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BEFORE THE
SNOHOMISH COUNTY HEARING EXAMINER
DECISION of the HEARING EXAMINER PRO TEM

In the Matter of the Application of)
)
Meadow Lake Heights) **FILE NO. 06-128291 SD**
)
12-lot Rural Cluster Subdivision (RCS) on 28 acres)

DATE OF DECISION: January 16, 2008
APPLICANT: Pat Regan, Meadow Lake Properties LLC
PROJECT NAME: *Meadow Lake Heights*
DECISION (SUMMARY): **Approved with Conditions**

BASIC INFORMATION

GENERAL LOCATION: The property is located at 20720 Meadow Lake Road, Snohomish, WA. The property is within Section 18, Township 28 North, Range 7 East, W.M. Snohomish County, Washington.

ACREAGE: 28 acres

NUMBER OF LOTS: 12

AVERAGE LOT SIZE: 45,664 square feet

MINIMUM LOT SIZE: 33,211 square feet

DENSITY: 0.44 d.u. per acre (gross)

ZONING: R-5

COMPREHENSIVE PLAN DESIGNATION:
General Policy Plan Designation: Rural Residential-5 (RR-5 Basic)

UTILITIES:

Water: Snohomish County PUD No. 1
Sewer: Individual on-site Septic

SCHOOL DISTRICT: Monroe School District #103

FIRE DISTRICT: Fire District No. 4

INTRODUCTION

The applicant filed a Master Permit Application on September 29, 2006. (Exhibit 1) The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the Snohomish County Code. (Exhibits 18, 19, and 20)

A SEPA “Determination of Nonsignificance” (DNS) was made on September 26, 2007. (See Exhibits 2 and 17) No appeal was filed.

The Examiner held an open record hearing on December 5, 2007, which was the 109th day of the 120-day review period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

PUBLIC HEARING

The public hearing commenced on December 5, 2007 at 1:00 p.m.

1. The Examiner announced that she had read the PDS staff report and reviewed the file, and was familiar with the area in the vicinity of the site and, therefore, was generally apprised of the particular request involved.
2. The applicant, Meadow Lake Properties, LLC, was represented by Pat Regan and Jesse Jarrell, Western Engineers, Inc. Snohomish County was represented by Paul MacCready of the Department of Planning and Development Services. Mr. Douglas Cooper was present and testified as an interested party.

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

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS OF FACT

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

1. The master list of exhibits and witnesses, and record of oral testimony received at the open record hearing, which are a part of the file in this matter, and which exhibits and testimony were considered by the Examiner, are hereby incorporated in this decision, as if set forth in full.

2. Roads and Transportation. The Department of Public Works (DPW) reviewed the Master Permit Application request with regard to traffic mitigation and road design standards. That review considered the requirements of Title 13 SCC and Chapter 30.66B SCC as to road system capacity, concurrency, inadequate road conditions, frontage improvements, access and circulation, and dedication/deeding of right-of-way, state highway impacts, impacts on other streets and roads, and Transportation Demand Management. As a result of that review, the DPW has determined:
- a. Road System Capacity. The project is subject to the payment of road impact fees based on the project's generation of 114.84 new average daily trips (ADT) by single family residences within the plat. The road system capacity impact fee that shall be required for this development is \$1,588.62 per lot (based on \$166 per ADT) or \$19,063.44 for all twelve lots.
 - b. Concurrency. Under SCC 30.66B.160(2)(a), the DPW had determined that the development is deemed to be "concurrent" for purposes of its impact on arterial units, which concurrency determination expires on August 8, 2013. (Exhibit 36). This is based on the fact that although the development is within TSA C and it contains one unit in arrears (Unit 198 – Marsh Road from Lowell-Larimer Road to SR 9), as of the date of submittal, the development, as proposed, will not add 3 or more peak hour trips to the arterial unit in arrears. In addition, the development as proposed will generate 3.75 a.m. and 5.05 p.m. peak hour trips, which is below the limit of 50 peak hour trips. The development is therefore not required to be reviewed under SC 30.66B.035.
 - c. Inadequate Road Conditions. Under SCC 30.66B.210, the proposed development does not require the imposition of mitigation for inadequate road conditions.
 - d. Frontage Improvements. Frontage improvements are required to be constructed on any open, constructed and maintained public road. The applicant's property does not have any property abutting an open public road and therefore, no frontage improvements are required.
 - e. Access and Circulation. Access and circulation requirements and issues are described in the PDS Staff Recommendation. (Exhibit 36) The plans for this site propose that the developer will construct a private road accessing Meadow Lake Road at a location and angle that did not provide adequate stopping site distance in both directions. The County received comment letters and emails from concerned citizens expressing concern over the access location, given that it is near a curve where many accidents have occurred in the past. (See, Exhibit 22, Letter from Sandra Knox and Exhibit 23, Letter from Douglas Cooper). The County Engineer also provided comments about the inadequate stopping site distance. The applicant responded to all of the comments and revised the plat access and submitted new plans to the County on July 24, 2007. (See Exhibit 15g)

At the open record hearing, citizens living in the area (Mr. Cooper, Mr. Huff) testified about their concern over the safety for those traveling on Meadow Lake Road at the site of the proposed development, given the lack of site distance and narrow road shoulders. Public Works staff and the applicant explained the proposed changes to the access road, including the fact that the proposed road has been relocated by approximately 30 feet to provide adequate site distance in both directions, the fact that the intersection angle has been changed to meet the County's requirements of a 90 degree angle, and the fact that the County and applicant have agreed to remove site obscuring vegetation on the road shoulder within the County right-of-way and re-grade the County right-of-way as shown on Exhibit 15(g). Afterward, the citizens testified that they approved of those changes and felt that this would help alleviate their concerns. Tim Hurt, the owner of the subject property testified that they are willing to work with Public Works to further cut back the bank and improve it, if desired. Tom Sage, Traffic Engineer, testified that the proposed changes found in the July 24, 2007 submittal will

improve safety for the traveling public and meet the requirements of the Code for stopping safety. Mr. Sage also encouraged citizens to contact the Sheriff if they believe people are speeding or causing unsafe driving conditions.

The proposed access road extends south from Meadow Lake Road into the development site and forms a tee intersection. Each branch of the tee must intersect the road extending south from Meadow Lake Rd. at a 90 degree angle (plus or minus 5 degrees). The revised plat dated July 24, 2007 meets the EDDS requirements for centerline angles of intersecting streets.

The proposed layout allows for a posted speed of 20 mph, requiring a centerline radius of curvature of 90 feet. All roads must have a minimum return radius of 20 feet. The internal roads are located in a tract.

Meadow Lake Road is classified as a rural subcollector road, requiring a return radius of 20 feet at the entrance to the access road. The proposed access road will be classified as a private rural local access road and must meet the requirements of EDDS plate 3-060, including two ten-foot traveled lanes and a seven-foot paved shoulder for a pedestrian walkway, resulting in a total width of pavement of 27 feet. The internal road easement shown on the revised plans submitted on July 24, 2007 indicates an adequate width and must be changed.

The plans received by PDS on September 27, 2006 did not provide 20 feet of easement frontage on the private access road for Lots 4 and 5 as required by SCC 30.24.050 (3). The revised plans received on July 24, 2007 did provide Lots 4 and 5 with the required easement frontage.

The revised plans received by PDS on July 24, 2007 show a road width dimension of 20 feet on the private access road south of the intersection with Meadow Lake Road. This dimension shall be revised to 27 feet to include the entire paved road width. No internal road stubs to the project boundary are required to provide for future road connections.

- f. Dedication of Right-of-Way. Meadow Lake Road is designated as a rural subcollector (non-arterial) on the County's Arterial Circulation Map and requires a right-of-way width of thirty feet on each side of the right-of-way centerline. Thirty feet of right-of-way presently exists on the development's side of the right-of-way. Therefore, no additional right-of-way is required.
- g. State Highway Impacts. This development is subject to the Washington State Department of Transportation (WSDOT)/County Interlocal Agreement, 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 (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. Pursuant to SCC 30.66B.055, the applicant has submitted a voluntary traffic mitigation offer dated May 14, 2007 of \$4,134.24. In comments dated May 21, 2007, WSDOT has accepted the mitigation offer of the applicant (Exhibit 32).
- h. City Streets and Other Roads. This requirement is not applicable because there are no cities with interlocal agreements with Snohomish County whose streets or roads will be impacted by the proposed development.

- i. Transportation Demand Management. This requirement is not applicable because it only applies to development proposals within the Urban Growth Area (UGA). The subject property here is located outside the UGA.
3. Parks. This 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. This payment is an acceptable mitigation for parks and recreation impacts in accordance with County policies.
4. Schools. The project has been reviewed for impacts to schools under Chapter 30.66C SCC. The lots within the subdivision are subject to the payment of school impact fees for the Monroe School District No. 103, to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and collected prior to issuance of any building permits, in accordance with SCC 30.66C.010. Credit shall be given for one existing parcel, which is credited to Lot 1.
5. Drainage and Grading. Dispersion and detention is proposed to meet the drainage requirements of the Snohomish County Code Chapter 30.63A SCC. Roof and footing drains for the proposed building lots will be tied directly to dispersion trenches located near the proposed residences for each lot. Driveway runoff will be treated with vegetated landscape strips located down slope of each individual driveway. Runoff from the private roads is to drain to open ditches where it eventually enters into an underground detention pipe located on the southern end of the private road. Water quality will be provided through the open ditch system, along each side of the private road and a bioswale located at the outlet of the underground detention pipe.

Planning and Development Services (Engineering) reviewed the concept offered and has recommended approval of the project, subject to conditions which would be imposed during full drainage plan review pursuant to Chapter 30.63A SCC. Grading quantities are anticipated to be approximately 6,500 cubic yards of cut and 6,500 cubic yards of fill, primarily for road, drainage facility, and home site construction. Water quality would be controlled during construction by use of silt fences and straw bales in accordance with a Temporary Erosion and Sedimentation Control Plan (TESCP) required by Chapter 30.63A SCC.

6. Pedestrian Facilities. The County is required to make findings regarding safe walking conditions for school children who may reside in the subject development. Comments from the Monroe School District dated October 26, 2006 (Exhibit 29) indicate school children will be picked up at the access point location to Meadow Lake Road. No offsite improvements are required. The revised plat received by PDS on July 24, 2007 provides a 12'x 60' widened paved shoulder west of the proposed access point location for a school bus turnout, as requested by the Monroe School District.
7. Critical Areas. There are several critical areas on the site. There are three Category 3 wetlands located on the subject property: a riparian wetland, located in the northeast portion of the site, is associated with a Type 4 stream, which flows southeasterly across the northeast corner; a large linear Category 3 wetland stretches diagonally across the entire center of the property; and a moderately sized wetland located along the southwest boundary of the site.

In order to access the six lot cluster in the southwestern half of the proposed plat, the applicant proposes to cross the central Category 3 wetland. The crossing cannot be avoided, however, its impacts can be minimized. The access road will permanently impact 715 square feet of wetland and 2,157 square feet of wetland buffer. In order to minimize the impacts of the wetland crossing, a wood truss bridge shall be constructed across the wetland area in order to minimize impacts in the wetland area. The bridge will be approximately 50 feet long and will be supported at both ends by a foundation. Structural design of the

bridge shall be submitted with the final engineering plans of the plat. In addition, the applicant proposes to impact 1,681 additional feet of wetland buffer with frontage improvements.

The applicant is proposing to mitigate the impact by providing additional native growth protection areas. The Critical Areas Study found that the creation of new wetlands would effectively lower the functions and values of the habitat found on the site, because wetland creation would entail grading and the removal of many existing native shrub and tree species. Instead, the applicant proposes to use the County's Innovative Design standards to design mitigation for the site. The applicant intends to add new or enhanced native growth protection areas at a mitigation ratio of approximately 22 to 1. All the critical areas and their buffers will be protected by a Native Growth Protection Area Tract, Tract 999.

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 in conformance with Chapter 30.62 SCC (Critical Areas Regulations) 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.

8. Water, Sewage and Electricity. The Department staff report did not address water, sewage or electricity.
- a. Water. There is conflicting evidence in the record as to the applicant's plans for water for the plat, as shown in Exhibits 15f, 31 and 33, which must be reconciled in order for the application to be approved. The Snohomish County Health District has reviewed the proposed development for water and is recommending approval of the preliminary plat. (Exhibit 33). According to Exhibit 33 (dated August 24, 2007), water is to be furnished by individual wells. If the applicant chooses to provide water through individual wells, a groundwater permit from the Department of Ecology must be obtained prior to preliminary plat approval, given that water serving 12 lots in the proposed development exceeds the 5,000 gpd exemption limit authorized in Ch. 90.44 RCW. (See, e.g., Ecology v. Campbell & Gwinn LLC, 142 Wn.2d 1 (2002)). Further, no evidence was provided to the Examiner either in the record or at the open record hearing about the impacts of water withdrawals on the surrounding neighborhood or natural environment. If this was the only information in the file, the Examiner would have had to deny the request for preliminary plat approval.

However, contrary to the Health District's letter, Exhibit 31 provides a letter of water availability from the Snohomish County PUD, subject to conditions of extending the water main approximately 3,200 feet, the execution of a development agreement with the PUD, and other conditions. (Exhibit 31) In addition, a review of Exhibit 15f (the plan set for this development) does not reveal plans for individual wells. Rather, the plans show the proposed extension of the water main and water service from the PUD. Accordingly, the Examiner finds that the evidence in the record is that this development will be served by a public water system and, therefore, is approvable with conditions.

- b. Sewage. As to the provision of sewage disposal for the plat, individual on-site septic systems will be provided and have been reviewed by the Environmental Health Division of the Snohomish Health District. (Exhibit 33). The Health District recommends approval of the plat as to the condition of providing adequate sewage disposal, subject to the conditions stated in Exhibit 33.
- c. Electrical Power. Sufficient electrical power is available to service this development according to the Snohomish County PUD, subject to the conditions stated in their letter dated October 9, 2006. (Exhibit 30). However, the existing district facilities in the area may require upgrading and utility easements and clearance between buildings/structures and the District's facilities may be required.

9. GMA Comprehensive Plan. The subject property is designated Rural Residential (RR: 1 du/5 acre Basic) on the GPP Future Land Use map, and is located outside the Urban Growth Area (UGA). It is not located within a mapped Growth Phasing Overlay. The implementing zones within this designation are the Rural-5 Acre zone and other zones with a minimum lot size requirement larger than 5 acres. The base density of 1 dwelling unit per 5 acres may be increased consistent with Policy LU 6.B.9. Policy LU 6.B.9 states that within the Rural Residential designation subdivisions may exceed the basic density of 1 lot per 5 acres if the rural cluster subdivision technique is used, all of its criteria and requirements for the maintenance and enhancement of the rural character are met, and the maximum lot yield does not exceed 1 lot per 2.3 acres. The 12-lot rural cluster subdivision is consistent with the density provisions of Snohomish County's Comprehensive Plan.
10. Zoning. The project meets the zoning code requirements for lot size, including the RCS provisions, bulk regulations, and other zoning code requirements for a RCS in the R-5 zone. The proposed 12-lot subdivision is consistent with the density provisions of the County's zoning regulations set forth in Subtitle 30.2 SCC.
11. Subdivision requirements. The proposal complies with the Snohomish County Subdivision Code, Chapter 30.41A SCC as well as the State Subdivision Code, RCW 58.17. The proposed plat complies with the established criteria therein and makes the appropriate provisions for public, health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, pedestrian facilities and other planning features, including a bus stop to safely transport school children to area schools.

The proposed plat also meets Chapter 30.41A SCC requirements. A complete application for the proposed plat was received by PDS on September 27, 2006. The proposed plat, as conditioned, also meets the general requirements under Section 30.41A.100 with respect to health, safety and general welfare of the community as noted in this report. As proposed, the subject lots will not be subject to flood, inundation or swamp conditions. The lots as proposed are outside of all regulated flood hazard areas. As conditioned, the plat will meet all SCC 30.41A.210 design standards for roads.

12. Rural Cluster Subdivision requirements. The subject RCS application has been reviewed for conformance with the RCS standards in Chapter 30.41C SCC. The applicant has provided the information required on an RCS development plan (Exhibit 15) and preliminary plat (Exhibit 16) and in an open space management plan (Exhibit 13) that is to be implemented by a homeowners' association. The RCS application meets all of the criteria required for preliminary approval listed in SCC 30.41C.200.
13. The request is consistent with Section 30.70.100 SCC, which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP and GMA-based county codes.
14. Any finding of fact in this decision which should be deemed a conclusion is hereby adopted as such.

CONCLUSIONS OF LAW

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

1. The Examiner having fully reviewed the PDS staff report, hereby adopts said staff report as properly setting forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their relationship to the request. It is therefore hereby adopted by the Examiner as a conclusion as if set forth in full herein, in order to avoid needless repetition.

2. The DPW recommends that the request be approved as to traffic use subject to conditions specified below.
3. PDS recommends that the request be approved as to all other conditions subject to the conditions specified below.
4. Adequate public services exist to serve the proposed development.
5. The request is consistent with the (1) GMACP, GMA-based County codes, (2) the type and character of land use permitted on the site, (3) the permitted density, and (4) the applicable design and development standards.
6. If approved with the recommended conditions, the proposal makes adequate provision for the public health, safety and welfare.
7. Any conclusion in this decision which should be deemed a finding of fact is hereby adopted as such.

DECISION

Based on the Findings of Fact and Conclusions of law entered above, the decision of the Hearing Examiner on the application is as follows:

The Meadow Lake Heights request for a 12-lot **RURAL CLUSTER SUBDIVISION** on 28 acres is hereby **CONDITIONALLY APPROVED**, subject to the following pre-conditions and conditions:

CONDITIONS

- A. The revised preliminary plat/rural cluster subdivision received by PDS on August 8, 2007 (Exhibit 16) 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 private access road south of the intersection with Meadow Lake Road shall show 27 feet of paved road width on the final construction plans.
 - iii. The plat 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.

- iv. A final mitigation plan based on the *Critical Area Study and Wetland and Buffer Mitigation Plan* for Meadow Lake Heights prepared by Wetland Resources revised May 11, 2007 (Exhibit 14) shall be submitted for review and approval during the construction review phase of this project.
- v. A 12' x 60' paved shoulder west of the proposed access point location shall be provided for a school bus turnout, as requested by the Monroe School District.
- vi. A 10-foot easement benefiting the Snohomish County Public Utilities District and an 8-foot clearance between any building/structures and electrical transformers/switch cabinets shall be provided for underground electrical facilities that must be installed to serve the development. Any required upgrades to PUD electrical facilities shall be performed to the satisfaction of the PUD.
- vii. The development shall be served by public water supply system or a groundwater permit (pursuant to Ch. 90.44 RCW) from the Department of Ecology shall be obtained prior to final plat approval.

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 \$1,361.22 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 Monroe School District No. 103 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:
 \$1,588.62 per lot for mitigation of impacts on County roads paid to the County, \$344.52 per lot for mitigation of impacts on state highways paid to the County.
 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. Provide the following note on the face of the final plat:
“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.”
- vi. House numbers shall be posted or clearly identified from the street. Security gates, if any, shall open automatically on a light emitter or siren-activated system for Fire District access to the plat. Provisions for auto activation of security gates during a power outage shall be provided.

D. Prior to recording of the final plat:

- i. Rural frontage improvements shall be constructed along the parcel’s frontage on Meadow Lake Road to the satisfaction of the County.
- ii. The applicant shall remove vegetation and regrade the right-of-way to establish the required sight distance at the entrance of the plat, as shown on Exhibit 15g, to the satisfaction of the County.
- 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 Development Review & Construction Division for review and approval prior to installation.
- iv. The final mitigation plan (including additional buffer) shall be completely implemented.
- v. All on-site and off-site drainage facilities shall be completely constructed and functional.

E. In conformity with applicable standards and timing requirements:

- i. The open space management plan (Exhibit 13) shall be implemented by a homeowner’s association.

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

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 16th day of January, 2008.

Millie Judge, Pro Tem Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

The decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more parties of record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

Reconsideration

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 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 **JANUARY 28, 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 **JANUARY 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 the case.

Staff Distribution:

Department of Planning and Development Services: Paul MacCready

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation." A copy of this Decision is being provided to the Snohomish County Assessor as required by RCW 36.70B.130.
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