



**BEFORE THE LAND USE HEARINGS EXAMINER  
CITY OF CAMAS, WASHINGTON**

REGARDING THE APPLICATION FOR A )  
PRELIMINARY PLAT TO SUBDIVIDE )  
APPROXIMATELY 8.9 ACRES INTO A 29 LOT )  
DETACHED SINGLE-FAMILY DEVELOPMENT )  
ON LAND ZONED R-5 IN THE CITY OF CAMAS, )  
CLARK COUNTY, WA.

**FINAL ORDER**

**BRADY ROAD  
FILE NO. SUB #06-07**

---

**APPROVED WITH CONDITIONS**

---

**INTRODUCTION**

This is an application for a preliminary plat to subdivide approximately 8.9 acres into 29 lot detached single family development. The proposal provides 3.3 acres of open space with lots ranging from 7, 297 SF to 5,623 SF. The site consists of two parcels and is located on the east side of NW Brady Road in the City of Camas. The portion of the site proposed for development, along the east side of NW Brady Road, is designated R-5, with a comprehensive plan designation of Low density single-family development.

The site is currently vacant of any structures but does contain wetland areas as delineated by Talasaea Consultants, Inc. There is also an existing stream which is located along the eastern boundary of the site and a wetland located in Deer Creek to the south. The buffer encroaches into this property and Lots 3 ,4 and 5 have been adjusted to respect the wetland buffer. There are two subdivisions in the immediate vicinity: "Thomas Estates", to the north east and "Deer Creek", to the south. NW Brady Road borders the site on its western boundary.

**LOCATION:** Parcel # 125186-000 and 125185-000

**OWNER/APPLICANT:** MacKay & MacDonald  
13304 SE McGillivray Blvd.  
Vancouver, WA 98683

**ZONING:** R-5

**APPLICABLE LAW:** The application was submitted on May 23, 2006 and the applicable codes are those codes that were in effect at the date of application.

Camas Municipal Code Chapters (CMC): Title 17; Subdivisions; Title 18; Chapter 18.09 Density and Development, Chapter 18.07 Use Authorization, Chapter 18.31 Sensitive Areas and Open Space, Chapter 3.88 (Impact Fees), Title 16; Chapters 16.16 (SEPA), 16.05 (Archaeological Resources).

**SEPA Determination:** MDNS (Comment period ended on 8/1/06)

### **HEARING AND RECORD**

The Public Hearing on this matter was held on September 13, 2006 and the record was closed at the conclusion of the hearing. A record of all testimony received into the record is filed at the City of Camas Planning Department.

**Evidence:** supporting this application are property deed/legal description; narrative; exception request narrative; SEPA Checklist; mailing list; draft CC&R's; traffic impact study; GIS packet; Preliminary Technical Information Report; Critical Areas Report and Detailed Conceptual Mitigation Plan; Archaeological Predetermination Survey; and preliminary drawings (titled as Preliminary Plat, Existing Conditions, Preliminary Improvement Plan, Preliminary Street Tree Planting & Lighting Plan, and Planting Details).

As explained at the hearing the Examiner has conducted a site visit prior to the Hearing.

**Public comments:**

No public comments were received as of September 8, 2006.

**Hearing:**

Sarah Fox, the lead City Planner on this application summarized the Staff Report, explained the two road standard deviations – the width of the entry road and location of the pedestrian path and recommended approval. She introduced Exhibit 1 with language for two conditions – one regarding requiring an automatic sprinkler system and a fire hydrant between lot 6 and 7

Randy Printz, the applicant's attorney summarized the 29 unit application with average lots size of 5, 623SF and density of 3.3 units per acre. The allowed density is 7.7 units but wetlands and buffers prevent greater density. He agreed to additional fencing required by the City along the flag lots and identified the storm water track adjoining the northern wetland, additional parking areas, trail easement on the east side. The storm water treatment and detention facility has adequate capacity to keep discharging water at the same rate as presently. The traffic study indicates no special problems either with capacity or safety or sight distance. The entrance is aligned with NW 20<sup>th</sup> across Brady Road. The road exceptions – the narrowing of the first part of the roadway entry is justified by need to minimize the impacts on the wetland which it crosses. On Brady Road the City will have a project, so rather than making a standard frontage improvement that will be torn up, the applicant proposes to construct a sidewalk through the project connected to Brady Road. He proposed condition language for the alternative sidewalk in Exhibit 2. For their share of Brady frontage construction the applicant proposes to write the City a check for the approximate amount of the cost of their required improvements. This was justified by an assertion that there

are not enough developable parcels left on Brady to ensure consistent road treatment as the parcels develop. On the wetland he asserted that the applicant made an effort to provide some density without using wetland fill of any of the lots. There is 0.1 acre of fill to create access. All wetland and buffer incursions will be mitigated. Finally he introduced Exhibit 3 which provided language for conditions 13 and 15 dealing with fencing along the side lines of lots abutting private road tracks and installing fencing and landscaping prior to final plat recording.

Suzy Cheek, a neighbor, expressed concern for sidewalk on Brady.

Patrick Therin, a neighbor, expressed concern over cumulative wetland impacts which will compromise the remaining habitats.

Phil Bourquin, City Planning Director, responded that most animals are not protected within the City.

Mr. Printz explained that there will be a regular sidewalk on Brady when that street eventually gets improved. If they did one now as part of this projects chances are it will be altered. On the habitat, the state has made a decision to develop inside the growth boundary and preserve the outside.

## **FINDINGS**

The Hearing Examiner adopts as his own and incorporates by reference the findings and conclusions contained in the September 8, 2006 Staff Report and Recommendation, The Comprehensive Type III Narrative (pages 000001 to 000010) and Exception Request Narrative (000013-000015) except to the extent expressly modified or supplemented herein. Only the issues and the approval criteria raised in the course of the application, at the hearing or before the close of the record, are discussed in this section. Any standard that might be deemed to be an applicable approval criteria but which was not raised by staff, the applicant or a party to the proceeding has been waived as a contested issue, and no argument with regard to any such issue or criterion can be raised in any subsequent appeal. Criteria not discussed specifically in these findings below are deemed to be met. The following findings support this decision and are related to the issues that were raised during these proceedings:

### **Proposed Lots:**

- 29 lots - detached single family
- Range of lot sizes: 7,295 SF to 5,003 square-feet
- Average lot size: 5,623 square-feet

### **Acreages/Areas:**

- Total site area: 8.9 acres
- Open Space: 3.3 acres

---

## **SUBDIVISION APPROVAL CRITERIA AND ANALYSIS CMC 17.11.030(D)**

*1. The proposed subdivision is in conformance with the Camas Comprehensive Plan, Parks and Open Space Comprehensive Plan, Neighborhood Traffic Management Plan, and any other City adopted plans.*

The application complies with city adopted plans. The development deviates from codes with the proposed internal roadway and with improvements to NW Brady Road. Those deviations are in response to the large wetland on site and their intent to avoid impacting these environmentally sensitive lands. See also findings on the proposed roadway in the exception request section.

*2. Provisions have been made for water, storm drainage, erosion control and sanitary sewage disposal for the subdivision that are consistent with current standards and plans as adopted in the Camas Design Standard Manual.*

The proposed project is located adjacent to NW Brady Road and is identified as a benefited property in the Heraeus water line late comer's agreement. The applicant is proposing connection to this water main and is therefore subject to participation in said late comer's agreement. Per the agreement a fee of \$375.00 per lot will be assessed and collected at the time of building permit issuance. A condition requiring participation in this late comer's agreement along with a note to this effect on the face of the final plat is provided.

The proposed project is also located within the Fisher Basin Stormwater Drainage Utility basin. According to the Comprehensive Plan the subject property is identified as single family-high density and payment of a stormwater utility fee of \$3,049.00 per developed acre is required (CMC 13.88). This fee shall be paid prior to final plat approval and signatures.

*3. Provisions have been made for road, utilities, street lighting, street trees and other improvements that are consistent with the Six-Year Street Plan, the Camas Design Standards Manual and other State adopted standards and plans;*

City codes require one new tree for every new lot, along with street improvements and dedications. The applicant has proposed additional tree and shrub planting of this parcel as a response to wetland mitigation. Therefore the public interest is well served with the enhanced plantings along NW Brady Road, within Wetland "A" and perpetual maintenance as provided in the CC&R's of the future HOA.

*4. Provisions have been made for dedications, easements and reservations.*

The applicant has proposed six parking spaces within Tract "C". This tract is intended to satisfy the city's requirement for additional parking for lots that average under 7,400 square feet. The average lot size is 5,623 square feet and there are 28 lots proposed, which would result in the need for 6 additional spaces. This proposal is satisfactory.

Normally, a half-width street improvement includes pavement, curbs, gutters sidewalks and associated planting strips. This project has not included a sidewalk along a portion of NW Brady Road due to the location of Wetland "A". As an alternative, they have proposed that the sidewalk connect to NW Brady through Lots 17 and 18 and wind through the subdivision along NW 20<sup>th</sup> Avenue. The applicant has indicated that in lieu of providing a standard half width improvement, albeit subject to the sidewalk deviation, it would make more sense to enter into a development agreement whereby the applicant would pay a fee to the City in lieu of actual construction of these improvements. This would assure consistent treatment of Brady as part of a City project. As to the sidewalk, the plan indicates that the sidewalk will be centered within a 10-foot wide area with 5-feet of pavement. It is unclear how this span of 10-feet would be landscaped and whether it would be included in the ROW dedication. If this area is to be owned by the city, then the city

would prefer that the entire width of 10-feet be paved rather than creating an area that requires regular maintenance from city crews. If the applicant prefers landscaping on either side of the sidewalk then the city would expect the HOA to provide for ongoing maintenance.

A pedestrian scale sign be posted at both ends of the sidewalk diversion and at the southern end of NW 20<sup>th</sup> Avenue to guide the public through the subdivision to rejoin with NW Brady Road.

5. *The design, shape and orientation of the proposed lots are appropriate to the proposed use.*

In addition to meeting the minimum lot size density requirement, each residential lot must provide a building envelope that allows a building that at least conforms to the developers own building restrictions (CC and R's). Therefore corner lots, lots with easements, or lots with environmental constraints may have to be larger than other lots in the subdivision;

Staff reports working with the applicant with the orientation of lots and the relationship of lot lines to the roadway. The design of the lots meets the density requirements of this zone.

In compliance with SEPA mitigation measures, prior to the final plat recording the applicant is required to provide fencing along the edge of the wetland buffer.

6. *The subdivision complies with the relevant requirements of the Camas subdivision and zoning codes, and all other relevant local regulations;*

The applicant has proposed six flag lots numbered 5, 6, 13, 14, 21 and 22 and three private road tracts to serve those lots. Section 17.19.030 (D-5) provides criteria for approval of flag lots. The establishment of these lots is appropriate given the need to balance the lot size averages of this zone and the preservation of sensitive lands. This code section also provides additional standards for approval in order to protect the character of the immediate neighborhood. Given the infill nature of this project it is appropriate to impose the additional measures as provided in code. According to §17.19.030 (D-5) the City may require additional *separation, setbacks, fencing or landscaping*. The applicant shall install fencing along the private road tracts and provide a mechanism for maintenance and repair.

7. *Appropriate provisions are made to address all impacts identified by the transportation impact study;*

No significant impacts are identified in the Transportation Impact Study which was prepared by CTS Engineers and included as part of this application. This application will meet all applicable City of Camas transportation standards.

8. *Appropriate provisions for maintenance of privately owned common facilities have been made;*

A Homeowners Association will be established, as mentioned in the proposed CC&R's, in order to maintain and protect all common areas within the project. A uniform fence will be constructed by others along the back edge of the wetland buffer and along the proposed Stormwater facility.

9. *Appropriate provisions, in accordance with RCW 58.17.110, is made for: (a) The public*

*health, safety, and general welfare and for such open spaces, drainage ways, streets, or roads, alleys or other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds 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.*

The applicant adequately meets all the above listed items. In addition the applicant has proposed to install a trail to the east of the site, within Tract H, which will connect to a future city park. The applicant stated that the HOA will also maintain this portion of the trail.

*10. The application and plans shall be consistent with the applicable regulations of the adopted comprehensive plans, shoreline master plan, state and local environmental acts and ordinances in accordance with RCW 36.70B.030.*

All plans and submittals are so consistent as required.

#### **WETLAND MITIGATION - CRITERIA CMC 18.31.050**

*CMC 18.31.050 (A) It is the intent of these regulations that adverse impacts to wetlands and wetland buffers shall be avoided except where it can be demonstrated that such impacts are unavoidable and necessary or that all reasonable economic uses of the property would be denied.*

See Exhibit #000009 -10, Critical Areas Report and Detailed Conceptual Mitigation Plan (3 October 2005) The unavoidable impacts to wetland areas have been sufficiently mitigated with this proposal.

#### **STREET DEVIATION – CRITERIA CMC 17.23.010(A- 1 & 3)**

*(1a) An exception shall not be granted unless there are special physical circumstances or conditions affecting the property, such that the strict application of the provisions of this code would deprive the applicant of the reasonable use of development of his land; (b) the exception is necessary to insure such property rights and privileges as are enjoyed by other properties in the vicinity and under similar circumstances; (c) and the granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity. (3a) The establishment of such street is initiated by city council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the creation; and (b) the tract in which the street is to be dedicated is an isolated ownership of one acre or less.*

The applicant is proposing an internal roadway with a 52' ROW and 28' paved street section, consistent with the public roadway standard for sprinklered developments per CMC 17.19.040(B10), Table 17.19-2, to provide access to the lots. The applicant is requesting an exception to the required 28' paved street width for a portion of this roadway in an effort to minimize impacts to the existing wetlands. The applicant is proposing to install approximately 150' long section of a 24' wide paved street section with a 5' sidewalk on the north side only from NW Brady Road, east into the development to minimize said wetland impacts. The applicant is proposing no parking on each side of this substandard section.

Staff is not opposed to this exception request as the proposed street section will provide two 12' wide travel lanes and pedestrian mobility along this proposed substandard section. Additionally, Staff supports efforts to minimize wetland impacts. There are limited opportunities for alternate access points as NW Brady Road is designated as an arterial street with access spacing requirements of 660' to 1000' and the current proposed access point is located across from the approved access point for the Parker Village development. Examiner approves the applicant's exception request as recommended by Staff.

## **DECISION**

Based on the foregoing findings and except as conditioned below, this application is approved in general conformance with the applicant's proposal, preliminary site plan and the plans and reports associated with this proposal. This approval is granted subject to the requirements that the applicant, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

### **STANDARD CONDITIONS OF APPROVAL**

1. Stormwater treatment and control facilities shall be designed in accordance with the 1992 Puget Sound Stormwater Manual design guidelines. Final stormwater calculations shall be submitted at the time of final construction plan submittal.
2. All construction plans will be prepared in accordance with City of Camas standards. The plans will be prepared by a licensed civil engineer in Washington State and submitted to the City for review and approval.
3. Underground (natural gas, CATV, power, street light and telephone) utility plans shall be submitted to the City for review and approval prior to approval of the construction plans.
4. The applicant will be required to purchase all permanent traffic control signs, street name signs, street lighting and traffic control markings and barriers for the improved subdivision. The City will supply the list of required signs, markings and barriers at the time paving is scheduled.
5. A 3% construction plan review and inspection fee shall be required for this development. The fee will be based on an engineer's estimate or construction bid. The specific estimate will be submitted to the City for review and approval. The fee will be paid prior to the construction plans being signed and released to the applicant. Under no circumstances will the applicant be allowed to begin construction prior to approval of the construction plans.
6. Any entrance structures or signs proposed or required for this project will be reviewed and approved by the City. All designs will be in accordance with applicable City codes. The maintenance of the entrance structure will be the responsibility of the homeowners.
7. A homeowner's association (HOA) will be required for this development. The applicant will be required to furnish a copy of the C.C. & R.'s for the development to the City for review. Specifically, the applicant will need to make provisions in the C.C. & R.'s for maintenance of the stormwater detention and treatment facilities and any storm drainage system or easements outside the City's right of way (if applicable).
8. Building permits shall not be issued until this subdivision is deemed substantially complete

and the final plat is recorded and approved by the Planning, Engineering, Building and Fire Departments.

9. The applicant shall remove all temporary erosion prevention and sediment control measures from the site at the end of the two-year warranty period, unless otherwise directed by the Public Works Director.
10. Final plat and final as-built construction drawing submittals shall meet the requirements of the CMC 17.11.060, CMC 17.01.050 and the Camas Design Standards Manual for engineering as-built submittals.

### **SPECIAL CONDITIONS OF APPROVAL**

#### **Planning**

11. The applicant shall include the proposed sidewalk between Lots 17 and 18 as dedicated to the city and fully pave its width.
12. Informational signs for pedestrians shall be posted at the points along NW Brady Road and NW 20<sup>th</sup> where the sidewalk diverts through the subdivision. Signage shall be installed prior to substantial completion.
13. The applicant shall provide fencing along the side lot lines of lots abutting the private road tracts.
14. Prior to final plat, the applicant shall provide financial surety acceptable to the City in the amount of 105% of a landscape engineer's estimated costs of materials and installation for landscaping and fencing/walls. §17.19.030 (D5)
15. Fencing and landscaping shall be installed prior to final plat recording.

#### **Engineering**

16. Each lot in this subdivision shall be subject to payment of \$375.00 per the Heraeus water line late comer's agreement. Additionally a note to this effect shall be placed on the face of the final plat.
17. The applicant shall be subject to payment of the Fisher Basin Stormwater Drainage Utility fees of \$3,049.00 per developed acre. Payment of said fee shall occur prior to final plat approval.
18. All existing wells, septic tanks and/or septic drain fields shall be properly decommissioned in accordance with the Southwest Washington Health Department requirements.
19. All lots shall provide drainage for stormwater runoff from roof drains to an approved storm drainage system.
20. No construction spoils shall be placed on building lots. Any fill material placed on lots must be engineered structural fill, unless placed in the front or rear setback to a maximum of 6 inches in total depth.
21. The development shall comply with Camas Municipal Code (CMC) 15.32 for any land disturbing activity. The applicant shall submit an erosion prevention sediment control plan in accordance with CMC 15.32 for any land disturbing activity that disturbs an acre or more or adds 5000 square feet or more of impervious surface.
22. For Brady Road improvements, the Applicant shall be required to provide standard half width roadway improvements, subject to sidewalk deviation that has been approved, unless the Applicant may enter into a Development Agreement to pay a fee to the City in lieu of

actual construction of those improvements. The fee shall be in the amount of estimated cost of constructing the improvement.

**Fire**

23. Automatic fire sprinkler system designed and installed in accordance with NFPA 13D is required in all new Buildings per CMC 17.19
24. One fire hydrant is required between lots 6 and 7.

**PLAT NOTES**

The following notes shall be added to the final plat:

25. A homeowners association will be required for this development. Copies of the C.C. & R's shall be submitted and on file with the City of Camas.
26. A right of entry is hereby granted to the City of Camas for the repair and maintenance of the STEF sewer system.
27. All costs associated with the installation of the STEF systems for individual lots will be the responsibility of said individual lot owners.
28. No further short platting or subdividing will be permitted within five years of the recording of the final plat.
29. A final occupancy permit will not be issued by the Building Department until all subdivision improvements are completed and accepted by the City.
30. Each lot in this subdivision is subject to payment of \$375.00 per the Heraeus water line late comer's agreement.
31. The lots in this subdivision are subject to traffic impact fees, school impact fees, and park/open space impact fees. Each new dwelling will be subject to the payment of appropriate impact fees at the time of building permit issuance.
32. In the event that any item of archaeological interest is uncovered during the course of a permitted ground disturbing action or activity, all ground disturbing activities shall immediately cease and the applicant shall notify the Public Works Department and OAHP.
33. No structures to include signage or fencing may be erected in wetland/open space tracts G and H. Ongoing maintenance and mitigation of these environmentally sensitive areas shall be in accordance with the *Critical Areas Report and Detailed Conceptual Wetland Mitigation Plan* (dated October, 3, 2005). Modifications to this plan must be prepared by a qualified wetland biologist and submitted to the city for approval.

**SEPA MITIGATION**

[Note: These conditions are included for informational purposes only. The comment period for SEPA ended on August 1, 2006 with no appeals filed.]

1. An Erosion Control Plan consistent with City requirements to include compliance with the Stormwater Management Manual for Western Washington, February 2005 shall be prepared and submitted for review and approval, and implemented prior to any earth disturbing activities. Additional erosion control measures shall be implemented consistent with best available practices as necessary to control erosion. From May 1 to September 30, no soils should remain exposed and unworked for more than 7 days. Soil stabilization measures should be appropriate for the time of year, site conditions, estimated duration of

use, and potential water quality impacts that stabilization agents may have on downstream waters.

2. Grading and all other earthwork to occur during periods of extended dry weather or as advised by engineer of record, Mackay & Sposito (April 19, 2006).
3. Fugitive emissions associated with construction must be controlled at the excavation site, during transportation of excavated material, and at any disposal site.
4. Surface water treatment and conveyance systems shall be designed in accordance with the 1992 Puget Sound Stormwater Manual or as revised. Stormwater runoff shall be treated for quality and controlled in quantity prior to discharge.
5. Storm water treatment and control facilities shall be designed in accordance with the 1992 Puget Sound Storm Water Manual design guidelines (or as revised). Final storm water calculations shall be submitted at the time of final construction plan submittal.
6. Shall comply with the Critical Areas Report and Detailed Conceptual Wetland Mitigation Plan, as prepared by Talasaea (October 3, 2005) as proposed. ***To include the following:*** (1) The applicant shall be required to install temporary, construction, fencing around the sensitive areas prior to earth disturbing activities; (2) Permanent signage shall be installed that reads "Wetland buffer – Please leave in a natural state." These signs shall be posted every 100 feet or at least one per lot, whichever is less; and (3) Permanent and continuous fencing shall be installed along the boundary of Tract G, Tract H and the rear of Lots 3, 4 and 5. Installation of fencing shall be constructed in a manner as to minimize habitat impacts.
7. Wetland mitigation shall be installed prior to substantial development of any phase and shall require financial surety of 105% of the total cost of the initial installation to ensure mitigation success. The monitoring and financial surety program will run a period of 5 years with annual submittal of monitoring reports required.
8. The applicant shall secure all required local, state, or federal permits prior to construction of improvements.
9. To help minimize noise impacts to the adjacent residential neighborhoods, equipment shall be properly muffled and construction regarding site improvements shall be confined from 7:00 a.m. to 7:00 p.m., Monday through Friday; 8:00 a.m. to 5:00 p.m. on Saturday, excluding city observed holidays and Sundays. Furthermore, maintenance and fueling of construction equipment shall be confined from said times and days.

**Dated this 26th day of September 2006**

*/s/ G. R. Forester*

**J. Richard Forester  
City of Camas Hearing Examiner**

*NOTE: Only the decision and the condition of approval are binding on the applicant as a result of this order. Other parts of the final order are explanatory, illustrative and/or descriptive. They may be requirements of local, state, or federal law, or requirements which reflect the intent of the applicant, the city staff, or the Examiner, but they are not binding on the applicant as a result of the final order unless included as a condition.*

**APPEAL:** This Decision of the Hearings Examiner is appealable to the Washington Superior Court per RCW 36.70C within 21 calendar days after the issuance of the decision.