Recommendation to Hearing Examiner
Alteration of Subdivision
File Number: PLN14-0029

I. APPLICATION INFORMATION

Owner:
Josh Bailey
P.O. Box 819
Black Diamond, WA 98010

Applicant:
Same

Project Name:
Bailey Plat Alteration

Project Description:
Short Plat alteration to delete a Restrictive Covenant. The covenant was placed on the short plat when the property was under the jurisdiction of King County. Under King County zoning in effect at that time, the short plat created a nonconforming lot that could not be built on. The property is now under the jurisdiction of the City of Black Diamond.

Location:
21840 SE 296th Street, Black Diamond WA 98010

Parcel Number:
6151800502

Zoning:
R4

Comprehensive Plan:
Low Density Residential

II. FINDINGS

1. The applicant is proposing to delete a covenant from his property that prohibits building and residing on the property.
2. The covenant was a condition of approval for the short plat in 1980 when the property was in unincorporated King County.

3. The property is now in the City of Black Diamond.

4. Black Diamond zoning designation is Single Family Residential (R4). R4 requires a minimum lot size of 9,600 square feet.

5. According to King County Department of Assessments, parcel 6151800502 is listed at 15,499 square feet.

6. The proposed lot dimensions meet the requirements of the Single Family Residential (R4) zone.

7. No other alterations to the plat are proposed.

8. The application was submitted on September 24, 2014 and determined to be complete for processing on September 25, 2014.

9. An Alteration of a Subdivision is a Type 3 Quasi-judicial decision per Black Diamond Municipal Code (BDMC) 18.08.030; these decisions are made by the Hearing Examiner.

III. APPLICABLE PLANS, CODES AND STANDARDS

1. BDMC Chapter 17.20.090, Vacation or alteration of a subdivision
2. BDMC Title 18 Zoning
3. WAC 197-11-800 Categorical exemptions.

IV. ANALYSIS

This section of the report analyzes the proposal in light of the various standards contained in adopted plans, codes and regulations.

(Staff comments shown in italics)

17.20.090 Vacation or alteration of a subdivision

B. Alteration. If an applicant is interested in the alteration of any subdivision or any portion thereof, except as provided in RCW 58.17.040(6), that person shall submit an application to the community development department requesting the alteration. The application shall contain the signatures of all persons having an ownership interest in lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered.

King County Department of Assessments shows the applicant to be the owner.
If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.

An agreement to terminate or alter the covenant, signed by all parties subject to the covenants was submitted with the application.

If the alteration to a subdivision is requested prior to final plat approval, a minor alteration may be approved by the community development director. A major alteration requested prior to final plat approval shall require approval of the hearing examiner after appropriate public notice and holding of a public hearing. The community development department shall have the authority to determine whether the proposed alteration constitutes a minor or major alteration. For purposes of this section, a "major alteration" means the creation of additional lots, the elimination of open space, or changes to conditions of approval on an approved preliminary subdivision, and a "minor alteration" means (a) modifications to engineering design, unless the proposed design alters or eliminates features specifically required as a condition of preliminary subdivision approval, (b) a modification to lot dimensions, provided that such modified dimensions conform to city code, or (c) a reduction in the number of lots to be created, provided that the reduction otherwise conforms to the provisions of city code. If the alteration to a subdivision is requested after final plat approval, but prior to filing the final plat with King County, a plat alteration may be approved with consent of the city council. Upon receipt of an application for alteration, the community development department shall provide notice of the application to all owners of property within the subdivision, and as was required by the subdivision application. The notice shall establish a date for a public meeting.

This section is not applicable as the final short plat was approved in 1980.

If the alteration to a subdivision is requested after filing the final plat with King County, a minor plat alteration may be approved with consent of the city council. If the community development department determines that the proposed alteration is a major alteration, then the department may require replatting pursuant to this title. Upon receipt of an application for alteration, the community development department shall provide notice of the application to all owners of property within the subdivision, and as was required by the subdivision application.

The Community Development Department has determined that the proposed alteration is a major alteration as defined in the paragraph above in that the proposal is a “change of conditions of approval”. A replat is not required as there are no dimensional or map changes proposed. A Notice of Application will be published October 6, 2014.

The city shall determine the public use and interest in the proposed alteration and may deny or approve the application for alteration. If any land within the alteration is part of an assessment
district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between properties.

*The public use and interest have been served as this property has already been subdivided and this proposal will only establish the subject parcel as a buildable lot. Meeting the requirements for the public health, safety and general welfare, including storm drainage, water and sewer availability and appropriate setbacks are included in an application for developing the lot.*

After approval of the alteration, the city shall order the applicant to produce a revised drawing of the approved alteration of the subdivision. The final plat shall accurately reflect the approved alteration and shall be filed with the county auditor to become the lawful plat of the property, after receiving final plat approval.

*Filing a revised drawing of the plat is not required as the only alteration is to the covenant. The signed agreement altering the covenant must be filed with the county auditor prior to issuing any development permits for the subject property.*

This section shall not be construed as applying to the alteration or replatting of any plat of state-granted tide or shore lands.

*N/A, This is not a plat of state-granted tide or shore lands.*

**18.30.040 Development standards.**

A. Site area and dimensional standards.
   1. Minimum lot area:
      a. Districts designated R4: Nine thousand six hundred square feet.

*The proposed plat alteration is for a lot of 15,499 square feet.*

**WAC 197-11-800 Categorical exemptions. (Environmental Review)**

(6) Land use decisions. The following land use decisions shall be exempt:
   (a) Land use decisions for exempt projects, except that rezones must comply with (c) of this subsection.

*An application for a single family residence has been submitted. Single family residences are exempt from environmental review.*

**V. CONCLUSION**

1. The proposed Plat Alteration satisfies the criteria of BDMC 17.20.090.
2. The proposed Plat Alteration conforms to Title 18 (Zoning) of the Black Diamond Municipal Code (BDMC).

3. The proposed Plat Alteration is exempt from environmental review.

VI. RECOMMENDATION

This Plat Alteration (PLN14-0029) is recommended for approval by the Hearing Examiner.

VII. CONDITIONS

The applicant shall record the plat alteration with the King County recorder's office within thirty days. Failure to record the executed plat alteration with the County recorder's office within thirty days shall render the plat alteration approval null and void.

The applicant shall return a copy of the recorded document, recorded with King County, to the City within thirty (30) days from the date of this letter for our records and to complete this process.

VIII. EXHIBITS

Exhibit 1  Agreement to Amend Short Plat dated September 25, 2014 (6 sheets)