

**DECISION OF THE SNOHOMISH COUNTY  
HEARING EXAMINER PRO TEMPORE**

**DEVELOPMENT PERMIT**

DATE OF DECISION: September 16, 2008  
PROJECT NAMES: *MADRONA MEADOWS*  
APPLICANT/OWNER: Robert & Nancy Moon  
FILE NO: 06-126377-000-00-SD  
TYPE OF REQUEST: **RURAL CLUSTER SUBDIVISION (RCS)**  
(PRELIMINARY PLAT)  
DECISION: **APPROVE** with precondition and conditions

**CONCURRENT APPEAL**

ACTION APPEALED: **DETERMINATION OF NON-SIGNIFICANCE**  
APPELLANT: McKee's Evergreen Beach Association  
RESPONDENT: Department of Planning and Development Services (PDS)  
DECISION: **DENY** appeal

**BASIC INFORMATION**

PROJECT LOCATION: The subject property is located above McKees Beach, in Sec. 36, T31N, R3E, W.M, on the west side of Marine Drive near Kayak Point County Park.  
ACREAGE: 21.81

NUMBER OF LOTS: 6  
AVERAGE LOT SIZE: 68,599 square feet  
SMALLEST LOT SIZE: 43,560 square feet  
ZONING: R-5  
DENSITY 0.28 du/ac gross; 0.30 du/ac net  
COMPREHENSIVE PLAN  
General Policy Plan: Rural Residential-5 (1 du/5 ac)  
SCHOOL DISTRICT: Stanwood-Camano  
UTILITIES  
Water: Community well  
Sewer: Individual on-site septic  
FIRE DISTRICT #14  
PDS RECOMMENDATION: Approve Preliminary Plat

### **PROCEDURE**

The Preliminary Plat (RCS) application was submitted to PDS on June 21, 2006 and determined to be complete as of the submittal date.

A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on March 21, 2008. The DNS was appealed on April 14, 2008. A hearing was originally scheduled for May 13, 2008, but after filing of the appeal the hearing was postponed until August 5, 2008.

A Prehearing Conference was held by telephone on July 3, 2008. Participating were Counsel for Appellant, Claudia Newman; Counsel for Applicant, William Foster; and Paul MacCready, Planner, PDS.

PDS gave proper public notice of the open record hearing as required by County Code.

The Examiner held an open record hearing on August 5 and 6, 2008. Witnesses were sworn, testimony was presented and exhibits were entered.

Public Testimony was offered by Ken Bosket, James Mercklinghaus, Joe Chrobuck, and David Wenger,

Testifying for PDS were Paul MacCready, Senior Planner; Randy Sleight, Chief Engineering Officer, and Jan O'Neill, Engineer (drainage and water supply) and Ann Goetz, Engineer, Department of Public Works (DPW).

Testifying for Applicants were Debbie Rothfus (Peak Engineering), project manager; Scott Stewart (Peak Engineering), project engineer, David Nelson, geotechnical engineer, Janet Curran, wetland scientist and wildlife biologist; Robert Moon, applicant; and Carl Garrison, well specialist.

Testifying for the Appellants were Philip Newton, civil engineer (drainage); Martin McCabe, geotechnical engineer; Sue Sherry, long-time local resident and local historian; and Greg Burgess, hydrogeologist.

Simultaneous post hearing briefs were permitted and were to be filed by August 15, 2008. The Appellants timely filed their brief. The Applicant's brief was filed one working day late. However, the Examiner determined to accept the late filing.

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

### **FINDINGS OF FACT**

1. The master list of exhibits is in the record in this file. All exhibits were considered by the Examiner and are hereby incorporated by reference, as if set forth in full herein.
2. The PDS Staff Report has correctly analyzed the nature of the application and the applications consistency with adopted codes, policies and land use regulations. The Staff Report is hereby adopted by the Examiner as if set forth in full herein.
3. The applicant seeks approval of a six-lot RCS on a 21.8 acre parcel. The subdivision would result in the creation of five new building lots and one existing residential lot, plus three new tracts. The largest of the proposed building lots, containing the existing house, would encompass 189,058 square feet. The five new building lots would average about one acre in size. The tracts would include one for the existing private road through the property, one for a community well serving all residential lots, and one committed to restricted open space that would be used for Native Growth Protection Areas (NGPA), sight-obscuring buffers and passive recreation.
4. The site is rectangular in shape consisting of one parcel bisected by a private road, known as McKees Beach Road. The property currently contains one residence and two out-buildings. It is forested with second and third growth trees. A Type

5 stream with a Category 2 wetland is located on the south side of the lot. Three other Category 2 wetlands are scattered along the east side of the property.

5. The subject property lies atop the bluff sloping up from the waterfront on Port Susan Bay. Access to the development would be provided directly from McKees Beach Road. The road acts as a rural subcollector, providing access to lots to the west along the Puget Sound shoreline.
6. The property generally slopes to the south and west. The soil consists primarily of Alderwood gravelly sandy loam. Glacial till underlies the surface soil. Mapping of the bluff area shows it to be unstable, but there is no evidence of major slides historically. Nonetheless, it is accepted that the area is a zone with a high potential for landslides.
7. The site is outside the Urban Growth Area (UGA) and is currently zoned Rural-5 Acre (R-5). The surrounding property is also zoned R-5. The northern boundary of the Tulalip Indian Reservation is located approximately 900 feet south of the site. Similar large lots, mostly undeveloped, are adjacent to the north and south and are either forested or in pasture.
8. West of the subject property, approximately 100 substandard urban-sized lots are situated along the shore and also along the top of the hill adjacent to the shore. The smallest lots (some only 3,000 square feet) are closest to the shore. These lots are within the Assessor's Plat of Evergreen Waterfront Tracts, commonly know as McKees Beach. The steep bluff to the east of these lots is 140 to 160 feet high. The private road running through the proposed Madrona Meadows plat accesses all of these lots.
9. The issues relating to development of the plat are drainage and water supply. The owners along the shore, the McKee's Evergreen Beach Association (hereafter "Beach Association"), are principally concerned that increased stormwater runoff from Madrona Meadows and other potential developments on the hill above them will increase the risk of landslides that could damage their properties. They are also worried that groundwater withdrawals for such developments may cause salt water intrusion that will damage their existing water supply.
10. A 50-foot wide unopened, un-maintained County right-of-way, 94<sup>th</sup> Avenue NW, abuts the entire western boundary of the proposed plat. A large upstream basin (approximately 250 acres) sheet flows into the site and into the central wetland on the site which slopes west into an outlet which drains under 94<sup>th</sup> Avenue NW to an existing private tightline conveyance system that runs down the off-site critical slope and then under the McKees Beach development to an outfall on the shore of Puget Sound. The drainage conveyance and its associated easement are owned and maintained by the McKees Beach Homeowners.

11. The tightline conveyance system is placed in a deep ravine within the bluff. Since its installation no significant landslides have occurred along the bank in the immediate vicinity. However, the conveyance system is oddly designed with some downstream pipes smaller than those upstream. It is probably undersized for even current conditions and is not well maintained. All parties agree that this system cannot effectively handle increased flows.
12. Without runoff control, net new 100-year, 24-hour stormwater runoff flow from the development of the site was estimated to be under 0.1 cubic feet per second (cfs) which would qualify for an exemption from runoff control. However, the County decided that the impact of any additional flow to the inadequate private conveyance system would not be acceptable. They considered that additional flow, no matter how insignificant, should be avoided due to the critical nature of the slope.
13. Therefore, the design of the project evolved into a strategy for avoiding increased flows to the tightline system. The proposal is to contain all runoff from new impervious surfaces on the site via infiltration, with the result that the development will have no impact downstream. This will be accomplished by Low Impact Development (LID) techniques.
14. LID projects use techniques designed to mimic pre-developed hydrologic conditions. Here the 2005 Department of Ecology Storm Water Management Manual is being used to provide Best Management Practices that facilitate the LID design. The LID techniques include maximizing preservation of existing forest and foliage for rainfall interception and minimizing disturbed site areas to the extent possible. Very little vegetation loss via clearing will occur in Madrona Meadows. The total of all impervious surfaces on the proposed developed site, including the existing road and the existing house, is just 7.5%.
15. Geotechnical investigation determined that there are pockets of soil on site that are conducive to infiltration. The proposal, therefore, is to route net new runoff from roofs, walkways, decks and lawns to infiltration trenches or rain gardens on each lot, with porous pavement infiltrating new pavement runoff. Existing surfaces such as McKees Beach Road and the existing residence will continue to disperse runoff as they have historically.
16. The Applicant's geotechnical engineer looked at the proximity of the infiltration areas to the critical slope and determined that the soils are sufficiently deep and the infiltration areas sufficiently set back from the slope so as not to impact the slope.
17. The development will not increase rainfall. According to the developer and County staff, use of the infiltration system will mean no effective impact to off-site stormwater runoff – either into the McKees Beach conveyance system or onto

the downstream critical area slope. In short, pre-developed hydrologic conditions will be maintained.

18. The Appellants' experts did not persuasively undermine this conclusion. The Hearing Examiner finds that the Madrona Meadows proposal is not likely to have any adverse impact on drainage. It follows from this that project runoff will not contribute to adjacent critical area high landslide hazard impacts and will not adversely impact the Beach Association's water well near the bottom of the ravine.
19. There are currently no other applications for subdivision development on or above the bluff overlooking McKee's Beach. An application was filed in 2007 for a well, pumphouse and watertank for property to the south and west of the subject site, but the application was not pursued, and it expired before any decision on it was made.
20. None of the experts contested that without improvements to the tightline system, continued development on the hilltop will at some point have significant adverse impacts on the stability of the slope and the runoff toward the beach. However, it was not proven that the subject application by itself would have such effects.
21. The Appellants seek a cumulative impacts analysis, but the scope, timing and probability of other future developments in the area are all speculative. Moreover, given the conclusion of no effect from the subject development, it could not logically contribute to such cumulative impacts in any event.
22. It was noted that the Applicant has granted an easement to several other hilltop owners for drainage across his property. Yet, there are no known projects related to this easement. Clearly, the easement has nothing to do with the impacts of the subject application.
23. The Applicant proposes to use the well that currently serves the existing residence as a community well to provide potable water for all six proposed lots. As noted, this well will be placed within a restricted open space tract. The Applicant is in the process of asking the State Department of Health for an acknowledgment that the well is adequate to supply six homes. The overall daily withdrawal will be well under the 5,000 gallons per day maximum that may be pumped without a water rights permit.
24. The Appellant maintained that salt water intrusion to the Beach Association's well could result from the increased pumping of the Madrona Meadows well. Expert testimony on this subject failed to establish that any such impact is likely. Nevertheless, it was urged that studies, including evaluation of possible cumulative impacts, should be conducted on the issue.

25. The Madrona Meadows well is at least 1000 feet inland from the shore, and about 800 feet inland horizontally from the McKees Beach well. Available information shows that the static level of the Madrona Meadows well is 32 feet above sea level and that under dynamic conditions, the draw down would be to 17 feet above sea level. In this situation, the Madrona Meadows well could not cause the McKees Beach well to pull in salt water. To date, there is no information showing increased chlorides in the McKees Beach well.
26. The County staff testified that it did not do a cumulative impacts analysis on water supply because there is no basis for concluding that the Madrona Meadows water source is connected to any other potential hilltop water source. Such analysis should be required of future water users in the hilltop area. But, the Hearing Examiner finds that requiring a cumulative impacts analysis of well water withdrawals in the hilltop area would, at this time, be premature.
27. The project is designed to comply with the County's Critical Areas Regulations (CAR) and does so. In general, the development will simply avoid the wetland areas and steep slopes. All critical areas and buffers will be contained with NGPA Easements.
28. Although the existing 20-foot paved road provides adequate travel lanes, there is a need for a walkway to provide pedestrian access to the bus stop on Marine Drive. Installation of this walkway and the access driveway and building site on Lot 5 will impact buffer areas. A Critical Areas Study and Conceptual Mitigation Plan were prepared to address the impacts to buffers. As a result, additional buffer areas at a ratio exceeding 3 to 1 will be provided. A total of 9,613 square feet of wetland buffers will be impacted for the development and a total of 33,772 square feet of additional buffers will be provided on the site. All additional buffer areas are forested.
29. Furthermore, the walkway impacts will be minimized by design measures. The walkway will be separated from the roadway and will meander along it so as to avoid significant trees and other vegetation. The walkway will also have a porous surface. Shrubs will be planted on both sides to discourage encroachment into the NGPAs.
30. The traffic impacts of the proposed RCS will be insignificant. The increases are not large enough to require analysis under the County's Traffic Code. The Applicant did not suggest and the County did not require McKees Beach Road to be dedicated to the County.
31. The existing private road is maintained by the owners of the property it serves. A condition of approval should be added requiring the Applicants here to enter into a road maintenance agreement, undertaking to pay their fair share of road maintenance costs.

32. Staff analysis calculated the impact fees to be paid to various jurisdictions for impacts on roads, streets, parks. The amounts are reflected in conditions of approval. School impact mitigation fees to the Stanwood-Camano School District will be determined according to the District's Base Fee Schedule at the time of building permit application and paid at the time of building permit issuance.
33. The development was determined to be concurrent as of August 9, 2006. Construction of frontage improvements along Marine Drive to the satisfaction of the County is a condition of approval.
34. Safe walking conditions for school children will be provided by the path along McKee's Beach Road to the bus stop on Marine Drive.
35. Each lot will be required to demonstrate a sewage disposal facility, plus a 100% reserve drainfield area. The Snohomish County Public Utility District has advised that they can provide electrical service to the project. The project was determined to be exempt from fire flow requirements. The availability of adequate public services has been demonstrated.
36. According to the Staff's analysis the project meets the Comprehensive Plan, the zoning code dimensional requirements and the standards for RCSs. All utilities will be located underground. The requirements for restricted open space, lot yield and bonus density will be met. The proposal clusters lots on the most buildable and least environmentally sensitive portions of the site. Critical areas are designated as NGPAs. A sight-obscuring buffer will be provided and supplemental planting will be required where the vegetation does not meet the intended function of such a buffer. An Open Space Management Plan has been provided detailing required maintenance and management tasks for the proposed open space. The Examiner concurs that the Comprehensive Plan, zoning and RCS standards will be met.
37. The proposed plat makes "appropriate provisions" for the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, potable water supplies, sanitary wastes, recreation, schools, safe walking conditions for students, and other planning features.
38. The public use and interest will be served by the platting of the subdivision.
39. The Appellants requested that the Applicant be required to obtain an easement from the Beach Association to use their privately owned tightline drainage facility prior to final approval of the plat. Given that this project does not propose to use the Appellants' drainage facility, there is <sup>1</sup>no need to require such an easement.
40. Any conclusion herein which may be deemed a finding is hereby adopted as such.

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<sup>1</sup> Scrivener's error – the word "no" added to correct sentence. 9/18/08

## CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over this proceeding.
2. For purposes of SEPA, the word significant is defined at WAC 197-11-794. Under the definition “significant” means “a reasonable likelihood of more than a moderate adverse impact on environmental quality.”
3. The Appellants failed to carry their burden of proving a reasonable likelihood that the proposal in question will have a significant adverse environmental impact.
4. Therefore, the issuance of a DNS in this case was not in error.
5. The proposal is consistent with the GMA-Comprehensive Plan and with applicable development regulations, as required by RCW 58.17.195. In particular the proposal meets the requirements of Chapter 30.41 SCC, Rural Cluster Subdivision.
6. The proposal provides for items of design and infrastructure as required by RCW 58.17.110. Adequate public services are available to serve the proposal.
7. Any Conclusion herein which may be deemed a Finding is hereby adopted as such.

## DECISION

The **APPEAL** of the **DETERMINATION OF NONSIGNIFICANCE** (DNS) is **DENIED**. The threshold determination is **AFFIRMED**.

The request for a **RURAL CLUSTER SUBDIVISION** for Madrona Meadows is **GRANTED**, subject to the following **PRECONDITION** and **CONDITIONS**:

### PRECONDITION

PDS shall have received written communication from the Washington State Department of Health (DOH) indicating that the community well, as proposed, is adequate for the supply of potable water.

### CONDITIONS

- A. The revised preliminary plat received by PDS on February 12, 2008 (Exhibit 2A) shall be the approved plat configuration. Changes to the approved plat are governed by SCC 30.41A.330.

- B. Prior to initiation of any 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 plattor 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 and Conceptual Wetland Mitigation Plan for Madrona Meadows prepared by Curran Environmental Services, LLC, revised June 22, 2007 (Exhibit 3D), 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 dwelling units within this development are subject to park impact fees in the amount of \$811.29 per newly approved dwelling unit pursuant to Chapter 30.66A. Payment of these mitigation fees is required prior to building permit issuance; provided that the building permit has been issued within five years after the application is deemed complete. After five years, park impact fees shall be based upon the rate in effect at the time of building permit issuance.”
  - ii. “The lots within this subdivision will be subject to school impact mitigation fees for the Stanwood-Camano School District 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. Lot 1 shall receive credit.”
  - iii. “Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:  
\$2,526.48 per lot for mitigation of impacts on county roads paid to the County,  
\$415.20 per lot for mitigation of impacts on Arlington streets paid to the City,

\$952.50 per lot for mitigation of impacts on Marysville streets paid to the City,

\$332.42 per lot for mitigation of impacts on Stanwood streets paid to the City.

These payments are due prior to or at the time of building permit issuance for each single family residence. Notice of these mitigation payments shall be contained in any deeds involving this subdivision or the lots therein. Once building permits have been issued all mitigation payments shall be deemed paid by PDS.”

- iv. 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 30.91N.010 are allowed when approved by the County.”

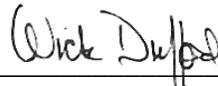
- v. The final plat shall show a 10-foot right-of-way dedication along the property’s frontage with Marine Drive to total 40 feet from the right-of-way centerline.
- vi. “Your real property is on or within 2,000 feet of designated mineral resource land, on which mineral extraction, or a variety of activities related to mineral extraction, may occur that are not compatible with residential development for certain periods of limited duration. An application might be made on the designated mineral resource land for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.”
- vii. “All utilities shall be located underground.”
- viii. “Where existing vegetation fails to meet the intended function of the Vegetated Sight Obscuring Buffer, then supplemental planting of native vegetation shall be made, with the ultimate density of trees at 10 feet on center and shrubs at 3 feet on center. A minimum of 75% of the trees shall be conifers.”

- D. Prior to recording of the final plat:
- i. A separated 5-foot wide walkway shall have been constructed along one side of McKees Beach Road from the intersection of 94th Avenue NW to Marine Drive for safe walking conditions for children that walk to the bus stop.
  - ii. Frontage improvements shall have been constructed to the satisfaction of the County along the property's frontage with Marine Drive unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.
  - iii. NGPA boundaries 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.
  - iv. The final wetland mitigation plan shall be completely implemented.
  - v. The applicants shall provide proof to the Department of Planning and Development Services that they have entered into a road maintenance agreement, undertaking to pay their fair share of the costs of road maintenance.
- E. In conformity with applicable standards and timing requirements:
- i. The preliminary landscape plan (Exhibit 2D) for the sight obscuring buffer shall be implemented.
  - ii. The open space management plan (Exhibit 1C) shall be implemented by a homeowner's association.
- F. All development activity shall conform to the requirements of Chapter 30.63A SCC. If new impervious surface over 5,000 square feet is created within the frontage improvements on Marine Drive, further drainage design and review shall be required.

Nothing in this 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 issued this 16<sup>th</sup> day of September, 2008.



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Wick Dufford, Hearing Examiner Pro Tempore

<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 **SEPTEMBER 26, 2008**. 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 **SEPTEMBER 30, 2008** 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 this case.

Staff Distribution:

Department of Planning and Development Services: Paul MacCready

<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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**This decision is binding but will not become effective until the above precondition(s) have been fulfilled and acknowledged by the Department of Planning and Development Services (PDS) on the original of the instant decision. Document(s) required for fulfillment of the precondition(s) must be filed in a complete, executed fashion with PDS not later than SEPTEMBER 16, 2009.**

1. "Fulfillment" as used herein means recordation with the County Auditor, approval/acceptance by the County Council and/or Hearing Examiner, and/or such other final action as is appropriate to the particular precondition(s).
2. One and only one six month period will be allowed for resubmittal of any required document(s) which is (are) returned to the applicant for correction.
3. This conditional approval will automatically be null and void if all required precondition(s) have not been fulfilled as set forth above; PROVIDED, that:
  - A. The Examiner may grant a one-time extension of the submittal deadline for not more than twelve (12) months for just cause shown if and only if a written request for such extension is received by the Examiner prior to the expiration of the original time period; and
  - B. The submittal deadline will be extended automatically an amount equal to the number of days involved in any appeal proceedings.

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### **ACKNOWLEDGMENT OF FULFILLMENT OF PRECONDITIONS**

The above imposed precondition(s) having been fulfilled by the applicant and/or the successors in interest, the Department of Planning and Development Services hereby states that the instant Decision is effective as of \_\_\_\_\_, \_\_\_\_\_.

Certified by:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

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