

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF SEQUIM**

In the Matter of the Application of	)	No. SUB 22-001
	)	
<b>Caleb Grubb, Pointer Properties, Inc.</b>	)	<b>Hendrickson Park Plat Alteration</b>
	)	
	)	
	)	FINDINGS, CONCLUSIONS,
For Approval of a Plat Alteration	)	AND DECISION

**SUMMARY OF DECISION**

The request for an alteration to a final plat to remove a plat note that restricts development of Parcels A, B-1, and B-2 to professional office or medical/dental clinic uses, on the approved and recorded “Revised Plat of Phase One of Hendrickson Park,” involving property located to the south of the intersection of West Hendrickson Road and North 7th Avenue, is **APPROVED**. Conditions are necessary to ensure that the requested plat alteration complies with applicable legal requirements.

**SUMMARY OF RECORD**

Hearing:

The Hearing Examiner held an open record hearing on the request on June 23, 2022, utilizing a hybrid approach allowing for live participation or participation by remote access technology.

Testimony:

The following individuals testified under oath at the open record hearing:

Travis Simmons, City Assistant Planner  
Caleb Grubb, Applicant  
Lori Gilchrist  
Ben Grubb  
Jim Randall  
Doug Wright

Exhibits:

The following exhibits were admitted into the record:

1. Plat Alteration Application, dated January 14, 2022
2. Notice of Complete Application, dated April 29, 2022
3. Determination of Nonsignificance, dated May 18, 2022
4. SEPA Environmental Checklist, dated April 6, 2022

*Findings, Conclusions, and Decision  
City of Sequim Hearing Examiner  
Hendrickson Park Plat Alteration  
No. SUB 22-001*

5. Comment from Jamestown S’Klallam Tribe, dated June 10, 2022
6. Public Comments:
  - a. Comment from Doug Wright, dated May 15, 2022
  - b. Comment from Ronald Behrens, dated May 18, 2022
  - c. Comment from Denny Anderson, dated May 22, 2022
  - d. Comment from Kathy Robinson, dated May 22, 2022
  - e. Comment from Martina Boeker, dated May 20, 2022
  - f. Comment from Michele Helms, dated May 22, 2022
  - g. Comment from Patsy Lovelady, dated May 20, 2022
  - h. Comment from Anne Milligan, dated May 23, 2022
  - i. Comment from Charlie Beall, dated May 23, 2022
  - j. Comment from Lindy MacLaine, dated May 23, 2022
  - k. Comment from Mark Bragdon, dated May 24, 2022
  - l. Comment from Dwight Zimpel, dated May 25, 2022
  - m. Comment from Sharon Owens, dated May 25, 2022
  - n. Comment from Lorri Gilchrist, dated May 28, 2022
  - o. Comment from Leroy and Kathy Peterson, dated June 2, 2022
7. Notice Materials:
  - a. Notice of Application, dated May 11, 2022
  - b. Affidavit of Mailing (Notice of Application), dated May 11, 2022
  - c. Notice of Application Classified Proof, for publication in the *Peninsula Daily News* on May 13, 2022
  - d. Affidavit of Posting, dated May 11, 2022
  - e. Affidavit of Mailing (Notice of Public Hearing), dated June 10, 2022
  - f. Notice of Public Hearing
  - g. Notice of Public Hearing Classified Proof, for publication in the *Peninsula Daily News* on June 13, 2022
8. Staff Report
9. Staff Presentation
10. Revised Plat of Phase One of Hendrickson Park, approved August 28, 1996
11. Comment from Brody Broker, dated June 23, 2022

The Hearing Examiner enters the following findings and conclusions based upon the testimony at the open record hearing and the admitted exhibits:

## **FINDINGS**

### Application and Notice

1. Caleb Grubb, of Pointer Properties, Inc., (Applicant), requests approval of an alteration to the final plat of the “Revised Plat of Phase One of Hendrickson Park,” a planned unit development (PUD) that was approved and recorded on August 28, 1996. The Applicant’s proposed alteration would remove Note 8 from the final plat, which states, “PARCELS ‘A’ ‘B-1’ AND ‘B-2’ SHALL BE RESTRICTED TO PROFESSIONAL

OFFICES, OR MEDICAL/DENTAL CLINICS, AS PROVIDED AT CHAPTER 18.24.030 OF THE SEQUIM MUNICIPAL CODE.” *Exhibit 10*. Apart from Parcel B-2, all the parcels within the subdivision have been developed consistent with the approved PUD. The Applicant requests the plat alteration to remove the use restriction and to allow the 0.42-acre vacant parcel to be developed in accordance with the current use and development regulations for the underlying “Lifestyle District” (LD) zone, as outlined under Sequim Municipal Code (SMC) 18.20.130. The 0.42-acre vacant parcel is at the northeast corner of the plat, which is located to the south of the intersection of West Hendrickson Road and North 7th Avenue.<sup>1</sup> *Exhibit 1; Exhibits 8, Staff Report, pages 1 and 2; Exhibit 10*.

2. The City of Sequim (City) determined that the application was complete on April 29, 2022. On May 11, 2022, the City mailed notice of the application to property owners within 300 feet of the subject property, with a comment deadline of May 31, 2022. The same day, the Applicant posted notice of the application on-site. On May 13, 2022, the City published notice of the application in the *Peninsula Daily News*. On June 10, 2022, the City mailed notice of the open record hearing associated with the application to interested parties and to property owners within 300 feet of the subject property. On June 13, 2022, the City published notice of the hearing in the *Peninsula Daily News*. *Exhibit 7; Exhibit 8, Staff Report, page 2*.
3. The City received the following comments on the proposal from members of the public in response to its notice materials:
  - Doug Wright noted that he lives on the adjacent property to the south of the subject property and opposes the proposed plat alteration, stating that the plat note restriction is intended to help provide more professional services to the senior citizens of the neighborhood.
  - Ronald Behrens expressed opposition to the proposal, opining that the area needs more medical and dental services.
  - Denny Anderson commented that the current use restriction of the property should remain in place and requested additional information about the potential future development of the property should the restriction be removed.
  - Kathy Robinson expressed opposition to the proposal, noting that the existing use restriction would benefit members of the over age 55 community to the south of the lot and raising concerns that the potential development of an eight-unit apartment building on the property would not be compatible with the existing character of the neighborhood and would generate noise adversely impacting the existing senior lifestyle community.

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<sup>1</sup> The subject parcel (Parcel B-2) is identified by Tax Assessor Parcel No. 033019-820570. *Exhibit 8, Staff Report, page 1*.

- Martina Boeker echoed concerns that removing the plat restriction would adversely impact the over age 55 community to the south.
- Michelle Helms expressed opposition to removing the plat restriction, stating that the use of the property should remain restricted to professional offices benefiting the neighborhood.
- Patsy Lovelady expressed concerns that the potential development of the property with apartment units would impact the quality of life for members of the over age 55 community and would decrease property values in the area.
- Anne Milligan echoed concerns about the potential future development of apartment units on the property that would be allowed if the proposed plat alteration were approved, noting that such development would be incompatible with the existing neighborhood character and would adversely impact the over age 55 community.
- Charlie Bell raised concerns about the noise impacts from the potential future development of the site with multifamily dwelling units.
- Lindy MacLaine echoed concerns about the proposal resulting in multifamily residential development adversely impacting the over age 55 community.
- Mark Bragdon expressed opposition to the proposal, noting that the potential development of the site with apartment units would be incompatible with the existing character of the neighborhood and would create noise impacting the over age 55 community.
- Dwight Zimpel echoed concerns that potential development of the site with apartment units would be incompatible with the existing character of the neighborhood and would create noise impacting the over age 55 community.
- Sharon Owens commented that potential development of the site with apartment units would be incompatible with the existing character of the neighborhood and would create noise impacting the over age 55 community.
- Lorri Gilchrist noted concerns that potential development of the site with apartment units would be incompatible with the existing character of the neighborhood and would create noise impacting the over age 55 community.
- Leroy and Kathy Peterson commented that the current plat restriction benefits the over age 55 community and expressed concerns that removing the plat restriction would allow for the development of apartment units, which would generate noise and traffic adversely impacting the community.

*Exhibit 6.*

4. In response to concerns raised by members of the public, the Applicant submitted a letter from Realtor Brody Broker, which states that there is currently no unmet demand for medical offices within the city, with 40 to 50 percent of medical office space within the city currently leased to non-medical users due to the lack of demand. *Exhibit 11.*

### State Environmental Policy Act

5. The City acted as lead agency and analyzed the environmental impacts of the proposed plat alteration under the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The City consolidated notice of the SEPA review and application under the optional process provided for by Washington Administrative Code (WAC) 197-11-355, including the applicable comment period. The City's notice materials stated that the City anticipated issuing a Determination of Nonsignificance (DNS) for the proposal on May 18, 2022. The City received one comment specific to the environmental of the proposal from the Jamestown S'Klallam Tribal Historic Preservation Office, which stated that it agreed with the City's determination that the proposal would not have cultural resource impacts. The City reviewed the environmental checklist and other information on file and determined that the proposed plat alteration would not have a probable significant adverse impact on the environment. Accordingly, the City issued a DNS on May 18, 2022, with an appeal deadline of June 1, 2022. The determination was not appealed. *Exhibits 3 through 5; Exhibit 7.a; Exhibit 8, Staff Report, page 5.*

### Comprehensive Plan and Zoning

6. The property and all surrounding properties are designated "Lifestyle District" under the City Comprehensive Plan. The Lifestyle District designation is intended to "enhance and foster continued growth of lifestyle options for seniors in a neighborhood setting that provides a broad range of housing types, services, mobility options and healthcare facilities to support 'living-in-place' through the many stages of senior life." *City Comprehensive Plan - Land Use, page 18.* City staff reviewed the proposal and determined that it would be consistent with the Comprehensive Plan, identifying the following Comprehensive Plan goals and policies as relevant to the proposed plat alteration:

- Focus market-rate multi-family development to locate within Downtown and in the existing Lifestyle District. [LU 3.3.1]
- Apply minimum standards of safety and comfort in the design of all new sidewalks to promote walking as alternative transportation, as good for personal health, and as a place of friendly encounters. [TR 4.4.3]
- Increase the number of housing options and opportunities to meet the needs of a diverse, growing community. [H Goal 6.1]
- Ensure availability of lands for residential development, including facilities to meet special housing needs throughout the City. [H Goal 6.4.3]

*Exhibit 8, Staff Report, page 5.*

7. The property is within the City's "Lifestyle District" (LD) zone. The intent of the LD zone is to "[p]romote growth of lifestyle options for seniors in a neighborhood setting that provide a broad range of housing types, services, mobility options and healthcare

facilities to support ‘living-in-place’ through the many stages of senior life.” *SMC 18.20.130*. Permitted uses within the LD zone include detached and attached residences, health care, personal and professional offices, retail/service, public facilities and services, and communication facilities/towers. *SMC 18.20.130*. There are no size or density limitations within the LD zone for residential, health care, public facilities and services, or communication facilities/towers uses. *SMC 18.20.130*. Personal and professional office uses have a size limitation of 10,000 gross square feet, and retail/service uses have a size limitation of 6,000 gross square feet. *SMC 18.20.130*. Maximum building heights in the LD zone vary from 25 feet to 65 feet, depending on the use. *SMC 18.20.130*. Parking requirements in the LD zone are determined with respect to the use and facility, and maximum lot coverage is determined based on the ability to meet stormwater, parking, and landscape requirements. *SMC 18.20.130*. The recorded plat does not include any buffers and does not have any open space and recreation requirements. City staff determined that the proposed alteration would be consistent with the bulk and dimensional requirements applicable to the LD zone, noting that compliance with setback, lot coverage, and building height requirements would be reviewed with the building permit applications for any future buildings proposed for development on the site. *Exhibit 8, Staff Report, pages 3 and 4; Exhibit 10*.

#### Plat Alteration

8. As noted above, the Applicant requests approval to remove a plat note restricting development of a vacant 0.42-acre parcel to professional office or medical/dental clinic uses. The current plat restriction also applies to Parcels A and B-1, which are located to the west of Parcel B-2 and have already been fully developed consistent with the plat restriction. SCC 17.25.050.B provides the criteria for approval of an alteration to a final plat and provides:

The alteration may be approved, approved with conditions or denied after a written determination, with findings and conclusions, is made whether the public use and interest will be served by the alteration. If any land within the alteration area is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots 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 the adjacent properties.

City staff reviewed the proposed plat alteration and determined that it would satisfy these criteria, noting:

- The proposed plat alteration would be consistent with the intent of the LD zone.

- The current LD zoning regulations allow for residences – attached and detached, health care, offices – personal and professional, retail/service, public facilities and services, and communication facilities/towers.
- The proposal would satisfy the standards of the current zoning regulations and the goals and policies of the Comprehensive Plan.
- The land is not part of an assessment district and does not contain any dedications to the general use of persons residing within the subdivision.
- The alteration would serve the public use and interest by allowing it to be development to the underlying zoning requirements.

*Exhibit 8, Staff Report, pages 4 and 5; Exhibit 10.*

#### Testimony

9. City Assistant Planner Travis Simmons testified generally about the proposal and how it would be consistent with the Comprehensive Plan and would meet the criteria for approval of an alteration to the previously approved and recorded final plat. He noted the proposed alteration is to remove a note from the final plat that restricts development of Parcels A, B-1, and B-2 to professional office or medical/dental clinic uses, which would allow the currently vacant Parcel B-2 to be developed consistent with the permitted uses and regulations of the underlying LD zone. Mr. Simmons explained that the LD zone allows for a broad mix of uses, including residential, offices, health care, retail/service, and public facilities. He noted that, apart from the subject parcel, all remaining parcels within the plat have been fully developed. Mr. Simmons stated that the plat note was discovered during a preapplication meeting with the Applicant at which the Applicant indicated a desire to develop the parcel with multifamily housing. He explained that the Applicant's application materials contained all the information required under SCC 17.25.040.B and under RCW 58.17.215, including the signature of the owner of all the residences within the subdivision. *Testimony of Mr. Simmons.*
10. Applicant Caleb Grubb testified that he read comments from members of the community raising concerns about the proposed plat alteration. In response to comments raising concerns that medical/dental clinic uses are needed in the area, Mr. Grubb read aloud a letter from Realtor Brody Broker that asserted there is current lack of demand for such services in the city, as detailed in the findings above. Mr. Grubb explained that the vacant property was on the market for four years before he purchased it, demonstrating that there is no current demand for professional office of medical/dental space in the area, whereas there is a currently unmet need for additional housing options in the city. Mr. Grubb noted that several comments on the proposed plat alteration raised concerns about a specific proposal for an eight-unit apartment building and explained that his current intention is to develop the property with two-bedroom townhomes that would be individually sold. He noted that any future development proposal would be subject to design review and applicable development regulations. With regard to noise concerns, he stated that future development of the property would include fencing and landscaping to

buffer the development from existing residences to the south. He further stressed that the traffic and noise impacts of any future residential development of the site would be comparable to that generated from professional office or medical/dental clinic uses allowed under the current plat restriction. Mr. Grubb stated that the proposal would benefit the community by providing additional housing opportunities that would be more affordable than typical single-family residences in the area. *Testimony of Caleb Grubb.*

11. Lorri Gilchrist testified that she has lived in the city for 20 years and that the area in the vicinity of the subject property is occupied by a community of persons aged 60 and older who generally do not have children residing in their homes. She raised concerns that proposal would allow for the development of housing on the parcel that could accommodate families and therefore generate noise impacting the existing senior community. *Testimony of Ms. Gilchrist.*
12. Ben Grubb testified that he is involved with the project along with his brother, Applicant Caleb Grubb. He stated that he understands the concerns raised by community members about future development of the site but asserted that such future development would not adversely affect surrounding property values, noting that vacant property has a greater adverse impact on property values than developed properties. Mr. Grubb explained that there is no current proposal to include a parking lot and that future development would likely provide driveways to serve townhomes, which should alleviate concerns about parking lot noise. He further explained that current plans have designed yard areas to the north of the townhome structures and away from the existing residential development to the south, which should alleviate concerns about noise from children playing outdoors. *Testimony of Ben Grubb.*
13. Jim Randall inquired about how many units the Applicant intends to develop on the property. He stated that he supports the proposed plat alteration, noting that there is a need for more affordable housing options in the area. *Testimony of Mr. Randall.*
14. Doug Wright reiterated the concerns raised in his written comments and inquired about what the pricing range would be for residential units on the property. He stated that he recognizes the need for more affordable housing in the area but stated that the property should be developed with uses serving the community within the PUD as originally intended. Mr. Wright noted that residential uses of the property could have greater noise impacts than professional office or medical/dental clinic uses because the latter uses do not operate in the late evening and early morning hours. He also raised concerns about the potential view and privacy impacts of future development of the site with multiple story housing units. *Testimony of Mr. Wright.*
15. In response to public concerns and inquires raised at the hearing, Applicant Caleb Grubb testified that his intent is to develop a total of eight market-rate townhome dwelling units

on the property that would be individually owned. He explained that it is too early in the process to determine the likely price range for the townhome units but stressed that his intent is to develop market-rate units, as opposed to “affordable housing” units.

*Testimony of Caleb Grubb.*

#### Staff Recommendation

16. Mr. Simmons testified that City staff recommends approval of the requested plat alteration, with conditions. Mr. Grubb testified that he understands and would comply with City staff’s recommended conditions. *Exhibit 8, Staff Report, page 5; Testimony of Mr. Simmons; Testimony of Mr. Grubb.*

### **CONCLUSIONS**

#### Jurisdiction

The Hearing Examiner is granted jurisdiction to hear and decide applications for an alteration to a final plat. *SMC 2.10.070.B; SMC 17.25.030; SMC 17.25.050; SMC 20.01.100.*

#### Criteria for Review

SCC 17.25.050.B provides the criteria for approval of an alteration to a final plat and provides:

The alteration may be approved, approved with conditions or denied after a written determination, with findings and conclusions, is made whether the public use and interest will be served by the alteration. If any land within the alteration area is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots 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 the adjacent properties.

Alterations to a final plat are also subject to the requirements of RCW 58.17.215, which provides:

When any person is interested in the alteration of any subdivision or the altering of any portion thereof, except as provided in RCW 58.17.040(6), that person shall submit an application to request the alteration to the legislative authority of the city, town, or county where the subdivision is located. The application shall contain the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered. 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.

Upon receipt of an application for alteration, the legislative body shall provide notice of the application to all owners of property within the subdivision, and as provided for in RCW 58.17.080 and 58.17.090. The notice shall either establish a date for a public hearing or provide that a hearing may be requested by a person receiving notice within fourteen days of receipt of the notice.

The legislative body 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, or be levied equitably on the lots 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 the adjacent properties.

After approval of the alteration, the legislative body shall order the applicant to produce a revised drawing of the approved alteration of the final plat or short plat, which after signature of the legislative authority, shall be filed with the county auditor to become the lawful plat of the property.

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

The criteria for review adopted by the Sequim City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

#### Conclusions Based on Findings

**With conditions, the proposal would meet the requirements for a final plat alteration under the Sequim Municipal and under the Revised Code of Washington.** The City analyzed the environmental impacts of the proposed plat alteration, determined that it would not have a probable significant adverse impact on the environment, and issued a Determination of Nonsignificance, which was not appealed. The City provided reasonable notice of the application and opportunity to comment on the proposal and to testify at the open record hearing. The City received several comments on the proposal from members of the public in response to its notice materials, and members of the public provided testimony at the open record hearing. The public comments and testimony on the proposed plat alteration generally raised concerns

that the potential future development of the property that would be allowed without the current plat restriction would be incompatible with the existing neighborhood character and would potentially have adverse noise and privacy impacts on the surrounding senior lifestyle community. It should be noted that there is no specific development proposal currently before the Hearing Examiner in this plat alteration matter and that any potential impacts from a specific development proposal would be analyzed as part of a separate review process. Instead, the Hearing Examiner must determine whether the proposed plat alteration to remove a plat note restricting development of the property to professional office or medical/dental clinic uses would serve the public use and interest.

City staff determined that the Applicant's application materials contained all the information required under SCC 17.25.040.B and under RCW 58.17.215, including required signatures of property owners. City staff also determined that the property is not within an assessment district, and no restrictive covenants have been identified that would be violated by granting the requested plat alteration. The property is designated "Lifestyle District" by the Comprehensive Plan and is within the "Lifestyle District" (LD) zone. The proposed plat alteration would further several goals and policies of the Comprehensive Plan by allowing the currently vacant property to be developed with market-rate multifamily housing within an appropriate location in the city, which would increase the number of housing options and opportunities within the city. The currently vacant property would be well-suited for the broad mix of uses allowed in the LD zone, which include detached and attached residences, health care, personal and professional offices, retail/service, public facilities and services, and communication facilities/towers. Although concerns were raised that the property should remain restricted to professional office or medical dentist uses serving residents of the plat and the surrounding community, the property has remained vacant for several years, indicating that there is not a high demand for such services in the area. In contrast, there is a current demand for more housing options in the city and, therefore, the Hearing Examiner determines that the proposed plat alteration to remove the restriction would be in the public interest. Conditions are necessary to ensure that the Applicant officially records the plat in compliance with municipal code requirements and to ensure that the Applicant obtains proper review and permit approval before commencing any development of the site. *Findings 1 – 16.*

### **DECISION**

Based on the preceding findings and conclusions, the request for an alteration to a final plat to remove a plat note that restricts development of Parcels A, B-1, and B-2 to professional office or medical/dental clinic uses, on the approved and recorded "Revised Plat of Phase One of Hendrickson Park," is **APPROVED**, with the following conditions:

1. The Applicant must have the plat officially recorded in accordance with SMC 17.25.070, which provides:  
After approval of the alteration or vacation, the city shall order the applicant to produce a revised drawing of the approved alteration or

vacation of the short plat, final plat or binding site plan. The council shall authorize the mayor to sign the approved short plat or final plat, and then the city shall file it with the county auditor at the applicant's cost, to become the lawful plat of the property (or to vacate the previously approved plat). The director of the department of community development shall sign the approved binding site plan and arrange for filing with the county auditor at the applicant's cost.

2. Approval of the proposed plat alteration does not allow for construction or development. The Applicant shall submit future plans to the City to obtain necessary permits for development.

DECIDED this 8<sup>th</sup> day of July 2022.



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ANDREW M. REEVES  
Hearing Examiner  
Sound Law Center