

MINUTES

BOARD OF COUNTY COMMISSIONERS MEETING

October 27, 2003

Special Meeting
6:00 p.m.

The Commissioners met in session in the Commissioners' Meeting Room, Administration Building, Montesano, Washington, on Monday, October 27, 2003, at 6:00 p.m. Commissioners Bob Beerbower, Dennis Morrisette and Al Carter were present. Also in attendance was Sharon Meier, Deputy Clerk of the Board. Jim Baker, Deputy Prosecuting Attorney was present.

Chairman Morrisette announced this meeting is reconvened from the 2:00 meeting earlier this day. He reported this hearing is a continuation from Monday, September 29, 2003 to consider an application from Northwest Rock, Inc. for a 32-Lot Long Subdivision. The hearing was continued at the request of Northwest Rock, Inc.

HEARING

Continuation For A 32-Lot Long Subdivision Application By Northwest Rock, Inc.:

There was a public hearing before the Board of Commissioners for Grays Harbor County to consider a continuation for a 32-Lot Long Subdivision. Northwest Rock, Inc. has submitted an application for a 32-lot long subdivision permit pursuant to Grays Harbor County Code title 16. The subdivision permit would allow the applicant to divide the existing 76.8-acre parcel into thirty-two (32) lots. The proposed lots range in size from 20,009 square feet to approximately 6.5-acres. The proposal is located on the property having Assessor parcel #170810430000. It is further described as being within the west-half of the southeast quarter, within the Section 10, Township 17N., Range 8 W.W.M. All lying one-mile west of the City of Montesano within Grays Harbor County, Washington.

Chairman Morrisette asked for a presentation by County staff. Curt Crites, Grays Harbor County Planning Division, reported that the applicant and the Board of County Commissioners were provided the following materials prior to the hearing. Mr. Crites requested that they be entered into the record by reference:

1. The Record of Action containing the Grays Harbor County Planning Commission's findings of fact, conclusions and staff recommendations.
2. Attachment 1: Application for long subdivision, supporting letter, email correspondence, Stormwater Management Plan, and preliminary plat map.
3. Attachment 2: Development Feasibility Study letter, dated August 15, 2002.

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4. Attachment 3: SEPA Mitigated Determination of Non-significance and environmental checklist.
5. Attachment 4: A letter dated July 28, 2003 from the Washington State Department of Transportation commenting on the SEPA MDNS.
6. Attachment 5: A letter dated August 5, 2003 from the Washington State Department of Ecology commenting on the SEPA MDNS.
7. Attachment 6: Public Notice and List of property owners within 300-feet that received the notice.
8. Attachment 7: Affidavit of Publication from *The Vidette*.
9. Attachment 8: Copy of comment letter from the Grays Harbor County Treasurer's Office.
10. Attachment 9: Copy of comment letter from the Grays Harbor County Environmental Health Office.
11. Attachment 10: Traffic Impact Analysis for The Farm at Central Park.

Mr. Crites provided a letter dated October 22, 2003 from the Montesano School District #66, Transportation Division (attachment #1).

Mr. Crites reported that the hearing is to consider an application from Northwest Rock, Inc., 642 Newkah Road, Aberdeen, Washington, to subdivide approximately 76.8-acres of land into thirty-two (32) single-family residential lots. The proposed lots range in size from 20,009 square feet to approximately 6.5-acres, with 27 of the total 32 lots approximately 20,000 square-feet in size. Included in the proposal is construction of a public road and improvements to a private roadway. All lots will be served by on-site septic systems, with the potable water supply provided by Grays Harbor County Water District #2. The property lies west of Krueger Estates and south of Hidden Valley Mobile Home Park. Portions of the subject property were once used as a gravel pit. The gravel pit has been abandoned and reclaimed. Accompanying the application was a storm water management plan that provides assurances that adequate drainage systems will be provided within the new development. The submitted plat from the applicant proposed access to all lots within the subdivision by way of Kayla Drive. County staff and the Grays Harbor County Planning Commission believe that a second access point is needed to the development. Preliminary approval of the plat requires that the applicant

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build a second access road into the proposed plat by way of Ashley Drive. Connection at both points is necessary to promote adequate traffic movement throughout the neighborhood, reduce impacts from only one road system and intersection not just for residents of the area but also for visitors, emergency services, mail, school and bus services. The extension of Ashley Drive and Kayla Drive will allow for the dispersal of the traffic generated by the subdivision onto two roads rather than only onto Kayla Drive. The proposal includes the creation of 32 residential building lots, of which only restricted type residential uses are allowed. The Grays Harbor County Comprehensive Plan land use designation for the subject area is urbanizing. This development will be constructed to standards consistent with the purpose of Grays Harbor County Code Title 16 governing subdivisions and Grays Harbor County Code 17.28 governing uses, area, height and bulk. This finding is required for long subdivisions by Grays Harbor County Code 16.20. The review of this proposal by Grays Harbor County has resulted in the determination that the project, as designed and conditioned, conforms to the decision criteria listed for subdivisions in Grays Harbor County Code Title 16. Grays Harbor County Planning Commission, with 7 members present and voting, was in favor of the proposal as conditioned with a vote of 5 yeas and 2 nays.

Presentation by Northwest Rock, Inc.: Mike Daniels, Project Manager for Northwest Rock and employed by Pacific International Engineering, 501 Columbia Street NW, Suite D, Olympia, Washington, provided testimony. He stated his testimony is for Case #2003-0936. Mr. Daniels reported they previously appeared before the Board requesting a rezone from Agricultural zone to Restricted Residential zone. The rezone request has been approved by the Board and the Planning Commission. He reported they have been working with County staff and the Central Park Water District to formalize the subdivision application presented to the Board for consideration. Mr. Daniels reported the applicant desires to subdivide the property into thirty-two (32) residential lots that vary in size from 20,009 square feet up to 6.44 acres or 280,531 square feet. The total acreage of the project is approximately 76.8 acres of land. 38.1 acres will be developed and 38.7 acres will remain in an undisturbed state and will be designated as tracts A, B and C. The purpose of the tracts is to serve as open space or greenbelt area for the lot owners in the subdivision. A portion of tract A will be used to serve the drainage facilities for both this project and the Krueger Estates divisions 1 and 2.

Mr. Daniels reviewed the twenty-five (25) Conditions of Approval by County staff. He reported that Northwest Rock, Inc. concurs with all conditions with the exception of #15 – *The applicant shall construct a road connection to Ashley Drive from the proposed plat. The road design and construction shall be consistent with the Grays Harbor County Subdivision Road Standards, with design and construction reviewed by the Grays Harbor County Road Engineer prior to final plat recording.*

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Mr. Daniels discussed condition #9 – *The applicant shall submit a Traffic Impact Analysis for the proposed development. Mitigation measures, if determined to be necessary, shall be included in the analysis and shall be hereby included as conditions of preliminary plat approval.* He reported that condition #9 is not typical to what the County requires in this type and size of subdivision. The applicant did not object and did perform the Traffic Impact Analysis (TIA) for the development. Mr. Daniels reported the Traffic Impact Analysis indicated that the level of service is not changed as a result of the proposed project to Clemons Road.

Mr. Daniels provided information regarding condition #18 – *Domestic water service shall be provided to and inside the development by Grays Harbor County Water District No. 2. The applicant shall construct the water system according to Grays Harbor Water District #2 requirements and their adopted standards. Utility service shall be installed or bonded, with review and approval by the Grays Harbor County Department of Public Services prior to final plat recording.* Mr. Daniels reported that they have been working with the Central Park Water District and the Water District has signed a certificate of water availability for the project.

Mr. Daniels discussed condition #25 – *An inspection of soil log holes on the proposed lots has been performed by the Grays Harbor County Environmental Health Division. The majority of the lots should be able to accommodate gravity on-site sewage disposal systems. Proposed lot #'s 20, 21, 22 and 30 may require designed systems. Proposed lot #'s 13, 14, 15, 16, 31 and 32 are unacceptable for sewage disposal, due to either extremely compacted soils, or exposed naturally restrictive sub-soils. New soil log holes shall be required on proposed Lot #'s 13, 14, 15, 16, 31, and 32 if they are to be created by this subdivision.* He commented that the makeup of the lots could change and there is a possibility that there will not be a total 32-lot subdivision. Evaluation of the individual lots will determine if they all lots are actually buildable or not.

Mr. Daniels provided comments regarding condition #15. He reported the proposal for access to the project has been consistent and concurs with the County Engineer's initial assessment of the project access. Mr. Daniels reported that the County Engineer recommended a T-intersection to serve the project from Kayla Drive. Based on the total number of lots served he concurred that the level of service of Kayla Drive would not be adversely compromised as a result of the proposed 32-lots being created. Mr. Daniels reported the TIA revealed that both Kayla and the intersection of Clemons Road would not be compromised and the level of service would not change from the level of service that currently exists. County staff proposed that two accesses be constructed for the subdivision. One access onto Kayla Drive and one onto Ashley Drive. Mr. Daniels reported that the project would be required to construct two T-intersections and

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approximately 400 feet of additional roadway that the County Engineer agreed is unnecessary to accommodate safe traffic flow. Kayla Drive was constructed and approved as a County road that meets the requirements and actually exceeds the standards of Clemons Road, which carries an ADT in excess of 1500 vehicles per day. Kayla Drive serves 20 lots as Krueger Estates Division 1 and would serve a maximum total of 51 lots assuming all 32 lots in the proposal are approved subject to condition #25. Mr. Daniels reported that it is possible the total number of lots could be reduced based on condition #25. He explained that impacts from the additional traffic are well within the capacity of Kayla Drive as it now exists. If the possibility existed where the road could be extended to serve other development the applicant would be inclined to agree with staff that an alternate route was warranted. Mr. Daniels reported that is not the case with this project and provisions will not exist to extend the road further than proposed as part of this project. He explained that the right of way that is being dedicated or developed for this project dead ends within the subdivision and will not have the ability to extend beyond the subdivision boundaries. The maximum lots that could be served are 32. Mr. Daniels stated that the improvement to Ashley Drive is not warranted. Mr. Daniels summarized that with the exception of Condition #15 the applicant is in full concurrence with staff recommendations as published.

Joe Stipic, President of Northwest Rock, Inc., commented on the Findings of Fact and made reference to page 3, paragraph 4. He commented that Kayla is currently 28-foot wide and not 22-foot wide as indicated in the staff report. The pavement is 22-foot wide and the shoulders are 6-foot wide. Mr. Stipic stated they are not asking for any special treatment and they are concerned with safety. He asked to be treated like other people who have developed property in Grays Harbor County and that a second outlet road has not been an issue in many developments in Grays Harbor. Mr. Stipic reported that Northwest Rock is not ignoring its responsibility and has partnered with Grays Harbor County on two projects that they had responsibility on with relation to the gravel pit. He commented that Northwest Rock has a history of being responsible. He explained that they expect a project to be profitable and they expect a return on an investment. They do expect a project to be safe and will pay their fair share. Mr. Stipic provided a handout -- *The Farm, Ashley Road Improvement, Engineers Opinion of Cost* (exhibit #1). The grand total for construction cost including the loss of one lot is approximately \$139,000. The handout was entered into the record. Mr. Stipic discussed issues that Northwest Rock Inc., have met or that are vague. He commented on emergency road standard requirements and reported that their proposal meets the requirements. Mr. Stipic acknowledged Mr. Crites' letter from the Montesano School District.

Mr. Stipic submitted a handout (exhibit #2) consisting of a list of questions asked of Russ Esses, County Engineer, and Mr. Esses' answers. Mr. Stipic reported that he, Mr. Esses

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and Eric Finley were present at the meeting held on October 17, 2003. He read the questions and answers. Mr. Stipic reported that on October 24, 2003 he met with Mr. Esses and Mike Daniels. At that meeting he asked Mr. Esses if the proposed development, with a single access via Kayla Drive, had connectivity to the Grays Harbor County Road System. Mr. Esses responded that it did.

Mr. Stipic submitted a handout -- *List of Projects in Grays Harbor County by Jurisdiction. All projects listed have one road for ingress/egress, no second outlet road. Map of Specific Plats Attached* (exhibit #3). He commented that he did not find where any of these subdivisions created problems. Mr. Stipic commented about increased tax revenue for Grays Harbor County. He summarized that the project is consistent with other projects in the County and the development can be served adequately and safely with one road.

Mike Daniels provided clarification regarding a 12% road grade and the hazard for the County because maintenance will not be immediately available and residents will demand it. He reported that Kayla would be a flat grade from the existing roadway into the subdivision and that is why it was selected as being the access.

Eric Finley, P.E., and with Pacific International Engineering, was the project engineer responsible for the design that was submitted to the County. Mr. Finley discussed emergency vehicle access. He reported that he made contact with the Fire Chief for District 2 and the Fire Chief indicated that he supports the project and looks forward to the success of the project whether a second access is built or not. He reported that a second access would be nice; however, there is no a problem serving the development with a single access. The Fire Chief indicated that he looks forward to the revenue that the project represents for the fire department so they will have additional money in their budget. Mr. Finley addressed the issue regarding water pressure. He reported they have received a certificate of water availability from the water district. The water district can provide service and has provided a second letter restating that they can provide service to the development.

Bob Jewell, a Civic Engineer with Pacland, 606 Columbia Street, Olympia, Washington, reported that he has over 13 years experience in the field of transportation and traffic engineering. Pacific Engineering International requested Mr. Jewell to examine the transportation element of the project. He provided information regarding the traffic issue related to the development. Mr. Jewell referred to the Traffic Impact Analysis prepared by Eric Finley. He reported the service level at the primary Kayla Drive and Clemons Road intersection operated at an acceptable level. He discussed emergency vehicle access and reported there is no significant benefit to having a second access. Mr.

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Jewell commented regarding a roadway with a 12% grade. Mr. Jewell summarized that his conclusion is that a second access is not needed to improve circulation when it cannot be shown that there is a measurable significant improvement to the capacity and service level of the area network system.

Wayne Hagen, attorney with Edwards and Hagen, Aberdeen, Washington, spoke as legal representative for Northwest Rock, Inc. Mr. Hagen requested for the record that the three (3) documents provided by Mr. Stipic be entered into the record as follows:

- Exhibit #1 The Farm/Ashley Road Improvement – Engineers Opinion of Cost
- Exhibit #2 List of Questions Asked of the Russ Esses, County Engineer, and Mr. Esses' Answers, dated October 17, 2003
- Exhibit #3 List of Projects in Grays Harbor County by Jurisdiction. All projects listed have one road for ingress/egress, no second outlet road. Map of Specific Plats Attached

Mr. Hagen discussed the legal issues relating to the proposed project. He reported the requirement of a second road and other items of mitigation like that can only be required for actual impacts that are proven to be proportional and the requirements are that they be proven by the County. The County has the burden of proof. Mr. Hagen commented on a just and right decision. He stated that Northwest Rock, Inc. is not asking for a special privilege; they are asking that they be treated the same as everyone else. Mr. Hagen reported the procedure being dealt with is 16.20.120, County Ordinances, and this is a new public hearing. As a result of the new public hearing findings of fact and conclusions of law are created and a determination is made based upon the findings and conclusions. He stated they believe the plat should be approved with one access on Kayla and not the second required by Ashley. Mr. Hagen referenced two 2002 landmark Washington state supreme court cases and read the law as related to this issue. Those two cases require that any dedication or fee must be roughly proportional to the actual impacts of the proposed project and the burden of demonstrating proportionally is on the County. Mr. Hagen stated that those two cases set forth the law that the Board is required to follow and County Ordinance 16.20 provides the procedure. Based upon the law the applicant believes that Ashley Road is not necessary. Mr. Hagen asked why the County would want to take on the responsibility of the road with a 12% grade without there being substantial benefit. He asked that the County not assume unnecessary risk, liability and long term maintenance. He commented that unpopular decisions are not easy to make. Mr. Hagen summarized that from a legal perspective there has not been a showing that justifies this substantial added expense and burden.

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Russ Esses, County Engineer, reported that a 12% grade on Ashley is a non-issue because if Ashley is not there the people who live there still have to use a road with a 12% grade to get up to Kayla. Maintenance cost for Ashley would be approximately \$500 per year for the County to maintain that section. Mr. Esses reported the speed limit on Clemons Road is 35 m.p.h. The speed limit on Kayla and Ashley is 25 m.p.h. Mr. Esses reported that he agrees with the questions and answers submitted by Mr. Stipic. He explained that he could not put numbers to the issue to say that a second access is economically justified. Jim Baker, Deputy Prosecuting attorney, explained the concern involving risk to the County by having a second road. Mr. Baker reported that when there is more roadway there is risk. The fact that there is a 12% grade does not result in significant added liability.

Chairman Morrisette asked for public testimony.

The following individuals provided testimony regarding application for a 32-Lot Long Subdivision, Case #2003-0936:

Sue Pitts, resident of 3 Kayla Drive, Montesano, questioned the way the traffic study was conducted. She discussed the safety issue of crossing the highway to get to Aberdeen. Ms. Pitts expressed support of a second access on Ashley.

Richard Pitts, resident of 3 Kayla Drive, Montesano, commented on the cost of the development as outlined by Mr. Stipic. Mr. Pitts asked the Board to consider what is best for the residents and best for the County. He discussed the safety issue and the level of lifestyle for the residents. He summarized that he supports the development but it should be done right and have 2 accesses as recommended by the County Planning Department.

Barbara Reutercrona, resident of 18 Kayla Drive, Montesano, discussed the traffic impact during the development phase. Ms. Reutercrona asked Northwest Rock to share the burden of development and requested the impact be shared with Ashley Drive. Ms. Reutercrona spoke in support of two accesses to the development.

Debbie Cox, resident of 31 Kayla Drive, Montesano, discussed the speed limit on Clemons and the problem with people exceeding the speed limit. Ms. Cox commented that she is not opposed to the development. However, she believes there should be two access roads.

David Swinhart, resident of 38 Ashley Drive, Montesano, reported that he is an Aberdeen Fire Department fire fighter and paramedic. He discussed the logistical operations of emergency vehicle response procedure and requirements. Mr. Swinhart commented that

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emotions cannot guide a decision. The legal issues need to be considered as well as what is best for the area and the County. Mr. Swinhart expressed no support for or against having two access roads.

Stan Lubinus, resident of 22 Ashley Drive, Montesano, spoke in support of Northwest Rock Inc. based on the disproportional amount of traffic that would use Ashley Drive. He spoke on future development on Ashley and commented it is part of the future and progress.

Rich Jacobson, resident of 35 Kayla Drive, Montesano, expressed concern for safe traffic flow. He expressed support for the development and commented there will be approximately 5 years of construction traffic. Mr. Jaobson submitted a photograph of Kayla Drive that he recently took.

Charlie Crass, resident of 7 Kayla Drive, Montesano, listed various vehicles currently using Kayla Drive. Mr. Crass read and submitted a petition with 27 signatures requesting the Board approve the Planning Department recommendation. The petition was entered into the record (exhibit #4). Mr. Crass spoke in support of the project and requested that it be done right and that two access roads be required.

Dick Bell, resident of 18 Ashley Drive, Montesano, spoke in support of a single access because of anticipated future development.

Joe Stipic responded to comments and questions. Mr. Stipic stated that he is not asking the County to subsidize anything. For the record Mr. Stipic made the statement that Courtney is a private road and is at 14% grade and because of that it could not become a County road. Russ Esses confirmed that is correct. Mr. Stipic asked Mr. Esses if there were more accidents at an intersection and Mr. Esses confirmed that is correct.

Mr. Daniels responded to Mr. Pitts' comments. He commented on professional liabilities and stated that Mr. Stipic is receiving advice on what is proper and constitutes good development. Mr. Daniels responded to the traffic study and reported there are prescribed parameters that are nationwide standards that are used when doing traffic analysis and traffic studies and that is what was used in the case. Mr. Daniels discussed the 12% grade on Hagen Drive and the 12% grade on Ashley and noted that the difference is the stop condition.

Jeremiah Iverson, resident of 302 East Kamilche, Montesano, reported he is constructing a new home on Courtney Lane. He stated he has no preference regarding the road. He asked for clarification on the proposal and guidelines for proceeding with development.

Russ Esses clarified that he did not recall stating that using only one access was acceptable. Mr. Esses did review the design and found that it met the standards.

Commissioner Beerbower asked Curt Crites at what point the Planning Department determined two roads were necessary. Mr. Crites reported that during the pre-application conference with the applicant he discussed the impacts to roadways and stated that the County would require connection to both roads. Mr. Crites reported that at the time the applicant was against two accesses and was opposed to the \$2,000 per lot mitigation fee. Mr. Crites reported that he considered the criteria for subdivision of Title 16 of the Grays Harbor County Code. He referenced page 21 of his staff report and read as follows:

GHCC 16.20.100(B)(2) requires a determination from both the Grays Harbor County Planning Commission and the Board of County Commissioners concerning adequate traffic circulation of the streets and highways. This subsection of the County code states that *proposed streets should be aligned or built in such a way as to best facilitate the movement of traffic and reduce the possibility of accidents. Consideration may be given to alignment of intersections, width and surfacing of streets, proper curbs, sidewalks, or paths, the radii of curves and sight vision at intersections and hills, and the adequacy of private easements. Unless limiting factors or unique conditions are present, compliance with the adopted county road standards should satisfy the construction based elements of this criterion.* Mr. Crites explained that he considered the unique condition that there were two (2) County roads built with existing easements to this proposed development. He believed that two (2) accesses would adequately address traffic circulation and reduce impacts and possible accidents by all users.

Commissioner Beerbower asked if future development for the area will be to the south of the proposed development. Mr. Crites agreed there is potential for development to occur on Ashley Drive.

Commissioner Carter asked for clarification for potential development south of Ashley Drive. Mr. Crites reported on possibilities for future development.

Chairman Morrisette asked for additional public comment. There was no further comment.

Commissioner Carter moved to accept County staff finding as presented for Case #2003-0936. Commissioner Morrisette reported that he visited the proposed site. He commended Northwest Rock for wanting to invest in Grays Harbor County and add revenue to the tax base. He considered the County Engineer's comments and

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information. Chairman Morrisette reported that the County Planner has considered the proposal and the Planning Commission has reviewed the proposal. Chairman Morrisette summarized and seconded the motion to accept County staff finding as presented for Case #2003-0936.

DECISION

A motion to approve long-subdivision, Case #2003-0936 and accept County staff finding carried with 2 votes for and Commissioner Beerbower voting against.

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The meeting adjourned at 8:40 p.m. to Monday, November 3, 2003 at 2:00 p.m.

BOARD OF COMMISSIONERS
for Grays Harbor County
This _____ day of _____, 2003

BOB BEERBOWER, Commissioner, District 1

DENNIS MORRISETTE, Chairman

ALBERT A. CARTER, Commissioner, District 3

ATTEST:

Sharon Meier
Deputy Clerk of the Board