

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

DATE OF DECISION: April 29, 2008

PLAT/  
PROJECT NAME: **ASPEN HILLS**

OWNER/  
APPLICANT: Seattle Pacific Homes

FILE NO: 07-100549-000-00-SD

TYPE OF REQUEST: Nine lot rural cluster subdivision on 19+ acres

DECISION  
(SUMMARY): APPROVE WITH CONDITIONS

**BASIC INFORMATION**

GENERAL LOCATION: 14402 240<sup>th</sup> Street SE, Snohomish, WA 98296. The Site lies southeast of Echo Lake in the SE ¼ Sec. 33, T27, R6E, W.M.

ACREAGE: 19.53 acres

NUMBER OF LOTS 9

AVERAGE LOT SIZE: 48,615 square feet

MINIMUM LOT SIZE: 39,299 square feet

DENSITY: ,46 du/ac

OPEN SPACE 8.84 acres

ZONING: R-5

COMPREHENSIVE PLAN:

General Policy Plan Designation: Rural Residential Basic

UTILITIES:  
Water: Cross Valley Water District  
Sewer: Individual Septic

SCHOOL DISTRICT: Monroe 103

FIRE DISTRICT: No. 7

SELECTED AGENCY RECOMMENDATIONS:

Planning and Development Services: Approve with conditions

**INTRODUCTION**

The application (Exhibit 1) was originally submitted on August 2, 2007 and determined complete for regulatory purposes but insufficient for further review. The application was resubmitted on June October 30, 2007 and determined on November 11, 2007 to be sufficient for further review.

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 22 (Affidavit of Mailing); Exhibit 23 (Affidavit of Notification by Publication); Exhibit 24 (Posting Verification).

A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on December 11, 2007. (Exhibit 21). 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 10:03 a.m.

1. Representing PDS was Stacey Abbott, Planner. Tom Sage of PDS gave rebuttal testimony.
2. Representing the Applicant was Joe Brown of Seattle Pacific Homes.
3. Public testimony was given by Melissa Wells and Rebecca Van Bodegraven.

The hearing concluded at 11:31 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: Aspen Hills is a 9-lot rural cluster subdivision on 19.53 acres. The residential lots will be clustered in the northerly portion of the property. The south 45% will be retained as open space; owned and maintained by a homeowner's association. Residential lots will be accessed from a new private cul-de-sac leading south from 240<sup>th</sup> Street on the north. Lot 1 will continue to take access from the existing trail permit road. Storm water will be detained and treated in a detention pond within a separate tract also owned and maintained by the homeowners. Mitigation fees are to be paid in accordance with Chapter 30.66A, B and C SCC for project impacts to community parks, to nearby road system traffic and to Monroe School District No. 103.
3. Site Description: The rectangular 19.3 acre site lies on the south side of 240<sup>th</sup> Street SE. There is an existing house in the northwest part of the property on a landscaped area that occupies approximately 1.5 acres. The remainder of the property is vegetated in native second-growth forest. Site topography is moderate, sloping generally to the east at 10-15 percent. A recreation motorcycle track has been cut into the forest and areas have been graded to incorporate jumps and turns. There are isolated areas of slope that exceed 30%, but most of these are a result of the motorcycle track. The track will be graded over during development. There is no evidence of any geological hazard areas. No critical areas have been identified on the site.
4. Adjacent zoning and uses: The site is zone R-5 as are the surrounding parcels. Development in the neighborhood is residential.

### B. Issues of Concern

5. Six letters of concern were received from members of the public. They were primarily concerned with the access routes during construction, drainage along the road, traffic flow, and the safety of schoolchildren in the area while walking to and from the bus stop and waiting for the bus.

240<sup>th</sup> Street SE is currently a gravel road running east and west across the north boundary of the subject property. To the east of the proposed development 240<sup>th</sup> Street connects to the north-south running 148<sup>th</sup> Avenue SE. Some distance up 148<sup>th</sup> Avenue to the north, there is a "T" intersection with the east-west running 235<sup>th</sup> Street SE. The traffic pattern for reaching the proposed Aspen Hills development is a single mode of access that uses 235<sup>th</sup> Street, then 148<sup>th</sup> Avenue and then 240<sup>th</sup> Street. The current school bus stop is at 235<sup>th</sup> Street and 148<sup>th</sup> Avenue. Parents consider this locale to be dangerous.

There is road called Aspen Way that can connect with 240<sup>th</sup> Street SE on the west. But this means of access is to be shut off by a barricade at or near the west property line of Aspen Hills because the property to the west is private property. The only residence in Aspen Hills that will be able to have access from the west will be the existing home on Lot 1 which has a trail access permit. Because of the barricade there will be no construction truck access from the west.

There are two developments going in across 24<sup>th</sup> Street SE to the north of Aspen Hills. Echo Creek Estates I is a four-lot short plat. The other, Echo Creek Estates II is an 8-lot subdivision. The traffic from these developments will be added to the traffic from Aspen Hills.

Frontage improvements installed on 240<sup>th</sup> Street SE as it proceeds adjacent to all these developments will result in a paved 30-foot right-of-way with two 10-foot travel lanes from 148<sup>th</sup> to the entrance to Aspen Hills. Drainage from the subject development, including the improved road frontage, will be handled by a professionally designed system that will route storm water to the east.

Concerns for the safety of school children going to and from and waiting at 235<sup>th</sup> Street SE and 148<sup>th</sup> Avenue SE are recognized as valid. However, according to the professional traffic analysis, there is no warrant for a stop sign at 235<sup>th</sup> Street and 148<sup>th</sup> Avenue.

The shoulder along the front of Aspen Hills will provide a paved walkway insofar as the subject development is concerned. The School District appears to have offered a bus stop at 240<sup>th</sup> Street SE adjacent to the development. Assuming this is implemented; Aspen Hills will present no problems for pedestrian school children.

Otherwise the response to parental concerns about the walking route along 148<sup>th</sup> is to note that, even with the added traffic, the project complies with applicable regulations. A “slow children present” caution sign might be considered.

**C. Compliance with Codes and Policies**

6. Parks Mitigation (Chapter 30.66A SCC)

The proposal is within Park District No. 307 and is subject to Chapter 30.66A SCC, which requires payment of \$1,244.49 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 single family residences, which is 9.57. This rate comes from the

6th Edition of the ITE Trip Generation Report (code 210). As indicated above the number of new lots that will be created is 8. The development will generate 75.56 new ADT and has a road system capacity impact fee of \$19,293.12 (\$2,411.64/lot) based on \$252/ADT.

B. 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.

Since this development will not impact any arterial unit in arrears, nor will it cause any arterial unit to fall in arrears, and does not impact any designated ultimate capacity arterial units, it is deemed concurrent. A concurrency certificate has been included with Public Works' final recommendation, which will expire six calendar years from the date the concurrency determination was made. Prior to the expiration date of the development's concurrency certificate, plat construction shall have been obtained, or a new concurrency determination will be required.

The development has been deemed concurrent on the following basis:

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent as of October 1, 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 is August 2, 2007.

Development generating 50 or fewer peak-hour trips in TSA with one or more arterial unit in arrears, SCC 30.66B.160(2)(a). The subject development is located in TSA E which, as of the date of submittal, had the following arterial units in arrears: Unit 420. 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 6.00 a.m. peak-hour trips and 8.08 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]

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 E 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]

All developments will be required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road. The required improvement shall be constructed in accordance with the EDDS, including correction of horizontal and vertical alignments, if applicable.

A half road section for 240<sup>th</sup> Street SE is planned for construction as part of the Echo Creek Estates (Winsum) short subdivision (PFN 06 103121 SP) and the Echo Creek Estates II short subdivision (PFN 06 127828 SP). This half-road section will be constructed on the north side of the 240<sup>th</sup> St SE right-of-way, and consist of two 10 foot travel lanes with a 3 foot CSTC shoulder. This road will connect to the existing end of 148<sup>th</sup> Avenue SE, east of the site, and extend west in the 240<sup>th</sup> St SE right-of-way as far as the proposed access road to the Aspen Hills subdivision.

The applicant must construct frontage improvements along the south side of the 240<sup>th</sup> St SE right-of-way centerline from the project's east property boundary, west to the proposed private access road. 240<sup>th</sup> St SE is classified as a rural residential road, requiring a design speed of 30 mph and 30 foot width of pavement (two 10 foot travel lanes with 3 foot and 7 foot shoulders). Because plans for the Echo Creek Estates (Winsum) short subdivision include construction of two 10 foot travel lanes and a 3 foot shoulder on the north side of the 240<sup>th</sup> St SE right-of-way centerline, the applicant will only be responsible for constructing a 7 foot paved shoulder on the south side of the right-of-way centerline from the project east property boundary west to the proposed access point. From the proposed access road west to the project west property boundary, the applicant will be required to construct a 27 foot wide pavement section (two 10 foot travel lanes with 7 foot paved shoulder); twenty feet to be constructed on the north side of the right-of-way centerline with a 2 % slope to the north and 7 feet to be constructed on the south side of the right-of-way centerline with a 2 % slope to the south.

If construction of 240<sup>th</sup> St SE improvements by the Echo Creek Estates (Winsum) and Echo Creek Estates II projects are not completed at the time of recording, the applicant will be responsible for constructing a 27 foot wide pavement section for 240<sup>th</sup> St SE along the entire right-of-way frontage; 20 feet of pavement to be constructed on the north side of the right of-way centerline and 7 feet to be constructed on the south side of the right-of-way centerline. East of the project's east boundary, 23 feet of pavement would be required as a half road section; to be constructed on the north and east sides of the 240<sup>th</sup> Street SE and 148<sup>th</sup> Avenue NE right-of-way centerlines respectively, connecting to the existing 148<sup>th</sup> Avenue NE road end.

240<sup>th</sup> Street SE, on which the development's frontage improvements are required, is not in the impact fee cost basis (Appendix D of the Transportation Needs Report), therefore credits towards the applicant's impact fee for any frontage improvements that can be used in the ultimate build-out of the road are not applicable.

Construction of frontage improvements is required prior to recording unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.

E. 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 private access road will be classified as a private, low volume access road with a design speed of 20 mph. A 20 foot width of pavement or gravel is required, ending with a 40 foot radius cul-de-sac.

In addition to the frontage improvements required in Section 4 above, the applicant will be required to construct a 27 foot wide pavement section (two 10 foot travel lanes with 7 foot paved shoulder) from the proposed access point west to the project west property boundary; twenty feet to be constructed on the north side of the right-of-way centerline with a 2 % slope to the north and 7 feet to be constructed on the south side of the right-of-way centerline with a 2 % slope to the south. A temporary turnaround is required for 240<sup>th</sup> Street at or near the temporary road end. The preliminary plat received by PDS on October 30, 2007 proposes a temporary ingress-egress easement over the first 30 feet of the proposed access road for the project. This proposal meets the requirements for a temporary road end and is acceptable to DPW.

240<sup>th</sup> Street must be barricaded at or near the west property line to prevent traffic from crossing the private property to the west of the unopened right-of-way. The applicant should coordinate with the developers of the Echo Creek Estates I short subdivision (Winsum, LLC) to determine the location of the traffic barricade. The construction of a traffic barricade on 240<sup>th</sup> Street was also required as part of the Echo Creek Estates I short subdivision road improvements. Only one traffic barricade is required for both projects, and should be located at or near the west property line of the Aspen Hills project. All traffic from the subdivision must exit the development to the east on 240<sup>th</sup> Street SE.

The County approves the use of the private roads shown on the preliminary plat for the subject development SCC 30.41A.210(3)(c)

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

A development shall be required to dedicate, establish, or deed right-of-way to the county for road purposes as a condition of approval of the development, when to do so is reasonably necessary as a direct result of a proposed development, for improvement, use or maintenance of the road system serving the development.

240<sup>th</sup> St SE is designated as a non-arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 30 feet on each side of the right-of-way centerline. Currently, 30 feet of right-of-way exists on the development's side of the right-of-way. Therefore, the development is required to dedicate 0 feet of additional right-of-way. This is adequately shown on the preliminary plat.

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

When a development's road system includes a state highway, mitigation requirements will be established using the County's SEPA authority consistent with the terms of the interlocal agreement between the County and the WSDOT. This is consistent with the County's SEPA policy SCC 30.61.230(9), through which the county designates and adopts by reference the formally designated SEPA policies of other affected agencies for the exercise of the County's SEPA authority.

This development is subject to SEPA and thus is subject to the Interlocal Agreement (ILA) with the Washington State Department of Transportation (WSDOT)/County effective December 21, 1997, and as amended.

Pursuant to SCC 30.66B.055 a written offer of \$0.00, dated July 30, 2007, has been submitted by the applicant. In comments dated August 8, 2007, WSDOT has agreed that no traffic mitigation is required of the applicant.

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

Mitigation requirements for impacts on streets inside cities and roads in other counties will be established consistent with the terms of interlocal agreements between the County and the other jurisdictions.

There are not any city jurisdictions that have an ILA with the County that will be impacted by new trips from 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 subdivision. Comments from the



Monroe School District, dated August 8, 2007, indicate all school children from the development will be picked up on 240<sup>th</sup> Street SE adjacent to the project. No offsite improvements are required for a safe walkway for school children.

8. Mitigation for Impacts to Schools (Chapter 30.66C SCC)

The Snohomish County Council amended Chapter 30.66C SCC by Amended Ordinance 97-095, adopted November 17, 1997, which became effective January 1, 1999, in accordance with Amended Ordinance 98-126, to provide for collection of school impact mitigation fees at the time of building permit issuance based upon certified amounts in effect at that time. The subject application was determined to be complete after the effective date of amended 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 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. PDS has included a recommended condition of approval for inclusion within the project decision to comply with the requirements of Chapter 30.66C SCC.

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

The project consists of one on-site basin that drains to the east. A system of ditches, pipes and catch basins will be used to collect and convey runoff to the proposed detention pond. The pond will release the runoff into a dispersion trench/swale set approximately 50 feet from the eastern property line. Runoff from the majority of the off-site, up-stream basin will be collected in an open ditch and conveyed to a dispersion trench located within the open space. Runoff from the existing road system to the west will be collected by a pipe and catch basin system and bypassed around the site. Runoff from lot 1 and the remainder of the offsite areas will be collected along the east side of the project. The proposed road runoff from the frontage improvements along 240th Street SE will be collected in a ditch system and then conveyed to the proposed detention pond via a series of pipes and catch basins. To the maximum extent possible, the off-site upstream flows have been bypassed around this project and discharged into the natural downstream location.

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 8,700 cubic yards of cut and 350 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)

The subject parcel does not contain any critical areas.

11. Consistency with GMA Comprehensive Plan (General Policy Plan, GPP)

Four elements of the Snohomish County GMA Comprehensive Plan (GMACP) were adopted pursuant to Ordinance 94-125, which became effective on July 10, 1995. These elements are: the General Policy Plan (GPP); the Transportation Element; the 1995-2000 Capital Facilities Plan; and the Comprehensive Parks & Recreation Plan. On November 27, 1996, effective December 12, 1996, the Council adopted Amended Ordinances 96-074, and 96-071 which amended the map and text of the Snohomish County GMA Comprehensive Plan, and adopted an area-wide rezone within the Urban Growth Areas of the county respectively. This application was complete on August 30, 2007 after the effective date of Amended Ordinances 96-074 and 96-071. This application has been evaluated for consistency with the version of the GMA Comprehensive Plan, which became effective on December 12, 1996, as revised through the completeness date of the application.

The subject property is designated Rural Residential – 5 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.”

12. Zoning (Chapter 30.2 SCC)

This project meets zoning code requirements for lot size, including rural cluster subdivision provisions, bulk regulations and other zoning code requirements for a rural cluster subdivision in the R-5 zone. The 9 lots proposed are consistent with the density provisions of Snohomish County’s GMA-based zoning regulations under Subtitle 30.2.

13. State Environmental Policy Act

PDS issued a DNS for the subject application on December 11, 2007 (Exhibit 21). The DNS was not appealed.

14. Subdivision Code (Chapter 30.41A SCC)

The proposed plat meets the requirements of Chapter 30.41A SCC. The proposal is consistent with the general requirements under SCC 30.41A.100 with respect to health, safety and general welfare of the community. As proposed the lots will not be subject to flood, inundation or swamp conditions. The lots are outside of all regulated flood hazard areas. (See RCW 58.17.120.) As conditioned, the plat will meet all SCC 30.41A.210 design standards for roads.

15. Rural Cluster Subdivision Standards (Chapter 30.41 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 October 11, 2007 (Exhibit 18), 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 45% (8.84 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: 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 application complies with the provisions of SCC 30.41C.230 and SCC 30.41C.240 based on the following analysis:

Basic lot yield: 850,716 square feet/100,000 square feet	= 8.51 lots
Total lot yield-rounded	= 9 lots
Total lots proposed	= <u>9 lots</u>

16. 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. The single-family homes 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 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 Cross Valley Water District. Sewer service is to be by individual onsite septic systems.

17. 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 requirements of SEPA have been met.
3. The proposal is consistent with the GMA-Comprehensive Plan and with applicable development regulations. RCW 58.17.100, 195.
4. 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 58.17.110. Adequate public services exist to serve the proposal.
5. The public use and interest will be served by the platting of the subdivision.
6. Any finding herein which may be deemed a conclusion is hereby adopted as such.

**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

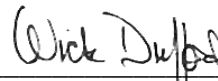
- A. The preliminary plat received by PDS on December 4, 2007, (Exhibit 41) shall be the approved plat configuration. Changes to the approved plat are governed by SCC 30.41A.330
- B. Prior to initiation of any further site work; and/or prior to issuance of any Development/construction permits by the county:
- i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A above.
  - ii. 240<sup>th</sup> Street SE must be barricaded at or near the west property line to prevent traffic from crossing the private property to the west of the unopened right-of-way. The existing residence on proposed Lot 1, may continue to take access west on 24<sup>th</sup> Street SE via trail permit road. All other traffic from the subdivision must exit the development to the east on 240<sup>th</sup> Street SE.
  - iii. The developer shall follow up with Monroe School District No. 103 to insure that a school bus stop on 240<sup>th</sup> Street SE will be instituted.
- 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 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 33.66C.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: \$2,411.64 per lot for mitigation of impacts on county roads paid to the County.  
  
These payments are due prior to or at the time of building permit issuance 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 on a lot, all mitigation payments for that lot shall be deemed paid.
  - iii. The owner of Lot 1 is responsible for the maintenances of the Vegetated Site Obscuring Buffer that is on that lot. The other Vegetated Sight Obscuring Buffer areas will be maintained by the Homeowners Association. The buffer shall consist of native vegetation, with the ultimate density of trees at 10 feet on center and shrubs at three feet on center. A minimum of 75% of the trees shall be conifers. No living vegetation may be removed from the Vegetated Sight Obscuring Buffer if the removal will result in a decrease in the sight obscuring function.

- iv. The developer shall pay the county \$1,244.497 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. The approved boundary line adjustment PFN 07-112984 shall be recorded.
  - ii. Rural frontage improvements shall be constructed along the parcel's frontage on 240<sup>th</sup> Street SE to the satisfaction of the County.
- E. In conformity with applicable standards and timing requirements:
- i. The preliminary landscape plan (Exhibit 42) shall be implemented. All required sight obscuring buffer 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 29<sup>th</sup> day of April, 2008



Wick Dufford, Hearing Examiner Pro Tempore

<b>EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES</b>
---

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, 2<sup>nd</sup> 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, 2<sup>nd</sup> 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: Stacey Abbott

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