

WHATCOM COUNTY HEARING EXAMINER

RE: Administrative Appeal) APL2008-00021
Application by)
)
)
Robert Matichuk) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
) AND ORDER OF DISMISSAL

Findings of Fact

I.

Parties of Record

Robert Matichuk
PO Box 856
Blaine, WA 98231

Michel and Shirley Mestre
4719 Columbus Avenue
Bellingham, WA 98229

Tyler Schroeder and Nicholas Smith
Planning and Development Services

Royce Buckingham
Civil Deputy Prosecutor

Notice Requirements

Legal Notice: published on June 24, 2010
Property Posted: June 25, 2010

Open Record Hearing: July 7, 2010

Exhibits

- 1 Administrative Appeal Application with Statement attached
- 2 Letter dated July 8, 2008, from Nicholas Smith, re: SFR2008-00329 or SFR2008-00330, denying one permit, with attachments
 - 2-1 Letter dated July 8, 2008, from Nicholas Smith re: Lot Consolidation
 - 2-2 Real Property Info, Tax Year 2009
 - 2-3 Assessor's Records
 - 2-4 Zoning Map

- 2-5 Statutory Warranty Deeds
2-6 Map showing Current Permits, No Homes, Current Homes
- 3 AB No. 2007-318A/Ordinance No. 2008-003, Amending the Whatcom County Comp Plan Map, Title 20 Zoning Map, and the Urban Fringe Subarea Plan, adopted February 12, 2007
 - 4 Residential Building Application, Permit No. SFR2008-00330
 - 5 Letter dated July 7, 2008, from Nicholas Smith re: SFR2008-00329, SFR2008-00330, SFR2008-00307, "Zone Hold"
 - 6 Site Plan, SFR2008-00330
 - 7 County's Motion to Dismiss, dated June 30, 2010
 - 8 Declaration of Service, dated June 30, 2010
 - 9 Legal Notice of Open Record Hearing, dated June 24, 2010
 - 10 Certificate of Posting Notice, dated June 25, 2010

II.

The above-captioned Administrative Appeal Application came before the Whatcom County Hearing Examiner on July 7, 2010. Whatcom County Prosecuting Attorney moved for dismissal of the appeal based on the fact that the Appellant is not the owner of the subject property, which was sold to the present owner between 2008 and 2010, and is now owned by Michel and Shirley Mestre. The Appellant confirmed he was no longer the owner of the property, which is the subject of this appeal.

III.

The Administrative Decision reached by Whatcom County Planning and Development Services, which is the subject of this appeal, was dated July 8, 2008.

On July 21, 2008, the Appellant herein filed and paid the required fee for an Administrative Appeal of Planning and Development Services' Administrative Determination, dated July 8, 2008.

IV.

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 Whatcom County Code provides that the owner of lots subject to consolidation may apply for administrative approval for relief from the provisions of WCC 20.83.070. The Appellant is no longer the owner of the lots that are the subject of Planning and Development Services Administrative Decision. Pursuant to the request of Whatcom County the appeal should be dismissed and the Hearing Examiner should enter an Order dismissing the appeal.

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 Administrative Appeal captioned above is hereby dismissed on the grounds that the Appellant is not the owner of the subject property.

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 calendar 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 14th day of July 2010.

Michael Bobbink, Hearing Examiner