

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

DATE OF DECISION: April 22, 2008

PLAT/PROJECT NAME: Osborne Lane

APPLICANT/
LANDOWNER: Clarence & Carol Osborne
3222 Creswell Road
Snohomish, WA 98290

FILE NO.: 06-128705-000-00-SD

TYPE OF REQUEST: Rural Cluster Subdivision

DECISION (SUMMARY): APPROVED, subject to conditions

BASIC INFORMATION

GENERAL LOCATION: The property is located on the west side of Creswell Road, ¼ mile south of its intersection with 26th Street SE, in the southeast quarter of Section 25, Township 29 North, Range 6 East, W.M., being about five miles east of Lake Stevens, Snohomish County, Washington. Tax Acct. Number: 290625-004-001-00

Acreage: 26.56 Avg. Lot Area: 24,157 square feet Gross Density: 0.3 d.u./ac

Lots: 8 Smallest Lot Area: 20,248 square feet Open Space: 21.5 acres

ZONING: R-5 No change in proposed zoning.

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Rural Residential – 5 (1 d.u./5 acres)

School District: Snohomish No. 201

Fire District: No. 8

Water Source: Snohomish County P.U.D. No.1

Sewer Service: Individual on-site Systems

INTRODUCTION

The applicant filed the Master Application on December 7, 2006. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 17, 18, and 19)

PDS issued a Determination of Nonsignificance (DNS) for the subject application on December 13, 2007 (Exhibit 16). The DNS was not appealed.

The Deputy Examiner, Ed Good, held an open record hearing on February 20, 2008, the 106th 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 February 20, 2008 at 2:06 p.m.

1. The Deputy Examiner, Ed Good, announced that he had read the PDS staff report, reviewed the file and viewed the area and therefore was generally apprised of the particular request involved.
2. The applicants, Clarence & Carol Osborne, were represented by Ms. Angela Jones. Snohomish County was represented by Robert Pemberton of the Department of Planning and Development Services.
3. Those present who expressed a desire to testify were administered the oath.
4. Appearing and giving testimony were Robert Pemberton, Patrick McGraner and Angela Jones

The hearing concluded at 2:42 p.m.

By consent of the applicant dated March 24, 2008, Examiner Pro Tem James A. Densley listened to the record, reviewed the file and made a decision on this case.

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

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS OF FACT

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

1. The master list of exhibits and witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file, as if set forth in full herein.

2. Nature of Application: Osborne Lane is an 8-lot rural cluster subdivision of 26.6 acres. The proposed single-family residential lots range in size from 20,248 square feet to 30,402 square feet with 21.5 acres of open space. Access to all new lots will be by an internal private road; the existing residence will continue to take direct, driveway access to Creswell Road. Public water is proposed to be supplied by the Snohomish County PUD No. 1 with individual on-site sewage disposal systems subject to approval by the Snohomish Health District. Mitigation fees are to be paid in accordance with Chapters 30.66A, B, and C, SCC, for project impacts to community parks, nearby road system traffic and to the Snohomish School District No. 201.
3. Site Description: This site is currently developed with a single-family residence and a long driveway in the southeast corner of the site. The entire site slopes down towards the west. There is a Category 1 wetland in the westerly portion of the site and a Type 4/5 stream draining from north to south through the wetland. Per the SCS Soil Survey, the site contains Winston Gravelly loam soil that has high permeability. The site contains heavily wooded areas in the northern and eastern portions and pasture in the southern/central area. The pasture area is currently used for grazing of livestock and casual riding of a small number of horses.
4. Adjacent Zoning/Uses: This site and surrounding properties are zoned Rural-5. The forty acres directly across the street to the east is an area of mineral excavation and has a Mineral Resource Lands overlay. To the southeast, also across Creswell Road, are the recently approved rural cluster subdivisions of Wardrum Woods (PFN 05-119764) and Wardrum Woods Div. 2 (PFN 06-126856). The subject property is surrounded by rural, largely undeveloped forested and agricultural property. Agricultural buildings are located on a large farm to the south. Forestry and mineral excavation activities may occur on adjacent property. The subject site is outside the urban growth area (UGA).
5. Matters of Concern: No matters of concern were raised by the general public either in written comments or by testimony at the public hearing.
6. Parks Mitigation: The proposal is within the Robe Canyon Park District No. 303 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. School Impact: Pursuant to Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Snohomish School District No. 201, 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 one existing lot.
8. Drainage and Grading: All storm water runoff from the driveways, road and houses will be dispersed into the natural vegetation. Splash blocks will be used for the roof runoff from the houses prior to dispersion. Water quality will be maintained by dispersing the runoff through the lawn and vegetated areas. Planning and Development Services (Engineering) has reviewed the concept offered and is recommending 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 10,000 cubic yards of cut and 10,000 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.

9. Critical Areas: One large Category 1 wetland occupies the westerly 2/3 of the site with a Type 4/5 stream flowing north to south within the wetland. This wetland/stream area is shown on the subdivision as being preserved with a minimum 100-foot wide Native Growth Protection Area easement extending from the edge of the wetland. Part of this area has historically been used for pasture and grazing land for livestock. The applicant is required to fence the pasture area from the area that is to be dedicated as NGPA/E within Tract 999 or alter the dedication of the entire tract as NGPA by disallowing the existing use of the pasture and allowing this portion of the Category 1 wetland to revert to a natural condition. PDS has determined that the project complies with the critical areas regulations. The determination made by PDS is adopted as a finding by this decision.
10. GMA Compliance: The subject property is designated Rural Residential – 5 (1 d.u. /5 acres) on the GPP Future Land Use map, and is not located within an Urban Growth Area (UGA). It is not located within a mapped Growth Phasing Overlay. According to the GPP, the Rural Residential-5 designation includes lands that were designated Rural on pre-GMA subarea comprehensive plans and zoned Rural 5. The implementing zone in this designation will continue to be the R-5 zone.
11. Zoning: This project meets zoning code requirements for lot size, including rural cluster subdivision provisions, bulk regulations and other zoning code requirements. The eight (8) lots proposed are consistent with the density provisions of Snohomish County’s GMA-based zoning regulations under Subtitle 30.2.
12. Sub Division Code: The proposed plat meets Chapter 30.41A SCC requirements. A complete application for the proposed plat was received by PDS on December 7, 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 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.
13. Rural Cluster Subdivision Standards: The subject rural cluster subdivision (RCS) application was reviewed for conformance with the RCS standards in Chapter 30.41C SCC. The applicant provided the information required on an RCS development plan and preliminary plat, the latest versions of which were received by PDS on October 17, 2007 (Exhibit 14), and in an open space management plan (Exhibit 13) that is to be implemented by a homeowner’s association. The RCS application meets all of the criteria required for preliminary approval listed in SCC 30.41C.200. All utilities shall be located underground. The proposal meets requirements for restricted open space and bulk regulations, lot yield, and bonus residential density.

The proposal complies with the provisions of SCC 30.41C.010 by clustering the lots on the most buildable and least environmentally sensitive portion of the site while retaining approximately 81% (21.5 acres) of the property in restricted open space; the proposal is considered preferable to traditional lot-by-lot development through its efficient use of the most buildable portion of the site together with the retention of environmentally sensitive areas in permanent open space tracts; the use of the clustering concept provides greater compatibility with the surrounding development by providing buffers between adjoining properties; the use of the clustering concept has reduced the need for impervious surfaces resulting in the protection of groundwater and potential water pollution from erosion and other drainage related problems; the project complies with critical areas regulations, thereby minimizing the loss of the county’s environmentally sensitive areas. It is of particular note is that significant areas are set aside as

Restricted Open Space. This is far in excess of the minimum set out by ordinance. (Exhibit 34)
The proposal will result in more protection of the plant life along Creswell Road.

The application has been reviewed for compliance with the requirements of SCC 30.41C.200 as follows: critical areas have been identified and designated as Native Growth Protection Areas; a sight obscuring buffer of native vegetation has been provided, in accordance with the provisions of Table 30.41C.210(1), DPW has indicated that the public roads shall be constructed to EDDS standards; all utility lines are to be located underground; there is no unbuildable land as defined by Chapter 30.41C SCC located on site which would be required to be included in native growth protection areas; no on-going forestry uses are proposed within the open space tracts; there are no adjacent designated open spaces which affect the location of the open space in the RCS; an open space management plan has been provided detailing the required maintenance and management tasks for the proposed open space; at least 75% of the residential lots about a required buffer or open space tract; the proposed RCS has been designed in accordance with the natural features of the site, maintains rural character, and maximizes the visibility of the open space tracts from the adjoining road; the proposal is not served by public sanitary sewer; clusters of lots are located near the interior of the site and are not located on prominent topographic features, to the extent feasible; and the site is located within a rural fire district.

The application complies with the provisions of SCC 30.41C.230 and SCC 30.41C.240 based on the following analysis:

Basic lot yield: 1,156,886 square feet/200,000 square feet	= 5.78 lots
Bonus residential density	= 15%
Additional bonus density	= 20%
Total lot yield	= 7.8 lots
Total lot yield-rounded	= 8 lots
Total lots proposed	<u>= 8 lots</u>

14. Plats – Subdivisions – Dedications (Chapter 58.17 RCW): The proposed plat conforms with applicable zoning codes and the comprehensive plan. There is open space provided within the plat in the form of wetland, and buffer areas, the single-family homes on small lots will be in character with the existing neighborhood. Provisions for adequate drainage have been made in the conceptual plat design which indicates that the final design can conform to Chapter 30.63A SCC and State DOE drainage standards. The plat, as conditioned, will conform to Chapters 30.66A, B and C SCC, satisfying county requirements with respect to parks and recreation, traffic, roads and walkway design standards, and school mitigation. Water will be supplied by the Snohomish County PUD No.1 and on-site sewage disposal systems are proposed subject to approval by the Snohomish Health District.

15. Traffic Mitigation and Road Design Standards (Title 13 SCC & Chapter 30.66B SCC)
 - A. 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. The following is a summary of PDS's conclusions which are adopted by the Examiner except where specifically noted.

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

The development will generate 66.99 new ADT and has a road system capacity impact fee of \$26,595.03 (\$3,799.29/lot) based on \$397/ADT.

2. Concurrency [SCC 30.66B.120]

The development is concurrent as of January 25, 2007. The expiration date of the concurrency determination is six years from January 25, 2007.

The subject development is located in TSA B which, as of the date of submittal, had the following arterial units in arrears; unit 238. Based on peak-hour trip distributions, the subject development did NOT add three (3) or more peak-hour trips to any of the arterial units in arrears. Pursuant to SCC 30.66B.160 (2) (a), the development is determined concurrent. The 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.

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

The subject proposal will not impact any IRC locations identified at this time within TSA B with three or more of its p.m. peak hour trips, nor will it create any. Therefore, 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.

4. Frontage Improvements [SCC 30.66B.410]

Full rural frontage improvements are required along the subject parcel's frontage on Creswell Road and consist of 11 foot travel lane width and an eight (8) foot paved shoulder.

Creswell Road is not in the cost basis analysis for Chapter 30.66B SCC, therefore credit for any frontage improvements towards the applicant's impact fee is not applicable. Construction of frontage improvements is required prior to recording unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.

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

Access is proposed from Creswell Road via a private road ending in a cul-de-sac for lots 1 through 7. Lot 8 is a new home under construction (permit issued 3/10/06), and access to that lot is directly off of Creswell Road. DPW reviewed the issue of providing for a future road connection to an adjoining property, and determined that it wasn't feasible in this case due to a Category 1 wetland encompassing most of the site (north, west, and south). A private rural low volume access road is proposed within this plat, (EDDS 3-060/3-080) taking access from Creswell Road and ending in a cul-de-sac. The DPW approved the use of the private roads shown on the preliminary plat for the subject rural cluster development. Since no connection is required for this development, DPW approved the proposal for a private road ending in a cul-de-sac. The Examiner adopts this approval as a finding.

The plans show a 27-foot paved road cross section for two travel lanes and a 7-foot paved shoulder walkway on one side. The proposal is acceptable.

The applicant provided a sight distance plan showing that stopping and intersection sight distance will be met.

An adequate turnaround on lot 8 be shown on the construction plans, shall be constructed prior to recording the plat so that backing out onto the arterial road is not necessary.

The vertical and horizontal curves and the road grade meet the minimum requirements of EDDS.

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

Creswell Road is designated as a major collector arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 40 feet on each side of the right-of-way centerline. 30 feet of right-of-way presently exists on the development's side of the right-of-way centerline. Therefore, 10 feet of additional right-of-way is required. This is adequately shown on the plans.

There is a strip of dedicated right-of-way 20 feet wide that runs along the entire length of the west property line. PDS has reviewed the need for additional right-of-way for a future road, and has determined that it is not needed due to the location of a Category 1 wetland and Woods Creek. The Examiner adopts this determination as a finding.

7. 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.

A copy of a voluntary offer to the State, signed by the applicant was included with the application for the amount of \$0.00 based on the trip distribution included in the Gibson Traffic study dated December 4, 2006. Comments dated December 14, 2006 have been received from WSDOT that indicates agreement with that. Therefore no mitigation fee will be required for this project towards impacts to State roads.

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

There are no local jurisdictions that have an interlocal agreement with the County for traffic mitigation; therefore the provisions of this section of code do not apply to this project.

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

This proposal lies outside of the Urban Growth Area. Therefore, the provisions of this section do not apply.

10. Pedestrian Facilities [RCW 58.17.110]

The county is required to make findings regarding safe walking conditions for school children that may reside in the subject development. Comments dated January 2, 2007 have been received from the Snohomish School District indicating that all grade levels of public school children will be provided with bus service to school, and the bus stop will be located on Creswell Road at the intersection with the private development road. The written comments from the school district representative did not specify the bus stop location on Creswell Road, but when contacted by telephone, it was specified that the bus stop would be at the private road, and any children of school age catching the bus from lot 8 (which has direct driveway access on Creswell Road), would walk along the paved shoulder walkway to the bus stop at the private

road. Construction of frontage improvements on Creswell Road will provide children with a safe place to wait for the bus at the private road and provide a safe place to walk to the bus stop along Creswell from lot 8. As found above the proposal also includes a 7-foot paved shoulder walkway on one side which will assist separating school children from traffic when walking to the bus stop.

16. 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 has jurisdiction to hear this case and render a decision thereon.
2. This development will provide attractive housing while protecting the environment in compliance with Snohomish County Regulations. The public interest will be served as there will be compliance with health and safety, regulations, including parks, schools, fire department, internal circulation, public roads, utilities, GMA, critical areas and drainage and grading.
3. 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.
4. 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 proposed Rural Cluster Subdivision of Osborne Lane is approved subject to the following conditions:

CONDITIONS:

- A. The rural cluster subdivision/preliminary plat received by PDS on October 17, 2007 (Exhibit 14) 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 platlor 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 applicant is required to fence the pasture area from the area that is to be dedicated as NGPA/E within Tract 999 or to alter the dedication of the entire tract as NGPA by disallowing the existing use of the pasture and allowing this portion of the Category 1 wetland to revert to a natural condition.

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 Snohomish School District No. 201 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 8 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:

\$3,799.29 per lot for mitigation of impacts on county roads paid to the county,

These payments are due prior to or at the time of building permit issuance. Notice of these mitigation payments shall be contained in any deeds involving this subdivision or the lots therein. Once a building permit has been issued for a lot, all mitigation payments for that lot shall be deemed paid.

- iii. 10-foot right-of-way dedication along the property frontage with Creswell Road to total 40 feet from the right-of-way centerline.
- iv. No lot except lot 8 shall have direct access to Creswell Road; driveway access shall be via the private plat road for lots 1 through 7.
- v. 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."
- vi. 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.

- vii. All building permits shall contain the following notice: “Your real property is within 2,000 feet of designated mineral resource land, on which mineral extraction, or a variety of activities related to mineral extraction, may occur that are not compatible with residential development for certain periods of limited duration. An application might be made on the designated mineral resource land for mining-related activities, including mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals.”
- viii. Fire flow and fire hydrants shall be provided in accordance with Snohomish County Code 30.53A.310. Fire hydrants serving single-family dwellings shall have a maximum lateral spacing of 600 feet with no lot or parcel in excess of 300 feet from a hydrant. Hydrant locations shall be depicted on the face of the plat, and locations for new hydrants shall be approved by this office. The following requirements shall apply to the installation of any required hydrant:
 - ix. Four (4) inch storz type steamer port fittings shall be provided on new hydrants.
 - x. The top(s) of the hydrant(s) shall be colored green.
 - xi. Install blue street reflector(s) on the hydrant side of centerline to indicate hydrant location(s).
 - xii. The minimum required fire flow for this project has been determined to be 750 GPM at 20 psi for a two-hour duration. Prior to final plat approval, in order to assure consistency with the applicable provisions of Snohomish County Code 30.53A.300, the developer shall provide the required fire hydrants and written confirmation from the water purveyor that the minimum required fire flow of 750 gpm at 20 psi for a 2- hour duration can be provided. If the required fire flow cannot be provided the new dwellings shall be provided with NFPA 13-D fire suppression systems.
 - xiii. Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background.
 - xiv. If there is a gate installed at the entrance of the private roadway the gate shall be activated by the emergency vehicle opticom strobe that opens the gate automatically with the approach of an emergency vehicle in either direction. In the event of power failure the gate shall open automatically and remain in the open position until the power is restored. The gate shall provide a minimum 20’ clear opening for fire apparatus access. It shall be noted as a restriction on the recording of the final plat.

D. Prior to recording of the final plat:

- i. Rural standard frontage improvements shall be constructed along the property frontage with Creswell Road, unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.
- ii. The private road and the turnaround shall have been constructed per EDDS requirements.

- iii. A paved approach per EDDS 3-100 shall have been constructed for lot 8.
- iv. An adequate turnaround area shall have been shown on the construction plans, and constructed according to the plans for lot 8 so that residents will not have to back out of the driveway.
- v. 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 plattor 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.

- vi. The applicant is required to fence the pasture area from the area that is to be dedicated as NGPA/E within Tract 999 or to alter the dedication of the entire tract as NGPA by disallowing the existing use of the pasture and allowing this portion of the Category 1 wetland to revert to a natural condition.

E. In conformity with applicable standards and timing requirements:

- i. Building permits issued for this subdivision shall contain the Notice shown above in Condition C. vii.

F. 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.

Decision issued this 22nd day of April, 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 **MAY 2, 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 **MAY 6, 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: Robert Pemberton

<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>
