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## COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

*Creating Solutions for Our Future*

Joshua Cummings, Director

### HEARING EXAMINER –

#### Follow up questions/answers

**Hearing details:** April 25, 2023, 11am

**Project Name:** Deskins Grand Mound Preliminary Plat and Variance

**Project Number(s):** 2021106455

**Applicant/Owner:** Ryan Deskins  
19810 Old Hwy 99 SW  
Rochester, WA 98579

**Representative:** Cassie Fuller, Fuller Designs  
1101 Kresky Ave  
Centralia, WA 98532

**Project Location:** 6411 198<sup>th</sup> Ave SW, Rochester, WA 98579  
Tax Parcel No: 51300100000

**Lead Planner:** Lacy Garner, Associate Planner  
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### REQUEST

Approval of a Preliminary Plat to subdivide 1.62 acres into 7 single-family residential lots while retaining an existing single-family residence and building a private road for access. Also, approval of a Variance to reduce the required setback of the existing home from the proposed private road right-of-way and access easement.

#### Follow up question:

*Hearing Examiner Rice:*

If the applicant wishes to apply for a variance to the incompatible use vegetation buffer requirement (TCC 20.45.060 (2.c.) below), is this a process that requires a specific application, fee, and notice of application?

*Staff response:*

The answer depends on the details of the variance being requested and the proposed alternative. TCC 20.45.060 below refers to TCC 20.07.050 (further below) for guidance on buffer reductions.

Per TCC 20.07.050, if the variance proposed is evaluated at less than 50% of what is required (a 30' vegetative buffer), then a Hearing Examiner Variance process would be required. This would typically involve a Hearing Examiner Variance application, relative fee, public notice of application with 20-day public comment period, then a hearing. In this case, staff believes the applicants could revise their existing Hearing Examiner Variance application (for the reduced ROW setback from their existing house) to include this additional request of the incompatible use buffer reduction and avoid an additional fee and hearing for a second Hearing Examiner Variance application since this has been somewhat discussed in hearing already – if the Hearing Examiner is in agreement with this. A public Notice of Variance Application should be given, however, since the variance could impact neighbors. This route would need to be in agreement with the Hearing Examiner, however, for additional time and process that would be required for the public notice of application and to review and decide upon the variance application outside of another hearing.

If the variance proposal can be evaluated as at least 50% or greater of what is required, then the project could go through an Administrative Variance process with CPED staff. This would typically involve an Administrative Variance application and relative fee. In this case, we would require the application but not the fee since a Variance fee has already been paid. Any hours spent on review would be billed accordingly.

It seems this project would like to reduce this buffer as much as they can. I believe a Hearing Examiner Variance is then in order, but it is up to them to decide on what they want to propose.

Please let me know if you have any questions on this.

Thank you,

Lacy Garner, Associate Planner  
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360-790-7154 mobile

**Reference:****Chapter 20.45, Landscaping and Screening:****20.45.060 – Incompatible uses.****1. An incompatible use is defined as:**

(b.) A proposed residential subdivision lot that is less than fifty percent of the square footage of an existing contiguous residential lot.

**2. Applicability.**

(c.) A variance to reduce the buffer width may be permitted pursuant to the applicable sections of TCC 20.07.050.

**3. Screening between incompatible uses – Screening shall consist of a thirty foot wide buffer containing the following:**

- (a.) A vegetated buffer of predominantly native and drought tolerant species that will provide a vegetated buffer of predominantly native and drought tolerant species that will provide a very dense sight barrier and physical buffer to significantly separate conflicting uses and land use districts.
- (b.) Plant materials and ground cover shall be selected and maintained so that the 30-foot buffer will be fully vegetated within three years.
- (c.) A combination of trees, shrubs, earthen berms, and related plant materials or design features may be selected, provided that the resultant effect is sight- obscuring from adjoining properties. In addition, fences and walls may be incorporated into the landscaping buffer.
- (d.) A minimum of one tree per twenty-five linear feet shall be planted. Trees shall be a minimum one inch in caliper measured six inches above the base at the time of planting.
- (e.) Shrubs must be capable of growing to a minimum of five feet in height, within three years. Shrubs shall be planted on eight foot centers at minimum.
- (f.) Ground cover shall consist of bark, mulch, native grasses and/or native understory vegetation such as salal, Oregon grape, Sword fern, etc.

#### **20.07.050 – Reduction in yard requirements**

1. Administrative Front Yard Variance to Block Average. In any residential district, where a front yard less than that required by this title has been maintained on lots having fifty percent or more of the total frontage of the block, each structure built after the effective date of this title may maintain a front yard the same size as the average front yard of such existing structures. The applicant shall request such variance from the department and shall provide setback measurements for the subject block or group of lots.
2. **Administrative Variance** to All Yard Requirements. A reduction in yard requirements shall be permitted after department review and approval when:
  - a. **Such variance** for a structure, including any porch, deck or stairway over thirty inches above grade, **will not reduce any required yard by more than fifty percent and** no roof overhang will extend more than thirty-three percent into the reduced setback.
  - b. Special conditions and circumstances exist which are peculiar to the land, such as size, shape, topography or location, or which are created by public action such as condemnation, not applicable to other lands in the same district and that literal interpretation of the provisions of this title would result in a practical difficulty, as described in subsection (3) below, for the property owner not commonly experienced by other properties similarly situated in the same district under the terms of this title.
  - c. The special conditions and circumstances are not the result of deliberate actions of the applicant.
  - d. Granting of the variance request will not confer a special privilege to the property that is denied other lands in the same district.

- e. Granting of the variance will be in harmony with the general purpose and intent of this title and will not be materially detrimental to the public welfare or injurious to other land or improvements in the vicinity and neighborhood in which the property is situated.
  - f. The reasons set forth in the application justify the granting of the variance, and that the variance, if granted, would be the minimum variance that will make possible the reasonable use of the land.
3. Practical Difficulty. A practical difficulty is present where the harm to the applicant denied a variance will be greater than the probable effect on neighboring properties if the variance is granted. The department shall consider the following factors in making a determination of practical difficulty: the nature of the zone in which the property lies, the character of the immediate vicinity and the uses intended therefor, and whether, if restrictions were removed, neighboring property would be seriously affected, and whether, if restrictions were not removed, they would create unnecessary hardship for the owner in relation to efforts to make normal improvements given the property's permitted use. An applicant's mere desire for a variance, even when motivated by economic reasons, does not constitute a practical difficulty.
4. Minimum Setback. No portion of any structure over thirty inches above finished grade shall be closer than two feet from any property line.
5. Conditions. Conditions of approval may be attached to any variance granted by the department.
6. Expiration of variance approval. If a building permit has not been issued, or if construction activity or operation has not commenced within three years from the date of final approval by the department, the variance shall expire. The variance shall also expire when vacated for a period of three years. Knowledge of the expiration date is the responsibility of the applicant. The county is not responsible for providing notification prior to expiration.
7. Hearing Examiner Variance. Variances not allowed by administrative action in this section may be granted pursuant to [Chapter 20.52](#).