

# CITY OF MARYSVILLE

## Hearing Examiner

### Findings, Conclusions and Decision

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**APPLICANT:** Gamlam Subdivision  
**CASE NO.:** PA 23-004  
**LOCATION:** 5811—87th Avenue NE, Marysville, WA 98271  
**APPLICATION:** Preliminary subdivision approval to subdivide a 4.65-acre parcel into twelve (12) single-family lots.

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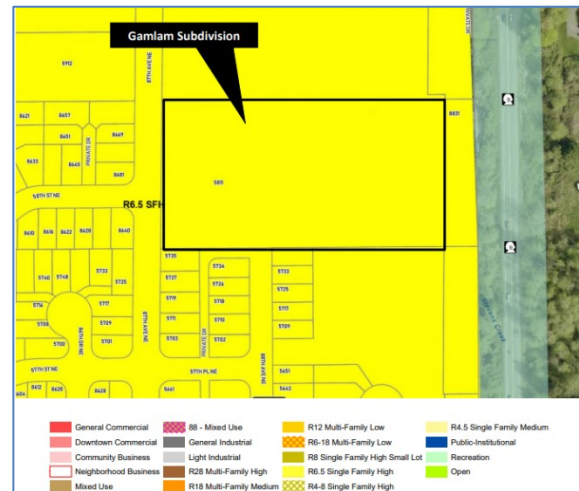
#### SUMMARY OF RECOMMENDATION

**Staff Recommendation:** Approve the request to subdivide a 4.65-acre property into twelve (12) single-family lots and to construct associated site improvements, as conditioned in in the Staff Recommendation dated September 14, 2023.

**Hearing Examiner Decision:** Approve the request to subdivide a 4.65-acre property into twelve (12) single-family lots and to construct associated site improvements, as conditioned in the Staff Recommendation dated September 14, 2023.

#### PUBLIC HEARING

After reviewing the official file, that included the Marysville Community Development Department Staff Recommendation, the Hearing Examiner conducted a public hearing on the request from John Gamlam (applicant). The hearing was opened at 6:00 p.m., September 28, 2023, and closed at 6:10 p.m.. The public hearing took place in hybrid format, both in-person and by Zoom teleconference. The Hearing Examiner and City staff attended in-person, as did a representative of the applicant. No members of the public participated in this hearing. Participants at the public hearing included a representative of the city of Marysville Community Development Department and the representative of the applicant. Participants are listed in this report, together with a summary of their testimony. A verbatim recording of the hearing and summary minutes are available from the Community Development Department. A list of exhibits offered and entered into the record at the hearing and a list of parties of record are included at the end of this report.



## **HEARING COMMENTS AND TESTIMONY**

The Hearing Examiner opened the public hearing, admitted Exhibits 1-31 into the public record, and outlined the procedures for the hearing. The Hearing Examiner summarized the request for a Preliminary Subdivision to subdivide a 4.63-acre property into 12 residential lots.

Testimony was provided by city of Marysville Community Development Department staff and a representative of the applicant. A summary of the testimony is as follows:

### **City of Marysville, Community Development Department**

Amy Hess, Senior Planner reviewed the proposal for the Gamlam Subdivision and provided a brief description of the site, described the previously approved variance to the Engineering Development and Design Standards related to site access, and noted that wetland buffer averaging is planned. Staff recommends approval of the proposal with 21 conditions provided in the Staff Recommendation

### **Representative of the Applicant**

Pat Severin, Sound Development Group, LLC affirmed concurrence with the staff recommendation and the 21 conditions of approval.

## **WRITTEN COMMENTS**

No additional written comments were entered into the record at the hearing.

## **FINDINGS, CONCLUSIONS AND DECISION**

Having considered the entire record in this matter, the Hearing Examiner now makes and enters the following:

### **A. FINDINGS**

1. The Hearing Examiner finds that the information provided in the Marysville Community Development Department Staff Recommendation (Exhibit 30) is supported by the evidence presented during the hearing and does by this reference adopt the Staff Recommendation as portion of the Hearing Examiner's findings and conclusions. A copy of the Staff Recommendation is available from the Marysville Community Development Department.
2. The minutes of the hearing accurately summarize the testimony offered at the hearing and are by this reference entered into the official record.
3. The applicant has provided evidence and has demonstrated that the request meets all of the application review criteria in accordance with MMC Section 22G.010.140(3)(a-d) as documented in Section 14 of the city of Marysville Staff Recommendation (Exhibit 30).
4. Staff has documented the basis for approval of a proposed subdivision in accordance with MMC 22G.090.130(a-j) Section 17 of the Marysville Staff Recommendation (Exhibit 30).
5. MMC 22G.010.170(3)(a-e) requires that the Hearing Examiner not approve a proposed development without first making the following findings and conclusions:

- a. The development is consistent with the Comprehensive Plan and meets the requirements and intent of the Marysville Municipal Code.

City of Marysville Staff Response

The Comprehensive Plan designation for the subject property is Single Family High Density. The proposed development and subsequent use of the property will be consistent with the pertinent development policies outlined in the Marysville Comprehensive Plan and the intent of the Marysville Municipal Code, as conditioned herein. For compliance with the specific Comprehensive Plan policies, please see Section 13 of the city of Marysville Staff Recommendation (Exhibit 30).

Hearing Examiner Finding

Concur with the staff response.

- b. The development makes adequate provisions for open space, environmentally sensitive areas, drainage, streets and other public ways, transit stops, water supply, sanitary wastes, public utilities and infrastructure, parks and recreation facilities, playgrounds, sites for schools and school grounds.

City of Marysville Staff Response

Based on a review of the preliminary plat map and application materials, the development makes adequate provisions for open space, environmentally sensitive areas, drainage, streets and other public ways, transit stops, water supply, sanitary wastes, public utilities and infrastructure, parks and recreation facilities, playgrounds, sites for schools and school grounds.

Hearing Examiner Finding

Concur with the staff response. The applicable components of this criterion are met. There are no transit facilities proposed, nor is there a proposed site for a school, neither of which is appropriate for this proposal. Provisions for impacts to schools are provided through the payment of impact fees to the Lake Stevens School District (Staff Recommendation, Condition #6).

- c. The development is beneficial to the public health, safety and welfare and is in the public interest.

City of Marysville Staff Response:

As conditioned herein, the proposed subdivision is beneficial to the public health, safety and welfare and is in the public interest as the subdivision is designed in accordance with applicable Marysville Municipal Code requirements.

Hearing Examiner Finding

Concur with the staff response. This criterion is met through the strict adherence to the Marysville Municipal Code, and through the provision of 12 new housing units in the city where urban services are provided.

- d. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan. If the development results in a level of service lower than those set forth in the comprehensive plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development. For the purpose of this section, “concurrent with the development” is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six years of approval of the development.

City of Marysville Staff Response:

As conditioned herein the development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan.

Hearing Examiner Finding

Concur with the staff response. Impact fees charged for transportation, schools and parks will serve to mitigate adverse impacts. This criterion is met as conditioned (Staff Recommendation, Condition #6, #7, #8).

- e. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development.

City of Marysville Staff Response

As conditioned herein, the area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development, and are proportional to the impacts created by the development.

Hearing Examiner Finding

Concur with the staff response. Tract 999 will provide the wetland buffer. Dedicated street right-of-way, Tract 996, and frontage improvement along 87<sup>th</sup> Avenue NE will provide site access for vehicles and active transportation modes. This criterion is met.

## **B. CONCLUSIONS**

The Hearing Examiner concludes that the applicant has demonstrated that the request is consistent with the provisions for a Preliminary Subdivision. Responses to each of the Application Review criteria in MMC 22E.010.140(3)(a-d) and the Public Hearing-Elements Considered in MMC 22G.090.130 (a-j) are deemed to be satisfactory with respect to their intent. The proposal complies with the Hearing Examiner-Required Findings in MMC 22G.010.170(3)(a-e).

### C. DECISION

Based upon the foregoing findings of fact and conclusions, the Hearing Examiner approves the request for a Preliminary Subdivision for the proposed Gamlam Subdivision, with the 21 conditions in the Staff Recommendation (Exhibit 30) dated September 14, 2023 (listed below):

1. The preliminary subdivision configuration depicted in Exhibit 022 shall be the approved plat configuration.
2. Prior to final plat approval, all encroachments shall be resolved. If the resolution results in a reduction in the net project area, the total density shall be adjusted as necessary.
3. Prior to final plat approval, a complete survey of the site shall be done.
4. Prior to civil construction plan approval, the applicant shall have a FINAL landscaping plan approved that includes all of the plan submittal requirements outlined in MMC 22C.120.030, the East Sunnyside-Whiskey Ridge Master Plan, and includes all of the applicable design elements outlined in MMC 22C.020.250(4) and MMC Chapter 22C.120.
5. Automatic residential fire sprinkler systems shall be installed in single-family residences on lots 1, 2 and 3, as required by the Marysville Fire District Fire Marshall.
6. The applicant shall submit payment to Lake Stevens School District No. 4 for school impacts caused by the development pursuant to Chapter 22D.040 MMC, School Impact Fees and Mitigation. Impact Fees have been deferred. School impact fees are based on the fee schedules in effect at the time an individual building permit application is accepted by the City and will be required to be paid prior to final building inspection. Credit shall be given to lot 1 for the existing single-family residence which will be demolished.
7. The applicant shall submit payment to the City of Marysville for park impacts caused by the development pursuant to Chapter 22D.020 MMC, Parks, Recreation, Open Space and Trail Impact Fees and Mitigation. Impact Fees have been deferred. Park impact fees are based on the fee schedules in effect at the time an individual building permit application is accepted by the City and will be required to be paid prior to final building inspection. Credit shall be given to lot 1 for the existing single-family residence which will be demolished.
8. In order to mitigate impacts upon the future capacity of the road system, the applicant shall be required to comply with the following conditions in accordance with the Traffic Concurrency Recommendation dated August 2, 2023 (Exhibit 027).
  - a. In order to mitigate impacts upon the future capacity of the road system, the applicant shall be required to submit payment to the City of Marysville, on a proportionate share cost of the future capacity improvements as set forth in MMC 22D.030.070(3), for the development. Credit for one (1) single-family residence shall be given for the existing single-family residence. The Gamlam subdivision will have 12 new single-family units. Traffic impact fees shall be vested at a rate of \$6,300, per single-family residence. The traffic impact fees for this proposal is estimated to be \$69,300.00. Calculation: (11 units x \$6,300 per unit = \$69,300).

- b. The applicant shall be required to dedicate public right-of-way in order to accommodate the proposed internal plat roads, in accordance with MMC 12.02A.110(1)(c), Dedication of Road right-of-way – Required setbacks. Right-of-way widths and required dedication shall be determined by the City Engineer.
  - c. The applicant shall be required to construct frontage improvements along internal plat roads and 87th Avenue NE, prior to final plat approval. Roadway improvements, channelization, site access and lighting plans will be required to be reviewed and approved by the City Engineer, prior to construction plan approval.
  - d. Applicant shall improve the intersection of Tract 996 and the existing alley to the south to a full hammerhead turn-around configuration and sprinklers shall be installed in lots 1, 2, and 3.
9. Wetland fencing and signage shall be placed adjacent to the regulated wetlands and buffers. Two-rail fencing shall be constructed with pressure treated posts and rails and cemented into the ground with either cedar or treated rails. Signs designating the presence of an environmentally sensitive area shall be posted along the buffer boundary at a minimum rate of one every 100 lineal feet.
  10. Prior to final plat approval, a Final Mitigation Plan, including maintenance and monitory plan, shall be submitted. The Enhancement areas shall be monitored for a period of 5 years, with formal inspections by a qualified Scientific Professional and reports shall be provided to the City. Monitoring events shall be scheduled at the time of construction, 30 days after planting, and on an annual basis during years 1-5. A closeout assessment shall be conducted in year 5 to ensure the success of the mitigation actions, and a report provided to the City.
  11. Homes on lots less than 5,000 square feet shall be designed to comply with MMC 22C.010.310, Small lot single-family dwelling development standards.
  12. Lots 1, 2, and 3 shall be designed to front onto 87<sup>th</sup> Avenue NE and shall have direct pedestrian access to the sidewalk. These access points shall be depicted on the civil construction plans.
  13. The maximum height of solid (more than 50 percent opaque) free-standing walls, fences, or hedges in any front yard or other location between the street and the façade shall be 3 ½ feet unless a taller wall, fence, or hedge is needed, per the Community Development Director, in order to mitigate significant noise and traffic impacts.
  14. The maximum height of any decorative wall or fence which allows visibility (no more than 50 percent opaque – for example wrought iron or split rail) in any front yard or other location between the street and the façade shall be six feet. Such fences shall be set back from the sidewalk at least three feet to allow for landscaping elements to soften the view of the fence.
  15. In development configurations where side yards abut a street, fences taller than 3 ½ feet shall be setback at least five feet from the sidewalk to allow for landscaping to soften the

view of the fence. Provisions for long-term maintenance of this landscaping shall be addressed on the final plat map.

16. All power lines, telephone wires, television cables, fire alarm systems and other communication wires, cables or line shall be placed underground either by direct burial or by means of conduit or ducts providing service to each building.
17. Prior to granting occupancy permits, the applicant shall provide a letter from the project engineer to verify that final project grading has been completed consistent with the approved grading plans; that all recommendations outlined in the Geotechnical Assessment and subsequent amendments have been followed; and that all fill has been properly placed.
18. Any existing on-site sewage system(s) shall be abandoned by having the septic tank(s) pumped by a certified pumper, then having the top of the tank removed or destroyed and filling the void (WAC 246-272A-0300). Documentation demonstrating completion of this work shall be submitted prior to final PRD/BSP approval.
19. Any existing on-site well(s) shall be decommissioned in accordance with WAC 173-160- 381. A copy of the well contractor's decommissioning report(s) shall be submitted prior to final PRD/BSP approval.
20. In order to ensure the protection of significant trees and vegetation within buffer areas, the applicant shall install a temporary, five-foot high, orange clearing limits construction fence around all buffer areas, or in a line generally corresponding to the drip line of any trees which will be retained, whichever extends furthest. All such fencing shall be installed and inspected by the Community Development Department or its designee prior to commencement of site work.
21. The Department of Archaeology and Historic Preservation's (DAHP) Inadvertent Discovery Plan shall be followed during site construction. If at any time during construction archaeological resources are observed on the project site, work shall be temporarily suspended at the location of discovery and a professional archaeologist shall document and assess the discovery. The DAHP and all concerned tribes shall be contacted for any issues involving Native American sites. If project activities expose human remains, either in the form of burials or isolated bones or teeth, or other mortuary items, work in that area shall be stopped immediately. Local law enforcement, DAHP, and affected tribes shall be immediately contacted. No additional excavation may be undertaken until a process has been agreed upon by these parties, and no exposed human remains should be left unattended.

Dated this 8<sup>th</sup> day of October, 2023.



Kevin D. McDonald, AICP  
Hearing Examiner

**EXHIBITS**

The following exhibits were offered and entered into the record:

1: Land Use Application	17: Variance Approval
2: Project Narrative	18: Affidavit of Publication
3: Title Report	19: Critical Areas Report Addendum dated
4: Variance Request	05.01.2023
5: Critical Areas Report Application	20: Determination Letter
6: Critical Areas Report	21: Response Letter
7: Geotechnical Report	22: Site Plan
8: Traffic Impact Analysis	23: Geotechnical Report Revised 07.26.2023
9: Drainage Report	24: Dispersion Trench Memo
10: Landscape Plan	25: Stormwater Report Revised 07.26.2023
11: Preliminary Site Plan	26: Buffer Mitigation Planting Plan
12: Preliminary Civil Plans	27: Concurrency Recommendation
13: Letter of Completeness Exhibit 14: Notice of Application	28: Concurrency Acceptance
15: Request for Review	29: Impact Fee Deferral Application
16: Technical Review Comments	30: Staff Recommendation
	31: Affidavit of Publication

**PARTIES of RECORD at the PUBLIC HEARING**

Amy Hess, Senior Planner City of Marysville Community Development Department 501 Delta Avenue Marysville, WA 98270	Pat Severin Sound Development Group PO Box 1705 111 Cleveland Street, Suite 202 Mount Vernon, WA 98273
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**RECONSIDERATION - MMC 22G.010.190.**

A party to a public hearing may seek reconsideration only of a final decision by filing a written request for reconsideration with the director within fourteen (14) days of the final written decision. The request shall comply with MMC 22.010.530(3). The hearing examiner shall consider the request within seven (7) days of filing the same. The request may be decided without public comment or argument by the party filing the request. If the request is denied, the previous action shall become final. If the request is granted, the hearing examiner may immediately revise and reissue the decision. Reconsideration should be granted only when a legal error has occurred, or a material factual issue has been overlooked that would change the previous decision.

**JUDICIAL APPEAL - MMC 22G.010.560.**

1. Appeals from the final decision of the hearing examiner, or other city board or body involving MMC Title 22 and for which all other appeals specifically authorized have been timely exhausted, shall be made to Snohomish County superior court pursuant to the Land Use Petition Act, Chapter 36.70C RCW, within 21 days of the date the decision or action became final, unless another applicable appeal process or time period is established by state law or local ordinance.
2. Notice of the appeal and any other pleadings required to be filed with the court shall be served as required by law within the applicable time period. This requirement is jurisdictional.
3. The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The record of the proceedings shall be prepared by the City or such qualified person as it selects. The appellant shall post with the city clerk prior to the preparation of any records an advance fee deposit in the amount specified by the city clerk. Any overage will be promptly returned to the appellant.