

TUMWATER HEARING EXAMINER PUBLIC HEARING

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CONVENE: 7:00 p.m.

CASE NUMBER: **Three Lakes Crossing Preliminary Plat and Preliminary Planned Unit Development (TUM-21-1885 and TUM-22-0036)**

DESCRIPTION OF PROPOSAL: The Applicant is requesting preliminary plat and planned unit development (PUD) to subdivide 9.68 acres into 45 single-family lots, three open space and tree tracts, one storm/open space/active/passive recreation/tree retention tract, one active recreation tract, two private share access tracts and a wetland buffer tract located at 6609, 6715 and an unaddressed parcel on Henderson Blvd, Tumwater, WA 98501.

PROJECT NAME: Three Lakes Crossing Preliminary Plat & Planned Unit Development

APPLICANT: **Evan Mann Copper Ridge, LLC**
PO Box 73790
Puyallup, WA 98373

PROJECT PROPOSER/ REPRESENTATIVE: **Sheri Greene, AHBL**
2215 N. 30th Street #300
Tacoma, WA 98403

PUBLIC HEARING: Hearing Examiner Andrew Reeves with Sound Law Center convened the public hearing at 7:00 p.m. to consider the Applicant's request for preliminary plat and PUD to subdivide 9.68 acres into 45 single-family lots, three open space and tree tracts, one storm/open space/active/passive recreation/tree retention tract, one active recreation tract, two private share access tracts and a wetland buffer tract.

Examiner Reeves reported the purpose of the hearing is to collect evidence in the form of exhibits and testimony to determine whether the proposal complies with the City's Comprehensive Plan, zoning ordinances, Critical Areas Ordinances, and the specific requirements for approval of a PUD and preliminary plat under Tumwater Municipal Code (TMC). Because the proposal includes the subdivision of land, it must also comply with the State Subdivision Act in Chapter 58.17 of the Revised Code of Washington (RCW).

Examiner Reeves reported that prior to the public hearing he received and reviewed the following 18 exhibits:

Exhibit 1: Staff Report
Exhibit 2: Plat Map

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Exhibit 3: Vicinity Map
Exhibit 4: MDNS w/attachments
Exhibit 5: Public Hearing Notice
Exhibit 6: Applications & Narrative
Exhibit 7: Notice of Application
Exhibit 8: Zoning Map
Exhibit 9: Public Notice Certification
Exhibit 10: Notice of Application Comments
Exhibit 11: Concurrency Ruling
Exhibit 12: SEPA Comments
Exhibit 13: Forestry Plan
Exhibit 14: Critical Areas Report
Exhibit 15: Gopher Report
Exhibit 16: Traffic Impact Analysis and Traffic Queuing Report
Exhibit 17: DAHP Cultural Resource Study Acceptance Letter
Exhibit 18: Geotech Report

Examiner Reeves reported all testimony will be under oath or affirmation because should the decision should be appealed, the audio recording of the hearing, admitted exhibits, and the decision would serve as the foundation for an appeal. The order of testimony begins with the City of Tumwater providing an overview of the proposal and any recommendations, testimony by the Applicant to present any additional information, testimony from the public, and closing arguments by the City of Tumwater and the Applicant.

CITY TESTIMONY: Examiner Reeves administered the oath to Alex Baruch, Associate Planner, City of Tumwater.

Planner Baruch reported the request is to subdivide 9.68 acres into 45 single-family lots through the preliminary plat and PUD process with associated infrastructure, stormwater, open space, and wetland protection. The property is located 6609 Henderson Boulevard SE. The property is zoned Single-Family Low Density Residential (SFL) and Single-Family Medium (SFM) Density

Public notice for the application reflecting that the application was submitted and deemed complete was mailed to property owners within 300 feet of the subject property, affected agencies, posted on-site, and published in *The Olympian* newspaper on January 18, 2022. The City of Tumwater Community Development Department reviewed a SEPA Environmental Checklist and other information submitted by the applicant and issued a Mitigated Determination of Non-significance (MDNS) on May 13, 2022. Public notification of the Hearing

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Examiner public hearing was mailed to property owners located within 300 feet of the subject property and various agencies, posted on-site, and published in *The Olympian* newspaper on June 9, 2022, in conformance with TMC 14.06.

The site includes two homes, a business, and associated outbuildings, is mostly flat, and slopes up in elevation towards a northwest property. The site is vegetated with trees and shrubs and includes a wetland buffer located on the southern portion of the property. Existing structures will be demolished during the project in preparation for construction of single family homes on the property.

Surrounding properties are zoned Single Family Low density, Single Family Medium Density, Multifamily Medium Density, and Neighborhood Commercial. Proposed improvements include frontage improvements on Henderson Boulevard SE, grading for public roads and lot pads, and construction of the Henderson Boulevard and 68th Avenue SE intersection.

The proposal includes continuation of 68th Avenue through the subdivision to connect with Tumwater Boulevard plat improvements to complete a connection from Henderson Boulevard to Tumwater Boulevard.

Water and sewer will be provided by the City of Tumwater, electricity and natural gas by Puget Sound Energy, telephone and cable by Comcast and CenturyLink, and garbage collection by Pacific Disposal. All utilities on the site will be underground pursuant to the TMC 17.12.200.

Staff reviewed the application materials and provided findings in the Staff Report. The project is consistent with Tumwater Comprehensive Plan, Parks, Recreation and Open Space Plan, and the Transportation Plan, as well as the Thurston Regional Trails Plan and Sustainable Development Plan for Thurston Region. During the notice of application process, surrounding properties owners provided comments with similar concerns about increased traffic, increased development in the area, and environmental protection.

The project was reviewed by the City of Tumwater Transportation Manager, who provided a concurrency ruling for the project and deemed impacts from the project to be mitigated and that the proposal conforms to the City's Transportation Plan. Impacts from the development are mitigated by the Applicant by completing frontage

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improvements and off-site improvements to include an intersection upgrade at Henderson Boulevard and 68th Avenue SE. Vehicle trips are distributed north or south on Henderson Boulevard and west on Tumwater Boulevard. A through connection to Tumwater Boulevard will be available after the public road is constructed.

Various studies provided by the Applicant included environmental elements of the site. The studies either verified no further action or documented mitigation requirements. Comments from the Squaxin Island Tribe and the Nisqually Indian Tribe included requests for a Cultural Resource Survey. The survey was completed and an Inadvertent Discovery Plan was recommended for completion.

The City of Tumwater Community Development Department reviewed a SEPA Environmental Checklist and other information submitted by the Applicant and issued a Mitigated Determination of Non-significance (MDNS) on May 9, 2022. The MDNS includes the proposed traffic mitigation. No appeals of the MDNS were filed.

Environmental review included a Tree Replacement Plan dated on March 24, 2002 identifying 368 existing trees which only 10 are proposed for retention, which is less than the 12 trees per acre required in TMC Chapter 16.08. The Applicant is unable to retain the trees located outside the wetland buffer and open space tracts because of infrastructure improvement requirements. The Applicant proposes to plant trees at a 3:1 ratio or 210 new trees planted on the property to meet the requirements of TMC Chapter 16.08.

A Critical Areas Report confirmed the offsite wetland as a Category 3 wetland requiring a 150-foot buffer. The wetland buffer is not proposed to be impacted by the development.

The geographic area of the property reflects that it contains soils preferred by the Mazama pocket gopher, a listed protected species. A pocket gopher report dated September 28, 2021 concludes no gopher mounds were observed on the subject property.

A Cultural Resources Assessment dated April 15, 2022 recommended compliance with the Standard Inadvertent Discovery Plan. The Department of Archeology and Historic Preservation concurs with the recommendation.

Comments received for the MDNS conveyed concerns for traffic safety on Henderson Boulevard and a lack of data in the transportation

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impact analysis. Staff responded to community members that the traffic study documents mitigated safety concerns requirements outlined in the City of Tumwater Development Guide.

Single family detached units are an allowed use in the current zoning for the property. The Single Family Low Density zoning district requires a minimum density of four dwelling units per acre and a maximum density of seven dwelling units per acre with the transfer of development rights from Thurston County. Single Family Medium Density requires a minimum of six dwelling units per acre and a maximum of nine dwelling units per acre with a transfer of development rights from Thurston County. The Applicant is proposing six dwelling units per acre based on the property zoned Single Family Low Density and eight dwelling units per acre based on the property zoned Single Family Medium Density. Minimum lot size for the zoning districts is 3,200 square feet. The minimum lot width is 50 feet except for alley loaded lots, which reduces the lot width to 40 feet. Maximum building height is 35 feet; front setbacks are 10 feet with setbacks of five feet for side yards and rear yard setbacks of 20 feet. The minimum open space requirements for the plat is 10% of the total land area. The proposed homes must to meet design guidelines for single family homes at the time of building permit issuance.

An aquifer protection overlay district is applicable to the property, which restrict hazardous uses to protect aquifer recharge areas. Residential subdivisions are not a restricted land use in the aquifer protection overlay.

A PUD application was submitted to seek relief from the minimum lot width requirement of 50 feet. The intent of the PUD overlay is to encourage efficient use of land where adjustments to some development regulations are allowed. Twenty-six of the 45 proposed lots are proposed to have less than the prescriptive requirement of 50 feet and none are less than the 40-foot in width.

TMC 18.36 allows PUDs to be exempt from certain minimum zoning regulations with the exception of density, perimeter setbacks, and allowed uses. Staff finds that the project meets PUD requirements.

The preliminary plat, as conditioned, conforms to the subdivision regulations, comprehensive plan, zoning ordinance, wetland ordinance, fish and wildlife habitat protection ordinance, tree protection ordinance, and to planning standards, development standards, specifications and policies of the City of Tumwater.

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Adequate provisions have been made for public health, safety, and general welfare for such open spaces, drainage ways, streets, sanitary waste, parks and recreation, schools, sidewalks, and, that the public use and interest will be served by the subdivision of the property.

Staff recommends approval of the preliminary plat and PUD as described with the conditions listed in the Staff Report.

Examiner Reeves asked whether the exhibits track with the required regulations for his review prior to the public hearing. Planner Baruch affirmed the exhibits comprise the total documents necessary for the Examiner's review.

Examiner Reeves asked for clarification of the location of the split in the zoning districts on the property. Planner Baruch advised that the zoning districts are split along the middle of the property with the east section of the property zoned Single Family Medium Density and Single Family Low Density on the other side of the property. He offered to confirm the location of each zoning district.

Examiner Reeves said there appears to be a third smaller area of land located on the map. He asked for confirmation that only two parcels are included in the proposal. Planner Baruch advised that the property is actually comprised of three parcels with a smaller triangular section zoned Single Family Medium near Henderson Boulevard.

Examiner Reeves identified the properties as three parcels with one parcel located to the east adjacent to Henderson Boulevard zoned Single Family Medium Density and the second parcel located to the west zoned Single Family Low Density. In terms of the density, he requested verification that the proposal includes no transfer of development rights. Planner Baruch confirmed the Examiner's conclusion.

In response to several other clarifying questions as to the size of the property, Planner Baruch affirmed the total acreage of the proposal is 9.6 acres. Additionally, no development is proposed within the 100-foot wetland buffer in addition to no requests for other reductions.

Examiner Reeves asked whether the Applicant is seeking the PUD specifically to reduce lot widths. Planner Baruch affirmed the request pertains only to lot widths.

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Examiner Reeves asked whether the Comprehensive Plan or the Zoning Code have been amended in any way since the application was deemed complete that would impact the proposal. Planner Baruch replied that no changes have occurred that would affect the proposal.

APPLICANT TESTIMONY:

Examiner Reeves administered the oath to Evan Mann with Copper Ridge, LLC.

Mr. Mann reported he works for Sound Built Homes. Copper Ridge, LLC is the Applicant.

Mr. Mann acknowledged the comprehensive work completed by staff to prepare the proposal for review.

Mr. Mann said a plat is required to have all basic utilities available that meet applicable codes. The property is split zoned with density consistent with each zone, respectively. The proposal adds no additional density. The PUD is anticipated to enable the builder to utilize a specific product type on a narrower lot. Sewer and water will be provided by the City of Tumwater with the development providing extensions and loops through the plat for both services. An existing developed plat located to the west will connect the development to Henderson Boulevard. As part of the project, the Applicant will extend a 16" water main another 300 feet south of its existing location on Henderson Boulevard. The Applicant is working with the City to receive compensation for upsizing the water main as allowed by state law. Current code requires an 8" water main; however, the Applicant has increased the water main to a 16" main resulting in a cost difference between the two sizes. The estimate has been submitted to the City. City and the Applicant's engineers are working on the issue.

A gravity sewer system will serve the development. The storm system is also a gravity system with infiltration to a tract located at the southern end of the property near the wetland buffer. No impacts are proposed to the wetland buffer and an infiltration trench will be installed. Stormwater and groundwater analyses were completed to ensure infiltration rates support an infiltration trench in that area.

Telephone, cable, and refuse collection will be provided by the standard providers with the streetlights owned by the City of Tumwater.

Since the Applicant was unable to retain the required number of trees, a tree replacement plan was developed identifying the planting of 210

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trees. A preliminary landscape plan was submitted. The plan includes planting of trees in rear and front yards of each home lot, which exceeds City standards.

The proposal anticipates all students residing in the homes would be bused to schools. The Applicant will work with the school district to site bus stop locations. No walk routes are included in the proposal since all students will be bused. Frontage improvements along Henderson Boulevard would also satisfy the requirement for safe walking conditions. Sidewalks throughout the plat connect to Henderson Boulevard for bus pickups.

Mr. Mann reported the site was vetted thoroughly for the presence of Mazama pocket gophers. The Applicant's biologist visited the property multiple times to verify any presence of gophers, as well as the presence of any oak trees. Aside from the buffer on the southern end of the property, no other environmental factors were identified other than retaining the buffer to protect the wetland.

Examiner Reeves said he did not recall receiving a preliminary stormwater report, as it appears a report may have been prepared. He did review a soils report. As per testimony, he understands that stormwater will be collected and routed to the south and infiltrated with the possibility of providing some hydrological recharge to the wetland. Mr. Mann referred to a diagram in the plan set of utilities and storm system pipes. Effectively, as water infiltrates it would overflow as recharge to the wetland.

Examiner Reeves administered the oath to Scott Kaul.

Mr. Kaul reported he is a Civil Engineer with AHBL and serves as the engineer for the project. He verified that all stormwater would infiltrate within the southern area of the property. Most stormwater on the site today infiltrates directly onsite and discharges to the wetland. The developed condition would mimic that process by recharging to the ground.

Examiner Reeves asked for verification that the Applicant is complying with the most recent stormwater manual issued by the City that speaks to a strong preference for infiltration. Mr. Kaul affirmed the Examiner's interpretation.

Examiner Reeves asked Mr. Mann whether he had an opportunity to review the Staff Report and has any concerns or wants an opportunity

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to review any of the recommended conditions for approval. Mr. Mann responded that the Applicant supports the recommended conditions of approval as outlined in the Staff Report.

Examiner Reeves acknowledged the attendance of Sage Hamilton and Kurt Wilson. Neither individual offered public testimony.

Examiner Reeves advised that based on the information and his review, he intends to issue a decision approving the proposal for a Preliminary Plat and PUD with the conditions recommended by City of Tumwater staff. His intent is to issue a decision within the next 10 business days. He thanked everyone for attending.

ADJOURNMENT: **With there being no further business, Examiner Reeves adjourned the public hearing at 7:33 p.m.**

Prepared by Valerie L. Gow, President
Puget Sound Meeting Services, psmsoly@earthlink.net