



City Council Agenda Bill

20309

Bill Number

Subject: Hearing Examiner annual report to Council

Summary Statement: Attached is the Annual Report to City Council of the Hearing Examiner for 2013 per BMC 2.56.060. It summarizes cases decided, highlights issues raised in the course of applications considered, offers recommendations regarding those issues, and reports on other work performed by the Hearing Examiner.

Previous Council Action: Annual Presentation

Fiscal Impact: \$215,000.00

Funding Source: General Fund

Attachments: Annual report for 2013.

Meeting Activity	Meeting Date	Staff Recommendation	Presented By	Time
Committee Briefing Information Only	10-Feb-2013	Information Only	Dawn Sturwold, Hearing Examiner	00:15

Council Committee:

Agenda Bill Contact:

Kristi Bowker, Assistant to the Hearing Examiner

Committee Actions:

Committee of the Whole
Cathy Lehman, Chair

Council Action:

Reviewed By	Initials	Date
Hearing Examiner	DS	1-29-14
Legal	DMM	2-4-14
Mayor	KL/BL	2/4/14

Bellingham Hearing Examiner
ANNUAL REPORT TO CITY COUNCIL
2013

CASES DECIDED

1. Greenleaf Short Plat & Variance

The Applicants applied for approval of a two-lot short plat with variances from lot width and rear yard setback requirements for property located at 701 W. Illinois Street. The lots in this area were platted in 1889 leaving a strip of unplatted land adjacent to Illinois Street. The street was constructed after platting, taking a portion of the unplatted land. This left the subject property with dimensions that are insufficient to satisfy current lot width requirements for subdivision. The property contains one existing house that was constructed prior to zoning regulations. The Applicants requested variances to allow a corner lot width of approximately 49 feet and a rear yard of approximately four feet. City staff recommended approval of the short plat and variances. One comment was received from a neighbor expressing concerns for stormwater impacts and neighborhood character. The short plat was approved with the variances due to the unusual platting circumstances, the orientation of the proposed lots and the conformity to established development pattern in the area.

2. Garden Gate Development Street Construction Variance

The Applicants applied for a variance from the requirement to construct Lafayette Street abutting property on which they propose to construct two single-family residences. A variance had previously been granted to allow the construction of four residences on the property without constructing Lafayette Street. This variance expired. Lafayette Street abutting this property is adjacent to a bluff and greenbelt/city trail. The proposed access for the property is from the abutting alley. The alley would be improved and a portion of trail would be constructed within the Lafayette Street right-of-way. No other properties require the construction of Lafayette Street for access. The variance was granted subject to conditions, including alley and trail construction in accordance with plans approved by City departments, and vehicular access restrictions on the Lafayette Street right-of-way.

3. 1100 21st Street Variance

The Applicant applied for a variance from lot width requirements to divide property located at 1100 21st Street into two lots. The property is in the Happy Valley Neighborhood and contains a house that was constructed in 1909. The existing house is nonconforming to front and flanking side yard setbacks. The requested variance would not result in further encroachment, but would allow a detached interior lot with a width of 40 feet and a corner lot containing the existing house with a width of 45 feet. The property could be divided into two attached lots without a variance. City staff recommended approval with conditions. Neighbors expressed a number of concerns including stormwater, traffic and damage to a mature elm tree on the property. The variance was approved subject to conditions, including vehicular access restrictions, landscaping, mature tree retention, low-impact development techniques, stormwater mitigation, removal of structures straddling property lines, a survey, and critical areas ordinance compliance.

4. 1201 Northshore Drive Variance

The Applicants applied for a variance from front yard setback requirements to construct a shed and covered patio on their property at 1201 Northshore Drive. The property contains an upland portion containing a house and a secondary portion adjacent to the Lake Whatcom shoreline. The patio and shed would be constructed on the lakefront portion of the property. Application of setback regulations would allow a buildable area of approximately 30 square feet. Other properties in the area have similar lakefront portions with structures similar to those proposed by the Applicants. City staff recommended approval with conditions. Supportive comments were received from neighbors. The variance was granted subject to conditions, including location of the proposed structures, compliance with shoreline and stormwater regulations, setbacks from the existing conservation easement on the property, continued consolidation of the property, and conformance to submitted plans.

5. Powell/Verona Street Construction Variance

The Applicants applied for variances from street and sewer construction requirements to construct a residence at the intersection of Powell and Verona Streets near Old Lakeway Drive. Neither street abutting the subject property is improved. The Applicants proposed to construct Powell Street and a sewer main abutting a portion of their property, leaving the remainder of the right-of-way as green space. Existing residences across Verona Street from the subject parcel developed without improving the street, with vehicle access from an alley. Other undeveloped properties in the area would also require construction of Powell Street as a condition of development. The grade of the Powell Street right-of-way is slightly under the maximum grade allowed for city streets. Wetlands are present on a portion of the right-of-way near the property. City staff recommended denial of the variances. A property owner across the right-of-way also objected to the variances. The sewer construction variance was denied. The street construction variance was granted in part, subject to conditions, and provided the Applicants reached agreement with the owners of other properties fronting on the street regarding responsibility for future construction of the street or provide a financial participation agreement with bonding for future construction.

6. Woodstock Farm Critical Areas Variance

The City Parks Department applied for a variance from critical areas regulations to replace a failing on-site septic system at Woodstock Farm on Chuckanut Drive. The property is located about a half mile from the closest sewer main. 93% of the property is within a geologically hazardous critical area or buffer. The existing septic system had failed and was irreparable. The proposed replacement system would be located outside the shoreline jurisdiction but partially within a wetland buffer area. The proposal satisfied the variance criteria and minimized impact to the critical areas located on the property. The variance was approved subject to approval of a critical areas permit, compliance with the recommendations of the geologically hazardous area assessment and utilization of best available science and methods.

7. Berglund Short Plat Street Construction Variance

The Applicant applied for a variance from street construction requirements to short plat property located at 1223-1241 Verona Street into three lots without improving Verona Street abutting the property. The Verona Street right-of-way abutting the property is densely vegetated. Other properties fronting on the street are accessed from the alley. The Applicant stated that

Verona Street had not been constructed due to the steep slope and a sandstone formation. City staff recommended approval of the variance with conditions. The variance was approved subject to conditions, including approved emergency access, installation of a fire hydrant, and street signage.

8. Iris Lane Critical Areas Variance

The Applicants applied for a variance from critical areas regulations to construct a residence at 1448 Iris Lane. The property is adjacent to the Fairhaven Highlands property now owned by the City. It is entirely within the buffer for the Category I wetlands located on the City-owned property. All of the other properties within the buffer west of the City property were developed prior to the wetland delineation. This property is located downhill of the wetland so that development on the property will not impact water quality, water storage or loss of shading for the wetland. It was previously cleared and graded and contains no habitat features. City staff recommended approval of the variance subject to conditions. Public comment was received opposing the proposal and development of the property. No reasonable use could be made of the property without a variance. The variance was granted subject to conditions, including mitigation as recommended in the Site Assessment and Mitigation Plan and compliance with a critical areas permit.

9. 114 Park Place Variance

The Applicant applied for a variance from front yard setback requirements to enclose an existing carport and construct a second-story addition to the existing single-family residence at 114 Park Place in the Silver Beach Neighborhood. Variances were previously granted, between 1977 and 2003, for the construction of the residence, a second-story addition, and the carport. This proposal would enclose the carport, converting it to a garage, and add 176 square feet to the second-story above the carport. The proposed construction would not add any impervious surface or extend the footprint of the structure. City staff recommended approval of the variance with conditions. One public comment was received objecting to the proposal. The variance was granted subject to conditions, including obtaining a determination from a qualified professional that no additional phosphorus or fecal coliform loading would result from the proposal, consistency with submitted plans, maintenance of at least two parking spaces within the garage, and compliance with conditions previously imposed on the property.

10. Halice Court Preliminary Plat

Applicants applied for preliminary plat approval for a 20-lot cluster plat on property located at 629 E. Bakerview Road. The property is located just west of the Bakerview Nursery property. It contains one single-family residence at the end of a long driveway. A new street would be constructed in the location of the existing driveway for access to the new lots. New street construction would also provide connectivity to the east and west. Variances were requested from street width and sewer main requirements. Open space tracts would contain Cammack Creek, a wetland, and required buffers. City staff recommended approval of the plat with variances from public sewer main abutment for six of the lots and reduction in the required street width from 60 feet to 50 feet with five-foot easements on either side of the street. Property owners to the east and west objected to the street providing a connection to their properties. They indicated that they did not intend to develop their properties in a manner that would utilize the connection, and that a through connection to Bellis Fair Parkway and Deemer Road would

provide better opportunities to improve the circulation system. The plat was approved with variances for street width and full sewer main abutment subject to conditions, including private sewer services for each of the lots that would not abut a public sewer main, sidewalks on both sides of the street, a minimum of 15% open space, consistency with the critical areas permit issued for the property, time restrictions on heavy equipment work, impact fees, a 10-foot dedication for E. Bakerview Road, infrastructure in accordance with approved plans, marking of property boundaries to prevent trespassing on adjacent property and conformity to submitted plans.

11. 2070 Fairhaven Avenue Variance

The Applicant applied for a variance from front yard setback requirements to construct an accessory building and a carport in the location of an existing cabin on the property. Demolition of the cabin would resolve enforcement issues relating to its use as an unpermitted accessory dwelling unit. The property contains steep slopes and critical areas buffers adjacent to Chuckanut Creek. Location of the proposed accessory building within the front yard setback would avoid construction within the critical area buffer. City staff recommended approval subject to conditions. A public comment opposed the request. The variance was granted subject to conditions, including restrictions on the design and location of the accessory building, carport and open parking, screening, and limitation on uses.

12. King Mountain Preliminary Cluster Plat

The Applicant applied for preliminary plat approval for a cluster plat with 107 single-family lots, one multi-family tract, and reserve and open space tracts on approximately 33½ acres in the 4300 block of James Street. Variances were requested to allow residential street widths of 50 feet with five-foot easements on both sides of the street, and sidewalks on only one side of cul-de-sacs. James Street would be improved as a secondary arterial through the plat and would connect through property to the north and west to Van Wyck Road with future development. City staff recommended approval of the plat subject to conditions. The Applicant objected to some of the staff-recommended conditions including design standards for open space tracts and retaining walls, street tree location, and landscaping requirements. Public comments expressed concerns regarding traffic, stormwater, density, wetlands, clearing and other impacts on neighboring properties. The plat was approved, subject to conditions, with variances for reduced right-of-way width for residential access streets and sidewalks on one-side only of one of the cul-de-sacs. A variance was denied for one-side only sidewalks on Road C, which would connect to another property. Conditions include restriction of vehicular access to James Street, compliance with the conditions required at time of annexation, easements necessary for a new water reservoir site, critical areas permit compliance, design standards for retaining walls and open space tracts, trail connections where appropriate, street trees along James Street and residential streets, and landscaping for the stormwater tract. A planned development permit and design review will be required prior to development of the multi-family tract.

13. 244 N. Garden Terrace Variance

The Applicants applied for a variance from rear yard setback requirements to convert a carport into a garage to resolve a code enforcement matter. The attached carport was constructed at least 25 years ago, about the time the house was constructed. It is located approximately nine feet from the Garden Terrace alley right-of-way. The required setback for a garage with an

access door parallel to the alley is 10 feet. In this case, the alley is used as the principal access for the residences on Garden Terrace. Due to topographical constraints on the property the variance was granted subject to conditions, including installation of mirrors to provide visibility for traffic on Garden Terrace of vehicles backing out of the garage, and obtaining all necessary permits for construction performed without permits and work necessary to complete the project.

14. 1828 Franklin Street Variance

The Applicant applied for a variance from setback and landscaping requirements for property located at 1828 Franklin Street to change the use to retail auto sales. The Applicant proposes to install landscaping within the right-of-way adjacent to the front property line instead of on the subject property. The property is designated Industrial. There are no front setback requirements for structures except that parking facilities must be located at least five feet from the front property line. It was not clear whether the requested variance was necessary since the Applicant indicated the area adjacent to the front property line was used for the display of vehicles for sale, a use specifically excluded from the definition of parking facility, and the use of the property had not changed. The variance was granted, if determined to be necessary, subject to conditions, including installation of landscaping in accordance with an approved plan along the frontage of the property not used for ingress/egress.

15. 2610 Franklin Street Variance

The Applicant applied for a variance from side yard setback requirements to enclose a carport attached to an existing residence at 2610 Franklin Street. The existing residence was built prior to setback regulations. The residence and carport are nonconforming to the current setback requirements. Other properties in the area have similar encroachments into the setback area. Due to the orientation of the abutting lot the side yard encroachment is adjacent to the rear yard of the abutting lot. City staff recommended approval of the variance. One comment was received opposing the variance. The variance was granted subject to conditions, including a survey, provision of a parking space at the rear of the property, demolition of a shed, and compliance with fire separation regulations and all other code requirements.

16. 800 Block Bennett Avenue Variance

The Applicants applied for a variance from street construction requirements to construct a single-family residence on property in the 800 block of Bennett Avenue, between 19th and 20th Streets. Bennett Avenue in this location is steeply sloped and unimproved. It abuts the Lowell Park Open Space. The Applicants propose to access their property from a driveway extending from 19th Street and within the Bennett Avenue right-of-way to the northerly portion of their property. City staff supported the request. Much public comment was received expressing concerns about impacts on the Lowell Park Open Space, avoidance of the unimproved alley that served as a garden for the neighbors, and suggesting construction of access from 20th Street. The variance was granted subject to conditions including design, location and construction of the access in accordance with plans approved by Public Works and Fire Departments, relocation or reconstruction of any park facilities displaced or damaged by the construction, avoidance of impacts to mature vegetation, and compliance with stormwater requirements as though the variance had not been granted.

17. 801 Orchard Drive Conditional Use Permit

The Applicant applied for a Conditional use Permit to operate a pet crematory in an existing building at 801 W. Orchard Drive. The site is in the middle of an industrial park, approximately 500 feet from the nearest residence. The use requires a permit from the Northwest Clean Air Agency. It is estimated that it would generate less than ten trips per day. City staff recommended approval subject to conditions. No public comment was received. The permit was granted subject to conditions, including consistency with submitted materials, limitation of the use to cremation of pet animals, screening of the facility, and compliance with all applicable regulations.

18. 1213 18th Street Utility Hearings Board Appeal

The Appellant appealed the denial by the City's Utility Hearings Board of his request for relief from billing for back-charges for water and sewer services for his residence. Due to billing errors the Appellant had been undercharged for water and sewer fees since establishment of the account in May 2006. The errors were discovered during an account audit in June 2013 and the Appellant was billed for \$2,454.63. Water and sewer charges are established by ordinance and totaled approximately \$78.00 per month in 2013 for unmetered residential service (including the watershed fee). The Appellant had paid bills showing amounts due between \$12.00 and \$17.00 per month. The Utility Hearings Board denied his request because it determined it had no authority to reduce the charges due to errors in billing. The Appellant argued that he did not receive the same services as other customers since he did not receive accurate billings and that payment of the back-charges would be an undue burden that he had not budgeted for. Based on Washington statutory and case law the appeal was denied. The Appellant has been offered a payment plan to pay the back-charges over a three-year period.

19. 1108 Inverness Lane Critical Areas Variance

The Applicant applied for a variance from critical areas and setback regulations to construct a residence at 1108 Inverness Lane. The subject lot was created in 1981. It is the last undeveloped lot in the area. Neighboring properties were developed in the 1970's and 1980's. The property slopes down to Cemetery Creek to the east. Slopes in excess of 40% are located within 50 feet of the proposed residence. Application of the setbacks and buffers from the creek and slopes would render the lot unbuildable. City staff recommended approval of the variances subject to conditions. Public comment opposed the variances stating that the proposed location of the residence and driveway would not allow adequate parking on the site and the shallow front yard would not be in keeping with other homes on the cul-de-sac. The proposal would shift the structures toward the front of the lot and away from the critical areas, minimizing the critical areas impacts. The variances were approved subject to conditions, including a survey, a minimum 50-foot buffer from the creek, at least a 10-foot setback for structures from the edge of the buffer, permanent signage and fencing adjacent to the habitat conservation buffer, a conservation easement to protect the buffer, compliance with recommendations contained in the critical areas reports, and compliance with conditions of a critical areas permit.

20. University Ridge Planned Development

Ambling University Development applied for Planned Development and Design Review approval, a height variance and a critical areas permit to construct and operate purpose-built student housing, consisting of four 58-foot high buildings with 164 units with either two or four

bedroom/bathroom suites, kitchen and living space. A clubhouse would also be located on the property. The total number of bedrooms proposed was 576. A total of 432 parking spaces was proposed for the development. The property is approximately 11 acres in size with steep slopes and a Category I wetland buffer, located in the Cedar Ridge Plat, between Nevada and Puget Streets, north of Consolidation Avenue, in the Puget Neighborhood. The area is zoned Residential-Multi, Planned, 5,000 square feet per unit. The remainder of the Cedar Ridge Plat was developed between 1994 and the present with single-family residences. The subject parcel was reserve Tract F. The proposed use for the property was for off-campus, privately operated, dormitory use to house college students. A height variance was required to locate two of the buildings, which exceeded the 35-foot height limitation, within 200 feet of the property lines abutting residential property not designated Planned. One of the buildings would be located below the slope just west of Puget Street. Wetland buffer averaging was proposed for the northern portion of the site. Consolidation Avenue would be constructed to ¾ standard to the development entrance. Because the Applicant proposed to rent the four bedroom units to four students and not to persons meeting the definition of "family" staff interpreted the use as a boarding and rooming house. This use would be a Conditional Use in areas not designated Planned. The Cedar Ridge Plat specifies that 176 units may be permitted on the site. City staff recommended approval of the proposal subject to conditions, including a covenant to restrict occupancy of the units and to modify the buildings to conform to code if it ceased to be used for boarding and rooming houses, as well as enforcement provisions and active management requirements. A great deal of public comment was generated by the proposal. Concerns were expressed regarding traffic, inadequacy of the traffic study, insufficient parking, lack of a secondary access, noise, and other detrimental impacts on the surrounding neighborhood. The boarding and rooming house use of the site was denied. Development with up to 176 multi-family dwelling units containing no more than three bedrooms was approved subject to a number of conditions, including limitation on occupancy of the units to one family (no more than three unrelated individuals), if used for purpose-built student housing as proposed professional, on-site management, a no-tolerance policy for unacceptable behavior, provision of a shuttle service for residents, and parking spaces at a ratio of at least 0.75 per resident/staff; limitation of the peak height of the building within 200 feet of Puget Street to the Puget Street elevation, limitations on outdoor facilities, landscape screening, a pedestrian footpath within or adjacent to the Consolidation Avenue and Puget Street rights-of-way, compliance with codes, and additional critical areas analysis.

21. 2400 Lafayette Street Conditional Use Permit

The Applicant applied for a conditional use permit to expand a non-conforming use and structure located at 2400 Lafayette Street. The Applicant proposes to add 171 square feet to a detached accessory dwelling unit on property designated Residential Single. The guest house on the property has been used as a separate dwelling unit since the early 1950s. The property owner is living in the structure while the main house is being remodeled. The addition to the guest house would be consistent with the character of the neighborhood, with multiple gables and architectural details and would upgrade the existing dwelling unit. City staff recommended approval of the permit. Public comments were received both supporting and opposing the proposal. The conditional use permit was granted subject to conditions, including consistency with the submitted plans, owner-occupancy of at least one of the units on the property, and compliance with all code and permit requirements.

22. 1700 Block 40th Place Street & Sewer Variance

The Applicant applied for a variance from requirements to construct street and sewer main improvements across the frontage of property located in the 1700 block of 40th Place. The Applicant proposes to construct a single-family residence without improving 40th Place abutting the property and to provide sewer service through a side sewer connection at 40th Street and Donovan Avenue. Variances were granted to other properties in the area allowing the construction of houses without improving the street and sewer main. A driveway currently exists within the 40th Place right-of-way. 40th Place is a remnant right-of-way left unimproved after 40th Street was realigned through the Samish Highlands subdivision. It is unlikely to serve more than three residences. The closest sewer main is more than 200 feet away from the subject property. The Applicant could choose to install a septic system, but prefers to connect to the sewer. Allowing a side sewer connection in lieu of a septic system would benefit the environment. Neighbors supported the proposal. The variances were granted subject to conditions, including limitation to one single-family residence on the property, providing access meeting Fire Department standards, connection to the city sewer main, property owner responsibility for maintenance of the driveway and side sewer, and a financial participation agreement for any future improvement to 40th Place.

23. Bakerview Gateway Street Vacation

Applicants petitioned for the vacation of an unnamed right-of-way north of W. Bakerview Road between Dover Street and Pacific Highway. The 630-foot long right-of-way is unimproved. It was dedicated as a condition of a binding site plan. Other routes have been identified to connect to Pacific Highway. The Technical Review Committee determined that the right-of-way is not needed for circulation purposes. The petition was recommended for approval subject to dedications of new rights-of-way providing alternate connections.

24. Port of Bellingham Street Vacations

The Port and other property owners petitioned for the vacation of various rights-of-way within the Waterfront District as part of the New Whatcom/Waterfront District Redevelopment Project. The rights-of-way were determined to be not necessary for circulation. Public comment questioned the process and the lack of complete information regarding the proposal. The vacations were recommended for approval subject to adoption of the Waterfront District Sub Area Plan and Inter-local Agreement, transfer or dedication of equivalent value of land or right-of-way, retention of utility easements, and payment for the portion of G Street that would be transferred to the abutting private property owners.

25. 300 E. Sunset Drive Conditional Use Permit & Variance

The Applicant applied for a conditional use permit and variance to add floor area to an existing non-conforming business at 300 E. Sunset Drive. The property is zoned Residential Single but has been used for commercial purposes since 1933. It has been used as a mini-mart since 1947. The Applicant proposes to use the property for a pharmacy/grocery store. About 400 square feet of floor area would be added, partially within the front yard setback, and additional parking would be located on the east side of the building. The addition would fill in a corner of the structure. It would not extend further into the front setback than the existing front wall, but would extend the front portion of the structure to the east. City staff recommended approval of the permit and variance. Public comments were generally in favor of the proposal.

The permit and variance were approved subject to conditions, including installation of a solid fence and landscape screening along the eastern property line, restricting access to one curb cut, closing other curb cuts, landscaping on the west and north sides of the building, landscaping abutting parking areas, and street trees.

26. 2305 Alabama Street Short Plat & Variance

The Applicant applied for a two-lot short plat and a variance from lot width requirements for property located at 2305 Alabama Street. One lot would contain an existing residence. Each of the lots would have approximately five feet less width than is required, 60 feet for the interior lot and 70 feet for the corner lot. The property consists of three platted lots that are 40 feet wide. Other developed properties in the area consist of a single 40-foot wide lot. City staff recommended approval. No public comments were received. The short plat and variance were approved subject to conditions, including restrictions on use, removal of structures that would encroach into required setbacks, stormwater mitigation, and compliance with other short plat requirements.

ISSUES PRESENTED

1. Street Connections to Undeveloped Properties

The Halice Court Preliminary Plat presented an issue regarding street connections to abutting, undeveloped, or underdeveloped properties. This plat provides a street connection to the east and west. The owners of the properties to the east and west objected to the connection, indicating that they would not develop their properties in a manner that utilized this connection. Without a development plan or proposal for the abutting properties it is difficult to determine the most appropriate locations and routes for these connecting streets.

2. Street construction Requirements for Sensitive Properties

The variance request for the property in the 800 block of Bennett Avenue presented issues regarding development of properties located in sensitive areas, in this case an area with steep slopes and adjacent to a park/natural area. A variance was requested to avoid street construction on steep slopes and in a manner that would damage the park. One alternative would have constructed access within an unimproved alley that bisected a neighbor's property. The most feasible alternative was driveway access within the street rights-of-way with conditions to mitigate impacts on the park.

3. Billing Errors and Back-charges

The Utility Hearings Board appeal involved legal issues regarding responsibility for payment of utility charges which were erroneously not billed in a timely manner. Errors in billing were discovered during an audit. Statutory and case law require collection from the customer, even though the customer was not responsible for the billing error.

4. Purpose-built Student Housing

A number of issues were presented by the University Ridge proposal for student housing at Consolidation Avenue near Nevada Street. Staff interpreted the proposed use as a Boarding and Rooming House because the occupants of the units would be individuals that would not fall

within the definition of "family". The proposed units would contain complete living facilities, including bedrooms, bathrooms, a kitchen, living room, deck and laundry. It was argued that those uses listed as Conditional Uses within the Residential use type, including Boarding and Rooming Houses, were uses permitted outright in Residential Planned areas. Uses other than single-family residences within a Planned area require Planned Development approval. The Planned Chapter states that those uses listed as Permitted or Conditional Uses may be allowed, and uses which are deemed inappropriate for the site may be prohibited. To determine whether a use listed as Conditional was appropriate for the site the Conditional Use criteria were considered. The decision determined that the proposed Boarding and Rooming House use was not appropriate for the site. Modification of the proposal to limit the units to no more than three bedrooms was required and occupancy limited to individuals meeting the definition of "family", which includes no more than three unrelated individuals. Purpose-built student housing located off-campus and operated by private companies not affiliated with the college or university is a new trend, not anticipated by the zoning code. Additional policy guidance regarding appropriate locations and conditions for these facilities would be helpful.

5. Development of Reserve Tracts

Another issue raised by the University Ridge proposal involves the manner in which the underlying plat was approved and the property developed. The Cedar Ridge Plat, originally Hawley's Replat, was approved in 1994 with 64 single-family lots, one duplex lot, one tri-plex lot, one four-plex lot, a 50 unit multi-family tract, a 15 acre open space tract, and a tract labeled "Future Development" with no specified unit count. The Preliminary Plat Resolution indicated that additional public review would be required prior to development of the "Future Development" tract. The entire plat contained nearly 47 acres and could accommodate 406 units under the RM Planned, 5,000 square feet per unit density. The first phase consisted of seven single-family homes on Nevada Street. When Division II of the plat was finalized in 2002, the plat map recorded with the Whatcom County Auditor shows the future development tract, Tract F, as a future multi site with a notation of 176 units. The duplex, tri-plex, and multi-family tracts of the plat were amended in 2004 to allow for development of single-family attached, cottage, carriage and townhouse residences on separate lots as an alternative to condominium or apartment development. The result of this platting history is that single-family residences were constructed on the multi-family zoned parcel over a 20-year period, utilizing a small portion of the density assigned to the plat, leaving the most environmentally sensitive section of the property, constrained by steep slopes and wetland buffers, to absorb the population projected for the area. The single-family neighborhood that developed around the site is naturally concerned about maintaining the character of their neighborhood and avoiding the impacts of higher density development.

OTHER WORK PERFORMED

1. Counsel to Civil Service Commission

The Hearing Examiner serves as the legal counsel to the Civil Service Commission and attends Commission meetings and hearings.

2. Municipal Court Judge Pro Tem
The Hearing Examiner serves as a Judge Pro Tem in Municipal Court, filling in for the Judge and Commissioner as needed.
3. Vehicle Impound Hearings
Conduct hearings and issue decisions pursuant to State law and City ordinance regarding vehicles impounded by the Bellingham Police Department.
4. Property Forfeiture Hearings
The Hearing Examiner hears challenges to the seizure and forfeiture of vehicles and other property allegedly resulting from drug or other illegal transactions, as referred by the Police Chief.
5. Animal Control
The Hearing Examiner hears appeals from animal control decisions such as dangerous dog declarations and mandatory spay/ neuter requirements.
6. Other Duties as Specified in BMC 2.56