

**BEFORE THE LAND USE HEARING EXAMINER
FOR THE CITY OF CAMAS, WASHINGTON**

Regarding an application by Modern Dwellings LLC, for approval of a preliminary plat to divide 6.08-acres into 18 lots in the R-7.5 zone at 1811 NW Hood Street, in the City of Camas))))	FINAL ORDER ON <u>RECONSIDERATION</u> File# SUB22-01 (Hood Street Subdivision)
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A. SUMMARY

1. On September 7, 2022, City of Camas Hearing Examiner Joe Turner (the "examiner") issued a Final Order approving this application subject to conditions (the "Final Order"). CMC 18.55.235 provides that any party may request reconsideration of the examiner's decision if they believe that the examiner's decision is "[b]ased on erroneous procedures, errors of law or fact, or the discovery of new evidence which could not be reasonably available at the public hearing..."

2. On September 20, 2022, Christopher and Susan Reive ("Petitioners") filed a request for reconsideration of the examiner's Final Order. The applicant's attorney submitted a written response to the reconsideration request on September 21, 2022.

3. Based on the findings provided or incorporated herein, the examiner denies Petitioners' reconsideration request.

B. DISCUSSION

1. CMC 18.55.235 provides:

Any party of record believing that a decision of the hearings examiner is based on erroneous procedures, errors of law or fact, or the discovery of new evidence which could not be reasonably available at the public hearing, may make a written request to the examiner, filed with the city clerk, to be accompanied by an appeal fee, for reconsideration by the examiner.

- A. Time Frame. The request for reconsideration shall be filed within fourteen calendar days of the date the decision was rendered.
- B. Content. The request for reconsideration shall contain the following:
 - 1. The case number designated by the city and the name of the applicant;
 - 2. The name and signature of each Petitioner;
 - 3. The specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error. If Petitioner wants to introduce new evidence in support of the appeal, the written appeal must explain why such evidence should be considered.
- C. The hearings examiner may, after review of the materials submitted in conjunction with the reconsideration request, and review of the open record hearing transcript, take further action as he or she deems

proper; including, but not limited to, denying the request, modifying the decision, or affirming the decision.

- D. The hearings examiner shall issue a decision on a request for reconsideration within forty-five (45) days of the filing of the request for reconsideration. When a request for reconsideration has been timely filed, any appeal to Clark County Superior Court under the Land Use Petition Act shall be filed within twenty-one (21) days after a hearings examiner issues its decision on the request for reconsideration.

2. The examiner finds that Petitioners are parties of record. Petitioners participated in review of the original application, submitting oral and written testimony into the record.

3. Petitioners filed the request for reconsideration on September 20, 2022, within the 14-day deadline established by CMC 18.55.235.A. The request for reconsideration includes Petitioners' names, is signed by Petitioners, and specifies which aspects of the decision are being appealed. Therefore, the examiner finds that the request complies with the procedural requirements of CMC 18.55.235.

4. Petitioners argue that proposed Tract I is a "lot" as defined by RCW 58.17.020(9) and therefore, Tract I is subject to the "beveling" standards of CMC 18.09.080.B.

5. CMC 18.03.040 provides the following relevant definitions:

"Tract" means an area dedicated to such things as streets, easements and uses out of character with the principal use, but within a unit of area being measured. Tracts may include critical areas, storm ponds, and forestlands, parkland and other open space. Tracts shall not be considered lots for the purpose of determining short plat or subdivision status. Tracts shall not be considered buildable lots of record.

"Lot" means a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include parcels.

6. Based on the text of the Code, the dimensional standards of CMC 18.09.040 and the "beveling" standards of CMC 18.09.080.B only apply to "lots."¹ Tracts are not subject to those standards. The Code does not provide dimensional standards for "tracts," with the exception of access tracts subject to CMC 17.09.040.B(8).

7. The examiner finds that proposed Tract I is proposed as an open space tract, not a lot, as defined by CMC 18.03.040. Tract I is intended to provide a common open space area within the proposed development. It does not have "[s]ufficient area and dimension

¹ CMC 18.09.040.A refers to "Standard New Lots." CMC 18.09.040.B refers to "Density Transfer Lots." CMC 18.09.080.B refers to "new lots."

to meet minimum zoning requirements for width and area.” Therefore, proposed Tract I is not subject to the dimensional standards of CMC 18.09.040 or the “beveling” standards of CMC 18.09.080.B.

a. The state law definitions in RCW 58.17.020 are inapplicable. As the applicant notes, “[R]CW 58.17.030 and .060 specifically authorize the City to adopt regulations for subdivisions and short subdivisions. The regulations adopted by the City treat lots and tracts differently for purposes of meeting criteria for minimum area and width.”

b. Petitioners are correct that the examiner erroneously stated that “Proposed Tract “I” *is* located between Lot 9 and the abutting property.” (Section C.3.a of the Final Order. Emphasis added). That sentence should have stated that “Tract I *is proposed to be* located between Lot 9 and the abutting property.” Tract I is proposed as part of this application. It does not currently exist. However, that error does not affect the examiner’s decision or the above analysis.

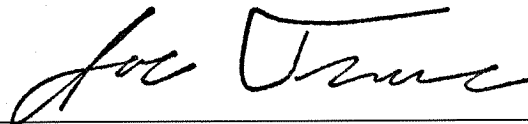
D. CONCLUSION

Based on the above findings and discussion, the examiner concludes that Petitioner’s reconsideration request does not comply with the requirements of CMC 18.55.235. Specifically, Petitioner failed to allege any sustainable erroneous procedures, or errors of law or fact. Therefore, the examiner should deny the remainder of Petitioner’s motion for reconsideration.

E. DECISION

Based on the findings, discussion, and conclusions provided or incorporated herein and the public record in this case, the examiner hereby denies Petitioner’s reconsideration request.

DATED this 31 day of October 2022.



Joe Turner, AICP
City of Camas Land Use Hearing Examiner