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Sequim, WA 98382

December 5th, 2021

City of Sequim, Department of Community Development
c/o Tim Woolett and Barry Berezowsky
152 West Cedar Steet
Sequim, WA 98382

Via email and Certified U.S. mail:

PUBLIC COMMENT ABOUT THE KEITH LARKIN PRELIMINARY SHORT PLAT

INTRODUCTION

Thank you for the opportunity to provide public comment on the Keith Larkin preliminary proposed minor subdivision application, REF: SHP21-005, which is proposed for the lot that is currently addressed as 41 Talon Court in the Eagle Crest subdivision. I live at 21 Talon Court in the Eagle Crest subdivision and oppose the application. I oppose because I feel the proposal would degrade the character of the Eagle Crest subdivision and would negatively impact my property values.

Eagle Crest is a great place to live where there is a nice variation in home styles and values. The current homes in the development complement each other. Although styles may differ, uniform siting and street exposure provides “curb appeal”. This is a neighborhood where a lot of neighborhood interaction takes place during chance meetings between people who are working in or enjoying their front yards, and who are walking the sidewalks or driving the streets. Most of the homes have well designed and maintained landscaping. All of the homes are located on one of two very lightly traveled cul-de-sacs. American Eagle Drive, which is the only subdivision entrance, is probably the steepest public road within the City. This results in a short but pleasant elevation gain during a brisk walk within the development. Breathtaking views are the icing on the cake.

As a result of these attributes, non-Eagle Crest residents walk in the Eagle Crest subdivision. This adds additional community interactions and adds to the overall feeling that this is home and that there is a sense of community. This sense of community is fostered by the social interactions driven by how the homes are sited. These are all single-family homes, all of them have porch areas that are within talking distance of the sidewalk. In addition, all of the homes adjoin one of the two public streets in the subdivision and each home has a non-shared concrete driveway. I chose to build in this subdivision, after due diligence, because these are the attributes that I wanted and that I felt were guaranteed by the plat and incorporated documents.

I do not feel that the proposed Larkin short plat is consistent with the existing Eagle Crest subdivision or my understanding of what I was buying into. The proposal is for three lots that will share a single asphalt concrete driveway. Only one of the lots, (Lot D¹), will adjoin a street within the subdivision, the other two lots will only adjoin other lots in the subdivision and will only be connected to the subdivision street

¹ Paving Site Plan of the Keith Larkin proposed plat.

by the shared driveway. This short plat, as proposed, will not blend seamlessly into the fabric of the neighborhood. It will stick out like a poorly conceived afterthought. It will be out of character with the existing neighborhood in several ways:

1. The shared driveway would be an unattractive anomaly. There are not other shared driveways within the Eagle Crest subdivision. In fact, I am not aware of any shared driveway that serves three lots anywhere in any subdivision within the City of Sequim.
2. The existing driveways in the development are all constructed of concrete. The shared driveway as specified would be constructed of asphalt concrete². The visual impact between concrete and asphalt concrete is striking.
3. Because there is no street, there will be no sidewalk and myself and a lot of others will be deprived of an opportunity to add to our daily walk. Places that attract walking by designing sidewalks for safety and comfort are generally regarded as places of higher value³.
4. Two of the proposed lots would not abut a street within the subdivision. This neighborhood's residents often interact with chance conversations from the street or sidewalk to someone in their yard or on their porch. It would be tragic to lose this characteristic.
5. The entire visual character of the neighborhood would change. Currently, houses face the street and appear open and inviting. Two of the lots as proposed would be isolated and appear withdrawn.

I included the prose above only to provide insight into my motivation for opposing the proposal. I am savvy enough to understand that the City will not make a decision based on my values, emotions, or motivations. The City must make its decision based on the City's own rules, regulations and standards for the division of land within the City⁴, and the policies and provisions of the Sequim Comprehensive Plan⁵. I believe that my concerns are well supported by the Revised Codes of Washington (RCW), Sequim Municipal Codes (SMC), and the 2015 -2035 Sequim Comprehensive Plan. My discussion of the proposed short subdivision will, as much as possible, be centered on the proposals relationship to public law and public policy.

I have much at stake in my opposition to the proposed short plat. My analysis and discussion will be exhaustive. The analysis will probably be exhausting to the Sequim's Community Development Director who must consider public comment when making findings of fact, conclusions and conditions related to the short plat proposal. I am a layperson at most of the issues that will be discussed in these comments. I have reviewed applicable case law simply to inform my thinking. There are instances where I have quoted this case law simply because the quote expresses what I want to say far more eloquently and precisely than I ever could.

² Paving-Sewer & Storm Details of the Keith Larkin proposed plat.

³ Sequim Comprehensive Plan (2015 2035) TR 4.4.3 discussion

⁴ SMC§17.04.010(B)

⁵ SMC§17.04.010(C)

CONFORMITY TO PUBLIC LAW AND PUBLIC POLICY

SMC§17.20.040(B)

The approval criteria for subdivisions in the Sequim Municipal Code requires “Each lot will adjoin a public street or a private street **in the subdivision**”⁶ (emphasis added). The plain English meaning of this requirement is unequivocal. To adjoin the lot must touch or be contiguous with the street.⁷ The term “street” is explicitly defined in chapter 17 of the Sequim Municipal Code (subdivisions) as “a public or approved private right-of-way which provides vehicular circulation or principal means of access to abutting properties, and which may also include provisions for public utilities, pedestrian walkways, public open space and recreation areas, cut and fill slopes and drainage.”⁸ Any attempt to classify the proposed private shared driveway as a street fails under the requirements for streets in Chapter 17 of the Sequim Municipal Code. These requirements include the prohibitions against private streets at SMC§17.32.090 and the required engineering standards at SMC§12.02.040.

A review of the proposed plat clearly indicates two of the three new lots in the proposed short plat will not adjoin a street in the subdivision. As such, the proposal would violate the requirements of the Sequim Municipal Code at 17.20.040(B). In addition, the Clallam County Hearing Examiner for the Preliminary Subdivision Approval for the Eagle Crest Subdivision found that “**The proposed lots would each have at least 30-feet of frontage on the internal right-of way.** Lots with double frontage would not have access from adjacent Miller Road, consistent with Sequim Municipal Code (SMC) provisions prohibiting driveways onto Miller Road. Conditions of approval are necessary to ensure that construction of the internal road would be in compliance with the standards required by the Sequim subdivision and zoning ordinances”⁹(emphasis added). Therefore, the proposed short plat would violate the original conditions of approval for the Eagle Crest Subdivision.

The record is clear that the original developers of the subdivision understood that an additional street would need to be added in order to further subdivide the residual lot 16, (the Larkin lot). This is demonstrated by the statement in the Drainage Design Documentation for the original subdivision which states: “Even though the current project is for a 17 lot subdivision the size of the pond and outlet structure was designed to accommodate the development of 24 lots **with an additional road**”¹⁰(emphasis added). Clearly the requirement for lot access to a street within the subdivision has been well understood as the subdivision has evolved.

CONFORMITY TO SEQUIM COMMUNITY DEVELOPMENT PLAN

The Sequim Municipal Code requires that for subdivision approval, “Each lot resulting from the subdivision must conform with the comprehensive plan.”¹¹ Clearly, the proposed short subdivision fulfills the Community Development Plan’s goal of accommodating growth within the urban growth area by filling in lands for urban development.¹² However, the proposed subdivision is in direct

⁶ SMC§17.20.040 (B)

⁷ Black’s Law Dictionary 2nd Ed. The word “adjoining,” in its etymological sense, means touching or contiguous, as distinguished from lying near to or adjacent. And the same meaning has been given to it when used in statutes.

⁸ SMC§17.08.020 (U)

⁹ Clallam County Hearing Examiner # LDV 2004-00035; Findings, Conclusions, and Decision; page 5; finding of fact 8

¹⁰ Engineered drainage plans attached to Clallam Fee Determination Worksheet LDV2004-00035, RDP 2007-00164

¹¹ SMC§17.20.040 (A)

¹² Sequim Comprehensive Plan (2015 2035) chapter 2, page 9, UG Goal 2.2

antithesis to a multitude of other goals and policies of the Community Development Plan. The Plan “is comprehensive because it provides guidance for all aspects of the city's growth and development”¹³, and thus is more than a license to subdivide larger lots with little thought to the consequences of doing so. The plan defines the how to divide the lots as well as encouragement to consolidate growth for the benefit of all. The following are a few specifics of where the proposed short plat is in conflict with the goals and policies of the Sequim Community Development Plan:

- A cornerstone of several aspects of the Community Development Plan is to promote interconnectivity between neighborhoods. This is anchored by policy to “maximize street continuity through the community and especially within neighborhoods by applying a grid style street model when appropriate to new divisions of property to support both vehicular and pedestrian movement¹⁴”. “New subdivisions are expected to connect to adjacent subdivisions to maintain a pattern of connected streets¹⁵”. The opportunity for interconnection between Eagle Crest and future development to the east will be forever extinguished if the short plat is approved as proposed. This may never affect the development’s current residents; however, it would be a preventable tragedy to future generations.
- In many places the Development plan espouses the need for friendly, walkable neighborhoods. Discussion within the plan states: “Every residence’s front yard is the interface between the privacy of the home and the public realm of the sidewalk and street. Friendly front yards provide the opportunity for neighbors to become acquainted, experience spontaneous social exchanges, and discuss neighborhood matters of mutual interest.”¹⁶ This vision of what good looks like will not be achieved by the proposed short plat – two of the lots will be separated from the neighborhood by the common driveway. The shared driveway would result in exactly the scenario the plan discourages, specifically: “The front of some homes looks into the rear yard of adjacent homes. Some of the lots produced by platting that fills any available space are out of character with adjacent plats.¹⁷”
- The Plan touts the preservation of small-town qualities by fostering the growth of low-density, single-family neighborhoods that are sociable and walkable¹⁸. The plan further states that a well-designed neighborhood connects residents rather than isolates them¹⁹. These lofty goals define the Eagle Crest Subdivision as it currently exists. The fabric of the neighborhood would be torn by having lots that are not connected to the rest of the neighborhood by sidewalk. The current residents will be deprived of additional walking opportunities. Owners of the new lots will be isolated from the sidewalks that are a social hub.
- Strong neighborhoods are the building block of strong communities²⁰. The authors of the comprehensive plan clearly intended to maintain the character of existing neighborhoods with policies such as: “Support the character of existing residential neighborhoods by requiring lots passed over by development to infill in a manner that respects the existing dimensional and architectural characteristics of the surrounding neighborhood.”²¹ This plan element is further defined by the policy to: “Promote a sociable neighborhood by encouraging new development to consider the inclusion of “street-friendly” housing design by incorporating new design elements such as, but not limited to, open front yards, sitting porches / terraces, and view

¹³ Sequim Comprehensive Plan (2015 2035) chapter 1, page 5

¹⁴ Sequim Comprehensive Plan (2015 2035) chapter 3, page 28, LU 3.4.7

¹⁵ Sequim Comprehensive Plan (2015 2035) chapter 3, page 28

¹⁶ Sequim Comprehensive Plan (2015 2035) chapter 3, page 23

¹⁷ Sequim Comprehensive Plan (2015 2035) chapter 3, page 24

¹⁸ Sequim Comprehensive Plan (2015 2035) chapter 3, page8, UG 3.2

¹⁹ Sequim Comprehensive Plan (2015 2035) chapter 3

²⁰ Sequim Comprehensive Plan (2015 2035) chapter 3

²¹ Sequim Comprehensive Plan (2015 2035) chapter 3, page12, UG 3.2.5

windows that connect the home and the street.”²² Clearly, lots with a shared driveway with two of the lots being isolated from the street does not support the character of the development, promote a sociable neighborhood, or facilitate the building of street friendly homes.

It would be possible to generate many more pages of examples where the proposed short plat is contrary to the visions, goals, and policies of the 2015-2035 Sequim Comprehensive Plan, however, there is no need to do so. The short plat application is clearly not supported by the Comprehensive Plan. The burden was on the applicant to develop a compliant project. For the reasons that I have iterated, that burden has not been met.

CONCLUSIONS

For the reasons stated above, the Larkin short plat, as proposed, is contrary to public policy and public law and therefore must be disapproved. Approval of this plat as proposed in the application would be arbitrary and capricious and would constitute an abuse of discretion by the Sequim Community Development Director.

ADDITIONAL COMMENTS

The foregoing discussion requires an immediate rejection of the Larkin short plat as submitted. Therefore, additional comment is unnecessary. I choose to make additional comment on the off chance that changes to the application will be made that causes the City to consider approval of Larkin short plat application. I also make the additional comments so that the applicant and the City will have forewarning of public expectations of future attempts to replat the Larkin lot.

Applicability of Requirements of SMC§17.25 Vacation and Alteration of Final Plats

In a phone conversation on December 1, 2021 Tim Woolett, (Senior Planner, Sequim Department of Public Development), indicated to me that the Larkin short plat application did not require a corresponding Alteration of Final Plat application because the Short Plat application process was more comprehensive and included all the requirements of the alteration requirements. I disagree and go on record as believing that a plat alteration application is required because the regulatory requirements in SMC§17.20 (Subdivisions) does not afford the same protections to Eagle Crest residents as are provided by SMC§17.25.

Specifically, SMC§17.25.040(B)(4) states: “If the subdivision or binding site plan is subject to restrictive covenants which were filed at the time of the approval of the subdivision or binding site plan, and the application for the alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or binding site plan”. I believe that the Larkin short plat would result in violations of covenants that were filed at the time of the subdivision approval. In addition, SMC§17.25.040(B)(7) states: “If the alteration is for a portion of the subdivision or binding site plan, the applicant must demonstrate that the alteration will not violate the terms of subdivision or binding site plan approval or this chapter”. The hearing examiners finding of fact that “The proposed lots would each have at least 30-feet of frontage on the

²² Sequim Comprehensive Plan (2015 2035) chapter 3, page12, UG 3.4.3

internal right-of way”²³ clearly indicates that the proposed short plat’s shared driveway scheme would violate the Eagle Crest subdivision terms of approval.

I am not alone in my belief that the alteration process applies. In several instances Sequim City officials have reached the same conclusion for what is now the Larkin property. In these cases, these City officials reference SMC§17.21.060 (alteration of final plat), and RCW§58.17.215 (alteration of subdivision – procedure). Since that time SMC§17.21.060 has been repealed and SMC§17.25 which codifies the intent and extremely closely reiterates the requirements of RCW§58.17.215 has been created.

In some of the quotes from former City officials that will follow, the Larkin plat is referred to as lot 17 of Eagle Crest. Lot 17 is now the Larkin lot 16, this is verified in an 08/22/2011 email from Jack Dodge, (then Sequim Senior Planner), to Craig Ritchie, (then Sequim City Attorney), that stated: “Lot 17 (Lot 16 of the reconfigured plat)”.²⁴

Specific quotes from City officials referencing the need to follow the process for subdivision alteration are:

- In 2015 Mr. Larkin interacted with Sequim City officials to understand the process for short platting his lot with preliminary plans very similar to the current application. Charisse Deschenes (then Sequim Senior Planner) cautioned Mr. Larkin: “Check out the following: You may want to talk to your attorney about how to move forward with RCW58.17.215. With an agreement and signatures from all existing properties in the subdivision, it may be possible to modify Lot 16 through a preliminary and final plat process...Under Section 17.21.060 of the Sequim Municipal Code (SMC), alteration of final plats shall meet the requirements of RCW 58.17.215 Revised Code of Washington).”²⁵
- In 2011 Green Crow (the then declarant of Eagle Crest) approached Sequim City officials about subdividing what is now lot 16 (the Larkin lot). In an email discussion from the then City Attorney (Craig Ritchie), to the then City Senior Planner (Jack Dodge), Mr. Ritchie wrote: “RCW 58.17.215 applies ... But if they have the requisite permission of the entire plat’s owners, maybe they could do a long plat of lot 17”²⁶.
- As part of the email train quoted in the prior example. Mr. Dodge wrote Mr. Ritchie: “Based upon SMC 17.21.060 and RCW 58.17.215, splitting Lot 16 of the plat into additional lots would be an alteration of the subdivision.”²⁷

It is unequivocal that the opinions of previous Sequim City officials differ from Tim Woollett’s current opinion on the need to follow the subdivision alteration process in addition to utilizing the subdivision platting process. Einstein’s definition of insanity is “doing the same thing over and over and expecting different results”. My definition of arbitrary and capricious is asking essentially the

²³ Clallam County Hearing Examiner # LDV 2004-00035; Findings, Conclusions, and Decision; page 5; finding of fact 8

²⁴ Email Jack Dodge to Craig Ritchie, 08/22/2011, 11:09 AM, Eagle Crest Estates Subdivision.

²⁵ Email Charisse Deschenes to Keith Larkin, 07/31/2015, 2:51 PM, PRE15-003 – Eagle Crest Pre-Application

²⁶ Email from Craig Ritchie to Jack Dodge, 08/22/2011, 4:19 PM, Eagle Crest Estates Subdivision

²⁷ Email Jack Dodge to Craig Ritchie, 08/16/2011, 12:01 PM, Eagle Crest Subdivision

same question, about the same set of facts from the same regulatory agency, (the City of Sequim), and getting different answers.

Clearly the proposed short plat would be an alteration of the current Eagle Crest approved final plat. It is also indisputable that the proposed short plat would result in a violation of restrictive covenants which were filed at the time of the approved subdivision. The Declaration of Covenants, Conditions and Restrictions for Eagle Crest Subdivision were filed concurrently with the final plat, and are explicitly referenced in Note 3 of the plat through the verbiage: "A lot owners association has been formed for the lots within this plat. The association shall exist indefinitely, and membership shall be automatic upon assumption of ownership of any lot within this plat. Association by-laws and Conditions, Covenants, and Restrictions have been recorded under auditors file no. 2008-1223355"²⁸. Therefore, the Eagle Crest CC&Rs are not private restrictive covenants and are in fact incorporated by reference into the approved plat. "The common law doctrine of incorporation by reference has general usage in civil law and is recognized in Washington."²⁹ The doctrine applies to government decisions when a public document "is adequately identified so that there is no uncertainty as to what was adopted."³⁰ In this case the plat explicitly identifies the CC&Rs as the source of additional restrictive covenants; there is no ambiguity.

The specific Eagle Crest CC&R's that the Larkin proposed short plat would violate are:

- Paragraph 7.3 of CC&Rs (as amended) states "Eagle Crest Estates is intended to be developed with construction of quality homes. Designs and structures should be compatible with others in the development as the development progresses, while at the same time recognizing individual style and taste within this common scheme of development."³¹ This was amended from the original CC&R verbiage for paragraph 7.3 "Eagle Crest Estates is intended to be developed with construction of quality homes. Each home shall have a minimum of 100 square feet of stone and/or brick accents on the exterior facing the street. Exterior colors should consist of earth tones, although each application will be reviewed on a case by case basis to determine compatibility. Design of structures should be compatible with others in the development as the development progresses, while at the same time recognizing individual style and taste within this common scheme of development".³²

No rational person would consider three homes with a shared asphalt concrete driveway is consistent with a common scheme of a development where all existing homes have a private concrete driveway. Additionally, homes with no internal street frontage would not be consistent with a scheme where all other homes, (and lots), have internal street frontage. The common driveway scheme is not only out of place in Eagle Crest, but also is out of place with the development styles in most subdivisions in Sequim.

- Paragraph 6.2 of the Eagle Crest CC&R's establishes building height restrictions. The height restrictions are given based on lot number. Lot 16 (the Larkin lot) was a residual lot.

²⁸ Clallam County, WA, Plat no. LDV2004-0035 Eagle Crest, sheet 4 of 4.

²⁹ State v. Ferro, 64 Wn. App. 195, 198, 823 P.2d 526 (1992).

³⁰ Scott PalDer Co. v. City of Anacortes, 90 Wn.2d 19, 31, 578 P.2d 1292 (1978)

³¹ First amendment to Declaration of Protective Covenants and Restrictions for Eagle Crest Estates. Recorded as Clallam County, WA, document 2013-1299571.

³² Declaration of Covenants, Conditions and Restrictions for Eagle Crest Estates. Recorded as Clallam County, WA, document 2008-1223355.

Because the clear intent was to further divide lot 16 in the future and the future configuration and lot numbers was unknown, height restrictions for the future lots were not included in the CC&Rs. The CC&R's are clear in the intent that lots backing to Miller Road will have a maximum height of 23 feet to protect the views of others. The three new lots that will be created by the proposed short plat will back to Miller Road, and will have the potential to have homes that will block the views of others. As was identified in the short plat application, the proposed lots would have a height limitation of 25 feet. This clearly violates the intent of the CC&Rs.

Clearly the city must look at the intent of the parties that created the covenants. "Restrictive covenants are interpreted to give effect to the intention of the parties to the agreement incorporating the covenants and to carry out the purpose for which the covenants were created."³³ "The purpose of those establishing the covenants is the relevant intent. Subdivision covenants tend to enhance the efficient use of land and its value. The value of maintaining the character of the neighborhood in which the burdened land is located is a value shared by the owners of the other properties burdened by the same covenants."³⁴ Therefore, the city must place "special emphasis on arriving at an interpretation that protects the homeowners' collective interests"³⁵ and determine that the 25-foot proposed height limitation is in violation with the existing CC&Rs.

Conclusions

The Larkin proposed short plat clearly constitutes an alteration of the final plat of the Eagle Crest subdivision. Therefore, the proposed plat must be examined to verify that the requirements of SMC§17.25 and RCW§58.17.215 are enforced. As discussed above, the proposal would violate restrictive covenants that were filed at the time of the Eagle Crest subdivision final approval. For this reason, the requirements of SMC§17.25.040(B)(4) "the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision" would be triggered. The proposed short plat violates a term of the Eagle Crest subdivision approval, specifically, "lots would each have at least 30-feet of frontage on the internal right-of way"³⁶. Because of this, the lot configuration of proposed short plat would not meet the requirement of SMC§17.25.040(B)(7) "the applicant must demonstrate that the alteration will not violate the terms of subdivision or binding site plan approval".

Impacts on Eagle Crest Street Access and Egress

The current Eagle Crest subdivision does not conform to current Sequim two access point requirements as codified at SMC§17.32.110. The code requires that: "Each subdivision must have at least two points of access, except for those minor subdivisions or short plats with four or fewer lots. For subdivisions with more than four and up to 30 lots, the two points of access may be combined if

³³ Riss v. Angel, 131 Wn.2d 612, 621, 934 P.2d 669 (1997).

³⁴ Green v. Normandy Park Riviera Section Cmty. Club, Inc., 137 Wn. App. 665, 683, 151 P.3d 1038 (2007) (citing Riss, 131 Wn.2d at 621-24)

³⁵ The Lakes at Mercer Island Homeowners Ass'n v. Witrak, 61 Wn. App. 177, 181, 810 P.2d 27 (1991)

³⁶ Clallam County Hearing Examiner # LDV 2004-00035; Findings, Conclusions, and Decision; page 5; finding of fact

separated by a minimum 10-foot-wide landscape area and encompass two 20-foot-wide drive lanes.” Eagle Crest is currently a subdivision of 16 lots. The subdivision as configured has one point of access, American Eagle Drive” that does not have the required separated drive lanes. Access and Egress issues are compounded in inclement weather by the steep grade of American Eagle Drive.

The proposed short plat would exacerbate the issue by adding additional lots. As proposed, the short plat would forever prevent the extension of Talon Court to the east to allow two points of access and subdivision connectivity when properties to the east are developed. As a short plat the proposal would not fall under the requirements of SMC§17.32.110. However, as an amendment to a final plat SMC§17.32.110 would be triggered. The City would be remiss in not evaluating the access and egress impacts as an alteration of the entire Eagle Crest plat and require conformity to existing codes.

Applicability of Requirements of RCW§58.17.218 – Easements by Dedication.

RCW§58.17.218 states: “The alteration of a subdivision is subject to RCW 64.04.175”.

RCW§64.04.175 states: “Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat or other document creating the dedicated easement provides for an alternative method or methods to extinguish or alter the easement.”

As previously discussed, the proposed short plat would indisputably alter the Eagle Crest subdivision. The proposed plat of the Larkin short plat shows an alteration of the existing irrigation easement and piping. The irrigation water right of way was dedicated to the Lot Owners Association on the Eagle Crest approved plat. (A right of way is a specific form of easement). The language of the dedication is found on the legend on sheet 2 of the final plat and states: “Irrigation water right of way for the benefit of lots 1 through 16 of this subdivision. (See lot owners’ association documents for additional information.)” Clearly any addition or modifications to this easement will require HOA approval. This approval may or may not be perfunctory. Also, the addition of any additional lots in Eagle Crest may require the modification of the language of the right of way dedication on the approved plat.

Historic and Culture Preservation.

I am confused and concerned that item (B)(13)(c) of the SEPA ENVIRONMENTAL CHECKLIST for the Larkin Short Plat indicates that potential impacts to cultural and historic resources near the project site were assessed by: “Mapping available through the Washington State Department of Archeology & Historic Preservations (WISSARD Mapping)”³⁷ The reason for my concern is that a Gretchen Kaehler, Assistant State Archaeologist, email to Charisse Deschenes indicated that “This parcel has a high probability. It is on the same landform as several other archaeological sites, in proximity to freshwater resources. We would request a survey for any development on this property”³⁸ This email was a response to a City request for information when Mr. Larkin was investigating subdividing lot 16 in 2016. This email must be considered in any determination of need for any cultural impact analysis.

³⁷ SEPA Environmental Checklist for Larkin Short Plat prepared 10/05/2021, page 21

³⁸ Email Gretchen Kaehler to Charisse Deschenes et al., 02/08/2016, 05:31 PM, Lot 16 Eagle Crest Subdivision

Geotechnical Report.

Kudos to Zenovic and Associates, the City and Mr. Larkin for the foresight to perform a geotechnical review. The slope adjacent to Miller Road downgradient from lot 16 has suffered at least 2 landslides in the last few years. The proposed slope restrictions for lot 16 should prevent this from happening on that lot.

I do have one concern related to the required finished slopes. The City right of way adjacent to Miller Road and north of lot 16 contains a 12 KV PUD buried transmission line(s), as well as buried telecommunication conduit and wiring. If lot 16 is ever approved for development, a condition of development must be that after final grade these utilities will meet the minimum burial coverage of whichever is greater of the National Electric Safety Code (NESC) or the Clallam County PUD requirements. I would be surprised if the utilities, as currently installed, would have the required coverage after the slope is cut back to facilitate the sidewalk installation and the slope is graded to a 3 to 1 slope.

Drainage Report.

Once again, Kudos to Zenovic and Associates, the City and Mr. Larkin for the foresight to create the drainage report. My only concern is what might not be included in the report's calculations. The only reason for my concerns is that I am a member of the HOA that is responsible for the stormwater retention pond for the subdivision. I will be happy if and only if the City is going to hold the HOA harmless for any needed future stormwater structure modifications that are required if the report is found to be inaccurate. If not, I want to make sure all current stormwater inputs are accurately included in the calculations before additional flows are allowed. There are a couple of inputs that I worry may have been missed, specifically:

- Significant sections of Miller Road east of American Eagle Drive currently drains to the Eagle Crest retention pond through storm drains on the south side of Miller Road. I have never been able to determine that the flows from these drains are included in the stormwater calculations.
- The widening of Miller Road and the extension of the Miller Road sidewalk will increase stormwater flows to the pond. I am also not sure these volumes have been added to the stormwater calculations.
- A ground water drain that flows to the pond was added when the City installed the quarry spall reinforcement to the slope adjacent to Miller Road. This drains what the City's contractor described as "a spring" on the City right of way adjacent to Miller Road. I am sure these flows have not been added to the calculations. This drain flowed a lot of water during the dry season when it was installed.
- The declarant added a deep retaining wall to the south side of lot 2 when the area was under declarant control. One of the reasons for the installation of this wall was to address a significant water intrusion issue in a nearby home. This wall has a drainage system that converts significant amounts of ground water to surface water. At one time, this water flowed to the street with significant flows even during the dry season. The declarant eventually tightlined this drain to the retention pond -- I am assuming with the City's permission. The declarant also installed a retention wall to the north side of lot 2. I am

assuming this also has a drain; however, I am not certain. I know these flows have not been included in any storm water calculations.

Lack of Draft Maintenance & Usage Agreement and Easement for Shared Driveway.

It should be a non-issue because the short plat application must be found to be dead on arrival for reasons previously discussed. However, I was disturbed that proposed shared driveway maintenance and usage agreements as well as a proposed driveway easement were not included in the application. In a phone conversation on December 1, 2021, Tim Woolett, Senior Planner for Sequim, confirmed that these documents were not in the application. The applicant checked the box indicating they had submitted “Copies of any existing and/or proposed deed restrictions or covenants” on the application and the SEPA checklists. Hence, the application materials are incomplete.

The City must require acceptable easements, shared usage, and shared maintenance agreements for properties that share private ingress and egress. This is essential to protect public interests including the protection of property values. Many private mortgage lenders have significant easement and maintenance agreement requirements for shared roads and driveways. Federal sources of mortgage funds, (FHA, VA, USDA, Fannie Mae), have requirements around these issues.³⁹ It is difficult to mortgage a property that does not have the required documents in place. This negatively impacts property values. The existing CC&Rs for the Eagle Crest subdivision clearly would not serve as a maintenance agreement for a driveway servicing three homes.

Miscellaneous Issues.

- The City of Sequim Notice of Application that was mailed to residents and posted in the Peninsula Daily News as public notice for the Keith Larkin Preliminary Minor (Short) Subdivision contained a material error. Specifically: the last line of the notification stated: “A final decision on the application will be made by the Community Development Director no later than July 15, 2021 which is within 90 days of the determination of completeness, per SMC 20.01.230 and RCW 58.17.140(1).” Obviously, July 15, 2021, occurs in the past. This material error could lead individuals to conclude that a final decision has already been made and that their input is futile. The notice does not comply with SMC§20.01.140(B)(13), therefore, the notices are invalid.
- The elevation contour lines on the Larkin preliminary plat appear, to my untrained eye, to be in error. Several years ago, Mr. Larkin had his lot regraded. This resulted in a large mound near the northeast corner of lot 16. That mound does not appear to be represented on the contour lines of the proposed plat. This is nitpicking, however, the SEPA environmental checklist requires “Preliminary Grading Plan. An accurate topographic map of the property, delineating contours, (existing and proposed) at two-foot intervals.” The box was checked and the check sheet was signed by a P.E. If the city does not feel something is important than get it removed from the checksheet. Otherwise enforce the process requirements. Errors and emissions such as this dilute public confidence in the City’s abilities.

I look forward to reviewing the Director’s finding of fact, conclusions, and the final decision. I am formally requesting a written copy of the final determination.

³⁹ What is a private road maintenance agreement, <https://www.militaryfamilyrealty.com>, 03/09/2017

Respectfully,

Bob Finnie

Tim Woolett

From: Bob Finnie <bfinnie@wavecable.com>
Sent: Thursday, December 16, 2021 3:18 PM
To: Tim Woolett
Cc: Bob Finnie
Subject: Larkin Short Plat SHP21-005

EXTERNAL SENDER: This email originated outside the organization. Do not click links or open attachments unless you verify the sender and know the content is safe.

Mr. Woolett,

I have a few requests related to the Larkin short plat, specifically:

1. I would like email notification when a decision on this application is made. My email address is bfinnie@wavecable.com. I made a request for notification in my public comments about the Larkin Plat that were dated 12/05/2021. However, I did not include my email address in that document. Since then, I learned of the requirement to provide an email address on the City's Department of Community Development projects web page. I want to make sure that I have an opportunity to review the Record of Decision as soon as possible given the 21 day limit on challenges.
2. Please email me the date that the City accepted the Larkin application as complete. The public notice has a material error in the date that the City must make a decision by. I want the application complete date to extrapolate the final decision due date.
3. I realize that you are busy, however, please update the Larkin file on your Departments project web page. When we talked on December 1st you indicated that you try to keep the web page current. The Larkin file is missing: Title report, Notice of Application, Notice of Complete Application, and Public and agency comments. (Public comment closed December 9th.). I am trying to stay as informed about this project as I can so that I can fully evaluate and understand the Record of Decision when it is posted.

Thanks,

Bob Finnie

Sent from my iPad

City of Sequim,
Department of Community Development c/o Tim Woolett and Barry Berezowsky
152 West Cedar Street
Sequim, WA 98382

Thank you for the opportunity to provide public comment on Keith Larkin Subdivision.

My name is Mel Green and live at 82 American Eagle Drive. I have lived at this location for three years and have been an active member of our neighborhood during that time.

If one drives through our beautiful subdivision, one thing stands out... it is spotless. The neighbors have worked hard to follow the guidelines set forth in our CC&Rs and homeowner pride is evident throughout the neighborhood. You won't see garbage cans or residential propane tanks as they are all hidden from street views. Cars are not parked in the street. We are proud of our homes and of our neighbors' residences as well. The community is small with only 16 parcels and arguably one of the the nicest neighborhoods in the Sequim area.

Over the last week, I have driven around Sequim searching out shared driveway situations. I did not find one residence that I could compare to the landscaping and upkeep of the homes in Eagle Crest Estates. Some... I would consider trashy. I don't want that scenario in our neighborhood.

The Larkin project containing three lots and a shared driveway is a bad idea as presently proposed. In a perfect world there is no problem with a shared driveway. Everyone would fulfill their responsibility for maintenance and everyone would get along. However, it is well known shared drives are one of the biggest reasons for neighbor disputes even with an agreement in place. People are not perfect. "No property is an island" This proposed shared drive and additional lots are not in isolation. It would be part of our HOA and any potential problems that arise would be our problem as well.

I understand that Mr Larkin is proposing this as an investment to make a few dollars. I get it. But we worked hard for two years to get the city to take over our streets and eliminate private street ownership in our subdivision. Larkin's proposal would have 15% of our homeowners dealing with a private drive. This plan does nothing to enhance our neighborhood, there's no benefit to any existing homeowner. It just doesn't fit the fabric of our community.

I propose two solutions....

1. The planned shared drive is replaced with a street meeting Sequim City standards complete with sidewalk and lighting. This would be from the Talon Ct cul-de-sac to the east property line of Larkin's lot. The proposed lots would have individual driveways connecting to the extended street.
2. Instead of the proposed three lots, there is only one lot of about an acre. This lot's driveway would connect to the Talon Ct cul-de-sac as Larkin's current drive does. A lot of this size and location would be very desirable.

Regards,

Mel Green
82 American Eagle Dr
Sequim, Wa 98382

Tim Woolett

From: teresaborkan <teresaborkan@gmail.com>
Sent: Thursday, December 9, 2021 3:20 PM
To: Tim Woolett
Cc: Michael M Borkan
Subject: Larkin short subdivision

EXTERNAL SENDER: This email originated outside the organization. Do not click links or open attachments unless you verify the sender and know the content is safe.

Hi Tim! Since we have been playing phone tag and the comment deadline is approaching, I am sending an email with my comments.

As I had let you know earlier, one concern is the side setback of 6 feet and rear setback of 15 feet as our covenants are 10 side and 20 rear, as was city code at the time they were written. I am not sure if the Larkin subdivision falls under the same covenants or will have their own. We are lot 14 , right next to the proposed lot D, so this would have a direct impact on our property.

Additionally tied into covenants are two other concerns: First, with the proposed shared driveway versus an actual street, we would not want cars parked on Talon Court as our covenants prohibit street parking. Second is a question about whether residents in the Larkin subdivision will contribute to costs of maintaining the storm water drainage system as it appears that they will be tying into it.

Hopefully this is complete enough information as requested for comments on the proposed subdivision. Please let us know if you have any questions regarding our concerns.

Thank you,

Mike and Teresa Borkan
425-246-4663