



200705180119
Skagit County Auditor

5/18/2007 Page 1 of 6 11:28AM

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

DOCUMENT TITLE: ORDER ON PLAT ALTERATION PL07-0001

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: WILLIAM SEYMOUR

ASSESSOR PARCEL NO: P17371

LEGAL DESCRIPTION: The project is located at 22851 Bulson Road, Short Plat PL00-0545, a portion of the SW1/4 of Section 27, Township 33 N, Range 4 East, W.M., Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

FINDINGS, CONCLUSIONS AND RECOMMENDATION

Applicant: William Seymour
22851 Bulson Road
Mount Vernon, WA 98274

File No: PL07-0001

Request: Plat Alteration

Location: 22851 Bulson Road, Short Plat PL00-0545, within
a portion of SW1/4 Sec. 27, T33N, R4E. W.M.
Parcel No. P17371.

Land Use Designation: Rural Reserve

Summary of Proposal: To alter the final plat of the Telberg Short Plat by
removing plat note #11 from the plat map. Note #11
disallows mobile or manufactured homes in the plat.
The applicant wishes to legitimize a mobile home
located on Lot 4.

Public Hearing: After reviewing the report of Planning and Development
Services, the Hearing Examiner conducted a public
hearing on March 14, 2007.

Recommendation: The Hearing Examiner recommends that the plat alteration
be approved, subject to conditions.



200705180119

Skagit County Auditor

FINDINGS OF FACT

1. William Seymour seeks approval of a plat alteration in order to locate a mobile home on Lot 1 of Short Plat 00-0545.

2. The location is 22851 Bulson Road, within a portion of SW1/4 Sec, 27, T33N, R4E, W.M. The site is on the east side of Bulson Road. The parcel number is P17371.

3. The property is known as the Tellberg Short Plat. On the face of the final approved plat map is note #11 which states:

Residential homes shall be only on-site built homes. No mobile or manufactured homes will be allowed.

The applicant is asking that this note be removed from the plat map.

4. The effect of the proposed action will be to permit mobile or manufactured homes on any of the four lots within the short plat. Applicable permits, including building permits, will still need to be obtained.

5. A mobile home is presently located on the applicant's property. There is a pending Code Compliance proceeding (#CE03-0105) concerning failure to obtain a building permit for the mobile home.

6. In addition to the mobile home, there is an old stick-built home on the property. The applicant is slowly fixing up this old home. The expectation is that when the renovation is finally complete, the mobile home will be removed.

7. The applicant testified that he was given verbal approval by the County four years ago to bring the mobile home onto his lot while he fixed up the old house. The arrangement was supposed to be temporary.

8. The CC&R's for the short plat were not put into evidence. The record does not disclose whether placement of a mobile home on the applicant's lot violates the CC&R's.

9. If restrictions against mobile homes are taken away, it is unlikely, as a practical matter, that mobile homes will end up occupying all of the lots in the short plat. Two of the four lots have already been developed with stick-built homes.

10. A Notice of Development was posted on the subject property, mailed to adjacent property owners and published in a newspaper of general circulation, pursuant to SCC 14.06.150. Proper notice was given for the public hearing.



11. Three members of the public, all living outside the short plat, wrote letters opposing the proposed plat alteration. Their concerns included the length of time the mobile home has been allowed to stay on the applicant's lot, the appearance of his property, the rewarding of illegal behavior, and the fear of multiple mobile homes being located on the applicant's lot.

12. Three members of the public testified at the hearing. Two were owners of other lots within the Tellberg Short Plat. Neither of these owners had any objection to the applicant's locating a mobile home on his property while the other home is being renovated.

13. The third speaker was one of the letter writers who lives across the street, He stated that when the plat went in, the neighbors were promised there would be no mobile homes.

14. The removal of Note #11 from the face of the plat will not affect the CC&R's for the plat. The CC&R's represent a private set of restrictions which are enforced by the property owners. The County has no role in enforcing the CC&R's.

15. Alterations of final plats are governed by SCC 14.18.200(8). Alteration applications are supposed to contain the signatures of the majority of those persons having an ownership interest in lots in the subdivision to be altered. Since all four of the short plat lots are affected by the removal of Note #11, the application should reflect the signatures of at least three of the four lot owners. The record does not reflect that three of the four lot owners signed the application. Given that three of the owners do not appear to object to the change, obtaining the extra signatures does not appear to be a problem.

16. By State law (RCW 58.17.215) when a plat alteration would result in the violation of a restrictive covenant filed at the time of approval of the plat, the application must contain an agreement signed by all parties subject to the covenant providing that the parties agree to terminate the covenant to accomplish the purpose of the alteration. No signed statement to this effect is included in the record.

17. 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.



3. The removal of the prohibition on mobile homes from the plat map would not violate any provision of the County Code. The restriction was self-imposed by the original developer.

4. The effect of the change sought would not be to change the basic zoning rules about the density of development. Only one primary dwelling is allowed on a lot. Residential accessory uses are also permitted in the Rural Reserve zone. SCC 14.16.320(2)(g) and (j). But the code definition of "Accessory dwelling unit (ADU)" (SCC 14.04.020) reads as follows:

A separate living quarters (which may include kitchen and bathroom facilities) to a primary residence. No mobile/manufactured home or recreational vehicle shall be an accessory dwelling unit; and such dwelling unit shall be subject to the requirements and conditions provided in Chapter 14.16 SCC.

5. Thus, when the older home renovation is complete, the applicant will be obliged to remove the mobile home from the lot. The County might want to consider setting a time limit on the completion of the renovation process in connection with issuance of a building permit for the mobile home.

6. A critical areas review was completed at the time the Tellberg Plat was reviewed. There are wetlands on site. Verification that the placement of the mobile home does not violate the Critical Areas Ordinance should precede the issuance of a building permit.

7. Note #11 is effectively a restrictive covenant. The application should be amended to contain the required agreement to terminate the covenant and the necessary signatures of other owners.

8. Any finding here which may be deemed a conclusion is hereby adopted as such.

RECOMMENDATION

The proposed plat alteration should be approved. Plat note #11 should be removed from the plat map of Short Plat PL00-0545, subject to the following conditions:

1. All mobile or manufactured homes on Lot 104 of the plat, will be required to have approved building permits and all other necessary permits will need to be obtained.



2. The placement of a mobile home on any lot is subject to all of the applicable requirements of the Unified Development Code, Title 14 SCC.
3. The plat alteration shall not become effective until the applicant has submitted an updated final plat mylar with plat note#11 removed.
4. Prior to the issuance of any building permit, the applicant shall demonstrate compliance with the Critical Areas Ordinance.
5. The application should be amended to comply with the requirements of RCW 58.17.215 and SCC 14.18.200(8). The recorded documents shall contain the appropriate agreement to terminate the covenant and the necessary signatures of other owners.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: April 2, 2007

Date Transmitted to Applicant: April 2, 2007

