



Cathy Wolfe
 District One
 Diane Oberquell
 District Two
 Robert N. Macleod
 District Three

HEARING EXAMINER

**BEFORE THE HEARING EXAMINER
 FOR THURSTON COUNTY**

In the Matter of the Application of)	NO. 2005104839
)	
Steve Chamberlain,)	
On behalf of DRH LLC)	Deschutes River Plat Amendment
)	
for Amendment of an Approved)	FINDINGS, CONCLUSIONS,
Preliminary Plat)	AND DECISION
_____)	

SUMMARY OF DECISION

An amendment of the Deschutes River Highlands preliminary plat, which would revise the approved road layout resulting in an expansion of roads and lots into areas previously approved as open space of the previously approved preliminary plat, located at 2005 – 65th Avenue SE in Olympia, Washington is **APPROVED**, subject to conditions.

SUMMARY OF RECORD

Request

Steve Chamberlain, on behalf of DRH LLC (Applicant), requests approval of an amendment to the approved Deschutes River Highlands preliminary plat (Nos. PLAT/SSDP/AAPL 020244) that would revise the approved road layout, resulting in an expansion of roads and lots into areas previously approved as open space along the southern boundary of the project. The subject property is located at 2005 – 65th Avenue SE in Olympia, Washington.

Hearing Date:

The Thurston County Hearing Examiner held an open record hearing on the application on January 16, 2007.

Testimony:

At the open record hearing, the following individuals presented testimony under oath:

Robert Smith, AICP, Development Services Department
Arthur Saint, P.E., Roads and Transportation Department
Craig Steepy, Applicant Representative
Sue Danver

Curt Smelser, Attorney, represented the Applicant.

Exhibits:

At the open record hearing the following exhibits were admitted:

EXHIBIT 1 Development Services Planning and Environmental Section Report on plat, including the following attachments:

- Attachment a Notice of Public Hearing
- Attachment b Zoning/Site Map
- Attachment c Preliminary Plat Amendment Application, received January 24, 2006
- Attachment d Project Narrative, undated
- Attachment e Amended Preliminary Plat Map, Dated December 2005
- Attachment f December 13, 2006 Comment Memorandum from Jack King, Water and Waste Management Department
- Attachment g March 14, 2006 Comment Letter from John Ward, Environmental Health Department
- Attachment h Gopher Management Plan, July 6, 2006
- Attachment i August 24, 2006 Letter from Key McMurry, Washington State Department of Fish and Wildlife, commenting on Gopher Management Plan
- Attachment j December 15, 2005 Decision Letter from Robert Smith, Development Services Department, to Steven Chamberlain regarding an Administrative Plat Amendment Application (05 116021 ZJ), with attached Letter from Scott Davis, Thurston County Roads and Trans. Services, to Robert Smith, dated November 10, 2005
- Attachment k October 4, 2006 Decision Letter from Robert Smith, Development Services Department, to DRH, LLC regarding a Forest Land Conversion Application (06 100550 XB)

- Attachment l September 29, 2006 Decision Letter from Robert Smith, Development Services Department, to Steve Chamberlain regarding an Administrative Wetland Buffer Reduction Application (06 101003 ZQ)
- Attachment m December 15, 2006 Revised Decision Letter from Robert Smith, Development Services Department, to Steve Chamberlain regarding an Administrative Wetland Buffer Reduction Application (06 101003 ZQ)
- Attachment n Revised Mitigated Determination of Non-Significance, issued May 18, 2004
- Attachment o Comment Letters from Interested Citizens
 1. March 10, 2006 from Sean Atteridge and Beverly Atteridge
 2. March 11, 2006 from Dianne Foster
 3. March 13, 2006 from Richard Bailey and Sharon Bailey
 4. March 16, 2006 from Francesca Woodring
 5. March 16, 2006 from Quinten Rue
 6. March 17, 2006 from Richard and Sara Knight
 7. March 18, 2006 from Ken Orcutt
 8. March 19, 2006 from Roberta Rons
 9. March 19, 2006 from Ken Orcutt
 10. March 19, 2006 from Bernie Miller
 11. March 19, 2006 from Steve and Chris Lowell
 12. March 19, 2006 from Jacqui Brown Miller
 13. March 20, 2006 from Kip Woodring
 14. March 20, 2006 from Barbara Price
 15. March 20, 2006 from John and Michelle Elliott
 16. March 20, 2006 from Paul and Tamera Strawn
 17. March 21, 2006 from Estell and Lucille Maynard
 18. March 21, 2006 from Black Hills Audubon Society
 19. March 21, 2006 from Heather HibbertRime and Todd Rime
 20. March 21, 2006 from Mr. & Mrs. Arnold Wiskirken

EXHIBIT 2 Enlarged Site Plan

EXHIBIT 3 Board of Commissioners Decision on Plat Appeal, dated March 30, 2005, with the associated February 11, 2005 hearing examiner preliminary plat decision (PLAT/SSDP/AAPL 020244)

EXHIBIT 4 Color Photo of Public Notice Posting

EXHIBIT 5 Comment Letters from the following:

1. Email from R. Happy Rons, January 11, 2007

2. Email from Jacqui Brown Miller, January 9, 2007
3. Letter from Wayne Lieb, January 11, 2007
4. Arnold & Geri Wiskirken

EXHIBIT 6 Comment Letter from City of Tumwater, January 12, 2007

EXHIBIT 7 Color Map Titled “Open Space Exhibit”

EXHIBIT 8 Comment Letter from Sue Danver, Black Hills Audubon Society, January 15, 2007

EXHIBIT 9 Applicant Response to Comment Letters, January 19, 2007

EXHIBIT 10¹ Applicant’s Response to Examiner’s February 9, 2007 Order requesting additional information

EXHIBIT 11 County’s Response to Examiner’s February 9, 2007 Order requesting additional information

EXHIBIT 12² Public Comment from Sue Danver, Black Hills Audubon Society, in response to Examiner’s February 9, 2007 Order requesting additional information

Upon consideration of the testimony and exhibits submitted at the open record hearing, the Hearing Examiner enters the following Findings and Conclusions:

FINDINGS

1. The Applicant requests approval of an amendment to the approved Deschutes River Highlands preliminary plat which would revise the approved road layout resulting in an expansion of roads and lots into areas previously approved as open space along the southern boundary of the project. The site is located at 2005 – 65th Avenue SE in Olympia, Washington.³ *Exhibit 1, page 1; Exhibit 1, Attachment b, Application; Testimony of Mr. Smith.*

¹ During deliberations after close of the record, the Examiner determined that more information was necessary to reach a decision on the merits of the application. Consistent with Hearing Examiner Rules of Procedure Rule 9.4a, the record was reopened for additional information by Order dated February 9, 2007. All parties of record were given notice and the opportunity to respond. Exhibits 10, 11, and 12 were submitted in response to the Order.

² In comments in response to the February 9, 2007 post-hearing Order, BHAS addressed the information requested by the Examiner regarding the proposed emergency access at 73rd Avenue. However, BHAS also addressed many issues not raised by the Examiner in the post-hearing Order. These additional issues were beyond the scope of the post-hearing order and are not addressed in this decision. [

³ The legal description of the subject property is a portion of the south half of Section 1, Township 17 North, Range 2 West, W.M.; known as Tax Parcel No. 12701410000. *Exhibit 1, page 2.*

2. Pursuant to the State Environmental Policy Act (SEPA), Thurston County was designated lead agency for review of environmental impacts caused by the underlying Deschutes River Highlands preliminary plat application. The County issued a Revised Mitigated Determination of Non-Significance (RMDNS) on May 18, 2004. The RMDNS was appealed to the Hearing Examiner. The SEPA appeal was consolidated with the preliminary plat application and heard by the Thurston County Hearing Examiner, who denied the SEPA appeal and approved the plat on February 11, 2005 (PLAT/SSDP/AAPL 020244). The Examiner's denial of the SEPA appeal was appealed to the Board of County Commissioners. On March 30, 2005, the Board of Commissioners affirmed the Examiner's decision denying the SEPA appeal and affirmed the plat decision, amending one condition of approval regarding secondary plat access. *Exhibit 3; Exhibit 1, page 3; Testimony of Mr. Smith; Exhibit 1, Attachment n.*
3. After the Board's preliminary plat decision was issued, the Applicant submitted and received administrative approval of applications for administrative plat amendment, forestland conversion, and wetland buffer reduction (discussed below in Findings 4 through 10). *Exhibit 1, page 3; Testimony of Mr. Smith.*
4. On December 15, 2006, Development Services issued a decision conditionally approving road and lot layout revisions within the approved development envelope pursuant to Thurston County Code (TCC) 18.12.160.⁴ *Exhibit 1, Attachment j.*
5. On October 4, 2006, Development Services approved an application for forestland conversion. In the initial forestland conversion application the Applicant requested permission to log a number of trees within the 200-foot Munn Lake shoreline buffer area and within areas of approved open space, landslide hazard, and critical area buffers along the bluff in the northern and eastern parts of the site. The Applicant rescinded its proposal to log within the shoreline and critical areas. The approved forestry application does not allow logging within the 200-foot Munn Lake shoreline buffer area, nor within approved open space, landslide hazard, or wetlands along the bluff in the north and east portions of the site. Logging is permitted only within the approved development envelope and within the 73rd Avenue SW right-of-way corridor to be developed as an emergency access road. *Exhibit 1, Attachment k.*
6. Two areas of wetland buffer reduction were proposed: 1) reduction of the Class II wetland buffer for creation of an emergency access from 73rd Avenue SW via construction of a bridge over the wetland; and 2) reduction of a buffer for a class II wetland at the base of the bluff in the north and east portions of the site adjacent to Lots 38 through 59 of the revised plat layout. The emergency access road buffer reduction was approved administratively on September 29, 2006 pursuant to TCC 17.15.925, Table

⁴ To distinguish the administratively approved plat amendment from the present application for plat amendment, the administrative approval revised the road layout within the development envelope established in the preliminary plat approval; it did not expand the development envelope or reduce approved open space area. *Exhibit 1, Attachment j; Testimony of Mr. Smith.*

- 5, which allows roads in wetland buffers subject to Department review and compliance with applicable criteria. *Exhibit 1, Attachment l.*
7. The wetland buffer reduction adjacent to the bluff in the north and east portions of the site was approved administratively on December 15, 2006, reducing the required buffer for the wetland at the base of the bluff from 200 feet to 150 feet. The Applicant submitted a Wetland Buffer Impact Analysis and Buffer Enhancement Plan proposing: the removal of invasive species from the buffer; native species plantings; installation of bird- and bat boxes; removal of rubbish and debris from the buffer; and buffer enhancement through the placement of large woody debris. Based on compliance with TCC 17.15.940 Sections B1, B2, and G, the Department reduced the buffer to 150 feet. The edge of the 150-foot wetland buffer would coincide with the 50-foot landslide hazard area setback at the top of the slope. The administrative approval decision notes that all home sites on Lots 38 through 59 would be set back from the existing trees in the reduced buffer such that existing trees would not be potentially dangerous to future residences. The Department determined that the buffer reduction, with conditions, would be consistent with Condition 9 of the May 18, 2004 MDNS. *Exhibit 1, Attachment m.*
 8. The primary purpose of the Applicant's post-approval plat amendment requests is to obtain County approval to realign the internal road system for consistency with Condition A.10 of the February 11, 2005 preliminary plat approval as amended on appeal by the County Board of Commissioners (*Exhibit 3, PLAT/SSDP/AAPL 020244*). Thurston County Roads and Transportation Services Department had expressed concern that the preliminary plat's approved road designs included several roads that had long tangent sections, which tend to encourage vehicle speeds above posted speed limits (i.e., 25 local, 30-35 mph collector). Condition A.10 of the preliminary plat approval required realignment of roads to address the safety concerns. The revised street design would address the safety concern by shortening long stretches of straight road and requiring vehicles to meander through the plat. *Exhibit 1, page 2; Exhibit 1, Attachment d, Project Narrative; Testimony of Mr. Smith; Exhibit 3.*
 9. An additional safety concern raised during the preliminary plat process pertained to adequacy of public and emergency plat access. The approved public access connects to 65th Avenue SE north of the plat. Due to the location of the Deschutes River, Munn Lake, and other surface water bodies, no secondary public access could be provided except for the potential access at 73rd Avenue SE, an undeveloped right-of-way adjacent to the south plat boundary. During the preliminary plat process, the City of Tumwater requested that the Applicant be required to provide public access at 73rd Avenue. In the County's final preliminary plat decision, the Board of Commissioners determined that an emergency-only access from 73rd Avenue would address public safety issues and that public access via 73rd Avenue would not be in the public interest due to the environmental impacts it would likely cause. *Exhibit 3; Exhibit 11.*
 10. The amended internal road alignment would provide two stubs to the south from 72nd Avenue. A public road stub would be placed between proposed Lots 316 and 318 in the southeastern corner of the site; this stub would provide connection to 73rd Avenue if it

were ever developed. Another road stub would be placed in the southwest corner of the plat between proposed Lots 304 and 305. This southwestern stub would be developed into an emergency-only access. Development of the emergency-only access requires construction of a bridge over the class II wetland located within the 73rd Avenue right-of-way near the southwest corner of the site. Mitigation for the wetland buffer impacts caused by the required road construction includes creation of an additional 19,000 square feet of buffer, native species plantings, and revegetation of all disturbed areas. *Exhibit 1, Attachments j and l; Exhibit 3; Exhibit 11.*

11. The only issue pending in the present plat amendment application is expansion of the Phase III development envelope into previously designated open space areas for the purposes of lot reconfiguration and road realignment in the southern 15% of the overall site. *Exhibit 1, Attachments c and d; Testimony of Mr. Steepy.* The requested amendment to the approved plat would expand the development envelope (the area for rights-of-way and lots) approximately 100 feet into a previously approved open space tract along the south property line and approximately 150 feet into an open space track in the southwestern corner of the site. The approved open space in the southwestern corner of the site would be reduced in area but not eliminated. *Exhibit 1, page 2; Exhibit 1, Attachment d, Project Narrative; Exhibit 2.*
12. The overall subject property contains wetlands, steep slopes, Munn Lake, and portions of the 100-year floodplains of Munn Lake and the Deschutes River. No changes are proposed to the on-site Munn Lake Shoreline Master Program jurisdiction area, where 4.89 acres of open space would be set aside. Twenty acres of open space that include portions of the 100-year floodplains of Munn Lake and the Deschutes River would be permanently protected in critical areas tracts. The proposed amendment would not affect other on-site critical areas or their buffers as administratively approved. *Exhibit 1, page 2; Exhibit 2; Exhibit 1, Attachments j, k, l, and m.*
13. The subject property has a Single Family Low Density (SFL) zoning designation within the Tumwater Urban Growth Area (UGA). The project would comply with the minimum lot size, lot width, and density standards of the SFL zone. The presently proposed plat amendment would not alter the number of lots or the density of the project and would not change the proposed use. *Exhibit 1, page 3; Exhibit 2; Exhibit 1, Attachment d.*
14. Subdivisions in the Tumwater UGA must set aside a minimum of ten percent of the gross site area in open space. Open space may contain critical areas and associated buffers. Open space may also contain stormwater facilities that provide active or passive recreation features. In residential subdivisions, open space areas are required to have at least two recreation facilities, one of which must provide active recreation opportunities. *Thurston County Code (TCC) 18.47.040; TCC 15.05.010, Drainage Design and Erosion Control Manual.* The proposed amended plat would contain several tot lots for active recreation opportunities and trails and shoreline access to Munn Lake to provide passive recreational opportunities. *Exhibit 1, page 4.*

15. The approved plat, as amended by the Board of County Commissioners, set aside 54.5 acres of open space, which amounted to 51% of the gross site area. The instant plat amendment would reduce the open space to 46.3 acres, or 43% of the gross site area. Although the amendment represents a reduction in open space, the area proposed to be set aside would still exceed the minimum ten percent as required by County Code. *Exhibit 1, page 4; Exhibit 2; Exhibit 1, Attachment d, Project Narrative; Testimony of Mr. Smith.*
16. During the development of the original application for the plat, the Applicant submitted a preliminary drainage and erosion control plan. The proposed amendments to the plat layout would not significantly alter the road and drainage improvements that were previously approved. Thurston County Roads and Transportation Services Staff reviewed the proposed layout changes and recommended approval of the proposed plat amendment. *Exhibit 1, page 3; Exhibit 1, Attachment h; Testimony of Mr. Saint.*
17. The Development Review Services Section (Water and Waste Management) of the Thurston County Roads and Transportation Services Department reviewed the proposed plat amendment application for compliance with access and stormwater requirements. Staff recommended plat amendment approval with conditions. *Exhibit 1, page 4; Exhibit 1, Attachment f.*
18. Thurston County Environmental Health Division (EHD) reviewed the proposed plat amendment application for compliance with County health codes. EHD Staff noted that due to the fact that the number of lots would remain the same and the City of Tumwater would provide domestic water and sewer service, the proposed plat amendment does not alter its earlier recommendation of approval. *Exhibit 1, page 4; Exhibit 1, Attachment g.*
19. In reviewing the instant application for plat amendment, the Responsible Official determined that additional environmental review is not required. *Exhibit 1, page 3; Testimony of Mr. Smith; Exhibit 1, Attachment n.*
20. The May 18, 2004 RMDNS required the Applicant to provide a habitat management plan for the Western Pocket Gopher, a state- and County-listed threatened species that is known to live on-site. Consistent with the mitigation measures required by the RMDNS, the Applicant submitted a Habitat Management Plan, which recommended setting aside 3.75 acres of gopher habitat in portions of Tract A, surrounding the storm pond facilities. The habitat management plan addresses uses in Tract A and on adjacent lots.⁵ *Exhibit 1, Attachments h, i, and n.* The Washington State Department of Fish and Wildlife reviewed and accepted the proposed habitat management plan, stating, "...we determined that a 3.75 acre pocket gopher habitat area was consistent with the site's value to the gopher population prior to development." The proposed plat amendment would maintain

⁵ The plan includes the following elements: avoiding the use of pesticide where gophers occur; gopher habitat set aside of 3.75 acres; a commitment to mow the set aside twice annually; fencing and educational signage around the habitat set aside area; reminding residents to control domestic animals around gopher habitat; and informing residents that it is illegal to kill threatened species. *Exhibit 1, Attachment h.*

the 3.75-acre set aside of gopher habitat within Tract A, consistent with the requirements of the RMDNS. *Exhibit 1, Attachments h and i; Exhibit 1, page 4; Testimony of Mr. Smith; Exhibit 10.*

21. Notice of the public hearing was mailed to property owners within 300 feet of the site and to other interested parties. Notice of the hearing was posted on site and published in *The Olympian* on January 5, 2007, at least ten days prior to hearing. *Exhibit 1, page 3; Exhibit 1, Attachment a; Exhibit 4, Photo of Posted Notice.*
22. One public comment letter from R. Happy Rons asserted that there had not been adequate notice of the public hearing on the present plat amendment application. Ms. Rons asserted four grounds for notice failure: 1) she claims not to have received mailed notice; 2) notice was confusing because the hearing date was on Tuesday January 16th, because the usual hearing day (Monday January 15th) was a legal holiday; 3) one neighbor received mailed notice on January 6, 2007; and 4) the notice itself is substantively deficient. *Exhibit 5.1, email from R. Happy Rons.*
23. The County received public comments on the proposal relating to traffic, wetland buffer reduction, logging, and wildlife preservation in general, and preservation of Western Pocket Gopher habitat in particular. *Exhibit 1, Attachment o, 1-20 Comment Letters: o.1, Atteridge comment; o.2, Foster comment; o.3, Bailey comment; o.4, Francesca Woodring comment; o.5, Rue comment; o.6, Knight comment; o.7, Orcutt comment; o.8, March 19, 2006 Rons comment; o.9, March 19, 2006 Orcutt comment; o.10, Miller comment; o.11, Lowell comment; o.12, Miller comment; o.13, Kip Woodring comment; o.14, Price comment; o.15, Elliott comment; o.16, Strawn comment; o.17, Maynard comment; o.18, March 21, 2006 Black Hills Audubon Society comment; o.19, HibbertRime comment; o.20, Wiskirken comment.* The County received additional comments requesting that SEPA review be required for the amendment for the purpose of evaluating amendment-related impacts of open space reduction on wildlife, aquifer safety, and western pocket gopher habitat. *Exhibit 5.1 Rons letter; Exhibit 5.2, Miller January 9, 2007 comment; Exhibit 5.3, Lieb comment; Exhibit 5.4, Wiskirken comment received January 10, 2007; Exhibit 8, Black Hills Audubon Society January 15, 2007 comment.*
24. The wetland buffer reduction and forest conversion applications were administratively reviewed and approved, consistent with County Code requirements, and are not under consideration in the present plat amendment application. Road realignment and design within the approved development envelope was also administratively approved and is not under consideration for the present application. *Exhibit 1, page 5; Testimony of Mr. Smith.*
25. At the open record hearing on the instant application, the City of Tumwater submitted a letter renewing its request that the Applicant be required to develop 73rd Avenue SW to public road standards in order to provide an additional public access point for the residents of the plat. *Exhibit 6.*

26. According to staff the County has already addressed the City of Tumwater's request. The Board of County Commissioners, in its March 30, 2005 final decision on the preliminary plat, concluded that maintaining 73rd Avenue as an emergency-only access road would serve the public interest by protecting the affected class II wetland and the two hydrologically connected lakes. The Board noted that 73rd Avenue would serve only the proposed plat because of its location adjacent to the Deschutes River, and therefore its improvement to public road standards would not serve local connectivity concerns. *Exhibit 3*. The Applicant would pay the costs of developing the emergency-only access at 73rd Avenue. The Applicant would also be required to develop a public road stub in the southeastern corner of the site that would connect to 73rd Avenue if it were ever developed. *Exhibit 11*.

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for preliminary plats pursuant to RCW 36.70.970, TCC 2.06.010(A), and TCC 18.12.090.

Criteria for Review

The following preliminary plat criteria in Thurston County Code 18.12.090 must be satisfied:

1. Appropriate provisions are made for the public health, safety, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
2. The public use and interest will be served by the platting of such subdivision and dedication.

Conclusions Based on Findings

1. **With conditions, the amended plat would make appropriate provisions for the public health, safety, public ways, potable water supplies, sanitary wastes, schools and school grounds, and all other relevant facts.** The plat amendment would not alter the number of lots or change the density of the approved preliminary plat. Utilities, school services, and other required features of the plat would not be affected by the proposed amendment. The amended lot and road layout would improve traffic safety within the plat, consistent with the recommendations of the Thurston County Roads and Transportation Services Department and with the Board of County Commissioners final decision on the preliminary plat, issued March 30, 2005. Secondary emergency access would be provided consistent with the Examiner's and the Board's final decisions on the preliminary plat. *Findings Nos. 2, 8, 9, 10, 11, and 13*.
2. **With conditions, the public use and interest would be served by the amended preliminary plat.** The creation of an emergency only access from 73rd Avenue SW would enhance public safety and welfare by improving emergency services to the site.

Conditions of approval would ensure that the emergency access over the class II wetland complies with the standards of the Thurston County Critical Areas Ordinance (CAO). Maintaining the 73rd Avenue right-of-way as an emergency only access would reduce the environmental impacts of the plat. As amended, the plat sets aside 43% of the gross site area as open space, exceeding the 10% minimum open space set aside required in the SFL zone within the Tumwater UGA. The open space to be set aside must contain the 3.75 acres of western gopher habitat accepted by the Washington State Department of Fish and Wildlife as necessary to protect the threatened species known to inhabit the subject property. The gopher habitat protection area must be depicted on the face of both the amended preliminary and final plats. Other wildlife would be protected through provision of critical area buffers consistent with the CAO. Critical areas and buffers would be dedicated to the homeowners' association and protected in open space in perpetuity. *Findings Nos. 2, 8, 9, 10, 12, 14, 15, 16, 17, 18, and 20.*

3. **Notice of the public hearing was adequate.** Notice was mailed, posted, and published in accordance with the requirements of the Thurston County Code. The notice of public hearing includes the following information and is therefore adequate: the date, time, and place of the public hearing; the project number; the property address and legal description; a brief description of the proposed project; a thorough description of the hearing process; and detailed instructions on how members of the public could participate in the hearing. Ms. Rons had actual notice and submitted substantial comments into the record, which were considered. *Findings Nos. 21 and 22.*

DECISION

Based on the preceding Findings and Conclusions, the requested amendment to the approved Deschutes River Highland preliminary plat, which would revise the approved road layout resulting in an expansion of roads and lots into areas previously approved as open space along the southern boundary of the project, located at 2005 – 65th Avenue SE in Olympia, Washington is **APPROVED**, subject to the following conditions:

- A. The Applicant shall set aside and permanently protect 3.75 acres of Western gopher habitat area in Tract A, consistent with the habitat management plan reviewed and approved by the Washington State Department of Fish and Wildlife (*Exhibit 1, Attachments h and i*). Gopher habitat area must be depicted on the face of the final plat.
- B. All development of the subject property shall be consistent with the conditions of approval as set forth in the following documents:
 - a. The February 11, 2005 Hearing Examiner preliminary plat decision (PLAT/SSDP/AAPL 020244) as amended by the Board of County Commissioners' decision on appeal issued March 30, 2005 (in the record at Exhibit 3);
 - b. The December 15, 2006 administrative plat amendment approval (No. 05 116021 ZJ);

- c. The October 4, 2006 forestland conversion approval (No. 06 100550 XB);
- d. The September 29, 2006 administrative wetland buffer reduction (No. 06 101003 ZQ);
- e. The December 15, 2006 revised administrative wetland buffer reduction (No. 06 101003ZQ); and
- f. The May 18, 2004 RMDNS;
- g. Any and all conditions imposed in permits for the project that have been issued by Thurston County.

DECIDED this 21st day of February 2007.

James M. Driscoll
Thurston County Hearing Examiner