

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND RECOMMENDATION

Applicant: Morris Nilson
23145 Gunderson Road
Mount Vernon, WA 98273

Agent: Bruce Lisser
Lisser & Associates
P. O. Box 1109
Mount Vernon, WA 98273

File No: PL08-0376

Request: Preliminary Plat for Perrigo Estates (Long CARd)

Location: 37054 State Route 20. Government Lot 4 and a portion of SW1/4NW1/4 Sec. 17, T35N, R7E, W.M.

Parcel Nos: P42921, P43006, P116600, P42971

Land Use Designation: Rural Reserve (RRv)

Summary of Proposal: To divide approximately 83 acres into 15 one-acre lots for residential development, leaving one roughly 66-acre lot with a development right and the remainder designated as open space. Standard public roads, on-site sewage systems and public water from Skagit County Water District #1 will serve the project. (A Shoreline Substantial Development permit is sought concurrently to allow placement of an access road and associated utilities within the shoreline of the Skagit River. The shoreline permit is dealt with in a separate decision document.)

Public Hearing: After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing on February 25, 2009.

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

FINDINGS OF FACT

1. Laurel Perrigo is the owner of approximately 83 acres. She has entered into an agreement with developer Morris Nilson to subdivide the property into 15 one-acre lots with the remaining acreage to remain in her hands. The subdivision will be called Perrigo Estates.

2. Ms. Perrigo owns an existing residence on the residual lot, served by an existing domestic well. This home will be retained and recognized with a development right. The rest of the residual acreage will be designated as Open Space – Rural Open, and Open Space – Preservation Area.

3. The majority of the property is located between Highway 20 on the north and Cape Horn Road on the south. The property is a short distance west of Pinelli Road. The address is 37054 State Route 20. The site is within Government Lot 4 and a portion of the SW1/4NW1/4 Sec. 17, T35N, R7E, W.M. The zoning for the property is Rural Reserve (RRv).

4. Cape Horn Road runs parallel to the Skagit River near the south boundary of the property. The 200 feet nearest the water are within shoreline jurisdiction. There is a small unbuildable strip of such land lying between Cape Horn Road and the river which is within an A12 Flood Hazard Zone. The relevant shoreline designation is Rural. The shoreline permit needed for placement of the access road and associated utilities is dealt with in a separate decision.

5. The existing residence is located in the north half of the property along with a wetland area. The southern portion of the property was previously farmed as a short rotation Cottonwood plantation, but the trees have recently been harvested and removed. The area has been disked and is now fallow. Along the middle of the eastern boundary is a small mixed forest which takes up less than 10% of the property.

6. The surrounding properties are a mixture of large and small acreage parcels that are for the most part developed. The subject property is within 500 feet of designated natural resource land.

7. The new construction will be on the relatively flat southern portion of the property, landward of the area of jurisdictional shoreline. The 15 residential parcels will be accessed via Perrigo Lane, a new roadway running north from Cape Horn Road. An intersecting internal roadway, running east/west, is to be called Perrigo Court. The grouping of the residential development forms two cluster pods. Lots 1, 2, 3, and 15 will be accessed from Perrigo Lane. Perrigo Court will serve the remaining lots, ending in a cul-de-sac. Both roads will have a 50-foot right-of-way, will be dedicated as public roads, and will be constructed to public road standards.

8. Water for the new homes will be provided by Skagit County Water District #1. The development will require the extension of a public waterline. Sewage disposal will be by individual on-site septic systems. On preliminary investigation, the soils appear suitable.

9. The plat will be required to meet fire flow requirements of the Coordinated Water System Plan (CWSP). The project is within a Fire Protection District. The developer will place hydrants as directed and approved by the Fire District.

10. A drainage analysis was submitted. Because of the sandy loam soils on the property, it is anticipated that all on-site storm runoff will remain on-site until it percolates into the earth. Three retention/infiltration ditches will be constructed within 20-foot drainage easements. All storm water will flow into a retention area along Cape Horn Road.

11. The cluster pods will be screened from the existing adjacent public road by topography and landscaping. The landscaping/screening plan calls for a 30-foot landscape strip along Cape Horn Road and a 15-foot strip along the eastern part of Perrigo Lane. The landscaping will consist of a combination of European birch, Douglas fir, Western red cedar, shore pine, and vine maple.

12. The existing residence on the large lot in the northern portion of the property will continue to be accessed from State Route 20 and will continue to be served by an individual domestic well and by its own septic system.

13. Approximately 64 acres of the large lot will be designated as Open Space-Rural Open (OS-RO). The small strip (about an acre) lying between Cape Horn Road and the river will be designated as Open Space-Protective Area (OS-PA). A mature stand of trees there will be preserved. As noted, additional landscaping will be planted on the north side of the road.

14. The OS-RO area will also include approximately 16.6 acres in the northeast corner of the property that are within a Category II wetland and its 100-foot buffer. These acres will be included within a Protected Critical Area (PCA). The remainder of the OS-RO land will be committed to open space uses that have not been specifically identified

15. The application was submitted to various County departments for review. Their comments are included below as conditions of approval.

16. Only one comment was received from the public. During the initial plat comment period an adjacent owner raised concerns about minimum lot size requirements and the possibility of spot zoning. Planning and Development Services (PDS) responded

with an explanation of CaRD provisions. There was no public testimony at the public hearing.

17. A Mitigated Determination of Non-Significance (MDNS) under the State Environmental Policy Act (SEPA) was issued for the project on November 13, 2008. The MDNS was not appealed. An Addendum was issued on January 6, 2009 to accommodate shorelines considerations. There were no comments. The MDNS contained the following conditions:

1. Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the placement of any fill material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measures shall remain in place until completion of the project.
2. The applicant will be required to schedule a preconstruction meeting with Public Works prior the start of road construction.
3. The applicant shall comply with Northwest Air Pollution Authority requirements.
4. The development will be required to meet the fire flow requirements of the Coordinated Water System Plan (CWSP). The system is to be installed prior to final approval.
5. Operation of equipment/construction and daily operations shall comply with Maximum Environmental Noise Levels, Chapter 173-60 WAC, and address noise and vibration limitations, and SCC 14.16.840 for light and noise conditions. This includes ventilation for safety, heating and cooling of any office and storage/garage/preparation/barns or recreational buildings, as well as operation of daily use and activities.
6. Washington State WAC's 173-201A and 173-200 shall be complied with, as required to address surface water quality issues and ground water issues. Best management practices shall be utilized to prevent interference and/or degradation of water quality. There shall be no maintenance of vehicles or equipment on the property.
7. All critical areas and buffers shall comply with Protected Critical Area Standards per Skagit County Code 14.24
8. The applicant shall provide a formal mechanism for the collection & distribution of the proposed mitigation for Skagit County Park and Recreation fees prior to final plat approval.

18. The utilities and public facilities required by the development – e.g., electricity, telephone, water supply, fire protection, septic systems, area roads – are all available with adequate capacity to serve the proposal. The impacts of the project on parks and recreation and on schools in the area can be mitigated by the payment of appropriate impact fees. The record does not disclose whether the development is on a public transit route, but if it is, a transit stop will be required.

19. Planning and Development Services (PDS) evaluated the application under the criteria set forth in RCW 58.17.110(2)(a), including (a) public health, safety and general welfare, (b) open spaces, (c) drainage ways, (d) streets and roads, (e) potable water supplies, (f) sanitary wastes, (g) parks and recreation, (h) schools and school grounds, (i) public use and interest. They concluded that the infrastructure and planning considerations statutorily required for preliminary plat approval have all been adequately provided for by the proposal, as conditioned. The Staff Report and analysis is hereby incorporated herein as though fully set forth. The Hearing Examiner concurs with this analysis and expressly finds that the proposal, as conditioned, meets the requirements of RCW 58.17.110(2)(a).

20. 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 subject matter of this application. Staff points out a Code conflict between SCC 14.06.050(1)(b)(vi) and SCC 14.18.100(3)(d). The former requires a Hearing Examiner decision on a preliminary plat between 9 and 50 lots. The latter requires a Hearing Examiner recommendation to the Board of Commissioners, with the Board making the final decision on a plat between 9 and 50 lots. The Staff asks that the latter process be used on the basis that SCC 14.18.100(3)(d), in the Land Division chapter, is the more specific reference. The Hearing Examiner accepts the Staff's position and has issued this report as a recommendation.

2. Because of part of this property is within shoreline jurisdiction and because activities within the shoreline will cost more than the exempted amount, this proposal also requires a Shoreline Substantial Development Permit. The shoreline permit decision has been made in a separate decision issued concurrently with the preliminary plat recommendation.

3. The requirements of SEPA have been met.

4. The proposal, as conditioned below, is consistent with SCC 14.18.000, 100, and 300. In particular, requirements for access, public streets, minimum frontage, parks, open space, fire protection water supply, and concurrency of services are met. CaRD

requirements on density, open space, lot size, setback, avoidance of critical areas, clustering and screening are met.

5. The proposal, as conditioned below, satisfies the requirements of Chapter 58.17 RCW.

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

CONDITIONS

1. The project shall conform to 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, Chapter 58.17 RCW, and the conditions included in the MDNS (see Finding 17), prior to final approval.

3. All standard plat notes and appropriate departmental signoffs are required on the final plat map.

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

5. Prior to final plat approval, the lot corners must be set per SCC 14.18.200(4)(d).

6. Prior to final plat approval, the approved landscaping plan must be planted or bonded in compliance with SCC 14.16.830(5)(g).

7. All plat notes shown on the approved preliminary plat map shall be on the final plat map, except as modified herein.

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

9. Per SCC 14.18.100(b)(iv), proposed articles of incorporation, bylaws, and covenants, conditions and restrictions (CC&Rs), if any, shall be submitted to PDS for review.

10. All plat roads require centerline monumentation, per Section 7.05D in the Skagit County Road Standards manual.

11. Maintenance and restoration surety is required in accordance with Section 14.02 of the Skagit County Road Standards.

12. Prior to final plat approval, acceptable formatted as-built plans, submitted to the appropriate department, are required for all road, drainage facilities and water lines.

13. An engineered Grading Permit is required for the construction of the roads and drainage facilities. Construction plans must be prepared by a licensed civil engineer.

14. A preconstruction meeting shall be scheduled with the Public Works Department, as part of the grading permit process.

15. Prior to starting road construction, and in accordance with Skagit County Road Standards, Section 12.09, the applicant shall post one or more signs showing the names or business names of both the applicant and the project engineer, as well as contact telephone numbers for each.

16. Road and detention facility construction shall be inspected and the Project Engineer shall certify that they are in compliance with County standards. (Section 12.00 of the Skagit County Road Standards.)

17. In accordance with SCC 14.32.100(3), the applicant shall provide a Maintenance Plan for all stormwater and drainage conveyance systems. This plan shall be recorded and noted on the face of the final plat.

18. The internal roadway shall be constructed to the standard defined in drawing B-2 of the Skagit County Road Standards.

19. A note reading “Dedicated to Skagit County” shall be placed on the face of the plat within the new right-of-way sections.

20. Construction plans and specifications for the stormwater facility shall be provided as part of the drainage report. Cross section drawings must be included.

21. The final plat map shall show on which side of the internal plat road the water lines lie, and shall also show any easements.

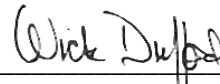
22. A copy of the Engineers Construction Verification that the water line was completed (installation, pressure test, bacti) on Cape Horn, Perrigo Lane and Perrigo Court must be submitted to the County Health Department. A confirmation field visit with the designing engineer or the water systems engineer and the Health Department must be completed.

23. Prior to final plat approval, all main and side service lines to Lots 1-15 are required to be installed and a written approval by the land division engineer shall be submitted to PDS after inspection by the County Health Department.
24. All Skagit County Water District #1 requirements shall be met and accepted prior to final plat approval.
25. Note #5 on the preliminary plat may be modified by removing the last three sentences.
26. Any additional requirements by the County Health Department shall be met prior to final plat approval. A written approval from the Health Department shall be submitted.
27. The applicant shall submit a Protected Critical Area Easement (PCAE) agreement to PDS for review and approval.
28. The final plat map shall indicate the location of PCAE signs. Typically signs should be located every 200 feet or line of sight, whichever is closer.
29. Prior to final plat approval, the fire flow water system meeting CWSP Table 4-3(5) shall be installed, inspected and approved by the purveyor and the appropriate Fire District.
30. Property taxes for the current year along with advance taxes for next year and any delinquent taxes shall be paid prior to final plat approval.
31. The applicant shall include a plat note that references the need to pay appropriate school impact mitigation fees prior to building permit issuance, pursuant to the Sedro-Woolley School District Capital Facilities Plan.
32. The subject project shall comply with all relevant ordinances and statutes.
33. If the applicant proposes any modifications of this proposal as described in the submitted project information, the applicant shall apply for the approval of same with PDS prior to the start of construction.
34. All outstanding review fees shall be paid prior to submittal of the final plat.
35. The preliminary plat shall be valid for a period of five (5) years) from the date of the signed resolution by the Board of County Commissioners.

RECOMMENDATION

The Preliminary Plat of Perrigo Estates should be approved, subject to the conditions set forth above.

DONE this 13th day of March, 2009.



Wick Dufford, Hearing Examiner