

BEFORE THE
SNOHOMISH COUNTY HEARING EXAMINER

DECISION of the DEPUTY HEARING EXAMINER

In the Matter of the Application of)	
)	FILE NO. 07 106543 SD
MONROE LAND INVESTMENT CO., LLC)	
)	
Plat alteration to alter Tract 997 of Roosevelt Ridge)	
to provide public road access to the preliminary)	
plat of Rose Park as Tract 993.)	

DATE OF DECISION: September 6, 2007

PLAT/PROJECT NAME: *Roosevelt Ridge*

DECISION (SUMMARY): The application for a plat alteration is **CONDITIONALLY APPROVED.**

BASIC INFORMATION

GENERAL LOCATION: This project is located at SE 128th Street off 178th Drive SE, Snohomish, Washington.

ACREAGE: Roosevelt Ridge: 118 acres
Tract 997: 5.02 acres

ZONING: R-7,200

INTRODUCTION

The applicant filed the Master Application on June 1, 2007. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 12, 13 and 14)

The Examiner held an open record hearing on August 22, 2007, the 54th 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 August 22, 2007 at 8:37 a.m.

1. The Examiner stated that he had read the PDS staff report, reviewed the file and viewed the area.
2. The applicant, Monroe Land Investment Co., LLC, was represented by Paul Cavassa. Snohomish County was represented by Darryl Eastin of the Department of Planning and Development Services.
3. No member of the general public participated in this matter in any way.

The hearing concluded at 9:01 a.m.

NOTE: For a complete record, an electronic recording of this hearing is available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS OF FACT

Based on all the evidence of record, the following findings of fact are entered.

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 Policy Act (SEPA). That staff report is hereby adopted by the Examiner as if set forth in full herein.
3. The applicant, Monroe Land Investment Co., L.L.C., filed an application to alter its recorded, final plat of Roosevelt Ridge in order to provide vehicular ingress/egress and utility access to the plat of Rose Park (05 119914) which abuts on the east side of Tract 997 of Roosevelt Ridge. A condition of approval of Rose Park is that the proposed public road be provided for Rose Park across Tract 997 of Roosevelt Ridge (Exhibit 11: Condition D.i, decision of February 21, 2007). The public hearing held in this matter meets the requirement that land dedication for public road right-of-way must be done through a public hearing process. Tract 997 is an "L"-shaped piece of land adjoining the east side of 175th Avenue SE and the north side of 128th Place SE. Tract 997 also adjoins the west and south property lines of the preliminary plat of Rose Park. Tract 997 was approved as interim open space.

4. The subject portion of Tract 997 proposed to be sold to the owner of Rose Park is a strip 60 feet wide by 100 feet long on the north side of the Rose Park plat, which strip is proposed to be designated new Tract 993 to be dedicated as public road right-of-way when the proposed plat alteration is recorded with the Auditor. The remaining portion of the original Tract 997 north of the new Tract 993 will become Tract 999. The portion of Tract 997 south and east of the new tract 993 will continue to be identified as Tract 997.
5. The Examiner's decision approving Roosevelt Ridge Estates (Exhibit 10) finds as fact (No. 4.C) that 74.1 percent of the approximately 118-acre site was retained as common open space. That percentage so far exceeds the minimum required that the proposed loss of a strip measuring 60 by 100 feet will not cause Roosevelt Ridge Estates to fail to meet its open space obligation. Nor will any significant amendment of the Rural Cluster Subdivision Open Space Management Plan be required.
6. The Examiner adopts and inserts as findings below all relevant findings from the staff report to the Examiner, with headings and format from that report.

Traffic Mitigation and Road Design Standards
(Title 13 SCC & Chapter 30.66B SCC)

PDS Traffic reviewed the proposed plat alteration and had no comment.

Critical Areas Regulations
(Chapter 30.62 SCC)

The proposed plat alteration does not affect the area designated as Native Growth Protection Area/Easement (NGPA/E) within Tract 997 of Roosevelt Ridge. The alteration complies with Chapter 30.62 SCC.

GMA Comprehensive Plan
(General Policy Plan, GPP)

The proposed plat alteration is consistent with the version of the GMA Comprehensive Plan, which became effective on December 12, 1996, as revised through the completeness date of the application.

Zoning
(Chapter 30.2 SCC)

The proposed plat alteration does not affect the number of lots, lot configuration or size, or configuration and size of NGPA's of the recorded plat of Roosevelt Ridge. Finding number 4.H of the Hearing Examiner decision approving Roosevelt Ridge states that, "Restricted open space is to be commonly owned and maintained by a homeowners association pursuant to an open space management plan articulated in the RCS project narrative. The plan's primary objective is maintenance of the open space as perimeter buffer, critical area protection, and interim open space within the RUTA for probable future conversion to urbanization". Tract 997 is designated as interim open space/future urban development on the face of the recorded plat of Roosevelt Ridge. Therefore, the proposed alteration to Tract 997 is consistent with the purpose of the tract as a reserve for future urban development.

Staff finds that the proposed plat alteration meets all applicable zoning code requirements.

Environmental Policy
(Chapter 30.61 SCC)

The proposal is exempt from the requirements of the State Environmental Policy Act pursuant to Washington Administrative Code 197-11-800 (6)(a).

Subdivision Code
(Chapter 30.41A SCC)

Section 30.41A.720 (1)(b) SCC (Procedure for subdivision alteration) allows the department (Planning and Development Services) to hold a public hearing on a plat alteration if it is in the public interest. The proposed alteration is in the public interest because it will provide public road access to the plat of Rose Park through right-of-way dedication. Public road right-of-way may only be dedicated to the county through a public hearing process.

Section 30.41A.740 SCC states that, “The Hearing Examiner may approve a subdivision alteration if the application is found to be consistent with the general decision criteria of SCC 30.41A.100, and with any other applicable county regulations”. Staff finds that the proposed plat alteration is consistent with the approval of the Plat of Roosevelt Ridge and consistent with general decision criteria of 30.41A.100 SCC. Therefore, staff finds that the alteration complies with the plat alteration decision criteria of 30.41A.740 SCC.

Plats – Subdivisions - Dedications
(Chapter 58.17 RCW)

The new Tract 993, as indicated on the plat alteration map (Exhibit 4), is intended to be dedicated as public road right-of-way in order to provide vehicular access to the preliminary Plat of Rose Park.

This alteration is subject to all restrictions, easements, conditions and covenants approved by the Hearing Examiner and recorded with the subdivision of Roosevelt Ridge.

The proposed plat alteration conforms to all applicable zoning codes and the comprehensive plan.

7. Any finding of fact in this decision which should be deemed a conclusion is hereby adopted as such.

CONCLUSIONS OF LAW

Based on the findings of fact entered above, the following conclusions of law are entered.

1. The request to alter the plat of Roosevelt Ridge Estates to provide assess for an adjoining plat where such assess is required as a condition of approval imposed on that adjoining plat is consistent with (1) the GMACP, GMA-based County codes, (2) the type and character of land use permitted on the site, (3) the permitted density, and (4) the applicable design and development standards.
2. Pursuant to SCC 30.41A.740, the Examiner concludes that the request is consistent with the general decision criteria of SCC 30.41A.100 in that the proposal makes appropriate provision for the public health, safety and general welfare and serves the public use and interest by providing public road access to the plat of Rose Park through right-of-way dedication.

3. The request does not alter the conclusions of law entered for the original approval of the plat of Roosevelt Ridge Estates, which after the proposed alteration still 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 amended subdivision 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.
4. The burden of proof is upon the applicant. (Examiner Rule 724(a)) The applicant has met that burden in this instance and the application for the plat modification should be approved.
5. Any conclusion in this decision which should be deemed a finding of fact is hereby adopted as such.

DECISION

Based on the findings of fact and conclusions of law entered above, the decision of the Hearing Examiner on the application is as follows:

The request for alteration of the plat of Roosevelt Ridge Estates is hereby **CONDITIONALLY APPROVED**, subject to the following conditions:

CONDITIONS:

- A. The plat alteration map received by PDS on June 1, 2007 (Exhibit 4) shall be the approved alteration configuration.
- B. All conditions of approval of the original plat (Exhibit 10) remain applicable unless superceded by the alteration approved herein.

Decision issued this 6th day of September, 2007.

Ed Good, Deputy Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

The 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 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, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **SEPTEMBER 17, 2007**. 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 Hearing Examiner exceeded the Hearing Examiner’s jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner’s decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner’s findings, conclusions and/or conditions are not supported by the record;
- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The applicant proposed changes to the application 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. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **SEPTEMBER 20, 2007** 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 or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

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 shall be limited to the following:

- (a) The decision exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- (c) The Hearing Examiner committed an error of law; or
- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by substantial evidence in the record. [SCC 30.72.080]

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 the case.

Staff Distribution:

Department of Planning and Development Services: Darryl Eastin

<p>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.</p>
