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Skagit County Auditor

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

DOCUMENT TITLE: Order on Variance Application VA 01 0903

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: JACK BURNHAM

ASSESSOR PARCEL NO: P64947

ABBREVIATED LEGAL DESCRIPTION: The proposed project is located at 24709 Minkler Road, Sedro-Woolley, WA; a portion of Lot 5 of Deiter's Acreage; within the NW 1/4 of the SE 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: Jack Burnham
1608 South 4th Street
Mount Vernon, WA 98274

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

File No: VA#01-0903

Request: Variance

Location: 24709 Minkler Road, within the Urban Growth Area for the City of Sedro-Woolley. The property is a portion of Lot 5 of Deiter's Acreage; within a portion of the NW1/4 SE1/4, Sec. 19, T35N, R5E, WM.

Summary of Proposal: In connection with a four-lot short plat, the request is to be relieved of the requirements for connection to the sanitary sewer.

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 March 13, 2002. Due notice of the hearing was given.

Decision: The application is approved, subject to conditions.



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FINDINGS OF FACT

1. Jack Burnham (applicant) seeks a variance from the sewer connection requirement of the Sedro Woolley Municipal Code in relation to a four-lot short plat at 24709 Minkler Road, within the Urban Growth Area of the City of Sedro Woolley.
2. Development of land in unincorporated Skagit County that is located within an Urban Growth Area is governed by the County-adopted provisions of the applicable City code.
3. The property consists of 1.6 acres of basically flat land situated at the intersection of Minkler and Fruitdale roads. It is a portion of Lot 5 of Deiter's Acreage, within NW1/4 SE1/4, Sec. 19, T35N, R5E, WM. The property is irregular, measuring approximately 340 feet along the north, 91 feet along the east, 410 feet along the south and 340 feet along the west line.
4. There are an existing house and several small sheds in the middle of the southern half of the property. The site is accessed by a single driveway off of Minkler Road. Public Utility District water and an on-site septic system serve the property.
5. The property is located within an area developed single-family residences to the north, east and west. There is a mobile home park to the southeast. Minkler and Fruitdale roads are paved County roads without urban improvements.
6. Sedro-Woolley's zoning would be SF-2, single family residence 3-5 units per acre for this property. The minimum lot size in SF-2 is 8,400 square feet.
7. The proposed short plat would create four lots -- each using an on-site septic system. Three of the lots are to be 8,400 square feet. (The existing house is on one of these.) The drain fields for the three lots will be located on Lot 4. Whether Lot 4 will be developed at this time is not clear. Lot 4 comprises approximately 1.08 acres and is shown with a shadow plat for three additional lots -- two at 8,400 square feet and the third at 9,557 square feet. A lot road will be provided for these future lots. The minimum lot size in SF-2 is 8,400 square feet.
8. SWMC 16.16.070(C) requires all plats to be served with sanitary sewer unless a variance is approved. Sedro-Woolley Ordinance 1333-99 allows short plats to be served by on-site sewage systems if a future development plan is approved. The future development plan must show that the remaining property can be subdivided to create sufficient lots to comply with the minimum overall density of four units per acre.
9. Positive septic site evaluations have been performed on all four lots.
10. The nearest sanitary sewage is roughly 1,600 feet from the subject property. The Sedro Woolley Comprehensive Plan allows short plats to be served by on-site



systems if the property is over 200 feet from the nearest sewer, provided that the applicant signs a waiver of protest for a future sewer ULID.

11. The applicants has agreed to sign no-protest agreements for both annexation and a sewer ULID. The sewer waiver is intended to promote the ultimate hook-up of all of the lots to the sewer system.

12. 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.

13. The City staff has reviewed the instant application and recommends approval, subject to conditions. In addition, the City is deferring consideration of requirements for improving streets until the time of platting.

14. The short plat proposed contemplates development consistent with the surrounding neighborhood and will not result in detriment to neighbors or to the public in general.

15. Special circumstances exist in the current status of sewer development in the area. These circumstances support deferring compliance with sewer hook-up requirements in exchange for a promise not to oppose the eventual extension of sewer service.

16. Resistance to urban improvements might be a cumulative effect of granting numerous variances excusing the immediate installation of such improvements. The waiver of protest mechanism is intended to prevent this. Since the adopted regulations explicitly contemplate variances in situations such as the present case, it cannot be said that their approval will undermine the purpose and intent of the planning and regulatory schemes.



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17. There was no public comment or testimony adverse to this proposal. One neighbor testified to concerns about the location of the property line.

18. 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 variance from the Sedro Woolley Municipal Code will met 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 recording the short plat, the applicant shall sign and record a waiver of protest for a sewer ULID.

c. 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.

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



DECISION

The requested variance is approved, subject to the conditions set forth in Conclusion 5 above. The variance is temporary in nature. The decision contemplates the eventual compliance of the owner(s) of the subject property with the sewer connection requirements of the Sedro Woolley Municipal Code.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: April 2, 2002

Copy Transmitted to Applicant: April 2, 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.



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