

**SAN JUAN COUNTY
HEARING EXAMINER**

FINDINGS, CONCLUSIONS AND DECISION

Applicants: Vaughn and Laurie Mason
PO Box 473
Friday Harbor, WA 98250

File No: HE51-08 (08LP003)

Request: Subdivision of 36.47 acres

Location: 1532 Douglas Road
San Juan Island

Property No: 352713001, 352713002, 352713003

Summary of Proposal: A request for a subdivision to create 7 residential lots on 36.47 acres to be entitled Valley View Estates.

Land Use Designation: Agricultural Resource San Juan Valley Planning Area

Public Hearing: After reviewing the report of the Community Development and Planning Department (CDPD) a public hearing was held on November 5, 2008.

Applicable Policies and Regulations: RCW 58.17 Subdivisions
San Juan County Comprehensive Plan (CP)
SJCC 18.06 Wells and Water Systems
SJCC 18.16 Sewer Systems
SJCC 18.60 Development Standards
SJCC 18.70 Land Divisions

Decision: The preliminary plat is approved with conditions

**SJCC COMMUNITY
NOV 21 2008
DEVELOPMENT & PLANNING**

Findings of Fact

1. The proposed 36.47 acre site is located north and west of the intersection of Bailer Hill Road and Douglas Road. The area is flat to rolling with the steepest slopes in the 2-3% range in the northeast portion of the property. There is a Category III wetland in the western part of the property, as well as a pond.
2. The proposal is located in the San Juan Valley Planning Area. The CP requires the county to recognize and protect visual open space resources equally with maintaining traditional agricultural uses in the area. The specific plan for this area was developed to allow for land division and development at a variety of densities and to maximize conservation and protection of open space and continuing agricultural use.
3. The land use designation to the east is rural farm forest, to the south rural residential and to the north and west is agricultural resource.
4. The subdivision proposes to divide 36.47 acres into seven residential lots ranging in size from 1.10 acre to 1.46 acre. An eighth lot of 27.42 acres is open space and designed to protect the open space area and allow continued agricultural use.
5. At the request of Friends of the San Juans (FOSJ) additional environmental checklist information was submitted by the applicant and reviewed by staff.
6. The proposed water system design has been given preliminary review approval. It is to be a Group B water system with total usage limited to 5,000 gallons per day.
7. Sewage disposal for each proposed lot is to be provided by an on-site sewage system. The site design meets State and County standards for single family residences.
8. Agricultural resource setbacks are specified in Table 6.2 of SJCC 18.60 and will be met.
9. Ex 1 shows a more precise soils information map with accompanying USDA soils classification as relates to continued agricultural uses. At the November 5, 2008 hearing Ex 1 was admitted.
10. FOSJ was given until November 12, 2008 to submit written comments relating only to soils information. The November 12, 2008 letter was received and the statements concerning the soils information was reviewed and is part of the record. The public hearing was then closed.

11. On June 6, 2002 an Order of Invalidation for the area was rescinded by the WWGMBH. San Juan County was found in compliance with the Growth Management Act.
12. Under the requirements of SJCC 13.08.020 fire hydrants must be installed.
13. Concurrency is found and public facilities are adequate.
14. After receiving further information concerning the stormwater report, Public Works recommended approval of the project.
15. A road conforming to the standards of SJCC 18.60.100 will serve the subdivision.
16. Clustering in this proposal has been encouraged, water supplies are adequate, the design conforms to the natural features of the land including providing a usable area for construction of a dwelling unit and approved sewage system. The lots are not divided by roads and density, dimension and open space standards are met.
17. Specifically the open space conservation design proposal is consistent with SJCC and the CP because the design protects the wetland, provides for well protection areas and a limited amount of screening from Douglas Road and Bailer Hill Road. The requirements of the San Juan Valley Planning Area to recognize and protect visual open space resources and maintain traditional agricultural uses have been adhered to in this proposal.
18. The proposal is consistent with RCW 58.17.
19. Notice of public hearing was published July 9, 2008 and October 22, 2008; mailing occurred July 14, 2008 and October 22, 2008 and the site was posted July 18, 2008.
20. A Determination of Non-significance (DNS) was issued July 9, 2008. No appeal was taken.
21. The staff report is incorporated herein by reference as though fully set forth. The analysis and factual statements contained in the staff report are adopted as a finding herein.
22. Any conclusion herein which may be deemed a finding is hereby adopted as such.

Conclusions of Law

1. The Hearing Examiner has jurisdiction over the persons and subject matter of this proceeding.

2. Proper notice was given in compliance with local and state requirements.
3. The proposal complies with the requirements of the State Environmental Policy Act.
4. The policies and requirements of the Growth Management Act apply to the county generally through its CP and development regulations. The Act does not apply specifically to subdivision requests.
5. Properly conditioned, the proposed subdivision complies with RCW 58.17 and SJCC.
6. Any finding herein which may be deemed a conclusion is hereby adopted as such.

Conditions

1. This preliminary long subdivision approval allows the division of 36.47 acres into 7 residential and one agricultural lot according to the approved attached preliminary subdivision map. This preliminary long subdivision approval shall expire if the subdivision is not recorded within 60 months of the approval date. The final long subdivision application shall be submitted to the Community Development and Planning Department at least 90 days in advance of the expiration date.
2. Subdivision roads shall be built as specified in SJCC 18.60.100, unless variances are obtained.
3. Maintenance of the road and any commonly held areas shall be through provision of a maintenance agreement submitted to and approved by the Community Development and Planning Department, then recorded with the final subdivision approval. All subdivision property owners shall participate in the agreement.
4. All roads serving three or more lots shall comply with the road design and construction standards specified in SJCC 18.60.100 of this Code.
5. Grass or other appropriate vegetation shall be established in the roadside ditches prior to application for final subdivision approval, to provide bio-filtration of stormwater runoff.
6. Drainage from roads shall be controlled using best management practices provided in SJCC 18.60.080 and 100 and in the Stormwater Management Manual for Western Washington.
7. Approved soil registration sheets for each parcel shall be filed with the Sanitarian prior to application for final subdivision approval.

8. The subdivision shall be served by a Group B water system. The wells serving the Group B system cannot withdraw more than 5,000 gallons per day unless a water right is obtained from the Department of Ecology. In order to insure that this requirement is met, the water system must meter the sources and each individual lot.
9. A sanitary setback shall be shown on the plat for all wells, unless a variance is obtained.
10. All survey standards and requirements shall be complied with pursuant to SJCC 18.70.070F2.
11. Building locations shall be as shown on the preliminary plat.

The following conditions shall be shown as restrictions on the face of the plat, in addition to those restrictions and dedications required by SJCC 18.70.070:

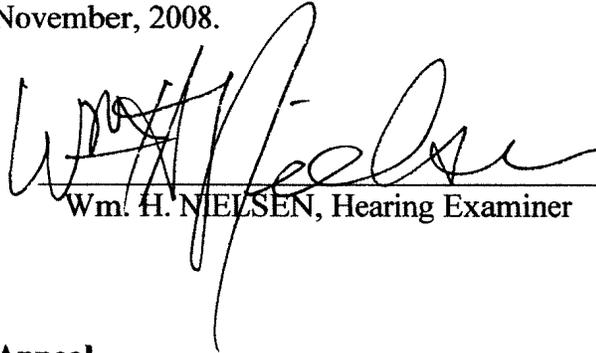
12. The development is served by a combination of an individual well & Group B water system. The combined withdrawal from the wells serving the subdivision cannot withdraw more than 5000 gallons per day unless a water right is obtained from the State Department of Ecology. In order to insure this requirement is met the individual well and Group B water system must be metered. In addition, the individual connections on the Group B water systems must be metered. The water system is responsible for insuring the total combined daily withdrawal from the wells is maintained below 5000 gallons per day. The water system shall report water use, both source production and individual use, to the San Juan County Health and Community Services Department on a quarterly basis. Should the water system approach or exceed 5000 gallons per day, the **water system** shall impose restrictions on use designed to limit the daily withdrawal to less than 5000 gallons per day.
13. Parcels are subject to the Valley View Estates Stormwater Site Plan and Construction Stormwater Pollution Prevention Plan dated December 19, 2007 on file with the San Juan County Public Works Department.
14. Areas designated as both conservation and native growth protection areas must be preserved in their natural state. Vegetation and trees must not be removed from the native growth protection area, except for approved timber harvest activities and the removal of dangerous and diseased trees. Trimming, limbing and topping of trees to maintain partially screened views within the native growth area is allowed under the following conditions:
 - a. Tree pruning shall be of limited extent so as to not endanger the health of the tree.
 - b. All forestry operations permitted in the native growth area shall be conducted by hand so as to preserve the natural state of the forest soils and the hydrologic condition of the forest floor. No mechanized logging operations are allowed.
 - c. Disturbance of the forest underbrush is prohibited except for the construction of buried utilities or to establish or maintain a walking path. Replanting is required in the case of utility installation. Brush removal is allowed close to structures as needed for fire protection.
 - d. Any previously disturbed areas shall be replanted with native tree and shrub species that are similar to the existing forest condition unless there are a sufficient number of native plants remaining to naturally re-vegetate the areas.

15. The 100-foot well protection areas must be maintained free of all potential sources of contamination. Said areas shall not be used to construct, maintain, or suffer to be constructed or maintained any potential source of contamination, such as septic tanks and drainfields, sewerlines, underground storage tanks, structures (with the exception of water system appurtenances, barns, feed stations, grazing animals, enclosures for maintaining fowl or animal manure, the storage of liquid or dry chemicals, hazardous waste, the storage or application of herbicides, insecticides, pesticides, or road oil or garbage of any kind or description.
16. All utilities shall be placed underground.
17. All disturbed areas shall be restored to pre-project configurations, replanted with local vegetation, and the vegetation maintained until it is firmly established.
18. This subdivision has been approved by the responsible county officials on the premise that each residential lot will be occupied by no more than one single family dwelling and lawfully related outbuildings. No lot shall be otherwise occupied unless the owner can first demonstrate to the county's satisfaction that the provisions for water supply, sewage disposal, circulation, lot size and related planning considerations are adequate to serve the proposed use. Compliance with this provision shall be effected by written application to the Subdivision Administrator who shall be responsible for coordinating the review of such requests and for making the required determination.
19. Maintenance of the roads serving the lots in this subdivision is shared equally by the lot owners.
20. There are additional private declarations, conditions, covenants or restrictions in addition to those shown on the face of this plat. If any private declarations, conditions, covenants and/or restrictions appear on the face of this plat, the more restrictive provisions shall govern. Any private deed restrictions are supplemental to the requirements of this code. The County shall not be party to any private restrictions.
21. Any excavation or construction activity will cease immediately if any material of potential archaeological significance is discovered during such excavation or construction until the administrator is notified and inspections and disposition of the archaeological material is provided for.

Decision

The preliminary subdivision of Valley View Estates is approved subject to the conditions set forth above.

DATED this 21st day of November, 2008.



Wm. H. NIELSEN, Hearing Examiner

Appeal

Any appeal shall be to Superior Court pursuant to the Land Use Petition Act, Chapter 36.70 RCW, within 21 days of the issuance of the decision. See Home Rule Charter, Section 3.70.