



200201310116

Skagit County Auditor

1/31/2002 Page 1 of 8 2:28PM

AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

DOCUMENT TITLE: Order on Variance Permit Application VA 01 0480

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: Lewis Norris

ASSESSOR PARCEL NO: P39806

ABBREVIATED LEGAL DESCRIPTION: The proposed project is located at 9312 Claybrook Road, Sedro-Woolley, WA; a portion of the SE 1/4 of the NW 1/4 of Section 19, Township 35 North, Range 05 East, W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND DECISION

Applicant: Lewis Norris
3780 College Way
Mount Vernon, WA 98273

Agent: Marianne Manville-Ailles
Skagit Surveyors
806 Metcalf Street
Sedro Woolley, WA 98284

File No: PL01-0480

Request: Variance

Location: 9312 Claybrook Road, within a portion of the
SE1/4NW1/4, Sec. 19, T35N, R5E, WM.

Summary of Proposal: In connection with a two-lot short plat, the request is to be relieved of the requirements for connection to the sanitary sewer, for half-street improvements, for minimum street frontage, and for meeting public road design standards for a driveway serving more than two lots.

Land Use Designation: *Comprehensive Plan:* Sedro Woolley Urban Growth Area
Zoning: SF-2, single family residence, 3-5 units per acre.

Public Hearing: After reviewing the report of the Planning and Permit Center, the Hearing Examiner conducted a public hearing on January 9, 2002. The record was held open for additional submissions, and then closed on receipt thereof on January 14, 2002. Due notice of the hearing was given.

Decision: The application is approved, subject to conditions.



FINDINGS OF FACT

1. Development of land in Skagit County that is located within an Urban Growth Area is governed by the County-adopted provisions of the applicable City code.

2. Lewis "Bud" Norris (applicant) seeks a variance from several requirements of the Sedro Woolley Municipal Code in connection with a proposed two-lot short plat at 9312 Claybrook Road, within the Urban Growth Area of the City of Sedro Woolley.

3. The property consists of approximately .79 acres (34,487 square feet) of basically flat land situated on the west side of Claybrook Road, within a portion of SE1/4NW1/4, Sec. 19, T35N, R5E, WM. The property is nearly rectangular, measuring 275 feet along the north, 290 along the south, 127 feet along the west and 124 feet along the east.

4. There is an existing house on the easterly third of the property fronting on Claybrook Road. A driveway from this public road serves as the access to the house. A separate private drive connected to Polte Road extends along the westerly boundary of the property.

5. The proposed short plat creates two lots. Lot 1 contains the existing house and comprises 21,850 square feet. Lot 2 contains 12,636 square feet and occupies slightly more than the westerly third of the property. A potential future Lot 3 is shadow platted in the rear part of Lot 1.

6. Except for the existing house, the applicant's property is undeveloped and in lawn. The neighborhood is one in which residential development on smaller lots is an ongoing trend. The proposed short plat would constitute infill. But, the applicant's property is not currently served by sanitary sewer. The nearest sewer is roughly 1500 feet from the property.

7. Claybrook Road in the vicinity of the property is a paved street that lacks curbs, gutters, storm drains, and sidewalks. Installation of half street improvements along the applicant's property at this time would result in a 124-foot section of improved road in the middle of a much longer unimproved section.

8. The shadow platted Lot 3, in the center of the property, would be reached via an access along the north boundary line connecting to Claybrook Road. This access would have only 24 feet of frontage on the road.

9. Lot 2 of the applicant's proposed short plat would be reached via the private drive along the west side of the property. This driveway was established some time ago



as the access for a lot where Nels and Leona Anderson make their home. The Andersons' lot is located to the south and west of the applicant's property. The driveway is within a 30-foot-wide panhandle that extends north from Andersons' house to Polte Road. Between Polte Road and the applicant's parcel, the driveway provides access to a second home (Ireland's). The applicant's Lot 2 would be the third access on this private drive.

10. The private driveway is 25 feet wide from the edge of the Polte Road pavement to a gate located just past the Ireland's home. This is a distance of about 156 feet--sixteen of which are in the road right-of-way. From the gate south to the Andersons' home, the driveway narrows, becoming a 15-foot-wide gravel section. This narrower section is bounded on each edge with railroad ties. From the gate at Ireland's to the applicant's northwest property corner is about 70 feet.

11. The Andersons have agreed to grant an easement to the applicant to access Lot 2. The easement will run from Polte Road to a point 40 feet south of the applicant's northwest property corner. Because this does not allow enough room for an emergency vehicle to turn around within the easement, an emergency turnaround has been designed within Lot 2, adjacent to the easement.

12. SWMC 16.16.070(C) requires all plats to be served with sanitary sewer unless a variance is approved. The existing house on the property (Lot 1) is served by an approved on-site septic system. The applicant proposes a septic system for Lot 2 of the short plat as well. A variance from the requirement for hooking up to the sewer is sought.

13. The shadow platting embodies the idea that ultimately the property can be further divided and that connection to the sewer will be a part of this future development. Sedro Woolley Ordinance 1333-99 allows short plats to be served by on-site systems if a future development plan is approved. Sedro Woolley Comprehensive Plan Policy S1.2 allows for short plats more than 200 feet from the existing sanitary sewer to be served by individual septic systems provided that the applicant signs a waiver of protest for a future sewer ULID. The applicant has agreed to sign such a waiver.

14. The future development plan contemplated by Ordinance 1333-99 should show that the remaining property can be subdivided to create sufficient lots to comply with the minimum overall density requirements. The City raises no issue here concerning ultimate density compliance.

15. SWMC 16.16.120 requires that the abutting half of substandard streets along plats be brought up to standard. The applicant seeks a variance from this requirement, promising to sign a waiver of protest of a future street LID.

16. SWMC 16.16.080 requires each lot to have a minimum of 30 feet of frontage on a public or private road. Since the frontage of the shadow platted lot in the center of



the property will be limited to a 24-foot-wide access connection to Claybrook Road, a variance from the frontage dimension standard is requested. Contrary to the platting requirement, the Sedro Woolley zoning code requires only 20 feet of public street frontage. SWMC 17.08.030(c).

17. The design standards of SWMC 15.40.040 require private accesses serving more than two lots to meet the same construction standards as public access. The City Engineer stated that this would mean at least a 50-foot right-of-way. The applicant seeks to use the private drive on the west in essentially its present condition and, therefore, requests a variance from the design standards.

18. The Sedro Woolley variance criteria are found at SWMC 17.60.050, as follows:

- a. It will not result in a detriment to neighbors or the public in general
- b. Special circumstances exist here which are not common to other similarly restricted properties, such as physical features, nature of surrounding improvements and use, or proposed design elements that will meet the same purpose of the regulation from which relief is requested.
- c. The cumulative effect of such variances will not undermine the purpose and intent of the regulation;
- d. The proposal supports the goals and objectives of the Comprehensive' Plan.

19. The City staff has reviewed the instant application and recommends approval of the sewer and half-street improvement variances, subject to no protest agreements for sewer connection and street improvement LID's. This includes a waiver of protest for a street LID as to the private drive, should it ever become a public street. The City also asks for a no protest agreement regarding annexation.

20. The City has no objection to a variance to allow 24 feet of street frontage in relation to the shadow platted lot. They note that this dimension is consistent with zoning code requirements.

21. The City supports a variance for use of the private drive without meeting public access design standards, but asks for a 20-foot-wide gravel roadway with a 30-foot wide paved apron at the intersection with Polte Road. The applicant is agreeable to the paved apron, but defers to the Andersons' desires on the remainder of the easement.

22. The Andersons' testified to the fact that the driveway narrows after the gate by Irelands', and they noted that the applicant's easement is intended to extend only as



far as necessary for him to obtain access to his westerly lot. Widening the surface to 20 feet from the gate to the end of the applicant's easement is acceptable to the Andersons, but widening beyond that point is not. The easement agreement makes the applicant responsible for the cost of any necessary upgrades. The City asks that the applicant be required to enter into a maintenance agreement for upkeep of the private road.

23. The Examiner finds that the short plat proposed contemplates development consistent with the surrounding neighborhood. Allowing the variances sought will not result in a detriment to neighbors or the public in general.

24. Special circumstances exist here in the current status of sewer and road development in the area. These circumstances support deferring compliance with urban infrastructure requirements in exchange for promises not to oppose the eventual extension of sewer services and improvement of roadways by means of local improvement districts.

25. Piecemeal improvements to roadways are not an efficient way to build a transportation system. The waiver of protest mechanism should operate to prevent adverse cumulative effects from the sewer variance.

26. The Comprehensive Plan anticipates infill residential development in this Urban Growth Area neighborhood. The subdivision proposed is a move in the direction of achieving the planned density objectives and does not preclude further development toward that end.

27. The only public comment on this application came from the Andersons.

28. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the persons and the subject matter of this proceeding. SCC 14.10.020(3).

2. The variance request is exempt from the procedural requirements of the State Environmental Policy Act. WAC 197-11-800(6).

3. SCC 14.02.040 requires that in Urban Growth Areas the provisions of the applicable City code shall be applied when adopted by County ordinance. Appendix A thereto lists Titles 15, 16, and 17 of the Sedro Woolley Municipal Code as among those City code provisions so adopted.

4. Where development is approved within the unincorporated portion of the City's Urban Growth Area, SWMC 15.56.080 authorizes requiring the applicant to enter a no protest agreement in regard to annexation of the development.

5. The findings above support a conclusion that the requested variances from standards of the Sedro Woolley Municipal Code will meet the variance criteria of SWMC 17.60.050 if the following conditions are imposed.

- a. The variance number and date of approval shall be placed on the final plat map.
- b. Prior to approval of the short plat, the applicant must demonstrate to the County's satisfaction that adequate soils exist on the property for additional septic system development.
- c. Prior to recording the short plat, the applicant shall sign and record waivers of protest for a sewer ULID, and for street LID's relating to roads serving the subject property.
- d. Prior to recording of the short plat the applicant shall sign, give consent and not object to annexation of the subject property, provided the requirements of Chapter 35A.14 RCW are complied with in any further annexation proceeding. This contractual agreement shall likewise be recorded.
- e. The basis for the variances granted here is the revised preliminary short plat drawing dated January 14, 2002 (included in Exhibit "N"). Tracts A and B for ingress and egress shall be substantially as shown.
- f. The private road providing access to Lot 2 shall be a gravel surface at least 20 feet in width from Polte Road to the southern end of the access easement granted to the applicant herein. A 30-foot-wide paved apron shall be installed at the junction with Polte Road. The portion of the access easement that abuts Lot 2 shall be shown on the recorded plat map.
- g. Plans for upgrading the private road and for providing emergency vehicle access and turn-around space shall be approved by the City Engineer. The applicant shall enter into an agreement for maintenance of the private road that is approved by the City Engineer.
- h. All outstanding review fees shall be paid prior to submittal of any land division.



6. Any finding herein which may be deemed a conclusion is hereby adopted as such.

DECISION

The requested variances from (1) immediate sewer hook-up, (2) half street improvement requirements, (3) street frontage distance, and (4) road design standards are granted, subject to the conditions set forth Conclusion 5 above. In relation to sewer and road development, this decision contemplates the eventual compliance of the owner(s) of subject property with the urban infrastructure requirements of the Sedro Woolley Municipal Code.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: January 29, 2002

Copy Transmitted to Applicant: January 29, 2002

RECONSIDERATION/APPEAL

As provided in SCC 14.06.180, a request for reconsideration may be filed with the Planning and Permit Center within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with the Planning and Permit Center within 14 days after the date of the decision, or decision on reconsideration, if applicable.