Recommendation to Hearing Examiner
Alteration of Subdivision
File Number: PLN14-0035

I. APPLICATION INFORMATION

Owner:
Russell Cahill
23313 208th Ave SE
Maple Valley, WA 98038

Applicant:
Laura Petkov
PO Box 1512
Maple Valley, WA 98038

Project Name:
Cahill Plat Alteration

Project Description:
Short Plat alteration to remove a drainage easement and a trail easement. The alteration will include the addition of a new drainage easement. The original drainage easement is being removed and a new one added due to an engineering change with approval of the Public Works Department. The trail easement was a condition of the short plat, but no longer required by the city.

Location:
32750, 32774, 32784, & 32794 Abrams Ave, Black Diamond WA 98010

Parcel Number:
1421069021, 1421069210, 1421069209, 1421069208

Zoning:
R4

Comprehensive Plan:
Low Density Residential
II. LOCATION

II. FINDINGS

1. The applicant is proposing to extinguish a drainage easement from Lot 4 that was re-engineered to contain the drainage entirely within Lot 3.

2. The applicant proposed to dedicate a new 5 foot drainage easement on Lot 3 to replace the extinguished drainage easement. The new easement reflects the installed drainage which was approved by Public Works.

3. The applicant is also proposing to extinguish a trail easement from the short plat. The trail easement was based on the assumption that Lot 4 would be deeded to the city as part of a Transfer of Development Rights (TDR) agreement which never came to fruition.

4. Since Lot 4 would have provided public access to the trail easement, no public access is available.

5. The city no longer has an interest in developing this trail system.
6. No other alterations to the plat are proposed.

7. The application was submitted on October 15, 2014 and determined to be complete for processing on October 20, 2014.

8. 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. 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.

A statement signed by all affected property owners that extinguishes two easements and creates a third, was submitted with the application.

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.

The proposal does not violate any covenants.

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 August 6, 2013.

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 "modifications to engineering design alters or eliminates features specifically required as a condition of preliminary subdivision approval." A replat is required.

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. Meeting the requirements for the public health, safety and general welfare, including storm drainage, water and sewer availability and appropriate setbacks were or will be included in applications for developing the lots. Dedicated easements to be extinguished, will revert to owner of the property so encumbered.

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, approved by the City, is a condition of approval for this plat alteration.

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.

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.

A short plat is exempt from environmental review.

V. CONCLUSION

1. The proposed Plat Alteration satisfies the criteria of BDMC 17.20.090.

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

VI. RECOMMENDATION

This Plat Alteration (PLN14-0035) is recommended for approval by the Hearing Examiner.

VII. CONDITIONS

The applicant will submit a plat that satisfies the requirements of BDMC 17.32.020.

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 Cahill Application
Exhibit 2 Cahill Narrative
Exhibit 3 Agreement to Amend Short Plat dated October 15, 2014
Exhibit 4 Notice of Complete Application
Exhibit 5 Notice of Application and Public Hearing
Exhibit 6 Cahill Site Plan – Pending Corrections