

REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER PRO TEM

DATE OF DECISION: July 2, 2008

PLAT/PROJECT NAME: Warm Beach Community Church

APPLICANT/
LANDOWNER: Alan Ehler Warm Beach Community Church
9620 188th Rd SW
Stanwood, WA 98292

FILE NO.: 06-101135-000-00-LU

TYPE OF REQUEST: Conditional Use Permit and administrative landscape modification for the development of a new church facility on a 11.43 acre, R-5 zoned site.

DECISION (SUMMARY): **APPROVED** subject to a precondition and conditions.

BASIC INFORMATION

GENERAL LOCATION: The property is located at 21033 Frankwaters Road, Stanwood, Snohomish County, Washington. Tax parcel: 310407-004-008-00

Acreage: 11.43

ZONING: R-5

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

School District:: Stanwood School District No. 401

Fire District: Fire District 14/19

Water Source: Warm Beach Christian Camp Water Service

Sewer Service: Septic

SELECTED AGENCY RECOMMENDATIONS:

Department of Planning and Development Services: Approve with preconditions and conditions

INTRODUCTION

The applicant filed the Master Application on November 8, 2006. (Exhibit 1A)

The Hearing Examiner (Examiner) Pro Tem made a site familiarization visit on June 24, 2008 in the afternoon.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 6A, 6B and 6C)

A SEPA determination was made on May 5, 2008. (Exhibit 5B1) No appeal was filed.

The Examiner held an open record hearing on June 25, 2008, the 105th 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 June 25, 2008 at 3:05 p.m.

1. The Examiner indicated that he had read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. Scott Whitcutt, planner from Snohomish County Department of Planning and Development Services, appeared and testified under oath. He presented the county staff report.
3. Allen Ehler, applicant's agent, appeared and testified under oath. He described the proposal.
4. No members of the public testified in opposition to the project.

The hearing concluded at approximately 3:30 p.m.

NOTE: The above information reflects the information submitted to the Examiner summarizing the statements that were made at the hearing. However, for a full and complete record, verbatim audio tapes of these hearings are available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, are hereby made a part of this file, as if set forth in full herein.
2. Nature of Request: Application and supporting documents have been received for establishing a Conditional Use approval for a 30,724 square foot church facility on an 11.47 acre R-5 zoned site. The applicant proposes two phases of building and parking area site development as depicted on the official site plan (Exhibit 2A2b). Road improvements, landscape buffers, water service, septic facilities, 350 seat multi-purpose room, offices, classrooms, kitchen, and youth rooms 270 of 340 parking stalls and associated drive aisles, and emergency access aisles will be accomplished under Phase 1 of the project approval. The remaining two-story classroom wing, enlargement of the multi-purpose room, and remainder of parking and drive aisle area is contemplated during the second phase of facility construction.
3. Site Description: The site is an irregular shaped property extending west to east from its frontages on Frank Waters Road and Happy Hollow Road. The site rises gently from west to east and is largely a pastured property. There are no critical areas associated with the site and proposed development.
4. Adjacent zoning: Properties to the north, east, and south are zoned R-5 and developed with large lot and small lot single-family residences. Property to the west, across Marine Drive, is zoned Forest and Recreation, is wooded, and comprises the eastern boundaries of the Warm Beach Christian Camp facilities.
5. Park Mitigation: The proposal is within the Kayak Point Park District No. 301. The subject proposal is not subject to Chapter 30.66A SCC, which requires payment of impact fees associated with new residential unit development.
6. Traffic: PDS Traffic reviewed the proposal for compliance with Title 13 and Chapter 30.66B of Snohomish County Code, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures.

1. General Information

- The road serving this development, Frank Waters Road, is designated as a minor collector arterial on the County's Arterial Circulation Map.
- The subject property is located at the east side of Frank Waters Road, south of Happy Hollow Road, in Stanwood, in Section 7, Township 31N, Range 4E, in Transportation Service Area (TSA) "A", outside the urban growth area (UGA).
- The proposed development will take access from Frank Waters Road.

2. Road System Impact Fee [SCC 30.66B.310]

A development must mitigate its impact upon the future capacity of the road system by paying a road system impact fee reasonably related to the impacts of the development on arterial roads located in the same transportation service area as the development, at the rate identified in SCC 30.66B.330 for the type and location of the proposed development.

The development will generate 184.59 average daily trips (ADT) and has a road system impact fee of \$41,901.93 based on \$227/ADT the current fee rate for residential developments outside the urban growth area, for TSA A. Consistent with SCC 30.66B.340, payment of this road system impact is required prior to building permit issuance and is a recommended condition of approval.

The estimates of trip generation for the development are based upon information submitted in a traffic study dated September 29, 2006, Exhibit 3A.

New average daily trips = 184.59 ADT
New PM peak-hour trips = 21.63 PM PHT
New AM peak-hour trips = 11.57 AM PHT

3. Concurrency [SCC 30.66B.120]

The County makes a concurrency determination for each development application to ensure that the development will not impact a county arterial unit in arrears.

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent as of January 4, 2006. The expiration date of the concurrency determination is six years from this date.

Development generating 50 or fewer peak-hour trips in a TSA with no arterial unit in arrears, SCC 30.66B.130(4). The subject development is located in TSA A, which, as of the date of submittal of the application, had no arterial units in arrears. The subject development generates 11.57 a.m. peak-hour trips and 21.63 p.m. peak-hour trips which is not more than the threshold of 50 peak-hour trips in which case the development would also have to be evaluated under SCC 30.66B.035.

4. Inadequate Road Condition (IRC) [SCC 30.66B.210]

The subject development proposal will not impact any IRC locations identified within TSA A with three or more of its p.m. peak hour trips, nor will it create any. Therefore, it is anticipated that mitigation will not be required with respect to IRCs and no restrictions to building permit issuance or certificate of occupancy final inspection will be imposed under this section of Chapter 30.66B SCC.

5. Frontage Improvements [SCC 30.66B.410]

As per DPW Rule 4222.020(1) full rural frontage improvements are required along the subject parcel's frontage on Frank Waters Road and consist of:

Asphalt concrete pavement consisting of 11 feet in width from roadway centerline with an 8 foot paved shoulder

The road, Frank Waters Road, on which the development's frontage improvements are required, is not in the impact fee cost basis (Appendix D of the Transportation Needs Report). Therefore credits towards the applicant's impact fee for any frontage improvements that can be used in the ultimate build-out of the road are not applicable.

Construction of frontage improvements is required prior to Certificate of Occupancy unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development. Such construction has been included as a recommended condition of approval.

6. Access and Circulation [SCC 30.66B.420]

Access in and out of the development is off of a public road, Frank Waters Road, with a 30-foot wide access. The access is located approximately 200 feet south of the intersections of Frank Waters Road and Happy Hollow Road. Per EDDS 2-060, the minimum access point spacing for a 40 mph posted speed is 160 feet.

The posted speed on Frank Waters Road is 40 mph, which per EDDS requires 305 feet of stopping sight distance, and 445 feet of intersection sight distance. The existing sight distance at the proposed site access intersection with Frank Waters Road is adequate.

The proposed layout is acceptable to PDS.

The applicant performed channelization analysis at the site access with Frank Waters Road for the p.m. peak hour. Since there is no nomograph for 40 mph speed limit, the applicant used a nomograph for a 55 mph speed limit. The applicant needs to provide additional information such as the time and date used to generate traffic counts at the site access with Frank Waters Road, and the source for the graph used to warrant no left turn channelization. The additional information was provided. DPW indicated that the September 2005 traffic counts in this area are okay to use for the analysis. The method for left turn warrant analysis from the 1990 ITE Committee 4A-22 Guidelines for Left Turn Lanes is what DPW would require for this analysis and is the source of the nomographs. PDS agrees with the applicant's determination that a left turn pocket is not warranted.

There are existing utility poles along the development's frontage on Frank Waters Road that are within the clear zone. For roads with a posted speed greater than 35 mph, the applicant needs to ensure existing utility poles are out of the clear zone per Chapter 7 of the Washington State Department of Transportation Design Manual. The plan shows that the poles will be relocated so that it meets the clear zone requirement. This will be required to be shown on final construction plan documents prior to construction approval.

7. Right-of-Way Requirements [SCC 30.66B.510, SCC 30.66B.520]

The road serving this development, Frank Waters Road, is designated as a minor collector arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 35 feet on each side of the right-of-way centerline. Currently, 30 feet of right-of-way exists on the development's side of the right-of-way. Therefore, the development is required to dedicate 5 feet of additional right-of-way. This is now adequately shown on the revised plans received April 1, 2008 and is included as a condition of approval.

Frank Waters Road is not in the impact fee cost basis (Appendix D of the Transportation Needs Report). Therefore credit towards the applicant's impact fee for the right-of-way dedicated that is more than 30 feet from centerline is not applicable.

8. State Highway Impacts [SCC 30.66B.710]

This development is subject to SEPA and thus is subject to Interlocal Agreement (ILA) with the Washington State Department of Transportation (WSDOT)/County effective December 21, 1997, and as amended.

Pursuant to SCC 30.66B.055 a written proposal from the applicant proposing measures to mitigate impacts on state highways is required and has been received as of the date of this memorandum. The applicant has offered to provide the mitigation measures for impacts on state highways as follows:

Payment based on proportionate share analysis in traffic study

The applicant chose payment based on proportionate share analysis in the traffic study to pay \$2,042.41 (184.59 new ADT x \$36/ADT x 30% = \$2,042.41) in mitigation fees towards an impacted State project within TSA A. The improvement project is the intersection of SR 531 at East Lake Goodwin Rd (DOT-45). WSDOT was provided notice of application for this project and an opportunity to comment. Comments from WSDOT have been received as of November 20, 2006. WSDOT does agree to the mitigation measures proposed by the applicant. Mitigation fees have been included in the recommended conditions of approval.

The County reviewed the WSDOT requested mitigation and written proposal for mitigation submitted by the applicant and determined that the proposed mitigation measures are reasonably related to the impacts of the development and recommended that they be imposed on the development as a condition of approval.

9. Other Streets and Roads [SCC 30.66B.720]

Mitigation requirements for impacts on streets inside cities and roads in other counties will be established consistent with the terms of interlocal agreements between the County and the other jurisdictions.

There are City jurisdictions that have an ILA with the County that will be impacted by new trips from the subject development.

The proposed development is subject to SEPA and thus is subject to the interlocal agreements (ILA) for impacts on city streets with the City of Arlington and the City of Stanwood.

City of Arlington

Pursuant to the ILA and SCC 30.66B.055(4), a written proposal from the applicant proposing measures to mitigate impacts on city streets is required and has been received as of December 11, 2006. (Exhibit 8A1)

The applicant has offered to provide proportionate share mitigation for impacts to city streets as follows:

The applicant's obligation to the City of Arlington is \$7,982.55.
(21.63 PM PHT x 11% impact from distribution x \$3,355.00 / PM PHT x = \$7,082.55).

The City of Arlington was provided notice of application for this project and an opportunity to comment. Comments from the city have been received as of December 20, 2006 (Exhibit 8A1). The city does agree to the mitigation measures proposed by the applicant. The County has reviewed the city requested mitigation and written proposal for mitigation submitted by the applicant and has determined that the proposed mitigation measures are reasonably related to the impacts of the development and recommends that they be imposed on the development as a condition of approval.

City of Stanwood

Pursuant to the ILA and SCC 30.66B.055(4), a written proposal from the applicant for zero dollars/no impact was received on April 1, 2008. The applicant's Traffic Impact Analysis dated September 29, 2006 indicates that the development will not add 3 directional peak hour trips to any projects that are part of the City's cost fee basis.

The City of Stanwood was provided notice of application for this project and an opportunity to comment. Comments from the City were received on December 7, 2006 and May 19, 2008 (Exhibit 8A2). The City agrees that the proposed development will not have an adverse impact to city streets and no mitigation will be required.

10. Transportation Demand Management (TDM) [SCC 30.66B.630]

SCC 30.66B.630 requires development inside the UGA to provide TDM measures. Since this development is outside of the UGA, TDM measures are not required.

7. School Impact Mitigation Fees: The Snohomish County Council amended Chapter 30.66C SCC by Amended Ordinance 97-095, adopted November 17, 1997, which became effective January 1, 1999, in accordance with Amended Ordinance 98-126, to provide for collection of school impact mitigation fees at the time of residential building permit issuance based upon certified amounts in effect at that time. The subject proposal is not subject to school impact mitigation under Chapter 30.66C SCC.
8. Critical Areas: A site visit on 02/07/06 conducted by PDS staff found no critical areas on or within 100 ft of the site. The proposal is not subject to further critical areas review.
9. Drainage and Grading: The conditional use permit application for the proposed new church was reviewed by the engineering section of PD S for compliance with Chapters 30.63A and 30.63B, of the Unified Development Code (UDC), and was deemed complete.

This review was based upon the following information provided to PDS:

- Conceptual TESC Plan C1.0, (Exhibit 2A2i)
- Targeted Drainage Plan C2.0, (Exhibit 2A2j)
- Details and Notes Plan C3.0, (Exhibit 2A2k)
- Targeted Drainage Report, dated October 13, 2006 (Exhibit 3B)
- Geotechnical Engineering Report, dated March 29, 2006 (Exhibit 3C)

The site has been cleared in the past and is currently pasture with some isolated trees. There is an existing gravel access from Frank Waters Road that leads into the site. Grade falls from east to west with average slopes approximately six percent. Underlying soil is listed by the USDA Soil Conservation Service maps as Everett gravelly sandy loam. This very deep, somewhat excessively drained soil is very conducive to infiltration. For most of the site, groundwater was not encountered, up to 9.5 feet deep.

The proposed drainage system for the church, parking area and driveway includes typical catch basin and storm pipe collection and conveyance, from the east towards the road. Required quantity control for the majority of the site will be met by providing a large underground infiltration bed sixty-five feet wide by two hundred feet long, consisting of washed drain rock to three feet deep. The system will be designed with a factor of safety of 4 minimum and complete infiltration of the collected drainage.

A rain garden located near the road will infiltrate the remainder of the site, while also satisfying required water quality treatment for that portion of the site. A two hundred foot long biofiltration swale will water quality treat runoff from a majority of the developed site before discharge to the infiltration system.

The Drainage Facility Maintenance Covenant will require the property owner to provide for regular maintenance on the storm water system.

Grading quantities are anticipated to be approximately 20,000 cubic yards of cut and 17,000 cubic yards of fill. Erosion and sedimentation would be controlled during construction by use of silt fences, rock construction entrance, and straw bales in accordance with a Temporary Erosion and Sedimentation Control Plan (TESCP) required by Chapter 30.63A SCC.

Surface Water Management (SWM) had comments regarding the construction phase and recommended adding an oil/water separator immediately upstream of the water quality treatment facilities, which have been passed along to the applicant to address in final construction documents. SWM had no comments regarding any known downstream flooding or drainage problem.

Based upon the preliminary drainage/grading review, PDS concluded this project can meet provisions of Chapter 30.63A SCC, without adversely impacting any downstream, upstream or neighboring properties. Final construction requirements will be imposed during full drainage plan review pursuant to Chapter 30.63A SCC as conditions of approval.

10. Utilities:

Sewer

On-site sewer disposal (septic system) will be used. Review comments have been received from the Snohomish Health District. (Exhibit 8B1)

Electricity

Snohomish County Public Utility District No. 1 (PUD #1) has provided correspondence indicating that they can provide electrical service for the project. (Exhibit 8C3)

Water

Water will be supplied by the Warm Beach Christian Camp #1. A Certificate of Water Availability was received. (Exhibit 8C4).

11. Comprehensive Plan Compliance:

Four elements of the Snohomish County GMA Comprehensive Plan (GMACP) were adopted pursuant to Ordinance 94-125, which became effective on July 10, 1995. These elements are: the General Policy Plan (GPP); the Transportation Element; the 1995-2000 Capital Facilities Plan; and the Comprehensive Parks & Recreation Plan. On November 27, 1996, effective December 12, 1996, the Council adopted Amended Ordinances 96-074, and 96-071 which amended the map and text of the Snohomish County GMA Comprehensive Plan, and adopted an area-wide rezone within the Urban Growth Areas of the county respectively. This application was complete on November 8, 2006 after the effective date of Amended Ordinances 96-074 and 96-071. This application has been evaluated for consistency with the version of the GMA Comprehensive Plan, which became effective on December 12, 1996, as revised through the completeness date of the application.

The subject property is designated Rural Residential-5 (RR-5 1 dwelling unit per 5 or more acres) on the GPP Future Land Use Map. It 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 “includes lands that were designated Rural on pre-GMA subarea comprehensive plans and zoned Rural 5... The implementing zone will continue to be the R-5 zone.” The requested CU is consistent with allowing a conditional use to serve the rural community in which it lays, and is consistent with the General Policy Plan’s Goals and Objectives protecting the character, quality, and identity of rural lands.

The following discussion addresses Conditional Use project consistency with key GPP goals, objectives, and policies:

The discussion and analysis includes impacts associated with traffic, storm drainage, parks and recreation, public schools, and zoning code provisions addressing compatibility with surrounding properties (bulk regulations and landscape buffers). Specific findings have been made above in this decision. CU conditions of approval will assure construction permits are consistent with such evaluation and official site plan approval and thus will substantiate GMA code compliance prior to construction permit issuance. Such approvals will sufficiently mitigate for future impacts associated with development patterns, site design and sensitively integrating site development into the immediate community.

Land Use Goal LU 2 - “Establish development patterns that use urban land more efficiently”

Transportation Policy TR 1.C.2 - “Adequate access to and circulation within all developments shall be maintained for emergency service...”

Natural Environment Objective NE 1.A - “Balance the protection of the natural environment with economic growth, housing needs and the protection of property rights.”

Natural Environment Objective NE 1.B - “Accommodate population growth in a manner that maintains and protects elements of the natural environment.”

Natural Environment Objective NE 1.C - “Protect and enhance natural watershed processes, wetlands, fish and wildlife habitat conservation areas, shorelines, and water resources with the long-term objective of protecting ecological function and values.”

Natural Environment Policy NE 1.C2 - "The County shall continue to protect and enhance wetlands and fish and wildlife habitat conservation areas through the use of a variety of strategies..."

Natural Environment Objective NE 3.B - "Designate and protect fish and wildlife habitat conservation areas and wetlands pursuant to the Growth Management Act." (Including: NE Policies 3.B.1, 4, 5, and 10)

Approval of the current CU permit and subsequent construction permit approvals can be the mechanism for implementing the GPP elements, goals, objectives and policies. In addition, specific GMA adopted development regulations will address specific design criteria including density, landscape buffering, storm water facilities, public utilities, critical areas protection, emergency access, and impacts associated with transportation needs.

12. Zoning:

This project meets zoning code requirements for lot size, including bulk regulations and other zoning code requirements associated with church facility use of the subject property.

Pursuant to Chapter 30.25.040, the applicant has proposed an administrative landscape modification for purposes of perimeter buffering. A 6' solid board fence is proposed along the north and southwest property boundaries. The applicant proposes to concentrate landscape plantings in a 10' rather than 20' Type A landscape buffer that will combine with the sight-obscuring fence to provide both visual and sound screening of building and parking area improvements in close proximity to adjacent residences. The applicant proposes similar Type A landscape plantings along the east property boundary where a balance between adjacent views, distance between adjacent property, parking area and Type B landscaping, and the low building profile will combine to allow greater view opportunities for adjacent properties. The proposed landscape modification represents an equal or better result and that proposed landscaping fulfills its intended purpose as described in Chapter 30.25.

13. Issues of Concern:

There are no particular issues of concern regarding the subject proposal. No citizen or agency comments have been received indicating objection or concerns with the subject proposal.

14. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

CONCLUSIONS:

1. The Examiner has jurisdiction to hear this matter and render a decision thereon.
2. 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.
3. Adequate public services exist to serve the proposal.

4. With the conditions below, the proposal makes adequate provisions for the public health, safety and general welfare.
5. The request should be approved as submitted, subject to the conditions and preconditions contained below.
6. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

APPROVAL of the proposed Conditional Use application is granted subject to the following PRECONDITION and CONDITIONS:

PRECONDITION

- A. A record of developer's Chapter 30.66B SCC mitigation obligations shall have been recorded with the County Auditor.

CONDITIONS

- A. The official site plan received by PDS on April 8, 2008 (Exhibit 2A2b, c, f, g, and h) shall be the CU official site plan. SCC 30.42B.220 shall govern any changes to the CU official site plan.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
 - i. A Land Use Permit Binder shall be recorded with the County Auditor binding site development to the CU Official Site Plan detailed in Condition A. (Exhibit 2A2b, c, f, g, and h).
 - ii. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
- C. Prior to Building Permit Issuance:
 - i. 5 feet of right-of-way along the subject parcel's frontage on Frank Waters Road shall have been deeded to Snohomish County.
 - ii. The applicant shall pay an impact fee to Snohomish County for traffic impacts to Transportation Service Area in the amount of \$41,901.93. This payment may be made proportionately with each phase of building permit issuance.
 - iii. The applicant shall make a payment to Snohomish County for the WSDOT in the amount of \$2,042.41 for mitigation of traffic impacts to State highways. This payment may be made proportionately with each phase of building permit issuance.
 - iv. The amount of \$7,982.55 shall be paid to the City of Arlington for traffic impacts to projects within the City. Proof of payment shall be provided to the County. This payment may be made proportionately with each phase of building permit issuance.

- D. Prior to any Certificate of Occupancy or Final Inspection:
 - i. Rural frontage improvements shall have been constructed along the parcel's frontage on Frank Waters Road to the satisfaction of the County.
- E. In conformity with applicable standards and timing requirements:
 - i. The final landscape plan consistent with (Exhibit 2A2b and c) and consistent with regulatory provisions Chapter 30.63A SCC shall be implemented per construction approvals.

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.

Decision issued this 2nd day of July, 2008.

James Densley, 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, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **JULY 14, 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, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **JULY 16, 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: Scott Whitcutt

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.

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 JULY 2, 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.

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)
