

1 SNOHOMISH COUNTY COUNCIL
2 Snohomish County, Washington

3
4 ORDINANCE NO. 13-075

5
6 RELATING TO ACCESS AND ROAD NETWORK REQUIREMENTS FOR
7 TOWNHOUSE UNIT LOT SUBDIVISIONS; AMENDING SNOHOMISH COUNTY
8 CODE SECTION 30.24.055
9

10 WHEREAS, this ordinance clarifies that access to individual lots within a
11 townhouse unit lot subdivision may be by a private road network element except when
12 the County Engineer determines a public road is required to provide for the public
13 health, safety and welfare or connectivity to the public road system; and
14

15 WHEREAS, on October 3, 2012, the Snohomish County Council adopted
16 Amended Ordinance No. 12-049 which repealed and replaced access and road
17 requirements in Chapter 30.24 of the Snohomish County Code ("SCC"); and
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19 WHEREAS, provisions exempting lots in short plats from the public road access
20 requirement in former Chapter 30.24 SCC were inadvertently not adopted in the new
21 Chapter 30.24 SCC; and
22

23 WHEREAS, on February 27, 2013, the Snohomish County Council adopted
24 Amended Ordinance No. 13-006 to reinsert the omitted provision; and
25

26 WHEREAS, on January 30, 2013, prior to adoption of Amended Ordinance No.
27 13-006, the Snohomish County Council adopted Amended Ordinance No. 12-115
28 relating to townhouse unit lot subdivisions in Title 30 SCC; and
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30 WHEREAS, after Amended Ordinance No. 12-115 was adopted, stakeholders
31 requested greater clarity regarding access and road standards for the newly-approved
32 townhouse unit lot subdivisions; and
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34 WHEREAS, clarification of the access and road requirements for subdivisions
35 may resolve potential confusion about the proper interpretation of the new townhouse
36 unit lot subdivision development regulations; and
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38 WHEREAS, the Snohomish County Planning Commission ("Planning
39 Commission") held a public hearing on September 10, 2013, to receive public testimony
40 concerning the code amendment contained in this ordinance; and
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42 WHEREAS, at the conclusion of the Planning Commission's public hearing, the
43 Planning Commission voted to recommend adoption of the proposed code amendment
44 contained in this ordinance, as shown in its recommendation letter dated September,
45 11, 2013; and
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1 WHEREAS, on October 23, 2013, the County Council held a public hearing after
2 proper notice, and considered public comments and the entire record related to the
3 code amendment contained in this ordinance; and
4

5 WHEREAS, following the public hearing, the County Council deliberated on the
6 code amendment contained in this ordinance;
7

8 NOW, THEREFORE, BE IT ORDAINED:
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10 Section 1. The County Council adopts the following findings:
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- 12 A. The foregoing recitals are incorporated as findings as if set forth in full herein.
13
14 B. This ordinance will amend SCC 30.24.055 to allow access to individual lots within
15 townhouse unit lot subdivisions by a private road network element, such as internal
16 drive aisles, pursuant to SCC 30.41A.205(8), except when the County Engineer
17 determines that a public road is required to provide for the public health, safety and
18 welfare or connectivity of the public road system.
19
20 C. The code amendment contained in this ordinance is necessary to clarify the access
21 and road requirements applicable to townhouse unit lot subdivisions. Accordingly,
22 this ordinance does not create any inconsistencies with state law or the County
23 Code.
24
25 D. The code amendment contained in this ordinance will better achieve, comply with,
26 and implement the Snohomish County General Policy Plan (“GPP”) which sets forth
27 the following goals, objectives, and policies related to the proposed code
28 amendment:
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30	Goal TR 1	Develop transportation systems that complement the land use element, natural environment element, and the economic development element of the county comprehensive plan.
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32		
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35	Objective TR 1.D	Regulate the design, location and public access of private access ways and roads that impact the public roadway.
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37		
38	TR Policy 1.D.1	A private road or access way shall not be permitted where a public road is required to meet public road access and circulation standards.
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41		
42	TR Policy 1.D.2	When a public road is not required, as per TR 1.D.1, a private road or access way shall be permitted where:
43		(a) a public benefit is evident that outweighs potential liabilities,
44		
45		

- (b) it is clearly established that the private road would not attract public use,
- (c) it would not obstruct or undermine the safety of any existing or planned public roadway, or become part of a public road, and
- (d) in lieu of a public road, construction of a private road would not landlock any existing or future parcel of land.

Goal ED 2 Provide a planning and regulatory environment which facilitates growth of the local economy.

Objective ED 2.A. Develop and maintain a regulatory system that is fair, understandable, coordinated and timely.

ED Policy 2.A.2 Snohomish County should stress predictability but maintain enough flexibility in the Comprehensive Plan and development codes to allow for timely response to unanticipated and desirable developments.

Objective HO 1.B Ensure that a broad range of housing types is available in urban and rural areas.

HO Policy 1.B.1 The county shall facilitate affordable home ownership and rental opportunities by promoting an increased supply of lower-cost housing types, such as small lots, townhouses, multiplexes, and mixed-use housing.

LU Policy 2.A.5 Within UGAs, alternatives to standard single family designs such as zero lot line housing and cottages on small lots around a central courtyard, shall be considered in development regulations for residential areas.

E. This ordinance complies with the following procedural requirements:

1. State Environmental Policy Act (“SEPA”) requirements with respect to this non-project action have been satisfied through the completion of an environmental checklist and the issuance of a determination of non-significance on July 8, 2013.
2. Pursuant to the Revised Code of Washington (“RCW”) 36.70A.106, a notice of intent to adopt this ordinance was transmitted to the Washington State Department of Commerce for distribution to state agencies on June 27, 2013.
3. The public participation process used in the adoption of this ordinance has complied with all applicable requirements including, but not limited to, the Growth Management Act (“GMA”), Chapter 30.73 SCC and the Snohomish County Charter.

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2 4. The Washington State Attorney General last issued an advisory memorandum,
3 as required by RCW 36.70A.370, in December of 2006 entitled "Advisory
4 Memorandum: Avoiding Unconstitutional Takings of Private Property" to help
5 local governments avoid the unconstitutional taking of private property. The
6 process outlined in the State Attorney General's 2006 advisory memorandum
7 was used by Snohomish County in objectively evaluating the regulatory changes
8 proposed by this ordinance.
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10 F. This ordinance is consistent with the record.
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12 Section 2. The County Council makes the following conclusions:
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- 14 A. This ordinance is consistent with the goals and requirements of the GMA.
15
16 B. This ordinance is consistent with the goals, objectives and policies of the GPP.
17
18 C. This ordinance is consistent with Washington State law and the SCC.
19
20 D. The County has complied with all SEPA requirements in respect to this non-project
21 action.
22
23 E. The code amendment proposed by this ordinance does not result in an
24 unconstitutional taking of private property for a public purpose.
25
26 F. This ordinance is adopted pursuant to the Snohomish County Charter and the
27 Washington State Constitution, Article XI, Section 11.
28

29 Section 3. The County Council bases its findings and conclusions on the entire
30 record of the County Council, including all testimony and exhibits. Any finding which
31 should be deemed a conclusion, and any conclusion which should be deemed a finding,
32 is hereby adopted as such.
33

34 Section 4. Snohomish County Code Section 30.24.055, last amended by
35 Amended Ordinance No. 13-006 on February 27, 2013, is amended to read:
36

37 **30.24.055 Access and road network requirements to individual lots within a**
38 **proposed subdivision, short subdivision or binding site plan development or to**
39 **proposed SFDU units.**
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41 Access to lots within a proposed subdivision, short subdivision or binding site plan
42 development or to proposed SFDU units shall meet the requirements of this section.

43 (1) Access to individual lots, tracts or easements within a proposed subdivision or
44 short subdivision in the urban area shall be by a public road, except a private road
45 network element:

1 (a) May be allowed for townhouse unit lot subdivisions pursuant to SCC
2 30.41A.205(8), except when the county engineer, in accordance with chapter 30.66B
3 SCC, determines that a public road is required to provide for the public health, safety
4 and welfare or connectivity of the public road system;

5 (b) May be allowed if serving nine lots or fewer with traffic generation of 90 average
6 daily trips or less, except when the county engineer, in accordance with chapter 30.66B
7 SCC, determines that a public road is required to provide for the public health, safety
8 and welfare or connectivity of the public road system; and

9 ((b)) (c) May be requested as a variance pursuant to chapter 30.43B SCC if unique
10 circumstances of the site, such as topography, the surrounding road network, soils,
11 hydrology or maintenance requirements make the extension of the public road within
12 the development impractical or infeasible.

13 (2) Access to individual lots, tracts or easements, within a proposed subdivision, short
14 subdivision, or binding site plan development in the rural area may be provided by a
15 private road network element as provided for in this chapter, except when the county
16 engineer, in accordance with chapter 30.66B SCC, determines that a public road is
17 required to provide for the public health, safety and welfare or connectivity of the public
18 road system.

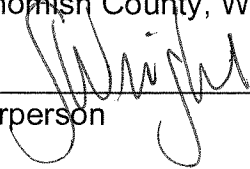
19 (3) Access to individual dwelling units within a SFDU shall be provided by a drive
20 aisle, unless the county engineer, in accordance with chapter 30.66B SCC, determines
21 a public road is required to provide for the public health, safety and welfare or
22 connectivity of the public road system.

23 (4) Where access by a private road network element is permitted, and the private
24 road network element has the potential for serving more than nine lots or 90 average
25 daily trips, the county engineer may require the private road to be designed to enable
26 future conversion to a public road and the final subdivision, short plat or binding site
27 plan shall contain a provision that the conversion to a public road may not be protested
28

29 Section 5. Severability and Savings. If any section, sentence, clause or phrase
30 of this ordinance is held invalid by the Growth Management Hearings Board (Board), or
31 unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality
32 shall not affect the validity or constitutionality of any other section, sentence, clause or
33 phrase of this ordinance. Provided, however, that if any section, sentence, clause or
34 phrase of this ordinance is held to be invalid by the Board or unconstitutional by a court
35 of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to
36 the effective date of this ordinance shall be in full force and effect for that individual
37 section, sentence, clause or phrase as if this ordinance had never been adopted.
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40 PASSED this 23rd day of October, 2013.

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42 SNOHOMISH COUNCIL
43 Snohomish County, Washington

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46 _____
Chairperson

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ATTEST:

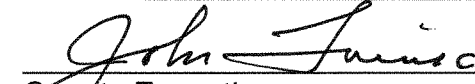

Asst. Clerk of the Council

APPROVED

EMERGENCY


VETOED

DATE: 10-25-13


County Executive

ATTEST:


Approved as to form only:

 9/12/13
Deputy Prosecuting Attorney