

**DECISION of the SNOHOMISH
COUNTY HEARING EXAMINER PRO TEM**

DATE OF DECISION: April 3, 2008

PLAT/
PROJECT NAME: **CAD I, LLC SHORT PLAT**

OWNER/
APPLICANT: CAD I, LLC

FILE NO: 06-124969-000-00-SP

TYPE OF REQUEST: 7 lot short subdivision of 1.89 acres, using lot size averaging

DECISION
(SUMMARY): APPROVE WITH CONDITIONS

BASIC INFORMATION

GENERAL LOCATION: 3221 71 Ave. N.E., Marysville

ACREAGE: 1.89 acres

NUMBER OF LOTS: 7

AVERAGE LOT SIZE: 10,331 square feet

MINIMUM LOT SIZE: 5,156 square feet

DENSITY 6.6 du/ac (net)

COMPREHENSIVE PLAN DESIGNATION
General Policy Plan: Urban Low Density Residential

UTILITIES:
Water: Snohomish County PUD
Sewer: City of Marysville

SCHOOL DISTRICT: Marysville Number 25

FIRE DISTRICT: Number 12

INTRODUCTION

The applicant was deemed complete on June 27, 2006. Several resubmittals of the application followed, culminating in a determination on August 31, 2007 that the application was sufficient for further review.

The Deputy Hearing Examiner (Examiner) made a site familiarization visit on January 6, 2008.

The Department of Planning and Development Services (PDS) gave proper notice of the open record hearing as required by the County code. Exhibit 17 (Affidavit of Mailing); Exhibit 18 (Affidavit of Notification by Publication); Exhibit 19 (Posting Verification).

A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on October 3, 2007. The DNS was not appealed.

The Examiner held an open public record hearing on January 10, 2008. Witnesses were sworn, testimony was presented and exhibits were entered. Subsequently, with the applicant's consent, a pro-tempore hearing examiner reviewed the case file and the audio CD of the hearing and rendered the decision herein.

PUBLIC HEARING

The public hearing commenced on January 10, 2008 at 11:11 a.m.

1. Representing PDS was Stacey Abbott, Planner.
2. Representing the Applicant was Angela Jones, Principal Planner, Urban Design Concepts.

The hearing concluded at 11:24 a.m.

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

FINDINGS OF FACT

A. General

1. The master list of Exhibits and Witnesses are contained in the record in this file. A corrected property description was added as Exhibit 36 at the hearing. All exhibits were considered by the Examiner and are hereby incorporated by reference, as if set forth in full herein.
2. Summary of Proposal. CAD I, LLC has made an application for a 7 lot short plat of approximately 1.9 acres. The site is located on the east side of 71st Ave NE in Marysville. The proposed project consists of developing the site into 7 single family residential lots with associated roadway, storm drainage and utility features. No structures exist on the site. Soper Hill Creek flows toward the south across the northeast portion of the site. Vegetation on the portion of the site to be developed is mostly grass with a few mature deciduous and evergreen trees

and shrubs. Large cedars and native understory, including ferns and salmonberry exist on the portion of the site to be left undisturbed.

The proposal also will create a new public road to provide access to the new lots. The public road is an extension of 73rd Drive NE. Pursuant to SCC 30.41B.030, short plats which include dedication of a new public road require a type 2 decision by the Hearing Examiner.

3. Site Description. No structures exist on the site. Soper Hill Creek flows toward the south across the northeast portion of the site. Vegetation on the portion of the site to be developed is mostly grass with a few mature deciduous and evergreen trees and shrubs. Large cedars and native understory, including ferns and salmonberry exist on the portion of the site to be left undisturbed.

The site has one drainage basin that drains toward the east to Soper Hill Creek. The developed site will retain the existing drainage pattern.

4. Adjacent Zoning/Uses. The parcel and all adjacent parcels are zoned R-7,200 and contain residential uses.

B. Issues of Concern

5. No extraordinary issues, i.e. neighbor concerns or unresolved issues exist for this proposal. The area has been annexed to the City of Marysville. As per the interlocal agreement, after preliminary approval the file is turned over to the city for final processing.

C. Compliance with Codes and Policies

6. Parks Mitigation: The proposal is within Centennial Park District No. 306 and is subject to Chapter 30.66A SCC, which requires payment of \$1,361.22 per each new single-family residential unit, to be paid either prior to plat recording or prior to building permit issuance for each unit. Such payment or contribution of in-kind mitigation is acceptable mitigation for parks and recreation impacts in accordance with county policies.

7. Traffic Mitigation and Road Design Standards
(Title 13 SCC & Chapter 30.66B SCC)

PDS Traffic has 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.

A. Road System Capacity [SCC 30.66B.310]

The impact fee for this proposal is based on the new average daily trips (ADT) generated by single family residences, which is 9.57. This rate comes from the 6th Edition of the ITE Trip Generation Report (code 210). As indicated above the number of new lots that will be created is 7. The development will generate 66.99 new ADT and has a road system capacity impact fee of \$16,211.58 (\$2,315.94/lot) based on \$242.00/ADT.

B. Concurrency [SCC 30.66B.120]

"Level-of-service" means a qualitative measure describing operational conditions within a traffic stream, and the perception thereof by road users. Level-of-service (LOS) standards may be evaluated in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety. The highway capacity manual defines six levels of service for each type of facility for which analysis procedures are available. They are given letter designations, from A to F, with level-of-service A representing the best operating condition, and level-of-service F the worst.

Since this development will not impact any arterial unit in arrears, nor will it cause any arterial unit to fall in arrears, and does not impact any designated ultimate capacity arterial units, it is deemed concurrent. A concurrency certificate has been included with Public Works' final recommendation, which will expire six calendar years from the date the concurrency determination was made. Prior to the expiration date of the development's concurrency certificate, plat construction shall have been obtained, or a new concurrency determination will be required.

The development has been deemed concurrent on the following basis:

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and the Department of Public Works has made a preliminary determination that the development is concurrent as of July 21, 2006. The expiration date of the concurrency determination is six years from July 21, 2006.

The development has been deemed concurrent on the following basis:

A Development with less than 50 peak hour trips in TSA "A" 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 5.25 a.m. peak-hour trips and 7.07 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.

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

The subject proposal will not impact any IRC locations identified at this time 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 inadequate road conditions and no restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under this section of Chapter 30.66B SCC.

D. Frontage Improvements [SCC 30.66B.410]

The subject property has no frontage on an open county road. The access road to the site is proposed to extend 73rd DR NE, an opened county maintained road.

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

Access is proposed from the extension of 73rd DR NE, a public road created with the subdivision of Northwest Highlands PFN 02-107223 to the north of the subject parcel. The plans show 73rd DR NE as an internal plat road extending 196-feet from the south end of the existing terminus of 73rd DR NE from within Northwest Highlands. The existing road is 95-feet long from the south side of 33rd PL NE. The existing 73rd DR NE and the proposed extension added together equals 291-feet and would require a temporary turn around per EDDS 3-10 because the total length is greater than 150-feet which is shown in the submitted preliminary plans.

The existing road features of 73rd DR NE, north of the subject plat, include a 36-foot pavement width with a vertical curb, 5-foot planter, and 5-foot concrete sidewalk on both sides. Approximately 160-feet south of the south property line of the subject parcel is 73rd DR NE a proposed public road currently under construction within the development of Cross Canyon PFN 05-100883. The existing road features of this terminus include a 28-foot pavement width with a vertical curb, 5-foot planter, and 5-foot concrete sidewalk on both sides.

The subject development is likely to be within the City of Marysville in the near future and thus comments from the City were requested by the County. The City of Marysville provided comments via a memo dated September 29, 2006. In their memo they stated the curb/gutter line and road section shall be designed to match the Snohomish County EDDS Standard 51-ft right-of-way section being constructed in the development of Cross Canyon to the south and then taper into the wider existing roadway section of the development to the north. The road section in the drawing submitted by X-Sound Engineering, via email on September 21, 2007, shows a road section that is the same as the existing terminus section in Cross Canyon described in the paragraph above and it meets the EDDS requirements. However, the City of Marysville disapproved the drawing on September 26, 2007 due to the design of the sidewalks and planters not transitioning adequately into the Northwest Highlands section to the north.

In the interest of keeping the development moving forward final comments are being provided. As per SCC 30.91P.240 a preliminary plat is a neat and approximate drawing. Since the preliminary plat is an approximate drawing it is subject to change before recording. The issue described above needs to be resolved before recording of the final plat. This may require additional right-of-way from the subject development. It will be a recommended condition of approval that this issue be resolved to the satisfaction of the County prior to recording of the final plat.

F. Dedication of Right-of-Way [SCC 30.66B.510 and 30.66B.520]

73rd DR NE is designated as an Urban Residential Non-Arterial on the County's Arterial Circulation Map. The subject development is within the Marysville UGA, thus the county requested the City's comments on this situation. The City stated in their memo, dated September 29, 2006, they will require a 51-ft wide right-of-way dedication. This dedication is adequately shown on the submitted plans.

The plans shall state that this right-of-way is to be dedicated to the County. It will be a recommended condition of approval that this be included in the plans.

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

This development is subject to the Washington State Department of Transportation (WSDOT)/County Interlocal Agreement (ILA) which became effective on applications determined complete on or after December 21, 1997.

The impact mitigation measures under the ILA, Section IV (4.1)(b), may be accomplished through one of the following:

- (a) Voluntary negotiated construction of improvements,
- (b) Voluntary negotiated payment in lieu of construction,
- (c) Transfer of land from the developer to the State, or
- (d) A voluntary payment in the amount of \$36.00 per ADT

The subject applicant has chosen to submit a comprehensive traffic study by Gibson Traffic Consultants, dated May 25, 2006 that outlines the trip distribution of the subject development. The trip distribution indicates that the subject development will NOT impact any WSDOT programmed projects. DPW has received a zero (\$0) voluntary offer that has been signed by the applicant's representative. DPW has also received comments from WSDOT, via an email dated June 6, 2006, requiring NO traffic mitigation.

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

An interlocal agreement (ILA) has been executed between the County and the Cities of Marysville and Arlington for traffic mitigation for impacts on the Cities' road systems. A voluntary offer to each city was included in the application; the amounts are based on the calculations provided in the traffic study dated May 25, 2006 from Gibson Traffic Consultants. The offer to Marysville is for \$17,957.80, based on 7.07 peak hour trips x 80% (sub area location) x \$3,175.00 and the offer to Arlington is for \$1,467.73, based on 7.07 peak hour trips x 20% x \$1,038.

PDS received an email from the City of Marysville, dated September 21, 2007, indicating they would accept an offer of the amount of \$17,957.80.

Comments from the City of Arlington were requested but not received; therefore as per the ILA the county will assume they have no comment. No mitigation will be required for the City of Arlington.

It will be a recommended condition of approval that the amount of \$17,957.80 will be paid to the City of Marysville.

There are no other City jurisdictions that have an interlocal agreement with the County that will be significantly impacted by the subject development.

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

All new developments in the urban area shall provide TDM measures. Sufficient TDM measures shall be provided to indicate the potential for removing a minimum of five (5) percent of a development's P.M. peak hour trips from the road system. This requirement shall be met by the provisions of site design requirements under SCC 30.66B.640, as applicable, except where the development proposes construction or purchase of specific offsite TDM measures or voluntary payment in lieu of site design, in accordance with SCC 30.66B.620 and SCC 30.66B.625.

It has been determined that the cost of removing one peak hour trip from the road system is approximately \$1,500. This is based on the average cost of one stall in a park and ride lot and the average cost of one "seat" in a 15-passenger van. For a development required to provide TDM, the development's TDM obligation will equal \$1,500 times the required trip reduction percentage times the development's peak hour trip generation [SCC 30.66B.615].

The trip reduction percentage for this development is five percent. The TDM obligation for this development is therefore equivalent to 5% of the 7.07 new PM peak hour trips x \$1,500.00 which equals \$530.25, (\$75.75/lot). DPW received a TDM offer from the applicant on May 31, 2006. It will be a recommended condition of approval that this amount is paid.

J. Pedestrian Facilities [RCW 58.17.110]

The county is required to make findings regarding safe walking conditions for school children who may reside in the subject development. DPW received comments from Lake Stevens School District on June 23, 2006 on the PDS School District Request Review Form.

The district indicated that school busses will pick up children of all grade levels at 71st Ave NE and 35th St NE at the entrance to the existing Northwest Highlands development which abuts the subject development to the north. Pedestrian facilities exist in the existing Northwest Highlands development and will be required on the extension of 73rd DR NE in the subject development. Based on this no off-site pedestrian facilities are required.

8. School Mitigation (Chapter 30.66C SCC)

A boundary line adjustment (06-104196BA) was submitted to Snohomish County, approved and recorded early in 2006 (AF#200604040693 and 200604045138). A second BLA (06-135282BA) was submitted to Snohomish County, approved and recorded in March of 2007 (AF# 200703070426). This boundary line adjustment included one of the three parcels included in the subject short plat and "established" the proposed short plat boundary. Presently, the CAD I (or Doyle) short plat includes three legal lots. However, shortly after this short plat was submitted to Snohomish County for review, the subject property was annexed into the city of Marysville.

After that completion of that annexation, the applicant submitted another application for BLA approval to the city of Marysville which will “move” two of the legal lots presently within the boundary of Doyle to the adjacent approved plat of Elmhurst (PFN 06-1249726). The reason these lots are proposed to be adjusted in this manner is to establish legal lots around the two existing homes included within the boundary of the plat of Elmhurst. By doing so, the applicant in the Elmhurst case (whom is also the applicant in the Doyle application) will be able to close the sale of the remainder of the Elmhurst project (the portions of the plat that do not contain homes) prior to the recording of Elmhurst final plat. In other words, the applicant does not want to have to take ownership of the two homes inside the Elmhurst plat boundary, as they are occupied by the current land owners (Ahern and Chaffey) who intend to stay even after the plat is recorded. In essence the pending BLA being reviewed by the City of Marysville, will “establish” the final configuration of lots 5 and 13 of the approved plat of Elmhurst, prior to the recording of the final plat. This is to be accomplished by “moving” two of the three legal lots within the boundary of Doyle as described above.

The timing of these actions are critical in that they also affect applicable school mitigation credits. In the Elmhurst plat case, the applicant was not able to take school mitigation credit for the two lots proposed to be moved into the boundary of the plat as the BLA had not yet been recorded at the time the plat was approved. Therefore, in order for this applicant to not “lose” two school mitigation credits, the Doyle Short Plat must be approved prior to the recording of the BLA under review at the City of Marysville. It is the intention of the applicant to gain approval of the BLA, which is forthcoming, and take the subject short plat to hearing with the existing legal configuration intact. This will allow the applicant to maintain three school mitigation credits for the Doyle Short plat. No further credits are available to the applicant in the Elmhurst case, if the BLA is recorded prior to the approval of the Doyle short plat. (see Exhibits 20a-d and Exhibits 21a-e)

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 building permit issuance based upon certified amounts in effect at that time. The subject application was determined to be complete after the effective date of amended Chapter 30.66C SCC. Pursuant to Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Marysville School District No. 25, at the time of building permit submittal and collected at the time of building permit issuance for the proposed units. Credit is to be given for the 3 existing lots. PDS has included a recommended condition of approval for inclusion within the project decision to comply with the requirements of Chapter 30.66C SCC.

9. Drainage and Grading (Chapters 30.63A and 30.63B SCC)

The existing vegetation onsite is mostly grass with a few mature deciduous and evergreen trees. Steep slopes and Soper Hill Creek exist on the eastern portion

of the site and will remain in an undisturbed state. Soils are Tokul gravelly loam, 0 to 8% slopes. This moderately deep, moderately well drained soil is on till plains. It formed in glacial till and volcanic ash. Permeability is moderate above the hardpan and very slow through it. Runoff is slow and the hazard of water erosion is slight.

Grading for the project will consist of approximately 3,169 cubic yards of cut and fill. Temporary erosion control during grading and construction will consist of rock construction entrance with tire wash, silt fence, and sediment trap, in addition to other temporary erosion control measures.

The developed site conditions will include approximately 200 linear feet of road, 7 single-family residential lots, and one open space tract. New impervious surface totals approximately 20,000 square feet for residences, driveways, decks, and walkways, and 7,600 square feet for road surface. Stormwater runoff will be collected in catch basins in the street and conveyed via pipe to the detention facility in the downstream plat of Cross Canyon to the south. All roof drains, footings and impervious surfaces will contribute to this vault. Water flow exiting the vault will be controlled with a control structure. Water quality will be met through the use of an off-site Storm Filter Vault, manufactured and maintained by Contech. The downstream detention facility was sized to include the new runoff from the CAD I, LLC development. However, the control structure will need to be modified to adjust the code regulated runoff rates for the combined outflow of CAD I, LLC and Cross Canyon.

No downstream flooding was reported by Snohomish County Stormwater Management (SWM). The design engineer has concluded that there are no downstream drainage impacts for ¼ mile.

A Drainage Easement exists between Cross Canyon Homeowners' Association and Jeffrey R. and Leslie L. Doyle, owners of this property. It also delineates a shared maintenance agreement for the drainage facility.

PDS has reviewed the targeted drainage plan and report that presents the drainage concept for this project. From this review, PDS concludes that the proposal can conform to drainage code requirements. Full drainage plan review will be conducted by the City of Marysville at which time the specifics of final drainage system design are matters under the administrative authority of that municipality.

10. Critical Areas Regulations (Chapter 30.62 SCC)

An evaluation of the information submitted in the revised application coupled with an on-site investigation has resulted in a determination that the application is complete and in conformance with Chapter 30.62 UDC (Critical Areas Regulation) and is consistent with the purpose and objectives of the Chapter in regulation of development activities in Critical Areas to safeguard the public health, safety and welfare.

The standard buffer for a Type 3 non-anadromous stream is 50 ft. per Table 30.62.310(1) with the additional requirement per footnote 1 for the buffer to extend to the top of the bank plus 25 (TOB + 25 ft.) where applicable which is the case on this project. The application completely avoids impacts to the standard buffer as required per SCC 30.62.365 and in addition has provided a 15 ft. BSBL adjacent to the forested buffer as a prescriptive protection to the buffer. No mitigation is required because the applicant has demonstrated avoidance of impacts; therefore, on this application no critical area study or mitigation plan was required to be submitted for review per SCC 30.62.055(2)(b).

PDS has reviewed the Critical Areas Study and Mitigation Plan and determined that the project complies with the critical areas regulations.

11. Consistency with GMA Comprehensive Plan

On December 21, 2005, effective February 1, 2006, the Council adopted Amended Ordinances 05-069 through 05-079, 05-081 through 05-085, and 05-090, which amended the map and text of the Snohomish County GMA Comprehensive Plan, extended the Urban Growth Area boundaries, and adopted area-wide rezones within the county's Urban Growth Areas.

The subject property is designated Urban Low Density Residential (ULDR) on the GPP Future Land Use map, and is located within an Urban Growth Area (UGA). According to the GPP, the ULDR designation "allows mostly detached housing developments on larger lot sizes." Implementing zones include the R-7200, PRD-7200, R-8400, PRD-8400, R-9600, PRD-9600, and WFB zones.

The 7 lots proposed are consistent with the density provisions of Snohomish County's GMA-based zoning regulations under Subtitle 30.2.

12. Zoning

This project meets zoning code requirements for lot size, including lot size averaging provisions, bulk regulations and other zoning code requirements.

The proposal has been evaluated for compliance with the lot size averaging (LSA) provisions of SCC 30.23.210, which provide that the minimum lot area of the applicable zone is deemed to have been met if the area in lots plus critical areas and their buffers and areas designated as open space or recreational uses, if any, divided by the number of lots proposed, is not less than the minimum lot area requirement. In no case shall the density achieved be greater than the gross site area divided by the underlying zoning. In determining the appropriate calculation, lots may not be less than 3,000 square feet in area, and any lot having an area less than the minimum zoning requirement must provide a minimum lot width of not less than 40 feet, and right-of-way (ROW) setbacks of 15 feet, except that garages must be setback 18 feet from the ROW (except alleys) and corner lots may reduce one ROW setback to no less than 10 feet. Lot coverage for this proposed subdivision is a maximum of 35% or 55%

The LSA calculation is as follows:

Area in Lots (46,092 square feet) + Critical Areas and Buffers (26,227 square feet) = (72,319 square feet) ÷ (7 of lots proposed) = (10,331) square feet

The minimum zoning requirement is 7,200 square feet. No lot is less than 3,000 square feet, and all lots comply with minimum lot width and setback requirements. Roadways and surface detention/retention facilities are not counted toward the LSA calculations. PDS concludes that the proposal is consistent with the lot size averaging provisions of SCC 30.23.210.

13. Environmental Policy

PDS issued a Determination of Nonsignificance (DNS) for the subject application on October 3, 2007 (Exhibit 16). The DNS was not appealed

14. Short Subdivision Code

The proposed plat also meets Chapter 30.41B SCC requirements. A complete application for the proposed plat was received by PDS on May 30, 2006. The proposed short plat as conditioned also meets the general requirements under Section 30.41B with respect to health, safety and general welfare of the community. 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 30.41B.200 design standards for roads.

15. Plats – Subdivisions – Dedications (Chapter 58.17 RCW)

The proposed plat also meets Chapter 30.41B SCC requirements. A complete application for the proposed plat was received by PDS on May 30, 2006. The proposed short plat as conditioned also meets the general requirements under Section 30.41B with respect to health, safety and general welfare of the community. 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 30.41B.200 design standards for roads.

CONCLUSIONS OF LAW

1. Because the proposal will create a new public road to provide access to the new lots (an extension of 73rd Drive NE), this is a Type 2 decision, and, accordingly, the Hearing Examiner has jurisdiction over this short plat. SCC 30.42B.030.
2. The requirements of SEPA have been met.
3. The proposal is consistent with the GMA-Comprehensive Plan and with applicable development regulation. RCW 58.17.100, 195.

4. The proposal, as conditioned, makes “appropriate” provisions for the public health, safety and general welfare, and for applicable items of design and infrastructure as required by RCW 58.17.120. Adequate public services exist to serve the proposal.
5. The public use and interest will be served by the platting and dedication of the subdivision.

DECISION

The short subdivision application is hereby GRANTED, subject to the following Conditions.

CONDITIONS

- A. The preliminary plat received by PDS on August 28, 2007 (Exhibit 11) shall be the approved plat configuration. Changes to the approved plat are governed by SCC 30.41A.330.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
 - i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
 - ii. The platting 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. The owner's of the downstream drainage system for Cross Canyon Homeowner's Association will need to provide written consent/easement for the use of their drainage system.
 - iv. Clear delineation and agreement of Operations and Maintenance responsibility and cost-sharing of the combined drainage system must be provided by the owner's of both developments.
- C. The following additional restrictions and/or items shall be indicated on the face of the final plat:
 - i. “The lots within this subdivision will be subject to school impact mitigation fees for the Marysville School District No. 25 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 3 existing parcels. Lots 1 through 3 shall receive credit.”

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

\$2,315.94 per lot for mitigation of impacts on county roads paid to the county,

\$75.75 per lot for transportation demand management paid to the county,

\$2,565.40 per lot for mitigation of impacts on the City streets for the City of Marysville paid to the City. Proof of payment shall be provided.

The developer of this subdivision has elected to defer these payment obligations to a time preceding building permit issuance. Notice of these mitigation payment obligations shall be contained in any deeds involving this subdivision or the lots therein. Once building permit has been issued all mitigation payments shall be deemed paid.

- iii. 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."

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

D. Prior to recording of the final plat:

- i. The construction of the extension of 73rd DR NE shall be completed to the satisfaction of the County.
- ii. The downstream drainage system construction will need to be completed and the plat recorded, before this plat can be recorded;
- iii. Native Growth Protection Area boundaries (NGPA) shall have been permanently marked on the site prior to final inspection by the county, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The platlor may use other permanent methods and materials provided they are first approved by the county. Where an NGPA boundary crosses another boundary (e.g.: lot, tract, plat, road, etc.), a rebar marker with surveyors' cap and license number must be placed at the line crossing.

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

- E. All development activity shall conform to the requirements of Chapter 30.63A SCC.

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

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.

Order issued this 3rd day of April, 2008

Wick Dufford, Hearing Examiner Pro Tempore

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 **APRIL 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 **APRIL 17, 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 the case.

Staff Distribution:

Department of Planning and Development Services: Stacey Abbott

<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>
