

REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: April 19, 2006

PLAT/PROJECT NAME: *CEDAR GROVE PLACE*

APPLICANT/
LANDOWNER: Keith and Sherene Johnson

FILE NO.: 05 120057

TYPE OF REQUEST: A 6-lot short plat of 2.54 acres with two duplex lots, four single-family lots and the creation of a new public road

DECISION (SUMMARY): Requests APPROVED subject to conditions

BASIC INFORMATION

GENERAL LOCATION: The property is located at 2524 Lake Drive, Lake Stevens, WA

ACREAGE: 2.54 acres

DENSITY: 3.15 du/ac (gross)
4.37 du/ac (net)

NUMBER OF LOTS: 6

AVERAGE LOT SIZE: 13,286 square feet

MINIMUM LOT SIZE: 9,864 square feet

OPEN SPACE: 7,554 square feet – detention area

ZONING: Residential-9600 (R-9600)

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Low Density Residential (4-6 du/ac Lake Stevens UGA only)
Subarea Plan: Snohomish-Lake Stevens
Subarea Plan Designation: Rural (1 du/2.2 acres)

UTILITIES:

Water: Snohomish County PUD No. 1
Sewage: Lake Stevens Sewer District

SCHOOL DISTRICT: Lake Stevens

FIRE DISTRICT: No. 8

SELECTED AGENCY RECOMMENDATIONS:

Department of:

Planning and Development Services: Approve subject to conditions

Public Works: Approve subject to conditions

INTRODUCTION

The applicant filed the Master Application on October 5, 2005. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on March 30, 2006 in the afternoon.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 13, 14 and 15)

A SEPA determination was made on February 17, 2006. (Exhibit 12) No appeal was filed.

The Examiner held an open record hearing on April 4, 2006, the 111th day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

PUBLIC HEARING

The public hearing commenced on April 4, 2006 at 10:04 a.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. Mr. James Weelborg, representing the applicant appeared, and stated that he accepted the PDS staff report, except as to three items which need minor changing. The first one is on page 4, item no. 5. This could be changed pursuant to Exhibit 30. Next, as to item no. 6 on page 4, the detail of the dedication as shown on Exhibit 16 and third, an adjustment to the detention vault to be 14,888 square feet, using Lot 1. Other than those minor changes, he had no objection to the PDS staff report or the conditions.
3. Ms. Roxanne Pilkenton, PDS, stated that the changes were very minor and they are all acceptable to PDS.
4. No one appeared in opposition to the request.

The hearing concluded at 10:20 a.m.

NOTE: Audio tapes of this hearing are available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file, as if set forth in full herein.
2. The PDS staff report has correctly analyzed the nature of the application, the issues of concern, the application's consistency with adopted codes and policies and land use regulations, and the State Environmental Protection Act (SEPA) evaluation with its recommendation and conditions. This report is hereby adopted by the Examiner as if set forth in full herein, with some minor changes.
3. The request is for approval of a six lot short plat containing 2.54 acres. A duplex is proposed for Lot 2 with Lot 1 already containing an existing duplex, and a single-family dwelling unit is proposed for each of Lots 3-6. Vehicular access to all six of the proposed lots will be via a new public road that connects to Lake Drive.
4. Pursuant to Exhibit 30, the following wording of item no. 5 in the PDS staff report shall be changed to read as follows:

Whereas EDDS 3-10(b) provides that a drop-curb cul-de-sac may be used when five or more access points are taken around a cul-de-sac bulb, the drop-curb cul-de-sac may be used in this case to satisfy the sidewalk requirements.
4. The surrounding properties are generally developed with single-family residences on a mix of medium and large lots, while three parcels to the east each contain a duplex.
5. The zoning of the property and in the surrounding area is R-9600.
6. The project would comply with park mitigation requirements under Chapter 30.66A SCC (Title 26A SCC) by the payment of \$1,361.22 for each new single-family home.
7. The DPW reviewed the request with regard to traffic mitigation and road design standards. This review covered Title 13 SCC and Chapter 30.66B SCC (Title 26B SCC) as to road system capacity, concurrency, inadequate road conditions, frontage improvements, access and circulation, and dedication/deeding of right-of-way, state highway impacts, impacts on other streets and roads, and Transportation Demand Management. As a result of this review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions. (See Pages 3-6, Exhibit 29)
8. School mitigation requirements under Chapter 30.66C SCC (Title 26C SCC) have been reviewed and set forth in the conditions.
9. There are no critical areas on the site or within 100 feet of the property.
10. Storm drainage control will be provided by piping roof runoff to yard drains and also by the intercepting of overland drainage of lawns into yard drains which will then be conveyed to catch basins and storm drains to a closed detention vault to be located along the east side of the property. The PDS Engineering Division has reviewed the concept of the proposed grading and drainage and recommends approval of the project subject to conditions, which would be imposed during full detailed drainage plan review pursuant to Chapter 30.63A SCC (Title 24 SCC).

11. The Snohomish County Health District has no objection to this proposal provided that public water and sewer are furnished and with the understanding that the existing onsite sewage systems will be abandoned in accordance with Health District regulations.
12. Public water and sewer service will be available for this development as well as electrical power.
13. The property is designated Urban Low Density Residential (ULDR 4-6 du/ac Lake Stevens UGA only) on the General Policy Plan (GPP) Future Land Use Map (FLUM) and is located within an Urban Growth Area (UGA). According to the GPP, the ULDR designation covers various subarea plan designations which would allow mostly detached housing developments on larger lot sizes. Land in this category may be developed at a density of 4-6 du/ac and one of the implementing zones is the R-9600 zone which is the case here.
14. The request complies with the Snohomish County Subdivision Code, Chapter 30.41A SCC (Title 19 SCC) as well as the State Subdivision Code, RCW 58.17. The proposed plat complies with the established criteria therein and makes the appropriate provisions for public, health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and other planning features including safe walking conditions for students.
15. The request is consistent with Section 30.70.100 SCC (Section 32.50.100 SCC), which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP, and GMA-based county codes.
16. The aerial photograph (Exhibit 6) very clearly and effectively shows the location of the proposal and how it would fit into the surrounding area.
17. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

CONCLUSIONS:

1. The Examiner having fully reviewed the PDS staff report, hereby adopts said staff report as properly setting forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their effect upon the request. It is therefore hereby adopted by the Examiner as a conclusion as if set forth in full herein, in order to avoid needless repetition. There are no changes to the recommendations of the staff report, except as noted in item 2 of the Public Hearing. (See page 2 herein)
2. The Department of Public Works recommends that the request be approved as to traffic use subject to certain conditions.
3. The request is consistent with the GMACP; GMA-based County codes; and the type and character of land use permitted on the site and the permitted density with the applicable design and development standards.
4. The request would allow for the development of a new road serving six lots containing duplexes and single-family homes which would provide living units for those who desire to reside in this attractive area near Lake Stevens.
5. The request should be approved subject to compliance by the applicant with the following Conditions:

CONDITIONS

- A. The preliminary short plat received by PDS on January 26, 2006 (exhibit 10) shall be the approved short plat configuration. Changes to the approved short plat are governed by SCC 30.41B.310.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
- i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
- C. The following additional restrictions and/or items shall be indicated on the face of the final plat:
- i. “The lots within this subdivision will be subject to school impact mitigation fees for the Lake Stevens School District No. 4 to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for 1 existing parcel(s) (**duplex unit**). Lot 1 shall receive credit.”
 - ii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:

\$3,225.09 per lot for mitigation of impacts on county roads paid to the county,
\$75.75 per lot for transportation demand management paid to the county,
\$344.52 per lot for mitigation of impacts on state highways paid to the County

These payments are due prior to or at the time of building permit issuance for each single-family residence. Notice of these mitigation payments shall be contained in any deeds involving this subdivision of the lot(s) therein. Once building permits have been issued all mitigation payments shall be deemed paid by PDS.
 - iii. All dwelling units within this development are subject to park impact fees in the amount of \$1,361.22 per newly approved dwelling unit pursuant to Chapter 30.66A. Payment of these mitigation fees is required prior to building permit issuance; provided that the building permit has been issued within five years after the application is deemed complete. After five years, park impact fees shall be based upon the rate in effect at the time of building permit issuance.
- D. Prior to recording of the final plat:
- i. Urban frontage improvements shall be constructed along the parcel’s frontage on Lake Drive to the specifications of the DPW.
 - ii. Right-of-way shall be dedicated as necessary to accommodate the required frontage/road improvements.
- E. All development activity shall conform to the requirements of Chapter 30.63A SCC.

Nothing in this permit/approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.

Preliminary plats which are approved by the county are valid for five (5) years from the date of approval and must be recorded within that time period unless an extension has been properly requested and granted pursuant to SCC 30.41A.300.

6. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

The request for a 6-lot SHORT PLAT along with a PUBLIC ROAD DEDICATION to serve these lots is hereby APPROVED, SUBJECT TO COMPLIANCE by the applicant, with the CONDITIONS set forth in Conclusion 5, above.

Decision issued this 19th day of April, 2006.

Robert J. Backstein, Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

This decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more parties of record. (The Examiner's action on reconsideration would be subject to appeal to the Council.) The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council rules of procedure.

Reconsideration

Any Party of Record may request reconsideration by the Examiner. A Petition for Reconsideration must be filed in writing with the Office of the Hearing Examiner, 2802 Wetmore Avenue, 2nd Floor, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **May 1, 2006**. There is no fee for filing a Petition for Reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

A Petition for Reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner's attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

- (a) the Examiner exceeded his jurisdiction;
- (b) the Examiner failed to follow the applicable procedure in reaching his decision;

- (c) the Examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of Snohomish County Code, or other county or state law or regulation;
- (d) the Examiner's findings, conclusions and/or conditions are not supported by the record;
- (e) newly discovered evidence alleged to be material to the Examiner's decision which could not reasonably have been produced at the Examiner's hearing; and/or
- (f) changes to the application proposed by the applicant in response to deficiencies identified in the decision.

Petitions for Reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the county file number in any correspondence regarding this case.

Appeal

An appeal to the County Council may be filed by any aggrieved Party of Record. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 5th Floor, County Administration Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **May 3, 2006** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the county and PROVIDED FURTHER that the filing fee shall be refunded in any case where an appeal is dismissed in whole without hearing under SCC 30.72.075.

An appeal must contain the following items in order to be complete: a detailed statement of the grounds for appeal; a detailed statement of the facts upon which the appeal is based, including citations to specific Hearing Examiner Findings, Conclusions, exhibits or oral testimony; written arguments in support of the appeal; the name, mailing address and daytime telephone number of each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any; the name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and the required filing fee.

The grounds for filing an appeal are limited to the following:

- (a) the Examiner exceeded his jurisdiction;
- (b) the Examiner failed to follow the applicable procedure in reaching his decision;
- (c) the Examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of Snohomish County Code, or other county or state law or regulation; and/or
- (d) the Examiner's findings, conclusions and/or conditions are not supported by the record.

Appeals will be processed and considered by the County Council pursuant to the provisions of Chapter 30.72 SCC. Please include the county file number in any correspondence regarding this case.

Staff Distribution:

Department of Planning and Development Services: Roxanne Pilkenton
Department of Public Works: Mark Brown

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| The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation." A copy of this Decision is being provided to the Snohomish County Assessor as required by RCW 36.70B.130. |
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