

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

DATE OF DECISION: April 9, 2008

PLAT/PROJECT NAME: Coyote Run

APPLICANT/
LANDOWNER: Joan Phillips
27802 - 44th Avenue NW
Stanwood, WA 98292

FILE NO.: 06-133272-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 40th Avenue NW, 1000 feet south of its intersection with Village Road in the northwest quarter of Section 22, Township 32 North, Range 4 East, W.M., about two miles east of Stanwood, Snohomish County, Washington.

Acreage: 19.98 acres

Avg. Lot Area: 56,388 square feet

Gross Density: 0.30 d.u./ac

Lots: 6

Smallest Lot Area: 50,000 square feet

Open Space: 11.9 acres

ZONING: R-5

COMPREHENSIVE PLAN DESIGNATION:

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

School District: Stanwood No. 401

Fire District: No. 14

Water Source: Wells

Sewer Service: Individual on-site systems

INTRODUCTION

The applicant filed the Master Application on January 31, 2007. (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 19, 20, 21 and 31; testimony presented at public hearing)

PDS issued a Determination of Nonsignificance (DNS) for the subject application on November 19, 2007 (Exhibit 18). The DNS was not appealed or specifically commented on.

The Deputy Examiner, Ed Good, held an open record hearing on January 31, 2008, the 107th 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 January 31, 2008 at 11:04 a.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, Christine Routenberg and Joan Phillips, were represented by Mr. Andrew Lofstead. 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, Andrew Losftead, Mary Kay Radenberger, Joe Smeby, Sandra Blesie, Tom Sage, and Christine Routenberg.

The hearing concluded at 12.31 p.m.

By consent of the applicant dated March 19, 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: Coyote Run is a six-lot rural cluster subdivision of 20 acres. The proposed single-family residential lots range in size from 50,000 square feet to 69,292 square feet utilizing 12 acres of open space. Access to all lots will be by a private road connecting to Village Road. Individual on-site wells will provide a potable water supply and individual on-site systems are proposed for sewage disposal. 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 Stanwood School District No. 401.
3. Site Description: The site is rectangular in shape and composed of one lot. This development lies along a local high point/ridge line with relatively flat and undulating slopes. Access is from Village Road via a 60-foot wide access and utility easement adjacent to the northeast corner of the site. Vegetation on site consists of landscaping and second growth forest with dense underbrush. There are five Category 3 wetlands and one Type 4 stream on site and one Type 5 stream off the western edge of the property.
4. Adjacent Zoning/Uses This site and surrounding properties are zoned Rural-5. All surrounding uses are low intensity, rural residential and agricultural uses typical of rural Snohomish County.
5. Matters of Concern:
 - A. One letter regarding well water was received prior to the hearing. Testimony received during the hearing indicated that the water that was proposed to be withdrawn fit within Department of Ecology regulations. The comment in that letter relating to a house near a wetland was determined to relate to another parcel about a quarter mile away and does not apply to this case.
 - B. During the hearing the Deputy Examiner questioned the posting of the notice of the public hearing on the parcel. Testimony and exhibits produced and made part of the record show that appropriate posting was conducted. As the parcel does not front on a public right-of-way, the posting was on the edge of the parcel.
 - C. The applicant raised the issue regarding the county's request for 40 feet of right-of-way easement for potential access to other parcels. This issue will be addressed in detail further in this decision.
6. Parks Mitigation: The proposal is within the Kayak Point Park Service Area No.301 and is subject to Chapter 30.66A SCC, which requires payment of \$84.29 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. 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 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 one existing lot.

8. Drainage and Grading: Stormwater runoff from the proposed road and the impervious surfaces on lots 1, 2, 5 and 6 will be collected and treated in a road-side ditch/bioswale and then detained in a detention pond in the northeast corner of the site prior to release into the Type 5 stream. On lots 3 and 4 the runoff from the new buildings and driveways will disperse over the existing ground and the driveway runoff will be treated in a filter strip prior to dispersion. The road runoff from the easement road will be collected, treated and detained in the road side ditch.

Planning and Development Services (Engineering) reviewed the concept offered and 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 2,600 cubic yards of cut and 2,600 cubic yards of fill, primarily for road, drainage facility, and home site construction. Water quality shall 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: Four wetland areas (Category 3) and two streams (Type 4) occur on site. The stream in the northeast corner of the site will be crossed by the access road for the lots in this subdivision. The total area of impact from the road is 15,993 square feet. Native Growth Protection Areas in the amount of 168,416 square feet will be preserved as mitigation for this impact. The other streams and wetlands will remain undisturbed and be maintained in designated Native Growth Protection Areas. PDS reviewed the Critical Areas Site Plan Wetland Delineation Stream Assessment (Exhibit 11) and determined that the project complies with the critical areas regulations. Such determination is adopted by the Examiner as a finding.
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 6-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. 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: PDS reviewed the subject rural cluster subdivision (RCS) 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 September 21, 2007 (Exhibit 17), and in an open space management plan (Exhibit 17C) 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 60%% (11.87 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 by PDS 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 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; physical separation of clusters is provided; 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 Examiner adopts as findings the above- described reviews conducted by PDS and DPW.

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

Basic lot yield: 870,785 square feet/200,000 square feet = 4.35 lots

Bonus residential density	= 15%
Additional bonus density	= 15%
Total lot yield	= 5.66 lots
Total lot yield-rounded	= 6 lots
 Total lots proposed	 <u>= 6 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 supply will be by individual on-site wells and sewer service will be by individual on-site sewage disposal systems subject to approval by the Snohomish Health District.

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

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]

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

The development will generate 57.42 new average daily trips (ADT) and has a road system impact fee of \$15,158.88 (\$2,526.48/SFR) based on \$264/ADT, the current fee rate for residential developments outside the urban growth area, for TSA A. These figures do not include credit for on-site TDM measures. Consistent with SCC 30.66B.340, payment of this road system impact is required prior to building permit issuance.

The estimates of trip generation for the development are based on the 7th Edition of the Institute of ITE Trip Generation Report as follows:

ITE Land Use Category: Single family detached housing

ITE Land Use Code: 210

Applicable Measurement Unit (ITE Independent Variable): Number of SFRs

Number of applicable measurement units for this development: 6

Trip Generation Calculations:

Trip Generation Based on Average Rates

New average daily trips = 6 X 9.57 = 57.42 ADT

New PM peak-hour trips = 6 X 1.01 = 6.06 PM PHT

New AM peak-hour trips = 6 X 0.75 = 4.50 AM PHT

2. Concurrency [SCC 30.66B.120]

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent as of March 23, 2007. The expiration date of the concurrency determination is six years from this date. Consistent with DPW rule 4225.070 the point in time for which the concurrency analysis is based (the concurrency vesting date) is January 31, 2007.

The development is deemed concurrent on the following basis:

Development generating 50 or fewer peak-hour trips in TSA with no arterial unit in arrears, SCC 30.66B.130(4). The subject development is located in TSA A which, as of the date of submittal of the application, had no arterial units in arrears. The subject development generates 4.50 a.m. peak hour trips and 6.06 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]

Regardless of the existing level of service, any development which adds three or more p.m. peak-hour trips to a location in the road system determined to have an existing inadequate road condition (IRC) at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC.

The subject development proposal will not impact any IRC locations identified within TSA A with three or more of its p.m. peak hour trips, nor will it create any. Therefore, it is anticipated that mitigation will not be required with respect to 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]

The project site has no public road frontage; therefore no frontage improvements are required.

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

All developments are required to provide for access and transportation circulation in accordance with the comprehensive plan and SCC 30.66B.420, design and construct such access in accordance with the EDDS, and improve existing roads that provide access to the development in order to comply with adopted design standards, in accordance with SCC 30.66B.430.

The proposed access to Village Road is by a private road aligned in a 60 foot ingress egress easement on the west side of a private driveway the becomes a trail access permit road aligned in a public right-of-way extending 150 feet south of the intersection with Village Road. EDDS Table 3-11 requires a minimum centerline offset of 125 feet for rural residential subcollector/local access roads. The proposed access road has been redesigned on plans received by PDS on September 21, 2007 and is aligned within the public right-of-way to the extent possible at the point of intersection with Village Road. DPW approved the proposed access road intersection with Village Road as shown on Sheet 3 of 5 of the plan set received by PDS on September 21, 2007.

Intersection Sight Distance (ISD) to the left from the intersection of the proposed access road and Village Road is 180 feet. EDDS Table 3-9 requires ISD = 390 feet for a posted speed of 35 mph. The applicant submitted an EDDS deviation request to allow the ISD sight distance triangle to be measured from a point on the proposed access road 10 feet behind the Village Road edge of traveled way. EDDS Section 3-08.E.2 requires the access road driver's eye to be 15 feet behind the intersecting road edge of traveled way. This deviation request was approved as a blanket deviation. The applicant submitted a Sight Distance Easement, signed by the owners of the property on the south side of Village Road west of the proposed access road,

allowing the County to maintain a clear sight triangle sufficient to provide the required ISD to the left (390 feet)

Because of the development potential of the property to the south of the site, the applicant must provide a minimum 27 foot easement from the northeast corner of the subject parcel to the southern boundary of the project to allow for a possible future public road. The reasons for a 27 foot easement rather than the 40 foot easement requested by PDS are:

1. There will be less disruption and disturbance to the wetlands with a narrower easement;
2. There will be a minimization of the type of extraction prohibited by the U.S. Supreme Court in the Nolan and Dolan cases;
3. The property owner to the south of the site can make such agreements to insure that his parcels will not be landlocked and to provide for additional road width, as demonstrated by testimony given during the public hearing.

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

The project site has no public road frontage; therefore no right-of-way dedication is required.

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

In comments dated February 15, 2007, WSDOT has agreed that no State traffic mitigation is required of the applicant.

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

In comments dated 11/05/2007 the City of Arlington has agreed to withdraw the request for traffic mitigation from the applicant. In comments dated February 8, Stanwood has agreed that no traffic mitigation is required of the applicant.

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

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 from the applicable school district dated February 22, 2007, indicate the school bus will pick up students at the intersection of Village Road and 40th Ave NE. No offsite improvements are required.

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 request for a six-lot rural cluster subdivision on 11.9 acres is hereby **CONDITIONALLY APPROVED**, subject to the following conditions:

CONDITIONS:

- A. The preliminary plat received by PDS on September 21, 2007 (Exhibit 17) shall be the approved plat configuration, subject to the following: that the intersection of the proposed access road and Village Road shown on Sheet 1 of 5 and Sheet 2 of 5 shall be revised to conform to the intersection design shown on Sheet 3 of 5. 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 (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. A final mitigation plan based on the Critical Areas Site Plan Wetland Delineation Stream Assessment dated May 30, 2007 (Exhibit 11) shall be submitted for review and approval during the construction review phase of this project.

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 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 30.66C.010. Credit shall be given for one existing parcel. Lot 1 shall receive credit."
- ii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:

\$2,526.48 per lot for mitigation of impacts on county roads paid to the county,

This payment is 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 a building permit has been issued for a lot, all mitigation payments for that lot shall be deemed paid by PDS.

- iii. All Critical Areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made) with the following language on the face of the plat;

"All NATIVE GROWTH PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur, except removal of hazardous trees. The activities as set forth in SCC 30.91N.010 are allowed when approved by the County."

- iv. "All open space shall be protected as open space in perpetuity. Use of the open space tracts within this subdivision is restricted to those uses approved for the rural cluster subdivision, to include required landscape improvements as shown on the approved site plan and the approved landscape plan. Covenants, conditions and restrictions as recorded with the plat, and as may be amended in the future, shall include provisions for the continuing preservation and maintenance of the uses, facilities and landscaping within the open space as approved and constructed."

- v. The developer shall pay the County \$84.29 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 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.

- vi. Because of the development potential of the property to the south of the site, the applicant must provide a minimum 27 foot easement from the northeast corner of the subject parcel to the southern boundary of the project to allow for a possible future public road. The following language must appear on the plat:

"In consideration of the short subdivision access approval, the owners of the lots of the subdivision, their heirs, successors, and assigns, covenant and agree not to protest the conversion of the forty foot easement and private road, to a public road at any time the

county determines a public road is necessary, or a public road is required for further development of any lots that have access to said road. The owners of the subdivision lots, their heirs, successors, and assigns further agree and covenant to provide all necessary authorizations and to execute all necessary conveyance documents, at no cost and expense to the county, to accomplish the dedication and/or conversion of the private road to the county for public road purposes. This covenant touches and concerns the property, runs with the land, and is binding upon all subsequent purchasers, heirs, successors, and assigns. This covenant to provide right-of-way in no way obligates the owners to fund any construction or maintenance of a public road.”

- vii. 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. The applicant shall provide address signage for the panhandle lots that is visible from the public way. 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.
- viii. In consideration of the subdivision access approval, the owners of the lots of the subdivision, their heirs, successors, and assigns, covenant and agree not to protest the conversion of the private road easement on the subject parcel, to a public road at any time the county determines a public road is necessary, or a public road is required for further development of any lots that have access to said road. The owners of the subdivision lots, their heirs, successors, and assigns further agree and covenant to provide all necessary authorizations and to execute all necessary conveyance documents, at no cost and expense to the county, to accomplish the dedication and/or conversion of the private road to the county for public road purposes. This covenant touches and concerns the property, runs with the land, and is binding upon all subsequent purchasers, heirs, successors, and assigns. This covenant to provide right-of-way in no way obligates the owners to fund any construction or maintenance of a public road. Private roads are allowed within a rural cluster subdivision with approval of the County Engineer.

D. Prior to recording of the final plat:

- i. 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.

ii. The final wetland mitigation plan shall be completely implemented.

E. In conformity with applicable standards and timing requirements:

i. The preliminary landscape plan (Exhibit 17C) shall be implemented. All required 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.

Decision issued this 9th 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 **APRIL 21, 2008**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

A petition for reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner’s attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

- (a) The Hearing Examiner exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner's decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by the record;
- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The applicant proposed changes to the application in response to deficiencies identified in the decision.

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the County file number in any correspondence regarding this case.

Appeal

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **APRIL 23, 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

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.