



CITY OF
SUMNER
WASHINGTON

1104 MAPLE STREET, SUMNER WA 98390

October 14, 2021

Ronald J Scholz
1621 Robinson Rd
Sumner Tacoma, WA 98390

RE: PLN-2021-0039

Dear Mr. Scholz:

Transmitted herewith is the Report and Decision of the City of Sumner Hearing Examiner relating to the above-entitled matter.

Very truly yours,

STEPHEN R. SHELTON
Deputy Hearing Examiner

SRS/jjp

cc: Parties of Record

OFFICE OF THE HEARING EXAMINER

CITY OF SUMNER

REPORT AND DECISION

PROJECT NO.: PLN-2021-0039

APPLICANT: Ronald J Scholz
1621 Robinson Rd
Sumner Tacoma, WA 98390

STAFF REPRESENTATIVE: Chrissanda Walker, Planner

SUMMARY OF REQUEST:

This variance request is to pursue a short subdivision of an existing pipestem lot to propose construction of a smaller single-family residence. The existing lot is approximately 40,946-square feet and the underlying zoning is low density residential, LDR-6, requiring a minimum of 6,000-square foot lot sizes. Minimum lot sizes for pipestem lots in the LDR-6 are 10,000-square feet. The existing lot gains access from a 30-foot easement connecting to Robinson Road. Current pipestem regulations limit the number of lots served by private streets. The site is located adjacent to SR-410 and there are no known wetlands in this vicinity. The site is located at 1621 Robinson Road, Sumner, Parcel 0420255001.

SUMMARY OF DECISION: Approved.

PUBLIC HEARING:

After reviewing the Community Development Department Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on September 28, 2021 at 3:30 p.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT A** - **Community Development Department Staff Report**
- EXHIBIT B** - **Application**
- EXHIBIT C** - **Variance Request Letter**
- EXHIBIT D** - **Submittal Document- Letter Of Support**
- EXHIBIT E** - **Proposed Site Plan**
- EXHIBIT F** - **Notice Of Application And Hearing**
- EXHIBIT G** - **Public Comments For Variance**

The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.

SCOTT WALLER, Senior Planner, appeared and presented the Staff Report (Ex. A) noting the balance of the administrative record includes Exhibits B through G. He addressed the site plan (Ex. E) and stated the proposal includes a subdivision of property of an existing pipestem lot located at 1621 Robinson Road., Sumner. The property is zoned Low Density Residential, LDR-6. Access is currently a private driveway that is not fully developed on an easement from WSDOT connecting to Robinson Road. The property is relatively flat and the surrounding parcels to the east are of various sizes, to the north are ballfields, to the west are single-family homes, and to the south is SR-410. He discussed SMC 17.28.200A and the intent of the policy regarding private streets and pipestem lots and noted the proposed site is unique due to its location between the school and the highway. He stated the proposed lots will meet the minimum lot size for the zone and the performance standards. He noted that two public comments were received. The Sumner School District was confirming where the proposed waterline for the new residence would meet up with the District's easement. (Ex. G) Mr. John Doan, former City Administrator, provided background information and the policy intention regarding SMC 17.28.200A and opined that the proposal would not violate the policy of the code provision nor result in adverse impacts. Mr. Walker concluded with a summary of the review criteria articulated in SMC 18.50.030 and stated that the staff recommendation was for approval of the request for the variance.

RONALD J. SCHOLZ, Applicant, appeared and stated he appreciated the staff and noted that he built his current home 40-years ago but the new home would be better for him now that he has retired.

No one spoke further in this matter and so the Examiner took the request under advisement and the hearing was concluded at 3:30 p.m.

NOTE: A complete record of this hearing is available in the office of the City of Sumner Community Development Department.

FINDINGS, CONCLUSIONS, AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, heard testimony and taken this matter under advisement.
2. The Applicant has proposed a short plat of his property into two lots both of which would be accessed by an easement on an adjacent parcel making them both pipestem lots. The proposal is in compliance with all City of Sumner (City) standards except Sumner Municipal Code (SMC) 17.28.200A which requires that private streets serve no more than one lot and that a pipestem lot shall be separated from a public street by no more than one lot. The Applicant is requesting a variance to the pipestem regulations in SMC 17.28.200A to enable him to construct a single-family residence on a subdivided lot that would be the second pipestem lot accessed by the same private street. The City Variance Permit Application (Ex. B) was filed on June 3, 2021. The subject site is located at 1621 Robinson Road, Sumner. Parcel No. 0420255001
3. SEPA: The proposal is exempt from SEPA review.
4. Notice:
The proposed variance request is classified as a Type IV decision in accordance with SMC 18.56.030(H)(1):
 - a. Notice of Application
The Notice of Application was posted on site, posted at Sumner City Hall, mailed to all property owners within 500 feet, posted on Sumner's website, sent to parties of record and published in the official city newspaper, the Courier Harold on September 13, 2021 in accordance with SMC 18.56.075 and 18.56.110(B).
 - b. Notice of Public Hearing
The Notice of Public Hearing was posted on site, posted at Sumner City Hall, mailed to property owners within 500 feet, posted on Sumner's website, sent to parties of record and published in the official city newspaper, the Courier Herald on September 13, 2021 in accordance with SMC 18.56.075 and 18.56.110(B). (Ex. F)
5. The Applicant has a possessory interest in the subject site which is Lot #1 of an existing short subdivision #77-148 of two lots that the Applicant completed in 1977 when he retained Lot #1 and sold off Lot #2. Lot #1 has access by a 30-foot easement across Lot #2 which is connected to Robinson Road, a City street that extends about a quarter mile to Sumner Avenue.
6. The subject property is relatively flat and is currently developed with an existing 1600-square foot single-family residence and one detached accessory structure. An

existing septic system and drainage field are located within the northern portion of the property. The City provides water and storm services to the site; Puget Sound Energy (PSE) provides power. Located at the end of Robinson Road, the site is generally isolated between the adjacent SR-410 to the south and the ballfields on the Sumner Middle School property to the north. There are no mapped wetlands on site or in its vicinity nor any designated shorelines.

7. The property is zoned Low Density Residential (LDR-6) and is surrounded by the following zoning and land uses: to the north, LDR-12 low density residential 12,000 with about 21-acres of land for the Sumner Middle School and outdoor ballfields; to the east, LDR-6 with a religious services building and parking for a new nine lot single-family residential development; to the south, SR-410 and HDR high density residential development across SR-410; and to the West, LDR-6 zoning with an existing single-family residence.
8. Pursuant to SMC 18.12.010, the purpose of the Lower Density Residential Zones such as the LDR-6 zone is to stabilize and preserve low density residential neighborhoods, to create a stable and satisfying environment for family life and to prevent intrusions by incompatible land uses. The requested variance to enable the subdivision creating Lot B for the construction of a single-family residence is consistent with the purpose of the LDR-6 zone.
9. Pursuant to SMC 18.12.070(N), Property Development Standards for LDR-6, the minimum lot size for pipestem lots in LDR-6 is 10,000-square feet. The existing Lot #1 is 40,946-square feet. The proposed Lot A will be 22,715-square feet and Lot B will be 18,050-square feet. Pursuant to SMC 18.12.070(M)(1), yard setbacks for pipestem lots are that at least two yard setbacks shall be a minimum of 15-feet with remaining yard setbacks allowed a minimum of five feet. The north and south boundaries of Lot B appear to have greater than 15-foot setbacks. (Ex. E)
10. The City Comprehensive Plan (Plan) 2015 includes numerous policy statements related to the proposal. (Ex. A, pages 5-8) The City Staff review and determination that the proposal is generally consistent with the Plan is accepted by the Examiner and incorporated by reference herein.
11. The Plan designation of Low Density Residential provides for primarily single-family dwellings in areas with current or planned access to City facilities and services. Low density residential uses provide a transition from rural residential to higher density uses. Primary uses include detached single-family residential dwellings, private garages, and other accessory buildings. Secondary allowed uses include accessory units ("mother-in-law units"), adult family homes, public and private educational facilities, utilities subject to compatibility criteria, and churches and religious institutions. (Plan, page 40) The proposal is generally consistent with the Plan designation.

12. In planning for the future, the Plan recognizes that Sumner “. . . has unique ‘small town’ characteristics and appeal even in the face of a changing world” and that “the streets of Sumner are primarily a gridded layout of surfaced streets with curbs, gutters, and sidewalks and with handicap access. The City promotes alleys through development incentives, and most garages are entered from them, making the sidewalks straight, flat and in good repair. (Plan page16)

13. SMC 17.28.200A entitled “Private Streets” states:

Private streets shall serve no more than one lot; provided, that the private street shall have a minimum width of 30 feet. In no case shall the front lot line of a pipestem or panhandle lot be separated from a public street by more than one lot.

14. John Doan, former City Community Development Director and City Administrator, stated in his support for the Applicant’s proposal that the City basis for SMC 17.28.200A was a concern that pipestem lots would result in consecutive driveways with increased volume thereby creating pedestrian and vehicle conflicts which was contrary to the “small town” characteristics of walkability and streetscape. Mr. Doan noted that the location of the Applicant’s proposal is different than the majority of the City as there is no streetscape and minimal pedestrian activity and no reasonable likelihood that it will happen in the foreseeable future. He noted that the Applicant’s property is not on a grid where there would be opportunity for “walkability” as it is bound by SR-410 and the school property. (Ex. D)

15. Pursuant to SMC 18.50.030 Criteria for Granting a Variance, variances shall be approved by the Hearing Examiner only when all the following facts and conditions are found to exist:

A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and in the zone in which the subject property is located; and

The variance which will enable the short plat will not constitute a grant of special privilege as the size of each lot will larger than the minimum required in the LDR-6 zone and will be consistent with existing properties in the vicinity of Robinson Road. In addition, the new structures will be consistent with the development standards such as setbacks and building height.

B. Because of special circumstances relating to the size, shape, topography, location or surrounding of the subject property, which were not created by the owner or applicant, the strict application of the applicable land use regulations would deprive the property of rights

and privileges enjoyed by other properties in the vicinity and in the zone in which the subject property is located; and

The Applicant's property is situated at the end of Robinson Road in an area that had been planned to be part of the City street grid system prior to the construction of SR-410. Now, the subject site is also bounded by the property owned by the Sumner School District. The Applicant did not create these restrictions. In addition, the access to the property has restrictions regarding width expansion due to it being on an easement granted across WSDOT right-of-way.

- C. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and in the zone in which the subject property is situated; and

The additional single-family residence created by the short plat would not create any greater traffic concerns in the area. The existing 20-foot width of the road is wide enough to enable fire apparatus access and any dwelling situated behind the existing lot as a pipestem lot should be within the required reach of 150-feet by fire service. If not, the structure would be required to install an indoor sprinkler system. Finally, the two proposed lots will not deviate from the property development standards for the LDR-6 zone such as size, setbacks and height.

- D. The authorization of such variance will not adversely affect the implementation of the Sumner comprehensive plan and subsequent regulations; and

As stated above, the proposal is generally consistent with the Plan. Notably, the proposal will be subject to the development regulations for the zone and will be consistent with the Plan's encouragement of infill development, efficient use of land, low density development, variety of housing types and lot size diversity.

- E. The literal interpretation and strict application of the applicable land use regulations would cause undue and unnecessary hardship; and

To meet the current pipestem regulations, the Applicant would be required to fully develop Robinson Road with full sidewalk improvements. The cost of such improvements would be disproportionate to the cost of the single-family residence. In addition, the WSDOT right-of-way easement is in conflict with the strict application of the pipestem regulations. Finally, the City does not intend to extend Robinson Road as SR-410 and the WSDOT easements take priority in this area

- F. The requested variance does not go beyond the minimum necessary to afford relief.

The proposal satisfies the variance criteria. All land use, building and development permits and approvals will be required as well as compliance with all local, state and federal regulations. The proposed subdivision will meet all required setbacks, height restrictions and other City standards and specifications.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The Applicant has shown that the request for a variance to the requirements of a pipestem lot stated in SMC 17.28.200A to enable the subdivision creating two pipestem lots to have one driveway for the construction of a single-family residential dwelling satisfies all relevant criteria set forth in the City code including SMC 18.50.030 and, therefore, should be approved.

DECISION:

Request of Variance Approved.

ORDERED this 14th day of October, 2021.



STEPHEN R. SHELTON
Deputy Hearing Examiner

TRANSMITTED this 14th day of October, 2021, to the following:

APPLICANT: Ronald J Scholz
1621 Robinson Rd
Sumner Tacoma, WA 98390

OTHERS:

John Doan johndoan@comcast.net
Marina Tanay marina_tanay@sumner.d.org

CITY OF SUMNER

RECONSIDERATION AND APPEAL NOTICE

Reconsideration and Appeal Rights are set forth in Chapter 18.56 of the Sumner Municipal Code.