

**BEFORE THE LAND USE HEARING EXAMINER
FOR THE CITY OF LA CENTER, WASHINGTON**

Regarding a request by Carleen Stephens for preliminary plat approval to divide 42.3 acres into 85 single-family lots at 34700 NE North Fork Road and 115, 208, 617, and 614 NE 348th Street in the City of La Center, Washington) **FINAL ORDER**
) **File No. 2018-016-SUB**
) **(Stephens Hillside Farm)**

A. SUMMARY

1. Carleen Stephens (the “applicant”) requests approval of a preliminary plat to divide 42.3 acres into 85 lots for single-family detached homes and stormwater, a park, and open space tracts. The development is located at 34700 NE North Fork Road and 115, 208, 617, and 614 NE 348th Street; also known as Tax Assessor Parcel Nos. 258901-000, 258971-000, 258972-000, 258922-000, 258919-000, and 258906-000 (the “site”). The site and surrounding properties to the east, west, and south are zoned LDR-7.5 (Urban Residential). Properties to the north are outside of the La Center Urban Growth Boundary, in unincorporated Clark County, and zoned R-5 (Rural, 5-acre minimum lot size). The site is currently developed with three single-family residences and associated accessory structures. The applicant proposed to retain one residence on Lot 13 and remove all of the remaining existing structures. The applicant will construct a new single-family detached dwelling on each of the remaining lots. The applicant proposed to develop the site in four phases.

a. The applicant proposed to dedicate right-of-way and construct a new public street, proposed “Street A,” into the site from the intersection of NE North Fork Road and Aspen Avenue. Street A will terminate in a cul-de-sac turnaround near the west end of the site. However, the applicant will dedicate an easement to the City for the future extension of this street to connect with NW Bolen Street to the west. The applicant will extend six new streets north of Street A. Proposed Avenues C, E and G will terminate in temporary cul-de-sac turnarounds at the north boundary of the site, allowing for further extension when the abutting properties redevelop. Proposed Courts B, D, and F are cul-de-sac streets within the site. Courts B and C will also extend south of Street A. In addition, the applicant will dedicate right-of-way and construct half-width improvements on the site’s Aspen Avenue frontage. All of the proposed lots will have direct access onto the proposed interior streets. No lots will directly access Aspen Avenue.

b. The applicant proposes to collect stormwater from impervious areas on the site and direct it to one of four proposed stormwater facilities within proposed Tract B for treatment and detention. The applicant will discharge treated stormwater to the stream in the western portion of the site at less than predevelopment rates.

c. Clark Public Utilities will provide domestic water and the City of La Center will provide sanitary sewer service to each proposed lot.

2. The City of La Center issued a Mitigated Determination of Nonsignificance (“MDNS”) for the subdivision pursuant to the State Environmental Policy Act (“SEPA”).

Hearing Examiner Joe Turner (the "examiner") conducted a public hearing to receive testimony and evidence about the application. City staff and consultants recommended that the examiner approve the application and preliminary plat subject to conditions. See the Revised Staff Report to the Hearing Examiner dated September 11, 2018 (the "Staff Report"). The applicant accepted those findings and conditions, as amended at the hearing, without exceptions. Four persons testified orally with questions and concerns about the proposed development. Disputed issues or concerns in the case include the following:

- a. Whether the proposed development will impact the stream and associated wildlife habitat in the western portion of the site;
 - b. Whether traffic from the development will exceed the capacity of area streets or create a hazard; and
 - c. Whether the development will provide access for future development of the "outparcel," tax lot 258906-000, near the northwest corner of the site.
3. Based on the findings provided or incorporated herein, the examiner approves the subdivision subject to the conditions at the conclusion of this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. Hearing Examiner Joe Turner (the "examiner") received testimony at the public hearing about this application on September 18, 2018. That testimony and evidence, including a recording of the public hearing and the casefile maintained by the City, are included herein as exhibits, and they are filed at City Hall. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. La Center city planner Eric Eisemann summarized the Staff Report and corrected several typographical errors: the development name is "Stephens Hillside Farm," not "Farms." p. 14 of the Staff Report should refer to the HOA, not HOW. The reference to the site zoning on p. 18 should be amended to LDR 7.5 rather than 77.5.

a. He noted that the applicant proposed to voluntarily provide an easement for the future extension of proposed Street A to connect with existing NW Bolen Street west of the site.

b. The applicant will develop a 1.06-acre family park in the southeast corner of the site, abutting Aspen Avenue. The applicant requested variances to allow the park adjacent to a collector street and to allow less than 40-percent of the park perimeter abutting a public street. The proposed park location is adjacent to the existing Heritage Trail south of the site and provides convenient access for all residents, including surrounding developments.

c. The applicant also requested a variance to include the critical areas in the density calculation, which is consistent with the comprehensive plan.

d. The applicant should be required to provide a minimum 50-foot right-of-way to the “outparcel,” tax lot 258906-000, located near the northwest corner of the site to allow for further development of this lot in the future.

e. Mr. Eisemann and the City agreed with Mr. Greer’s request to modify condition 6 to require two parking spaces per residence.

3. La Center city engineer Tony Cooper summarized the engineering issues for this development.

a. NE 348th Street (proposed Street A) and Aspen Avenue are both designated rural major collectors. The applicant is required to improve these streets consistent with that street classification.

b. The City denied the applicant’s request to construct streets with grades in excess of 15-percent.

c. The applicant requested a modification to the 275-foot intersection spacing requirement for the proposed intersection of Street A and Court B. However this standard is inapplicable to this application. This standard was added to the capital facilities plan after this application was deemed technically complete. Therefore the applicant is only required to demonstrate adequate sight distance is available at this intersection.

d. The City supports the proposed temporary turnarounds at the northern termini of proposed Avenues C, E and G.

e. All utilities within the site will be located underground.

f. The applicant will be required to locate street lights to provide light levels consistent with Code requirements. The applicant can meet this standard with a few brighter lights or multiple lights with lower light levels.

4. Planner Ed Greer, engineer Jeff Whitten, and the applicant Carleen Stephens testified in support of the application.

a. Mr. Greer accepted the findings and conditions in the Staff Report, with one exception. Condition of approval 6 should be modified to require two parking spaces for each residence, which is consistent with the Code.

i. He noted that the applicant does not own the “outparcel” in the northwest corner of the site and the owner of that parcel has no plans to develop. However, the applicant is willing to dedicate right-of-way between the western terminus of Street A and the outparcel to allow for public street access when this parcel is redeveloped in the future.

ii. The applicant proposed to develop the site in four phases, with approximately 25 lots per phase. The applicant intends to begin construction of Phase 1 in 2019.

b. Mr. Whitten noted that the centerline of proposed Court B is located 212 feet from the centerline of Aspen Avenue, which provides adequate queuing space.

i. This development will provide access to the “outparcel,” extending a 20-foot wide access strip from proposed Avenue G.

c. Ms. Stephens testified that the property owners recorded a boundary line adjustment with Clark County, which created the “outparcel” in the northwest portion of the site, before the site was annexed into the City.

5. Larry Boehm expressed concern that the future connection of Street A and NW Bolen Street will impact the stream and associated wildlife habitat in the western portion of the site.

6. Mark Stephens noted that Mr. Regis’ owns property north of the site and his residence currently takes access from NW 348th Street via an easement over the site. The proposed development will maintain access to Mr. Regis’ property. Proposed Avenue E will replace Mr. Regis’ existing driveway.

7. Mary Lowe questioned whether the utilities serving the site will be located underground. She also expressed concerns with additional traffic on Aspen Avenue.

8. Richard Beardsley requested clarification of the applicant’s phasing plan and construction schedule.

9. The examiner closed the record at the end of the hearing and announced his intention to approve the application subject to the conditions in the Staff Report.

C. DISCUSSION

1. City staff recommended that the examiner approve the preliminary plat, based on the affirmative findings and subject to conditions of approval in the Staff Report, as modified at the hearing. The applicant accepted those findings and conditions as modified.

2. The examiner finds that the Staff Report, as modified at the hearing, accurately identifies the applicable approval criteria for the preliminary plat and contains affirmative findings that the proposed preliminary plat does or can comply with the applicable standards of the LCMC (including cited plans and codes) and the Revised Code of Washington, provided the applicant complies with recommended conditions of approval as amended herein. The examiner adopts the affirmative findings in the Staff Report as his own, except to the extent that those findings are inconsistent with the findings in this Final Order.

3. The examiner understands Mr. Boehm's concerns that the future extension of Street A to connect with NW Bolen Street may impact the stream and associated wildlife habitat on the western portion of the site. However, that street connection is not proposed with this application. The applicant will terminate proposed Street A at the eastern edge of the ravine where the stream is located. The applicant will dedicate an easement to allow the City to extend this street to NW Bolen Street in the future. If and when the City extends this street it will be required to comply with all applicable laws in effect at that time, including City, state and federal regulations protecting surface water, wetland, and habitat.

4. The proposed development will generate increased traffic on area streets. That increased traffic will be perceptible to area residents. However the City engineer determined that it will not exceed the capacity of those streets or create a hazard, based on the applicant's traffic impact study, Exhibit N. With one exception, all affected intersections will operate at Level Of Service ("LOS") D or better with the additional traffic from this development. The intersection of E 4th Street/NE Lockwood Creek Road at NE Highland Avenue/E Ivy Avenue is projected to operate at LOS E during the morning peak hour and at LOS D during the evening peak hour, regardless of the addition of development site trips.

a. The examiner acknowledges that more traffic on area streets creates a proportionally higher risk for drivers, pedestrians and bicyclists. In response reasonably prudent people exercise more care personally and with family members. Those risks are consistent with the location of the site in the urban area where City plans call for the sort of development being proposed. Reasonably prudent drivers will observe the posted speed limit and if necessary, further reduce their speed to accommodate ice, steep grades, narrow pavement, and other road conditions. Unfortunately not all drivers are prudent enough to observe posted speed limits and road conditions. However there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers. If speeding problems occur, the examiner encourages area residents to contact the City to request enhanced enforcement of traffic laws in this area to reduce speeds on these streets.

5. The applicant proposed to dedicate a minimum 50-foot right-of-way between the western terminus of Street A and the "outparcel," tax lot 258906-000, to allow for construction of public street access to this parcel in the future. A condition of approval is warranted to that effect.

D. CONCLUSION

The examiner concludes that the applicant sustained the burden of proof that the proposed subdivision does or can comply with the applicable provisions of the La Center Municipal Code and Revised Code of Washington, provided it is subject to reasonable conditions of approval warranted to assure compliance in fact with those provisions.

E. DECISION

In recognition of the findings and conclusions contained herein, and incorporating the reports of affected agencies and exhibits received in this matter, the examiner hereby approves File No. 2018-016-SUB (Stephens Hillside Farm Subdivision) in general conformance with the applicant's preliminary plat, subject to the following conditions:

A. Planning Conditions

1. The applicant, at time of engineering approval, shall comply with all applicable City of La Center Engineering Standards for Construction, unless modified by the Public Works Department (LCMC 12.10.040), all engineering recommendations contained in the October 12, 2015 Staff Report and applicable La Center land use regulations, goals and policies.
2. In the event any archaeological or historic materials are encountered during project activity, work in the immediate area (initially allowing for a 100' buffer; this number may vary by circumstance) must stop and the following actions taken:
 - a. Implement reasonable measures to protect the discovery site, including any appropriate stabilization or covering; and
 - b. Take reasonable steps to ensure the confidentiality of the discovery site; and,
 - c. Take reasonable steps to restrict access to the site of discovery.
3. The project proponent will notify the concerned Tribes and all appropriate county, state, and federal agencies, including the Department of Archaeology and Historic Preservation. The agencies and Tribe(s) will discuss possible measures to remove or avoid cultural material, and will reach an agreement with the project proponent regarding actions to be taken and disposition of material. If human remains are uncovered, appropriate law enforcement agencies shall be notified first, and the above steps followed. If the remains are determined to be Native, consultation with the affected Tribes will take place in order to mitigate the final disposition of said remains.
4. The preliminary plat shall expire within five years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015. LCMC 18.210.050(1) and RCW 58.17.140(3)(a).
5. Prior to final plat approval, the Developer shall identify the setbacks for all lots on the face of the final plat. To minimize impacts to pedestrian safety and mobility, garage doors shall be setback a minimum of 20 feet from the interior edge of a sidewalk. The application for final plat approval must provide information regarding any proposed fencing, hedging, landscaping or solid waste, lighting, and noise impacts to the extent as regulated by Chapter 18.245.

6. The Developer shall provide each dwelling unit, at the time of construction, with at least two (2) off-street parking spaces (per LCMC Table 18.280.010).
7. The Developer shall coordinate with the Public Works Department regarding the City's future street naming procedure prior to final plat approval.
8. New residential developments shall provide street or front yard trees at a minimum of 30-foot intervals near the street frontage of each lot. Prior to final plat approval, the Developer shall provide the Public Works Department with a scaled plan showing the type, location, and planting method of street or front yard trees. A Street Tree bond shall be provided to the City guaranteeing the performance and maintenance of planted trees for two years. LCMC 18.130.100.
9. The Applicant shall provide a detailed planting list per LCMC 18.340 prior to final plat approval.
10. Oregon white oak tree - The Applicant shall provide a detailed plan that demonstrates compliance with the code section LCMC 18.300.120(2) and secondarily modifies the grading plan to stay outside the dripline and establish such a tract and or conservation easement before any work starts. The plan should consider how to integrate this regulated tree into park planning for the tracts reserved for future development.
11. The application for final plat approval must provide information regarding and proposed fencing, hedging, and landscaping and solid waste, lighting, and noise impacts to the extent as regulated by Chapter 18.245 – Supplementary Development Standards.
12. Parks.
 - a. Consistent with LCMC 18.147.030(2) the Tract A park and trail shall be completed prior to the issuance of the occupancy permit of the twenty-fifth dwelling unit in the subdivision.
 - b. Prior to final plat approval for the first phase of development the Developer shall:
 - i. Provide the Public Works Department with a final park plan that demonstrates how the Tract A and trail park will comply with applicable the design requirements of chapter 18.147.030, Family Parks, and applicable ADA requirements.
 - ii. Provide the Public Works Department with a final park plan that demonstrates how the Tract A park and trail meet the CPTED guidelines, street access, and lighting per LCMC 18.147.030(1)(b)(xi)(A) thru (C).

- iii. Complete the required park and trail improvements or provide the City with a bond or other financial security bond, in an amount of at least 125 percent of the estimated cost of construction of the Tract A park, trail and amenities with surety and conditions satisfactory to the Public Work Department providing for and securing to the City the actual construction and installation of such improvements prior to the issuance of the 25th occupancy permit, and to be enforced by the engineer by appropriate legal and equitable remedies.
 - iv. Provide the City with a final copy of the CC&Rs for a homeowners association (HOA) that ensure that the HOA assumes full responsibility for the liability and maintenance of the Tract A park trail and other amenities comparable to what the city provides for City-owned parks and trails. The CC&Rs shall indemnify the City against loss or injury sustained by any person that occurs while using the Tract A private park or trail system. The CC&Rs shall also permit the City the right of third-party enforcement.
- c. If the Development cannot meet the Family Park standards for each phase or for all phases, then the Applicant shall redesign the plat to meet the requirements of Chapter 18.147.
13. Critical Areas. Stormwater facilities may be constructed in Tract B in the outer 25% (50 feet) of the Type F stream 200-foot riparian buffer and the Tract A park may be constructed in the 200-foot riparian buffer and 120-foot wetland buffer, PROVIDED, prior to final plat approval of any phase:
- a. The Tract B stormwater facilities are designed consistent with consistent with LCMC 18.300.050(5)(c)(i) through (x);
 - b. The CES Critical Areas Mitigation Plan (CES Plan) is updated to reflect actual impacts to critical areas and buffers and the mitigation ratios are adjusted accordingly;
 - c. The CES Plan is updated to demonstrate no-net loss of buffer function and value;
 - d. The monitoring and mitigation Goals, Objectives, and Performance Criteria of the CES Plan (Chapters 6 and 7) are updated and implemented; and
 - e. All mitigation of critical area and buffer impacts shall take place within the Stephens Hillside Farms subdivision.
14. Impact Fees. Each builder shall be assessed and shall pay the impact fees for schools, parks and transportation in effect at the time of building permit issuance.
15. The applicant shall modify the final plat to include a minimum 50-foot wide right-of-way dedication between the western terminus of Street A and the “outparcel,”

tax lot 258906-000, to allow for construction of public street access to this parcel in the future.

B. Public Works Engineering Conditions

1. The Applicant, at time of engineering approval, shall demonstrate compliance with all applicable La Center regulations, goals and policies contained herein including the requirements and condition in Section III.H., Public Works and Engineering Analysis in the Final Staff Report.
2. As-constructed drawing(s) will be provided in ‘*.dwg’ electronic format as well as Mylar and paper.
3. Construction plans shall identify staging areas for all equipment, contractors, deliveries, and supplies prior to construction plan approval.
4. Construction plans shall identify and show all utilities with trench and location details.
5. Streets:
 - a. The development shall construct the street improvements noted in section III.H. Public Works and Engineering Analysis of this Staff Report.
 - b. Minimum sight distance requirements shall be met at all site intersections and driveways. The City Public Works Department prior to final site plan approval shall approve sight distances on the internal street system.
 - c. The development shall pay a proportionate share contribution towards improvements at the La Center Road/ Timmen Road intersection.
 - d. Street lighting installed shall be installed consistent with City and Clark Public Utility standards.
6. Site development earthwork for site grading and construction of sewer, storm drain, water, and street systems should occur during the dry weather season between May 1st and October 31st with planting and seeding erosion control measures completed by October 31st.
7. The Developer shall inspect and confirm any property markers before grading and add new markers as may be necessary.
8. Site improvements shall not proceed without an approved erosion control plan. All erosion control measures shall be designed, approved, installed and maintained consistent with Chapter 18.320 LCMC and City Engineering

Standards. The applicant is required to have a construction stormwater permit in place with a SWPPP per D.O.E. before construction begins. Where these standards differ, the more stringent shall apply. All erosion control measures shall be in place prior to removal of vegetation or any construction activity and shall be maintained during all phases of construction.

9. Prior to site disturbance, the applicant shall consult with the Public Works Department or and City Engineer to incorporate the design recommendations in Section 6.0 of the Geotechnical Site Investigation prepared by Columbia West Engineering dated October 20, 2018.
10. The Developer is responsible for all costs associated with the service installation, hydrant installations, and any other needed water improvements.
11. The design and construction of storm drainage shall be in accordance with the LCMC and applicable city engineering standards for public works.
12. The Developer shall confirm functionality of existing wastewater facilities and capacity to treat proposed loads from all phases of proposed development and make design modifications to the proposal if such is found deficient.
13. The Developer shall add utility stubs to allow future connection of adjoining developments to the public sanitary sewer service and water service.
14. The Developer shall provide a sanitary sewer stub for the property with higher elevations to the north to be served by the proposed pump station. The cost of any future hook-up will be the responsibility of the property owner.
15. The Developer shall extend the sanitary sewer system to the appropriate extremities of the project. Future sewer service to these properties will need to be connected by the owner of said property and at their cost. The developer shall dispose of stormwater on-site per LCMC. The applicant is required to treat stormwater and detain on-site meeting the city ordinance.

C. Transportation Conditions

1. The development shall construct "Street A" from NE North Fork Avenue to the western site boundary as a Major Collector per city standard detail ST-13. T-19 Improve 348th Street between Aspen Avenue / NE North Fork Avenue and the west terminus. Reconstruct as a Major Collector with pedestrian and bicycle facilities.]
2. The development shall dedicate right-of-way and construct frontage half-street improvements on Aspen Ave as a Major Collector per city standard detail ST-13.

3. The development shall provide a paved pedestrian/bicycle connection between lots 82 and 83 to access the planned private park in Tract A.
4. The development shall construct a multi-use trail within Tract A to connect to Heritage Trail on city-owned lot 258894122 to the south.
5. Minimum sight distance requirements shall be met at all site intersections and driveways. Sight distances on the internal street system shall be approved by the City Public Works Department prior to final site plan approval.
6. The La Center Transportation Capital Facilities Plan (TCFP), transportation project T-19, calls for improvements to NE 348th Street between Aspen Avenue-North Fork Avenue and the west terminus of 348th Street and the reconstruction of NE 348th St. as a Major Collector with pedestrian and bicycle facilities. The TCFP also includes transportation project T-18, extending Bolen Street to 348th Street as a Major Collector with pedestrian and bicycle facilities.

The applicant agrees to voluntarily and irrevocably commit to a dedication of right-of-way for a future street connection from the westerly terminus of proposed Street A (348th St.) of Stephens Hillside Farm Subdivision across proposed Tract C to connect with the easterly terminus of existing NE Bolen Street, the exact route to be determined within a reasonable time frame. The commitment shall encumber that portion of Tract C that is north of the proposed south right-of-way of proposed street A. The City of La Center shall be responsible for all costs related to the design and construction of said street connection. The commitment shall not exceed ten (10) years from the date of preliminary plat approval.

D. SEPA (MDNS) Documentation and Mitigation Conditions

1. Oregon white oak (if the Oak on site is an Oregon white oak):
 - a. Any Oregon white oak (*Quercus Garryana*) trees shall be included in any updated analysis and proposed mitigation or must be preserved in a separate tract.
 - b. The Applicant shall complete the required notice for development permit that would require or result in any tree removals and shall include a site plan indicating the location of any trees proposed for removal and an approved mitigation plan. The dripline shall be fenced and flagged with yellow tape and inspected by the City so that no compaction of the soil and root zone within the drip line occurs. Such flagging shall be maintained until a final decision on the proposal is rendered and inspected by the City. Trees remaining on site

must be protected and such approved by the City before construction activities begin. (LCMC 18.350.)

E. CCFR Fire Conditions

1. Fire hydrants must be provided on fire access roadways so that average spacing does not exceed 500' and the maximum distance from any point on the street frontage to a hydrant is no more than 250' per IFC C102.¹ The Fire District must approve the location of all the hydrants.
2. The perimeter of all structures must be within 150' of an approved access road with a minimum clear width of 20' per IFC 503.1.1 / D102. The Fire District must approve access to all the lots per the IFC.
3. Combustible construction above ground should not occur until the required, paved access roadways and fire hydrants are in place and functional.
4. Any dead-end road longer than 150' must be provided with an approved cul-de-sac or hammer-head turn-around in accordance the International Fire Code design criteria per IFC D103.4.
5. Roadways must have signage for parking restrictions as follows: Signs for no-parking must be provided on both sides of all streets that are less than 26 ft. wide. Signs for no-parking must be provided on one side of all streets that are between 26 ft. and 32 ft. wide in accordance with local standards for future enforcement. Roadways that are 32 ft. or greater in width do not require parking restrictions or related signage. IFC D103.6
6. One and Two Family Residential Developments with more than 30 dwelling units must be provided with two separate and remote fire apparatus access roads.
7. Residential (NFPA 13D) may not be required but are recommended for any dwelling units and may be considered as an alternate method to increase hydrant spacing or to address access issues.

DATED this 3rd day of October 2018.



Joe Turner, AICP
City of La Center Hearing Examiner

¹ Hydrant spacing was assessed based on structures that are non-sprinklered, type V-B Construction and no larger than 4,800 combined square feet. Additional hydrants may be required for streets providing access to structures greater than 4,800 SF per (IFC Table B105.1(2) / C102.1).