

CHRON

**FINDINGS, CONCLUSIONS AND DECISIONS  
OF THE HEARING EXAMINER OF THE  
CITY OF OLYMPIA**

**CASE NO:** 05-1256 (Wellington Heights - Preliminary subdivision application)

**APPLICANT:** Coffee Creek, L.L.C.

**SUMMARY OF REQUEST:**

The Applicant requests preliminary approval of a subdivision containing 56 lots for single family residences on 9.4 acres.

**LOCATION OF PROPOSAL:**

2000 Block of 18th Avenue SW, located in Township 18N, Range 2W, Sec. 22, W.M., and including Thurston County Assessor Tax Parcel Numbers 59000400600, 59000400100, 59000400800, 59000500100, 59000300100, 59000600100, 59000200100, 59000200600, 59000200900 and 59000700300.

**SUMMARY OF DECISION:**

Preliminary subdivision approval is granted, subject to conditions.

**HEARING AND RECORD:**

The hearing on this application was held before the undersigned Hearing Examiner on January 8, 2007. The record was left open until January 19, 2007 for additional responses.

At the hearing, the following individuals testified under oath:

Kraig Chalem, Associate Planner for the City of Olympia  
Community Planning and Development Department  
837 7th Avenue S.E., P.O. Box 1967  
Olympia, WA 98507

01/22/07

Chuck Dower  
Community Planning and Development Department Engineering  
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Olympia, WA 98507

Chris Merritt  
Olympic Engineering  
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Tumwater, WA 98501

Rhett Russell  
Coffee Creek, L.L.C.  
P.O. Box 11489  
Olympia, WA 98508

Richard G. Phillips, Jr.  
Owens Davies, P.S.  
926 24th Way SW  
Olympia, WA 98502

AND  
JOSEPHINE YUNG  
1625 DIVISION ST. SW  
OLYMPIA WA 98502  
+ RNA'S  
COOPER POINT  
SOUTH WEST SIDE  
WELLINGTON WEST

At the hearing, the following exhibits were admitted as part of the official record of these proceedings:

Exhibit 1. Staff Report by Olympia Community Planning and Development Department for No. 05-1256, prepared by Kraig Chalem and issued January 2, 2007. This Exhibit includes the nine-page Staff Report and Attachments A through M, identified on Page Nine of the Staff Report. Note: The version of Attachment L, Landscape Plan, offered at the hearing was stamped as received October 30, 2006. It subsequently came to light, see Ex. 5, that the most current version was stamped as received October 31, 2006. The Staff and Applicant agreed to substitute the current October 31, 2006 version for the October 30, 2006 version offered at the hearing. The version of Attachment L admitted into the record is that stamped as received October 31, 2006.

Exhibit 2. E-mail from Kraig Chalem to Tom Bjorgen and the Applicant, sent January 9, 2007, and incorporated e-mail from Chuck Dower.

Exhibit 3. E-mail from Tom Bjorgen to Kraig Chalem, sent January 15, 2007.

Exhibit 4. E-mail from Kraig Chalem to Tom Bjorgen and the Applicant, sent January 18, 2007, with attached Staff responses to questions posed in Ex. 3.

Exhibit 5. Series of e-mails sent January 17 and 19, 2007 among the Staff, Applicant and Hearing Examiner relating to tree retention.

Exhibit 6. E-mail from Tom Bjorgen to Kraig Chalem and the Applicant, sent January 19, 2007, relating to state of record.

Exhibit 7. E-mail from Tom Bjorgen to Kraig Chalem and the Applicant, sent January 19, 2007, relating to state of record.

Exhibit 8. E-mail from Kraig Chalem to Tom Bjorgen, sent January 22, 2007, and e-mail from Tom Bjorgen to Kraig Chalem and the Applicant, sent January 22, 2007.

Exhibit 9. E-mail from Richard G. Phillips, Jr. to Tom Bjorgen, sent January 22, 2007.

After consideration of the testimony and exhibits described above, the Hearing Examiner makes the following findings of fact, conclusions of law, and decision.

### **I. FINDINGS OF FACT**

1. The Applicant requests preliminary subdivision approval to subdivide 9.4 acres into 56 lots for single family residences, with associated streets, stormwater facilities and tree tract. The subdivision is proposed as a zero-lot line development.

2. The property on which the proposal is located has a Comprehensive Plan and zoning designation of Residential 6-12 (R 6-12).

3. The project site is almost flat, sloping gently from the north to the south. A steep slope falls away from the site just beyond its southern boundary.

4. Next to the project to the north are Divisions 3 and 4 of the Wellington West subdivision, which are built out with single family residences. Also to the north is the plat of Wellington Park, which is yet undeveloped, according to the Staff Report. To the east of the project site are several undeveloped lots and to the south and the west lies the Olympia Auto Mall, commercially developed land zoned Auto Services.

5. Fern Street and Division Street currently approach the project site from the north, ending at its north boundary. These streets would be extended into the plat from the north and would intersect a new east-west street in the plat as shown on Ex. 1, Att. K. In addition, a new north-south street would be built in the east part of the plat, stubbed to the plat's north boundary. Id. These streets would be built to local access standards.

6. The smallest lot size proposed is 3501 square feet. The average lot size is 4095 square feet. The smallest lot width proposed is 34 feet. The average lot width is 40 feet. See Ex. 1, Att. K.

7. The project site is divided into the three drainage basins shown in Ex. 1, Att. G, Fig. 1. Basins 1 and 2 cover the vast majority of the subdivision. In each of these basins stormwater from streets and driveways will drain to a facility consisting of a treatment and detention pond. Roof runoff is proposed to be dispersed by downspout dispersion methods set out in the Olympia Stormwater Manual.

8. Although some infiltration may occur, the treatment and detention ponds in Basins 1 and 2 are designed to store and discharge all stormwater reaching them. The ponds are designed to release water at the predeveloped flow rates to an existing stormwater easement to the south of the site. This easement conveys stormwater to a stormwater pond owned by the City.

9. Stormwater from the Wellington West subdivision to the north flows through the site of the proposed subdivision through a rough drainage bypass ditch in a drainage easement. This drainage would be placed in a pipe and would be discharged to the existing drainage easement to the south. This bypass flow and the extreme southerly portion of most of the lots on the site's southern edge are included in Basin 3, described as a bypass basin. Runoff from Basin 3 would not be routed to the stormwater facilities in Basins 1 or 2, but would flow off the site to the south, similarly to present conditions.

10. Mr. Pettie and Mr. Morris, owners of property to the south and downhill from the proposed subdivision, submitted letters expressing concern about drainage from the site. See Ex. 1, Atts. M. iv, M. v, and M. xi. These letters state that their property has historically had problems with drainage from the subdivision site. They describe part of the Applicant's proposal as collecting drainage from yard drains along the subdivision's south boundary and discharging it through an 8-inch perforated pipe. They state this will cause "future drainage issues" on their property.

11. I am unable to locate the 8-inch perforated pipe on the Preliminary Erosion Control, Grading and Drainage Plan and details submitted with this subdivision, found at Ex. 1, Att. K. Nor do I see it mentioned in the Drainage Plan at Ex. 1, Att. G or the environmental checklist at Ex. 1, Att. B. Whether or not this approach is still incorporated into the proposal, runoff from all streets and driveways will be routed to one of the two ponds. Ex. 1, Att. G, Chart after p. 6. Aside from the tree tract, the only land which would drain directly to the south without detention is .51 acres containing "lot landscaping". *Id.* As noted above, roof runoff will be dispersed consistently with the Olympia Stormwater Manual. The City Staff testified that the proposal will not result in any increase in runoff leaving the site, which is consistent with the fact that only the tree tract and lot landscaping will drain directly off the site without routing through the detention ponds. The issues raised by Mr. Pettie and Mr. Morris are important and demand close consideration. The evidence shows, however, that this proposal will release stormwater at predeveloped flow rates. Evidence to the contrary was not submitted.

12. The City Staff has reviewed the Applicant's proposal for handling stormwater and states it complies with the City's Stormwater Manual.

13. Minimum Requirement No. 3 of the Stormwater Manual requires the project to use all known, available and reasonable source control best management practices to limit pollutants from coming into contact with stormwater. See Ex. 1, Att. G, p. 4. The evidence shows that the system will use treatment ponds, as described above, and that sediment "will likely settle" in sumps and manholes before reaching the treatment ponds. Ex. 1, Att. G, p. 5. The evidence does not show whether these are the only measures proposed to meet this requirement or whether they constitute "all known, available and reasonable source control" BMPs. To assure compliance with this requirement, this decision is conditioned to require the Staff to evaluate whether other source control measures are known, available and reasonable. If the Staff finds that to be the case, it shall require such measures. If the Applicant disagrees with the Staff's determination, it may bring the issue to the Hearing Examiner through an appeal.

14. The project site has scattered second growth Douglas fir, red alder, lodgepole pine, big leaf maple and willow.

15. For purposes of the City Tree Ordinance, Olympia Municipal Code (OMC) 16.60, the buildable area of the project site is 7.97 acres. At 30 tree units per acre, this requires that a total of 239 tree units be retained or planted on the site. Tract A, the tree tract, has 57.4 tree units on it, if all its trees are retained. This results in a deficit of 182 tree units.

16. The Applicant proposes to meet this deficit by planting trees containing 219 tree units. See Landscape Plan, Sheet L-3, at Ex. 1, Att. L. The Landscape Plan contains the note "additional trees in tree tract" and the statement that at least 75% of the required trees will be in the tree tract. Assuming that this means 75% of the required tree units, consistently with the ordinance, that would result in a total of at least 179.25 tree units retained or planted in the tree tract.

17. The children living in the proposed subdivision who attend public schools would be assigned to Garfield Elementary School, Jefferson Middle School or Capital High School. Each of these schools lies more than a mile from the subdivision site. Therefore, the Olympia School District will provide school bus service for these students.

18. The City Staff testified that the School District would provide school bus service to a point within the plat and that sidewalks will be built on all internal plat streets. This decision is conditioned to require that or, if any school bus stop is outside the subdivision, that a walking route on sidewalks be present to it from this subdivision. This would provide safe walking conditions to school for students in this subdivision.

19. The City has capacity for the domestic water and fire suppression requirements of this subdivision. A City water main is located at the subdivision boundary.

20. The City has capacity for the sanitary sewer discharge of this subdivision. An existing sewer main runs on the proposed Division Street right-of-way in the subdivision.

21. The City has capacity for the solid waste generated by this subdivision.
22. The Olympia Fire Department requested revisions to Lots 54-56. The Staff testified that the Applicant has incorporated them into its drawings and proposal.
23. Design review will be carried out by the Staff at the building permit stage.
24. The amount of traffic generated by this subdivision was projected by using City of Olympia trip generation standards, which are based on the Institute of Transportation Engineers (ITE) Trip Generation Manual. Under those rates, the 56 detached single family units proposed are projected to generate an average of 536 vehicle trips per day, 42 of which are in the a.m. peak period and 57 of which are in the p.m. peak. See Transportation Impact Analysis (TIA) at Ex. 1, Att. H, Table 2.
25. These trips are expected to be distributed on the street network as shown on Ex. 1, Att. H, Table 4. The TIA based this distribution on available accesses onto major roadways and the location of nearby commercial areas. The Staff accepts this projected distribution.
26. The TIA contains traffic counts taken in October 2005 at the intersections of Cooper Point Road and Carriage Loop Road and Cooper Point Road and Black Lake Boulevard.
27. Projected 2008 volumes were estimated by increasing these 2005 traffic count volumes by 3% per year and by adding traffic from the two pending projects noted at Ex. 1, Att. H, p. 12.
28. Street intersections are evaluated by their level of service or LOS. This is a measure of vehicle operating speed, travel time, travel delays and driving comfort. LOS A represents the best conditions, essentially free flowing traffic. LOS F represents the worst.
29. The general minimum acceptable LOS in the City is LOS D. However, the Staff states at Ex. 4 that the minimum acceptable LOS at the intersection of Cooper Point Road and Black Lake Boulevard set by the Comprehensive Plan is LOS F. The Staff statement at Ex. 1 Att. M. vii that this project will add to intersection failures refers to this intersection. See Ex. 4.
30. Table 3 of the TIA, Ex. 1, Att. H, shows the projected 2008 LOS at the intersections of Cooper Point Road and Carriage Loop Road and Cooper Point Road and Black Lake Boulevard with or without the proposed subdivision. At the intersection of Cooper Point Road and Black Lake Boulevard, the southbound traffic movement will operate at LOS E with or without this subdivision. The westbound movement will operate at LOS F with or without this project. Figure 4 of the TIA shows that this subdivision will not contribute any trips to that LOS F westbound movement.

31. Table 3 of the TIA shows that all movements at the intersection of Cooper Point Road and Carriage Loop Road will operate at or above LOS C with or without the proposed subdivision. This meets the general minimum LOS D adopted by the City.

32. Under the evidence, this subdivision will not contribute traffic to an intersection or traffic movement which is already below the applicable minimum LOS. Nor will it cause any intersection or traffic movement to decline below the applicable minimum LOS.

33. Transportation impact fees will be assessed at the building permit stage.

34. Intercity Transit has a bus stop near the intersection of Fern Street and 9th Avenue.

35. The project site does not include any critical areas or buffers.

36. As conditioned, this subdivision makes appropriate provisions for the public health, safety, and general welfare and for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds, and for sidewalks and planning features that assure safe walking conditions for students.

37. The public use and interest will be served by this subdivision and its dedications.

### **CONCLUSIONS OF LAW**

1. RCW 58.17.110 (1) and (2) set out the basic standards which this proposal must meet if it is to be approved. They state that

"(1) The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication.

(2) A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all

other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication . . ."

2. In addition, subdivisions must be consistent with the Olympia Comprehensive Plan and in compliance with other applicable land use laws, such as the City zoning ordinance.

3. As conditioned, this subdivision makes appropriate provisions for the public health, safety, and general welfare and for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds, and for sidewalks and planning features that assure safe walking conditions for students.

4. The public use and interest will be served by this subdivision and its dedications.

5. In this zone the maximum average density is 12 and the minimum average density 6 units per acre. In calculating minimum density, critical areas, their buffers, land accommodating required stormwater facilities, and tree tracts are not included. OMC 18.04.080 B. The proposed stormwater and tree tracts total 2.08 acres. Subtracting that from the total site area of 9.4 acres gives a net of 7.32 acres. Fifty six units on 7.32 acres results in a density of 7.6 units per acre, which meets the minimum density. In calculating maximum density, stormwater and tree tracts are included in the acreage calculation. Thus, the denominator in figuring maximum density will be larger than the 7.32 acres used for minimum density, resulting in a lower units per acre figure. This meets the 12 unit per acre maximum.

6. The minimum lot size for zero-lot line developments is 3500 square feet. OMC 18.04, Table 4.04. As found above, no lot proposed is under this size.

7. The minimum lot width for zero-lot line developments is 40 feet. OMC 18.04, Table 4.04. However, OMC 18.04.080 G. 2. c allows lots to be up to six feet narrower than that if the average lot width is at least the minimum from Table 4.04. Finding No. 6 shows that the smallest lot width proposed is 34 feet. The average lot width is 40 feet. The requirements of Table 4.04 for lot width are met.

8. As conditioned, this subdivision meets the density requirements and development standards of OMC 18.04, except that standards relating to setbacks, height, building coverage or other physical improvements are reviewed by the Staff with the building permit. As conditioned, this subdivision complies with the Zoning Ordinance.

9. As conditioned, this subdivision is consistent with the Comprehensive Plan.



10. As conditioned, this subdivision complies with the Olympia Stormwater Manual.
11. As conditioned, this subdivision complies with the City Tree Ordinance, Chap. 16.60 OMC.
12. As conditioned, this subdivision complies with other applicable City ordinances and standards.

## DECISION

The proposed preliminary subdivision is approved, subject to the following conditions:

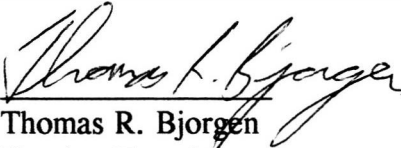
1. The Recommended Conditions of Approval listed at Ex. 1, pp. 6-8 are incorporated by reference. The letter referred to by Condition 12 on p. 8 of Ex. 1 is that found at Ex. 1, Att. M. iii.
2. The additional conditions of approval 1-8 listed at Ex. 8 are incorporated by reference, except that additional condition of approval no. 8 is modified to require the tree tract to be owned and maintained as prescribed by OMC 16.60.
3. The Staff shall evaluate whether other stormwater source control measures or best management practices are known, available and reasonable, as discussed in the Findings. If the Staff finds that to be the case, it shall require such measures to be taken. If the Applicant disagrees with the Staff's determination, it may bring the issue to the Hearing Examiner through an appeal.
4. School bus stops serving the elementary, middle and high schools for this subdivision shall be provided either (a) within the subdivision boundary, or (b) if outside the subdivision, at a location to which children may walk from this subdivision entirely on sidewalks. In the latter case, if children must cross any streets outside this subdivision to reach such stops, the Staff may require crosswalks or walk signals if reasonably needed for the children's safety.
5. The Applicant shall follow all requirements of Chap. 16.60 OMC in the removal, preservation and planting of trees. These include, but are not limited to, restrictions on clearing operations, priorities for tree preservation, tree protection during construction, and maintenance of trees.
6. As proposed, at least 57.4 tree units shall be retained on Tract A, the tree tract. The Applicant shall plant trees constituting at least 219 additional tree units. These new trees shall

be located so that at least 75% of the required 239 tree units are in the tree tract.

Dated this 22nd day of January, 2007.

Mailed Out 1/23/07

ckd

  
Thomas R. Bjorgen  
Hearing Examiner

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