

BEFORE THE OKANOGAN COUNTY HEARINGS EXAMINER

IN THE MATTER OF)
DURPOS REZONE AND SUBDIVISION LONG PLAT 2013-3)
VANCE DURPOS)

FINDINGS OF FACT, CONCLUSIONS, AND DECISION

This matter, an application for a 15-lot subdivision and rezone was heard by the Okanogan County Hearings Examiner on January 23, 2014.

FINDINGS OF FACT

1. A complete application for a Zone Map Amendment and Long Plat has been submitted by Vance Durpos. The application was vested as “Durpose Long Plat 2013-3”.
2. The application proposes rezoning property to Urban Residential and subdividing the property for the purpose of creating 15 lots.
3. The subject property is identified by tax parcel number 6510021600.
4. The comprehensive plan designation is “Suburban Residential”.
5. The current zone designation is “Minimum Requirement”. The proposed zone designation is “Urban Residential”.
6. Applications for zone map amendments are processed in accordance with OCC 17.37 “Amendment of Zoning Code”.
7. Applications for long plats are processed in accordance with OCC Title 16 “Subdivisions”.
8. On December 3, 2013 a complete application for a planned development was received and vested.
9. On December 10, 2013 notice of application and threshold SEPA determination was mailed to adjacent landowners and commenting agencies for their respective review and comment.
10. On December 11, 2013 notice of application and threshold SEPA determination was published in the Omak Chronicle (Okanogan County’s periodical of record).
11. On December 26, 2013 the SEPA comment period ended.
12. On December 27, 2013 the final SEPA determination was issued. On January 1, 2014 notice of the final SEPA determination and public hearing was published in the Omak Chronicle (Okanogan County’s periodical of record).
13. On January 16, 2014 the SEPA appeal period ended.
14. On January 15, 2014 3 notices of public hearing were posted on and near the property and 1 notice was posted in the Omak US Post Office.
15. Planning staff testified that due to a rather innocent error, the property was only posted for 8 days prior to hearing, as opposed to 10 days specified in County code.

16. On January 17, 2014 a Staff Report was prepared by the Office of Planning and Development and transmitted to Okanogan County Hearings Examiner. A copy of that report was also transmitted to the applicant.
17. On January 23, 2014 the Okanogan County Hearings Examiner conducted a public hearing for this project. At this hearing, public was given opportunity to enter testimony and written comments into the record.
18. At the hearing Mr. Vance Durpos testified that he was the applicant and further testified that more soils tests had been conducted than described in the Public Health comment letter and that it was his understanding that the lot sizes as presented on the preliminary plan were capable of supporting on-site septic and drainfield systems including required reserve areas. His testimony and all other testimony was made under oath.
19. Adrianna Russell testified that she was a resident of the area and her property “backed up” to the proposed subdivision. She stated she would prefer that no single-wide mobile homes be allowed. Mr. Durpos, on rebuttal, stated that he may or may not be allowing single-wide manufactured homes.
20. Mr. Ben Rough, representing Okanogan County Planning testified that it was his opinion that the contemplated rezone was consistent with the Okanogan County Comprehensive Plan.
21. There was discussion with County staff as to whether §2.65 OCC or §16 OCC apply. The former suggests the decision of the Hearing Examiner is final on matters such as this and the latter suggests that the Hearing Examiner is advisory to the Board of Commissioners, who have final approval authority. On advice of the County Prosecuting Attorney, the Hearings Examiner’s decision is final, provided that decision may be appealed to the Board of County Commissioners as provided in § 2.65 OCC.

CONCLUSIONS

1. An application was submitted by Vance Durpos in order to create a subdivision (long plat) of his property near the City of Omak. The application also includes an application for a rezone to Urban Residential in order to allow creation of 15 conforming lots on 4.33 acres. Vance Durpos is the applicant and landowner.
2. The property is 4.33 undeveloped acres and is Lot 16 Block 2 of the plat of Omak North #1 approved in 1985. This property is accessed from Lindell Road (platted road) which intersects Engh Road approximately ½ mile east of the intersection with Highway 97. The City of Omak municipal boundary is located approximately 500 feet west and 60 feet east.
3. Development of this subdivision will include construction of miscellaneous infrastructure such as improving Lindell road, connection to the Sandflat Water Association Group-A water system, soil evaluation test hole inspections (in preparation of future individual septic systems), installation of various utilities such as electricity and telephone, land survey & monumentation, grading and site preparation, and various other improvements. Some of these improvements are necessary in order to comply with the County’s subdivision requirements while others are not.
4. The Comprehensive Plan designation is “Suburban Residential”. The proposal to amend

Okanogan County's zone map to designate the subject property as "Urban Residential" is consistent with the Okanogan County's Comprehensive Plan.

5. The long plat application and rezone is consistent with the Okanogan County Zone Code, specifically OCC 17.15 "Urban Residential".
6. A final SEPA Determination of Non-Significance (DNS) was issued by the Okanogan County SEPA responsible official in accordance with OCC 14.04 "Environmental Policy". All comments received during the comment period were evaluated for consideration of the final SEPA determination. The final SEPA determination was not appealed and is final.
7. Comments from the public and state, federal, and local agencies were received, reviewed, and considered in analysis of this proposal.
8. The subdivision can be made compatible with the surrounding neighborhood by requiring appropriate conditions of approval.
9. The conditions imposed are not unnecessarily onerous.
10. The conditions imposed will protect public health, safety, morals, and general welfare.
11. All procedural application review requirements have been met thus far in accordance with OCC Title 16 "Subdivisions".
12. There being little public interested expressed in this application, the 2-day error in posting the property appears to be harmless.
13. The Hearing Examiner does not have authority, in the process of review of a subdivision or rezone to dictate that single-wide manufactured homes are not allowed.
14. All procedural application review requirements have been met thus far in accordance with OCC 17.37 "Amendment of Zoning Code".

DECISION

Based upon the information contained in the application materials, and additional information provided at the hearing, the subdivision and rezone is APPROVED, subject to the conditions noted below:

CONDITIONS OF APPROVAL

Zone Map Amendment

1. The applicant is responsible for providing Okanogan County with an accurate legal description & vicinity map in order to accompany the ordinance which will be used to adopt amendments to the County's zone map. The legal description will eventually appear as an appendix to the Okanogan County Zone Code (OCC Title 17).

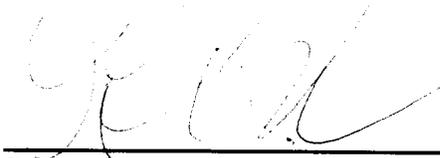
Subdivision

1. All requirements of OCC 16.24 “Final Plats” must be met prior to final approval.
2. Final review shall be administered by the Office of Planning and Development. A final review application fee shall be collected at time of final review. Applicant will submit of a draft (electronic preferred) of the final plat for review. Corrections may be needed. The project planner shall request the final plat when all requirements are met. The final plat shall be submitted on 24"x36" stable base mylar and shall be signed and stamped by a Washington State licensed surveyor. The final plat shall be submitted for approval within the time limits prescribed by RCW 58.17.140 as it exists or is amended.
3. Each landowner of record must sign the final plat. Signatures shall be notarized and include a typical “statement of consent and waiver of claims”. Also, included, will be signature blocks for the following Okanogan County agencies: the Board of County Commissioners, Office of Planning and Development, Okanogan County Public Health, Okanogan County Treasurer, Okanogan County Assessor, Okanogan County Engineer, and the Okanogan County Auditor (for filing purposes).
4. The plat name and project number is “Durpos Long Plat 2013-3”. This must be clearly printed on the final plat. Changes to the plat name must be requested in writing and may be approved as a minor change by the Planning Director.
5. All property taxes and irrigation assessments for the current year, the following year plus an additional 25 percent must be paid in full prior to final approval. The applicant should contact the County Treasurer’s Office directly for an accurate monetary quote.
6. A current subdivision guarantee from an insured title company must be submitted to the Office of Planning and Development and must be no more than 120 days old at time of final approval. The final plat shall include reference to all easements and appropriate exceptions/encumbrances.
7. All existing and proposed easements and right-of-ways must be drawn or referenced on the final plat. Those that cannot be accurately located by survey may be referenced in notes and not depicted.
8. Include the following disclaimers on the final plat. Exact wording of these disclaimers shall be provided by the office of Planning and Development:
 - Right-to-Farm
 - Private Road Waiver
9. The final plat shall clearly identify the lot number and the associated acreage or square footage of each lot.

10. The Okanogan County Assessor's Office will review the final plat prior to approval. The Assessor's Office shall verify current property tax status, and ownership.
11. Each lot must be served by an adequate water supply. Domestic water must be provided by the Sandflat Water Association Group-A water system as identified by the application. The applicant is responsible for submitting appropriate verification to Okanogan County Public Health that Sandflat Water Association is committed to serving an adequate water supply for residential purposes to all 15 lots. This must be completed prior to final approval.
12. Each lot must be capable of utilizing a septic system as proposed within the application. Lots must be of sufficient size to contain an on-site septic system. A soil evaluation test hole inspection (perk test) shall be performed on each lot. Okanogan County Public Health must verify compliance with these requirements prior to final approval. The number of lots may be reduced if necessary to accommodate minimum lot size requirements prescribed by Public Health.
13. Each lot must have legal access for ingress and egress to a public road. Access to each lot shall be provided by roads and access points constructed in accordance with OCC Title 16 and the "Okanogan County Road and Street Standards and Guidelines for Developments". Specifically:
 - a) Provide 2 points of access for all lots to a public road per Chapter 7.2 of "Okanogan County Road and Street Standards and Guidelines for Developments"
 - b) Lindell Road must be constructed to meet category 3 road standards for external roads.
 - c) Mower Road must be constructed to meet category 3 road standards for external roads from the intersection with Lindell Road to the western boundary of proposed lot 15.
 - d) A turnaround area (as identified in the December 24, 2013 comment letter provided by Okanogan County Public Works) is not required due to 2 points of access being provided to Engh Road at intersections with Lindell Road and Bentham Road.
 - e) The final plat shall include a standard statement of "Consent and Waiver of Claims".
 - f) Lindell and Mower Roads were dedicated by the plat of Omak North #1. The Durpos plat shall restate that same dedication for purposes of clarity.
 - g) Provide utility plans and profiles for review by the County Engineer.Compliance with these requirements must be verified by Okanogan County Public Works prior to final approval. Any changes of how access shall be provided to all lots will require review by the Office of Planning and Development and the County Engineer. Additional requirements may be determined for those changes.
14. It is the landowner's responsibility to control noxious weeds. The applicant shall prepare a long term noxious weed control plan and coordinate review of the plan with the Okanogan County Noxious Weed Office prior to final approval.

Approved, this 27th day of January, 2014.

OKANOGAN COUNTY HEARING EXAMINER



DAN BEARDSLEE

Any aggrieved party of record that believes the final decision of the examiner is unsound based upon errors in procedure, law, interpretation of adopted policy, fact, judgment, or the discovery of new factual evidence which, by due diligence, could not have been found prior to the examiner hearing may make a written request for reconsideration by the examiner within 14 days of the filing of the written record of decision. The request for reconsideration shall be submitted to the planning department on forms provided by the department. Reconsideration of the decision is wholly within the discretion of the examiner; if the examiner chooses to reconsider, he may revise the decision as he deems appropriate, and may issue a revised record of decision within 10 days of the reconsideration heard by the examiner. A request for reconsideration is not a prerequisite to an appeal.

Any aggrieved party of record has twenty one (21) days from the issuance of this decision to file an appeal with the Okanogan County Board of Commissioners as provided in §2.65 of the Okanogan County Code.

Anyone considering a request for reconsideration or appeal of this decision is encouraged to seek legal advice.