

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

In the Matter of the Application of	)	
	)	<b>FILE NO. 05 120931 SD</b>
<b>LANCE MILLS</b>	)	
	)	
13-lot (14-dwelling unit) Rural Cluster Subdivision	)	
on 46.57 acres	)	

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DATE OF DECISION: August 14, 2007

PROJECT NAME: *Cooper Land*

DECISION (SUMMARY): The application is **DENIED WITHOUT PREJUDICE** pursuant to SCC 30.41C.030, 30.41A.040 and 30.72.060(3).

**BASIC INFORMATION**

GENERAL LOCATION: The property is located at 4606 Robe-Menzel Road, approximately 3 ½ miles south of Granite Falls.

ACREAGE: 46.57 acres

NUMBER OF LOTS: 13

AVERAGE LOT SIZE: 44,259 square feet

MINIMUM LOT SIZE: 43,563 square feet

ZONING: R-5

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Rural Residential-5 (1 du/5 ac)

UTILITIES:

Water: Individual wells  
Sewer: Individual septic systems

SCHOOL DISTRICT: Granite Falls

FIRE DISTRICT: No. 17

## INTRODUCTION

The applicant filed the master application on September 20, 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 23, 24 and 25)

A SEPA determination was made on February 27, 2007. (Exhibit 22) No appeal was filed.

The Examiner held an open record hearing on July 31, 2007, the 100<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 July 31, 2007 at 9:02 a.m.

1. The Examiner announced that he had read the PDS staff report, reviewed the file and viewed the area and therefore was generally apprised of the particular request involved.
2. The applicant, Lance Mills, was represented by Barbara Jones of Cascade Surveying and Engineering, Inc. Snohomish County was represented by Paul MacCready, Elizabeth Larson and Anh-Tuan Dinh of the Department of Planning and Development Services.
3. Vicinity residents Allison and Robert Raduziner (Exhibit 28) and, separately, Debbie Cease (Exhibit 29) submitted pre-hearing documents expressing opposition to the proposed 14-unit rural cluster subdivision. Vicinity residents Lanai and Jerry Hemstrom testified at the open record hearing. The concerns of those residents of three neighborhood households include asserted adverse impacts of the subdivision upon vehicular traffic, wetlands and potable water quantity and quality. The credibility of those witnesses is strengthened by their proximity to the proposed plat, which is addressed 4606 Robe-Menzel Road: Debbie Cease resides at 4820, Hemstroms at 4329, Raduziners at 4819.

The hearing concluded at 10:13 a.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 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 applicant, Lance Mills of Everett, filed an application for a rural cluster subdivision of 13 lots, one of which lots contains an existing residence and one of which lots (Lot 12) is proposed to contain a duplex dwelling. Thus, 14 single-family residences are proposed, served by on-site wells for potable water and by individual lot septic systems.
3. The subject site is addressed 4606 Robe-Menzel Road. That location is approximately 3 ½ miles south of Granite Falls. The location is approximately ¾ of a mile south of the intersection of Robe-Menzel Road and Lake Bosworth Road. The subject site consists in approximately 47 acres which lie on both sides of Robe-Menzel Road. All 13 new dwelling are proposed to be on the north side of Robe-Menzel Road. Of those 13 homes, eight residences are proposed to be served by the proposed plat internal road (Tract 993), which will access Robe-Menzel Road at a predominantly flat and straight segment of that road at the plat's southeast corner.
4. The six residences not served by that internal private road have direct access to Robe-Menzel Road on a curve through which curve the roadway drops approximately 100 feet from approximately contour elevation 500 feet on the north to contour elevation 400 feet on the south near Tract 993's access to Robe-Menzel Road. Most of that drop occurs within a distance of approximately 1,300 feet.
5. In approximately the center of that distance is the existing gravel driveway into the existing home on proposed Lot 13: the only dwelling of 14 dwellings to have access on the south side of Robe-Menzel Road. On the opposite (north) side of Robe-Menzel Road at approximately 250 – 275 feet north of that existing gravel drive of Lot 13 are the two proposed abutted driveways serving the three households on Lot 11 and Lot 12 (a duplex dwelling). The same distance to the south of Lot 13 are the additional proposed two abutted driveways serving proposed Lots 9 and 10.
6. In summary, six homes will have direct driveway access to Robe-Menzel Road in a distance of approximately 500 feet on a curve on a grade. Six homes generate approximately 134 trips per day: 9.57 trips each per *ITE Trip Generation, 7<sup>th</sup> Ed.* The traffic study (Exhibit 7) reduces that daily trip generation because one of the six homes already exists. The Examiner finds that method proper for computing impact fees but not for examining the actual traffic to be experienced at a site at full build-out when examining issues of public health, safety and welfare.
7. The curve on the hill where access is proposed is dangerous in the winter according to witness Lanai Hemstrom. She has lived in the neighborhood 18 years. Her husband Jerry has lived there for 47 years. They own 150 acres here. It is her testimony that: "*This road gets no sunshine...a solid sheet of ice...all the way to my driveway.*" She points out that the Raduziner household is on that curve. Allison and Robert Raduziner have lived on that curve for the 13 years since 1994 (Exhibit 28) and describe speeds of 45 to 70 instead of the posted 35 miles per hour. The Raduziners describe increased traffic volume by pointing out that in 1994 one could walk two miles along Robe-Menzel Road and see three or four cars

but now on weekends a car passes every minute “...*exceeding the speed limit by at least 10 miles an hour.*” (Exhibit 28)

8. At the earlier-referenced intersection with Lake Bosworth Road, Robe-Menzel Road changes designation. It is an arterial north of Lake Bosworth Road but, south thereof, Robe-Menzel is a rural residential road according to the testimony of Anh-Tuan Dinh of Snohomish County’s Department of Public Works. He and Paul MacCready of the County’s Department of Planning & Development Services point out that the annual traffic trip counts for Robe-Menzel Road south of Lake Bosworth Road do not warrant arterial designation. Further, those two witnesses add that the traffic delays there (stated as Level of Service) support a finding of transportation “concurrency” for that segment of Robe-Menzel Road.
9. In testimony, Jerry Hemstrom points out that Robe-Menzel Road is not a dead-end and is used more as a route between Granite Falls and Lake Stevens, Machias, Snohomish and Monroe as Route 92 “...*is jammed up anymore, as we all know, so they all take the back roads now...*” His wife, Lanai, testifies that although her driveway is on the flat and non-curved portion of the road, one drives to the road edge and asks: “*Am I gonna go?*” She adds: “*I don’t walk it anymore. Can’t do it: too many, too fast, too crazy.*”
10. Students of six households will have to walk it on the way to and from the school bus. No sidewalk is being built along the frontage of the lots with direct access to Robe-Menzel Road: only a seven-foot wide, paved shoulder walkway, as allowed on non-arterial roads. A stripe of paint might separate students from traffic in this curve on a grade. Assuming the busses reverse their direction to and from school, the students will have to walk across the road at least once daily. A deviation was approved by the County Engineer on October 30, 2006 (Exhibit 10) at the applicant’s request to construct frontage improvements only along the north side of Robe-Menzel Road.
11. The only traffic study (Exhibit 7) for the proposal was by Gibson Traffic Consultants, Inc. issued July 24, 2006. That report incorrectly states that the proposed new dwellings “...will share a single access to Robe-Menzel Road.” (Exhibit 7, p. 1) No correction of that error is in the record. Thus, there is no evidence of record that the traffic consultant considered the safety of the proposal. At hearing, the County’s testimony was that high speeds are an enforcement issue for the police and not a permitting issue in this proceeding.
12. The Granite Falls School District report of October 9, 2006 (Exhibit 35) expressed belief (as had the Gibson traffic study) that the only school bus stop would be at the plat entrance road at Robe-Menzel Road. The School District requests at Exhibit 35 that a safe walk area be provided to the bus stop and that a safe area for students to wait for the bus be provided. In apparently contradictory testimony, the applicant’s representative, Barbara Jones, testified that the School District prefers to pick up students in front of their own driveways. There are five driveways in the curve. No evidence in this record demonstrates that the School District is aware of, or will accept, the provisions for students walking in that curve to or from school busses there.
13. The Examiner asked whether consideration was given to eliminating the direct access for the five residences on Lots 9 – 12 by an internal connection to the plat road, Tract 993. The applicant’s representative responded that steep slopes, wetlands and at least one stream would be disturbed by such a proposal and, therefore, such a proposal “probably” would have been denied by the County because the County’s priority is to avoid critical area damage rather than mitigate such damage after the fact. The word “probably” indicates that the County was never asked to consider such alternative access here.
14. As to transportation infrastructure concurrency, 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 that review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions.

15. Potable water is proposed to be supplied by individual lots' wells. County staff testifies without citing a code section that the choice to use private wells is an option available to the applicant for a rural cluster subdivision. However, potable water is available from Snohomish County Public Utility District No. 1's existing water main located on Robe-Menzel Road approximately 1,950 feet north of the proposed development, as noted in the PUD's water availability letter of October 10, 2006 (Exhibit 36) which reads, in part:

*“Due to previous interest expressed by 9 homeowners along the path of the potential water main extension, the District feels that the extension of public water to serve the proposed project may be reasonable and should be considered prior to the installation of individual wells.”*

16. The certificate attached to Exhibit 36 shows that the PUD water extension would require the above-mentioned 1,950 feet of water main along Robe-Menzel Road and another 1,700 feet of main into the plat itself for a total of approximately 3,650 feet of water main extension. The attachment also shows that the rate of flow should be 1,000 gallons per minute. The body of the letter mentions that 8-inch or 12-inch lines would be required for fire flow for this project and to meet peak day demands in the water system. The letter also mentions that fire protection “shall be” in accordance with three sets of standards: the Fire District, the Fire Marshall and PUD water system standards. No comments are in the record from the Fire Marshall. The Chief of Fire District No. 17's letter of September 26, 2006 (Exhibit 31) expresses opposition to rural clustering without the installation of municipal water supplied for fire protection whether or not the County Code allows it. The Snohomish Health District has submitted no evidence as to the adequacy of the supply of well water here but, rather, merely reviews and approves the well protection zones as they relate to septic drainfield locations. No evidence of record demonstrates that fire flow can be met by the proposed private wells. There are no well site logs in the record, only soil log descriptions (Exhibit 8).
17. Neighbors Raduziner write (Exhibit 28) asserting that they were promised city water no later than 1998 and have none yet. They assert that *“Drilling more wells is irresponsible....”* Vicinity resident Debbie Cease (Exhibit 29) writes as the neighbor next door to the project that her family has 17 acres there and that the PUD extended water a short distance down Robe-Menzel Road from the “Y” at Lake Bosworth Road in 2001 to accommodate a couple of newer houses. She asserts that, at that time, a majority of neighbors with 12 potential lots wanted PUD water and tried to get that extension to their properties. She points out that they sought PUD water because the wells on Robe-Menzel Road in the vicinity of her home are “not good”. She notes that her neighbor across the street shares a well with two other neighbors. She notes that her own well runs out of water every summer and that her family spent \$5,000 on a new well which is unusable because the water did not “pass the test”. She offers neighborhood support if the proponent seeks PUD water.

18. Jerry Hemstrom testifies:

*“We had a well drilled for our house about seven years ago only about 35 feet deep and it's very good water. Now, the way these underground streams run, if they put this many septic systems in, and it contaminates our well – that's one of my big concerns”.*

19. Lanai Hemstrom testifies:

*“We had a well put in ....two years ago and really close to arsenic level and this was probably 300 feet at the very most away from where probably the first well would be put in on this subdivision. On the hill, they’re really close to arsenic. Up the road is arsenic. Putting in more wells: is that going to cause a problem with more arsenic? We don’t know. Has the County looked into that?” (Emphasis supplied.)*

20. The County staff responded that the issue of arsenic is in the jurisdiction of the Snohomish Health District. However, the Examiner finds no evidence of record demonstrating that the Snohomish Health District examined any issue except potential contamination of the project’s own wells or adjacent wells by its own septic systems. That issue is not the principal issue expressed by the vicinity landowners.

21. The perspective of the applicant is stated in the testimony of Barbara Jones:

*“I would imagine that, while there may be some public water somewhere in the vicinity, usually an applicant or developer will look at the cost aspect of the distance to actually connect the water, whether they have the flow, and the cost obviously associated with that versus the need to offset it to the development and, in this case, I imagine the developer has chosen to put in individual wells rather than extend water.”*

22. The County staff points out that the Washington State Department of Ecology has been commenting more often recently on water right issues but did not comment in this instance. The Examiner finds that DOE’s silence in this instance is most likely because of the exemption provided by RCW 90.44.050 from groundwater permit requirements for withdrawal for domestic uses of 5,000 gallons or less per day. Here, the Examiner takes judicial notice that PUD No. 1 requires 33 cubic feet of water per day per single family residence (assuming four persons), that a cubic foot of water equals 7.48 gallons, that 14 households in the subject development would, therefore, daily require 3,455.76 gallons of water, which does not exceed the above-mentioned exemption. (See *Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 43 P.3d 4 (2001).

23. It is noteworthy that when the exemption does not apply and DOE does consider an application for a permit to appropriate groundwater, RCW 90.03.290 requires that DOE must investigate and affirmatively find:

- (1) that water is available,
- (2) for a beneficial use, and that
- (3) an appropriation will not impair existing rights or
- (4) be detrimental to the public welfare.

24. There are no park mitigation fees for this application.

25. School mitigation requirements under Chapter 30.66C SCC have been reviewed and set forth in the conditions.

26. The subject property contains ten wetlands and four streams located throughout the site. All the streams and wetlands, except for one, will be protected by Native Growth Protection Area (NGPA) Easements. The remaining wetland will be filled. Mitigation to be implemented includes wetland enhancement, plus the addition of stream and wetland buffer. The applicant points out – and County biologist Elizabeth Larsen confirms - that 68% of the site rather than the required 45% will be kept as restricted open space. Some slopes over 40 percent are associated with the Type 4 stream that flows through the site. Those

slopes, which are considered “unbuildable land” as defined in SCC 30.91U.060, must be contained within a NGPA/E per SCC 30.41C.200(5).

27. 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.
28. The subject property is designated Rural Residential-5 on the GPP Future Land Use map, and is not located within an Urban Growth Area (UGA). It is not located within a mapped Growth Phasing Overlay. According to the GPP, the Rural Residential-5 designation applies to lands which were previously designated Rural by various subarea plans and have been subsequently zoned R-5. The implementing zone in this designation will continue to be the R-5 zone.
29. The request complies with the Snohomish County Subdivision Code, Chapter 30.41A SCC as well as the State Subdivision Code, RCW 58.17. The proposed plat 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.
30. A complete application for the proposed plat was received by PDS on May 31, 2005. As proposed, the subject lots will not be subject to flood, inundation or swamp conditions. The lots as proposed are outside of all regulated flood hazard areas. As conditioned, the plat will meet all SCC 30.41A.210 design standards for roads.
31. The subject rural cluster subdivision (RCS) application has been reviewed for conformance with the RCS standards in Chapter 30.41C SCC. The applicant has provided the information required on an RCS development plan and preliminary plat, the latest versions of which were received by PDS on February 1, 2006 (Exhibit 15), and in an open space management plan (Exhibit 8) that is to be implemented by a homeowners’ association.
32. The request is consistent with Section 30.70.100 SCC, which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP and GMA-based county codes.
33. Any finding of fact in this decision which should be deemed a conclusion is hereby adopted as such.

## **CONCLUSIONS OF LAW**

Based on the findings of fact entered above, the following conclusions of law are entered.

1. The Examiner having fully reviewed the PDS staff report, hereby adopts said staff report, except as otherwise noted below, as properly setting forth the issues, the land use requests and consistency with the applicable regulations and policies.
2. The request is consistent with the GMA-based Comprehensive Plan, (2) the type and character of land use permitted on the site, (3) the permitted density, and (4) the applicable design and development standards.
3. Hearing Examiner’s Rule of Procedure No. 724(a) provides that the applicant carries the burden of proof as to material factual issues. The evidence of record demonstrates contested, material, factual issues (1)

concerning the safety of students who walk to and from school and (2) concerning the applicant's decision to use on-site wells rather than public water available through PUD No. 1.

4. Those two issues are among those issues set out by RCW 58.17.110(1) about which the County legislative body (by delegation, the Hearing Examiner here) "...shall inquire into the public use and interest proposed to be served by the establishment of the subdivision...." Subsection (2) thereof provides: "A proposed subdivision and dedication shall not be approved unless...[a]ppropriate provisions are made for...potable water supplies...and...safe walking conditions for students...."
5. As to potable water supply, it is concluded as a matter of law that the proposed subdivision does not make appropriate provision. Based on findings of fact 15 – 23 above, a preponderance of the evidence of record demonstrates the inappropriateness of declining the available PUD public water to, instead, draw from ground water. Here, (1) some vicinity wells go dry annually, (2) some vicinity residents are sharing wells by necessity, (3) borderline arsenic concentrations exist in the vicinity, (4) vicinity residents have spent thousands of dollars to drill new wells only to have the new well water declared unusable, and (5) vicinity residents have tried for at least the decade since 1998 to have PUD water extended to them and, (6) in recognition of that, the PUD itself urges consideration of the extension of the public water here. (Finding No. 15)
6. The six numbered findings immediately above are based on evidence supplied primarily by persons who live on parcels in the immediate vicinity of the subject site: Debbie Cease's property abuts the subject site. So does the property of Lanai and Jerry Hemstrom. Allison and Robert Raduziner own property along the roadway curve at issue herein.
7. Further, it is noteworthy that there is no evidence of record of any study of the adequacy of the potable water (by water quality or quantity) available from the proposed wells. There is no documentation from the Health District that the wells would be sufficient. Again, the conclusion of law has to be that the required burden of proving the provision of potable water has not been met.
8. Based on the above findings of fact, the Examiner concurs with the Raduziners (Exhibit 28): "Drilling more wells is irresponsible...." Surely, on those facts, drilling more wells does not serve the public use and interest. The only evidence of any interest served by the proposed wells is that the cost is less than the cost of connecting to the PUD water source. (Finding No. 21)
9. As to the roadway and related issues of safety for students getting to and from school busses there, the Examiner finds insufficient evidence in the record (Findings 3 – 13) from which to conclude that appropriate consideration was given to alternate access for the five new dwellings on Lots 9 – 12, or alternative walkways and bus stops where high speeds occur in icy conditions on a hill in a curve. In fact, as noted at Finding No. 11, the traffic consultant for the project was not even aware that the students of six households would not have school bus access without walking along Robe-Menzel Road along the plat frontage. The consultant erroneously believed that all new homes would share a common access at the plat's access road, Tract 993.
10. Any conclusion in this 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 13-lot/14-unit rural cluster subdivision is **DENIED WITHOUT PREJUDICE** so that, pursuant to SCC 30.41A.040(2), the application may be reactivated under the original project number and without additional fees if a revised application is submitted within six months of the date of this decision.

Decision issued this 14<sup>th</sup> day of August, 2007.

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Ed Good, Deputy Hearing Examiner

<b>EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES</b>
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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 **AUGUST 24, 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 **AUGUST 28, 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: Paul MacCready

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.
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