

October 8, 1998

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON APPLICATION FOR PRELIMINARY PLAT APPROVAL

SUBJECT: Department of Development and Environmental Services File No. **L98P0004**

MEGAN'S MEADOW
Preliminary Plat Application

Location: East of 132nd Avenue Southeast, at Southeast 234th Place

Applicant: Scott Otey, *represented by* **James Jaeger**, Crones & Associates
23806 – 190th Avenue SE, Bothell, WA 98011

Department: **Karen Scharer**, Department of Development and Environmental Services,
Land Use Services Division

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve, subject to conditions
Department's Final:	Approve, subject to conditions
Examiner:	Approve, subject to conditions

PRELIMINARY MATTERS:

Application submitted:	February 24, 1998
Notice of complete application:	February 24, 1998

EXAMINER PROCEEDINGS:

Hearing Opened:	September 22, 1998
Hearing Closed:	September 22, 1998

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Buffers
- Downstream Impacts
- Fences
- Infiltration
- Surface Water Conveyance
- Road Design

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information.**

Owner/Developer: Scott Otey, 23252 – 132nd Avenue SE, Kent, WA 98042

Engineer: James Jaeger, Crones & Associates
23806 – 190th Avenue SE, Bothell, WA 98011

Location: East of 132nd Avenue Southeast, at Southeast 234th Place

STR: 15-24-06

Zoning: R6

Acreage: 2.81 acres

Number of Lots: 15

Density: 5.34 dwelling units/acre

Typical Lot Size: Ranges from approximately 4,600 square feet to 6,800 square feet

Proposed Use: Detached single-family residences

Sewage Disposal: Soos Creek Water and Sewer District

Water Supply: Soos Creek Water and Sewer District

Fire District: #37

School District: Kent School District

Complete Application Date: February 24, 1998

2. **Proposal.** Scott Otey (the “Applicant”) proposes to subdivide 2.81 acres (classified R6) into fifteen single-family residential building lots. With lot sizes ranging from 4,600 square feet to 6,800 square feet, the density will be 5.34 dwelling units per acre. The proposed preliminary plat drawing also calls for approximately 5,877 square feet to remain in open space, 7,704 square feet in a drainage tract, and 369 square feet within a wetland buffer area tract. The preliminary plat drawing is contained in this hearing record as exhibit no. 8 and as attachment 1 to the preliminary report to the Hearing Examiner, dated September 22, 1998 (exhibit no. 2) that has been prepared by the Department of Development and Environmental Services (the “Department” or “DDES”).
3. **SEPA.** No environmental impact statement is required. On July 31, 1998 the Department issued a threshold determination of non-significance for the proposed development. That is, on that date, the Department issued its determination that—based on relevant environmental documents—the proposed development will not cause probable significant adverse impacts upon the environment. No person, agency or tribe appealed that determination. The environmental documents reviewed are included in this hearing record and public review.

4. **Department Recommendation.** The Department recommends granting preliminary approval to the proposed plat of Megan's Meadow, subject to the twenty conditions of final plat approval stated on pages 7 through 13 of the Department's preliminary report to the Hearing Examiner, with the following modifications:
- A. Downstream Culvert. Recommended condition 7.d.1 requires a downstream culvert to be replaced in order to assure adequate capacity. The Applicant observes that due to the drainage course invert elevation, *replacement* may not solve the capacity problem. For that reason, the Applicant suggests that the requirement read "*replacement or add to or augment the culvert. . .*" The Department agrees.
 - B. Stormwater Infiltration. Recommended condition 7.d.3 includes some standard "boilerplate" language which indicates that if soil conditions are favorable, infiltration of roof drain storm water may be required. In this case, soil conditions are sufficiently well known to determine that this is not an option. Consequently, DDES agrees to eliminate the paragraph in 7.d.3 that addresses infiltration.
 - C. Turn-Around Landscape Island. The Applicant proposes a turn-around which encompasses a central open space tract. Recommended condition 8.e, as stated in the Department's preliminary report (exhibit no. 2), would prohibit leaves and branches from extending below 8-feet above ground in order to assure adequate vehicular sight distance. The Department now agrees that this requirement should be imposed only *at maturity*.
5. **Applicant's Position.** The Applicant accepts the Department's recommendation as described in finding no. 4, above.
6. **Neighboring Property Owner Concerns.** The following concerns had been expressed by neighboring property owners:
- A. Fencing, Vegetative Buffering. The Applicant proposes neither fencing nor vegetative buffering along its perimeter boundaries. A neighboring property owner expresses concern regarding loss of privacy and requests a buffer of vegetation and a privacy fence along the eastern boundary of the subject property. King County has no policy or regulation which requires either fencing or screening between identical permitted uses. In this case, both the subject property and the southeast and easterly abutting properties are classified R6.

The Applicant explained that fencing typically is not provided by developers. Rather, developers install utilities, drainage, streets and so on. Later, home builders may often construct fences in order to enhance marketability of the lots. When home builders do not provide fences, fencing becomes a matter of individual homeowner choice.
 - B. Southeasterly Drainage? The owner of tax lot #45, abutting a portion of Megan's Meadow east boundary, expresses concern regarding whether surface water

drainage from the project site will worsen winter dampness of tax lot #45. However, the downstream drainage course, illustrated by attachment 1B of the Department's preliminary report (exhibit no. 2) indicates the downstream drainage course from Megan's Meadow. It shows that drainage will discharge from the subject property along its south boundary, approximately 200 feet westward from tax lot #45, is culverted beneath South 235th Street (which abuts the south boundaries of both Meagan's Meadow and tax lot #45), then continues southward, never to cross tax lot #45.

7. **Department Report Adopted.** Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated September 22, 1998 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

CONCLUSIONS:

1. If approved subject to the conditions set forth below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Soos Creek Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
2. If approved subject to the conditions set forth below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval set forth below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicant, are reasonable and necessary as a direct result of the development of this proposed plat.

DECISION:

The preliminary plat of Megan's Meadow is GRANTED PRELIMINARY PLAT APPROVAL; SUBJECT to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication, which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density (and minimum density) requirements of the R-6 zone classification. All lots shall meet the minimum dimensional requirements of the R-6 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be

approved at the discretion of the Department of Development and Environmental Services.

4. The applicant must obtain final approval from the King County Health Department.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
6. The applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval, which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.

- a. Drainage plans and analysis shall comply with the 1990 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
- b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
- c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings #_____ on file with DDES and/or the Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with the plans on file."

- d. Core Requirement No. 3: Runoff Control.

A field visit by KC staff revealed a significant downstream drainage restriction where the drainage flows through a single culvert under the driveway to Tax Lot # 33. To address the downstream restriction, the applicant shall comply with one of the following three procedures:

1. Replace or add to or augment the culvert to provide adequate capacity. Or,
2. Perform a level 2 downstream analysis to determine the required

on-site release rates and detention volume. Or,

3. The stormwater detention shall be computed using an SCS-based hydro-graph method (or other method approved by King County). The performance of the detention facility shall be such that discharge from the development shall be no more than the pre-developed 2 year/24-hour for design storm events up to and including the 100-year/24-hour storm event.

Biofiltration of storm water is also required for water quality enhancement. The size of the proposed drainage tracts may have to increase to accommodate the required detention storage volumes and biofiltration facilities. The runoff control facilities shall be located in a separate tract and dedicated to King County unless portions of the drainage tract are used for required recreation space in accordance with KCC 21A.14.180.

- e. Special Requirement No. 9: 100-year Floodplain.

A wetland is located near the southwest property corner; therefore, a floodplain analysis shall be performed. The 100-year floodplain boundaries shall be shown on the final engineering plans and recorded plat.

8. The following road improvements are required for this subdivision to be constructed according to the 1993 King County Road Standards (KCRS):
 - a. The property frontage (full length) along 132nd Avenue SE (principal arterial) shall be improved with 8 foot paved shoulder (per Variance File No. L97V0084).
 - b. Twenty (20) feet of additional right-of-way (ROW) shall be dedicated along 132nd Avenue SE to provide 50 feet from ROW centerline.
 - c. There shall be no direct vehicular access to or from 132nd Ave. SE from those lots, which abut it. A note to this effect shall appear on the engineering plans and final plat.
 - d. The on-site loop street (SE 234th PL.) shall be improved to the urban minor access standards (KCRS Section 2.03), except as approved under KCRS variance reconsideration (approved May 27, 1998), allowing a minimum centerline pavement radius of 37 feet. The loop street design satisfies the cul-de-sac bulb requirement.
 - e. The height and density of the landscaping in the open space island shall be restricted to improve sight distance. Landscaping shall include trees with leaves and branches that do not extend below 8 feet in height at maturity and shrubs that are no higher than 42 inches maximum.
 - f. Tract A shall be improved as private urban joint use driveway which serves a maximum of two lots (Lots 4 and 5). The serving lots shall have undivided ownership of the tract and be responsible for its maintenance. A note to this effect shall be placed on the final plat. As specified in KCRS 3.01C,

- improvements shall include an 18 foot paved surface and a minimum tract width of 20 feet. Drainage control shall include a curb or thickened edge on one side.
- g. Tract B shall be designed as a private access tract serving proposed lots 6, 7, and 8. These lots shall have undivided ownership of the tract that is responsible for maintenance. A note to this effect shall be placed on the final plat. A tract width of 20 feet and an 18-foot wide paved surface is required per the approved variance reconsideration (May 27, 1998). Improvements shall conform to the joint use driveway standards (KCRS Section 3.01 C.3.a).
 - h. As required by KCRS 5.03, street trees should be included in the design of all road improvements (see Condition 15 below).
 - i. Street illumination shall be provided at the intersection of the on-site road and 132nd Avenue SE (KCRS Section 5.03).
 - j. 132nd Avenue SE is designated an arterial street which may require designs for bus zones and turnouts. As specified in KCRS 2.16, the designer shall contact Metro and the local school district to determine specific requirements.
 - k. Modifications to the above road conditions may be considered by King County pursuant to a variance reconsideration (KCRS Section 1.08).
9. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 10. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 11. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
 12. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes

the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/ sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

13. The proposed subdivision shall comply with the Sensitive Areas Ordinance as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
14. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the overall conceptual plan.
 - b. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the final plat documents.
 - c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
15. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation and/or open space area(s).
16. Street trees shall be provided as follows:

- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along 132nd Ave. SE. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
- b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
- c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
- d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
- g. The applicant shall contact Metro Service Planning at 684-1622 to determine if 132nd Ave. SE is on a bus route. If 132nd Ave. SE is a bus route, the street tree plan shall also be reviewed by Metro.
- h. The street trees must be installed and inspected, or a performance bond posted g of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.

A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

17. The engineering plans for this project shall identify the location of any wells on the site and provide notes which address the requirements for the contractor to abandon the well pursuant to requirements outlined in the Washington Administrative Code (WAC 173-160) prior to final approval. A copy of the well driller's log of abandonment shall be submitted with final subdivision application.
18. The existing residence on site shall be connected to Soos Creek Public Water and Soos Creek

- Public Sewer prior to final approval. A licensed septic system pumper must abandon the existing on-site sewage system. A copy of the pumper's report is shall be submitted at the time of final subdivision application and be approved by the Health Department prior to final recording.
19. Prior to final recording of this plat, the applicant shall demonstrate that the Lot Line Adjustment 97L0203 between this property and the adjoining southerly parcel has been recorded.
 20. The applicant shall demonstrate compliance with the following P-suffix conditions prior to engineering plan approval: SC-P3/Clearing and Grading limits; SO-220 / Significant Tree SDO; and KCC 16.82.150.D / Seasonal Clearing Restrictions.

ORDERED this 8th day of October, 1998.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 8th day of October, 1998, to the parties and interested persons shown on the attached listed.

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) **on or before October 22, 1998**. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council **on or before October 29, 1998**. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

ENVIRONMENTAL SERVICES FILE NO. L98P0004 – MEGAN'S MEADOW:

R.S. Titus was the Hearing Examiner in this matter. Participating in the hearing were Karen Scharer, Curt Foster, James Jaeger, Phillip Kitzes, and William Turnidge.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services File No. L98P0004
- Exhibit No. 2 Department of Development and Environmental Services Preliminary Report to the Examiner for the September 22, 1998 public hearing
- Exhibit No. 3 Application, submitted February 24, 1998
- Exhibit No. 4 SEPA Checklist, received February 24, 1998
- Exhibit No. 5 SEPA Threshold Determination, dated July 31, 1998
- Exhibit No. 6 Notice of Application, posted March 10, 1998
- Exhibit No. 7 Notice of Recommendation, posted August 20, 1998
- Exhibit No. 8 Plat map, revised June 2, 1998
- Exhibit No. 9 Assessor maps STR: SW 15-22-05, SE 16-22-05, NW 15-22-05 & NE 16-22-05
- Exhibit No. 10 Level 1 Drainage Analysis, January 23, 1998, by James Jaeger, P.E.
- Exhibit No. 11 Wetland Evaluation, September 10, 1997, by Watershed Dynamics
- Exhibit No. 12 Hydraulic Analysis for SE 240th Street, by M. O'Neil, January 25, 1998
- Exhibit No. 13 Letter from James Jaeger, dated April 21, 1998
- Exhibit No. 14 Letter from William & Carol Turnidge, received September 16, 1998
- Exhibit No. 15 School Information Form, received from Kent School District
- Exhibit No. 16 P-Suffix Condition Text/SO-220, SC-P3, KCC 16.82.150.D
- Exhibit No. 17 Situs File Information showing zoning as R6

RST:vam
Attachment
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