

ORDINANCE NO. 1402

AN ORDINANCE OF THE CITY OF RUSTON, RELATING TO SUBDIVISIONS, AMENDING NOTE 4 OF THE STACK HILL SUBDIVISION TO ALLOW ADDITIONAL CONSTRUCTION ACTIVITIES IN THE PRIVATE EASEMENTS WITHIN SAID PLAT, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Point Ruston applied for a plat alteration for the property in the Bay View Addition Plat in 2007, named the Stack Hill subdivision; and

WHEREAS, the Stack Hill Preliminary Plat approval was adopted by the City Council of the City of Ruston¹ on August 6, 2007 under Ordinance #1224; and

WHEREAS, in addition to granting Preliminary Plat Approval, Ordinance #1224 also granted approval of the Stack Hill Master Development Plan ; and

WHEREAS, final plat approval was granted by the City of Ruston on July 21, 2008 under Resolution #429; and

WHEREAS, the City Council approved Resolution #541 on January 29, 2013 to allow for an extension of time to complete certain improvements required as part of the Stack Hill Plat Approval; and

WHEREAS, on April 1, 2013 the applicant/owner of the Stack Hill Subdivision made application to the City of Ruston to amend Note 4 of the Stack Hill Plat to allow additional construction activities to occur within the private utilities easement areas of the Plat; and

WHEREAS, the City Engineer, Jerome Morrissette, recommended denial of this Amendment based on the added expense and disruption to future homeowners should the

¹ Since the plat was approved, the Town of Ruston has reorganized as a code city, operating under Title 35A of the Revised Code of Washington.

structures built in these areas or landscape installations need to be destroyed to access the utility lines; and

WHEREAS, the City Planner, Rob White, recommended approval of this Amendment and concluded that such Amendment would not be contrary to the public interest if the following conditions were required: (1) any construction in this area be comprised of structures that can be easily opened or moved to allow access to any utilities without destroying the structure(s); (2) any landscaping installed in this area must be harmonious with the existence of the utilities (i.e. shallow roots, etc.); (3) the applicant shall provide a covenant or other indemnification document in a form acceptable to the City Attorney's Office to limit landscaping, patios or decks in these areas as provided herein, including specifically acknowledging that the City of Ruston is not liable for any damages which may result from such activities, such covenant to run with the land; and

WHEREAS, on April 17, 2013 the Ruston Planning Commission held an open record public hearing on this application; and

WHEREAS, during that hearing the Planning Commission accepted testimony from the applicant and the applicant's representative and received written comments from members of the public. After closing the hearing the Planning Commission deliberated on the same; and

WHEREAS, on April 17, 2013 the Planning Commission adopted Findings and a Recommendation for Approval of the Amendment of Note 4 of the Stack Hill Plat to the Council a copy of which is attached hereto as Exhibit 1; and

WHEREAS, on May 7, 2013 the City Council conducted a closed record review of the Planning Commission's recommendation pursuant to Title 19 RMC; and

WHEREAS, on May 7, 2013 the City Council held first reading of this Ordinance; and

WHEREAS, on May 21, 2013, the Council held the second reading of this Ordinance and on that date the City Council voted to approve the Findings and Recommendation of the Planning Commission to amend the Stack Hill Plat Note 4; and

WHEREAS, fifty-one (51) days have elapsed since the date of the application to amend;

NOW, THEREFORE

THE CITY COUNCIL OF THE CITY OF RUSTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The Findings of the Planning Commission dated April 17, 2013 are adopted by the City Council and attached hereto as Exhibit 1.

Section 2. The City Council concludes pursuant to RCW 58.17.215 that the public interest is served by this Amendment to the Stack Hill Plat.

Section 3. The Stack Hill Plat Note 4 shall be amended to read as follows:

4) THE PRIVATE UTILITIES EASEMENTS AS DEPICTED HEREIN ARE HEREBY GRANTED TO THE LOTS DERIVING BENEFITS THEREFROM AND MAY CONTAIN PRIVATE STORM DRAINAGE, PRIVATE SANITARY SEWER AND/OR PRIVATE SANITARY SEWER SYSTEMS AS SHOWN ON THE APPROVED CONSTRUCTION DRAWINGS ON FILE AT THE TOWN OF RUSTON. THE MAINTENANCE OF THOSE PRIVATE UTILITIES SYSTEMS SHALL BE MAINTAINED BY THE HOME OWNERS ASSOCIATION, NEITHER THE TOWN OF RUSTON NOR THE CITY OF TACOMA WILL MAINTAIN SAID PRIVATE UTILITIES SYSTEMS. NO STRUCTURES OTHER THAN FENCES, YARD DRAINS, AND RETAINING WALLS SHALL BE CONSTRUCTED WITHIN THESE EASEMENTS. EXCEPT THAT PRIVATE LOTS 1 THROUGH 18 AND LOT 36 OF THE STACK HILL PLAT SHALL ALSO ALLOW THE CONSTRUCTION OF LANDSCAPING, PATIOS AND DECKS IN THE PRIVATE UTILITIES EASEMENT AREAS, CONDITIONED UPON THE FOLLOWING: (1) ANY CONSTRUCTION IN THIS AREA BE COMPRISED OF STRUCTURE(S) THAT CAN BE EASILY OPENED OR MOVED TO ALLOW ACCESS TO ANY UTILITIES WITHOUT DESTROYING THE STRUCTURE(S); (2) ANY LANDSCAPING INSTALLED IN THIS AREA MUST BE HARMONIOUS WITH THE EXISTENCE OF THE UTILITIES (I.E. SHALLOW ROOTS, ETC.); (3) POINT RUSTON, LLC OR SUCCESSOR SHALL PROVIDE A COVENANT OR OTHER INDEMNIFICATION DOCUMENT IN A FORM

ACCEPTABLE TO THE CITY OF RUSTON ATTORNEY'S OFFICE TO LIMIT LANDSCAPING, PATIOS OR DECKS IN THESE AREAS AS PROVIDED HEREIN, INCLUDING SPECIFICALLY ACKNOWLEDGING THAT THE CITY OF RUSTON IS NOT LIABLE FOR ANY DAMAGES WHICH MAY RESULT FROM SUCH ACTIVITIES, SUCH COVENANT TO RUN WITH THE LAND. THE CITY'S COSTS OF DRAFTING AND RECORDING THE COVENANT(S) SHALL BE REIMBURSED BY THE PROPERTY OWNER(S).

Section 4. Recording Required. The City Council directs that this Ordinance Amending the Stack Hill Plat Note 4 be recorded against the Stack Hill Plat twenty-one days after the date of this Ordinance's passage at the applicant's expense.

Section 5. Covenant Required. A copy of the Covenant described in Section 3 above, is attached hereto as Exhibit 2. Such Covenant shall be executed by the Property Owner prior to any construction activities within the private utilities easement area substantially in the attached form.

Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 7. Publication. This Ordinance shall be published by an approved summary consisting of the title.


Section 8. Effective Date. This Ordinance shall be effective five days after publication as provided by law.

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ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 21st day of May, 2013.

APPROVED by the Mayor this 21st day of May, 2013.



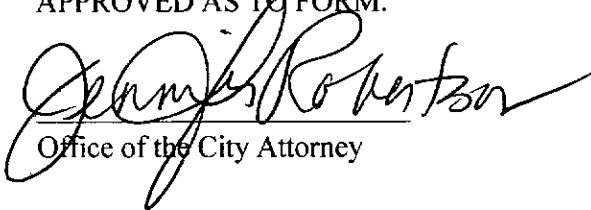
Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:



Judy Grams, City Clerk

APPROVED AS TO FORM:



Office of the City Attorney

FILED WITH THE CITY CLERK: _____
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
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