



200505110034

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 VA 04 0931

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: KIRBY HOSKINSON

ASSESSOR PARCEL NO: P36637, P36441

LEGAL DESCRIPTION: The proposed project is located 8615 Garden of Eden Road, Sedro-Woolley, WA; a portion of the SW 1/4 of the NW 1/4 of Section 13 and a portion of the NE 1/4 of the SW 1/4 of Section 14, all within Township 35 North, Range 04 East, W.M., Skagit County, Washington.

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Kirby Hoskinson  
8615 Garden of Eden Road  
Sedro-Woolley, WA 98284

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

**File No:** PL04-0931

**Request:** Variance

**Location:** 8615 Garden of Eden Road, within the Sedro-Woolley Urban Growth Area, within a portion of SW1/4NW1/4 Sec 13, T35N, R4E, W.M. and a portion of NE1/4SW1/4 Sec 14, T35N, R4E, W.M.

**Land Use Designation:** SF-2, Single Family Residence 3-5 units per acre

**Summary of Proposal:** To be relieved of the necessity to comply with the half-street improvement requirements of the City of Sedro-Woolley in connection with development of a four-lot short plat.

**Public Hearing:** After reviewing the report of Planning and Development Services, the Hearing Examiner conducted a public hearing On March 23, 2005.

**Decision:** The application is approved, subject to conditions.



## FINDINGS OF FACT

1. Kirby Hoskinson (applicant) seeks a variance from the requirement for half-street improvements in connection with the development of a four-lot short plat within the Urban Growth Area (UGA) of the City of Sedro Woolley.

2. The property is located at 8615 Garden of Eden Road, northwest of the City, within a portion of SW1/4NW1/4, Sec. 13, T35N, R4E, W.M., and within a portion of NE1/4SW1/4, Sec. 14, T35N, R4E, W.M.

3. Prior to the adoption of the current interim UGA regulations, the County was bound by the City codes it adopted relative to development within UGA's. All parties agree that this application is subject to the variance criteria of Sedro-Woolley Municipal Code (SWMC) 16.24.030, as adopted by the County in March 1999.

4. The portion of Garden of Eden Road that is located in the county is approximately a mile and a half long. Half of this is located within the Sedro Woolley UGA. It is a typical county chip sealed road with drainage ditches on both sides.

5. Among the City subdivision standards that the County adopted is SWMC 16.16.120 which provides that where an abutting street right-of-way is substandard in width or improvements, including paving, storm drains, curbs, gutters and sidewalks, additional right-of way shall be deeded and/or improvements constructed so as to bring the abutting half of said right-of-way up to standard. At the discretion of the City, construction of such improvements may be deferred until such time as a building permit is applied for or a covenant may be placed on the plat requiring the developer or future property owners to participate in constructions costs through a local improvement district, or other City or State sponsored road project.

6. The applicant is requesting a variance from SWMC 16.16.120 to be relieved of the requirement for half street improvements for the lots fronting on Garden of Eden Road. The applicant is proposing to sign a waiver of protest for future LIDs or ULIDS in lieu of construction of the required improvements.

7. The subject property comprises approximately 7.9 acres and is irregular in shape. There is a single-family residence with an accessory building located in the northern portion of the property, east of a Type 4 stream that flows in a ravine that cuts through the parcel from north to south. The existing driveway to the house bridges the ravine. In the southeastern corner is a man-made pond.

8. Three of the four proposed lots (Lots 1 through 3) are entirely on the west side of the ravine and abut Garden of Eden Road. The fourth lot, containing the existing residence and outbuildings, will occupy the remainder of the property. Proposed Lots 1 and 4 will be accessed by a 60-foot wide easement that meets Garden of Eden Road near



the southwestern corner of the property. Lots 2 and 3 will have a separate combined access from the county road.

9. An earlier variance (PL03-0070) to allow for on-site septic systems for the four-lot short plat was granted on October 9, 2003. Although there is a Type 4 stream and steep slopes on the property, these features are not a factor in the instant variance request. All critical areas issues were identified in the previous variance request and short plat review.

10. A letter of completeness for the subject application was issued on January 27, 2005. The application was posted, published and mailed on February 1, 2005. One letter was received from a neighbor who expressed concerns about the precedent of allowing development to go forward without compliance with City requirements. There was no public testimony at the public hearing.

11. Although interim development regulations which would prevent this land division are in place, the City has allowed the instant request to be processed because of the previous variance and prior vesting of the short plat submittal.

12. The City of Sedro Woolley reviewed the instant application and in a letter dated March 11, 2005, indicated that it would not oppose the request if the following conditions were imposed:

1. Variance number and date of approval shall be placed on the final plat map.
2. A ten (10) foot right-of-way dedication to Skagit County of Garden of Eden Road is required.
3. A sixty (60) foot access at the proposed driveway location for Lots 1 and 4 shall be reserved for future development.
4. Prior to recording of the short plat, the applicant will need to sign and record waivers of protest for annexation and any future ULID.
5. Applicant shall comply with all conditions outlined in Variance Request PL03- 0070, granted October 9, 2003.

13. SWMC 16.24.030 allows a variance ("waiver") upon findings that

...because of the size of the tract to be divided, unusual geological conditions, unusual topographic conditions, the condition or nature of adjoining areas, or the existence of unusual physical conditions, strict compliance with the provisions of this title would cause unusual and unnecessary hardship on the subdivider, or would result in an undesirable plan.

14. In this instance improvement of the 350 feet of Garden of Eden Road abutting this short plat would be the only existing improvement to this roadway for its entire



length. The property is located at the northwest corner of the UGA and a detailed future roadway design has not yet been determined. Piecemeal improvements to the roadway could have to be undone or done again when an overall design is ultimately developed.

15. There are no parcels larger than the subject property within the UGA. With the adoption of the new UGA ordinance limiting development to five-acre minimums, there will be no more land division in this area until it is annexed into the City. This effectively eliminates any other stretch of road than can be improved at this time.

16. The Examiner finds that the existing status of development in the area, including the lack of other road improvement along Garden of Eden Road, is among the circumstances that meets "unusual physical conditions" criterion of SWMC 16.24.030. Compliance with the half road improvement requirement under the circumstances would cause unusual and unnecessary hardship for the subdivider.

17. This application is consistent with the development regulations in effect at the time the short plat was filed with Skagit County. It appears to be the last application which vested under the previous system. Under current regulations adopted by the County, any new applicant will have to annex to the City and meet current City standards. A similar short plat development will be required to provide street improvements.

18. Thus, for any future development of the subject property after annexation to the City, the developers will have to fund roadway improvements. Ultimately, in one way or another, urban level street improvements will be built along this stretch of roadway.

19. 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.

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

3. The facts support a conclusion that the proposed variance is consistent with the applicable variance criteria. See SWMC 16.24.030.

4. The following conditions of approval should be imposed on the variance:

a. The variance number and date of approval shall be placed on the plat map.



b. The applicant shall dedicate to Skagit County a ten (10) foot right-of-way for Garden of Eden Road.

c. A sixty (60) foot access at the proposed driveway location for Lots 1 and 4 shall be reserved for future development.

d. Prior to recording of the short plat, the applicant shall sign and record waivers of protest for annexation and any future LID or ULID for street improvements.

e. The applicant shall comply with all conditions imposed in connection with Variance 03-0070, as approved on October 9, 2003.

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

#### DECISION

The requested variance is granted, subject to the conditions set forth in Conclusion 4 above.



Wick Dufford, Hearing Examiner

Date of Action: April 19, 2005

Date Transmitted to Applicant: April 19, 2005

#### 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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