

**BEFORE THE LAND USE HEARING EXAMINER  
OF CITY OF WOODLAND, WASHINGTON**

Regarding an application by Windsor Engineers for ) **FINAL ORDER**  
preliminary plat and associated approvals to divide ) **WLD-2023-003**  
0.75-acres into six lots in the LDR-6 zone at 748 ) **(748 Washington**  
Washington Street in the City of Woodland, Washington ) **Homestead)**

**A. SUMMARY**

1. Windsor Engineers, the applicant, requests approval to divide the 0.75-acre site into five lots. The site is located at 748 Washington Street; also known as Tax Parcel #50346 (the "site").

a. The site surrounding properties are zoned LDR-6 (Low Density Residential, 6,0000 square foot average lot size).

b. The site is currently developed with a single-family residence and several accessory structures. The applicant proposed to remove all of the existing structures and construct a new single-family detached dwelling on each of the proposed lots.

2. The applicant also requests approval of a minor variance to reduce the width of proposed Lots 2, 3, and 4. WMC 17.16.070(B) requires a minimum lot width of sixty feet, measured at the front setback line. The applicant proposed variance will reduce the lot width to 53.18 feet for Lot 2, 45.6 feet for Lot 5, and 53.24 feet for Lot 4.

3. The City issued a Determination of Nonsignificance ("DNS") for the subdivision pursuant to the State Environmental Policy Act ("SEPA") on September 12, 2023. The SEPA determination was not appealed and is now final.

4. City of Woodland Hearing Examiner Joe Turner (the "examiner") conducted a public hearing to receive testimony and evidence about the application. City staff recommended that the examiner approve the preliminary plat subject to conditions. See the City of Woodland Staff Report to the Hearing Examiner dated October 9, 2023 (the "Staff Report"), as modified at the hearing. The applicant accepted those findings and conditions, as modified, without exceptions. Three persons testified in opposition to the proposed development. Contested issues in the case include:

a. Whether neighbors' expectations and objections to the proposed lot sizes, shapes, setbacks, and density are relevant to the applicable approval criteria;

b. Whether the proposed development will increase the rate of stormwater runoff and cause or exacerbate flooding on adjacent properties;

c. Whether traffic generated by the proposed development will exceed the capacity of area streets;

d. Whether adequate utility capacity is available to serve the proposed development; and

e. Whether the applicant is required to repair impacts to Washington Street caused by construction of the proposed development.

5. Based on the findings provided or incorporated herein, the examiner approves the application subject to the conditions at the end of this final order.

## **B. HEARING AND RECORD HIGHLIGHTS**

1. The examiner received testimony at the public hearing about this application on October 17, 2023. All exhibits and records of testimony are filed at the City of Woodland. The examiner announced at the beginning of the hearing the rights of persons with an interest in the matter, including the right to request that the examiner continue the hearing or hold open the public record, the duty of those persons to testify and to raise all issues to preserve appeal rights and the manner in which the hearing will be conducted. The examiner disclaimed any *ex parte* contacts, bias or conflicts of interest. The following is a summary by the examiner of selected testimony and evidence offered at the public hearing. As noted at the hearing, the examiner incorporates relevant testimony offered at the hearing for WLD-2023-002 (438 Washington Subdivision) as that development is located roughly two blocks east on Washington Street and the same concerns raised in the testimony apply to both developments.

2. City community development director Travis Goddard summarized the Staff Report and the applicable standards and described the proposed development on the site.

a. The applicant proposed to divide the site into five lots, including three flag lots.

b. The applicant also requests approval of a minor variance to the minimum lot width requirement. The applicant proposed a roughly 18-percent reduction in the width of Lots 2 and 3 and 16-percent reduction for Lot 4. He requested the examiner modify pages 2, 11, 12, 14 and proposed condition 1.e of the Staff Report to reflect the correct percentage of variance.

c. The fourth paragraph of Finding 45 on page 14 of the Staff Report should be modified to state:

In effect, refusing to permit the requested minor variance would prevent the applicant and property owner from developing the lot at a density consistent with other properties within the LDR-6 zoning district and would ~~grant~~ deny them the same rights enjoyed by some of their neighbors. Based on the Development Review Committee's review of the proposed variance, this meets this standard.

d. The City is in the process of designing improvements to the I-5 interchange (Exit 21) that will reduce existing congestion problems and ensure the interchange operates within acceptable levels of service. Those improvements are projected for completion within four years. This and other developments in the City will contribute Traffic Impact Fees (TIFs) that the City will use to fund this improvement. This development is likely to be subject to higher TIFs that the City Council is in the process of adopting.

3. City consulting engineer Ryan Walters noted that the conditions of approval require the applicant to comply with the stormwater comments set out on page 4 of the Staff Report, including complying with applicable setback requirements for stormwater facilities.

4. Dan Koistinen testified on behalf of the applicant and summarized the proposed development. He accepted the findings and conditions in the Staff Report, as amended, without exceptions.

a. There are other BMPs (Best Management Practices), including dedicated downspout dispersion, that the applicant can utilize to meet stormwater setback requirements on the site.

b. Although the Code requires the applicant to comply with the 1992 Stormwater Manual, the applicant will design this development to comply with the more restrictive 2019 Stormwater Manual. The proposed development will not increase the rate of stormwater runoff from the site. The applicant will collect, treat, and infiltrate runoff from new impervious areas of the site. The applicant's geotechnical report demonstrates that infiltration is feasible on this site. The applicant will not fill the low area on the eastern portion of the site.

c. The applicant will construct a sidewalk along the site's Washington Street frontage and restore the pavement consistent with City requirements once construction of the development is complete.

5. Sara Gibbs questioned how the applicant will address stormwater runoff from the site.

6. Steven Gibbs noted that their front yard often floods when it rains. Increased runoff from development is likely to impact their property. The City recently repaved Washington Street and this development will tear it up in order to install utilities. Washington Street carries a high volume of traffic. The I-5 interchange is in gridlock during rush hour. Additional traffic generated by this and other proposed developments will add to these problems.

7. Debbie Hylla objected to the density of the proposed development. Most of the homes in this area are located on 1/3-acre lots. This development will alter the character and quality of life of the neighborhood. Additional traffic from the development may exceed the capacity of area roads. She questioned whether existing utilities have sufficient capacity to serve the proposed development.

8. The examiner closed the record at the end of the hearing and announced his intention to approve the application subject to the conditions of approval in the Staff Report, as amended at the hearing.

### **C. DISCUSSION**

1. City staff recommended approval of the application, based on affirmative findings and subject to conditions of approval in the Staff Report, as modified at the hearing. The applicant accepted those findings and conditions, as amended, without exceptions.

2. The examiner concludes the Staff Report identifies the applicable approval standards in the WMC for the application and contains affirmative findings showing that the proposal does or can comply with those standards, provided that the applicant complies with the conditions of approval. The examiner adopts the affirmative findings in the Staff Report, as amended, as his own, except to the extent they are inconsistent with the following findings.

3. The hearings officer understands residents' displeasure with the proposed development, but this development was foreseeable and is in the broader public's interest. The site and surrounding properties are located within the City's Urban Growth Area ("UGA") boundary and zoned for urban development. As large lots are sold, presumably they will be developed to the maximum extent allowed. The Code does not authorize the City to require larger lots so that they are consistent with the size of surrounding lots. To the contrary, the state Growth Management Act requires the City to accommodate its share of development and the applicant is required to comply with the minimum density requirements of the Code. Although the proposed lots are smaller than adjacent lots, the uses are not incompatible. The applicant is proposing to provide single-family detached and attached residences adjacent to existing single-family development.

a. Neighbor's subjective expectations about potential development on the site are not relevant. Although the proposed lots are smaller and may have smaller setbacks than adjacent lots, the uses on those lots are not incompatible. The applicant is proposing to build single-family detached homes next to existing single-family detached homes.

b. Development of this site will cause an incremental loss of privacy for existing residents in the area. What is now a single residence with a large yard will be developed with a new home within five feet of the boundary of abutting properties. But the Code does not prohibit development from having an impact on privacy. The intensity of the proposed development, including setbacks from adjacent properties, is consistent with the current zoning of the site.

4. Grading and filling on the site will alter the existing topography of the site to some extent. The proposed development will also increase the amount of impervious surface area on the site and therefore the rate of stormwater runoff. This could potentially increase run-off onto adjacent properties. However, the Stormwater Manual expressly

prohibits such impacts, prohibiting development from materially increasing or concentrating stormwater runoff onto adjacent property or blocking existing drainage from adjacent lots. The examiner finds, based on the applicant's preliminary stormwater report, that it is feasible to comply with the Stormwater Manual. The applicant will collect stormwater from roofs, driveways, roads and other impervious surfaces on the site, treat it as necessary, and infiltrate it into the ground, replicating existing conditions. The applicant will be required to design and install stormwater facilities that ensure the development does not increase the rate of stormwater runoff leaving the site.

a. The applicant is not required to remedy existing high groundwater and surface water ponding on adjacent properties. The applicant is only prohibited from increasing the depth or extent of such surface ponding.

5. This development will increase the volume of traffic on streets in the area. That increased traffic will be perceptible to area residents. However, this development will not generate sufficient traffic volume to require a traffic analysis. The relatively small volume of traffic generated by this development will not have a significant impact on area streets.

6. City engineering staff reviewed the proposed development and determined that adequate utility capacity can be provided to serve the proposed development. The applicant may be required to replace existing water and sewer lines in order to ensure adequate capacity. This is required by condition 1.b.

7. The applicant is required to excavate Washington Street to inspect and/or replace existing underground utilities. The applicant is also required and construct a sidewalk and other improvements along the site's frontage on this street. These activities will damage the existing pavement. The applicant is required to repair the roadway consistent with City Code.

#### **D. CONCLUSION**

Based on the findings and discussion provided or incorporated herein, the examiner concludes that File No. WLD-2023-003 (748 Washington Homestead Subdivision) should be approved, because the application does or can comply with applicable standards of the WMC and the Revised Code of the State of Washington, subject to conditions of approval necessary to ensure the final plat and resulting development will comply with the Code.

#### **E. ORDER**

The Hearing Examiner APPROVES File No. WLD-2023-003 (748 Washington Homestead Subdivision) subject to the following conditions of approval:

#### **CONDITIONS OF APPROVAL**

1. The following notes shall be placed on the final plat prior to submission for final plat approval:

- a. The following impact fees shall be calculated and paid prior to the issuance of any building permit associated with this property, unless expressly exempted by WMC:

Fire Impact Fees  
Park, Recreation, Open Space Impact Fees  
School Impact Fees  
Transportation Impact Fees

All estimates and/or rates provided by the City are subject to change by the City Council prior to final building permit issuance, and should be considered to be for informational purposes only.

- b. The property owner acknowledges responsibility to replace the existing utility line(s) as required to provide adequate utility connection(s) to each lot. This shall be determined by the City once the existing utilities are exposed based on the condition of the water and sewer lines. The applicant shall consult with the City as needed to ensure any required replacement meets the City's standards.
- c. The property owner acknowledges that finalization of any relevant plat and/or subdivision does not permit, on its own, construction of any use permitted under WMC 17.16.020, and further development of the subject properties shall require further land use and/or building permits based on the specific proposal(s).
- d. Development on all lots shall be reviewed at the time of building permit approval to determine if they meet the following:

Front yard setback in feet: 25  
Rear yard setback in feet: 15  
Interior side yard setback in feet: 5  
Street side yard setback in feet: 15  
Maximum building height in feet: 30  
Maximum lot coverage: 50 percent  
Required off-street parking spaces: two

- e. An eighteen percent (18%) lot width variance has been assigned to Lots 2 and 3, and a sixteen percent (16%) lot width variance has been assigned to 4 as drawn. The approved variances are not transferable to another lot, parcel, and/or property.
- f. Per the International Fire Code, as adopted within WMC Chapter 14.32, any structures constructed on lots 3, 4, and 5 as shown on this plat shall require the installation of individual fire suppression systems.
2. Detailed construction drawings for the proposed road, drainage and utility facilities shall be submitted to the City's Public Works Department for review and approval prior to construction of subdivision improvements. Final construction drawings for the required civil improvements shall demonstrate:

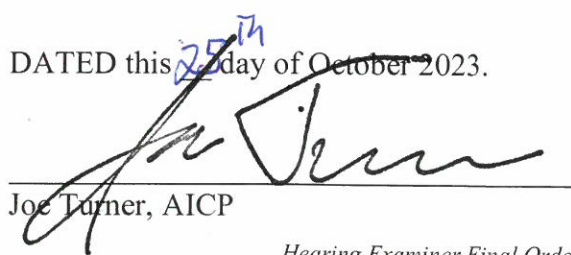


- a. Final civil plans shall demonstrate that the applicant will provide half street improvements meeting the City's engineering standards and WMC along the entire frontage of the subject lot.
  - b. All improvements in the public right-of-way shall be completed in accordance with City of Woodland standards per Title 12.
  - c. Proposed utilities will be constructed in accordance with applicable WMC.
  - d. Comply with water supply backflow and cross-connections requirements of WMC 13.28.
3. A final stormwater TIR and stormwater design demonstrating compliance with WMC Chapter 15.12 and the City of Woodland's engineering standards shall be provided alongside the applicant's civil review application for detailed review. The submitted final TIR shall address all comments regarding the Stormwater Plans and Preliminary TIR.
  4. Dedication of easements and/or rights-of-way shall comply with the City's engineering standards and WMC. Any documents prepared to be filed with the County assessor's office shall be provided to the City for review prior to recording, and a copy of the filed documentation shall be provided to City for the City's records. The following dedications and/or easements shall be required prior to recording of the final plat and should be identified on the final plat submitted for review (unless otherwise noted):
    - a. Dedication of a ten-foot strip along the Washington Frontage for right of way purposes;
    - b. Filing of an access easement that permits access along the entirety of the shared driveway to the residents of both proposed lots 4 and 5.
  5. Include a Construction SWPPP report as well as an erosion control plan with the final engineering submittal.
  6. Apply for a fill and grade permit.
  7. Property owner/developer is responsible for payment of all relevant sewer and water assessments and fees based on the size of service and approve fee resolution at the time of connection.
  8. Building construction and underground plans shall be submitted to CCFR separately, along with any fire alarm and/or fire sprinkler alterations.
  9. All Geotech report recommendations and requirements shall be implemented into the design of the structures.

10. The applicant and/or owner shall prepare an Inadvertent Discovery Plan (IDP) meeting the requirements established by the Washington Department of Archaeology and Historic Preservation. The property owner shall provide copies of the IDP to the City and all interested tribes prior to any ground disturbing activities commencing. The plan should include the methods utilized to ensure any archaeological and/or cultural resources found during construction are reported promptly to the Department of Archaeological and Historic Preservation and all interested tribes.
11. Any reductions of side yard setback to less than five-feet will require IRC Sec 302 Fire-Resistant Construction code requirements to be met.
12. Following approval of the preliminary plat and detailed construction (civil) drawings, the applicant and/or owner is responsible for preparing a final plat drawn by a licensed land surveyor on mylar, or an alternative approved material. The final plat, as well as all supplemental materials, shall be submitted to the City of Woodland Community Development Department along with a final plat application and any relevant fees due. At a minimum, the final plat shall comply with the standards and requirements of WMC 16.18.070. Additionally, the final plat shall include the modifications made in response to Clark-Cowlitz Fire Rescue's preliminary comments, as drawn within the updated site plan/preliminary plat dated October 4, 2023.
13. Once final approval is given to print the final plat, signatures on three copies of the plat, shall be collected in the following order:
  - a. The owners in fee simple;
  - b. Notary public in and for the state;
  - c. Professional land surveyor registered in the state;
  - d. Public Works Director;
  - e. Cowlitz County treasurer;
  - f. Cowlitz County Auditor

Three signed copies of the final plat must be submitted to staff for review and approval.
14. The plat shall be filed with the County Auditor and shall not be deemed approved until so filed. A copy of the approved subdivision plat (after recorded) shall be submitted to the Community Development Department.
15. A general condition of Cowlitz County is that all newly created lots must indicate the addresses for all lots on the face of the plat. Please contact Public Works for address assignment as part of the final plat process.

DATED this <sup>25<sup>th</sup></sup> day of October 2023.

  
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Joe Turner, AICP



City of Woodland Hearing Examiner

*NOTE: Only the decision and the conditions of approval are binding on the applicant as a result of this order. Other parts of the final order are explanatory, illustrative and/or descriptive. They may be requirements of local, state, or federal law, or requirements which reflect the intent of the applicant, the City staff, or the Examiner, but they are not binding on the applicant as a result of the final order unless included as a condition.*

*APPEAL*

*This decision may be appealed to in the superior court with jurisdiction, either Clark County or Cowlitz County within twenty-one calendar days after written notice of the decision is sent. WMC 17.81.150.A and RCW 36.70C or applicable state law.*