



Kitsap County Hearing Examiner

COUNTY COURTHOUSE, 614 DIVISION STREET MS-36
http://www.kitsapgov.com/dcd/lu_env/he/
337-4925

PORT ORCHARD WASHINGTON 98366-4682
(360) 337-7181 FAX (360)

NOTICE OF HEARING EXAMINER DECISION

kashcraf@co.kitsap.wa.us

December 8, 2008

To: Interested Parties and Parties of Record

RE: Project Name: **Sedgwick Meadows – Preliminary Plat/
Performance Based Development**
Applicant: **Sedgwick Meadows LLC
Daniel Horovitz
2497 Bethel Road SE
Port Orchard, WA 98366
South Kitsap County, Commissioner District #2**
Application: **Preliminary Plat/Performance Based Development**
Case Number: **081113-080 (01230-14-038-2005) LIS#07 50566**

Enclosed is the Decision issued by the Kitsap County Hearing Examiner in the above-referenced matter.

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS APPEALED TO THE KITSAP COUNTY BOARD OF COMMISSIONERS, AS PROVIDED BY SECTION 120 OF THE KITSAP COUNTY LAND USE AND DEVELOPMENT PROCEDURES. **ANY APPEAL MUST BE FILED ON OR BEFORE THE CLOSE OF BUSINESS ON DECEMBER 22, 2008.**

Pursuant to the Kitsap County Land Use and Development Procedures, (KCC 21.04.120) an appeal may be filed objecting to the Hearing Examiner's Decision. An appeal must be made in writing, and filed with both the Department of Community Development (DCD) and the Board of County Commissioners (BCC) offices. At the time of filing the appeal, the appellant shall pay the sum of **five hundred dollars (\$500.00)**. This fee is non-refundable and subject to change. Make check payable to Kitsap County Department of Community Development (DCD).

The written appeal shall be made on or attached to an appeal form provided by DCD, and shall contain the following information.

1. The project name, project applicant, application type, and case number designated by the County:
2. The name, address, and signature of each appellant. If multiple parties file a single appeal, the appeal document shall designate, in writing, one party as the contract representative for all contact with the DCD Director and BCC. All contact between the County and the appellants regarding the appeal, including notices, shall be through this contact representative; and

**NOTICE OF HEARING EXAMINER DECISION – SEDGWICK MEADOWS –
PRELIMINARY PLAT/PERFORMANCE BASED DEVELOPMENT**

December 8, 2008

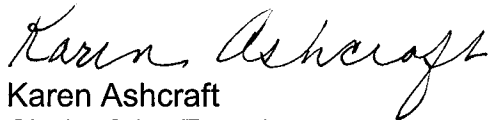
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3. A written statement of the specific aspects(s) of the Decision and/or SEPA determination being appealed, the reasons why each is in error as a matter of fact or law, and the evidence relied upon to prove the error.

The complete case file will be available for review at the Department of Community Development, Monday through Friday, except holidays, 8:15 a.m. to 4:00 p.m.

If you have questions, please contact me at (360) 337-4487. If you have procedural questions regarding the appeal hearing before the Board of County Commissioners, please contact the Clerk of the Board at (360) 337-7146.

Sincerely,


Karen Ashcraft
Clerk of the Examiner

Enclosure

C: Sedgwick Meadows LLC, Daniel Horvitz, 2497 Bethel RD SE, Port Orchard, WA
98366
danny@inkitsap.com
Ryan Moore, Vector Engineering, Inc., 309 Washington ST NE, Olympia, WA 98501

Interested Parties:
See Attached

RECEIVED

DEC - 2 2008

KITSAP COUNTY DEPT. OF
COMMUNITY DEVELOPMENT

BEFORE THE HEARING EXAMINER
FOR KITSAP COUNTY

In the Matter of the Application of)	No. 081113-080
)	
)	Sedgwick Meadows
Sedgwick Meadows, LLC)	
)	
)	FINDINGS,
For Approval of a Preliminary Plat)	CONCLUSIONS, AND
<u>And Performance Based Development</u>)	RECOMMENDATIONS

SUMMARY OF RECOMMENDATIONS

The Hearing Examiner recommends that the request for a preliminary plat to subdivide 4.84-acres into 44 residential lots and to create a performance based development on property located at 2691 SE Sedgwick Road, Port Orchard, Washington, be **APPROVED**, subject to conditions.

SUMMARY OF RECORD

Requests:

Sedgwick Meadows, LLC requests a preliminary plat to subdivide 4.84-acres into 44 residential lots and create a performance based development on property located at 2691 SE Sedgwick Road, Port Orchard, Washington.

Hearing Date:

The Hearing Examiner held an open record hearing on the requests on November 13, 2008.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

- Dennis Oost, County Planner
- Shawn Alire, County Development Engineering
- Ryan Moore, Applicant Representative
- Stephen Shepard, Applicant
- Daniel Horovitz
- Jeff Laatsch
- Lysandra Ness
- Tom Spoonemore
- Gloria Sharp
- Richard Hoag
- David Greetham, County SEPA Responsible Official

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Exhibits:

The following exhibits were admitted into the record:

1. Application for Non-Binding Water Availability Letter, dated September 13, 2007
2. Non-binding Letter of Availability Karcher Chreek Sewer District, dated September 14, 2007
3. Proposed Site Plan, dated October 31, 2007
4. Pre-Application Meeting Request, received November 2, 2007
5. Pre-Application Conference Confirmation Letter, dated November 5, 2007
6. KC Assessor's Parcel Map, undated
7. GIS Building Limitations Map, dated November 5, 2007
8. GIS Critical Areas Topographic Map, dated November 5, 2007
9. KC Assessor's Property Report, dated November 5, 2007
10. GIS Zoning Map, dated November 5, 2007
11. GIS Critical Areas Aerial Photograph, dated November 5, 2007
12. Pre-Application Meeting Checklist, dated December 31, 2007
13. Written Summary of Pre-Application Meeting, dated December 31, 2007
14. Non-Wetland Determination Report Wiltermood Associates, Inc., dated January 31, 2008
15. Traffic Impact Analysis Heath & Associates Inc., dated March 2008
16. Geotechnical & Hydrogeologic Report Geo Resources LLC, dated May 18, 2008
17. Environmental (SEPA) Checklist, dated May 19, 2008
18. KCPW Application for Concurrency Test, dated May 22, 2008
19. Preliminary Drainage Report, Vector Engineering Inc., dated May 27, 2008
20. Proposed Site Plan, dated May 27, 2008
21. Landscaping Plan, dated May 27, 2008
22. Preliminary Plat/Performance Based Development Application, dated May 28, 2008
23. Notice of Complete Application, dated June 25, 2008
24. KCHD Plat Approval Sheet, dated July 1, 2008
25. Notice of Application, dated July 10, 2008
26. Affidavit of Mailing – Notice of Application, dated July 10, 2008
27. Letter from John Oldoren, received July 18, 2008
28. Letter from Richard W. & Marguerite R. Hoag, dated July 14, 2008
29. Letter from Craig Henderson, dated July 17, 2008
30. Letter from Mr. & Mrs. C.K. Sharp, dated July 17, 2008
31. Letter from Thomas Spoonemore, dated July 21, 2008
32. Letter from Jeffery C. Laatsch, dated July 28, 2008
33. Technical Review Meeting Attendance Sheet, dated August 27, 2008
34. Homeowners & Residents of Villa Carmel Development, received September 8, 2008
35. Technical Deviation Request – Infiltration Galleries, dated September 5, 2008
36. Letter from Richard W. & Marguerite R. Hoag, dated September 24, 2008

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37. Letter from Shawn Ultican, dated September 25, 2008
38. Villa Carmel Site Plan, South Kitsap SD Bus Route Listing, and Aerial Photograph
39. Mitigated Determination of Nonsignificance, issued October 24, 2008
40. Notice of Public Hearing, dated October 27, 2008
41. Affidavit of Mailing, dated October 27, 2008
42. Memorandum from Shawn Alire, County Development Engineering, dated October 29, 2008
43. Affidavit of Posting, dated October 29, 2008
44. County Staff Report, dated November 4, 2008
45. Preliminary Site Plan and Existing Site Conditions, received October 9, 2008
46. Letter to Karen Ashcraft and David Greetham from Timothy G. Roth, dated November 7, 2008
47. Sedgwick Meadows PBD Subdivision PowerPoint slides, dated November 13, 2008
48. Kitsap County Washington Transportation Capacity Reservation Certificate, Sedgwick Meadows LLC, dated July 8, 2008
49. Letter to Jeff Laatsch from Lawrence J. Curles, P.E., West Sound Utility District, dated September 12, 2008
50. 2006 American Community Survey Data Profile Highlights, found at http://factfinder.census.gov/servlet/ACSSAFFacts?_event=&geo_ic
51. Letter from Lysandra Ness and Ronald Ness, dated November 12, 2008
52. Letter from Wendy Levenseller, dated November 12, 2008
53. Letter from Gloria Sharp to the Kitsap County Department of Community Development, received November 13, 2008

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the open record hearing:

FINDINGS

Application and Notice

1. Sedgwick Meadows, LLC (Applicant) requests a preliminary plat (PP) to subdivide 4.84-acres into 44 residential lots for single-family detached housing and create a performance based development (PBD) on property located at 2691 SE Sedgwick Road, Port Orchard, Washington.¹ *Exhibit 22; Exhibit 44, Staff Report, page 1.*
2. Lysandra Ness, resident of the Villa Carmel neighborhood at 3127 SE Villa Carmel Drive, testified that she experienced minimal outreach about the proposed development, did not

¹ The property subject to the preliminary plat (PP) and performance based development (PBD) applications is identified by Tax Assessor's Parcel Number 01230-14-038-2005. A legal description of the subject property is included with the preliminary plat/PBD application. *Exhibit 22.* The Hearing Examiner made a site visit to the subject property through *Google Earth* technology in the week prior to the hearing. The Hearing Examiner made an actual site visit to the subject property on November 13, 2008.

receive notice of the preliminary plat/PBD application, and could not preview development files prior to the public hearing associated with the application. *Testimony of Ms. Ness.* Gloria Sharp, resident of 3168 SE Villa Carmel Drive, also testified that she experienced minimal outreach about the proposed project. *Testimony of Ms. Sharp.* Kitsap County (County) determined the application was complete on June 25, 2008. *Exhibit 23.* The County mailed notice of the application to owners of property within 400-feet of the subject property on July 10, 2008. *Exhibit 25; Exhibit 26.* On October 27, 2008, the County mailed notice of the public hearing associated with the application to owners of property within 400-feet of the subject property. *Exhibit 40; Exhibit 41.* The County posted notice of the public hearing on the subject property on October 29, 2008. *Exhibit 43.* Dennis Oost, County Planner, testified that the County published notice of the public hearing in the local newspaper in accord with County ordinances. *Testimony of Mr. Oost.*

State Environmental Policy Act (SEPA) Environmental Review

3. Wendy L. Levenseller, a resident of Villa Carmel Drive, and Lysandra D.M. and Ronald D. Ness, Jr., wrote to express concern for the negative environmental impact of air pollution and noise pollution associated with traffic generated by the proposed development. The County acted as lead agency and analyzed the environmental impact of the proposed development, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C RCW. The County determined that with six conditions, the proposal would not have a probable significant adverse impact on the environment, and issued a Mitigated Determination of Nonsignificance (MDNS) on October 24, 2008.² The six conditions concern cleanup of existing waste materials on site; use of low impact stormwater treatment devices on site; construction of a two-way left turn lane at the Jackson Avenue SE/SE Villa Carmel Drive intersection; construction of road frontage improvements on the entire north side of SE Villa Carmel Drive from Jackson Avenue SE to the project entrance; provision of wheelchair ramps on both sides of the SE Villa Carmel Drive/SE Beechcrest Court and SE Villa Carmel Drive/Pancho Villa Court SE intersections; and emergency vehicle access complying with Kitsap County Fire Marshal standards. The SEPA determination was not appealed. *Exhibit 39; Exhibit 44, Staff Report, page 2; Exhibit 51; Exhibit 52.*

Comprehensive Plan Designation and Zoning Classification

4. The subject property is designated Urban Low Density by the Kitsap County Comprehensive Plan (Comprehensive Plan). *Kitsap County Comprehensive Plan, Figure 2-2 Land Use Map – South (December 2006).* The Urban Low Density designation focuses on single-family dwellings but also may include innovative types such as clustered housing. The County's

² David Greetham, County SEPA Responsible Official, testified that the SEPA MDNS contained a typographical error, citing an incorrect section of County code. Mr. Greetham testified that the correct code citation is Kitsap County Code (KCC) Section 18.04.200.d.3.

Urban Low Density zoning district implements the Urban Low Density designation. *Kitsap County Comprehensive Plan, Land Use, pages 2-20 – 2-21 (December 2006).*

5. Jeffrey C. Laatsch wrote to object to the proposed development because it would not contribute to public enjoyment of the area, citing increased development density, pedestrian safety, increased noise, and lack of vegetated buffer; and would not be adequately served by public services and capital facilities, citing sewer service, South Kitsap High School, traffic impacts, school cross walks, and sidewalks. Comprehensive Plan goals and policies identified by County staff as relevant to the proposed development encourage new residential growth within designated Urban Growth Areas (UGAs)³ at higher densities than in rural areas; ensure new development is compatible with established residential areas and provide for quality development; and encourage development of low-impact development standards for stormwater mitigation and maximization of groundwater resources. Daniel Horovitz, Applicant Representative, testified that the subject property has been located within a County UGA since 2000. *Kitsap County Comprehensive Plan, Land Use, Goal 11, Goal 13, and Goal 33, pages 2-22, 2-25, and 2-41 (December 2006); Exhibit 32; Exhibit 44, Staff Report, page 5; Testimony of Mr. Horovitz.*
6. The subject property is located within the County's Urban Low Density (UL) zoning district. The intent of the district is to recognize, maintain, and protect urban low density residential areas and establish urban densities where a full range of community services and facilities are present or will be present at the time of development in accordance with the urban growth areas as depicted on the Comprehensive Plan. This zone is also intended to create energy-efficient residential areas that are capable of allowing the provision of community services in a more economical manner; and provide for additional related uses such as schools, parks, and utility uses necessary to serve immediate residential areas. *Kitsap County Code (KCC) 17.330.010: Exhibit 44, Staff Report, page 7.*
7. Single-family detached dwellings are an allowed use within the UL zoning district, at a maximum development density of nine dwelling units per acre (du/acre). Lots within the UL

³ Chapter 36.70A (Growth Management – planning by selected counties and cities) guides the development and adoption of comprehensive plans and development regulations of those counties and cities that are required or chose to plan under RCW 36.70A.040. *RCW 36.70A.020.* An Urban Growth Area (UGA) is designated by a county pursuant to RCW 36.70A.110. *RCW 36.70A.030(19).* "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources, rural uses, rural development, and natural resource lands designated pursuant to RCW 36.70A.170. A pattern of more intensive rural development, as provided in RCW 36.70A.070(5)(d), is not urban growth. When allowed to spread over wide areas, urban growth typically requires urban governmental services. *RCW 36.70A.030(18).* An urban growth area is an area within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. *RCW 36.70A.110(1).*

zone must be a minimum of 3,600-square feet in size, at least 60-feet wide and 60-feet deep. Lots within the UL district must be developed with 20-foot wide front setbacks and five-foot wide side and rear setbacks. *KCC Table 17.381.040(A); KCC 17.382.060*. Clustering residential development in all development is encouraged by the Kitsap County Code. *KCC 17.382.100.15*.

Performance Based Development (PBD) Standards

8. Performance based developments (PBDs) allow flexibility in design and creative site planning while providing for orderly development. A performance based development (PBD) allows for the use of lot clustering to preserve open space; encourage creation of suitable buffers between incompatible development types; provide for increased efficiency in layout of streets, utilities, and other improvements; and to encourage creative land use development techniques. PBDs allow for mixed uses, subject to the density limits of the zone in which the PBD is located. Uses allowed within the underlying zone are also allowed within the PBD. *KCC 17.425.010; KCC 17.425.030*. To promote creativity and innovation, the board of county commissioners may modify the PBD standards and criteria found within the Kitsap County Code or substitute with other design concepts. *KCC 17.425.040.C.4*. Mr. Oost testified that PBD provisions permit more flexible development standards to fit housing development within infill development spaces in the County. *Testimony of Mr. Oost*.
9. The subject property is currently developed with a rural single-family residential property with utilities and driveway access. The subject property currently contains an existing residence and driveway, which would be removed prior to development. The area surrounding the subject property in all directions is also located within the County's UL zoning district, and contains single-family residences. *Exhibit 10; Exhibit 16; Exhibit 44, Staff Report, page 3; Exhibit 45*.
10. The subject property is rectangular in shape, sloping to the south at zero- to five-percent grade. The site is vegetated with pasture grass and scattered trees. The south boundary of the subject property lies adjacent to SE Sedgwick Road. Griffiths Lane SE is located to the west of the subject property. Griffiths Lane SE extends to the north from SE Sedgwick Road, and provides access to 14 existing residences. SE Sedgwick Road provides access to an additional seven existing residences, located to the west of the subject property. The north portion of the subject property consists of second growth timber and native plant understory. *Exhibit 16; Exhibit 20; Exhibit 44, Staff Report, page 3; Exhibit 45*.
11. The Applicant would subdivide the subject property into 44 single-family residential lots and 10 tracts: Tract A (4,061-square feet) for tree preservation space; Tract B (2,788-square feet) for common open space; Tract C (2,788-square feet) for common open space; Tract D (2,788-square feet) for common open space; Tract E (2,788-square feet) for common open space; Tract F (6,075-square feet) for common open space; Tract G (5,747-square feet) for

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