

**OFFICE OF THE HEARING EXAMINER**

**THURSTON COUNTY**

**REPORT AND DECISION**

**PROJECT NO.:** 2014101898, Coppermill Planned Rural Residential Development

**LOCATION:** Off of 56<sup>th</sup> Avenue N.E. just west of Marvin Road

**TAX PARCEL NO.:** 11927200000

**APPLICANT:** Mance & Sons Residential Developers, Inc.  
5448-78<sup>th</sup> Avenue N.E.  
Olympia, WA 98516

**REPRESENTATIVE:** Olympic Engineering  
Attn: Chris Merritt  
P.O. Box 12690  
Olympia, WA 98508

**PLANNER:** Leah Davis

**SUMMARY OF REQUEST:**

Preliminary plat approval to subdivide a 100 acre parcel into 20 single-family residential lots and a 76 acre resource parcel.

**SUMMARY OF DECISION:** Request granted, subject to conditions.

**DATE OF DECISION:** December 15, 2015

**PUBLIC HEARING:**

After reviewing the Planning and Land Services Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on December 7, 2015, at 11:00 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "1" - Department of Planning and Land Services Staff Report with Attachments A-O
- EXHIBIT "2" - Notice Posting Photograph
- EXHIBIT "3" - Maps
- EXHIBIT "4" - Oversized Maps

**The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.**

LEAH DAVIS appeared, presented the Resource Stewardship Department Staff Report and Exhibits 2, 3, and 4 that included copies of the site plan and a photograph of the notice posting. The PRRD includes a 76 acre, resource parcel that contains wetlands, a stream, and buffers and also 3.12 acres of open space. The County provided proper notice. The project satisfies the applicable zone as set forth in Title 20 of the code, which allows one dwelling unit per five acres. The plat proposes 20 dwelling units. The responsible official issued a MDNS on November 5, 2015, that became final on November 19, 2015. No appeals were filed. DOE has identified the site as affected by the Asarco plume and the applicant has reached agreement with DOE for a voluntary cleanup. The applicant performed an archeological study as requested by the Tribes but found no artifacts. An unnamed stream flowing across the site requires a 270 foot wide buffer, and the wetlands require buffers that vary in width between 230 and 200 feet. The U.S. Fish and Wildlife Agency visited the site to determine if pocket gophers inhabited the parcel. The parcel was cleared for development as the agency found no habitat. Chapter 20.30A TCC requires that a PRRD retain 60 percent of the site as a resource parcel. The proposal exceeds the criteria. Condition E in the Staff Report requires the 3.12 acre open space parcel be improved with active recreational equipment. However, such is not a code requirement and she recommended elimination of Condition E. The applicant has reached agreement with the North Thurston School District regarding school impact fees. The project is consistent with the applicable 1995 Comprehensive Plan that tries to strike a balance between human and natural uses. She finds that this project satisfies that goal. The plat makes appropriate provision for all factors set forth in TCC 18.12.090 and will provide for the public health and safety. Staff recommends approval subject to conditions.

RICHARD PHILLIPS, attorney at law, appeared on behalf of the request and introduced the applicant's presentation. Trying to install recreational equipment per Condition E does not make sense and he agrees with its removal. In accordance with the MDNS they previously cleaned the site before, but DOE requires soil mixing and they will comply.

CHRIS MERRITT appeared and testified that a 45 foot wide strip of property along the south property line will connect the two parcels, but they do not propose any trails or other improvements therein.

JOHN MANCE appeared and testified that their intent is provide a trail to the 76 acre site.

MS. DAVIS reappeared and testified that the site plan in the Staff Report is superseded by the site plan she introduced as Exhibits 3 and 4.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 11:20 a.m.

**NOTE:** A complete record of this hearing is available in the office of the Pierce County Planning and Land Services.

### **FINDINGS, CONCLUSIONS, AND DECISION:**

#### **FINDINGS:**

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony, and taken this matter under advisement.
2. A threshold Mitigated Determination of NonSignificance (MDNS) was issued on November 5, 2015. (Attachment I) following review pursuant to the State Environmental Policy Act (SEPA).The threshold determination became final on November 19, 2015, as no appeals were filed.
3. Written notice of the public hearing was sent to all property owners within 300 feet of the site and to others who had requested notice on November 23, 2015. Notice of the public hearing was published in The Olympian on November 27, 2015, at least ten (10) days prior to the hearing. Notice was posted on-site on November 24, 2015.
4. The applicant has a possessory ownership interest in an unimproved, 100 acre parcel of property consisting of two rectangles connected by a 40 foot wide strip of property. The strip connects the southwest corner of the eastern rectangle with the southeast corner of the western rectangle. The preliminary plat map shows that no development will occur in the large, western rectangle due to the presence of two wetlands, a Type F stream, and their buffers that range in width from 200 to 270 feet. The applicant proposes to improve the eastern rectangle with 20, single-family residential homes.
5. The preliminary plat map shows that neither rectangle abuts either a public or private road, and that access will occur from the south side of 56<sup>th</sup> Avenue N.E. across a separate parcel. A new road will extend south approximately 866 feet from 56<sup>th</sup> Avenue N.E. to the north property line of the eastern rectangle. Said road will continue to the southwest corner of said rectangle where it will terminate in a cul-de-sac. All 20 lots will access onto said road. Lot sizes will range in size from 33,354

square feet to 40,060 square feet. The eastern rectangle contains 24 acres and measures approximately 680 linear feet in an east-west orientation and 1,697 linear feet in a north-south orientation. A resource parcel (Tract A) extends along the east and south property lines of the rectangle.

6. The 76 acre, western rectangle measures approximately 1,230 linear feet in a north-south orientation and 2,646 feet in an east-west orientation. The entire rectangle will remain unimproved and represents 76 percent of the overall tract size. Both parcels are located on the southern portion of the Johnson Point peninsula.
7. Both parcels are located within the Rural Residential Resource one dwelling unit per five acres (RRR1/5) zone classification of the Thurston County Code (TCC). The eastern parcel abuts dense single-family development to the east, less dense single-family development to the south and west, and undeveloped parcels to the north. All abutting parcels are located within the RRR1/5 classification.
8. The applicant proposes to develop the plat as a Planned Rural Residential Development (PRRD) in accordance with TCC 20.09A.040(1)(D) that authorizes inclusion of wetland areas within the overall parcel size for purposes of density calculation. With approval of the PRRD the proposed plat density will meet the density requirements of the RRR1/5 zone. The PRRD requires an applicant to establish a resource use parcel equal to 60 percent of the gross parcel area. The applicant proposes a resource use parcel that equals 76 percent of the entire parcel and will preserve wetlands, streams, and buffers in their natural condition within said parcel. An additional open space area (Tract B) contains 3.12 acres and will be used for the storm drainage facility. The applicant will not improve Tract B with outdoor recreational equipment.
9. The project complies with the Thurston County Comprehensive Plan adopted in 1995 that encourages a development proponent to maintain a sustainable balance between human uses and the natural environment. The plat/PRRD proposes substantially more than the minimum area for a resource use parcel, and therefore the project achieves the goals of the Comprehensive Plan.
10. Prior to obtaining preliminary plat approval the applicant must show that the project satisfies the criteria set forth in TCC 18.12.090. The project satisfies said criteria as the applicant must construct the storm drainage facility and all streets and roads in accordance with Thurston County standards. The applicant must comply with all requirements for a Group A water system that will serve the future homes. Compliance with the Thurston County Environmental Health Code will assure appropriate provision for domestic water and sanitary waste. The resource use parcel will assure appropriate provision for open space and critical areas. Future owners/builders must make a per lot payment for the support and maintenance of Thurston County Parks and Recreation. Future owners/builders must also comply with the Thurston County Traffic Impact Fee Ordinance and make a per lot payment

to mitigate the impacts of plat traffic on Thurston County public roads.

11. Approval of the proposed plat and PRRD will serve the public use and interest by providing an attractive location for a single-family residential subdivision while at the same time preserving 76 acres in a resource use parcel.

**CONCLUSIONS:**

1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the request for approval of the Coppermill Planned Rural Residential Development satisfies all bulk regulations of the RRR1/5 zone classification and is consistent with the goals and policies of the Thurston County Comprehensive Plan. Furthermore, the applicant has shown that the project complies with all criteria set forth in the Thurston County Critical Areas Ordinance (Chapter 17.15 TCC), and that all utilities are presently available or will be made available prior to final plat approval. The applicant has also shown that the request satisfies all findings required by TCC 18.12.090, and that the plat will serve the public use and interest. Therefore, the request for approval of the Coppermill Planned Rural Residential Development should be granted subject to the following conditions:
  - A. Prior to Final Plat Approval, a school impact fee agreement between the Applicant and North Thurston Public Schools shall be signed and recorded with the County Auditor's Office.
  - B. Prior to Final Plat Approval, the Applicant shall comply with all agreements in the Voluntary Cleanup Program with Department of Ecology and follow through on the Cleanup Action Plan. Please provide Thurston County with a No Further Action opinion letter from Ecology upon the successful completion of the soil remediation.
  - C. Prior to submitting a final plat application, the Applicant shall install the required Critical Area signs on the edge of the wetlands and stream buffers within the resource parcel. The signs shall be permanent and pass inspection. For inspection, call Leah Davis (360)786-5582.
  - D. Prior to submitting a final plat application, all required on-site and off-site road, utility, and landscaping construction, identified below, shall be completed and approved (only minor improvements remain to be installed may be bonded as provided for in TCC 18.24).

- E. Prior to final plat approval, the following Public Works Department related conditions shall be met:
1. The proposed roadway in concept and design shall conform to the Road Standards.
  2. A construction permit shall be acquired from the Thurston County Public Works-Development Review Section prior to any construction.
  3. Illumination shall be provided at the intersection of the project with 56<sup>th</sup> Ave. NE
  4. All traffic control devices shall be designed, located, manufactured, and installed in accordance with the Road Standards, Manual of Uniform Traffic Control Devices and applicable WSDOT Standards & Specifications. A sign and striping plan shall be incorporated into the construction drawings for the project. Please contact Thurston County Public Works – Development Review Section Staff to obtain the most current Thurston County guidelines.
  5. County forces may remove any traffic control device constructed within the County right-of-way not approved by this division and any liability incurred by the County due to non-conformance by the applicant shall be transferred to the applicant.
  6. The storm water management system shall conform to the Drainage Design & Erosion Control Manual.
  7. All drainage facilities outside of the County right-of-way shall remain private and be maintained by the developer, owner and/or the property owners association.
  8. Storm water runoff shall be controlled through all phases of the project by facilities designed to control the quality and quantity of discharges and shall not alter nor impact any existing drainage or other properties.
  9. Because proper landscaping is vital to the performance of the stormwater system, the Landscape Plan (if required) shall be signed/sealed by a WA licensed civil engineer (preferably the engineer who designed the stormwater system).
  10. A Construction Stormwater Permit from the Washington State Department of Ecology may be required. Information about the permit can be found at:

<http://www.ecy.wa.gov/programs/wq/stormwater/construction/permit.html>. It is the applicant's responsibility to obtain this permit if required.

11. The proposed water system shall be designed in accordance with the standards and specification of the respective utility purveyor. All water plans are subject to review and acceptance by the respective utility purveyor.
12. Proposed utility work within the Thurston County Right of Way shall conform to the Road Standards and Chapter 13.56 Thurston County Code. These standards do not address specific city design requirements but rather only items such as restoration of the County right of way and traffic control.
  - a. Placement of utilities within the County right of way will require a Franchise Agreement with Thurston County pursuant to Title 13.56 TCC. This agreement shall be executed with Thurston County prior to final approval.
  - b. Please note all utilities placed parallel to and within the pavement structure are required to rebuild a minimum of half the road, to include grinding and replacement of a minimum of 0.20' of asphalt concrete pavement.
13. Permanent survey controls need to be placed to establish all public street centerlines, intersections, angle points, curves, subdivision boundaries and other points of control.
14. Permanent survey control monuments shall be installed in accordance with the standards provided by the Thurston County Public Works – Survey Division. The Survey Division can be reached at 754-4580.
15. No work shall take place until a construction permit has been issued by Thurston County Public Works – Development Review Section.
16. The proposed grading or site work shall conform to Appendix J of the International building code, title 14.37 of the Thurston County Code and Drainage Design & Erosion Control Manual.
17. When all construction/improvements have been completed, contact the Thurston County Public Works – Development Review Section for a final inspection.

18. This approval does not relieve the Applicant from compliance with all other local, state and/or federal approvals, permits, and/or laws necessary to conduct the development activity for which this permit is issued. Any additional permits and/or approvals shall be the responsibility of the Applicant.
19. Once the planning department has issued the official preliminary approval, a construction permit application shall be submitted along with a complete set of construction drawings and the final drainage and erosion control report to Thurston County Public Works – Development Review Section for review and acceptance.
20. PRIOR to construction, the applicant shall:
  - a. Pay outstanding construction review and inspection fees\*
  - b. Receive an erosion and sediment control permit
  - c. Have the erosion and sediment control inspected and accepted
  - d. Receive a construction permit
  - e. Schedule a pre-construction conference with county staff

\*The current fee schedule can be found online at <http://www.co.thurston.wa.us/permitting/fees/fees-home.html> or contact Ruthie Padilla with the Thurston County Public Works-Development Review Section at (360)8672050 or [padillr@co.thrston.wa.us](mailto:padillr@co.thrston.wa.us)

21. Prior to receiving final approval from this department, the following items shall be required:
  - a. Completion of all roads and drainage facilities.
  - b. Final inspection and completion of all punch list items.
  - c. Record drawings submitted for review and acceptance. The record drawings shall include street names and block numbers approved by Addressing Official.
  - d. Receive and accept Maintenance Agreement Form (Appendix I-E, Volume I of the Drainage Design and Erosion Control Manual).
  - e. Execute an agreement with financial security for the maintenance and operation of the drainage facilities in accordance with Thurston County Code 15.05.040.
  - f. Approve the Final Plat Map.
  - g. Property owners articles of incorporation and covenants in accordance with Volume I, Section 2.4.11 of the Drainage Design and Erosion Control Manual.



- h. Completion of required signing and striping.
  - i. Payment of any required mitigation fees.
22. The final plat map shall note or delineate the following:
- a. "ATTENTION": Thurston County has no responsibility to build, improve, maintain or otherwise service private roads or driveways within or providing access to property described in this plat. The building, maintenance, repair, improvement, operation or servicing of the storm water facilities outside the county rights of way are the responsibility of the property owner(s).
  - b. Increased storm water runoff from the road(s), buildings, driveways, and parking areas shall be retained on site and shall not be directed to roadway ditches adjacent to 56<sup>th</sup> Avenue NE.
  - c. If seasonal drainage crosses subject property, no filling or disruption of the natural flow shall be permitted.
  - d. Private roads are required to remain open at all times for emergency and public service vehicle use. Any future improvements (gates, fencing, etc.) that would not allow for "open" access will need to be approved by all applicable departments of Thurston County.
  - e. The owner and/or Homeowners Association shall be responsible to operate and maintain the streetlights until such time the property is annexed to the city.
  - f. Per Thurston County Resolution 14820, impact fees shall be paid prior to issuing any building permits associated with this project.
  - g. This plat is subject to storm water maintenance agreement recorded under auditor's file no. \_\_\_\_\_.
  - h. Easements are hereby granted for the installation, inspection, and maintenance of utilities and drainage facilities as delineated on the plat for subdivision \_\_\_\_\_ including unrestricted access for Thurston County staff to any and all storm water system features for the purpose of routine inspections and/or performing maintenance, repair and/or retrofit as may become necessary. No encroachment will be

placed within the easements shown on the plat which may damage or interfere with the installation, inspection, and maintenance of utilities. Maintenance and expense thereof of the utilities and drainage facilities shall be the responsibility of the Property Owners' Association as established by covenant recorded under Auditor's file number \_\_\_\_\_.

- i. The property described herein is required to accommodate storm water runoff from frontage improvements to 56<sup>th</sup> Avenue NE and all natural tributary areas abutting said property.
- j. Maintenance of the required landscaping and vegetated drainage facilities within the public right of way is the sole responsibility of the property owners within this subdivision. Thurston County has no responsibility to maintain or service the said landscaping.

Delineate on the Plat

- k. Clearly label all public and private roads.
  - l. State the maximum amount of added impervious surface and lawn/landscape area allowed for each lot.
  - m. Include pertinent restrictions as they relate to individual lot BMPs proposed.
  - n. Include pertinent restrictions as they apply to any stormwater related tracts, easements, or setbacks.
  - o. State that development of each lot will be subject to all 12 minimum requirements.
- F. Prior to final plat approval, the following Public Health and Social Services Department requirements shall be met:
- p. PHSS must receive written confirmation from the Washington State Department of Health, Office of Drinking Water that the new Group A public water system has received final construction approval.
  - q. The public well for this plat must be shown and clearly identified on the final plat map along with the 100 foot sanitary control radius and all water line and access easements to and through the subdivision.

- r. Prior to final plat approval, a written proposal for the method of IPMP distribution to future property owners must be submitted to this department for review and approval. Typically this is done by incorporating a copy of the approved IPMP into the subdivision covenants and restrictions (CC&Rs). However, other proposed methods may also be allowed provided the proposed method of distribution will assure future property owners will receive a copy of the IPMP at the time of sale.
  
- G. Street addresses shall be shown on the final map.
  
- H. All conditions of the Mitigated Determination of Nonsignificance shall be completed at the times specified.
  
- I. On April 8, 2014, the U.S. fish and Wildlife Service listed the Mazama Pocket Gopher under the Endangered Species Act. The subject parcel contains the soil type considered potential pocket gopher habitat. It is the responsibility of the landowner to comply with applicable federal regulations. Approval of this and other County permits may be superseded by federal law.
  
- J. Required Plat Notes:
  - 1. This subdivision has been approved through provisions of the Rural Residential Resource 1/5 zoning district (TCC 20.09A).
  - 2. This subdivision was reviewed under project number 2014101898, folder 14 108718 ZJ.
  - 3. North Thurston Public Schools are entitled to receive impact fees for new development. An agreement between the Developer and NTPS has been recorded with Thurston County Auditor und AFN #  
\_\_\_\_\_.
  - 4. This plat was approved with the maximum allowable density. No further subdivision of the resource parcel is permitted. The use of the 76 acre resource parcel is limited to use as a natural area to provide wildlife habitat and wildlife corridors. The resource parcel contains critical areas; the wetlands, stream, and their buffers provide critical drainage functions and shall remain protected from overuse and development.
  - 5. Lots 10, 11, and 12 are located in Alderwood Gravelly Sandy Loam, a Type C soil. The maximum impervious surface on these lots is 45%. Impervious surface is defined as pavement, compacted gravel,

asphalt, concrete, roofs, revetments or any other manmade surface which substantially impedes the infiltration of precipitation.

6. A public water system has been identified to serve this subdivision, and its location is on file with the Thurston County Health Department.
  7. On April 8, 2014, the U.S. fish and Wildlife Service listed the Mazama Pocket Gopher under the Endangered Species Act. The subject property contains the soil type considered potential pocket gopher habitat. It is the responsibility of the landowner to comply with applicable federal regulations.
- K. All development on the site shall be in substantial compliance with the approved plat. Any alteration of this site plan will require approval of a new or amended plat. The Planning and Environmental Section will determine if any proposed amendment is substantial enough to require Hearing Examiner approval.
- L. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
- M. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

**DECISION:**

The request for approval of the Coppermill Planned Rural Residential Development is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 15th day of December, 2015.



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**STEPHEN K. CAUSSEAU, JR.**  
Hearing Examiner

TRANSMITTED this 15th day of December, 2015, to the following:

**APPLICANT:** Mance & Sons Residential Developers, Inc.  
5448-78<sup>th</sup> Avenue N.E.  
Olympia, WA 98516

**REPRESENTATIVE:** Olympic Engineering  
Attn: Chris Merritt  
P.O. Box 12690  
Olympia, WA 98508

**OTHERS:**

Mick Phillips  
724 Columbia Street N.W., Suite 320  
Olympia, WA 98501

THURSTON COUNTY