

WHATCOM COUNTY HEARING EXAMINER

RE: Preliminary Long Subdivision)	LSS2007-0005
)	
Application for)	
Orca Shores, L.L.C.)	
"Major Modification")	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
)	AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The Applicant, Orca Shores, L.L.C. is requesting a Major Modification to the Preliminary Long Plat Approval for "The Cottages at Seabright Farms," in order to alter the internal loop road design with one access on Pauls Road, which included a bridge over Wetland Z and its associated wetland buffer, by removing the bridge over Wetland Z, and creating a second access to Pauls Road.

Decision: The Hearing Examiner grants the requested Major Modification, subject to Conditions of Approval.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing.

I.

PRELIMINARY INFORMATION

Applicant: Orca Shores, LLC

Site Location/Address: 672 Pauls Road, Point Roberts, Washington

Assessor's Parcel Numbers: 405311 506427 and 405312 014420

Zoning: Rural (R5A)

Comprehensive Plan: Rural

Subarea: Point Roberts

Whatcom County Code Title 21, Subdivision Regulations [WCC 21.05.110(2)]
Whatcom County Hearing Examiner Decision, January 28, 2014
Whatcom County PDS Staff Report, Revised, October 23, 2013

Legal Notices: Published – Notice of Notice of Public Hearing, February 5, 2015

Posted – Notice of Public Hearing, February 5, 2015

Mailed – Notice of Public Hearing, February 2, 2015

Hearing Date: February 18, 2015

Parties of Record

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Core Design, Inc.
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1900 Cliff Road
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Sanja Barisic
Division of Engineering

Amy Keenan
Planning and Development Services

Royce Buckingham
Civil Deputy Prosecutor

Meg Olson ~ email Decision megolson@mac.com
Allan Edgeworth ~ email Decision Allan Edgeworth aledgeworth@shaw.ca

Exhibits

- 1 Memorandum dated September 25, 2014 from Kevin Jones, Transpo Group to Anders Kruus – Orca Shores, LLC re: The Cottages at Seabright Farm, Transportation Assessment
- 2 Letter dated October 10, 2014 from Altmann Oliver Associates, LLC to Anders Kruus re: Seabright Cottages Secondary Access on Pauls Road
- 3 Letter dated October 23, 2014 from AVT Consulting to Amy Keenan, re: Modification to Approved Preliminary Long Plat, LSS2007-005
- 4 PDS Form Comment/Letter dated November 7, 2014 re: Major Modification Request, with attached comment from Arthur Reber
- 5 Agency Comments
 - Engineering Technician, December 8, 2014
 - Shoreline Administrator, December 9, 2014
 - Fire Inspector, December 17, 2014
 - Geologic Hazards Administrator, December 4, 2014
 - Environmental Health Specialist, December 4, 2014
- 6 Memorandum, dated January 7, 2015 from Amy Keenan to Hearing Examiner re: Request for Major Modification
- 7 Email memo from Steve Wolff, dated January 7, 2015 re: upcoming Seabright Hearing, with attached Letter dated July 15, 2014 from PRCS Board of Directors to Amy Keenan
- 8 Public Comments
 - Allan Edgeworth, Nov 24, 2014
 - Allan Comey, Nov 24, 2014
 - Mr. and Mrs. R.M. Hopper, Nov 24, 2014
 - Murray Spitz, Nov 17, 2014

- Mark Robbins, Nov 6, 2014, with attached letter from Point Roberts Taxpayers Association, Nov 4, 2014
- 9 Certificate of Mailing Notice of Public Hearing, February 2, 2015
- 10 Certificate of Posting Notice of Public Hearing, February 5, 2015
- 11 Legal Notice of Public Hearing, February 5, 2015

II.

The Applicant is seeking a Major Modification to an Approved Preliminary Long Subdivision, The Cottages at Seabright Farms, in order to remove a proposed bridge over Wetland Z and its associated buffer and to create a second access to Pauls Road.

The Technical Review Committee of Whatcom County Planning and Development Services has recommended approval of the requested Major Modification in a Staff Memorandum, dated January 7, 2015, subject to seven recommended conditions.

III.

There has been significant community comment on this proposed modification including positive support and endorsement from the Point Roberts Character Plan Committee, the Point Roberts Taxpayers Association (PRTA), and the Point Roberts Registered Voters' Association. Members of the Point Roberts Community also spoke in favor of the modifications at the public hearing noting that the Applicant's proposed changes would eliminate critical area impacts, avoid disturbance to the wetland area by eliminating the planned crossing bridge, as well as avoiding disturbance of current wildlife corridors and habitat areas, while increasing ingress and egress to and from the home sites.

IV.

After a thorough review of the file, the Hearing Examiner concurs with the Technical Review Committee recommendation that the Hearing Examiner approve the proposed modification, subject to the seven conditions listed in the Staff memorandum,

dated January 7, 2015.

V.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following:

CONCLUSIONS OF LAW

I.

The requested Major Modification to the Approved Preliminary Long Subdivision to allow removal of the proposed bridge over Wetland Z and its associated buffer and the creation of a second access onto Pauls Road can be approved subject to compliance with the requirements of Whatcom County Subdivision Ordinance, Title 21.05.110(2).

The Hearing Examiner finds that the proposed modifications to the subdivision are in the public interest and are consistent with the applicable Whatcom County Ordinance.

The requested Major Modification to the Approved Preliminary Long Subdivision to be known as The Cottages at Seabright Farms, aka Point Roberts Beach Club, should be granted, subject to Conditions of Approval.

II.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

DECISION

The Hearing Examiner grants Orca Shores, L.L.C. approval for the proposed Major Modifications to the Approved Preliminary Long Subdivision, The Cottages at Seabright

Farms, allowing the removal of a proposed bridge over Wetland Z and its associated buffer, and the creation of a second access onto Pauls Road. The property is located on Assessor's Parcel Numbers 405311 506427 and 405312 014420, and addressed as 672 Pauls Road, Point Roberts, Washington. The proposed Major Modification is subject to the following Conditions of Approval:

1. The Applicant must provide a Revised Final Tree Canopy Plan with all required components including protection measures. The Tree Canopy Plan shall include all of the tree canopy areas identified as being part of a wildlife corridor. The Revised Final Tree Canopy Plan and Wildlife Corridor Plan shall be approved by PDS and recorded by the Applicant prior to Final Plat Approval.
2. The Applicant shall submit a Critical Areas Assessment Report for potential new impacts. The report shall comply with the requirements of 16.16.255 and provide mitigation as necessary pursuant to 16.16.260. Such report shall be submitted and reviewed prior to issuance of the Land Disturbance Permit.
3. All Development Standards shall comply with the Whatcom County Development Standards (WCDS).
4. The Applicant shall meet all current Whatcom County Development Standards (WCDS) for sight distance and spacing at all access road intersections.
5. The Applicant shall obtain A *Revocable Encroachment Permit* prior to any construction work within the county right-of-way.
6. All road, stormwater facilities, and grading plans shall be designed and stamped by a Washington State Licensed Civil Engineer and submitted for County Engineering review and approval prior to construction.
7. Record drawings for the public roads, public and private stormwater plans, and a Letter of Certification from a Licensed Engineer must be submitted to the County Engineer prior to acceptance of any roads into the County Road System.

NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF
THE WHATCOM COUNTY HEARING EXAMINER

This action of the Hearing Examiner is Final. The following review procedure is available from this Decision and may be taken by the Applicant, any Party of Record, or any County Department.

Appeal to County Council. Within ten business days of the date of the Decision a written Notice of Appeal may be filed with, and all required filing fees paid to, the Whatcom County Council, Courthouse - 1st Floor, 311 Grand Avenue, Bellingham, WA 98225. The Appeal Notice must state either:

- 1) The specific error of law which is alleged, or
- 2) How the Decision is clearly erroneous on the entire record.

More detailed information about Appeal Procedures is contained in the Official Zoning Ordinance at Section 20.92.600-.830. A copy of this document is available for review at the County Council Office. After an Appeal has been filed and the Council Office has received the Hearing Record and Transcript of the Public Hearing, the Parties will be notified of the time and date to file written arguments.

DATED this 24th day of February 2015.



Michael Bobbink, Hearing Examiner