

# **REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER**

DATE OF DECISION: November 17, 2006

PLAT/PROJECT NAME: *ALDERGROVE MEADOWS*

APPLICANT/  
LANDOWNER: Aldergrove Meadows, LLC

FILE NO.: 05 127825

TYPE OF REQUEST: 32 lot Rural Cluster Subdivision on 107.7 acres

DECISION (SUMMARY): APPROVE subject to conditions

## **BASIC INFORMATION**

GENERAL LOCATION: The property is located at 10430 Trombley road, just south of Badke Road, in Snohomish, WA

ACREAGE: 107.7

NUMBER OF LOTS: 32

AVERAGE LOT SIZE: 42,262 square feet

MINIMUM LOT SIZE: 32,670 square feet

ZONING: Rural-5 Acre (R-5)

COMPREHENSIVE PLAN DESIGNATION:  
General Policy Plan Designation: Rural Residential-5

UTILITIES:  
Water: Roosevelt Water District  
Sewage: On-site septic

SCHOOL DISTRICT: Monroe

FIRE DISTRICT: No. 3

SELECTED AGENCY RECOMMENDATIONS:

Department of:

Planning and Development Services: Approve with conditions

Public Works: Approve subject to conditions

**INTRODUCTION**

The applicant filed the Master Application on February 10, 2006. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on November 2, 2006.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 17, 18 and 19)

A SEPA determination of non-significance was made on September 7, 2006. (Exhibit 16) No appeal was filed.

The Examiner held an open record hearing on November 2, 2006, the 110<sup>th</sup> day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

**PUBLIC HEARING**

The public hearing commenced on November 2, 2006 at 1:02 p.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore had a general idea of the particular request involved. The Examiner made a site visit following the hearing.

The hearing concluded at 2:40 p.m.

**NOTE:** Audio tapes of this hearing are available in the Office of the Hearing Examiner.

**FINDINGS, CONCLUSIONS AND DECISION**

**FINDINGS:**

1. Aldergrove Meadows, LLC proposes to subdivide a 107.7 acre site on Trombley Road for 32 single-family lots, using the Rural Cluster Subdivision provisions of the Snohomish County Code. There would be four open space tracts in Native Growth Protection Areas and two tracts for storm water detention. The site is primarily pasture area with one single-family residence and out buildings.
2. The site and all adjacent parcels are zoned R-5 and are used for residential and agricultural purposes.

3. The subject property is designated for rural residential use in the GMA Comprehensive Plan, and the R-5 Acre zoning implements that designation. Rural Cluster provisions permit a density of 1 du/2.3 acres if all of the criteria for maintenance and enhancement of the rural character of the site are satisfied. In addition, the requirements of the State Subdivision Law (RCW Chapter 58.17) must be observed.
4. Public comment on the proposal centered on storm water, road impacts, traffic, wildlife, and maintenance of the rural character of the area.
5. Stormwater will be diverted to two detention pond systems, with French drains to provide for infiltration. Runoff from the project will drain to the northwest to a tributary stream that merges with French Creek downstream of the site.
6. Trombley Road is a two-lane collector arterial with about 2,000 average daily trips. Frontage improvements will be constructed to increase the width of the road to 19 feet from the centerline with an eight foot shoulder from road "B" to the north property line, and 15 feet of pavement, plus a four-foot shoulder from road "B" to the south property line. Traffic to Monroe from the project will primarily proceed north to the Chain Lake Road, rather than to the south on Trombley Road.
7. Concern for congestion at Butler Road was expressed. Some asked for a stop sign on Trombley Road, to keep speed on Trombley Road in check. Butler Road is 1,000 feet south of the project area, and any improvement of this intersection should be addressed to the County's traffic investigators as a separate matter. Traffic from the project is not likely to make the conditions worse at this intersection.
8. Bus pull outs will be required at both road "A" and "B". The applicant requested that these be eliminated. However, such pull outs are very desirable on a two-lane road to allow following traffic to pass when the bus is stopped. They should be required here.
9. Wildlife on the site will be displaced by the development. However, there will still be six open space tracts, and the lots will be clustered so as to allow corridors for wildlife to move freely through the project area.
10. The applicant will pay impact fees as follows:

Parks	\$1,361.22 per residential unit
Roads	\$49,247.22
State Highways	\$10,680.12
Schools	At rates in effect when building permits are issued
11. The project was determined to be concurrent as to traffic on March 24, 2006. The project will generate 23.25 a.m. peak hour trips and 31.31 p.m. peak hour trips. The project will not add three or more peak hour trips to any arterial units in arrears.
12. Trombley Road does not present an inadequate road condition, but the applicant will be required to remove vegetation along the curve on Trombley Road to improve sight distance. The applicant will install guardrails at several locations along the frontage on Trombley Road to protect errant vehicles from the steep sloped embankment. Sight-distances from roads "A" and "B" are acceptable.
13. The applicant will provide safe walking conditions for school children from the residences to the bus stops at roads "A" and "B".

14. A Type 2 ESA stream (French Creek) is located in the north portion of the site. Two other streams cross the site and join French Creek. Several Category 3 wetlands also are on the site associated with the streams. The applicant must submit and comply with a Habitat Management Plan and a Wetland Mitigation Plan to satisfy the County's Critical Areas Regulations.
15. Concern was expressed for noise from the project that would disturb horses and other animals on adjoining property. Noise from the felling of trees and operation of machinery could "spook" the animals, according to one neighbor. A condition should be imposed that requires the applicant to notify adjoining property owners of plans to produce such impacts one day prior to the operation.
16. The applicant proposes to develop the property in accordance with the Rural Cluster provisions of the code. All utilities will be underground, and approximately 65% of the property will be in restricted open space. An Open Space Management Plan has been provided in order to maintain the rural character of the site and maximize the visibility of the open space tracts from the adjoining road. The requirements of the Rural Cluster provisions, as well as the zoning code will be satisfied by the proposal.
17. Any Conclusions of Law in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

#### **CONCLUSIONS of LAW:**

1. The PDS staff report sets forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their effect upon the request. It is therefore hereby adopted by the Examiner as a conclusion as if set forth in full herein, in order to avoid needless repetition. There is one change to the recommendations of the staff report, concerning noises that could disturb horses and other animals.
2. The Department of Public Works recommends that the request be approved as to traffic use subject to certain conditions.
3. The request is consistent with the GMACP; GMA-based County codes; and the type and character of land use permitted on the site and the permitted density with the applicable design and development standards.
4. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion of Law, is hereby adopted as such.
5. The request should be approved subject to compliance by the applicant with the following Conditions:

#### **CONDITIONS**

- A. The preliminary plat received by PDS on August 11, 2006 (Exhibit 15) shall be the approved plat configuration. Changes to the approved plat are governed by SCC 30.41A.330.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
  - i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.

- ii. The plat shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by Chapter 30.62 SCC, or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the county.
- iii. A final mitigation plan based on the *Critical Areas Study, Habitat Management Plan, and Wetland Mitigation Plan* prepared by Wetland Resources, Inc. dated June 13, 2006 (Exhibit 14) shall be submitted for review and approval during the construction review phase of this project.

C. The following additional restrictions and/or items shall be indicated on the face of the final plat:

- i. “The lots within this subdivision will be subject to school impact mitigation fees for the Monroe School District No. 3 to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for one existing parcel(s). Lot 1 shall receive credit.”

- ii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential (SFR) building permit:

\$1,538.98 per lot for mitigation of impacts on county roads paid to the county,

\$333.75 per lot for mitigation of impacts to WSDOT roads paid to the county.

These payments are due prior to or at the time of building permit issuance for each SFR. Notice of these mitigation payment obligations shall be contained in any deeds involving this subdivision or the lots therein. Once building permit has been issued, all mitigation payments shall be deemed paid.

- iii. Fifteen feet of right-of-way shall be dedicated to Snohomish County, parallel and adjoining the existing right-of-way along the parcel’s frontage on the west side of Trombley Road on the final recorded plat [SCC 30.66B.510].

- iv. Additional right-of-way shall be dedicated to Snohomish County on the final recorded plat to include 15-foot waiting areas and bus pull-outs proposed in the vicinities of Road A and Road B (depicted on the preliminary plat) [SCC 30.66B.510].

- v. All Critical Areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made) with the following language on the face of the plat;

"All NATIVE GROWTH PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur, except removal of hazardous trees. The activities as set forth in SCC 32.10.110(29)(a), (c), and (d) are allowed when approved by the County.”

- vi. The developer shall pay the County \$1,361.22 per new dwelling unit as mitigation for parks and recreation impacts in accordance with Chapter 30.66A SCC; provided, however, the developer may elect to postpone payment of the mitigation requirement until issuance of a building permit for that lot. The election to postpone payment shall be noted by a covenant placed on the face of the recorded plat and included in the deed for each affected lot within the subdivision.

D. Prior to recording of the final plat:

- i. Rural frontage improvements shall be constructed along the parcel's frontage on Trombley Road to the specifications of the DPW [SCC 30.66B.410]. The frontage improvements shall consist of 19 feet of pavement (11 foot lane + 8 foot shoulder) from the intersection of Road B to the northern property limit, and a reduced section consisting of 15 feet of pavement (11-foot lane + 4 foot shoulder) from the intersection of Road B to the southern property limit.
- ii. Pedestrian facilities shall be constructed to the specifications of the DPW throughout the development [EDDS].
- iii. Guardrails as depicted on Sheet 11 of 12 on the design plans received by PDS on August 11, 2006 shall be provided along the property's frontage on Trombley Road. Details for the design of the guardrails shall be provided within the construction plans for this proposal.
- iv. Bus pull-outs shall be constructed in accordance with EDDS at the intersection of the access roads and Trombley Road.
- v. The approaches for the two accesses to the proposed development shall be constructed in accordance with the sight distance plan received by PDS on August 11, 2006.
- vi. Native Growth Protection Area boundaries (NGPA) shall have been permanently marked on the site prior to final inspection by the county, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The platlor may use other permanent methods and materials provided they are first approved by the county. Where an NGPA boundary crosses another boundary (e.g.: lot, tract, plat, road, etc.), a rebar marker with surveyors' cap and license number must be placed at the line crossing.

NGPA signs shall have been placed no greater than 100 feet apart around the perimeter of the NGPA. Minimum placement shall include one Type 1 sign per wetland, and at least one Type 1 sign shall be placed in any lot that borders the NGPA, unless otherwise approved by the county biologist. The design and proposed locations for the NGPA signs shall be submitted to the Land Use Division for review and approval prior to installation.

- vii. The final mitigation plan shall be completely implemented.

E. In conformity with applicable standards and timing requirements:

- i. The preliminary landscape plan (Exhibit 40) shall be implemented. All required detention facility landscaping shall be installed in accordance with the approved landscape plan.

F. All development activity shall conform to the requirements of Chapter 30.63A SCC. Applicant shall notify neighbors with horses, dogs and other animals one day in advance of any tree felling, operation of noisy machinery or the like, which could disturb such animals.

Nothing in this permit/approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.

Preliminary plats which are approved by the county are valid for five (5) years from the date of approval and must be recorded within that time period unless an extension has been properly requested and granted pursuant to SCC 30.41A.300.

**DECISION:**

The request for a 32 lot Rural Cluster Subdivision is hereby APPROVED, subject to compliance by the applicant, with the conditions set forth in Conclusion 5, above.

Decision issued this 17<sup>th</sup> day of November, 2006.

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Gordon F. Crandall, Hearing Examiner Pro-Tem

**EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES**

The decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more parties of record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

**Reconsideration**

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **NOVEMBER 27, 2006**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

A petition for reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner’s attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

- (a) The Hearing Examiner exceeded the Hearing Examiner’s jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner’s decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner’s findings, conclusions and/or conditions are not supported by the record;
- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The applicant proposed changes to the application in response to deficiencies identified in the decision.

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the County file number in any correspondence regarding this case.

**Appeal**

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **DECEMBER 1, 2006** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

An appeal must contain the following items in order to be complete: a detailed statement of the grounds for appeal; a detailed statement of the facts upon which the appeal is based, including citations to specific Hearing Examiner findings, conclusions, exhibits or oral testimony; written arguments in support of the appeal; the name, mailing address and daytime telephone number of each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any; the name, mailing address, daytime telephone number and signature of the appellant’s agent or representative, if any; and the required filing fee.

The grounds for filing an appeal shall be limited to the following:

- (a) The decision exceeded the Hearing Examiner’s jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- (c) The Hearing Examiner committed an error of law; or
- (d) The Hearing Examiner’s findings, conclusions and/or conditions are not supported by substantial evidence in the record. [SCC 30.72.080]

Appeals will be processed and considered by the County Council pursuant to the provisions of Chapter 30.72 SCC. Please include the County file number in any correspondence regarding the case.

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**Staff Distribution:**

Department of Planning and Development Services: Mona Davis/Andrew Smith

<p>The following statement is provided pursuant to RCW 36.70B.130: “Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.” A copy of this Decision is being provided to the Snohomish County Assessor as required by RCW 36.70B.130.</p>
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