

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

DATE OF DECISION: April 29, 2008

PLAT/
PROJECT NAME: **DIARMUID RCS**

OWNER/
APPLICANT: CHB Development LLC

FILE NO: 06-129605-000-00-SD

TYPE OF REQUEST: Nine-lot rural cluster subdivision on 30+ acres

DECISION
(SUMMARY): APPROVE WITH CONDITIONS

BASIC INFORMATION

GENERAL LOCATION: 4232 300th Street, Stanwood, within Section 15, Township 33 North, Range 4 East, W.M., Snohomish County, Washington.

ACREAGE: 30.48 acres

NUMBER OF LOTS 9

AVERAGE LOT SIZE: 46,628 square feet

MINIMUM LOT SIZE: 43,622 square feet

DENSITY: 0.30 du/ac

OPEN SPACE 19.8 acres

CURRENT ZONING: R-5

COMPREHENSIVE PLAN DESIGNATION:
General Policy Plan Designation: Rural Residential – 5 (1du/5 acres)

UTILITIES:
Water: Individual Wells
Sewer: Individual Septic

SCHOOL DISTRICT: Stanwood #401

FIRE DISTRICT: No. 14

SELECTED AGENCY RECOMMENDATIONS:

Planning and Development Services: Approve with conditions

INTRODUCTION

The application (Exhibit 1) was originally submitted to Planning and Development Services (PDS) on October 11, 2006, and determined complete for regulatory purposes as of the date of submittal. Additional information was submitted on February 7, 2007, March 28, 2007, July 17, 2007, and November 28, 2007.

The Deputy Hearing Examiner made a site familiarization visit on February 16, 2008.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record public hearing as required by the County code. Exhibit 16 (Affidavit of Mailing); Exhibit 17 (Affidavit of Notification by Publication); Exhibit 18 (Posting Verification).

A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on January 4, 2008. (Exhibit 15). No appeal was filed.

The Deputy Examiner held an open record hearing on February 21, 2008. Witnesses were sworn, testimony was presented, and exhibits were entered. Subsequently, with the applicant's consent, a pro tempore hearing examiner reviewed the audio CD of the hearing and rendered the decision herein.

PUBLIC HEARING

The public hearing commenced on February 21, 2008 at 9:02 a.m.

1. Representing PDS was Ed Caine, Planner.
2. Representing the Applicant was Noel Higa, P.E., Managing Partner.
3. There was no public testimony.

The hearing concluded at 9:41 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 in the record in this file. All exhibits were considered by the Examiner and are hereby incorporated by reference, as if set forth in full herein.
2. Summary of the Proposal: The applicant proposes a nine-lot rural cluster subdivision on 30+acres. The nine single-family residential lots will average 46,628 square feet in size. Approximately 65% of the site (19.8 acres) will be retained as open space in two tracts. Wetland and stream areas and associated buffers will be protected within designated Native Growth Protection Areas (NGPAs). Access will be provided by a new private road off of 300th Street NW. Each residential lot will be served by an individual well and by an individual Septic system. Mitigation fees are to be paid in accordance with Chapters 30.66A, B, and C, SCC, for the project impacts to community parks, nearby road system traffic and to Stanwood School District No. 401.
3. Site Description: This rectangular 30.5 acre parcel lies on the south side of 300th Street NW. On the eastern and western sides there are wetlands and associated streams. Development is proposed for the central portion of the site. At present, the site contains two residences. One of these will be removed. The land is a combination of pasture and forested areas. There are no slopes greater than 33%. There are two Category 3 wetlands and a Type 4 stream on the site. An offsite Type 3 stream has buffers that extend onto the site.
4. Adjacent zoning and uses: Surrounding properties are zoned R-5. Adjacent uses are either single-family residential or undeveloped land.

B. Issues of Concern

5. No extraordinary issues of concern exist for the final design of this plat. Letters were received from William and Marcia Cecil, Jon and Jane King, and Al Beckstrom. The primary concerns identified in the public comments were traffic impacts, adequacy of sight distance, impacts to the aquifer, impacts to wildlife, and the creation of smaller lots through the rural cluster process.

These concerns were adequately addressed during the application review process. The Department of Public System has determined that the road system is adequate to accommodate the impacts of this development. Sight distance has been evaluated and approved. The Health Department has evaluated and approved the location of the septic systems. The total water withdrawal will be less than 5,000 gallons per day and thus exempt from the requirement for a water rights permit. Well logs in the vicinity indicate an adequate supply of potable water. Significant wildlife habitat will be preserved. No impacts are proposed to critical areas or their buffers and substantial undeveloped open space will be retained. PDS has determined that the lots to be created are consistent with the requirements for a Rural Cluster Subdivision (Chapter 30.41C SCC).

C. Compliance with Codes and Policies

6. Parks Mitigation:

The proposal is within Park District No. 301 (Kayak Point) and is subject to Chapter 30.66A SCC, which requires payment of \$811.29 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):

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 7 new SFRs, which is 9.57 ADT/SFR. This rate comes from the 7th Edition of the ITE Trip Generation Report (Land Use Code 210). The development will generate 66.99 new ADT and has a road system capacity impact fee of \$17,685.36, based on \$264.00/ADT. The impact fee for each SFR is \$1,965.04. This impact fee must be paid prior to issuance of the building permit.

The ADT has been calculated as follows: 7 SFR x 9.57 ADT/SFR = 66.99 ADT

The PM PHT has been calculated as follows: 7 SFR x 1.01 PM PHT = 7.07 PM PHT

The AM PHT has been calculated as follows: 7 SFR x 0.75 AM PHT = 5.25 AM PHT

B. Concurrency [SCC 30.66B.120]

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 November 29, 2006. A record of developer obligations documenting the concurrency determination will be prepared by DPW in accordance with the provisions of SCC 30.66B.070. The expiration date of the concurrency determination will be six years from November 29, 2006.

The development has been deemed concurrent on the following basis: Medium-Sized Development in TSA with no arterial unit in arrears, SCC 30.66B.160. The subject development is located in TSA A which, as of the date of submittal, did not have any arterial units in arrears. Based on peak-hour trip distributions, the subject development did NOT add three (3) or more peak-hour trips to any 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.

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 frontage is located along 300th Street NW. Rural standard frontage improvements are required consisting of 18 feet of pavement from right-of-way centerline, which consists of an 11 foot travel lane and 7 foot paved shoulder. Construction of frontage improvements is required prior to recording of the plat.

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

Access is proposed from one private road onto 300th Street NW.

The required centerline separation between the proposed private access road and 44th Ave. NW is 250 feet, since 44th Ave. NW is considered a rural subcollector. DPW is considering 44th to be a future rural subcollector because of the potential future development in this area. The applicant has submitted a deviation request to provide a centerline separation of 150 feet. The applicant indicated that the location of access could not be relocated further because of sight distance. The deviation request was approved by the County Engineer on May 21, 2007.

The applicant has demonstrated that adequate sight distance will be provided as shown on the sight distance plan submitted received May 1, 2007.

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

300th Street NW is designated as a minor collector arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 35 feet on each side of the right-of-way centerline. Thirty feet of right-of-way presently exists on the development's side of the right-of-way. Therefore, 5 feet of additional right-of-way is required. Adequate right-of-way dedication is shown.

G. State Highway Impacts [SCC30.66B.710]

This development is subject to the Washington State Department of Transportation (WSDOT)/County Inter-local 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 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. A voluntary offer, acceptable to the State, signed the applicant indicating their chosen method of fulfilling their mitigation requirement under the ILA, are required prior to providing a final recommendation. The applicant made an offer of zero dollars and WSDOT agrees with the applicant's traffic study that indicates that no mitigation to WSDOT is required.

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

The county has an ILA with the Cities of Arlington and Stanwood and this development is within the influence area that requires traffic mitigation be considered for the City of Arlington. The applicant's traffic study indicates that trips will pass through the City of Arlington to such an extent that traffic mitigation is required. Comments were received from the City of Arlington on October 31, 2006. The City of Arlington indicated that it accepts the offer of \$4,730.55 by the applicant. Comments from the City of Stanwood were received by PDS on February 8, 2007. The City of Stanwood does not require mitigation from this development.

There are no other 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]

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

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. School comments were received by PDS on October 30, 2006. The school district indicated that a school bus stop will be provided at the intersection of the development's access and 300th Street NW.

8. Mitigation for Impacts to Schools (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 Stanwood School District No. 401, 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 two existing lots.

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

Stormwater runoff from the street, driveways, and rooftops will be collected and routed to a detention system located within Tract 998. Water quality treatment will be provided by a roadside swale and the detention facility.

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 3,600 cubic yards of cut and 1,200 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.

10. Critical Areas Regulations (Chapter 30.62 SCC)

There are two Category 3 wetlands and a Type 4 stream on site, and an offsite Type 3 stream with buffers that extend onto the site. There are no impacts either to the critical areas or to the prescriptive buffers of the critical areas. The entirety of Tract 998 is designated as NGPA, which includes all critical areas, the buffers, and adjacent upland areas. The NGPA does not extend on to the lots.

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

The subject property has a GPP designation of Rural Residential – 5 (RR-5: 1 du/5ac.). This designation identifies all lands which are currently designated as rural on existing subarea comprehensive plans and have subsequently been zoned to Rural 5. This designation also includes some areas which were previously designated and zoned agriculture. It also includes lands which the pre-GMA subarea comprehensive plan indicates as higher density but which were zoned R-5 by the County subsequent to the plan adoption date. The implementing zone in this designation will continued to be the R-5 zone.

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

12. Utilities

A. Water

Water will be supplied by individual wells. The Snohomish Health District has established the minimum approvable water usage for residential use at 400 gallons per day. With nine lots using 400 gallons per day, the total water usage for the development is 3,600 gallons per day. That total is less than the 5,000 gallons per day water rights permit exemption established under RCW 90.44.050.

The Snohomish Health District recommended approval of this development on March 1, 2007 (Exhibit 33).

B. Septic (sewage)

The applicant supplied information regarding septic drainfields and reserve areas. The Snohomish Health District recommended approval on March 1, 2007 (Exhibit 33).

C. Electricity

On October 24, 2006, the Snohomish County Public Utility District No. 1 provided correspondence indicating that they can provide electricity to the proposal (Exhibit 29).

13. State Environmental Policy Act (Chapter 30.61 SCC)

PDS issued a DNS for the subject application on January 4, 2008 (Exhibit 15). The DNS was not appealed.

14. Rural Cluster Subdivision Standards (Chapter 30.41C SCC)

The subject rural cluster subdivision (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 and preliminary plat, the latest versions of which were received by PDS on November 28, 2007 (Exhibit 12), and in an open space management plan (Exhibit 19) 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 65% (19.8 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.

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 private road 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 agriculture or 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 abut 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: 1,327,579 square feet/200,000 square feet	= 6.64 lots
Bonus residential density	= 15%
Additional bonus density	= 20%
Total lot yield	= 8.96 lots
Total lot yield-rounded	= 9 lots
Total lots proposed	= <u>9 lots</u>

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

RCW 58.17.100, 110, 120 and 195 require that the plat conform with applicable zoning ordinances and comprehensive plans and make “appropriate provisions” for the 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, and other planning features including safe walking conditions for students.

The proposed plat conforms with the applicable zoning standards and the comprehensive plan. Open space is provided in the form of wetland and buffer areas. 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 Department of Ecology 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 is to be provided by individual wells and sewer is to be provided by individual septic system. Conditions are appropriate for these items.

16. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Examiner has original jurisdiction over preliminary subdivision applications pursuant to Chapters 30.72 and 2.02 SCC.
2. The proposal is consistent with the GMA-Comprehensive Plan and with applicable development regulations. RCW 58.17.100, 195.

3. 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.
4. The public use and interest will be served by the platting of the subdivision.

DECISION

Pursuant to the authority granted under SCC 30.72.060 and SCC 2.02.155(2), the application for preliminary subdivision approval is hereby GRANTED, subject to the following CONDITIONS.

CONDITIONS

- A. The preliminary plat received by PDS on November 28, 2007 (Exhibit 12) 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 plattor shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPAs) 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.
- C. The following additional restrictions and 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 Stanwood School District No. 401 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 33.66C.010. Credit shall be given for two existing parcel. Lots one and three 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:

\$1,965.04 per lot for mitigation of impacts on County roads paid to the County.

\$525.62 per lot for mitigation of impacts on city streets for the City of Arlington paid to the City.

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

- iii. All Critical Areas shall be designated Native Growth Protection Areas (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 \$811.29 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 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. Rural frontage improvements shall have been constructed along the parcel's frontage on 300th St. NW to County standards.
- ii. Five feet of additional right of way shall have been dedicated to the County as shown on the plan along 300th St. NW.
- iii. Native Growth Protection Area (NGPA) boundaries shall have been permanently marked on the site prior to final inspection by the County, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The platfor 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, roads, etc.), a rebar marker with surveyor's cap and license number must be placed at the line crossing.

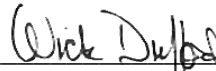
NGPA signs shall be placed no greater than 100 feet apart around the perimeter of the NGPA. Minimum placement shall included one Type 1 sign per wetland, and at least one Type 1 sign shall be placed in any lot that borders the NGPA, unless otherwise approved by the County biologist. The design and proposed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

- E. In conformity with applicable standards and timing requirements:
 - i. The preliminary landscape plan (Exhibit 13e) shall be implemented. All required detention facility landscaping shall be installed in accordance with the approved landscape plan.
- 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.

Order issued this 29th 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 **MAY 9, 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 13, 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: Ed Caine

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.