

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

DATE OF DECISION: April 9, 2008

PLAT/PROJECT NAME: River Run aka Sultan River Estates

APPLICANT/
LANDOWNER: Robert Greenawalt
13023 Reiner Rd.
Monroe, WA 98272

FILE NO.: 06-137016-000-00-SD

TYPE OF REQUEST: Rural Cluster Subdivision

DECISION (SUMMARY): APPROVED, subject to conditions

BASIC INFORMATION

GENERAL LOCATION: The property is located 13013 Reiner Road, Lot 2 Monroe, Snohomish County, Washington.; Thomas Guide pg 440 C-4; in Section 30, Township 28 North, Range 8 East, W.M.

Acreage: 18 acres

Avg. Lot Area: 46,636 square feet

Lots: 5

Smallest Lot Area: 43,560 square feet

ZONING: R-5

COMPREHENSIVE PLAN DESIGNATION:

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

School District: Monroe School District 103
Fire District: No. 5
Water Source: On Site Wells
Sewer Service: On Site Septic

INTRODUCTION

The applicant filed the Master Application on March 26, 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 16, 17, and 18)

PDS issued a Determination of Nonsignificance (DNS) for the subject application on November 5, 2007 (Exhibit 15). The DNS was not appealed or specifically commented on.

The Deputy Examiner, Ed Good, held an open record hearing on January 31, 2008, the 99th 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 1:03 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 applicant, Robert Greenawalt, was represented by Mr. James Gardner. Snohomish County was represented by Elbert Esparza 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 James Gardner, Robert Greenawalt and Elbert Esparza.

The hearing concluded at 1:27 p.m.

By consent of the applicant dated March 20, 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: Robert Greenawalt has requested the approval of a 5 lot Rural Cluster Subdivision (RCS) of an 18 acre parcel containing a Category 2 Wetland and the Sultan River, a Type 1- known ESA Stream for Chinook Salmon and Bull Trout in the southeastern corner and eastern portion of the subject property. All of which will be located in Native Growth Protection Areas (NGPAs), buffer, and setback areas. A single family residential structure and accessory structures to include a barn exist on the parcel subdivided two years previously. A single family residential permit has been submitted for the subject parcel.
3. Site Description: The property is accessed from Reiner Road down a sloping 12 foot wide gravel drive in a 60 foot access easement to a generally flat portion of land, used as a pasture which slopes gently down (approximately 1%) to a cliff overlooking the Sultan River, a Type 1- known ESA Stream for Chinook Salmon and Bull Trout. Also located on the property is a Category 2 Wetland, with vegetation and trees existing along the north property line and at the top of the slope overlooking the Sultan River. All Critical Areas shall be protected by NGPA's. The western most portion of the property was subdivided 2 years previously and contains an existing single family residence with accessory structures and a barn and shop (to be removed) which is not part of this submittal. A new residential permit has been applied for the existing underlying parcel.
4. Adjacent Zoning/Uses The area is almost all zoned R-5 with lots and parcels sized 5 acres and some larger which are used with single family residences, pastures, and agricultural uses on the larger parcels.
5. Matters of Concern: No matters of concern were brought up by the general public.
6. Parks Mitigation: The proposal is within Park District No. 305 and is subject to Chapter 30.66A SCC, which requires payment of \$344.52 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. Flood Hazard Review (Chapter 30.65 SCC) The proposed subdivision is located (east end of property) partially in the floodway & floodway fringe of the Sultan River. The portion that is located in the floodway/floodway fringe area is being proposed as NGPA. No construction or development activity is with in the floodway/floodway fringe area is planned. No FHZ permit is required with submitted RCS subdivision.
8. 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 Monroe School District No. 103, 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 1 existing lot.
9. Drainage and Grading: 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 0 cubic yards of cut and 500 cubic yards of fill, primarily for road, drainage facility, and home site construction. Water quality would be controlled during construction by use of silt fences and straw bales in accordance with a Temporary Erosion and Sedimentation Control Plan (TESCP) required by Chapter 30.63A SCC.

This parcel is currently used as pasture land. A 12 foot gravel driveway in a 60 foot easement provides access to an existing residential structure and accessory structures located south and west of the subject parcel. A new house application has been submitted for this parcel and will use the existing easement/driveway. There is an existing barn located in the northwest corner of the existing parcel. A small wetland is located in the southwest corner of this site; all lands slope towards the river at approximately 1% grade. A 2:1 slope drops from the pasture to the bypass channel edge.

The original and revised documents provided the necessary information required to conclude that the proposal can meet the requirements of drainage and grading codes and policies (SCC 30.63A and 30.63B).

The proposed method of providing quantity control of storm water runoff is to infiltrate the runoff. A water quality treatment component will be required for runoff from the roadway prior to infiltrating the runoff. Quantity control for the increased runoff from the individual lots will be provided by private infiltration systems located on each of the lots.

Drainage impacts are addressed by the required adherence to the county drainage code, SCC 30.63A, and other applicable police power regulations. Those requirements ensure that concerns about drainage impacts are addressed in conformity with county and state standards. SCC 30.63A requires submittal and implementation of a drainage plan for this proposal. PDS reviewed the targeted drainage plan and report articulating the drainage concept summarized above and detailed in the Full Drainage Report received March 26, 2007 (Exhibit #6) and the addendum received June 26, 2007 (Exhibit #7), from which it concluded that the proposal can conform to drainage code requirements. Full drainage plan review will be conducted; the specifics of final drainage system design are matters under the administrative authority of PDS. Conformity with SCC 30.63A is the general standard. The appropriate level of review at the preliminary plat stage is whether the conceptual drainage approach, the submitted targeted drainage plan, shows that the development can feasibly conform to the requirements of SCC 30.63A. PDS concluded that it can.

10. Critical Areas: There is a Category 2 Wetlands and the Sultan River, a Type 1- known ESA Stream for Chinook salmon, steelhead trout and Bull trout in the southeast corner and eastern portion of the subject property. The buffer for the Category 2 wetland in the SW corner of the property lies within the existing pasture and remains as previously approved and recorded as the Greenawalt Short Plat.

PDS reviewed the Habitat Management Plan prepared by Wetland Resources, Inc. dated 09/12/07 (Exhibit #12) coupled with a revised HMP Map dated 10/8/07 (Exhibit #14) and determined that the project complies with the critical areas regulations. No mitigation is required. The steep slopes and forested areas within 150 ft. of the OHWM of the stream will be permanently protected as NGPA/E. In addition, there are a total of 14 native trees depicted on the preliminary site plan map within the existing pasture that are to be protected per Option A of the Snohomish County Salmonid Habitat Management Plan Administrative Rule. The underlying pasture is to be maintained as allowed per SCC 30.62.320, except where landscape planting (as depicted in the preliminary landscaping plan dated 06/25/2007 (Exhibit #19), for buffering and visual screening) of native plants is required by Table 30.41C.210(1) SCC and approved by PDS. The Category 2 wetland in the SW corner of the site will be designated as NGPA/E while most of the buffer area will be maintained as pasture per SCC 30.62.320.

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

11. 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). The 5 lots proposed are consistent with the density provisions of Snohomish County's GMA-based zoning regulations under Subtitle 30.2.
12. Zoning: This project meets zoning code requirements for lot size, including rural cluster subdivision provisions, bulk regulations and other zoning code requirements. The 5-lots proposed are consistent with the density provisions of Snohomish County's GMA-based zoning regulations under Subtitle 30.2.
13. Snohomish Health District: A preliminary site/soil review was conducted on site for the proposed Preliminary Rural Cluster Subdivision plat on June 1, 2007 by the Snohomish Health District staff. Based upon this site/soil review, the Snohomish Health District recommended approval (Exhibit #24).
14. Sub Division Code: The proposed plat meets Chapter 30.41A SCC requirements. A complete application for the proposed plat was received by PDS on March 26, 2007. 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.
15. Rural Cluster Subdivision Standards: PDS reviewed the subject rural cluster subdivision (RCS) application 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 16, 2007 (Exhibit #13), and in an open space management plan (Exhibit #20) 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 54.8% (10.03 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 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 Examiner adopts the above described reviews conducted by DPS and DPW and incorporates them as findings in this decision

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

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|--|-----------------|
| Basic lot yield: 797,436 square feet/200,000 square feet | = 3.99 lots |
| Bonus residential density | = 15% |
| Total lot yield | = 4.58 lots |
| Total lot yield-rounded | = 5 lots |
| Total lots proposed | = <u>5 lots</u> |

16. 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.

17. 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.

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

The impact fee for this proposal is based on the new average daily trips (ADT) generated by 4 new lots, which is 9.57 ADT/lot. This rate comes from the 7th Edition of the ITE Trip Generation Report (Land Use Code 210). The development will generate 38.28 new ADT and has a road

system capacity impact fee of \$6,354.48, based on \$166.00/ADT. This impact fee must be paid proportionately prior to the issuance of each building permit.

The ADT has been calculated as follows: 5 lots – 1 existing home = 4 lots x 9.57 ADT/lot (home) = 38.28

The PM PHT has been calculated as follows: 4 lots x 1.01 PM PHT/lot (home) = 4.04

The AM PHT has been calculated as follows: 4 lots x 0.75 AM PHT/lot (home) = 3.00

2. Concurrency [SCC 30.66B.120]

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

The subject development was evaluated for concurrency under the provisions of SCC 30.66B.120 and the Department of Public Works made a preliminary determination that the development is concurrent as of May 15, 2007. The Examiner adopts this determination as a finding.

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 May 15, 2007.

The development is deemed concurrent on the following basis Medium-Sized Development in TSA with one or more arterial unit in arrears, SCC 30.66B.160: The subject development is located in TSA C which, as of the date of submittal, had the following arterial units in arrears: #353 and #198. 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 3.00 a.m. peak-hour trips and 4.04 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 C 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 SCC 30.66B.

4. Frontage Improvements [SCC 30.66B.410]

Frontage improvements are included as a condition of this decision. The extent of the improvements is based upon testimony given at the hearing which indicated that the south access will be closed and only the north access used.

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

Access is proposed via a 60-foot private road easement off of Reiner Road into the northwest corner of the property. The road must be improved to rural private low volume access road standards (with a 20-foot gravel width) and a 40-foot radius cul-de-sac is required at the road end.

The private road location on Reiner Road at the northwest corner of the property appears to meet minimum sight distance requirements.

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

The subject property has about 80 feet of frontage on Reiner Road. A 10-foot right-of-way dedication is required.

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

The applicant chose the voluntary payment option to mitigate their impact to the state highway system, the payment is calculated at $38.28 \text{ ADT} \times \$36.00/\text{ADT} = \$1,378.08$. A reply was received from WSDOT accepting the offered amount of \$1,378.08.

Comments dated April 6, 2007 have been received from WSDOT that indicates disagreement with the offered amount because it is based on 4 lots instead of 5 lots, and WSDOT notes that there is no existing home on the property. PDS records show that a residential building permit was issued for the property on February 21, 2007, and the Examiner will allow trip generation credit for a property that has a building permit issued prior to application submittal for a subdivision. IA reply was received shortly afterwards accepting the offered amount of \$1,378.08.

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. The Transportation Department of the Sultan School District was telephoned to provide comments about the school bus stop on the date that this memo was written. The school district indicated that the bus stop for children that would live in this development would be located on Reiner Road at the intersection of the private road. Since the private road will only serve 5 lots, a walkway is not required. A paved approach will be required on the private road, which will provide a hard surfaced area for children to wait for the bus.

18. 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. Adequate potable water, septic, and electrical capacity exist or can be supplied to serve the proposed preliminary subdivision.
5. As conditioned, the proposal would make adequate provisions for the public health, safety and general welfare.
6. 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 10/16/2007 (Exhibit #13) shall be the approved preliminary 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 (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. Any/all development activity proposed in the flood hazard area will require additional flood hazard review.

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 Monroe School District No. 103 to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for one (1) existing parcel(s). Lot 1 shall receive credit."

- ii. SCC Title 30.66B requires the new lot mitigation payments in the amounts shown below for a single-family residence:
\$1,588.62 per unit for mitigation of impacts on county roads paid to the county,
\$344.52 per unit for mitigation of impacts on state roads paid to the county.

Notice of these mitigation payment obligations shall be contained in any deeds involving this subdivision or the lots therein. Once building permit has been issued all mitigation payments shall be deemed paid.

- iii. Duplexes are not allowed on any lot.
- iv. 10 feet of property shall be shown as to be dedicated as right-of-way along the property frontage with Reiner Road, to total 30 feet from the centerline of the right-of-way.
- v. A note on the face of the recorded document shall restrict the residents of any lot in the development from using the private road easement near the south property line to Reiner Road due to insufficient sight distance at that location. Access to all lots shall be via the new private road near the north property line constructed for this development.
- vi. 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."

- vii. The developer shall pay the County \$344.52 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.
- viii. The fourteen native trees depicted on the approved preliminary site plan map that lie within 150 ft. of the OHWM of the Sultan river shall be depicted on the final plat map upon recordation with a notation that these trees are required to be permanently protected within the Fish and Wildlife Habitat Conservation Area while the underlying

pasture is allowed to be maintained as pasture consistent with SCC 30.62.320, except where landscape planting (as depicted in the preliminary landscaping plan dated 06/25/2007 (Exhibit #19), for buffering and visual screening) of native plants is required by Table 30.41C.210(1) SCC and approved by PDS.

- ix. The private road shall be provided with signage stating “NO PARKING – FIRE LANE” as indicated on the site plan per 30.53A.150 Subsection 902.2.3 and Section 901.4.2 of the Uniform Fire Code 1997 Edition.
- x. If there is a gate installed at the entrance of the private road it shall be approved by the fire marshal or his designee per Section 30.53A.150 Subsection 902.2.4.

D. Prior to recording of the final plat:

- i. Rural standard frontage improvements shall be constructed along the property frontage with Reiner Road at the proposed northern access road in accordance with DPW standards unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development. [SCC 30.66B.410]
- ii. The private rural low volume access road shall have been constructed per EDDS 3-060/3-080. If the applicant does not propose to pave the private road, a paved apron per EDDS 3-100 is required at the intersection with Reiner Road.
- iii. The existing driveway for lot 5 shall be blocked from accessing the south private road easement, and be relocated to the new private road constructed for this development near the north property line.
- iv. Native Growth Protection Area boundaries (NGPA) shall have been permanently marked on the site prior to final inspection by the county, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The platlor may use other permanent methods and materials provided they are first approved by the county. Where an NGPA boundary crosses another boundary (e.g.: lot, tract, plat, road, etc.), a rebar marker with surveyors’ cap and license number must be placed at the line crossing.

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

- v. The final plat map shall contain language that specifically protects the trees that lie within the existing pasture and within the fish and wildlife habitat conservation area as a part of the NGPA/E. The final plat map shall depict the location of these trees. The existing pasture under these trees is allowed to be maintained as pasture per SCC 30.62.320 except where landscape planting is required, except where landscape planting (as depicted in the preliminary landscaping plan dated 06/25/2007 (Exhibit #19), for buffering and visual screening) of native plants is required by Table 30.41C.210(1) SCC and approved by PDS.

- E. In conformity with applicable standards and timing requirements:
 - i. The preliminary landscape plan (Exhibit #19) shall be implemented. All required landscaping shall be installed in accordance with the approved preliminary landscape plan (Exhibit #19).
- 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

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| EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES |
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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: Elbert Esparza

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.