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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 FINAL PLAT SP 99 0026

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: CHARLES G. PETERSEN

ASSESSOR PARCEL NO: P61862

ABBREVIATED LEGAL DESCRIPTION: The proposed project is located at 11265 Peace Cliff Lane, Anacortes, WA; portion of Lot 58 of the Plat of Anaco Beach, Lot 2 of Short Plat 114-78, within the NE ¼ Section 34, Township 35 North, Range 01 East, W.M., Skagit County, WA.

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Charles Petersen  
11265 Peace Cliff Lane  
Anacortes, WA 98221

**File No:** SP99-0026

**Request:** Final Approval of Short Plat

**Summary of Proposal:** To divide five acres into two lots of 2.5 acres each.

**Location:** 11265 Peace Cliff Lane; portion of Lot 58 of the  
Plat of Anaco Beach, Lot 2 of Short Plat 114-78,  
within NE1/4, Sec. 34, T35N, R1E, WM.

**Zoning:** Residential (at time of application - 8/17/99)

**Public Hearing:** After reviewing the report of the Planning and Permit  
Center, the Hearing Examiner conducted a public  
hearing on October 23, 2002.

**Decision:** The Short Plat application is remanded to the Planning  
and Permit Center for decision.



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## PROCEDURE

The application for short plat was received August 17, 1999. Staff status letters, identifying deficiencies were sent to the applicant on October 8, 1999, December 18, 2001, March 4, 2001, March 4, 2002, and September 25, 2002. The last of these showed that most outstanding items had been satisfied, and stated that a public hearing would be held on October 23, 2002, unless issues with the Pointe Homeowners Association had been resolved.

The record contains an exchange of correspondence with the Pointe at San Juan Homeowners Association (Homeowners) regarding emergency access to the proposed short plat from private roadways within the Pointe.

By letter dated November 9, 1999, the Homeowners requested a public hearing regarding this application. That request was never withdrawn. Accordingly, the Hearing Examiner hearing of October 23, 2002, was scheduled and held.

Twelve exhibits were admitted to the hearing record. Exhibits 1 through 11 are as identified in the Staff Report. Exhibit 12 is a letter dated October 21, 2002, to the Permit Center from counsel for the Homeowners. The Short Plat map and notes are admitted as Exhibit 13. The Planning and Permit Center staff report is admitted as Exhibit 14.

At the hearing Marge Swint, Associate Planner, appeared for the Planning and Permit Center. Charles Thompson spoke for the Homeowners. Gary Jones, Attorney at Law, represented the applicant, Charles Petersen. Dave Sheridan, Department of Public Works, testified.

## FINDINGS OF FACT

1. When Charles Petersen (Applicant) applied for the subject short plat, the Planning and Permit Center had the following policy. If lots that were originally part of a plat were being further short platted, a notice of intent was sent to adjoining property owners. The application would then be processed as a short subdivision without a public hearing, unless such a hearing was requested.
2. The property in question was originally part the Plat of Anaco Beach. The five acres now being divided was subsequently created as Lot 2 of Short Plat 114-78.
3. Since the instant application was filed, the Applicant has demonstrated compliance with all items identified by the County as matters to be addressed. From the



Planning and Permit Center's perspective, the requirements of Chapter 14.08 SCC, Short Subdivisions, have been satisfied.

4. The written record and oral testimony reveal a controversy between the Applicant and the Pointe Homeowners Association about emergency access to the short plat.

5. Everyday access to the short plat will be from the west via Marine Drive to Peace Cliff Lane to Seabreeze Lane (the plat road). Marine Drive is a public road and the named lanes are private. None of these roads are within the Pointe subdivision and there is no argument about their usage.

6. However, the proposed driveway from Seabreeze Lane to Lot 2 does not meet the Fire Marshal's standards for emergency access. Therefore, the Applicant sought an easement across property to the east for emergency access to that lot. Such an easement was granted to the Applicant by the property owner to the east (Lund). The Department of Public Works is apparently satisfied with the easement arrangements.

7. The eastern boundary of the Applicant's property is the boundary between the old Anaco Beach plat and The Pointe, Division 4. Lund's property is within the Pointe.

8. The easement across Lund's property connects to a roadway within the Pointe subdivision. The Pointe's roads are private roads, owned and maintained by the Homeowners Association. The Homeowners take the position that an easement along their roads is needed as well as the easement across Lund's land in order for the Applicant's emergency access needs to be lawfully provided for. At the public hearing, Charles Thompson testified that Homeowners had not granted such an easement to the applicant.

9. The easement with Lund provides that a locked barrier will be installed at the west end of the Lund property with a key made available to fire, law enforcement and medical units. The property to the south of applicant's Lot 2 (Alexander's) will also be served under the same arrangement. It is clear that there is no intent to use the easement across Lund's for other than emergency access.

10. In his latest communication, counsel for the Homeowners stated that his clients are willing to grant an emergency easement along their roadways to the nearest county road (McCorkle Boulevard) to connect up to the easement granted by Mr. Lund upon the following terms:

"provided the easement document contains assurances that the easement will not be used for any purpose other than emergency vehicle access and further provided the Pointe is reimbursed for its legal expenses relating to this access issue."

11. Counsel for the Applicant is represented as stating that the Homeowners have a legal duty not to prevent access by emergency vehicles across their roadways. At the



hearing he argued that the easement with Lund with its locked gate should be adequate to satisfy the Homeowners. He noted that discussions with the Homeowners have broken down.

### CONCLUSIONS OF LAW

1. Pursuant to SCC 14.06.050(1)(a) short plats are Level I applications for which a final decision is made by the applicable Administrative Staff without the necessity for a public hearing.

2. Although a public hearing was held in this matter, the decision remains an administrative one.

3. The Hearing Examiner convened a public hearing as scheduled by the Planning and Permit Center in this case and has made a record pertaining to the matter.

4. Level I administrative decisions are appealable to the Hearing Examiner by the applicant or the parties who have commented on the proposal, pursuant to SCC 14.06.110(7).

5. Notwithstanding that a notice of decision is not normally required for short subdivisions (SCC 14.06.200(1)(b)), the Hearing Examiner requests that such a notice be provided to the Homeowners in this case whenever the final administrative decision is made.

### DECISION

The record herein is remanded to the Planning and Permit Center for consideration prior to entry of their final administrative decision on the application.

DONE this 6th day of November, 2002.

*Wick Dufford*

Wick Dufford, Hearing Examiner

Cc: Planning and Permit Center  
Department of Public Works  
Gary Jones, Attorney at Law  
Laughlan H. Clark, Attorney at Law  
The Pointe at San Juan Homeowners Association  
Skagit Surveyors and Engineers



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