

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

DATE OF DECISION: September 11, 2008

PLAT/PROJECT NAME: Mount View Estates – also known as Mountainview Estates

APPLICANT/
LANDOWNER: Manjinder Josan
12503 23rd Ave SE
Everett, WA 98208

FILE NO.: 07-101563-000-00-SD

TYPE OF REQUEST: 14 lot subdivision utilizing lot size averaging, with concurrent rezone from Residential-9600 (R-9600) to Residential-7200 (R-7200)

DECISION (SUMMARY): **REMANDED** to Applicant for Modification

BASIC INFORMATION

GENERAL LOCATION: The property is located at 202 143rd St. SW; in Section 36, Township 28 North, Range 4 East, W.M., Snohomish County, Washington.

Acreage: 3 acres

Lots: 14

Gross Density: 21.5 du/ac

Net Density: 6.37 du/ac

Avg. Lot Area: 7,299 square feet

Smallest Lot Area: 5,946 square feet

Lot Size Averaging: 7,299 square feet

ZONING:

Current: R-9600
Proposed: R-7200

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Low Density Residential

School District: Mukilteo School District No. 6

Fire District: No 1

Water Source: Alderwood Water District

Sewer Service: Alderwood Wastewater District

SELECTED AGENCY RECOMMENDATIONS:

Department of Planning and Development Services: Approve with conditions

INTRODUCTION

The applicant filed the Master Application on April 9, 2007. (Exhibit 1A)

The Hearing Examiner (Examiner) Pro Tem made a site familiarization visit on July 14, 2008 in the afternoon.

The Department of Planning and Development Services (PDS) and the applicant gave proper public notice of the open record hearing as required by the county code. (Exhibits 6D - Mailing, 6E - Publication, and 6F - Posting)

A SEPA determination was made on May 30, 2008. (Exhibit 5B) No appeal was filed.

The Examiner held an open record hearing on August 13, 2008, the 115th 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 August 13, 2008 at 9:02 a.m.

1. The Examiner indicated that he had read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.

2. Elbert Esparza, PDS planner, appeared and testified under oath. He presented the county staff report.
3. Ted Trepanier, applicant's agent, appeared and testified under oath. He described the proposal.
4. No members of the public appeared and testified at the open record hearing.
5. The Examiner kept the record open for two weeks for written comments regarding the easement on the northeast side of the subject parcel. No comments were received during the continued comment period.

The hearing concluded at approximately 9:36 a.m.

NOTE: The above information reflects the information submitted to the Examiner summarizing the statements that were made at the hearing. However, for a full and complete record, verbatim audio tapes of these hearings are available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, are hereby made a part of this file, as if set forth in full herein.
2. Nature of Request: The applicant, Manjinder Josan, has requested, a preliminary plat and rezone of approximately 3 acres into 14 residential lots. The applicant proposes to serve the site with a short access road and cul-de-sac.
3. Site Description: The site is slightly rolling with slopes less than 5%; the two forested Category 3 wetlands are dominated by red alder and a scrub-shrub understory containing salmonberry, red osier dogwood and black twinberry. The existing two-story single-family structure will remain during construction of the road and utility improvements then removed.
4. Adjacent zoning: The majority of land uses in the vicinity of the subject parcel are single-family residential on older, large lots or newly developed smaller lots. There is a mix of R-9600 and R-7200 zoning districts in the area. Directly to the north of the subject parcel is a large, new residential development in the early stages construction.
5. Issues of Concern: One comment (Exhibit 9B) asked about the effects that the current rezone would have on the adjacent green belt property. The proposed rezone does not include the greenbelt. The other comment (Exhibit 9A) was from an adjacent property owner who owned the property where the proposed project plans to construct its storm water detention facility. He said that he was unwilling to grant a further easement for the construction of the storm water detention facility. This property owner also brought up concerns about the terms of the easement which provided that the easement should be vacated when the subject parcel had its own road access. This overburdening and vacation of the easement concern is addressed further below.

6. Overburdening and Vacation of Easement: The Examiner suggested further research from the applicant and county staff regarding the issue of the easement when rescheduling the open record public hearing on July 15, 2008. During this period Exhibits 11 and 12 were filed by the applicant and PDS filed Exhibit 20A, a supplemental staff recommendation. The Examiner also kept the record open after the public hearing for receipt of any further written comments on the easement questions. No additional comments were received during this second period.

The location of the proposed underground storm water detention facility, Tract 998, is shown on the rezone and preliminary plat map (exhibit 2A) as to the east of proposed Lots 14 and 13. Presumably, these lots will be covered by houses and landscaping. This part of the proposed development appears to have been acquired as a result of a boundary line adjustment described in Exhibit 12. While not specifically shown in the documentation, it appears that the applicant is submitting that there has been a merger of the subservient and dominate estates covered by the easement within the boundary line adjustment areas and, hence, that the storm water facility is properly located within property owned by the applicant. The notation on Exhibit 2A covering the area where the facility is to be built, states: "This portion of easements to be relinquished" appears to go to the contrary position, however, that the easements are being relinquished rather merged. Thus, the Examiner finds that the documentation in the record is contradictory whether the applicant is relinquishing the 20 foot easement upon which the drainage facility is to be constructed or claiming that he has a possessory interest in it.

The letter from Attorney Thomas Bigsby (Exhibit 11) discusses a land purchase and sale agreement dated March 17, 2006, which is not part of the record. This letter discusses the abandonment and vacation of the access easement but retention of a 30 foot wide utilities easement. Based upon this letter it appears to the Examiner that the access from tract 998 north to 143rd Street along the easement will end, other than potential retention of a drainage pipe from the storm detention pond. The question remaining then is: "How will Tract 998 be accessed for maintenance and repair?" The answer to this question is not addressed in the staff report (Exhibit 20), or in the targeted drainage report (Exhibit 3B). Thus, the Examiner is unable to find that adequate access for maintenance of the storm water facility has been provided.

7. Park Mitigation: The proposal is within Nakeeta Beach and is subject to Chapter 30.66A SCC, which requires payment of \$1,244.49 per each new single-family residential unit. Payment of these mitigation fees is required prior to building permit issuance; provided that the building permit has been issued within five years after the application is deemed complete. After five years, park impact fees shall be based upon the rate in effect at the time of building permit issuance.
8. Traffic: PDS Traffic reviewed the proposal for compliance with Title 13 and Chapter 30.66B SCC, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures.

A. 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 124.41 new average daily trips (ADT) and has a road system impact fee of \$33,217.47 (\$2,555.19/SFR) based on \$267/ADT, the current fee rate for

residential developments inside the Urban Growth Area (UGA), for TSA D. 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.

B. Concurrency [SCC 30.66B.120]

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent. The expiration date of the concurrency determination is six years. Consistent with the Department of Public Works (DPW) Rule 4225.070, the point in time for which the concurrency analysis is based (the concurrency vesting date) is April 9, 2007.

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 D 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.

As per DPW Rule 4222.020(1), full urban frontage improvements are required along the subject parcel's frontage on 143rd St SW and consist of:

- Asphalt concrete pavement consisting of 18 feet in width from roadway centerline to the face of curb
- Cement concrete curb and gutter
- Planter strip with a width of 5 feet
- Cement concrete sidewalk with a width of 5 feet

143rd St SW, 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.

As a condition of approval, PDS will require construction of frontage improvements 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 internal public access road will be classified as residential with a design speed of 25 mph and a right-of-way width of 51 feet. The access road will have 28 feet of pavement, with curbs, gutters, 5 foot planters and 5 foot sidewalks on both sides and around the cul-de-sac bulb.

Curb ramps with 4 foot landings consistent with WSDOT Standard Plan F-3, Ramp Design A and EDDS Section 4-05 D must be provided at the intersection of the access road and 143rd Street SW. EDDS Table 3-10 requires a curb radius of 25 feet for a residential street intersecting a collector non-arterial inside the UGA. The east return at the entrance of the access road has a radius of 10 feet. This return must have a radius of 25 feet. The applicant may eliminate the east return and begin the road taper at a location that allows a 25 foot radius curb return to be constructed when the parcel to the east develops. Opposing east and west curb ramps on each side of the access road and facing 143rd Street SW are required.

Each lot must take access from the proposed public road. No direct access to 143rd St SW is allowed. The driveway access to the northwest corner lot must be at least 10 feet from the point of tangency of the curb return at the intersection of the access road with 143rd St SW.

PDS accepted the proposed layout. All sight distances are met at the proposed location of the access road.

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

The road serving this development, 143rd St SW, 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 no additional right-of-way other than the internal road described above in Access and Circulation section. This is adequately shown on the plat.

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

Pursuant to SCC 30.66B.055 a written proposal from the applicant proposing measures to mitigate impacts on state highways is required and has been received as of the date of this memorandum. The applicant's financial obligation to the State is zero upon the following basis:

This development is subject to SEPA and thus is subject to an 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, the applicant has submitted a written traffic mitigation offer to WSDOT of \$4,651.04, dated April 22, 2008. This offer was based on a preliminary plat received by PDS on April 9, 2007, proposing 15 lots with 1 SFR to remain. The preliminary plat received by PDS on September 26, 2007 proposes only 14 lots with 1 SFR to remain. Because the traffic generated by the project will be reduced to 124.41 ADT, the traffic mitigation obligation of

the applicant is reduced to \$4,197.28 (\$322.87/SFR). Payment of all mitigation fees shall be recommended as a condition of approval.

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 inter-local agreements between the County and the other jurisdictions.

There is a city jurisdiction that has an ILA with the County that will be impacted by new trips from the subject development

The proposed development is subject to SEPA and thus is subject to ILAs for impacts on city streets and is effected by the ILA with Mill Creek.

For impacts on the City of Mill Creek, and pursuant to the ILA and SCC 30.66B.055(4), the applicant's traffic report has calculated the traffic mitigation obligation to the City of Mill Creek to be \$5,492.54. In comments dated April 16, 2007 (Exhibit 8A1), the City of Mill Creek has accepted the mitigation offer of the applicant. The preliminary plat received by PDS on April 9, 2007 proposed 15 residential lots with 1 existing SFR on-site to remain, resulting in 14.14 PM PHT. The preliminary plat received by PDS on September 26, 2007 proposes 14 residential lots with 1 existing SFR on-site to remain, resulting in 13.13 PM PHT. Because the preliminary plat received by PDS on September 26, 2007 proposes only 14 residential lots, with 1 SFR to remain, the applicant's traffic mitigation obligation to the City of Mill Creek is \$5,100.22 (\$392.32/SFR) and will be included as a condition of approval.

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

Since a TDM plan was not submitted with the initial application, a cash payment is required. The trip reduction percentage for this development is 5%. The TDM obligation for this development is therefore equivalent to 5% of the 13.13 new PM peak hour trips x \$1,500.00 which equals \$984.75 (\$75.75/ SFR). The applicant has submitted an acceptable TDM offer of \$984.75, dated April 9, 2007 (Exhibit 2E) and will be included as a recommended condition of approval.

J. 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 Mukilteo School District dated May 7, 2007 indicate elementary school children from the development will walk to a school bus stop at 143rd St SW and Meridian Place. Middle and high school students will walk to a bus stop at 143rd St SW and Cascadian Way. The applicant must provide a 7 foot paved shoulder, delineated by a 10 inch white stripe, from the east end of the project frontage on 143rd St SW, east to the intersection with Cascadian Way.

9. School Impact Mitigation Fees:

Pursuant to Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Mukilteo School District No. 6, at the time of building permit submittal and collected at the time of building permit issuance for the proposed units. Credit is to be given for the two existing lots.

10. Critical Areas:

The site contains two forested Category 3 wetlands dominated by red alder and a scrub-shrub understory of salmonberry, red osier dogwood and black twinberry. There is an existing two-story SFR in the southwest corner of the subject property.

The two on-site wetlands are non-riparian and less than 5,000 s.f. in size. Most of these wetlands will be filled except for the northern portion of the northern wetland. The mitigation for the is through the addition of habitat within Tract 999 proposed to be dedicated as an Native Growth Protection Area (NGPA) and with a requirement to resize the drainage facility to accommodate for the lost storage capacity.

On September 26, 2007 the applicant submitted a brief critical area study and Best Management Practices (BMP) mitigation plan prepared by Wetland Resources, Inc. dated July 19, 2007 (Exhibit 3E). This study was approved by PDS.

11. Fire Code:

Chapter 30.53A SCC was modified by the adoption of Amended Ordinance 07-087 on September 5, 2007, effective September 21, 2007. This application was complete as of April 9, 2007 and is therefore subject to that version of Chapter 30.53A SCC in effect prior to September 21, 2007.

The road shown on the preliminary plat map (Exhibit 2B1) meets the minimum requirements of Chapter 30.53A and the Uniform Fire Code for width, slope and turn around radius for the cul-de-sac.

Fire hydrants are required per SCC 30.53A.300. The location and spacing of the hydrants will be determined at the construction plan phase and will be required to comply with the spacing requirements of SCC 30.53A.320. Because the water to the hydrants is under pressure they can be placed anywhere to meet compliance with the spacing requirements of SCC 30.53A.320. Therefore, PDS does not require the location of the hydrants to be shown on the preliminary plat but PDS does require them to be shown on the construction plans. The required fire flow for the fire hydrant(s) is 1000 gpm at 20 psi for a 2 hour duration and will be verified after construction and prior to the final plat recording.

Per section 901.4.4 of the Uniform Fire Code, the new dwellings shall be provided with approved address numbers placed in a position that is plainly legible and visible from the street or road fronting the property. The numbers shall contrast with their background.

12. Drainage and Grading:

Part of Exhibit 3N indicates that the applicant proposes to collect all of the drainage into the proposed underground retention/detention system (vault) to be located in the northeast corner

of the proposed subdivision. The on-site detention system will be constructed to detain storm water from a 2 year developed storm event at ½ the 2 year storm rate, the 10 year developed at the existing 10 year storm event and the 100 year at the 100 year storm event. A 30% safety factor will be included per the County Drainage Ordinance. However, also in Exhibit 3B the applicant also indicates that water quality is a proposed wet pond system which will have a dead storage volume equal to the 6 month storm event, of which at least 15% will be in a treatment cell with appropriate wetland plantings. The Examiner is unable to find, based upon the staff report and documents presented by the applicant, whether an underground system is proposed or whether an above ground wet pond, or both are contemplated. The Examiner is unable to find what sort of vegetative plantings are appropriate. Also based on the issues raised in the section above with overburdening and vacating the easement, the Examiner is unable to find that the storm water facility is properly located and able to be maintained and repaired.

PDS (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. 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. As previously found, the Examiner is unable to adopt either PDS's or the applicant's recommendations on the storm water facility.

13. Rezone Compliance:

The proposed project meets the GMA density requirements. But the current application also contains a request for a rezone. PDS's staff report failed to address rezone criteria.

Although consistency with the Comprehensive Plan density is a significant factor in determining whether a proposed rezone bears a substantial relationship to the public health, safety and welfare, in some cases, there may be other factors outside of the Comprehensive Plan policies that may be relevant to that issue and which may be considered. If there are such factors apparent from the application documents or otherwise known to PDS, they must be identified and discussed both in the written PDS staff report and by the Examiner in his decision. The written PDS staff report and the Examiner's decision should specify if any of these other factors are related to the rezone or should be considered at the project level with the specific development proposal being made. PDS staff is not required to anticipate opposition or to consider factors or issues outside of the Comprehensive Plan or not required by Snohomish County Code. However, this does not limit in any way the Hearing Examiner's ability to consider testimony at the public hearing concerning whether the proposed rezone bears a substantial relationship to the public health, safety and welfare.

In the current application there has been no analysis by the applicant or PDS as to the project's compliance with the GPP. While the Examiner recognizes that other developments have occurred in the vicinity of the proposed project the Examiner is unable to automatically adopt these other developments as evidence of this project's compliance with the GPP.

As the County Council found in Motion 07-447, "PDS staff is directed to provide additional evaluation and to issue a new staff report specifically providing an analysis of rezone criteria in SCC 30.42A.100(1) and (2): showing how the proposal is consistent with the Comprehensive Plan policies and providing an analysis of how '[T]he proposal bears a substantial relationship to the public health, safety, and welfare'..... "

14. Zoning: This project meets zoning code requirements for lot size, including lot size averaging provisions, bulk regulations and other zoning code requirements.

15. Subdivision Code: The proposed short plat meets Chapter 30.41B SCC requirements. The proposed short plat, as conditioned, also meets the general requirements under Section 30.41B.200 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 30.41B.200 design standards for roads.
16. Plats-Subdivisions-Dedications: The plat is in conformance with criteria established by RCW 58.17.100, .110, .120, and .195. Such criteria require that the short 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 short plat conforms with applicable zoning codes and the comprehensive plan density requirements. The plat, as conditioned, will conform to Chapters 30.66A, B and C SCC, satisfying County requirements with respect to parks and recreation, traffic, roads and walkway design standards, and school mitigation. Water will be provided by Alderwood Water District and sewer will be provided by Alderwood Wastewater District. However, as previously discussed, the Examiner is not able to find that provisions for adequate drainage have been made in the conceptual plat design. Likewise, as previously found, based upon the record, the Examiner is unable to find that the project fully complies with the GPP.
17. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

CONCLUSIONS:

1. The Examiner has jurisdiction to hear this matter and render a decision thereon.
2. There remain unresolved issues that the proposed project complies with storm water drainage requirements.
3. There remain unresolved issues that the project lacks an by PDS analysis of compliance with the GPP.
4. Prior to approving this application, the Examiner requires additional documentation from the applicant regarding stormwater drainage plans.
5. Prior to approving this application the Examiner requires further analysis from PDS regarding the project's compliance with the GPP and other rezone criteria.
6. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

The application is **REMANDED** to the applicant for modification.

Decision issued this 11th day of September, 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 **SEPTEMBER 22, 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 **SEPTEMBER 25, 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 this 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.