

Missed deadline means North Shore Golf Course likely to stay

A developer's plans to build on a golf course in northeast Tacoma are almost certainly dead.

KATHLEEN COOPER; STAFF WRITER

Published: May 1, 2013 at 12:39 a.m. PDT— **Updated:** May 1, 2013 at 2:08 a.m. PDT

A developer's plans to build on a golf course in northeast Tacoma are almost certainly dead.

A state court of appeals issued a ruling Tuesday that the developer of the Pointe at Northshore missed a notification deadline by two days – a black-and-white error that means the entire case should be dismissed.

The ruling is a victory for the city of Tacoma and a citizens group, which has been fighting Northshore Investors LLC's plans to build 366 houses and 494 town houses on the 116-acre North Shore Golf Course since 2007. Three years ago, the city denied the rezoning request that would have allowed the development.

"This is the end of Northshore's ability to challenge the city's decision," said Jay Derr, an attorney hired by the city. "I think this resolves it."

Lawyers for both the developer and the owners of the golf course could not be reached for comment Tuesday. The developer has 30 days to decide whether to ask the state Supreme Court to review the decision, something it rarely does.

The long and winding road of North Shore begins in 1981, when the city allowed the development of The Northshore Country Club Estates – a 338-acre planned neighborhood around the private golf course. When the City Council approved that rezoning decades ago, it came with the condition that the neighborhood "will maintain and always have the use of

the adjacent golf course for its open space and density requirement,” those documents say.

A quarter-century later, in 2006, the golf course’s owners agreed to sell the property to developers. Both contend that the 1981 open-space requirement should be disregarded and the Pointe development allowed due to a “change in circumstances” in the owner’s ability to maintain the property as a golf course.

In January 2010, a hearing examiner recommended the city deny the rezoning that would allow the developers to build on the course.

On April 13, 2010, the City Council voted in an open meeting to deny the rezone. Citing state law, the appeals court said the developer had 21 days from that time – May 4, 2010 – to let the city know it planned to appeal. The developer gave that notice on May 6, arguing that the decision wasn’t official until it was put in writing on April 15.

The appeals court took issue with that, meticulously recounting the ways the decision to deny the rezone was known by all parties on April 13:

- The council’s hearing was open to the public.
- A lawyer for the developer argued on behalf of that company and the owners.
- The owners’ Realtor was present.
- The hearing was broadcast live on television and streamed live on the city’s official website.
- The developer’s lawyer and the owners’ Realtor were present at the time of the council’s subsequent 8-0 vote to deny the rezone.
- Directly after the meeting, a video recording of the hearing was posted to the city’s website.

- The next day, a DVD copy of the video was delivered to the Tacoma Public Library, and the voting record and a closed-caption transcript of the hearing was posted on the city's website.

Only after all of those things, the appellate judges wrote, did the written notice happen on April 15.

The appeals court ordered Pierce County Superior Court judge Katherine Stolz to dismiss the case.

Derr and Gary Huff, an attorney representing the citizens group Save NE Tacoma, both said the developer could ask the state Supreme Court to review the decision, but that it only does so in about 10 percent of the cases.

“This will be a tough one to get overturned,” Huff said. “They can’t get around the fact that their appeal was not timely made. They would have to get the Supreme Court to disagree with the conclusions that the court of appeals made, and it is pretty strong.”

Information from News Tribune archives was used in this report.

Kathleen Cooper: 253-597-8546

kathleen.cooper@thenewstribune.com