

CITY OF MARYSVILLE
Hearing Examiner
Findings, Conclusions and Decision

APPLICANT: Bazara Short Plat
CASE NO.: SP 23-004
LOCATION: 12508 45th Drive NE, Marysville, WA 98271
APPLICATION: Request for a 2-lot Short Subdivision to construct one new single-family detached residence and retain the existing single-family residence and accessory structure on Lot 1.

SUMMARY OF RECOMMENDATION

Staff Recommendation: Approve the Preliminary 2-lot Short Subdivision to construct one new single-family detached residence.

Hearing Examiner Decision: Approve the Preliminary 2-lot Short Subdivision to construct one new single-family detached residence, subject to the 9 conditions of approval listed in the Staff Recommendation dated October 26, 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 Walid Bazara. The hearing was opened at 6:20 p.m., November 2, 2023, and closed at 6:47 p.m.. The public hearing took place in hybrid format, both in-person and by Zoom teleconference. Participants at the public hearing included a representative of the city of Marysville Community Development Department, a representative of the applicant, and several members of the public. These persons are listed in this report, together with a summary of their testimony, and are documented in the minutes of the hearing. Summary minutes are available at the Marysville Hearing Examiner web site: [Marysville Hearing Examiner \(marysvillewa.gov\)](http://marysvillewa.gov). 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, outlined the procedures for the hearing, and admitted Exhibits 1-18 into the public record. The Hearing Examiner summarized the request for a Short Plat, an item that typically does not come before the hearing examiner, but the City received over five adverse public comments on the application, therefore, the Community Development Director determined that a public hearing is necessary to address issues of public significance related to the proposed short subdivision.

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

City of Marysville, Community Development Department

Chris Holland, Planning Manager, gave a brief overview of the proposal, addressed the concerns expressed regarding the proposal, and confirmed that the proposal satisfies the provisions of the Marysville Municipal Code. Staff recommends approval, with the 9 conditions listed in the staff recommendation.

Representative of the Applicant

Amy Loen, Mac Engineering, described the proposal as being in compliance with the zoning, and noted that the applicant will apply for a variance from the required frontage improvements.

Community Comments

Kathy Renfro, as a neighbor to the site, expressed no opposition to the proposal, and disputed several of the concerns that Mr. Holland addressed.

Gail Light, a resident of the neighborhood since 2003, described the charm and openness of the neighborhood, and was curious as to why the property owner would propose to subdivide.

John Bell, a resident of the neighborhood since it was developed in 1979, described the quiet setting and expressed concern that approval of the subdivision could create a precedent that other property owners could follow.

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 18) 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 at the Marysville Hearing Examiner web site: [Marysville Hearing Examiner \(marysvillewa.gov\)](http://MarysvilleHearingExaminer(marysvillewa.gov)).

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 12 of the city of Marysville Staff Recommendation (Exhibit 18).
4. Staff has documented that the proposed short subdivision is consistent with the Review Process-Elements Considered provisions of MMC 22G.090.360(1-11) in Section 13 of the city of Marysville Staff Recommendation (Exhibit 18).
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 Medium 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.

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

As conditioned herein, the proposed short subdivision, will make adequate provisions for open space, parks and recreation facilities, playground and sites for schools and school grounds through payment of park and school impact fees. There are no environmentally sensitive areas on-site and there are adequate streets, public water and sewer and public utilities and infrastructure within the neighborhood.

Hearing Examiner Finding

Concur with the staff response. All the applicable components of this criterion are met.

- 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 short 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.

- 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. This criterion is met as conditioned.

- 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.

B. CONCLUSIONS

The Hearing Examiner concludes that the applicant has demonstrated that the request is consistent with the provisions for a Short Subdivision. Responses to each of the application review criteria in MMC 22E.010.140(3)(a-d) and the review process considerations in MMC

Section 22G.090.360(1-11) are deemed to be satisfactory with respect to their intent. The proposal complies with the MMC 22G.010.170(3)(a-e) which is necessary for the Hearing Examiner to approve a proposed development.

C. DECISION

Based upon the foregoing findings of fact and conclusions, the Hearing Examiner approves the request for short subdivision with the 9 conditions listed in the Staff Recommendation dated October 26, 2023 (these are listed below).

1. The preliminary site plan received by the Community Development Department (Exhibit 15) shall be the approved preliminary site plan layout.
2. The applicant shall be required to construct frontage improvement along 45th Drive NE, in accordance with MMC 12.02A.090(3)(b), unless an administrative variance is granted by the Public Works Department in accordance with MMC 12.02A.090(4) and MMC 12.02A.120(1). The administrative variance shall be reviewed and a decision rendered, prior to civil construction plan approval.
3. Prior to civil construction plan approval, a landscape plan consistent with MMC Chapter 22C.120, shall be approved, including but not limited to, the following design elements:
 - 3.1. Street trees along 45th Drive NE and the private pan-handle access.
 - 3.2. Fencing in accordance with MMC 22G.090.580
4. Prior to recording the short subdivision, the existing carport located on proposed Lot 1 shall be removed in order to comply with the required accessory structure setbacks outlined in MMC 22C.180.020.
5. Prior to recording the short subdivision, the applicant shall be required to demonstrate compliance with the building and impervious surface coverage for Lot 1, pursuant to MMC 22C.010.080.
6. The applicant shall submit payment to Marysville School District No. 25 for school impacts caused by the new lot in accordance with MMC Chapter 22D.040. School mitigation fees will be 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 building permit issuance. Credit shall be given to lot 1 for the existing singlefamily residence.
7. The applicant shall submit payment to the City of Marysville for park impacts caused by the new lot in accordance with MMC Chapter 22D.020. Park mitigation fees will be 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 building permit issuance.
8. The applicant shall submit payment to the City of Marysville for traffic impacts caused by the new lot in accordance with MMC Chapter 22D.030. Traffic impact fees are vested at \$6,300.00, and will be required to be paid prior to final short plat approval. Credit shall be given to lot 1 for the existing single-family residence.

9. All necessary power lines, telephones wires, television cables, fire alarm systems and other communication wires, cables or lines shall be placed in underground location either by direct burial or by means of conduit or duct. All such underground installations or systems shall be approved by the appropriate utility company and shall adhere to all governing applicable regulations including, but not limited to, the applicable City and State regulations and specific requirements of the appropriate utility pursuant to MMC 22G.090.710.

Dated this 6th day of November, 2023.

A handwritten signature in black ink that reads "Kevin D. McDonald". The signature is written in a cursive style with a large, stylized 'K' and 'M'.

Kevin D. McDonald, AICP

Hearing Examiner

EXHIBITS

The following exhibits were offered and entered into the record:

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|----------------------------|-------------------------------|
| 1. Land Use Application | 10. Affidavit of Publication |
| 2. Title Report | 11. Technical Review Comments |
| 3. Geotechnical Report | 12. Response Letter |
| 4. Drainage Report | 13. Preliminary Civil Plans |
| 5. Plat Map | 14. Response Letter |
| 6. Preliminary Civil Plans | 15. Plat Map |
| 7. Request for Review | 16. Affidavit of Publication |
| 8. Letter of Completeness | 17. Notice of Public Hearing |
| 9. Notice of Application | 18. Staff Recommendation |

PARTIES of RECORD at the PUBLIC HEARING

Chris Holland Marysville Community Development Department 501 Delta Avenue Marysville, WA 98270	Any Loen, Mac Engineering P.O. Box 177 Silvana, WA 98287
Kathy Renfro 12522 45th Dr NE Marysville, WA	Gail Light 4716 126th St NE Marysville, WA
John Bell 4715 126th St NE Marysville, WA	

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.