



200211180265

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: FINAL ORDER ON REQUEST FOR RECONSIDERATION VA00 0096
and SU00 0097

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: RICK WEYNANDS

ASSESSOR PARCEL NO: P64967

ABBREVIATED LEGAL DESCRIPTION: The property is located at 24515 E. State Street,
Sedro Woolley, WA; a portion of Lot 14 of Deiter's Acreage, within the SE ¼ of Section
19, Township 35 North, Range 5 East, W.M., Skagit County, WA.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

In the Matter of the Application of
RICK WEYNANDS

PL00-0096

For a Conditional Use Permit and
Variances for Duplex Development
Within the Sedro Woolley Urban
Growth Area

**FINAL ORDER ON REQUEST
FOR RECONSIDERATION**

After receiving the Request for Reconsideration on behalf of the Applicant, the Examiner set a schedule for Staff response to the request and for the Applicant's reply thereto. These filings were timely made.

Having considered the request and subsequent submissions, the Examiner enters the following:

DISCUSSION

1. The Applicant has advised that his initial request was that the proposed lots have individual grinder pumps with forcemains to discharge into Sedro Woolley's existing sanitary sewer system located on the south side of State Street approximately 200 to 250 feet west of the subject property. Thus, the last sentence in Conclusion 10 as it appears in the initial decision (at page 7) is inaccurate. By this Order, that sentence is deleted.

2. The Applicant relies primarily on SWMC 17.65.010 to support his position that the "Optional Clustering" provisions of the Sedro Woolley Municipal Code may be applied to authorize the duplexes proposed. The County notes that Chapter 17.65 SWMC is not among those City code provisions that had been adopted by Skagit County when the subject applications were deemed complete. Because of this, the County urges that the chapter cannot apply to this proposal. The County's comments appear to be based on the vesting doctrine.

3. The Applicant correctly states out that the vesting doctrine is designed to protect developers from new regulations, adopted after the date of complete application, that cause a hardship on applicants. There is no basis in the rationale of the doctrine for preventing the application of new regulations that benefit an applicant. Therefore an evaluation of the effect of SWMC 17.65.010 is not inappropriate here.

4. However, such evaluation does not help the Applicant in this case. SWMC 17.65.010 is, as the City explains, a part of the chapter on Natural Resource and Sensitive Area Regulations and does not include regulations for urban density. To be sure, the section states that a purpose of the regulations is to "satisfy minimum requirements under



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the Growth Management Act.” But, in context, the reference to the GMA relates to satisfying the requirements of RCW 36.70A.060, which simply directs local governments to adopt regulations on natural resource lands and critical areas.

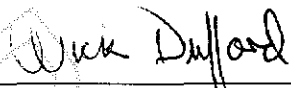
5. SWMC 16.16.230 states that a purpose for “clustering” may be “in order to protect critical and natural resource areas as set forth in Chapter 17.65” From this, it is a major leap to infer that the City’s “clustering” provisions somehow incorporate the “urban density” requirements that have ultimately resulted from application of the GMA. Accordingly, the Examiner declines to alter his initial conclusion that SWMC 16.16.230 does not support the issuance of a Conditional Use Permit here.

6. After considering the materials presented on Reconsideration, the Examiner concludes that no material legal error has occurred and no material factual issue has been overlooked that would change the previous decision.

DECISION

The initial decision stands, with the exception of the deletion described in Paragraph 1 above. In all other respects the Request for Reconsideration is denied.

SO ORDERED, this 4th day of November, 2002.



Wick Dufford, Hearing Examiner

APPEAL

As provided in SCC 14.06.120(9), the decision on the subject applications 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 this decision on reconsideration.



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