

**BEFORE THE**  
**SNOHOMISH COUNTY HEARING EXAMINER**  
**DECISION of the DEPUTY HEARING EXAMINER**

In the Matter of the Application of )  
 )  
**SPADAFORA CONSTRUCTION & DEVELOPMENT** ) **FILE NO. 04 114014-001 SD**  
 )  
Major modification to change approved preliminary plat )  
to a planned residential development (PRD) and increase )  
the number of lots from 21 to 24 )

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DATE OF DECISION: May 9, 2007

PLAT/PROJECT NAME: *Camilla Lane*

DECISION (SUMMARY): The application to convert an approved preliminary plat to a planned residential development is **CONDITIONALLY APPROVED with precondition.**

**BASIC INFORMATION**

GENERAL LOCATION: This project is located at 17203 Sunset Road, Bothell, Washington.

ACREAGE: 4.3 acres

NUMBER OF LOTS: 21

AVERAGE LOT SIZE: 4,435.7 square feet

MINIMUM LOT SIZE: 3,298 square feet

DENSITY: 5.63 du/ac (gross)  
7.14 du/ac (net)

ZONING: R-7,200

**COMPREHENSIVE PLAN DESIGNATION:**

General Policy Plan Designation: Urban Low Density Residential (4-6-du/ac)

**UTILITIES:**

Water/Sewer: Silver Lake Water and Sewer District

**SCHOOL DISTRICT:** Everett No. 2

**FIRE DISTRICT:** No. 7

**INTRODUCTION**

The applicant filed the Master Application on October 25, 2006. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 15, 16 and 17)

A SEPA determination was made on March 14, 2007. (Exhibit 14) No appeal was filed.

The Examiner held an open record hearing on May 2, 2007, the 99<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 May 2, 2007 at 1:01 p.m.

1. The Examiner stated that he had read the PDS staff report, reviewed the file and viewed the area.
2. The applicant, Spadafora Construction and Development, LLC was represented by Don Miller of GCW Consulting. Snohomish County was represented by David Radabaugh of the Department of Planning and Development Services.
3. No member of the general public participated in this matter.

The hearing concluded at 1:13 p.m.

**NOTE:** For a complete record, an electronic recording of this hearing is available in the Office of the Hearing Examiner.

**FINDINGS, CONCLUSIONS AND DECISION**

**FINDINGS OF FACT**

Based on all of the evidence of record, the following findings of fact are entered.

1. The master list of exhibits and witnesses which is a part of this file and which exhibits were considered by the Examiner is hereby made a part of this file as if set forth in full herein.

2. The PDS staff report has correctly analyzed the nature of the application, the issues of concern, the application's consistency with adopted codes and policies and land use regulations, and the State Environmental Policy Act (SEPA). That report is hereby adopted by the Examiner as if set forth in full herein unless otherwise stated below.
3. The applicant, Spadafora Development, LLC, filed an application for a major revision of the approved preliminary plat of Camilla Lane, which had been approved on November 17, 2004. Two years later, on October 25, 2006, the application for major revision had been submitted but was not sufficient for further review. A resubmittal of January 12, 2007 was also insufficient. A further submittal of February 14, 2007 was determined sufficient for further review on March 1, 2007. A Determination of Nonsignificance was issued on March 14, 2007 and the matter is herein before the Hearing Examiner. The revision results in three additional lots for a total of 24 lots.
4. The project would comply with park mitigation requirements under Chapter 30.66A SCC by the payment of \$918.00 for each new single-family home.
5. The application and the review of it update the record to reflect any changes in the transportation infrastructure that would serve the proposed development. The DPW reviewed the request with regard to traffic mitigation and road design standards. That review covered Title 13 SCC and Chapter 30.66B SCC as to road system capacity, concurrency, inadequate road conditions, frontage improvements, access and circulation, and dedication/deeding of right-of-way, state highway impacts, impacts on other streets and roads, and Transportation Demand Management. As a result of this review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions.
6. School mitigation requirements under Chapter 30.66C SCC have been reviewed and set forth in the conditions.
7. Safe walking for students of all grade levels to and from either a school or a bus stop will be provided by the roads shared by the subject development and adjoining Canton Ridge. A condition upon approval herein requires that the plat of Canton Ridge (PFN 04-109198) be recorded before recording of the subject plat.
8. The PDS Engineering Division has reviewed the concept of the proposed grading and drainage and recommends approval of the project subject to conditions, which would be imposed during full detailed drainage plan review pursuant to Chapter 30.63A SCC.
9. The Snohomish County Health District has no objection to this proposal provided that public water and sewer are furnished.
10. Public water and sewer service will be available for this development. (Exhibits 30 and 31) However, those approvals may require updating. If so, the updating is a pre-condition upon approval.
11. There are no critical areas on-site or within 100 feet of the subject property.
12. The subject property is designated Urban Low Density Residential (ULDR: 4-6 DU/Ac) on the GPP Future Land Use map, and is located within an Urban Growth Area (UGA). It is not located within a mapped Growth Phasing Overlay. According to the GPP, the Urban Low Density Residential designation covers various sub-area plan designations, which allow mostly detached housing developments on larger lot sizes. Land in this category may be developed at a density of four to six dwelling units per acre. Implementing zones include the R-7,200, which is the case here.

13. The staff report and recommendation to the Hearing Examiner details compliance of the proposed development with the planned residential development provisions of SCC 30.42B as to unit yield and bonus, design criteria (general and open space, landscaping, drainage and roads, access, circulation, pedestrian facilities and parking).
14. The request is consistent with Section 30.70.100 SCC (Section 32.50.100 SCC), which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP, and GMA-based county codes.
15. Any finding of fact in this decision which should be deemed a conclusion is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Examiner having fully reviewed the PDS staff report, hereby adopts said staff report as properly setting forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their relationship to 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 are no changes to the recommendations of the staff report.
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 (1) GMACP, GMA-based County codes, (2) the type and character of land use permitted on the site, (3) the permitted density, and(4) the applicable design and development standards.
4. The request complies with the Snohomish County Subdivision Code at SCC 30.41A and with the Planned Residential Development Code at SCC 30.42B and with RCW 58.17. The proposed subdivision complies with the established criteria therein and makes the appropriate provisions for public, health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and other planning features including safe walking conditions for students.
5. Any conclusion in this report and decision which should be deemed a finding of fact is hereby adopted as such.

### **DECISION**

Based on the findings of fact and conclusions of law entered above, the decision of the Hearing Examiner on the application is as follows:

The request for a planned residential development of 24 lots on 4.3 acres is **CONDITIONALLY APPROVED**, subject to the following precondition and conditions:

#### **PRECONDITION:**

- A. Updated letters of water and sewer availability shall be obtained.

CONDITIONS:

- A. The PRD official site plan/preliminary plat received by PDS on January 12, 2007 (Exhibit 18) shall be the PRD official site plan and approved plat configuration. SCC 30.42B.220 governs changes to the planned residential development official site plan; 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. A detailed landscape and recreational facilities plan shall have been submitted to and approved by PDS. The plan shall be prepared in general conformance with Exhibit(s) 20A and in conformance with all required landscape standards for perimeter, streetscape and open space treatment, and shall include a significant tree retention plan.
  - iii. PRD covenants, deeds and homeowners' association bylaws and other documents shall have been submitted to and approved by PDS guaranteeing maintenance of open space, community facilities, private roads and drives, and all other commonly-owned and operated property. The documents shall have been reviewed by and accompanied by a certificate from an attorney that they comply with Chapter 30.42B SCC requirements prior to approval by PDS. To ensure permanent, ongoing maintenance of landscape areas, landscape maintenance covenants shall be prepared by the applicant and submitted together with documents otherwise required for maintenance of site improvements pursuant to SCC 30.42B.250.
- 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 Everett School District No. 2 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 three existing parcel(s). Lots 1, 2 and 21 (containing the existing single-family structure) shall receive credit."
  - ii. SCC Title 30.66B requires the new lot mitigation payments in the amounts shown below for each single-family residence building permit:  
  
\$1,965.35 per lot for mitigation of impacts on county roads paid to the county.  
\$200.57 per lot for mitigation of impacts on Mill Creek streets paid to the city.  
  
These payments are due prior to or at the time of each building permit issuance. Notice of these mitigation payments shall be contained in any deeds involving this subdivision, short subdivision of the lots therein or binding site plan. Once building permits have been issued all mitigation payments shall be deemed paid by PDS.

- iii. On lots with more than one road frontage, County Engineering Design and Development Standards (EDDS) restricts lot access to the minor road, unless the Department of Public Works (PW) grants a formal deviation.
- iv. “All open space shall be protected as open space in perpetuity. Use of the open space tracts within this subdivision is restricted to those uses approved for the planned residential development, to include open play areas, picnic areas, recreation trail system, viewing platform, drainage facilities, benches and required landscape improvements as shown on the approved site plan and the approved landscape plan. Covenants, conditions and restrictions as recorded with the plat, and as may be amended in the future, shall include provisions for the continuing preservation and maintenance of the uses, facilities and landscaping within the open space as approved and constructed.”
- v. The developer shall pay the County \$918.00 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. The plat of Canton Ridge (PFN 04-109198) shall have been recorded as a Planned Residential Development and public road dedication shall have occurred to provide access to the plat of Camilla Lane.
- ii. Urban standard frontage improvements shall be constructed along the property frontage on Sunset Road, unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development. [SCC 30.66B.410]
- iii. Adequate public road access meeting the requirements of EDDS shall have been provided from the subject property to Sunset Road. [SCC 30.24.052 (1)]
- iv. A bond or other guarantee of performance shall have been submitted to and accepted by PDS to assure compliance with the provisions of SCC 30.42B.125.

E. In conformity with applicable standards and timing requirements:

The preliminary landscape plan (Exhibit 20) 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.

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.

Revisions to preliminary plats which are approved by the county are valid for five (5) years from the date of approval of the original preliminary plat, which was November 17, 2004, and must be recorded within that time period unless an extension has been properly requested and granted pursuant to SCC 30.41A.300.

Decision issued this 9<sup>th</sup> day of May, 2007.

Ed Good, Deputy Hearing Examiner

## 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 **MAY 21, 2007**. 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 **MAY 23, 2007** 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: David Radabaugh

<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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