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**BEFORE THE**  
**SNOHOMISH COUNTY HEARING EXAMINER**  
**DECISION of the DEPUTY HEARING EXAMINER**

In the Matter of the Application of	)	
	)	<b>FILE NO. 06 128717 SP</b>
<b>BALTIC DEVELOPMENT</b>	)	
	)	
Three (3) lot short subdivision on approximately	)	
one acre	)	

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DATE OF DECISION: April 18, 2007

PLAT/PROJECT NAME: *Baltic Short Plat*

DECISION (SUMMARY): The request for a 3-lot short subdivision is **CONDITIONALLY APPROVED** subject to dedication of an extension of 115<sup>th</sup> Drive SE.

**BASIC INFORMATION**

GENERAL LOCATION: This project is located at 2310 113<sup>th</sup> Drive SE, Everett, Washington.

ACREAGE: 0.98 acres

NUMBER OF LOTS: 3

AVERAGE LOT SIZE: 9,671 square feet

MINIMUM LOT SIZE: 7,320 square feet

DENSITY: 7.35 du/ac (net)

ZONING: R-7,200

UTILITIES:

Water: Snohomish County PUD  
Sewer: Lake Stevens Sewer District

SCHOOL DISTRICT: Lake Stevens No. 4

FIRE DISTRICT: No. 8

**INTRODUCTION**

The applicant filed the Master Application on August 18, 2006. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 13, 14 and 15)

A SEPA determination was made on February 26, 2007. (Exhibit 10) No appeal was filed.

The Examiner held an open record hearing on April 3, 2007, the 134<sup>th</sup> day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

**PUBLIC HEARING**

The public hearing commenced on April 3, 2007 at 11:17 a.m.

1. The Examiner stated that he had read the PDS staff report, reviewed the file and viewed the area.
2. The applicant, Baltic Development, LLC, was represented by Terry Ostergaard of Alpha Subdivision Pros. Snohomish County was represented by Stacy Abbott of the Department of Planning and Development Services.
3. No member of the general public participated in this matter.

The hearing concluded at 11:28 a.m.

**NOTE:** For a complete record, an electronic recording of this hearing is available in the Office of the Hearing Examiner.

**FINDINGS, CONCLUSIONS AND DECISION**

**FINDINGS OF FACT**

Based on all the evidence of record, the following findings of fact are entered.

1. The master list of exhibits and witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file as if set forth in full herein.
2. The applicant, Baltic Development, filed an application for a 3-lot short subdivision of approximately one acre addressed 2310 113<sup>th</sup> Drive SE, Everett. A duplex now exists on proposed Lot 1 and will remain. Thus, this application adds only one residence to the vicinity. The Hearing Examiner process is invoked in this instance only because of the dedication of a public road: the 190-foot extension of 113<sup>th</sup> Drive SE.
3. The subject parcel and all surrounding parcels are zoned R-7,200
4. There are no critical areas on-site or within 100 feet of the subject parcel.
5. The proposed short plat meets all zoning code requirements for lot size, including lot size averaging provisions, bulk regulations and other zoning code requirements.
6. The PDS staff report has correctly analyzed the nature of the application, the issues of concern, the application's consistency with adopted codes and policies and land use regulations, and the State Environmental Policy Act (SEPA). That staff report is hereby adopted by the Examiner as if set forth in full herein.
7. The DPW reviewed the request with regard to traffic mitigation and road design standards. This review covered Title 13 SCC and Chapter 30.66B SCC as to road system capacity, concurrency, inadequate road conditions, frontage improvements, access and circulation, and dedication/deeding of right-of-way, state highway impacts, impacts on other streets and roads, and Transportation Demand Management. As a result of this review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions.
8. School mitigation requirements under Chapter 30.66C SCC have been reviewed and set forth in the conditions. Busses will pick up all children at the entrance to the development.
9. The application will meet park impact fees by payment of \$1,361.22 for each new single-family home.
10. There are no critical areas onsite or within 100 feet of the subject parcel.
11. The PDS Engineering Division has reviewed the concept of the proposed grading and drainage and recommends approval of the project subject to conditions, which would be imposed during full detailed drainage plan review pursuant to Chapter 30.63A SCC.
12. The Snohomish County Health District has no objection to this proposal provided that public water and sewer are furnished. Public water and sewer service and electrical power will be available for this development.
13. The property is designated Urban Low Density Residential (ULDR 4-6 du/ac) on the General Policy Plan (GPP) Future Land Use Map (FLUM) and is located within an Urban Growth Area (UGA). Land in this category may be developed at a density of 4-6 du/ac and one of the implementing zones is the R-7,200 zone which is the case here.

14. The proposed use (single-family detached development) is essentially compatible with existing single-family detached developments on larger lots. Because the property is within a UGA, where policies promote urban densities of development, a comparison with the present lower density character of much of the area is inappropriate since the present density of development in much of the surrounding area is inconsistent with both the adopted comprehensive plans and the present zoning.
15. The request complies with the Snohomish County Short Plat Code, SCC 30.41B and the Subdivision Code, SCC30.41A and the State Subdivision Code, RCW 58.17. The proposed plat complies with the established criteria therein and makes the appropriate provisions for public, health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and other planning features including safe walking conditions for students.
16. The request is consistent with Section 30.70.100 SCC (Section 32.50.100 SCC), which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP, and GMA-based county codes.
17. Any finding of fact in this decision which should be deemed a conclusion is hereby adopted as such.

### **CONCLUSIONS OF LAW**

Based on the findings of fact entered above, the following conclusions of law are entered.

1. The Examiner having fully reviewed the PDS staff report, hereby adopts said staff report as properly setting forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their relationship to the request. It is therefore hereby adopted by the Examiner as a conclusion as if set forth in full herein, in order to avoid needless repetition. There are no changes to the recommendations of the staff report.
2. The Department of Public Works recommends that the request be approved as to traffic use subject to conditions specified below herein.
3. The request is consistent with the (1) GMACP, GMA-based County codes, (2) the type and character of land use permitted on the site, (3) the permitted density, and(4) the applicable design and development standards.
4. The Examiner concludes that the application makes appropriate provision for the decision criteria of SCC 30.41B.100 as to short subdivisions and conforms to all applicable development regulations and construction codes and should be conditionally approved.
5. The request complies with the Snohomish County Short Plat Code, SCC 30.41B, the Subdivision Code, SCC 30.41A and the State Subdivision Code, RCW 58.17. The proposed subdivision complies with the established criteria therein and makes the appropriate provisions for public, health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and other planning features including safe walking conditions for students.
6. Any conclusion in this decision which should be deemed a finding of fact is hereby adopted as such.

## DECISION

Based on the findings of fact and conclusions of law entered above, the decision of the Hearing Examiner on the application is as follows:

The request for a 3-lot short subdivision is hereby **CONDITIONALLY APPROVED**, subject to the following conditions:

### CONDITIONS:

- A. The preliminary short plat received by PDS on January 31, 2007 (Exhibit 11) shall be the approved short plat configuration. Changes to the approved plat are governed by SCC 30.41B.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
  1. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
    - i. Construction plan, profile and cross section drawings are required for all proposed road-related improvements. Individuals or firms preparing plans, drawings, specifications, technical reports, etc., for the purpose of obtaining required permits/approvals must meet the professional qualifications stated in Section 1.08 of the Engineering Design and Development Standards. Re plan submittal, please call (425) 388-3311.
    - ii. A right-of-way use permit is required for work within the county road right-of-way. Please call (425) 388-3385 for permit information and applicable fees.
    - iii. A full drainage plan shall have been submitted and approved pursuant to Subtitle 30.63A SCC.)
    - iv. At the discretion of Planning and Development Services, limited site work may be allowed prior to approval of the full construction plans, if and only if a grading permit (if required) and Temporary Erosion Control Plan (TESCP) have been approved by the county for the limited site work. Any approved grading permit and TESCP for the limited site work must be consistent with any and all clearing limitations and/or other plans and conditions imposed and/or required herein.
    - v. A grading permit, to include a Temporary Erosion and Sedimentation Control Plan (TESCP), issued pursuant to Chapter 30.63B SCC, shall have been obtained for any on-site grading.
    - vi. Prior to development activity (i.e. clearing, grading or filling) on the site, the applicant shall mark with temporary markers in the field the boundary of all NGPAs, or the limits of the proposed site disturbance outside of the NGPAs, using methods and materials acceptable to the county.

- vii. No on-site construction activity is authorized unless and until the required plan approvals have been obtained.

C. The following additional restrictions and/or items shall be indicated on the face of the final short plat:

- i. “The lots within this subdivision will be subject to school impact mitigation fees for the Lake Stevens School District No. 4 to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for 1 existing parcel(s). Lot(s) 1 shall receive credit.”

- ii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:

\$3,483.48 per unit for mitigation of impacts on county roads paid to the county,

\$75.75 per unit for transportation demand management paid to the county,

The developer of this subdivision has elected to defer these payment obligations to a time preceding building permit issuance. Notice of these mitigation payment obligations shall be contained in any deeds involving this subdivision or the lots therein. Once building permit has been issued all mitigation payments shall be deemed paid.

- iii. Lots 1 and 2 may qualify as duplex lots per Chapter 30.41B.835 SCC.

- iv. The dwelling units within this development are subject to park impact fees in the amount of \$1.361.22 per newly approved dwelling unit for the Centennial service area of the county park system pursuant to Chapter 30.66A. Payment of these mitigation fees is required prior to building permit issuance; provided that the building has been issued within five (5) years after the application is deemed complete. After five years, park impact fees shall be based upon the rate in effect at the time of building permit issuance.

D. Prior to recording of the final plat:

- i. Adequate public road access shall be provided to the satisfaction of the DPW.
- ii. Revise the building setback lines for Lots 2 and 3 outside of the sewer easement areas or provide letters of permission from the easement grantee that allows the proposed use of the area.
- iii. Boundary Line Adjustment 06-131179BA must be recorded with the County Auditor.
- iv. A covenant shall be recorded guarantying equal share of maintenance of detention tract for short plat 06-102101SP.
- v. Sewer and water facilities shall have been installed in accordance with the standards of Snohomish County PUD and Lake Stevens Water and/or Sewer District. A statement confirming approved installation with water and sewer availability shall be required from the District.

vi. There shall be resolution to all encroachments such as fences, buildings, slabs, driveways or a physical appurtenance, which indicates encroachments as outlined in RCW 58.17.165 and RCW 58.17.255, if applicable.

F. All development activity shall conform to the requirements of Chapter 30.63A SCC.

Nothing in this permit/approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.

Preliminary short plats which are approved by the county are valid for five (5) years from the date of approval and must be recorded within that time period unless an extension has been properly requested and granted pursuant to SCC 30.41B

Decision issued this 18<sup>th</sup> day of April, 2007.

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Ed Good, Deputy Hearing Examiner

## EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

The decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more parties of record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

### **Reconsideration**

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **APRIL 30, 2007**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

A petition for reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner’s attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

- (a) The Hearing Examiner exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner's decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by the record;
- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The applicant proposed changes to the application in response to deficiencies identified in the decision.

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the County file number in any correspondence regarding this case.

### **Appeal**

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **MAY 2, 2007** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

An appeal must contain the following items in order to be complete: a detailed statement of the grounds for appeal; a detailed statement of the facts upon which the appeal is based, including citations to specific Hearing Examiner findings, conclusions, exhibits or oral testimony; written arguments in support of the appeal; the name, mailing address and daytime telephone number of each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any; the name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and the required filing fee.

The grounds for filing an appeal shall be limited to the following:

- (a) The decision exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- (c) The Hearing Examiner committed an error of law; or

- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by substantial evidence in the record. [SCC 30.72.080]

Appeals will be processed and considered by the County Council pursuant to the provisions of Chapter 30.72 SCC. Please include the County file number in any correspondence regarding the case.

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Staff Distribution:

Department of Planning and Development Services: Stacy Abbott

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation." A copy of this Decision is being provided to the Snohomish County Assessor as required by RCW 36.70B.130.