23 Land Division and the proposal is to cluster eleven (11) residential lots, each one  
24 (1) acre in size, and an additional one (1) acre lot to contain an existing  
25 residence. Approximately 101.47 acres will be designated open space area as  
outlined within Skagit County Code 14.18. The open space will be designated  
Open Space Protected Area (OS-PA, 77.27 acres) and Open Space NRL (OS-NRL,  
24.2 acres).

C. Drainage Ways

Storm drainage and access easements will be provided along with the  
stormwater facilities. A maintenance plan for all drainage facilities is required  
detailing the nature and frequency of required maintenance. A Homeowner's  
Association will privately maintain the drainage facility. Skagit County Public  
Works has previously detailed the requirements that are to be met prior to final



1 approval and those requirements have been made conditions of final approval  
2 within this preliminary plat approval request.

3 D. Streets or roads, alleys and other public ways, transit stops:

4 The proposed land division is accessed by a private road tentatively noted as  
5 Windsong Lane, which will access the site from Pinelli Road. The internal plat  
6 roads will be built to County Road Standards as required by Skagit County Public  
7 Works, and the proposal is to maintain the roadway as a private roadway.

8 There are no established transit stops in the vicinity of the proposed plat.

9 E. Potable Water Supplies

10 The applicant is proposing to use a public water system that meets State Health  
11 and Department of Ecology standards for approval. The proposal is also required  
12 to be in compliance with the Skagit County Coordinated Water System Plan  
13 (CWSP). Skagit County Water Resources has previously detailed the  
14 requirements that are to be met prior to final plat approval and those  
15 requirements have been made conditions of final approval within this preliminary  
16 plat approval request.

17 F. Sanitary Wastes

18 The proposal is to utilize on-site septic systems. The Skagit County  
19 Environmental Health Unit (Septic) reviewed the proposal and noted that Lots 1-  
20 13 have been approved with septic permits SW05-0249-0260.

21 G. Parks and Recreation, playground

22 Skagit County Code section 14.18.000 (5) (e) states "Parkland and facilities."  
23 The developer shall either provide parkland and facilities within the land division  
24 in accordance with the standards in the Skagit County Comprehensive Park and  
25 Recreation Plan or a fee in lieu of required land and/or facilities. Even though  
the applicant is providing 101.7 acres of open space per SCC 14.18, a voluntary  
mitigation agreement with Skagit County Parks shall be set up to compensate for  
the increase in parks and recreation/playground use. This voluntary mitigation  
shall be in the amount of \$100/lot and paid prior to the issuance of building  
permit applications. This shall also be spelled out in the "plat notes" on the face  
of the plat as well as addressed within the CC & R's for this development.

## H. Schools and Schoolgrounds

The proposal is located within the Sedro-Woolley School District #101. The School District has adopted a Capital Facilities Plan that includes calculations relating to the impact of new housing on the District. Skagit County has adopted the Capital Facilities Plan as a portion of the County's Comprehensive Plan. Mitigation of the school impacts are generally made through the payment of school district impact fees at the time of building permit issuance for each lot.

## I. Public Use and Interest

This proposal is not contrary to the public use or interest of the area. The property is designated as Rural Resource (RRC-NRL) with a density requirement of one home per 40 acres of land, unless the land is divided through the use of the CaRD land division, then smaller lots will be allowed. As provided by SCC 14.18.310, if developed through the CaRD process, a density of one home per 10 acres is permitted. This proposal meets the density requirements of this section of Skagit County Code. All or a portion of the residential lots proposed are located within Fire District 10. A plat note has been listed indicating that no building permit shall be issued for any residential/or commercial structure which is not, at the time of application, determined to be within an official designated boundary of a fire district. Adequate services will be provided, assuming that prior to final approval positive soil site evaluation can be achieved and the public water system is approved.

6. A specific concurrency review pursuant to chapter 13.28 SCC was not conducted by the Skagit County Planning Department. Upon inquiry, Mr. Brent Morrow, on a separately written supplemental response stated as follows: "Although a specific review section for concurrency was not documented by the County in the staff report submitted for review, the specific elements related to concurrency were reviewed." Mr. Morrow indicated that specific County departments were queried concerning the project and provided responses which were, in Mr. Morrow's opinion, a satisfactory basis to conclude, "In essence, a concurrency review was conducted, but as previously stated, not in a documented review section of the staff report. In addition, the SEPA MDNS did not require that additional infrastructure improvements be made related to impacts on surfaces to the area adjacent to the plat."

In a submission submitted by the applicant, it was asserted by the applicant's representative that the Planning Department has established rules providing that the plat application "serves as the concurrency application" and otherwise governing concurrency review. These "rules" if promulgated have not been brought to the attention of the Hearing Examiner, making it impossible to judge compliance on this basis.



## CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over persons and subject matter of this proceeding. Level III procedures apply. SCC 14.06.050(c)(i).
2. The requirements of SEPA have been met.
3. As conditioned, the proposed preliminary plat meets the requirements of the subdivision statute, RCW 58.72.110(2)(a).
4. CaRDs are expressly permitted in the Rural Resource zone. As conditioned, the proposed preliminary plat will be consistent with the regulations of the CaRD subdivision with five or more lots.
5. Although the Planning Department failed to conduct a formal concurrency review as required by Chapter 14.28 SCC, the basic elements of concurrency were reviewed outside the formal process. Therefore, although the letter of Chapter 14.28 SCC was not met, the spirit was and therefore it is determined that the project is in compliance with concurrency requirements as contained in Chapter 14.28 SCC.
6. Any finding herein that may be deemed a conclusion is hereby adopted as such.
7. Any conclusion herein that may be deemed a finding is hereby adopted as such.

## CONDITIONS OF APPROVAL

1. ALL long plat roads require centerline monumentation, whether public or private.
2. Section 14.32.100 (3) (a) of the Skagit County Code states that the applicant must provide a Maintenance Plan for all stormwater and drainage conveyance systems. The maintenance plan will be required prior to final plat approval.
3. Road construction and drainage facilities shall be inspected and certified by the project engineer to be in accordance with the approved plans and in compliance with all Skagit County codes and standards. See section 12 of the Skagit County Road Standards. The deviations from these standards per the letter from Mr. David Sheridan dated 12/3/2004 are approved.





1 4. In accordance with Section 14.18.200(4)(d) of the Skagit County Code, the lot  
2 corners  
3 must be set prior to final plat approval.

4 5. Prior to final plat approval an address range and associated plat note must  
5 be shown on the face of the plat map.

6 6. Prior to final plat approval, all requirements outlined within Skagit County  
7 Code section 14.18 must be met.

8 7. All property taxes must be paid prior to final plat approval.

9 8. A plat note must be added stating that a \$100/lot park impact fee will be  
10 paid. The applicant has the option of designating this fee as being paid prior to  
11 final plat or prior to a building permit being issued.

12 9. A plat note must be added stating that school impact fees must be paid at  
13 the time a building permit is issued.

14 10. If covenants and restrictions are to be placed on the plat map, it should be  
15 described by a plat note.

16 11. The applicant shall comply with the conditions outlined within the SEPA  
17 threshold determination (MDNS) published on July 28, 2005. Conditions are  
18 outlined within Departmental Findings # 3.

19 12. The plat map shall indicate the location of PCA (OS-PA) signage. Typically  
20 signs should be located every 200 feet or line of sight, whichever is closer.  
21 Signage shall be placed along lots 2 through 6.

22 13. As per SCC 14.24.170 (1), The Protected Critical Area Easement Agreement  
23 and the plat map shall be amended to include a plat note that any future  
24 development within the area designated as OS-PA shall require a critical areas  
25 site assessment for that portion of the OS-PA within 200 feet the proposed  
development area(s).

14. Fireflow must be provided within 450 feet of each lot as per Coordinated  
Water System Plan (CWSP) table 4.3. The Fire Marshall must approve the  
water plans prior to the water line extension. Driveways must be constructed  
to the lot line of each lot prior to final plat approval.

15. Driveways must be constructed to the lot line of each lot prior to final plat  
approval.



1 16. Prior to final plat approval all Skagit County Health Department  
2 requirements for water supply and aquifer recharge must be met.

3 17. Per Skagit County Code section 14.18.100(6)(b), the preliminary plat shall  
4 be valid for a period of 5 years from the date of preliminary plat approval by  
5 the Skagit County Board of County Commissioners.

6  
7 **RECOMMENDATION**

8 The Hearing Examiner hereby recommends that the proposed preliminary plat be  
9 approved, subject to the conditions set forth above.

10  
11  
12   
13 BRADFORD E. FURLONG  
14 Hearing Examiner Pro Tem

15 Date of Action: November 23, 2005

16 Date of Transmittal to applicant: November 23, 2005  
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