



City Council Agenda Bill

20337

Bill Number

Subject: Closed record hearing and consideration of an ordinance for Kulshan Community Land Trust (KCLT) to use the Demonstration Program for Innovative Permanently Affordable Homeownership (Program) code to build three affordable homes

Summary Statement: KCLT has applied to use the Program, Bellingham Municipal Code (BMC) Chapter 20.27, to increase the allowed density of a property at 2939 Lafayette Street by 50%. The proposal includes a three lot short plat and construction of permanently affordable homes in the form of two attached single family units and a detached single family unit. The Planning Director has approved a multifamily design review permit for the proposed building design. The Hearing Examiner held a public hearing on 2/12/14 and recommended approval of the ordinance with conditions.

Previous Council Action: None

Fiscal Impact: Proposal is part of regular staff work. Potential for increase in City revenue through development fees. The City has allocated \$77,527 of federal HOME Investment Partnership funds for this project.

Funding Source: General fund for staff time and federal HOME Investment Partnership funds

Attachments:
 Attachment A - Ordinance
 Attachment B - Hearing Examiner Findings of Fact, Conclusion of Law and Recommendation
 Attachment C - Hearing Examiner Staff Report
 Attachment D - Hearing Examiner Meeting Minutes

Meeting Activity	Meeting Date	Staff Recommendation	Presented By	Time
Closed Record Hearing	3/10/2014	Pass Ordinance	Lindsay Kershner, Planning and Community Development	5 minutes

Recommended Motion: .

Council Committee:
 See Attached

Agenda Bill Contact:
 Lindsay Kershner, Planning and Community Development, 360-778-8369

Reviewed By	Department	Date
<i>Jeffrey B. Thomas</i>	Planning	02/28/2014
<i>Amy B. Kraham</i>	Legal	03/03/2014
<i>Kelli J. Linville</i>	Executive	03/04/2014

Committee Actions:

TB/GK MOVED TO APPROVE THE HEARING EXAMINDER'S FINAL RECOMMENDATIONS.

Motion Carries 7-0

TB/GK MOVED TO APPROVE THE ORDINANCE FOR 1ST AND 2ND READING AT 7:00 MEETING.

Motion Carries 7-0

Council Action:

Council President Lehman reported that Council voted unanimously during the Closed Record Hearing to accept the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Examiner.

LEHMAN/LILLIQUIST MOVED APPROVAL FOR FIRST AND SECOND READING. MOTION CARRIED 7-0

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ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BELLINGHAM APPROVING A DEMONSTRATION PROGRAM PROPOSAL FOR KULSHAN COMMUNITY LAND TRUST (KCLT) THAT WILL PROVIDE THREE DWELLING UNITS WITH PERMANENTLY AFFORDABLE HOMEOWNERSHIP CONSISTENT WITH CHAPTER 20.27 OF THE BELLINGHAM MUNICIPAL CODE.

WHEREAS, Bellingham Municipal Code (BMC) Chapter 20.27, the Demonstration Program, was adopted in November 2004, to offer opportunities for organizations to provide innovative permanently affordable homeownership in the City of Bellingham; and

WHEREAS, this section of the BMC allows the use of alternative development standards to facilitate the construction of innovative owner-occupied affordable homes if an organization can demonstrate the ability to finance, manage, and monitor affordable home sales to assure permanent affordability; and

WHEREAS, KCLT is a non-profit organization that is experienced in providing permanent owner-occupied affordable homeownership in the community since 1999; and

WHEREAS, on August 29, 2013, KCLT held a neighborhood meeting at Shuksan Middle School regarding their Demonstration Program proposal; and

WHEREAS, under the Demonstration Program, KCLT submitted applications for a three-lot short subdivision, Design Review, and Planned Development to build three permanently affordable owner-occupied dwelling units; and

WHEREAS, included in the applications and in accordance with BMC 20.27.030 H., KCLT has requested to have the transportation impact, school impact, and stormwater fees waived by City Council; and

WHEREAS, the city has allocated \$77,527 of federal HOME Investment Partnership funds for this project, and

WHEREAS, on February 5, 2014, the Planning and Community Development Department approved a design review permit with conditions for the three housing units proposed by KCLT, subject to City Council approving an ordinance under BMC 20.27; and

WHEREAS, after mailed and published notice as required by BMC Chapter 20.27, the Hearing Examiner held a public hearing and received public testimony on February 12, 2014 regarding KCLT's Demonstration Program proposal; and

WHEREAS, based on the hearing and the written record, the Hearing Examiner adopted Findings of Fact, Conclusions of Law, and Recommendations (HE-14-PL-003) and

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

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recommended the City Council approve KCLT's Demonstration Program proposal with certain conditions; and

WHEREAS, the Hearing Examiner recommended the City Council deny KCLT's request to waive the transportation impact, school impact, and stormwater fees, because the fees are eligible for reimbursement through the federal HOME Investment Partnership which have been allocated for this project by the City; and

WHEREAS, on March 10, 2014, the City Council held a closed record hearing to consider KCLT's proposed Demonstration Program proposal and the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendations; and

WHEREAS, the City Council found that the KCLT Demonstration Program proposal is consistent with the Bellingham Comprehensive Plan and meets the criteria under BMC Chapter 20.27, and hereby approves KCLT's Demonstration Program proposal, and denies KCLT's request to waive the transportation impact, school impact, and stormwater fees, by a vote of ().

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The City Council adopts the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendations (HE-14-PL-003), as shown in Attachment B and incorporated by reference, as the final decision of the City.

Section 2. KCLT's three unit permanently affordable housing project is approved as conditioned in the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendations (HE-14-PL-003).

PASSED by the Council this ____ day of _____, 2014

Council President

APPROVED by me this ____ day of _____, 2014

Mayor

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ATTEST: _____

Finance Director

APPROVED AS TO FORM:

Office of the City Attorney

Published: _____

Attachment C

**CITY OF BELLINGHAM
HEARING EXAMINER STAFF REPORT
Demonstration Program for Affordable Homeownership and Short Subdivision
Kulshan CLT Short Plat #2444
February 12, 2014**

Request

Kulshan Community Land Trust (KCLT) is proposing to develop three dwelling units through the Demonstration Program for Innovative Permanently Affordable Homeownership (Program), Bellingham Municipal Code (BMC) 20.27. A three-lot short subdivision of the 8,960 square foot property is proposed to place each unit on a fee-simple/separate lot. The proposal includes the construction of two attached single-family residences and a detached single family residence. Through the Program, the applicant is requesting exceptions from setbacks, street frontage, and lot size. The Program is decided by City Council and if approved will ensure permanent affordability of the homes.

Hearing Examiner Authority

BMC 20.27.040(M) establishes that the Hearing Examiner shall make a written recommendation to approve, approve with modifications, or deny the application based on the compliance with the earned increased density criteria of BMC 20.27.030. The recommendation shall be transmitted to the City Council and shall be contingent on a final decision of approval by the city council. The Hearing Examiner shall also make a recommendation on the short plat preliminary approval because the lot design is contingent on the Program's approval. The staff report includes a code compliance analysis of both the Program and short plat applications.

Owner/Applicant

Owner: Kulshan Community Land Trust
Applicants: Dean Fearing and Erin Bren, Kulshan Community Land Trust

Address of Site / Legal Description

2939 Lafayette Street
Lots 9-10, Block 10, Eldridge's 2nd Addition to Bellingham

Attachments

- Exhibit A – Vicinity and Existing Conditions Map**
- Exhibit B – Applicant's Proposal/Justification**
- Exhibit C - Public Comment**
- Exhibit D – Design Review Permit and Site/Construction Plans**
- Exhibit E - Public Works and Parks Staff Recommendations**
- Exhibit F – Short Plat**

Background Information

In 2004, the City adopted an ordinance to provide for innovative, permanently affordable homeownership projects (BMC 20.27). KCLT was approved to construct 14 permanently affordable dwelling units through the Program in 2006. The project is known as Matthei Place and is in the 1500 block of Harris and McKenzie Avenues.

In 2009, KCLT applied to vacate Lafayette Street and a portion of W. Indiana Street to construct multiple dwelling units through the Program, on lots north, south, and west of the subject property. The Hearing Examiner recommended approval and City Council approved the street vacation, pending approval of a Program for the project. A Program was never applied for and

KCLT has subsequently developed the lots north and directly west of the subject property with single family residences.

Existing Site Characteristics/Surrounding Uses

The subject property is located on the southwest corner of Lafayette and W. Indiana Streets and is developed with a detached single family residence and garage. The property is 8,960 square feet, the topography is flat, and there are mature evergreen trees on and adjacent to the site. Infrastructure in the area has sufficient capacity for the anticipated full build-out of the area (**Exhibit A**). A permit application has been submitted to demolish the existing structures on the site.

Lafayette Street is 55-feet wide and is undeveloped, except for an informal trail. The trail is used by the public as a connection between Squalicum Creek Park and the Bay to Baker trail.

W. Indiana St., abutting the site, was improved with the Harrid Pack Short Plat. A variance from the street standards was approved by the Hearing Examiner (HE-07-PL-031) to not construct W. Indiana St. to the minimum standard. The alley is under construction and proposed to be the primary access for this proposal. The property owners south of the subject property received a variance (HE-13-PW-005) from having to construct Lafayette St. and are currently improving the alley for access to Lots 5-8 and a portion trail in Lafayette St.

The other surrounding land uses consist of single family residences to the north and west, and Squalicum Creek Park to the east.

Comprehensive Plan and Zoning Designation

Area 14, Birchwood Neighborhood. Multifamily residential, medium density comprehensive plan land use designation; Residential Multiple, Duplex zoning designation with a 4,000 square foot minimum lot size requirement.

Proposal

Refer to the project narrative submitted with the application (**Exhibit B**).

Public Comment (Exhibit C)

A Notice of Application was sent on December 13, 2013 and one comment was received in response to the notice. The comment was from the owners of the vacant Lots 8 and 9, south of the subject property. Overall the owners were supportive of the project and the design, but they requested that KCLT plan for storage needs of the future homeowners by providing storage buildings. KCLT agrees that additional storage is needed for each residence.

Staff Analysis

Demonstration Program

KCLT proposes to subdivide the subject property into three lots and develop Lots 1 & 2 with attached single family residences, and Lot 3 with a detached single family residence (**Exhibit D**). Lots 1 and 2 would each be 2,800 square feet and Lot 3 would be 3,360 square feet. The dwelling units would each have a floor area of 1,200 square feet.

The current zoning only allows two dwelling units on the subject property, but the Program allows for an earned increased density of up to 50 percent over the otherwise allowable density in the applicable residential zone if 100 percent of the dwelling units in the project are provided

and retained as permanently affordable owner-occupied homes, subject to the eligibility requirements (BMC 20.27.030). Therefore, if the Program is approved by City Council, the proposal to develop the property with three dwelling units would be allowed.

BMC 20.27.030D requires single-family housing projects receiving earned increased density under this chapter to comply with the design review process and site location criteria for multifamily residential development in BMC 20.25 to protect, maintain, or enhance neighborhood character and compatibility. A Design Review permit is included in this report and shows that the project complies with the design review criteria in BMC 20.25.

The Public Works, Parks, and Fire Departments have reviewed the proposed short plat and building plans and recommend approval of the proposal with the requested modifications (**Exhibit E**). The Parks Department has recommended minor changes to the connections between the proposed residences and the existing Lafayette St. trail because a portion of the trail is in Squalicum Creek Park. The proposed trail connections between the residences and Bay to Baker Trail will meet a specific recommendation of The Parks, Recreation, and Open Space Plan (Chapter 6 of the Comprehensive Plan). The recommendation is to, "develop neighborhood trail connectors to the regional multiuse trail system in order to provide an off-street trail within ½ mile of every resident in Bellingham."

The Program allows the applicant to request modifications from the required development regulations and exemptions from certain City fees. The applicant has (for both the detached single family residence and attached single family residences) requested modifications from the minimum lot size, minimum street frontage, and setbacks. They have also requested exemptions from payment of traffic, school, and stormwater fees.

The following is a summary of the modification requests from the development regulations in the BMC. The project complies with all other development regulations (height, parking, etc.)

Lots 1 and 2:

Regulation:	Requirement:	Modification:
Setbacks	BMC 20.32.045 E(1-2): Front: 40' from centerline, 12.5' prop. line (PL) Lot 1 only: Side Flanking: 40' from centerline, 10' PL	Front : 8' PL to wall (covered porch can encroach 6' into yard) Side Flanking: 5' PL
Lot Size	4,000 SF	2,800 SF
Street Frontage	BMC 18.36.020 E: 30 feet BMC 18.12.030: Lots abut developed streets	25 feet Lots abut a developed alley

Lot 3:

Regulation:	Requirement:	Modification:
Setbacks:	BMC 20.30.040 F(1): Front: 50' from centerline, 22.5' prop. line	Front : 16' PL to wall (covered porch can encroach 6' into yard)
Lot Size	4,000 sq. feet	3,360 SF
Street Frontage	BMC 18.12.030: Lots abut a developed street	Lots abut a developed alley

The following provides staff's response to each element of the Program in BMC 20.27.

20.27.010 - Authority and Purpose

A. Authority. Both the Growth Management Act and the Housing Policy Act require the city to provide housing opportunities for all economic segments of the community. Similarly the city's comprehensive plan encourages revisions to the city's development regulations to increase the supply of affordable housing.

This chapter will allow the use of alternative development standards and processes that are not currently allowed under existing land use regulations, while protecting residential character and maintaining overall consistency with the neighborhood plans and the goals and policies of the Bellingham comprehensive plan.

Response: *The design of the proposed dwelling units is consistent with the character of Area 14 of the Birchwood Neighborhood. The proposal is also consistent with the Housing Chapter of the Comprehensive Plan because it will provide affordable housing. It also meets the Multifamily Design Goals (CDG-12-15) within the Community Design Chapter of the Comprehensive Plan.*

20.27.020 - Affordable homeownership defined.

Purchasers of affordable homes constructed under this chapter shall meet the following requirements:

A. Annual Income. All purchasers shall be from a household whose annual income, at the household's initial occupancy of the single-family residence, is 80 percent or less of the median income (determined by HUD) as adjusted by family size of the Bellingham Standard Metropolitan Statistical Area (SMSA), specifically defined as Whatcom County; and

B. Housing Expenses. The monthly expenditure by a purchaser, as described in subsection (A) of this section, for housing including mortgage repayment, insurance, taxes and utilities (water and sewer) shall not exceed 38 percent of the gross household income at the time of purchase and the amount for mortgage shall not exceed 30 percent of gross household income. All other variable living expenses associated with the resident's occupancy shall not be a factor in the calculation of affordability.

Response: *The information provided in Exhibit B is confirmation that KCLT only provides homeownership opportunities to people satisfying the above requirements.*

20.27.030 - Earned increased density criteria.

Earned increased density of up to 50 percent over the otherwise allowable density in the applicable residential zone may be granted to a project if 100 percent of dwelling units in the project are provided and retained as permanently affordable owner-occupied homes, subject to the following eligibility requirements:

A. Project Applicant.

1. The organization has as its purpose the creation and retention of owner-occupied, permanently affordable, income qualified home-ownership.
2. The organization can demonstrate experience in providing affordable housing. Notwithstanding this requirement, an organization that can demonstrate

experience in providing housing and a mission statement of its intent to use that experience toward achieving the goal of providing permanently affordable housing shall be deemed to have met this requirement.

3. The organization can demonstrate the ability to employ a mechanism to retain all of the units as permanently affordable to income-qualified buyers as defined by BMC 20.27.020 and which specifically requires that the units be either owner-occupied or vacant.

4. The organization can demonstrate an ability and commitment to submit an annual report to the city council documenting all residential units, past and pending sales, and ownership by qualified home buyers.

Response: *KCLT is a Washington Non Profit Corporation whose purpose, among other things, is to provide opportunities for low and moderate income people to secure housing that is affordable and that is controlled by the residents on a long-term basis. It has helped approximately 143 families purchase homes on Community Land Trust land in Bellingham and Whatcom County.*

To provide perpetual affordability of the homes to be constructed on the project site, the Applicant proposes to use a ground lease, similar to that shown in Exhibit B. This ground lease restricts the sale or disposition of improvements on the property to income-qualified persons at a formula-calculated price.

B. Single-Family Homeownership. The project must create single-family residences that are individually owned by their occupants. It must have controls in place, subject to approval by the planning director or his/her designee, to ensure that the residences remain owner-occupied.

Response: *The project will create single-family residences that are individually owned by the occupants. Along with the ground lease, a covenant will be recorded that will guarantee the residences remain owner-occupied.*

C. Guarantee of Permanent Affordability. The project must have controls in place, subject to approval by the planning director or his/her designee, to ensure that the project's single-family residences remain permanently affordable in accordance with the definition of affordable homeownership in BMC 20.27.020. The controls shall include:

1. Continued ownership of the land by the project applicant with the owner occupants of the single-family residences leasing the land back from the project applicant;

2. Purchase/sale agreements with the owner/occupants which require that the single-family residences be sold only to qualified purchasers who meet the requirements of BMC20.27.020;

3. A requirement that the project applicant can only transfer the land to another entity that meets the requirements of subsection (A) of this section; or

4. Other methods approved by the planning director, or his/her designee, to ensure that the project's single-family residences remain permanently affordable in accordance with the definition of affordable homeownership.

Response: *The Staff response to Section A above, and based on the information submitted in **Exhibit B** is confirmation that KCLT is a qualified applicant and that they have the ability to ensure perpetual homeownership affordability.*

D. Project Location. Affordable single-family homes developed under this chapter must be located in a residential single-family or multifamily zone within the city of Bellingham, except within the Lake Whatcom watershed.

Response: *The property is located in a multifamily zone and is not located in the Lake Whatcom Watershed.*

E. Design Review. Single-family housing projects receiving earned increased density under this chapter must comply with the design review process and site location criteria for multifamily residential development in Chapter 20.25 BMC to protect, maintain, or enhance neighborhood character and compatibility.

Response: *The project has been reviewed and determined to be consistent with the Multifamily Residential Design handbook as required in BMC 20.25 (See **Exhibit D** for the Design Review permit).*

F. Request for Regulatory Modification. Project applicants may request modification of the regulatory requirements listed below; provided, that the project complies with applicable Washington state laws. Requests for modification must be accompanied by detailed supporting documentation regarding the appropriateness of, and the need for, the modification. Project applicants must meet all other applicable development regulations in the Bellingham Municipal Code pertaining to single-family detached or attached houses. Requests for regulatory modification must accompany the preliminary plat, short plat, or lot line adjustment application and must be noted on submitted site plans.

1. Minimum lot size;
2. Minimum street frontage;
3. Minimum front, side, and rear yard setbacks;
4. Minimum parking requirements;
5. Maximum lot coverage;
6. Minimum usable open space;
7. Other regulations to allow demonstration of innovative approaches to permanently affordable homeownership, energy conservation, low-impact development, and stormwater management.

Response: *The applicants have requested modifications of number's 1, 2, and 3 above, as identified in the table on **page three** of this report and on the project site plan.*

G. Recommendation for Regulatory Modification. The planning and community development director or his/her designee, may issue a recommendation to the hearing

examiner for modification of regulatory requirements listed in subsection (F) of this section, for projects applying under this chapter if the planning director or his/her designee, determines that approvals of requested regulatory modifications are necessary to facilitate the construction of as many affordable homes as allowable.

Response: Staff supports KCLT's justifications for the modifications as identified in **Exhibit B** and shown on the proposed site plans. The modifications are necessary to create another affordable residence in the City. Without the requested modifications, two dwelling units could be provided if a variance from street construction was granted by the Hearing Examiner. Whereas approval of the latter modifications allows the development of three affordable dwelling units on fee-simple lots.

H. Request for Exemption from Traffic and School Impact Fee and Stormwater Fee. Project applicant may request exemption from the traffic impact fee (TIF) in accordance with BMC 19.06.030(E), the school impact fee in accordance with BMC 19.08.080(A)(1)(d), and the stormwater fee in accordance with BMC 15.16.040(A). As per RCW 82.02.060(2), exemptions granted for transportation or school impact fees attributable to the development must be paid from public funds other than impact fee accounts.

Response: KCLT has requested to have the traffic, school, and stormwater fees waived. Any exemptions granted for transportation or school impact fees must be paid from public funds other than impact fee accounts. The City has allocated \$77,527 of federal HOME Investment Partnership funds for this project, and the fees requested to be waived are eligible for reimbursement by that allocation. Staff recommends the fee waiver request not be granted under this provision, as the proper request for this fee to be paid is from the City's allocation of the federal funds for this project.

Short Plat Application (Exhibit F)

BMC 18.12.030 – Lot Requirements:

This section requires that all lots created by a short subdivision shall abut upon a dedicated or deeded street and such street to have no less than 60 feet of right-of-way width if a through street. In the event the abutting street does not meet these minimum width standards, additional right-of-way shall be required prior to approval of a short subdivision; provided, that this requirement may be waived if, in the opinion of the planning and community development director and city engineer, such additional right-of-way will not be necessary for the future traffic circulation of the city.

Lafayette St. is less than 60 feet wide, but in the opinion of the PCDD and city engineer, additional right-of-way is not needed because Lafayette St. is not necessary for future traffic circulation.

BMC 18.12.040 – Required Improvements:

This section establishes the requirement that all newly created lots must abut City water, sewer, and improved public street(s). This section also gives authority to impose conditions necessary to address stormwater management and any Special Conditions.

The applicant requests a modification from having to abut developed streets and instead proposes to abut a developed alley. In two previous decisions the Hearing Examiner has approved the development of lots in the area without full build-out of abutting streets. This was

the case with a four lot short plat directly north of the subject property to allow W. Indiana St. to be developed to a lesser standard (HE-07-PL-031) and development of the alley abutting the subject property for the existing Lots 5-8 rather than Lafayette St. (HE-13-PW-005). The Public Works Department is supportive of this request to use the alley for access and not develop Lafayette St.

The proposed lots will abut City water, sewer, and improved public alley. The special conditions for area 14 of the Birchwood Neighborhood are not relevant to this proposal.

It is anticipated that development within the short plat will not exceed the 5,000 square foot impervious surface threshold and, therefore, no stormwater mitigation is required at this time. The short plat should be conditioned such that new impervious areas are monitored with building permit activity.

BMC 18.36 - Lots and Blocks

The proposed lots do not meet the requirements for lot width of site area for Area 14 of the Birchwood Neighborhood. Although, as previously stated, through the Program the applicants are requesting reduced lot widths and lot sizes as indicated in the table above. All lots meet the minimum 60-foot depth requirement.

Conclusion and Staff Recommendation

If approved, the proposed development will fulfill Comprehensive Plan housing visions and policies. Specifically, the proposal would meet housing vision #2 to increase the housing density in a part of the community which is appropriate for small lots, and housing policy #14 to provide perpetual affordability through community land trusts.

Based on the above analysis, staff believes the applicant has provided sufficient justification for the Demonstration Program and the Hearing Examiner should recommend that City Council approves the proposal with the requested modifications, subject to the conditions listed below. Staff also recommends that the Hearing Examiner recommends preliminary approval of the short plat as requested, subject to the following conditions:

Demonstration Program:

1. The proposed development shall substantially conform to the materials submitted in support of the applications, except as otherwise provided herein.
2. The proposed lots shall be used for single-family residential units provided and maintained as permanently affordable owner-occupied homes. Each unit shall be occupied by a purchaser who qualifies pursuant to BMC 20.27.020. Housing expenses shall be consistent with the requirements of BMC 20.27.020. Controls shall be in place to ensure that the residences remain owner-occupied and that they remain permanently affordable. The ground lease, and other document(s) establishing such controls shall be subject to the review and approval of the Planning Director.
3. The Applicant shall submit annual reports to the City Council as required by BMC 20.27.050.
4. The Applicant shall not transfer ownership of the land without prior approval of the City of Bellingham. The land may be transferred only to another qualified organization or to qualified purchasers with controls in place to ensure permanent affordability.
5. All fees shall be paid for each lot prior to building permit issuance in accordance with the ordinance in effect unless exemptions from these fees are granted.
6. Enclosed storage sheds shall be provided for each dwelling unit. The Planning and Community Development Department shall approve the design and location.

7. Except as provided herein the project shall comply with all applicable provisions of the Bellingham Municipal Code, state and federal laws.

Short Subdivision:

1. Preliminary approval of the short plat is contingent upon approval by the City Council of the proposed demonstration project pursuant to BMC 20.27.
2. Lots 1 and 2 shall have a lot width of 25 feet. The remainder of the property along Lafayette Street shall be the width of Lot 3.
3. If the alley is not constructed by the abutting property owners per the Hearing Examiner decision, HE-13-PW-005, then KCLT shall improve the alley and the Lafayette St. trail per the Public Works, Parks, and Fire Departments.
4. Mitigation for stormwater management necessary to support the proposed development based on an engineered stormwater site plan that addresses mitigation requirements of BMC 15.42 and the 2005 Department of Ecology Stormwater Management Manual for Western Washington shall be provided. Mitigation is not necessary at this time if it is demonstrated that the total of new or replaced impervious surfaces will not exceed 5,000 square feet. Notation on the face of the plat that limits the square footage of impervious surface for future development and redevelopment within the short plat boundaries is required. Contents of the notation shall be determined by City staff.
5. Five copies of the short plat (checkprints) prepared by a licensed surveyor, a plat certificate, and plat closure sheet must be submitted to the Planning and Community Development Department for review and approval prior to submittal of mylars.
6. Common wall agreements for Lots 1 & 2 shall be recorded concurrently with the filing of the mylars and shall be shown on the plat.
7. Covenants or other documentation that guarantees the residences are permanently affordable and owner-occupied, shall be recorded concurrent with the short plat.
8. A licensed land surveyor must prepare and submit two signed mylar copies of the plat based on a record of survey and staff's review of the checkprints. At a minimum, the signature of any person having a vested interest in the subject property shall be on the mylar document.
9. A per lot filing fee, as established by ordinance, must be paid to the City prior to final short plat approval. The current established fee is \$106.00 per lot, requiring a total payment of \$318.00. The filing of the mylars will change the current legal description of the property to Lots 1-3, Kulshan CLT Short Plat.
10. The City may impose additional conditions if it is found that sufficient information was not presented with the application and/or such conditions are necessary to comply with the Bellingham Municipal Code.
11. The short subdivision application and preliminary approval will expire three years from the date of this decision unless the plat is recorded at the Whatcom County Auditor's Office within that time period.
12. The division and development of the property shall comply with all other applicable regulations of the Bellingham Municipal Code, except as modifications are granted herein.
13. A condition shall be placed on the face of the plat stating that all development occurring on the lots shall comply with this decision, and as it may be amended.

Prepared By

Lindsay Kershner
Planner I

Approved For Submittal By

Kurt Nabbefeld
Senior Planner

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THE HEARING EXAMINER OF THE CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON

IN RE:	HE-14-PL-003
KULSHAN COMMUNITY LAND TRUST, Applicant 2939 Lafayette Street	FINDINGS OF FACT CONCLUSIONS OF LAW AND RECOMMENDATION
SUB2013-00029, PCD2013-00011 and DRC2013-00017 / Demonstration Program and Short Plat	DAWN STURWOLD, HEARING EXAMINER

THIS MATTER came before the Bellingham Hearing Examiner for hearing on the 12th day of February 2014 on the application of Kulshan Community Land Trust (KCLT) for approval of a project pursuant to the Demonstration Program for Innovative Permanently Affordable Home Ownership and a three-lot short plat for property located at 2939 Lafayette Street.

Testimony was received from Lindsay Kershner and Kurt Nabbefeld, Bellingham Planning and Community Development Department; Dean Fearing, Executive Director of KCLT; Elizabeth Li, 114 W. Magnolia Street, Ste. 406; and Kurt Baumgarten, 2807 Patton Street.

In addition to the Bellingham Municipal Code and Comprehensive Plan, the following documents were considered as part of the record: See *Exhibit List*.

I. FINDINGS OF FACT

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2 1. Kulshan Community Land Trust (KCLT) filed an application for approval of a
3 project pursuant to the Demonstration Program for Innovative Permanently Affordable
4 Home Ownership and a three-lot short plat for property it owns at 2939 Lafayette
5 Street.

6 2. The subject property is legally described as Lots 9 and 10, Block 10, Eldridge's
7 2nd Add. To Bellingham. It is located in Area 14 of the Birchwood Neighborhood and
8 is designated Residential Multi, Duplex, 4,000 square feet minimum lot size.

9 3. The property is located on the southwest corner of Lafayette and W. Indiana
10 Streets. It currently is occupied by a single-family residence and a garage. These
11 structures will be removed prior to the proposed development.

12 4. The property contains 8,960 square feet and is generally flat. It abuts the
13 Lafayette Street right-of-way which is unimproved except for a pedestrian trail.

14 5. Lafayette Street abuts a steep bluff. A trail leads from the top of the bluff down
15 to Squalicum Creek Park. The right-of-way will likely remain undeveloped. Variances
16 have been granted for properties fronting on Lafayette Street for vehicular access from
17 the alley.

18 6. W. Indiana Street abutting the property has been improved. A variance from
19 minimum street standards was previously granted to avoid unnecessary impacts to the
20 bluff area and trails.

21 7. The alley abutting the subject property is currently under construction and is
22 proposed to be the primary access for the site.

23 8. KCLT proposes to divide the property into three lots. Proposed Lots 1 and 2
24 would be developed with attached single-family residences. Proposed Lot 3 would be
25 developed with a detached single-family residence. Lots 1 and 2 would each contain
26 2,800 square feet of area. Lot 3 would contain 3,360 square feet of area.

27 9. KCLT proposes to utilize the provisions of BMC Chapter 20.27, the
28 Demonstration Program for Innovative Permanently Affordable Homeownership
29

1 Projects (Demonstration Program). This Chapter allows the use of alternative
2 development standards and processes not currently allowed under existing land use
3 regulations in order to provide opportunities to develop permanently affordable owner-
4 occupied housing.

5 10. A Pre-Application conference with City Staff was conducted for the proposal on
6 August 13, 2014. A Neighborhood Meeting was conducted on August 29, 2013. The
7 Applications were submitted on October 9, 2013. On November 6, 2013 a Notice of
8 Complete Application and Request for Information was sent. The requested
9 information was submitted on November 26, 2013. Notice of Application was sent on
10 December 13, 2013.

11 11. The Demonstration Program allows an earned increased density of up to 50
12 percent over the maximum density specified in the zoning code if 100 percent of the
13 dwelling units in a project are provided and retained as permanently affordable owner-
14 occupied homes, subject to eligibility requirements.

15 12. To be eligible for increased density under the Demonstration Program criteria
16 the Applicant must be an organization that has as its purpose the creation and retention
17 of owner-occupied, permanently affordable, income-qualified home-ownership; it must
18 demonstrate experience in providing affordable housing and its ability and commitment
19 to submit an annual report to the city council documenting all residential units, past and
20 pending sales, and ownership by qualified home buyers. The project must create single-
21 family residences that are owned by their occupants and it must have controls in place
22 to ensure that the residences remain owner-occupied. The project must also have
23 controls in place to ensure that the residences remain permanently affordable. Projects
24 must be located within a residential single or multifamily zone within the city, but not
25 within the Lake Whatcom watershed. Design review in accordance with BMC Chapter
26 20:25 is required for Demonstration Program projects.

27 13. Project applicants may request modification of regulatory requirements such as
28 minimum lot sizes, street frontage, setbacks, parking requirements, lot coverage, usable
29

1 open space and other regulations. To obtain modifications the Applicant must provide
2 detailed documentation regarding the appropriateness of and the need for the
3 modifications.

4 14. Project applicants may also request exemption from traffic and school impact
5 fees and stormwater fees. Exemptions granted from transportation and school impact
6 fees must be paid from public funds other than impact fee accounts.

7 15. KCLT proposes a 50 percent increase in density. The 4,000 square feet per lot
8 density allowed in Area 14 of the Birchwood Neighborhood would allow a maximum of
9 two lots on the site. The Applicant proposes to divide the property into three lots.

10 16. The Applicant also proposes a reduction in the minimum lot size from 4,000
11 square feet to 2,800 square feet for Lots 1 and 2 and to 3,360 square feet for Lot 3. The
12 lot widths for Lots 1 and 2 would be 25 feet each, consistent with the requirements of
13 BMC 18.36. The width of Lot 3 would be about 30 feet, or the remainder of the width
14 of the site after Lots 1 and 2 are each allotted 25 feet. Interior detached lots in this
15 zoning classification are generally required to have lot widths of at least 40 feet.

16 17. A reduction in the required street frontage is requested. Lots 1 and 2 would
17 have 25 feet of frontage on an undeveloped public street rather than the required 30 feet
18 of frontage on a developed street. Lot 3 would have at least 30 feet of frontage on
19 Lafayette Street but the street would not be developed. All of the lots would be
20 accessed from the developed alley.

21 18. The proposal requests modification of the required setbacks. Lot 1 would have
22 a side flanking setback reduced from 10 feet from the side property line abutting W.
23 Indiana Street to five feet from the property line. The requested front yard setback
24 modifications are not necessary because the entire 55 feet of Lafayette Street right-of-
25 way was dedicated from the subject property. The front yard setback for this property is
26 at the property line abutting Lafayette Street.

27 19. KCLT also requests exemption from payment of traffic and school impact fees
28 and stormwater fees.
29
30

1 20. KCLT is a Washington Non-profit Corporation whose purpose is to provide
2 opportunities for low and moderate income people to secure housing that is affordable
3 and that is controlled by the residents on a long-term basis. It has helped approximately
4 143 families to purchase homes on Community Land Trust land in Whatcom County.

5 21. KCLT proposes to use a ground lease similar to that shown in *Exhibit B* to the
6 Staff Report to restrict the sale of improvements on the property to income-qualified
7 persons at a formula-calculated price. It states that the residences will be owner-
8 occupied as provided in covenants that will be recorded for the property.

9 22. The proposed residences are approximately 1,200 square feet , two-story
10 structures. Two parking spaces per residence would be provided abutting the alley.
11 The parking stalls would be pervious or semi-pervious grass-crete, or similar, surfaced.
12 The residences would be oriented to Lafayette Street and the bluff, with covered
13 porches. The structures on Lots 1 and 2 would be attached, with common wall
14 construction.

15 23. Design review approval, consistent with BMC 20.25, has been issued, in
16 DRC2013-00017, for the proposal. See *Exhibit D* to the Staff Report.

17 24. City staff has recommended approval of the Demonstration Program project and
18 short plat, subject to conditions listed in the Staff Report. Staff recommends denial of
19 the request to waive fees, as the City has allocated \$77,527.00 of federal HOME
20 Investment Partnership funds for this project and the fees are eligible for reimbursement
21 from that allocation.

22 25. The Parks and Recreation Department has recommended minor changes to the
23 connections between the proposed residences and the existing trail in Lafayette Street.

24 26. Public comment was received for the proposal. Neighbors of the property were
25 supportive of the proposal. Concerns were expressed regarding adequacy of storage for
26 the proposed residences and impacts on the alley, particularly parked cars blocking the
27 alley and traffic in the alley interfering with pedestrian passage. The neighbor
28 requested that one of the lots take access from W. Indiana Street instead of the alley.
29
30

1 27. The Applicant states that it agrees that additional storage should be provided for
2 the residences and concurs with the Staff Recommendation that enclosed storage sheds
3 should be provided for each unit.

4 28. The alley runs from W. Indiana Street to W. Illinois Street. Access to the
5 residences within the block is available from each end of the alley. This access should
6 mitigate the impact of any vehicle temporarily blocking the alley. Access to all of the
7 lots from the alley reduces the impact of traffic on the trail located in W. Indiana Street.
8

9
10 II. CONCLUSIONS OF LAW

11 1. The Application for the Demonstration Program project and Short Plat has been
12 processed in accordance with the provisions of BMC 20.27.040.

13 2. The Applicant, KCLT, is an eligible organization, consistent with the provisions
14 of BMC 20.27.030A.

15 3. The proposal makes appropriate provisions to guarantee permanently affordable,
16 owner-occupied single-family residences, in accordance with the provisions of BMC
17 20.27.030B and C.

18 4. The proposed project is located in an eligible area, as defined in BMC
19 20.27.030D.

20 5. The proposed project has received Design Review approval, in accordance with
21 BMC 20.27.030E.

22 6. The Applicant has demonstrated that the requested modifications from minimum
23 lot size and width, flanking side yard setback, and street frontage requirements are
24 appropriate and necessary to provide three permanently affordable, owner-occupied
25 residences on the site.

26
27 7. Traffic and school impact fees and stormwater fees should not be waived. They
28 may be reimbursed from federal funds made available to the project for this purpose.
29

- 1 8. The proposal satisfies the requirements for approval of a Demonstration
2 Program project and should be recommended for approval.
- 3 9. The proposed short plat satisfies the requirements of BMC Chapter 18.12, as
4 modified by the provisions of BMC Chapter 20.27, contingent upon approval of the
5 Demonstration Program project. If the Demonstration Program project is not approved
6 the Short Plat fails to satisfy the requirements of BMC Chapter 18.12.
- 7 10. The City Council reviews the recommendation of the Hearing Examiner and the
8 record created for the proposal and determines whether the project should be approved,
9 approved with modifications, or rejected. The Council's action is in the form of an
10 ordinance.
- 11 11. Any Finding of Fact that should be denominated a Conclusion of Law shall be
12 deemed to be a Conclusion of Law. Any Conclusion of Law that should be
13 denominated a Finding of Fact shall be deemed to be a Finding of Fact.

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16 III. RECOMMENDATION

17 The Demonstration Program project proposed by KCLT for the property located
18 at 2939 Lafayette Street is recommended for approval, subject to the following
19 conditions:

- 20 1. The proposed development shall be consistent with the plans, specifications and
21 other materials submitted in support of the proposal, except as modifications are
22 required to comply with other conditions set forth herein or as required by the City
23 Council. The proposed site plan is attached as *Exhibit A*.
- 24 2. The proposed lots shall be used for single-family residences. They shall be
25 maintained as permanently affordable, owner-occupied homes. Each unit shall be
26 occupied by a purchaser who qualifies in accordance with BMC 20.27.020A. The
27 housing expenses for each purchaser shall be limited as provided in BMC 20.27.020B.

- 1 3. Controls shall be maintained to ensure that each of the residences remains
2 owner-occupied by a qualified purchaser and that they remain permanently affordable,
3 as defined by BMC 20.27.020. The ground lease and other documents establishing
4 these controls shall be subject to the review and approval of the Director of the Planning
5 and Community Development Department.
- 6 4. The Applicant shall submit annual reports to the City Council regarding the
7 status of the project, including the information required in BMC 20.27.050.
- 8 5. The Applicant shall not transfer ownership of the land without prior approval of
9 the City of Bellingham. The land may only be transferred to another qualified
10 organization or to qualified purchasers with controls in place to ensure permanent
11 affordability and qualified owner-occupancy.
- 12 6. All fees shall be paid for each lot prior to building permit issuance in accordance
13 with ordinances in effect unless exemptions from the fees are granted.
- 14 7. Enclosed storage sheds shall be provided for each dwelling unit. The design and
15 location of the storage sheds shall be subject to the review and approval of the Planning
16 and Community Development Department.
- 17 8. Except as modifications are provided herein the project shall comply with all
18 applicable provisions of the Bellingham Municipal Code, state and federal laws.
- 19 9. The following modifications to Bellingham Municipal Code regulations are
20 approved:
21
- 22 a. A density increase of 50 percent to allow three single-family
 - 23 lots/residences on the subject property.
 - 24 b. Reduction in the flanking side yard setback for proposed Lot 1 to
 - 25 five feet from the property line abutting W. Indiana Street.
 - 26 c. Reduction in lot sizes to 2,800 square feet for Lots 1 and 2 and
 - 27 3,360 square feet for Lot 3.
 - 28 d. Reduction in lot width for proposed Lot 3 to 30 feet, or the
 - 29 remainder of the width of the site after Lots 1 and 2 are each allocated 25
 - 30 feet of lot width.
 - e. Relief from the requirement that each lot front on a developed
street. Construction of Lafayette Street is not required. Vehicular access

1 to the lots shall be from the abutting alley which shall be constructed in
2 accordance with plans approved by the Public Works and Fire
3 Departments. Trail improvements within the Lafayette Street right-of-way
4 shall be as approved by the Parks and Recreation Department.

5 The proposed short plat should be approved, contingent upon approval by the
6 City Council of the Demonstration Program project, subject to the following conditions:

7 1. The short plat shall be generally as shown in the attached Site Plan (*Exhibit A*),
8 except as modifications are required to comply with the conditions set forth herein or
9 required by the City Council, or to comply with unmodified requirements of the
10 Bellingham Municipal Code.

11 2. Lots 1 and 2 shall each have a lot width of 25 feet. The width of Lot 3 shall be
12 the remaining width of the site.

13 3. Lots 1 and 2 shall be developed with attached units. Common wall agreements
14 for Lots 1 and 2 shall be recorded concurrently with the filing of the mylars and shall be
15 shown on the face of the plat.

16 4. Access to the lots shall be from the abutting alley. If the alley is not constructed
17 by the abutting property owners as required in HE-13-PW-005, the Applicant shall
18 improve the alley and the required trail in the Lafayette Street right-of-way in
19 accordance with plans approved by the Public Works, Parks and Recreation and Fire
20 Departments.

21 5. Mitigation shall be provided for stormwater management necessary to support
22 the proposed development based on an engineered stormwater site plan that addresses
23 mitigation requirements of BMC 15.42 and the 2005 Department of Ecology
24 Stormwater Management Manual for Western Washington. Mitigation is not required
25 at this time if it is demonstrated that the total of new or replaced impervious surfaces
26 will not exceed 5,000 square feet. Notation on the face of the plat that limits the square
27 footage of impervious surface for future development and redevelopment within the
28


- 1 short plat boundaries is required. Contents of the notation shall be determined by City
2 staff.
- 3 6. Five copies of the short plat (checkprints) prepared by a licensed surveyor, a plat
4 certificate, and plat closure sheet must be submitted to the Planning and Community
5 Development Department for review and approval prior to submittal of mylars.
- 6 7. Covenants or other documentation that guarantee the residences are permanently
7 affordable and owner-occupied shall be recorded concurrent with the short plat.
- 8 8. A licensed land surveyor must prepare and submit two signed mylar copies of
9 the plat based upon a record of survey and staff's review of the checkprints. At a
10 minimum, the signature of any person having a vested interest in the subject property
11 shall be on the mylar document.
- 12 9. A per lot filing fee, as established by ordinance, must be paid to the City prior to
13 final short plat approval. The current established fee is \$106.00 per lot, requiring a total
14 payment of \$318.00. The filing of the mylars will change the legal description of the
15 property to Lots 1-3, Kulshan CLT Short Plat.
- 16 10. The City may impose additional conditions if it is found that sufficient
17 information was not presented with the application and/or such conditions are necessary
18 to comply with the Bellingham Municipal Code.
- 19 11. The short subdivision application and preliminary approval will expire three
20 years from the date of the decision of the City Council approving the Demonstration
21 Program project upon which this short plat approval is contingent, unless the plat is
22 recorded at the Whatcom County Auditor's Office within that time period.
- 23 12. The division and development of the property shall comply with all other
24 applicable regulations of the Bellingham Municipal Code, except as modifications are
25 granted herein and in the Demonstration Program project approval.
- 26 13. A condition shall be placed on the face of the plat stating that all development
27 occurring on the lots shall comply with this decision, and as it may be amended.
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14. If the City Council does not approve the Demonstration Program project this short plat shall not be approved.

ENTERED this 26th day of February 2014.

BELLINGHAM HEARING EXAMINER



Dawn Sturwold

February 12, 2014 Hearing Examiner Agenda Item No. 2

SUB2013-00029 / PCD2013-00011 / DRC2013-00017

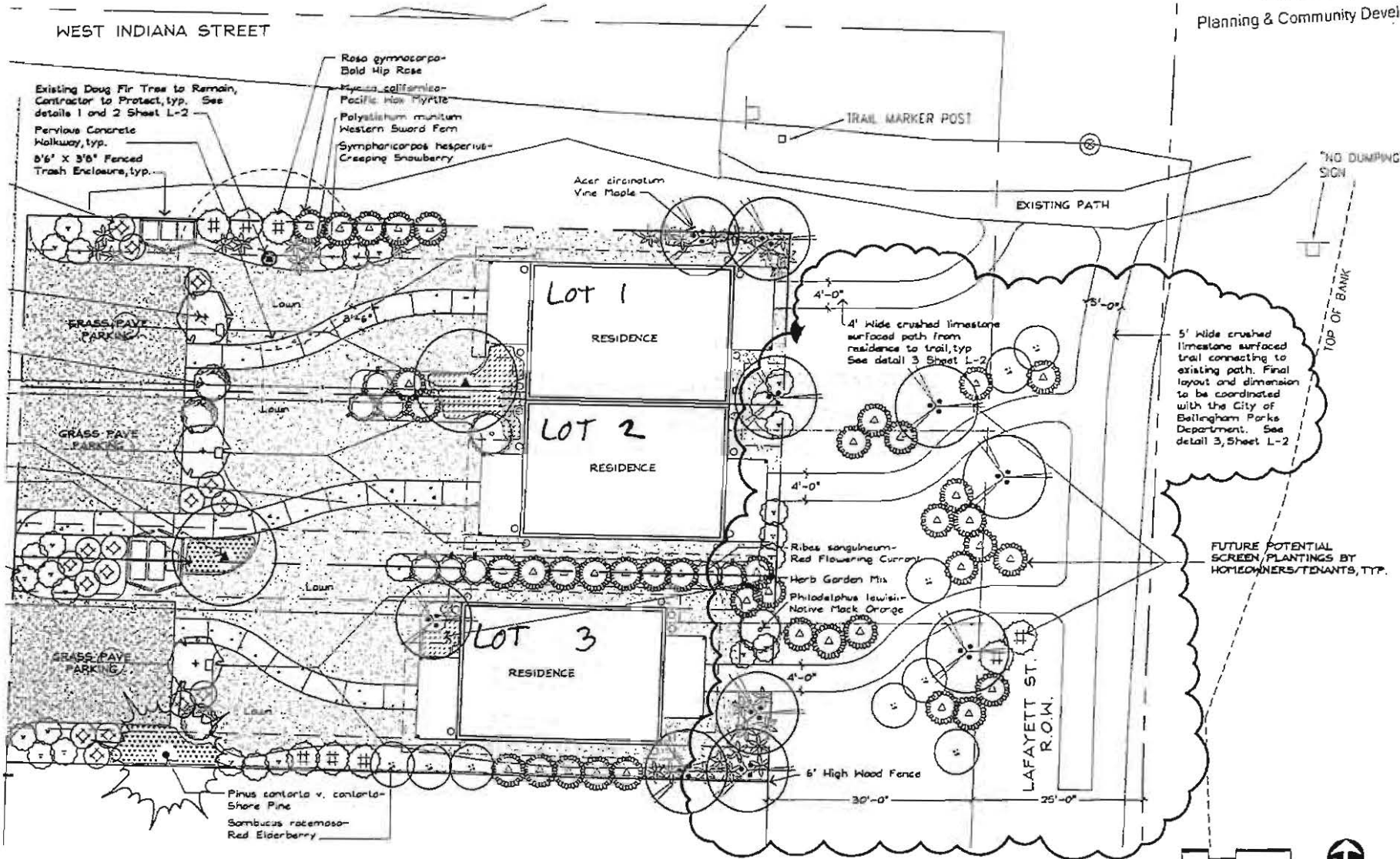
Demonstration Program for Innovative Permanently Affordable Housing and Subdivision requests of Kulshan Community Land Trust regarding 2939 Lafayette Street

Exhibit List

- 2-1 Staff Report by Lindsay Kershner, Planner I
- 2-2 Vicinity and Existing Conditions Map (Planning Exhibit A)
- 2-3 Applicant's Proposal and Justification (Planning Exhibit B)
- 2-4 Letter from Kurt Baumgarten and Emily Jones dated 12/26/13 (Planning Exhibit C)
- 2-5 Design Review Permit and Site/Construction Plans (Planning Exhibit D)
- 2-6 Public Works and Parks Staff Recommendations (Planning Exhibit E)
- 2-7 Short Plat (Planning Exhibit F)
- 2-8 Notice of Public Hearing
- 2-9 Large-scale Maps, Elevations, Site Plans and Color Photographs

NOV 26 2013

City of Bellingham
Planning & Community Development



PLANT SCHEDULE

Trees

Quantity	Botanical Name	Common Name	Spacing	Size	NOTES
7	<i>Acer circinatum</i>	Vine Maple	as shown	6" H	MULTI-3-5 BUNKER
2	<i>Rhus carolinensis</i>	Brown Turkey Fig	as shown	6" H	
1	<i>Pinus contorta v. contorta</i>	Shore Pine	as shown	4'-6" H	Sunny and Full

Shrubs

Quantity	Botanical Name	Common Name	Spacing	Size
3	<i>Cornus sericea</i>	Red Twig Dogwood	4'-6" o.c.	3 gal.
2	<i>Caryophyllus v. californica</i>	Baldhead Honeysuckle	5'-6" o.c.	3 gal.
25	<i>Myrica californica</i>	Pacific Wax Myrtle	4'-5" o.c.	3 gal.
2	<i>Philadelphus lewisii</i>	Native Mock Orange	as shown	3 gal.

SHEET NO. 185-
 LAND PLAN

PLAN-PERMIT SUBMITTAL SET

RECORD OF PROCEEDINGS OF
THE HEARING EXAMINER
CITY OF BELLINGHAM

REGULAR HEARING

WEDNESDAY, FEBRUARY 12, 2014 6:00 P.M. CITY COUNCIL CHAMBERS

CALL TO ORDER: The regular hearing of the Hearing Examiner was called to order.

ROLL CALL: Staff Members Present: Lindsay Kershner, Planner I
Kathy Bell, Planner II
Kurt Nabbefeld, Senior Planner
Recording Secretary: Kristina J. Bowker

2. SUB2013-00029 / PCD2013-00011 / DRC2013-00017: Kulshan Community Land Trust is proposing to develop three dwelling units through the Demonstration Program for Innovative Permanently Affordable Home ownership. The proposal includes a 50% density bonus to allow the construction of one additional unit for a total of three single-family units. The proposal includes two attached single-family units and a detached single-family unit. Subdivision of the property is proposed to place each unit on a fee simple/separate lot. The Hearing Examiner makes a recommendation to City Council for the demonstration program and if approved will ensure permanent affordability of the homes. The property is located at 2939 Lafayette Street, and legally described as Lots 9 – 10, Block 10, Eldridge's 2nd Add to Bellingham. Kulshan Community Land Trust, applicant/owner; Dean Fearing and Erin Bren, contacts (360) 671-5600. Residential Multi, Duplex Land Use Designation. Birchwood Neighborhood, Area 14.

DS – Item number two, is a request by Kulshan Community Land Trust. The Hearing Examiner makes a recommendation to the City Council for this program, but she does hold the open public hearing, so this is your opportunity to comment. Swears in staff and those wishing to comment. Stated that she is familiar with the site and reviewed the materials in the packet. Additional materials are large-scale copies, color photographs, elevations, and site plans. We will begin with the staff report.

STAFF PRESENTATION:

Lindsay Kershner – Some of the existing conditions surrounding the lot, Lafayette is unimproved right-of-way. W. Indiana is improved to a lesser standard, as part of the Harid Pack Short Plat. Lafayette Street also has an informal trail that is used by the public to connect to Squalicum Creek Park and the Bay to Baker Trail. The property owners to the south of 2939 Lafayette Street, Lots 5 - 8, received a variance from having to construct Lafayette Street for primary access and construct the alley instead, with stormwater improvements, and also to improve the Lafayette Street trail from Lot 8 north

the edge of the subject property. Currently, the proposed project will connect to the Lafayette Street portion of the trail, or north to the path in W. Indiana Street. Parks is working on it, pending the final construction in Lafayette Street. If approved, the three lots will have individual dwelling units. Lots 1 and 2 will be 2,800 square feet in size and Lot 3 will be 3,360 square feet. Each of the dwelling units will have 1,200 square feet of floor area. The current zoning is 4,000 square feet per dwelling unit. The project was reviewed against the multi-family design standards under BMC. It was approved by the Planning Director. They are requesting modifications from street frontage, lot size, and building setbacks. Parks, Public Works and Fire have recommended approval of the Short Plat and building design. Generally there is support of the project. Staff agrees that there is limited storage for the residents, and recommended that storage units be added to each property. Staff believes KCLT has met the requirements of the Demonstration Program. KCLT has requested to have impacted fees waived. Some federal funding has been allocated for impact fees. If approved, this project will provide permanent affordable housing in a manner compatible with the Birchwood Neighborhood. Recommends approval to City Council for the Short Plat and Demonstration Program.

Kurt Nabbeffeld — A variance from the front-yard setback is not required, per BMC 20.10.080D. When the plat was originally filed they dedicated the entire 55' of Lafayette, so the adjacent property to Parks was never dedicated. BMC 20.10.080 says that when you don't have a street that meets the minimum requirement, which is a 60' width, the setback is taken from the dedication line. The property line is the setback requirement.

APPLICANT PRESENTATION:

Dean Fearing, KCLT, 1303 Commercial Street -- Executive Director. We are the only organization to-date to use the demonstration project. This project will mirror Matthei Place in many ways. Since 2010 they have been working on a three-phase project: Matthei Place, six houses across the street on Indiana, and now this project. By building three homes it keeps the cost of the homes down. All the recommendations from the city and the neighbors, they concur with. The storage sheds aren't a problem. They are happy to be good neighbors.

Hearing Examiner — There were several pages of your ground lease in the materials. What happens if the home owner wants to make changes to the building?

Dean Fearing — They can't make improvements (like marble counter tops) and then expect to get a return on that money, because that would push the affordability for the next home owner. They can still make improvements, but if it were to push the affordability, then KCLT wouldn't sign-off on it.

Hearing Examiner — If they wanted to put up an additional accessory building or add a garage? Or, just make some changes to the exterior?

Dean Fearing — They have to get KCLT approval.

Lindsay Kershner — That could be added as a condition, any exterior changes have to get multi-family design review approval. Whatever new construction would be compatible with the Demonstration Program.

Hearing Examiner — Any problems with adding a condition?

Dean Fearing — None of the other homes they have built to-day have had a condition, but if staff are recommending that, then they don't have a problem.

Hearing Examiner — It's just to comply with the conditions of the demonstration program. Anyone like to comment?

PUBLIC HEARING OPENED

PUBLIC TESTIMONY:

Elizabeth Li, 114 W. Magnolia, Ste. 406 — Her and her husband own Lots 5 and 6 on this block. Their only concern at this point is the alley access and people blocking it. Her husband is a contractor and drives a large truck. They will be accessing the paved portion of the alley from W. Indiana. Concerned that there will be encroachments. There have been minor encroachments in the past year during development. When an alley is developed people may treat it differently. Lot A could take access from W. Indiana so one less household would be using the alley. They would like a fence to be installed. Most of the corner lots take access from the main road, nine of them in the area do. There is stuff in developed alleys, so they are concerned. This is a chance they have to step forward and say that corner neighbors can take access from the street, rather than the alley. It would help a lot to have one less household driving into the alleyway. Perhaps they can put "no parking/no blocking" signs. Just wants people to know not to encumber the alley.

Kurt Baumgarten, 2807 Patton Street — Own Lots 7 and 8 immediately to the south of the proposal with his wife. As far as lot orientation and parking go, they are supportive of the project as-designed, but would also support the driveway being turned. They support fencing and exterior storage since these are small houses with no garages. Something to store at least your basic yard maintenance materials. We are half-way through their alley project and next week the final phase of excavating for gravel and paving will be done. It's about a 500' alley, have paved and half gravel. The trail will be connected to the south. They are longtime supporters of KCLT. Things these will be really good homes.

Lindsay Kershner — One of the reasons that we would prefer that all lots take alley access is because of the informal trail just north of the Lot A property line. Having access come off W. Indiana could have drivers going over the trail. In the multi-family design guidelines it is standard to use the alleys for access when available. There is also an exit on the south end of the alley, if someone was blocking the north end. Staff would be amenable to have "no parking" signs. They don't need a modification from the front-yard setback.

Hearing Examiner — What are parking pads are going to be?

Dean Fearing -- Grass.

Hearing Examiner -- Will they be well-marked?

Dean Fearing -- There will be fences around the recycling/garbage, and that will help define the parking spaces.

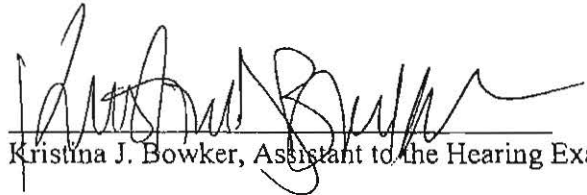
Lindsay Kershner -- The parking spaces are 24' deep, typical ones are only 18' so they will have a little more room to pull forward off the alley.

Hearing Examiner -- Will issue a recommendation on this and the Council has scheduled March 10th for this item.

PUBLIC HEARING CLOSED

ADJOURN: 8:30 PM

Prepared by:



Kristina J. Bowker, Assistant to the Hearing Examiner

Reviewed by:



Lindsay Kershner, Planner I