

OFFICE OF THE HEARING EXAMINER

CITY OF NEWCASTLE

REPORT AND RECOMMENDATION

CASE NO.: LAWRENCE PARK SUBDIVISION
FILE NO. 938

APPLICANT: Scott Cameron
Lawrence Park LLC
1215 120th Avenue NE, Ste. 110
Bellevue, WA 98005

SUMMARY OF REQUEST:

The applicant is requesting preliminary plat approval to allow subdivision of approximately 2.64 acres of land into seven single family residential lots.

SUMMARY OF RECOMMENDATION:

Request should be granted, subject to conditions.

PUBLIC HEARING:

After reviewing Department of Community Development 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 December 3, 2007, at 10:13 a.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 "1" - Community Development Department Staff Report and Attachments

EXHIBIT "2" - Hard Copy of Power Point Presentation

JASON ROGERS appeared, presented the Department of Community Development Staff Report, and testified that the site consists of three parcels. Sewer and water are available. Limited sight distance in SE 88th St. is available to the west due to a hill, and a condition requires a safety lane for entering and existing the subdivision. The requirement for the

lane could change following further review. The map of the area shows a close distance between intersections. The applicant's proposal to buffer average for the wetland meets City requirements. The SEPA official issued a MDNS and received no appeals.

SCOTT CAMERON appeared on behalf of the applicant and provided his current address. He agrees with the City and the staff report. He also ascertained that he would received credit for street trees.

No one spoke further in this matter and the Examiner took the matter under advisement. The hearing was concluded at 10:27 a.m.

NOTE: A complete record of this hearing is available in the office of the City of Newcastle 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 City's Responsible SEPA Official issued a Mitigated Determination of Nonsignificance (MDNS) on October 15, 2007. A Revised MDNS was issued on October 18, 2007. No appeals were filed.
3. Appropriate notice was provided pursuant to the Newcastle Municipal Code (NMC).
4. The applicant has a possessory ownership interest in three adjoining lots totaling 2.64 acres located north of SE 88th Street between its intersections with 116th St. SE and 118th Avenue SE. within the City of Newcastle. The applicant requests preliminary plat approval to allow subdivision of the site into seven single family residential lots.
5. A 30 foot wide, 81 foot long pipestem parcel provides access to the developable portion of the site which consists of a rectangle measuring 174 feet in width and 658 feet in depth. The preliminary plat map shows access provided via an internal plat road extending north from SE 88th Street within the pipestem and then along the west property line of the parcel to a cul-de-sac in the northern portion. Lots one through six abut the east side of the internal road and lot seven and a stormwater detention tract abut the north side of the cul-de-sac. The northern 109 feet of the parcel consists of a wetland and wetland buffer and will remain in permanent open space. The wetland extends off-site to the north. The preliminary plat proposes a minimum lot size of 7,911 square feet and a maximum lot size of 9,365 square feet.

The stormwater detention facility measures 18,503 square feet and the wetland and buffer measure 16,472 square feet.

6. The vacant parcel slopes gently downward from south to north. Vegetation consists of mature trees and understory.
7. The site is located within the "Medium Density Single Family Residential" designation of the City of Newcastle Comprehensive Plan and the Single Family Residential (R-4) zone classification of the Newcastle Municipal Code (NMC). Abutting parcels in all directions are located within the Medium Density Single Family Residential designation of the comprehensive plan and the R-4 zone classification. Abutting parcels are also improved with single family residential homes.
8. The proposed plat complies with applicable comprehensive plan policies which include LU-P1, which requires that all development comply with adopted zoning and subdivision regulations and LU-P12 which requires the City to attempt to achieve a minimum average net zoning density of at least four dwelling units per acre through a mix of densities and housing types. The project also complies with Policy LU-P42 as it protects an on-site wetland.
9. The plat proposes a minimum lot size of 7,583 square feet which satisfies the minimum lot area requirement of 7,500 square feet. The rectangular lots will provide a reasonably sized building envelope which can meet required setbacks of ten foot front yard, five foot side yard, and 20 foot rear yard. The applicant has not requested relief from the building height limitation of 30 feet. Review of development of each lot at building permit stage will ensure that the maximum building coverage does not exceed 35% and that the maximum impervious surface does not exceed 45%.
10. Section 18.08.030 NMC authorizes single family detached housing as an outright permitted use in the R-4 classification. Section 18.12.030 NMC requires a base density of four dwelling units per acre and allows a maximum density of six dwelling units per acre in the R-4 classification. In accordance with the formula set forth in Section 18.12.030(A) NMC and as reproduced on page 6 of the staff report, the R-4 classification authorizes a maximum of 13 lots and a minimum of seven lots on the site. The preliminary plat proposes the minimum of seven lots, thereby satisfying the density requirements. The preliminary plat satisfies the bulk regulations of the R-4 zone classification.
11. Chapter 18.16 NMC sets forth the tree retention and landscaping requirements for a new residential subdivision and requires retention of 25% of significant trees located in the interior of the lots excluding critical areas and buffers. The applicant submitted a tree retention plan which shows a total of 111 significant trees on the site, five of which are within the wetland/buffer area and 106 on the developable

portion of the site. The code requires retention of 27 trees and the applicant proposes to save 16 trees, but is granted an additional significant tree credit for preserving a 33 inch conifer on proposed lot two. The applicant must therefore replace the balance of ten trees at a rate of two caliper inches for each caliper inch removed. The applicant must plant 103 replacement trees, the locations of which will be determined during engineering review. The preliminary plat complies with Chapter 18.16 NMC.

12. Section 18.14.180 NMC requires 390 square feet per residential unit of on-site recreational space and a minimum recreational space of 5,000 square feet. As an alternative, NMC 18.14.210 allows the payment of a fee in lieu of recreational space. The applicant has elected not to provide recreational space and must therefore pay the sum of \$9,847.63 to the City prior to final plat approval.
13. The Coal Creek Utility District has submitted a Certificate of Water Availability confirming its ability to provide both domestic water and fire flow to the site. The Utility District has also provided a Certificate of Sewer Availability confirming its ability to provide sanitary sewer service to each lot. Sewers will serve the lots via an extension from the sanitary sewer main in the SE 88th St. right-of-way.
14. The parcel is located in one drainage basin which measures approximately 2.63 acres. The basin drains to the north and northeast into both a conveyance swale on the east side of the property and the wetland to the north. A 12 acre upstream basin also discharges into the swale which eventually flows northward to the wetland. The storm drainage facilities must meet the requirements of the 1998 King County Surface Water Design Manual as well as other standards set forth in Chapter 13.10 NMC and Public Works Operating Policy No. 18. The applicant proposes to direct stormwater to an on-site detention/wet pond located adjacent to the wetland buffer north of the internal plat road cul-de-sac. The detention/wet pond will provide water quality treatment. The system will discharge water from the pond via a level spreader to the wetland north of the site. The drainage system will also ensure that the drainage for the upstream basin bypasses the site to its present discharge into the wetland. The applicant also provided a Level 1 downstream analysis to the City.
15. DM Traffic Consultants, a qualified traffic engineering firm, provided a Traffic Impact Analysis (TIA) for the project. The traffic engineer estimates that the proposed development will generate approximately 67 vehicle trips per day, eight of which will occur during the p.m. period and six during the a.m. peak period. The intersection of the site access road and SE 88th Street and the 116th Avenue/SE 88th Street intersection will operate at Level of Service (LOS) A following build-out of the subdivision. The TIA anticipates that the project will create no significant adverse conditions on the surrounding transportation network.
16. The sight distance analysis performed by the engineer revealed both an entering and stopping sight distance deficiency looking to the west at the intersection. Staff

has recommended a condition of approval which requires installation of a safety lane for entering and exiting the subdivision. The mitigation could change during final review of the plat, but the applicant will need to address the inadequate sight distance issue. In accordance with NMC 12.25.050 the applicant must provide illumination on all streets.

17. The applicant submitted a road standards variance to the City engineer asking for relief from standards at the intersection of the internal plat road and SE 88th Street. The engineer approved variances for pavement width, sidewalk, and planter strips, but denied the variance for the entering sight distance. The applicant will need to provide a workable option during the engineering review phase. Furthermore, the project must satisfy the City Traffic Impact Fee Ordinance and make a per lot payment of \$1,704.98 per single family dwelling. The applicant must also comply with the Interlocal Agreement between King County and the City for participation in the Coal Creek Parkway project and pay a fee of \$175 per single family residential dwelling unit.
18. The project has no erosion hazard area, no landslide hazard area, no steep slopes, no coal mine hazards, is not located in a seismic hazard area, and has no identified streams. However, a Category III wetland exists along the northern border of the site, and pursuant to NMC 18.24.315 requires a 60 foot wide buffer. The applicant provided a Wetland Evaluation Study which considered a proposed encroachment of between five and 15 feet into the required 60 foot wide wetland buffer to accommodate a stormwater detention/wetland pond and discharge facilities. NMC 18.24.315(B) authorizes wetland buffer averaging, and the applicant proposes to increase the wetland buffer along its southwest portion adjacent to lot seven by the same amount as the encroachment (1,649 square feet). Such meets the requirements of NMC 18.24.325 which requires one to one mitigation.
19. The preliminary plat is located within the Renton School District. The City School Impact Fee Ordinance makes no provision for impact fees for projects within said district. Should the City adopt an ordinance prior to the issuance of building permits, future lot owners may need to comply with the provisions of said ordinance. The taxes generated by the new lots and homes will offset the impacts to the district of school aged children residing in the plat.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The proposed preliminary plat of Lawrence Park is consistent with the Medium Density Single Family Residential designation of the City of Newcastle Comprehensive Plan and satisfies all bulk regulations of the R-4 zone classification.

3. The proposed preliminary plat makes appropriate provision for the public health, safety, and general welfare for open spaces, drainage ways, streets, roads, alleys, other public ways, transit stops, potable water supplies, sanitary waste, critical areas, parks and recreation, playgrounds, schools and school grounds, and safe walking conditions.
4. The proposed preliminary plat will serve the public use and interest by providing an attractive location for a single family residential subdivision and therefore should be approved subject to the following conditions:
 1. All subsequent development review associated with this proposal shall comply with the Newcastle Municipal Code, Newcastle Public Works Development Standards, Newcastle Comprehensive Plan, and other applicable codes and policies.
 2. To protect significant trees from the impacts of the proposed development, the Applicant shall provide the best protection for significant trees per the regulations in NMC 18.16.160. At a minimum, any significant trees to be retained shall be fenced two feet outward from the identified drip line with 5-foot chain link fencing mounted on driven steel posts. Trees that sustain damage during the course of construction shall be replaced pursuant to NMC 18.16.160. A representative of the City of Newcastle shall verify protective fencing placement per this condition prior to issuance of a notice to proceed for grading and clearing. The City shall inspect for compliance with the retention plan prior to a final inspection. The inspection shall also evaluate the condition of retained trees and any and all corrections will be required to be completed prior to a final inspection and sign-off. The Applicant shall submit a revised Significant Tree Retention plan based on the final grading plans for the site.
 3. Any street trees the Applicant wishes to plant shall be planted according to the City of Newcastle's street tree planting standards.
 4. The Applicant shall provide fees-in-lieu-of recreation space in the amount of \$9,847.63, due to the City prior to recording of the final plat.
 5. The Applicant shall coordinate with the Renton Post Office regarding the location and design of locking mailboxes and the lock for postal carrier access. The Applicant shall show the mailboxes on the engineering plans. The location and design must be approved by the City prior to issuance of any construction permits. All water and sewer mains for the project shall be constructed by the Applicant and accepted by the CCUD prior to final plat approval.
 6. All proposed water and sewer lines and facilities which are not located within

the public right-of-way shall be located in appropriate easements, and these easements shall appear on the final plat as well as on the CCUD standard easement forms recorded against the individual lots or parcels. Easements shall be recorded at final plat recording.

7. Prior to issuance of any construction permits, approved sewer and water plans shall be submitted to the City for review.
8. The Applicant shall provide mitigation for an increase in stormwater volumes and water quality impacts by complying with the KCSWDM design standards. A complete Technical Information Report (TIR) shall be submitted to the City prior to the issuance of any construction permits.
9. After construction is complete, the Applicant shall clean all pipes, inlets, and outlet areas as directed by the City for those areas affected by the project. The City and Applicant shall inspect the system prior to the start of construction to verify the existing condition of the systems.
10. In order to assure that the stormwater collection, conveyance, and treatment systems continue to provide their intended functions, all portions of the proposed stormwater system shall be dedicated to the City.
11. The Applicant shall provide all necessary easements for the proposed storm system. Said easements shall be clearly delineated on the plans prior to issuance of any construction permits. Language of the same shall be provided for review and approval by the City Attorney and City Engineer. All drainage easements and covenants shall be recorded at final plat recording.
12. The Applicant shall adhere to the design requirements and best management practices identified in the KCSWDM, as a minimum, with respect to erosion control. The Applicant shall submit to the City for review a Temporary Erosion and Sedimentation Control Plan prior to issuance of any construction permits.
13. The Applicant shall be required to submit for review and approval all clearing and grading plans, engineering construction drawings, and other site improvement plans to the City prior to issuance of any construction permits.
14. The Applicant shall dedicate right-of-way and construct drainage, paving, curb, gutter, sidewalk, illumination, landscaping, and related on-site improvements to 117th Avenue SE to City standards for local access streets.
15. The Applicant shall construct drainage, paving, curb, gutter, sidewalk, and turn lane channelization for entering and stopping sight distance mitigation to

SE 88th Street as approved by the City in the engineering review phase.


16. The Applicant shall pay the City of Newcastle's traffic impact fee in accordance with NMC 16.15. The fee shall be paid when each building permit is issued.
17. The Applicant shall pay King County's Mitigation Payment System (MPS) fees, which assess mitigation for the construction of future improvements to Coal Creek Parkway S.E., as required by the City's adopted transportation mitigation ordinance. MPS fees would be collected by King County under the fee schedule in effect at the time of approval. Fees applying to road projects under the City's jurisdiction would be returned to the City. The Applicant shall also pay for any administrative costs incurred by King County for administration of the MPS fees. The fees shall be paid when each building permit is issued.
18. The Applicant shall adhere to NMC Section 18.24.210 when clearing and grading in the erosion hazard area of the project site. Including: clearing may be permitted in an erosion hazard area only between May 1st and September 30th, with the exception of work done under an approved Forest Practice Permit; all vegetation shall be retained on sites within erosion hazard areas until building permit issuance, except that vegetation may be removed as necessary for construction of infrastructure; and no clearing may occur prior to review and approval of an Engineering Review Permit.
19. The Applicant shall provide maintenance and monitoring schedule for the wetlands and associated buffers in accordance with the City of Newcastle's "Wetland Mitigation and Performance Standards and Maintenance and Monitoring Schedule."
20. The Applicant shall submit a Sensitive Areas Bond Quantity Worksheet for approval that includes costs relative to the mitigation measures. An assignment of funds or irrevocable letter of credit shall be provided to the City for 130% of the approved costs as computed on the Sensitive Areas Bond Quantity Worksheet. . If determined acceptable by the Director of Community Development, based on the Sensitive Areas Bond Quantity calculation, the applicant may request to post a surety bond for the duration of the required wetland mitigation monitoring period. If the wetland restoration is in compliance with the performance standards after the first monitoring period, 30% (contingency and mobilization) of the funds will be returned to the Applicant. The City will hold the remaining 100% as a performance surety for a period of 5 years of successful wetland maintenance and monitoring. The Applicant will not be required to post a separate maintenance and monitoring surety for wetland restoration.

21. The Applicant shall provide Wetland Buffer signage in accordance to NMC 18.24.160. The City will provide the proper signage and the Applicant shall be responsible for the cost of the signs and the installation.
22. The Applicant shall be required to underground all utilities in accordance with Section 4.31 and standard drawings in the Public Works Standards.
23. The Applicant shall be responsible for obtaining any necessary state and federal permits and approvals for the project, and is responsible for complying with any conditions of approval placed on these or other state or federal permits or approvals, and for submitting revised drawings to the City for its review and approval, if necessary to reflect these state or federal conditions of approval.
24. The Applicant shall observe the hours of operation per applicable City ordinances during the construction of the development. Prior to issuance of a Notice to Proceed, the Applicant shall post a notice on site indicating the hours of operation for construction. The size, location, and content of the sign shall be consistent with the notice required for the Notice of Application. The notice shall remain in place until the Applicant has received written notice authorizing the sign's removal.
25. All of the improvements and amenities required for the project shall be completed and accepted by the City prior to final plat approval.
26. All easements shall be required to be recorded prior to or upon final plat recording.
27. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
28. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

RECOMMENDATION:

It is hereby recommended that the Newcastle City Council approve the Lawrence Park preliminary plat subject to the conditions contained in the conclusions above.

ORDERED this 18th day of December, 2007.



STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 18th day of December, 2007, to the following:

APPLICANT: Scott Cameron
Lawrence Park LLC
1215 120th Avenue NE, Ste. 110
Bellevue, WA 98005

OTHERS:

CITY OF NEWCASTLE
COMMUNITY DEVELOPMENT DEPARTMENT

Wes Falkenburg
1215 120th Avenue NE, Ste. 110
Bellevue, WA 98005

Darrin Sanford
15445 53rd Avenue S., Ste. 100
Seattle, WA 98188

Ray Babcock
8640 116th Avenue SE
Newcastle, WA 98056

**CASE NO: LAWRENCE PRELIMINARY PLAT
FILE NO. 938**

NOTICE

1. **RECONSIDERATION:** Any aggrieved party or person affected by the decision of the Examiner may file with the Community Development Department a written request for reconsideration including appropriate filing fees within ten (10) days in accordance with the requirements set forth in Section 2.20.030(J) of the City of Newcastle Municipal Code.

2. **APPEAL OF EXAMINER'S DECISION:** Appeals of the Examiner's decision shall be in accordance with the City of Newcastle Municipal Code.

NOTE: In an effort to avoid confusion at the time of filing a request for reconsideration, please attach this page to the request for reconsideration.

