

**Planning Commission**  
**June 6, 2005**

Chairperson Schneider called the regularly scheduled meeting to order at 7:01 PM

The following members were present: Sandy Ramsey, James Montgomery, Ken Smith and Cristi Boyle-Barrett. Cindy Maas and Lisa Cramer were absent. Also in attendance were Administrator Schmidt, Planning Director Dan Staley, City Attorney Sue Sampson and City Engineer Dominique Miller.

Montgomery moved to approve the minutes of the May 23, 2005 Commission meeting. Boyle-Barrett seconded the motion and the motion carried.

**Neilson Meadows Preliminary Plat Public Hearing:**

Chairperson Schneider opened the public hearing on Nielson Meadows Subdivision at 7:05 PM. Administrator Schmidt stated staff has prepared a staff report to the Planning Commission members. He would like the entire packet entered into the record which are items 1-46, the staff report being item 46. The applicant is MLH Development and the Engineering firm is Sitts and Hill Engineering, Inc. The applicant is proposing to subdivide the parcel of property located at 120 Spruce Street. The application proposed to divide the 5.10 acres parcel into fifteen lots consisting of thirteen residential building lots, one stormwater drainage tract and on .77-acre tract that is to be dedicated and consolidated into the parcel directly south of the subject property. The applicant shall install a new 196 feet cul-de-sac to access the property and provide frontage improvements consisting of pavement widening, curb and gutter, sidewalks, planter strip, street lighting, stormwater drainage and utility extensions across the areas abutting Spruce Street, Collins Road and Sergeant Street. Application was submitted on May 1, 2004 and received Technically Complete Status on April 21, 2005. A Notice of Application was issued by the City on May 6, 2005 and published in the May 11, 2005 legal section of the Enumclaw Courier Herald. The Notice was mailed to all property owners within 300 feet of the site, posted at City posting sites and on the property May 11, 2005. The application was reviewed for compliance with the State Environmental Protection Act (SEPA) and a Mitigated Determination of Nonsignificance (MDNS) was issued on May 6, 2005. Comment period on the MDNS expired on May 26, 2005. Staff reviewed the entire application and material in front of the commission per BMC 18.20. Based upon review of the facts, findings, submitted application, professional studies and reports and preliminary plat map staff have determined that "as conditioned" this proposed project complies with adopted City standards and therefore recommends approval based on satisfactory compliance with the recommended 40 conditions listed in Section III below. Administrator Schmidt stated there are some concerns the applicant has with some conditions that have been made.

Larry Hires, Sitts and Hill Engineers, Inc., 2901 South 40<sup>th</sup> Street, Tacoma WA 98409. They have concerns regarding a couple of the conditions. They received the staff report late today and did not have time to review it to see if and how they could comply. One of their concerns is the requirement of single story homes on lots 5, 6, 8, 10, and 11. The

builder for this project does prefer to build rambler style houses, however on lots 5 & 6, the building pad isn't large enough for rambler buildings. Whether or not we can reconfigure the lots around the cul-de-sac is in question right now, they need to look at that a little deeper. The other issues they talked to staff about was to cut back the paving on Collins Road 1 foot and build the new road approximately 10 feet to the new gutter line. The condition in the staff report was for half street improvements and they don't know if what they proposed complies with that condition. The other item is the existing 10" AC water line in Collins and a 6" AC water line in Sergeant St both of which meet fire flows and they have been asked to rebuild those lines and there is question whether that would be their responsibility to do that.

Mike Hargreaves, 610 No. 1<sup>st</sup>, Tacoma. Their goals would be to change pads to accommodate ramblers on all the lots that are in question, by possibly moving some of the lot lines and set backs. They just haven't had time to do that with getting the staff report so late.

Ike Bazzar, 1554 Collins Road, which is directly across the street from, lots 5 & 6. He has lived in this home for 35 years and the view of the mountain is worth its weight in gold. Now if these people come in here and build two story homes and block his view he will be ticked at his neighbors and they don't even know them. He is not against the development. The traffic is going to be something else. The drainage ditch on Collins will obviously be closed and right now there is a drainage problem along there and further east down the ditch line. A developer comes in here and gets their big bucks and then leaves town and the city is left with the problems.

Eric Skogen, 121 So. Sergeant St. Some of the preliminary talks he has had with the developers, he is impacted more than anyone else. They are not against the development but there are some issues that need to be seriously thought about. One of the main issues is the drainage. His family put in an extensive drainage system and he would like to know with being to the south of this, what is going to happen with the storm drainage. We have seen this happen with other development on Collins Road, they bring in fill and then become higher than the existing properties and then the low-landers get stuck with all the water problems. Another concern what he thought was a couple of feet being over on their property line is now 12 feet. He has met with Mike and Larry and they so far have been fairly easy to deal with but they are still concerned with what will happen to their yard. This area has 92 trees planted on it that have been there for 25 years and they have maintained this area the entire time and don't want to lose this. They want to work with the developer and have them work with us rather than getting into it with them. He feels it is rather unfair for a piece of property that has been established for 37 years to be forced to adapt to someone else that is coming in. He feels the new development should have to adapt to the current surroundings.

Bill Boyle, 1645 Collins Road. Although he is a little east of the development it will be an impact on him. He is not against the development by any means however from past experience and a few thousand dollars spent of his own money there was a mistake made

before by a developer and he is a little leery because we do have a storm water problem. There are 4" storm drain tiles throughout all this property out there. When a developer comes in and tears out a working system it causes problem for others around them. These drain tiles drain all the vacant fields southeast of Collins Road. As Ike said earlier, when you close in the ditch with a 36" pipe, you lose capacity and the water backs up and if the water backs up, his driveway will flood and then he is going to be steaming mad. It is has been stated there is an engineered storm drainage plan and he hopes it works, just know that if we all get wet the city will be responsible.

Mike Hargreaves stated he wants to build something that is going to add to the City. They have gone through great lengths to design a storm system for this development because they know there are drainage problems out there. He has met with Mr. Skogen and has come up with some ideas on conveying his water through their project. He hopes everyone understands that as they go through this process that it is still a working process and that hopefully when it is all said and done that everyone feels it is a good addition to the City.

Bob Olson, 1408 Main Street, he has lived here all his life. He would like to see the Police Chief, the Fire Chief and the Utility Superintendent here when you're talking about these developments, these will be the people that will be dealing with the problems when these developers leave. He feels very strong about the height limitations. The storm drains downstream are not big enough to handle the water problem. There will be more traffic. We have less man power on the utility crew than we had ten years ago. The amount of people we are bringing in will not be enough to hire the man power to take care of the problems. Has anyone talked to the utility department, fire chief, police chief to get their opinions on how this will work?

Administrator Schmidt stated Mr. Skogen is addressing the commission with a possible challenge on property line disputes and he would like the City Attorney address this issue. Regarding the storm water issues, our City Engineer Dominic Miller is here and can address that issue. For the commission and the audience members when staff is recommending approval, that means it has been sent to all the department heads to present comments so it is not just him that is recommending approval, it is all the staff in the city.

Attorney Sampson stated a boundary dispute between an applicant and an adjacent owner is not something the City can have any involvement in until it impacts an application that comes before the Planning Commission or the City Council. If this parcel is large enough that it could be granted and meet all city requirements with or without the disputed area then the commission should go ahead and process it make its recommendation to the Council and the Council should act on the application, so long as the disputed property doesn't make any difference to the outcome. If the disputed area had the potential to take away enough land for the developer to not do what they wanted to do, then the City would not be in the position to grant an application or plat approval until the private dispute over ownership has been resolved. Administrator Schmidt stated

it appears that the disputed area is not enough to hold up the approval of this plat, however, we don't know for sure what the actual area is.

Eric Skogen, 121 So. Sergeant St. stated the area Mr. Schmidt was referring to is approximations, they heard anywhere from 1-12 feet off the property line but he can't give anything definite for the record. One other thing, he can't answer a lot of the questions when you find out in the last day that you are going to have 12 feet the whole length of your property, you need time to digest it and think about how to resolve it.

Bob Skogen, 520 Ryan Road, Apt A, Buckley. He purchased this property 25 years ago from Ron Ziemer. He was told this is where the property lines were, evidently it is not. He had popular trees there that he dug up and planted the hedges. It has been this way for 32 years so he would say adverse possession.

Mike Hargreaves stated he, Eric and his father have had several conversations on this and he feels they have been good conversations. He feels there are a number of solutions so this plat can go forward. He has come up with some recommendations for Eric and his wife and he is waiting to hear back from them. Their goal is that at the end of the day, they put in something that all the existing people will like their neighbors.

Boyle-Barrett asked regarding lot eight she would like reassurance that backing out onto Collins Road will not be a safety problem. She understands the applicant is asking for a variance from the 150' to the intersection. Her concern is the traffic flow on that road is very dangerous to back out onto that road with intersections close on both ends. Mr. Hargreaves stated to assure the Planning Commission that no one will back out onto Collins, he cannot make complete assurance but they will do everything to make sure the safety issue is addressed.

Larry Heires, Sitts and Hill Engineers, their proposal is to have a hammer head driveway on lot 8 so people would be able to drive straight out rather than back out and he would see no opposition to having that conditioned on the plat.

Bill Boyle, 1645 Collins Road, pardon his stupidity, but couldn't lots 8 and 9 share a driveway. Boyle-Barrett stated she also thought about that, however, then on lot 8 they would have the back yard of lot 8 facing Collins Road. Boyle-Barrett had a question for Mr. Boyle, earlier he talked about the drain tiles, how deep is it? Mr. Boyle stated approximately 5 feet deep. Boyle-Barrett asked Mr. Hargreaves regarding the drain tiles, will those be preserved or will they be digging deeper than 5 feet. Mr. Hargreaves stated they don't plan on digging that deep except for when they get into the sewers. Boyle-Barrett stated it was Mr. Boyle's request to not disturb the drain tiles. Larry Heires stated they have no evidence that there is drain tile on this property but what they plan on doing with the storm drainage is take the roof, patio and driveway drains and convey those out to the storm drain system and into the detention pond. Not only will they be handling storm water from their own development but also from the existing pavement on one half of Collins Road. They feel this will be an improvement to the drain issues. Schneider asked how does the conveyance capacity of a 30" pipe compare to an open ditch. Mr.

Heires stated they haven't done a calculation of what the capacity of the ditch is. Schneider stated there was concern of the height of the development and how much fill are you planning to bring in for this development. Mr. Heires stated they aren't planning to bring any fill in. Boyle-Barrett stated Mr. Skogen had some concerns about the existing storm drain system on his property that goes along Sergeant, is that resolved between you two so his water won't be impeded. Mr. Heires stated they have made a proposal on how to take his water out and put it into our system but we haven't heard from him. Schneider asked what size storm event the detention pond is planned for. Mr. Heires stated 100 year. Montgomery asked because of the water problems in that area, would the developer consider harvesting rain water off the roofs and having underground cisterns that people could use to irrigate their lawns and gardens. Mr. Heires stated it would be hard to keep the tanks in the ground because of the high water table.

Dominic Miller, City Engineer would like to address some of the storm water questions. The City requirements require that they detain all the run off from their property and treat all pollution generating impervious surfaces. They are required to detain to the two year storm and release at a rate no greater than 50% of the pre-development two year storm rate. For the 10 year and 100 year storm events they are required to not exceed the existing conditions. One of the issues with this plat and the downstream capacity is the pipe they are going into is a 30" pipe which is deficient in capacity as identified by the City's stormwater comprehensive plan. By their calculations, this plat is not releasing at a higher rate to make it worse, but it is already deficient. This pipe is listed in the stormwater comprehensive plan to be upsized to a 42" as a city project at the cities expense. The corner may well flood until that downstream bottle neck is removed. As far as the drain tiles go, there was not evidence in the report of drainage tiles that exist. From his review the deepest excavation that will be occurring on site are within the cul-de-sac for the installation of the sewer lines. At that time if these are found we can require them to pipe it back across to the ditch to maintain the integrity. Smith stated so by having the detention pond even though you are creating more flow you would be able to control the flow. Dominic Miller stated yes that is how they work. Smith stated he has installed these before and in his experience over 70% of them they had problems with.

Bob Olson, 1408 Main Street, he hasn't heard anyone address the height issues for the view to people on Collins Road. He doesn't think the storm drain is that deep, it flooded last year. The drains can't handle it. He would like to ask the commission members who have gone out and looked at the property. He strongly encourages all them to take a look at this property and talk to the neighbors and get a feel for what this is going to do. Stop serving the developers and serve the people that are in Buckley.

Ike Bazzar, 1554 Collins Road, the saying used to be nestled in the foothills of the Cascades, but guess what, you can't see the cascades anymore.

Mike Hargreaves, stated he and Mr. Heires went and looked at this area site lines the other day. There is actually foliage out there that is higher than the house height restrictions. He believes given the opportunity to do the lot line adjustments to make sure we can put on ramblers; they feel the site line will improve. Boyle-Barrett asked

regarding lot 8, it was brought up about accessing off Sergeant. Mr. Hargreaves stated that is actually a private drive off the flag lot and there are regulations stating you cannot access two lots off the same driveway, this was looked at preliminarily.

Bob Olson, 1408 Main Street. You say the height restriction of 30 feet now go down there and look what a house that is 30 feet high would do to the people's view across the street from Collins. Boyle-Barrett stated the developer has already talked about how they can refigure the lot lines to get ramblers on those lots. Montgomery stated he appreciates his comments but asked Mr. Olson to come to the regular Planning Commission meetings so he can see how we are doing things.

Doug Walker, Edgewood representing the builder that will be buying the lots on this development. It is Sterling Master Homes. He has built two communities in Buckley and about five communities outside of Buckley. His kids and grandkids live in Buckley as well as his workers. This brings in a lot of jobs and income into Buckley. Smith asked if this builder has ever had any problems with the Better Business Bureau. Mr. Walker stated not that he knows of.

There was discussion on whether or not we have to advertise for a new hearing if changes are made to the plat. Attorney Sampson stated there are a few ways of dealing with this. Generally if you are in the midst of a meeting and you can't finish it you may continue and it doesn't require new advertisements and new postings because anybody who wished to participate has had the opportunity to be here tonight and to talk. It is her opinion you could continue it and it would not require re-noticing and re-posting other than the notices required by the open public meetings act. There are a number of options. You could close the public hearing and after deliberations you could decide to accept the staff recommendations, reject the staff recommendations, accepts the staff recommendations with stated modifications or variations. Another alternative is to adjourn this hearing and reconvene for a consideration of a modified plan with new notices and new postings calling for revisions to the plan at that time and allowing public comment again at that time. Of these options the one that requires the consent of the applicant is asking him to come back with new drawings for planning commission consideration.

Boyle-Barrett asked when talking about adjusting the lot lines, are you talking about all the way around the cul-de-sac or just lot 5 and 6. Mike Hargreaves, stated it would probably need to be for all the lots around the cul-de-sac. The biggest issue they need to look at is the front footage for each lot on the cul-de-sac and see how much a variance we would need. Administrator Schmidt stated that is his concern, it is hard for staff to recommend approval with something we have no idea what it is going to be and we don't even know if they would need a variance. Staley stated they need to start digging, but we can't let them dig until we see the new lines. Administrator Schmidt stated any variance they may seek should be a part of this application and should go through concurrently. Otherwise they would have to go through a separate variance procedure. Mr. Hargreaves stated just looking at lots 3 & 4 it appears there is enough room to move the cul-de-sac but we won't know for sure until we go back and re draw this.

Administrator Schmidt asked the Attorney if the Planning Commission continues the public hearing without closing it, he knows new information can be entered into the record, can they enter into the record an amended plat map and application after the hearing has already been open. If they can, he wouldn't have a problem with continuing this and they would amend the staff report as well. Attorney Sampson stated that would be fine. Mr. Hargreaves stated that would work fine for them as well.

Ramsey asked when reconfiguring the plat, she would like to see some agreement with the tree issue with the Skogen's. Mr. Hargreaves stated he would like to have that resolved also at that time. Montgomery stated there is a 30' cul-de-sac coming out onto Collins and a 30' foot driveway coming out onto Sergeant Street, would it be feasible to eliminate the cul-de-sac and bring Whitmore Way around to connect to Sergeant. Administrator Schmidt stated they can't because of City standards. Boyle-Barrett on the tree issue, if it is not resolved by the next meeting, could we get an exact area of land dispute to make sure there is enough room to continue with the plat.

Bob Olson, 1408 Main Street asked the developer if they are going to decrease the radius of the cul-de-sac. Mike Hargreaves stated no they are not. Bob Olson asked if they are replacing the transite water line and how far. Mike Hargreaves stated they are proposing to replace the water line on Collins Road. Bob Olson stated it should be replaced on Spruce and Sergeant Street also. Mike Hargreaves stated he understands the concern on this and will make sure it is done right.

Boyle-Barrett moved to continue this hearing to June 20, 2005 at 7:00 PM. Ramsey seconded the motion and the motion carried.

Administrator Schmidt advised everyone that this is a quasi-judicial hearing and there should be no ex-parte communication between yourselves or anyone else regarding this matter. If there are any questions please direct them to staff.

### **Capital Facilities/Utilities Element Public Hearing:**

Chairperson Schneider opened the public hearing at 9:05 PM. Dominic Miller from Gray and Osborne gave a brief explanation to the commission on what is incorporated with the capital facilities and utilities element.

Administrator Schmidt stated Mr. Sundstrom's letter talks about the gas system with the amount of water customers to the gas customers stating gas is not made available to all customers. That is not true, anyone that wants gas can get gas, it may be harder for some than others. The City by ordinance is not required to extend gas to everyone in the city. For instance on Sheets Road there are maybe six customers, it would not be feasible for the city to run a gas line out there but the property owners could get together and pay to have the lines run if they choose to. The other issue that Mr. Sundstrom talks about is the storm water comprehensive plan. The comprehensive storm water plan is draft form, it has not been adopted yet. He talks about the problems on Spiketon and the fact that they haven't been addressed thoroughly in the comprehensive plan. The city has already

talked to Gray & Osborne regarding this. Schneider asked if the storm water comp plan is a part of the Comprehensive Plan. Administrator Schmidt stated no it is not, it is a stand alone document.

With nothing further the public hearing was closed at 9:13 PM.

Montgomery stated he is doesn't speak engineer language and he knows that Dan and Dave do and if they are comfortable with this plan, he is comfortable with their recommendation. Administrator Schmidt stated he is not making a recommendation in favor of it at this point because he has not read it yet. He is going with the expertise of the Planner and Engineer at this point. Schneider asked if Staley had a recommendation on it. Staley stated he would say to go with it. He has not had a chance to address Mr. Sundstrom's comments, there are just a couple comments that refer to this document.

Boyle-Barrett moved to recommend approval of the Capital Facilities and Utilities Element to the City Council. Ramsey seconded the motion and the motion carried.

**Discuss comments from the May 25<sup>th</sup> Open House:**

Schneider stated they were generally positive. Montgomery stated there were comments that Ken Smith made with some of the people at the open house and it was contrary to what we as a body has decided to do. He wanted to know if Ken would like to talk about any misgivings he has with the commission because he hadn't talked about it earlier because these comments that were made could come out. Montgomery stated Ken is entitled to his own opinion and he respects that, but when we decide something as a group then we need to support that group decision. He is not completely 100% happy with everything either and he is sure everyone has some issues they don't necessarily agree with it. Smith stated is he not allowed to say anything as his personal opinion just because he is on the commission. Montgomery stated he is not saying that at all. Smith stated he is pushing the urban reserve zone along Ryan Road because we know services will not be there so why should we up zone it. He spoke with the King County Assessor's and they assured him face to face if you up zone people taxes will automatically go up from the zoning. He knows that is not Pierce County. Montgomery stated the urban reserve does not fit for Buckley and by telling people that we can do it is giving people false hope. Staley stated we addressed the tax issue, we brought someone in here that is a Pierce County Assessor, and did Mr. Smith address him regarding that. Smith stated he did not. Ramsey stated Mr. Nearhood from Pierce County will be here for the Public Hearing on the 13<sup>th</sup>. Discussion ensued regarding taxes and how they are collected by the City. Administrator Schmidt stated the City collects less and less every year because of I-747. Smith stated if the commission really has a problem with him voicing his own opinion, he will give his verbal resignation. He is not going to work this way because he really doesn't agree with a lot that is going on and he is not going to abide to something he doesn't believe. He feels he can do better work out in the audience than he can sitting on the Planning Commission. Montgomery stated he respects Smith opinion 100% but he wishes he would voice it to the commission and he feels the commission has been blind sided by this. Schneider stated it is his decision if he is not comfortable working as the commission works. It is his decision. Smith stated basically

that is what is going on. Boyle-Barrett stated she values his opinion and would like to hear more of it when in meetings and if he has a strong opinion about it we need to hear these things at the meetings. We as planning commission members; it is our job not to have an agenda when sitting in the chair but to listen to all sides of the argument and to make the decisions in the best interest of the city. When you are in a public forum, even though you have personal opinions, you are a representative of the planning commission and even if you didn't agree with something the commission has decided to accept you have to back that plan in public. Smith stated he can't do that, he doesn't agree with what the planning commission is doing. Administrator Schmidt stated the democratic system is not perfect. It is good to get everyone's opinion that is what the system is all about.

With nothing further the meeting was adjourned at 9:33 PM.

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Wolfe Schneider, Chairperson