

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND RECOMMENDATION**

**Applicant:** Keith Padgett  
377 S. Burlington Blvd.  
Burlington, WA 98233

**Agent:** Nova Heaton  
Bayview Surveying  
130 Sharon Avenue  
Burlington, WA 98233

**File No:** PL05-0208

**Request:** Preliminary Plat (Alger Acres)

**Location:** 1707 Lake Samish Road, within a portion of the W1/2NW1/4SE1/4 and the W1/2SW1/4SE1/4 lying west of the abandoned railroad grade in Sec 7, T36N, R4E, W.M.

**Summary of Proposal:** Approval of a preliminary plat for division of about 13 acres into a 13 lots through the CaRD process. About 7 acres will be tied to one residential building lot and will be designated with CaRD open space categories. The other 12 lots will be clustered and will range in size from .30 acres to .55 acres. The project will be served by an internal road and PUD water. The decision on whether to use onsite sewage disposal or to hook up to the public sewer system has not been made.

**Public Hearing:** After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on March 8, 2006. The record was left open for a week. One post-hearing public letter was received, and the Prosecutor's Office provided an opinion requested by the Examiner. The record closed on March 15, 2006.

**Recommendation:** The application should be approved, subject to conditions.

## **FINDINGS OF FACT**

1. Keith Padgett (applicant) seeks approval of a 13-lot Preliminary Plat on property immediately west of the community of Alger.
2. The property's address is 1707 Lake Samish Road. It is within a portion of the W1/2NW1/4SE1/4 and the W1/2SW1/4SE1/4 lying west of the abandoned railroad grade in Sec. 7, T36N, R4E, W.M. The parcel number is P49078. The location is about ½ mile east of the Interstate 5 Alger exit.
3. The property comprises approximately 13 acres on the north side of Lake Samish Road. The parcel has a predominantly rectangular shape, lies in a north-south configuration and for most of its length is over 460 feet wide. The southern boundary is irregular, narrowing to about 150 feet wide along the road. The site is basically flat, with a slight slope to the north and west. The acreage is primarily fallow pasture covered by grass and blackberries with small areas of alder and evergreen trees. It is undeveloped.
4. The Comprehensive Plan designates the subject property as Rural Village. It is zoned as Rural Village Residential (RVR). Adjacent to the east across an abandoned railroad right-of-way are relatively small residential lots. Adjacent to the west is Agricultural – Natural Resource Land. The subject property is not within a flood hazard zone.
5. Friday Creek, a salmon-bearing stream, runs about 500 feet west of the property. There is a Category II wetland covering the north half of the property which continues offsite to the west and north. Near the western boundary is a manmade drainage ditch that flows north
6. The residential development will be clustered in the southern part of the acreage. The wetland and its buffer will be free of development and permanently protected as open space by a Protected Critical Area Easement (PCAE). The protected area will encompass approximately 5.8 acres.
7. Overall about 7 acres will be retained in open space. Most of the open area not committed to the PCAE will contain a treatment/detention system for stormwater. The system will include a detention pond near the western boundary with a bio-filtration swale at the north end, releasing flow into the wetland. This system will incorporate the man made ditch. The stormwater system is described in a professionally prepared Stormwater Report and is designed to comply with the Department of Ecology's Stormwater Management Manual for Western Washington. The system will provide pollution removal prior to stormwater discharge to the wetlands or ultimately to Friday Creek.

8. The proposed 13-lot property division will create 12 lots, ranging in size from .30 acre to .53 acres, in the southern portion of the property. The remaining 7.68 acre lot will contain a designated building area of approximately .56 acre for one residence, with the balance devoted to open space. There will be an internal plat road, called Azure Way, that will be constructed to County Public Road Standards and dedicated as a public road. The road will end with a culdesac at Lots 8 and 9. An easement will provide access from the road to Lots 6 and 7.

9. Onsite utilities will be undergrounded. Runoff will be captured in two parallel roadside ditches which will conduct it to a 12" pipe that will convey it to the detention pond on the western edge of the site. The stormwater pipe will be sized to convey the full site stormwater runoff.

10. Approximately 4,000 cubic yards of materials will be excavated for detention pond and road alignment grading. Approximately 1,000 cubic yards of fill material will be brought in for the road. Temporary erosion and siltation controls will be employed during construction.

11. The property will be served by public water from PUD #1. There is an existing 12" main in Lake Samish Road. Each lot will be limited to 400 gallons per day. Lawn watering will not be allowed between June 1 and September 30. The plat will be required to meet the fire flow requirements of the Coordinated Water System Plan. A fire hydrant is proposed between Lots 10 and 11. The water pressure will be adequate to provide the required fire flow. The property is within the boundaries of a County Fire Protection District.

12. The Samish Water District has a sewer force main located on the south side of Lake Samish Road. The applicant was initially told that connection to the sewer would not be allowed. Therefore, his consultants designed a waste disposal system for the subdivision involving individual on-site septic tanks and drainfields. The soils are appropriate for such a system and its installation has been approved.

13. A Hydrogeological Investigation commissioned by the applicant determined that groundwater beneath the site is contained in a deep confined aquifer overlain by sediment layers composed in part of clay. As a result, it is not expected that the septic discharge will have any effect on the aquifer. The analysis also concluded that no adverse impacts on Friday Creek are likely.

14. The applicant has now been advised that there is no legal impediment to connecting to the sewer. The Samish Water District is willing to provide sewer service upon entering into a developer's extension agreement. If public sewer service were chosen, each lot would require an individual sewer grinder pump station connected to a common force main sized for the 13-lot development. Maintenance of the grinder pump would be the responsibility of the owner of each lot.

15. The Hearing Examiner asked the Prosecuting Attorney's Office for an opinion on whether, given the availability of a public sewer, the applicant had an obligation to hook up to it in developing his subdivision. The Prosecutor's Office provided an opinion that, under the circumstances of this case, connection to the public sewer is an option, not a requirement.

16. A landscaping plan has been provided. It includes a 10-foot strip of conifers, 15-feet on center, along the eastern property line up to the critical area buffer and along southern property boundary. A 20-foot strip of conifers will be planted along the western property line up to the critical area buffer. The project will observe the 200-foot building setback from Natural Resource Lands.

17. The Stormwater Report contains a detailed operation and maintenance manual for the stormwater and drainage system. The homeowners will be made responsible for this, as well as for ongoing critical area protection, through the imposition of private covenants, conditions and restrictions (CC&R's).

18. The homeowners will be obliged to pay appropriate impacts fees related to public parks and public schools.

19. After environmental review, a Mitigated Determination of Non-Significance (MDNS) under the State Environmental Policy Act (SEPA) was issued on January 5, 2006. There were no comments. The MDNS was not appealed. The conditions imposed were standard requirements for compliance with existing regulations.

20. A Notice of Development was posted on the property, mailed and published as required by law. The public hearing was duly advertised. Three comment letters were received prior to the hearing. At the hearing, one of the writers provided public testimony.

21. The concerns expressed by the public dealt with possible impacts to the wetlands and Friday Creek, the clustering of residential lots, increased traffic, and the use of septic tanks when a sewer is available.

22. After reviewing the record, the Examiner is satisfied that the wetlands and the creek are adequately protected by the design of the project. The smaller lot sizes are permitted by the CaRD land division method. Traffic generated by the site will not exceed the capacity of the adjacent roads. Public Works had no comments on traffic. The use of septic tanks apparently remains a matter of the applicant's choice.

23. The applicant testified that he is still evaluating whether to connect to the public sewer. He said believes that the overall subdivision design, including the landscaping for the project, will provide an aesthetically pleasing result.

24. The application was circulated to County Departments. Comments from the departments can be and are reflected as conditions of approval

25. The State Platting Statute requires that subdivisions make “adequate provisions” for public health, safety, and general welfare and for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and other relevant planning features.

26. The Staff Report analyzes the project is light of the applicable statutory criteria and determines that, as conditioned, the project will be consistent with them. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

27. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding. SCC 14.06.050(1)(c)(i).

2. The requirements of SEPA have been met.

3. CaRD’s are permitted in Rural Village Residential zones. SCC 14.18.300(2)(c). The proposed subdivision is consistent with the applicable CaRD approval requirements, including the clustering and allowable density provisions. SCC 14.18.310, 14.18.330.

4. The project meets the general preliminary plat requirements of SCC 14.18.100.

5. The project, as conditioned, is consistent with the statutory requirements of RCW 58.17.110(2)(a). The public use and interest will be served by the platting of the subdivision.

6. Any finding herein which may be deemed a conclusion is hereby adopted as such.

### **CONDITIONS**

1. The subdivision shall be developed as described in the application materials, except as the same may be modified by these conditions.

2. The final plat shall comply with the provisions of SCC 14.18.200 and Chapter 58.17 RCW.

3. The applicant shall comply with all conditions set forth in the Mitigated Determination of Non-Significance, issued on January 5, 2006.

4. All standard plat notes and appropriate departmental signoffs shall be required on the plat map.

5. Azure Way is the approved road name and must be shown on the final plat map.

6. Prior to final plat approval, the address range shall be shown on the plat map along with the correct plat note.

7. Prior to final plat approval, the lot corners must be set in accordance with SCC 14.18.200(4)(d).

8. On the final plat map, access locations (driveways) must be shown along the plat road for each lot, including distance from lot lines.

9. Prior to final plat approval, the applicant shall submit lot closures that correspond with the lot lines as shown on the face of the plat.

10. A 200-foot setback for building shall be observed from adjacent parcels designated Natural Resource Lands.

11. A note shall be placed on the plat map stating that an impact fee for parks of \$100 per lot will be assessed at the time of building permit issuance.

12. A note shall be placed on the plat map stating that an impact fee for schools as required by the Capital Facilities Plan for the Burlington Edison School District will be assessed the time of building permit issuance.

13. Prior to final plat approval, the screening areas of landscaping shall be installed or a performance assurance bond as described in SCC 14.16.830(g) shall be furnished.

14. A note shall be placed on the plat map providing for the maintenance of the open space, including the screening areas shown in the landscaping plan.

15. Maintenance of the screening areas of landscaping shall comply with SCC 14.16.830(f).

16. The internal plat road shall be constructed to current Skagit County public road standards. See Skagit County Road Standards, Figure B-2.

17. The plat road requires centerline monumentation, per Section 7.05D of the Skagit County Road Standards.
18. Maintenance and restoration surety shall be provided in accordance with Section 14.02, Skagit County Road Standards.
19. The applicant shall submit as-built drawings for the plat road.
20. Road name signs shall be provided per Section 7.10 of the Skagit County Road Standards.
21. Prior to final plat approval, the driveway to Lots 6 and 7 shall be constructed, in accordance with SCC 14.18.200(4)(h). If the driveway exceeds 150 feet, it shall meet the requirements shown on figure C-18, Skagit County Road Standards.
22. Prior to final plat approval, the applicant shall supply a copy of an approved access permit to the existing County road.
23. A separate Grading Permit shall be obtained prior to construction of the roadway and drainage facilities. The permit application shall include engineered plans consisting of title sheet, plan and profile, erosion control plan, stormwater drainage plan, specifications and details. A preconstruction meeting shall be scheduled with the Department of Public Works as part of the Grading Permit process.
24. Prior to commencing road construction, the applicant must post one or more signs showing the names or business names of both the applicant and the project engineer as well as a contact telephone number for each, in accordance with Section 12.09 of the Skagit County Road Standards.
25. Road construction and drainage facilities shall be inspected and certified by the Project Engineer for compliance with County standards. See Section 12.00 of the Skagit County Road Standards.
26. The applicant must provide a Maintenance Plan for all stormwater and drainage system conveyance systems, in accordance with SCC 14.32.100(3)(a). This plan shall be noted on the face of the plat and recorded with the final plat.
27. The applicant shall submit a Protected Critical Area Easement (PCAЕ) for review and approval.
28. A Plat note shall reference the PCAЕ and the Auditors recording file number.
29. Prior to final plat approval, permanent buffer edge markers must be installed on site.

30. The applicant shall install a fire hydrant, preferably at the lot line between Lots 10 and 11. The hydrant shall be fitted with a 5" Storz fitting.

31. Prior to final plat approval, property taxes for the current year along with advance taxes for the next year and any delinquent taxes shall be paid.

32. If septic systems are used, the sewage line from Lot 10 to the drainfield on Lot 5 shall be installed or bonded for prior to final plat approval.

33. If public sewer is used, the lines must be installed or bonded to each lot prior to final plat approval.

34. Prior to final plat approval, the applicant shall satisfy any requirements of Public Utility District #1. The applicant shall supply a written copy of the PUD-required work completion acceptance by the PUD Board.

35. Water lines must be installed or bonded to each lot prior to final plat approval. See SCC 12.48.190.

36. The installation of all side service lines shall be approved in writing by the Land Division Engineer, Department of Planning and Development Services.

37. The application shall comply with the provisions of SCC 14.16.870, Notification of Development Activities on or Adjacent to Designated Natural Resource Lands.

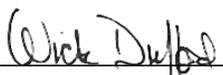
38. Prior to final plat approval, the applicant shall submit a copy of the CC&R's for review.

39. All preliminary plat outstanding review fees shall be paid in full prior to submittal of the final plat.

40. The preliminary plat shall be valid for a period of five (5) years from the date of approval by the Board of County Commissioners.

### **RECOMMENDATION**

The preliminary plat for Alger Acres should be approved, subject to the conditions set forth above.

  
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Wick Dufford, Hearing Examiner

Date of Action: April 4, 2006

Date Transmitted to Applicant: April 4, 2006