

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF  
KOOTENAI COUNTY, IDAHO

IN THE MATTER OF THE APPLICATION OF  
WATERFORD ESTATES, LLC, FOR  
FINAL PLAT APPROVAL FOR  
WATERFORD ESTATES SUBDIVISION

) CASE NO. S-703F-01  
) FINDINGS OF FACT,  
) CONCLUSIONS OF  
) LAW, AND ORDER  
) OF DECISION

**I. PROCEEDINGS**

- 1.1 Preliminary approval of Waterford Estates Subdivision (formally known as Edgewood Estates) was issued, and the Board of County Commissioners Order of Decision for preliminary approval was signed on January 17, 2001.
- 1.2 Files and exhibits relative to the application are available for review at the Kootenai County Planning Dept.
- 1.3 The Hauser Joint Planning Commission held a duly noticed Planning meeting on January 21, 2002 to review the final plat application. Per the requirements of the Development Code, Division 2, Section J.10, this was not a Public Hearing, and no public testimony was taken. After said review, the Commission unanimously recommended to the Joint Board, to approve the final plat.
- 1.4 During the Board's weekly Deliberations, held February 13<sup>th</sup>, 2002, the Board approved the final plat, providing that an acceptable development agreement and financial guarantee are submitted by the Applicant prior to signing of this Order of Decision.

**II. FINDINGS OF FACT**

- 2.1 **Applicant:** Brent Lockhart, acting on behalf of Waterford Estates, L.L.C. (formally known as Edgewood Estates). The Applicant has provided documentation of the name change and authorization for Brent Lockhart to act on behalf of Waterford Estates, L.L.C.
- 2.2 **Owner:** Waterford Estates, L.L.C., Mike Newell, Managing Member, c/o Brent Lockhart, 100 Miller Ave. Ste. 3, Coeur d'Alene, ID 83814. The Applicant has provided documentation of ownership and authorization to act on behalf of Waterford Estates, LLC.
- 2.3 **Project Proposal:** The Applicant is seeking final plat approval to complete and record the plat for 41 residential lots on 98.9 acres of land within the Hauser Area of City Impact.
- 2.4 **Location:** The general location is ¼ mile north of the City of Hauser and the parcel is bisected by W. Hauser Lake Road.

- 2.5 **Legal Description:** Within the Southeast and Southwest Quarters of Section 12, Township 51 North, Range 6 West, B.M. and is also known as Assessor parcel #51NO6W-12-5000 (further defined within the "Owners Certificate," pg. 4 of final plat).
- 2.6 **Lot Sizes:** Range from approximately 3-acres to a minimum of 1-acre parcels. Mathematical average size is 1.2-acres each, for residential lot sizes, excluding open space tracts.

The proposal also includes open space tracts (Tracts B and C) to be dedicated to the City of Hauser that consist of 40.4 acres. Inclusive of the open space tracts, the overall lot size average is 2.4 acres per lot.

### III. APPICABLE LEGAL STANDARDS

- 3.1 Hauser Area of City Impact Agreement Ordinance; County Ordinance No. 289, City Ordinance No. 119.
- 3.2 The Hauser Comprehensive Plan; as adopted by County Ordinance No 289, City Ordinance No. 119.
- 3.3 The Hauser Development Code, as adopted by County Ordinance No. 289, City Ordinance No. 119.
- 3.4 Kootenai County Road Naming and Addressing Ordinance No. 301.
- 3.5 *Idaho Code* §50-1301-1333 (platting); 67-6521, 67-6535, 67-2343 (notice and procedures)

### IV. REVIEW OF COMPLIANCE TO THE CONDITIONS OF APPROVAL

Pursuant to the Area of City Impact Agreement, which adopted the *Hauser Development Code* in the regulation of subdivisions within the Hauser Area of City Impact, the Board received a recommendation for approval from the Joint Planning Commission. The Board reviewed the Recommendation and concluded that the application for final plat is in compliance to all applicable criteria for approval. The remainder of this Section addresses each Condition imposed by the Board (at preliminary approval), and each condition is followed by the Board's Findings/Conclusions.

Condition 7.1 - The Applicants shall cease to offer lots for sale or sell lots until the final plat has been recorded. *Complies; the condition has been met since no lots are being offered for sale at this time.*

Condition 7.2 - The Applicants shall have 12 months from the date of approval of the preliminary plat to file their application for final subdivision approval. *Complies; the final plat application was filed during the 12 month time frame since preliminary approval.*

Condition 7.3 - The Conditions of approval shall apply to all future owners, assigns and heirs.

*Complies; this condition is understood by the developer, and reflected in the proposed Development Agreement.*

Condition 7.4 - The Applicant shall submit for review and approval, development Covenants, Conditions and Restrictions (CC&R's). After review and approval by the County the CC&R's shall be recorded. *Complies; the Applicant has submitted CC&R's for review and they have been approved by the County.*

Condition 7.5 - Prior to final plat approval, Applicant shall submit an approved "404" permit that allows for the driveway crossing of the delineated wetland on Lot 1 (this will ensure compliance to Standard F). *Complies; a copy of the approved permit, which will allow crossing of the wetlands for the driveway to Lot 1, Block One, was submitted.*

Condition 7.6 - The Applicant shall obtain and submit a letter from the Army Corps of Engineers that acknowledges the Corps has reviewed and accepted the wetlands delineation as presented by the Applicant (this will ensure compliance to Standard G). *Complies; a copy of the Army Corps' letter accepting the wetland delineation has been received.*

Condition 7.7 - The Applicant shall add a note on the face of the final plat that clearly establishes that land within the lakeshore corridor will remain, or be enhanced as wetland, riparian, or forest vegetation capable of serving as an effective vegetative filter strip. For lands within approved lots and within the established lakeshore corridor, the Applicant's CC&R's shall specify the types of vegetation that can be planted by the individual lot owners (this will ensure compliance to Standards G. 1. a-f) *Complies; "General Plat Notes" on the plat addresses this condition (#1, sheet 2 of 4) The CC&R's (Architectural Control rules and Regulations) Sections 3.1, 3.4, and 3.5 also specify plant disturbance limitations and the types of vegetation that can be planted by individual lot owners.*

Condition 7.8 - The applicant shall add a note on the final plat that no grazing, feeding or keeping of livestock shall be permitted within the lakeshore corridor, including those portions of the lakeshore corridor within the lots (this will ensure compliance to Standard G.2). *Complies; "General Plat Note" #2 on sheet 2 addresses this condition.*

Condition 7.9 - The applicant shall provide a legal description of the lands to be dedicated to the City and provide documentation that upon final approval, the City will accept that land (this will ensure compliance to Standard G.4.a). *Complies; a legal description of the lands to be dedicated to the City has been submitted, are depicted on the plat as Tracts B and C, and are defined within the Owner's Certificate (sheet 4 of 4) as lands to be dedicated to the City.*

*To substantiate final compliance to the Condition, a separate warranty deed of conveyance for these lands will be required by the City. After recording the warranty deed, with legal descriptions, the City shall sign the final plat.*

Condition 7.10 - The Applicant shall prepare and submit for review a Runoff, Erosion, and Stormwater Management Plan in accordance to the Development Code. Until said plan is approved, no ground disturbing activity shall take place. *Complies; the County's Contract Engineer has reviewed the Plans and concluded that the plans meet the requirements as stated in the Hauser Development Code.*

Condition 7.11 - The Applicant shall prepare and submit a wildfire prevention plan in accordance with the Hauser Development Code. *Complies; a wildfire prevention plan was submitted by the Applicant, reviewed and approved by the Hauser Code Administrator on April 10, 2001.*

Condition 7.12 - The Applicant shall include in their CC&R's all items specified in the Hauser Development Code related to nuisances. The language in the CC&R's must be in substantial conformance to the Hauser Development Code. *Complies; the proposed CC&R's have addressed this item in Section 4.1 of the CC&R's.*

Condition 7.13 - The Applicant shall add language on the face of the plat that clearly establishes the allowed uses both inside and outside of the proposed building envelopes to comply with Standard R2 of the Development Code. *Complies; there is a notation on the face of the plat (General Plat Notes #3) that substantiates compliance to this requirement. In addition, the CC&R's (Architectural Rules and Regulations) Section 2.2.1 specifically restricts all building activity to within the Building Envelope.*

Condition 7.14 - The Applicant shall note on the face of the plat that specifies the required dwelling setbacks from property lines in accordance with Standard S. Table 4 of the Development Code. *Complies; there is a notation on the plat (General Plat Notes #4) that substantiates compliance to this requirement.*

Condition 7.15 - The Applicant shall add a note on the face of the plat that limits structure heights to a maximum of 35 feet that will comply with Standard S.3 of the Development Code. *Complies; there is a notation on the plat (General Plat Notes #5) that substantiates compliance to this requirement.*

Condition 7.15.1 - Prior to recordation of the final plat, the applicant shall prepare a modified building envelope design for lots 6 through 15. The envelopes shall encourage the placement of structures to reasonably protect view corridors for existing homes located on W. Hauser Lake Rd and surrounded by Waterford Estates. The modified building envelopes shall be made a part of the CC&R's and be delineated on the final plat. *Complies; the building envelopes of concern have been modified in a manner that reasonably protects view corridors. In addition, the CC&R's (Architectural Rules and Regulations) Section 2.2.3. specifically restricts the placement and type of landscaping within the view corridors.*

Condition 7.15.2 - The Applicant shall require in the CC&R's that all landscaping plans for lots 6 through 15 be approved by the Architectural Control Committee. The Committee shall limit the placement of trees with mature heights not in excess of 15 feet outside of view corridors. The approved landscape shall also require evergreen trees to partially screen structures on lots from view of W. Hauser Lake Road. *Complies; item is addressed in Sections 2.2.3. and 3.1 of the CC&R's.*

Condition 7.16 - The Applicant shall include language regarding the type and placement of signs into the proposed CC&R's in accordance with Standard Y of the Development Code. *Complies; Section 4.1.2 of the CC&R's address this condition.*

Condition 7.17 - The Applicant shall provide written verification that DEQ has approved engineering for the community water system and other conditions of approval addressed in their letter dated September 20, 2000. *Complies; the Applicant has provided letters from North Kootenai Water District (file Exhibit PA-11) and DEQ.*

*The letter from the Water District indicated that the system would be managed by the District upon satisfaction of several conditions. Most of the conditions require the system to be fully completed prior to acceptance. Since the system is not fully completed, those conditions cannot be met at this time.*

*Due to nature of the conditions imposed by the water district, the Applicant chose to submit a "revised capacity development plan" as required by DEQ. That revised plan allows the Homeowners Association to maintain and operate the water system. DEQ has concluded that the "capacity demonstration report submitted was found to meet the requirements for new water system." The only remaining DEQ requirement is that the "as-built plans" be submitted to DEQ after completion of the system.*

Condition 7.18 - The Applicant shall provide written verification that the Hauser Lake Fire Protection District has approved engineering for the community fire suppression systems and other conditions of approval addressed in their letter dated August 23, 2000. *Complies; written verification of compliance has been received from the Fire District.*

Condition 7.19 - The Applicant shall provide written verification that the Panhandle Health District has lifted sanitary restrictions for Phase One of the development and complied with other conditions of approval outlined in their letter of August 25, 2000. *Complies; the Health District has conducted soils evaluation test on each and every lot, and each lot passed District standards for individual septic tank/drainfield. These tests will allow the Health District to lift sanitary restrictions at time of signing plat.*

Condition 7.20 - The Applicant shall add notes to the plat that ensure that power and telephone services shall be provided at the expense of the developer and that utilities shall be underground to comply with CC.1 of the Development Code. *Complies; the plat provided by the Applicant reflects this requirement (General Plat Note #6).*

Condition 7.21 - The Applicant shall provide language in the CC&R's that reflect the requirement of off-street parking to comply with Standard F.F. of the Development Code. *Complies; the CC&R's address this item in Section 4.3.4.*

Condition 7.22 - The Applicant shall provide written verification that the Post Falls Highway District has approved all proposed road improvements and other Highway District conditions of approval to ensure compliance with GG.1 of the Development Code. *Complies; a letter from the Highway District has been submitted by the Applicant.*

Condition 7.23 - The Applicant shall provide verification that the Fire District has approved the proposed shared driveway designs to comply with GG.2 of the Development Code. *Complies; a letter from the Fire District has been received that substantiates compliance.*

Condition 7.24 - The Applicant shall submit a final plat in accordance to the required plat submittals as specified in the "Hauser Planning Area Procedures and Required Submittals" to ensure compliance with Standard MM. of the Development Code. *Complies; the Applicant has submitted a copy of the final plat in accordance to the Code.*

Condition 7.25 - If phasing of the development is to occur, the applicant shall submit for review the required submittals as specified in Chapter VII of the Development Code. Prior to application and after engineered site improvement construction plans have been approved by agencies, the cost of said improvements shall be finalized and a financial guarantee acceptable to the County shall be submitted and approved by the County. No building permits shall be issued (other than infrastructure improvements) until all improvements have been completed and the financial guarantee has been released in accordance with OO of the Development Code. *Complies: The Applicant has submitted a draft Development Agreement that is acceptable to the County. The final agreement, signed by the Applicant and the City, will be submitted prior to signing this Order of Decision.*

Condition 7.26 - The Applicant shall note on the face of the final plat placing limitations on the amount of maximum impervious surface to ensure compliance with PP of the Development Code. *Complies: A General Plat Note (#7) addresses this condition.*

Condition 7.27 - The Development Rights earned from the award of bonus density points (54) shall not be transferred until the final plat is recorded. The Applicant shall provide acceptable documentation that the transfer of development rights shall constitute a restriction on the development on the property in perpetuity. *Complies; the Applicant has submitted documentation that controls the transfer of development rights in accordance to Idaho Code, and the Hauser Development Code.*

Condition 7.28 - The Base Development Rights (19) may be transferred to another acceptable site within in the Hauser Area of City Impact upon the acceptance of documentation by the County that the transfer of development rights shall constitute a voluntary restriction on the development of the property in perpetuity. *Not applicable; the Applicant has chosen to only transfer development rights after recordation of the final plat.*

Condition 7.29 - The Applicant shall submit written consent of all lien holders and other parties with an interest of record in the property from which development rights are proposed to be transferred prior to the transfer of the development rights. The written consent shall acknowledge that the transfer of development rights shall constitute a restriction on the development of the property in perpetuity. *Complies; the Applicant has submitted documentation that includes the required written consent of owners/lien holders, etc. for development rights to be transferred on a case by case basis.*

Condition 7.30 - In lieu of the community trail being constructed adjacent to W. Hauser Lake Rd., the final plat shall depict the 10-foot wide, paved community trail as being located adjacent to the easternmost lot lines. The community trail shall connect to W. Hauser Lake Rd. north of Lot 16 and south of Lots 2 and 3. Applicant shall also be responsible for posting the

allowed use of the trail that access to the adjacent wetland is restricted. *Complies: the revised trail easement is depicted on the plat. A financial guarantee for trail improvements must be submitted and approved prior to signing of this order of decision.*

## V. CONCLUSIONS OF LAW

- 5.1 The proposal was found to be in compliance with the Conditions of Approval.
- 5.2 The proposal was found to be in compliance with the Hauser Comprehensive Plan, Development Code and Area of City Impact Ordinance.
- ~ 5.3 The proposal was found to be in compliance with the Kootenai County Road Naming and Addressing Ordinance.
- 5.4 The County Surveyor will ensure compliance with *Idaho Code* § 50-1301-1333 prior to signing the mylar plat.
- 5.5 Notice and procedures for processing the application met the applicable sections of *Idaho Code* and the Hauser Development Code.

## VI. AWARDED DEVELOPMENT RIGHTS

- 6.1 As noted in Condition 7.26 and 7.27, the Applicant has been awarded a total of seventy-three (73) development rights. Waterford Estates, a subdivision consisting of 41 residential lots, has used forty-one (41) of those earned development rights. The remaining thirty-two (32) development rights are available for transfer in accordance to the Hauser Development Code, and Idaho Code 67-6515A.

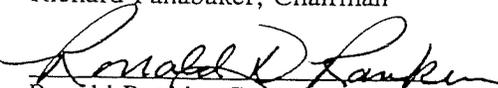
## VII. ORDER OF DECISION

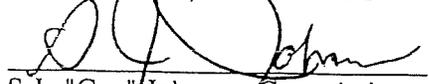
Based upon the Findings of Fact and Conclusions of Law set forth in this document, the Kootenai County Board of Commissioners order that Case Number S-703F-01, Waterford Estates Subdivision, be **APPROVED**.

DATED this 18 day of April 2002

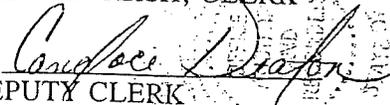
BY ORDER OF THE KOOTENAI COUNTY  
BOARD OF COMMISSIONERS

  
Richard Panabaker, Chairman

  
Ronald Rankin, Commissioner

  
S.J. "Gus" Johnson, Commissioner

ATTEST:  
DANIEL J. ENGLISH, CLERK

  
BY: DEPUTY CLERK

