

**DECISION OF THE SNOHOMISH  
COUNTY HEARING EXAMINER PRO TEMPORE**

DATE OF DECISION: May 21, 2008  
PROJECT NAME: ***DUBUQUE RIDGE II***  
APPLICANT/OWNER: LRNW III, LLC  
FILE NO: 07-104212-000-00-SD  
TYPE OF REQUEST: **RURAL CLUSTER SUBDIVISION**  
DECISION: **APPROVE**, with conditions

**BASIC INFORMATION**

GENERAL LOCATION: On the north side of Dubuque Road, northeast of its intersection with 211<sup>th</sup> Avenue SE, Snohomish, within portions of Sections 30, 31, and 32 in Township 29 North, Range 7 East, W.M.

ACREAGE: 90.6  
NUMBER OF LOTS: 27  
AVERAGE LOT SIZE: 32,608 square feet  
SMALLEST LOT: 23,978 square feet  
ZONING: R-5  
GROSS DENSITY: 0.30 du/ac

**COMPREHENSIVE PLAN**

General Policy Plan: Rural-5 (1 du/5 ac)

**UTILITIES**

Water: Snohomish County PUD #1  
Sewer: Individual on-site septic

SCHOOL DISTRICT: Snohomish #201

FIRE DISTRICT: #16

PDS RECOMMENDATION: Approve

## **INTRODUCTION**

The applicant filed the Master Application on June 4, 2007 (Exhibit 1A). The application was determined to be complete for regulatory purposes as of the date of submittal. Resubmittals were made on November 7, 2007, February 14, 2008, and March 25, 2008.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by County Code (Exhibits 6A, 6B, and 6C).

The instant application and Dubuque Ridge I are closely related plats immediately adjacent to one another. They share ownership, zoning, comprehensive plan designation and vesting dates. A single Determination of Non-Significance (DNS) was completed for both projects. The DNS under the State Environmental Policy Act (SEPA) was issued on April 13, 2008. No appeal was filed.

The Examiner held an open record public hearing on April 30, 2008. The hearing was a combined consideration of Dubuque Ridge II (the instant application) and Dubuque Ridge I (treated in a companion decision). Witnesses were sworn, testimony was presented, and exhibits were entered. The record was held open through May 9, 2008, to allow parties to negotiate. The decision here is based on the record made.

## **PUBLIC HEARING**

The public hearing commenced on April 30, 2008 at 1:03 p.m.

1. The applicant was represented by George Kresovich, Attorney at Law. Testifying for the applicant were George Newman, Principal, Triad; Carl Hadley, biologist, Cedarock Consultants; R. Allen Murray, senior project Engineer, Triad.
2. PDS was represented by David Radabaugh, Senior Planner. Also testifying for PDS was Michelle Newman.
3. Public testimony was offered by Eric Levine, Sally Abbey, Mary Lou White, Steve Ahmann, Gary Baker, and Elsie Sorgenfrei.

The hearing concluded at 4:53 p.m.

**NOTE:** For a complete record, an electronic recording of this hearing is available through the office of the Hearing Examiner.

## **FINDINGS OF FACT**

1. The master list of Exhibits is 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. The application for Dubuque Ridge II was processed in parallel with the application for Dubuque Ridge I. The latter is a proposed 15-residential-lot Rural Cluster Subdivision with access directly off of Dubuque Road. The former is a proposed 27-residential lot Rural Cluster Subdivision to the west and north of Dubuque Ridge I with access by an extension of the road through Dubuque Ridge I. Thus, Dubuque Ridge I needs to go in before Dubuque Ridge II can be developed.
3. The PDS Staff Report has correctly analyzed the nature of the subject application, (Dubuque Ridge II) and the application's consistency with adopted codes, policies and land use regulations. The PDS Staff Report is by this reference incorporated herein as if set forth in full. In some particulars, as noted herein, the Examiner has departed from or added to the findings and conclusions of the PDS Staff Report. Otherwise the PDS Staff Report is adopted by the Examiner.
4. Ten comment letters were received from members of the public. Several of the letter writers also testified at the hearing. The major concerns expressed related to the impact of drainage from the development on Sorgenfrei Creek, traffic safety on Dubuque Road, possible water pollution from septic drainfields, conflicts between the development and existing easements, and access to landlocked properties to the west.
5. The Examiner finds that all of these concerns have been adequately addressed by the applicant or by Staff as shown in findings set forth below.
6. The applicant seeks approval of a 27 residential-lot Rural Cluster Subdivision (RCS) on a 90.6-acre parcel. There will be 40.8 acres of restricted open space. A stream and steep slopes will be protected. Mitigation for impacts to wetlands is offered through wetland creation and buffer replacement. Access is proposed via extension of a new public road that transits Dubuque Ridge I. The lots will be served with public water (PUD #1) and individual on-site septic systems. The payment of appropriate impact fees will be required. Stormwater detention and water quality treatment will be provided,
7. The residential lots will average 32,608 square feet in size, with the minimum lot size being 23,978 square feet. The gross density will be .30 du/ac. The lots will be clustered across the north end of the parcel.
8. The site is about two miles west of Lake Roesiger, within portions of Sections 30, 31 and 32, Township 29 North, Range 7 East, W.M. The public access road (Road A) will extend from the middle of the eastern boundary where it will enter from Dubuque Ridge I. It will lead to the north boundary. Two private roads (Roads F and G) and a public road branch (Road E) will lead off of Road A, providing access to all lots.
9. A pasture area is proposed within Tract 993 of the Dubuque II Ridge plat. This pasture will serve both the Dubuque I and Dubuque II plats. The pasture will be established on excess fill material from the plat construction. The area will be used as an equestrian facility and will include a vehicle parking area and a manure storage area. No buildings are proposed. Access to the pasture will in

part be over a City of Everett waterline easement which runs across both the Dubuque I and Dubuque II sites.

10. The development will be situated on a hillside. The property generally slopes down to the southeast. Sixty-one percent of the site has slopes from 0% to 15%. Approximately 25% has slopes greater than 25%, with the majority of that being in restricted open space Tract 996. Most of the Dubuque Ridge II area has been clearcut during the past 20 years. While the site has been restocked with fir, Red Alder has become the dominant tree on site. Dubuque Ridge II contains 19 wetlands and one stream. A City of Everett water pipeline system runs east-west across the southerly portion of the property within an easement.
11. The site is zoned R-5 and designated Rural 5 (1du/5 acres) in the General Policy Plan. Adjacent property west, south, and east of the site is also zoned R-5 and designated Rural 5 (1du/5 acres) in the General Policy Plan. Adjacent property to the north is also zoned R-5 but designated Commercial Forest – Forest Transition Area in the General Policy Plan. All of the adjacent property is vacant and historically has been used for timber production.
12. Sorgenfrei Creek runs through the valley below on the south side of Dubuque Road. Sorenfrei Creek is fish-bearing stream, with a documented coho salmon run and is presumed to contain both Puget Sound steelhead and Puget Sound bull trout, species listed as threatened under the federal Endangered Species Act.
13. Much of the Dubuque Ridge II site drains to an unnamed stream (S-2), a small intermittent tributary to Sorgenfrei Creek. This drainage is identified as Basin D in the Targeted Drainage Report. Numerous small wetlands are located in the south and southwestern portion of this basin, created in localized low points by runoff toward the southwest corner. Stormwater from impervious surfaces in the developed area will be conducted to a detention pond in Basin D which will in turn discharge into the wetlands and ultimately to S-2.
14. A second drainage basin, Basin E, is located in the northwestern portion of the site. Runoff from developed portions of this basin will likewise be in a second detention pond. The outflow from this pond will be to an off-site stream to the west called Stream E. Both detention ponds will provide treatment by sedimentation and will be designed with release rates that mirror pre-developed flow conditions.
15. The drainage system engineer explained that the detention facilities were provided because the soils on site will not permit full infiltration of the run-off. Nevertheless, in light of the detention and treatment being provided, it is unlikely that runoff flows from Dubuque II will have any effect on the fish resources of Sorgenfrei Creek .
16. The Dubuque Ridge II proposal is largely planned to avoid and protect wetlands, stream and fish and wildlife critical areas by providing standard buffer requirements within NGPAs/NGPAEs. Where portions of a wetland must be crossed by the public access road, compensatory wetland mitigation will be provided. Protected critical areas and buffers account for about 17.09 acres in

required NGPAs/NGPAEs. Because of the rural cluster approach, several restricted open space tracts, totaling about 44.33 acres, are also established. Thus, over 61 acres will remain largely undeveloped. This is about 68% of the site. Steep slopes will also be protected within NGPA tracts.

17. The access road will cross portions of Wetland M. The crossing will cause fill of 0.02 acre of wetland and reduction in buffer area. A small blackberry dominated wetland (Wetland U, 0.02 acres) will experience reduced buffers from planned road improvements. All wetland and buffer impacts will be mitigated through 0.30 acres of new wetland and the establishment of 2.01 acres of new buffer. The wetland mitigation will be created by excavating upland areas adjacent to the existing wetlands. This excavation will intercept a seasonal high water table and establish wetland hydrology in the mitigation area. The area will be planted with wetland plants to provide habitats similar to those historically present in the wetland. The Examiner agrees with Staff that the provisions of the Critical Areas Ordinance will be met.
18. A professional traffic impact analysis was prepared for this project by the Transpo Group, dated June 1, 2007. Anticipated trip generation was found to be 258 net new daily trips with 20 trips occurring during the weekday AM peak hour and 27 trips occurring during the weekday PM peak hour. This traffic was assigned to the roadways in the vicinity of the site. The roads have adequate capacity to accommodate the traffic generated. The report found no inadequate road conditions currently existing in the area. The development was deemed to meet concurrency requirements, meaning that the operational conditions or "level of service" will not decline on any arterial unit. Impact fees will be paid for road system capacity impacts and State highway impacts. The Examiner agrees with Staff that adverse traffic impacts to Dubuque Road were not shown to be likely.
19. Road E, a public road branch from Road A, will provide access to Lots 1 through 8 Road F, a private road, will provide access to Lots 13 through 27, Road G, another private road will provide access to Lots 9 through 12. Road E serves as the east leg of an intersection with Road A and will provide a public connection to properties to the east. Road E ends at the eastern property line in a 40-foot radius temporary cul-de-sac turnaround. Road F will serve as the west leg of the intersection with Road A, and will also end in a 40-foot cul-de-sac. Road G which intersects Road A near the northeastern property line, will terminate in a similar cul-de-sac. The design of all roads shall be subject to the current EDDS at the time of construction review.
20. SCC 30.41A.210(3)(c) allows the County Engineer to determine access points to a rural cluster. Road A and Road E will provide connectivity to the north and to the east. These proposed connections are supported by the Snohomish County General Policy Plan Transportation Section TR Policies 1.B.5, and 1.C.2-5.
21. One citizen wrote a letter and testified about his desire to obtain access to his land locked property to the west of Dubuque Ridge II. PDS responded that it is beyond its power to require the applicant to provide private road access to an adjacent property. A County reviewer testified to this effect, pointing to the design standard for RCSs that restricts the number of access points per cluster.

22. The Dubuque Ridge I and II sites are adjacent to the area proposed for the Lake Roesiger Fully Contained Community. Tracts 974, 975, 979, 980, 993, and 998 in Dubuque Ridge I and Tracts 975, 981, 984, 985 and 989 in Dubuque Ridge II are designed to allow for future widening of the public road in the plat to allow access to the future fully contained community. Such additional road widening is not proposed as a part of this plat.
23. The Snohomish Health District has reviewed the plat application as to septic drainfields and recommended approval. There is no evidence that down-gradient wells will be adversely affected. As noted, water will be provided by Snohomish County PUD No. 1. The PUD will also provide electricity to the project.
24. The Ryner Water District has advised that it has an unrecorded easement over a portion of the Dubuque Ridge II site to serve a Class B water system. This easement is contained within Tract 996, a restricted open space tract. A community utility use such as this easement for water transmission may be approved within restricted open space. The Open Space Management Plan for Dubuque Ridge II, revised as of April 30, 2008 (Exhibit 27), specifically recognizes this easement and notes that it will not pose any constraint to the development.
25. The Open Space Management Plan calls for open space maintenance responsibilities to be undertaken by the developer and then eventually to be transferred to a homeowners or similar association of owners. It describes in some detail the mini-equestrian facility to be established on Tract 993.
26. Tract 993 is comprised of 6.39 acres in the lower central portion of Dubuque Ridge II. The plan is for this tract to serve as an equestrian area, available to both Dubuque Ridge I and II, with minimal improvements. The conceptual site Plan for the area provides for a riding area, four pasture areas, a sacrifice area, a proposed manure storage, a pervious parking area with 14 vehicle stalls and six trailer stalls, and a 70 foot long gravel access road to connect to the existing City of Everett water line easement maintenance road. Type A landscaping will be required to screen any outside storage, including animal waste storage, and parking areas from adjacent properties.
27. The City of Everett's waterline easement runs east-west across both the Dubuque I and Dubuque II plats. Access to the mini-equestrian facility will be, in part, across Everett's waterline easement. A letter from the Everett Department of Public Works (Exhibit 35) shows the agreement of Everett to this arrangement. Everett's letter outlines its understanding of the proposal for access – containing terms which can be included as conditions of approval for the plat.
28. In its Staff Report, PDS recommended three pre-conditions for approval of this preliminary plat. The applicant requested that these be eliminated. The three pre-conditions were:
  - A. Landslide hazard area analysis and identification of slopes greater than 40 percent be completed and shown on a revised preliminary plat map.

- B. Written acceptance of the proposed access location to the pasture facility shall be obtained from the City of Everett for access over the City of Everett's waterline easement.
  - C. The Open Space Management Plan shall be revised to address the existing water line in Tract 996.
29. As shown in findings 24 and 28 above Pre-Conditions B. and C. have already been satisfied.
30. As to Pre-Condition A, the applicant argued that precise topographic mapping is not usually required until the final engineering stage of a plat. They asked for a plat approval condition stating:
- Prior to road and storm drainage construction plan approval, the approximate Native Growth Protection Area Easements (NGPA/E) shown hereon having slopes that require being designated as NGPA/E by county code, shall be confirmed by field topographic survey. Those verified areas will be designated as NGPA/E on the construction Plans, as well as the final plat.
31. They went on to propose modifying the note on steep slopes on the cover sheet for both Dubuque Ridge I and Dubuque Ridge II as follows:
- Prior to road and storm drainage construction approval, the approximate Native Growth Protection Area Easements (NGPA/E) areas shown hereon having slopes that require being designated as NGPA/E by county code will be confirmed by field survey. Those verified areas will be designated as NGPA/E on the construction plans, as well as the final plat.
32. The County presented no convincing reasons why the topographic details and corresponding designations could not be worked out during the post-preliminary plat approval period.
33. Comments received from the Snohomish School District state that school children will be bussed to their respective schools from bus stops located within the development. The EDDS road standards provide for safe pedestrian facilities within the plat in consideration of anticipated traffic.
34. PDS proposes a condition of approval to address landscaping around detention ponds. Other agency review comments are also reflected as conditions of approval.
35. The PDS Staff Report finds the requested preliminary plat to be consistent with the General Policy Plan's Rural Residential-5 designation. It is located outside of any Urban Growth Area and is not located within a mapped Growth Phasing Overlay. The Examiner concurs with staff.
36. The PDS Staff Report discusses the conformity of this proposal with the code requirements for RCSs (Chapter 30.41C SCC). The Examiner concurs that the

development complies with all of the criteria for preliminary approval. The requirements for restricted open space, lot yield, and bonus residential density are met.

37. It is noted that SCC 30.41C.200(15) disallows locating individual clusters on ridgelines visible to properties in the vicinity “when other locations are available.” In this case, it is likely that clusters will be visible from vicinity properties, however, it is unlikely that the clusters could be located on this site in such manner as not be visible. The lots are clustered on the most buildable and least environmentally sensitive portion of the site. Because of the site characteristics, this appears to be a case where other locations are not available.
38. The plat, as conditioned, makes “appropriate provisions” for the public health, safety and general welfare, for open spaces, drainage ways, streets and roads, potable water supplies, sanitary wastes, recreation, schools, safe walking conditions for students, and other planning features.
39. The public use and interest will be served by the platting of the subdivision.
40. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Examiner has jurisdiction over this proceeding. SCC 30.72.020(5) (Type 2).
2. The requirements of SEPA have been met.
3. The proposal is consistent with the GMA-Comprehensive Plan and with applicable development regulations. RCW 58.100,195. In particular, the proposal meets the requirements of Chapter 30.41C SCC, Rural Cluster Subdivisions.
4. The proposal provides for items of design and infrastructure as required by RCW 58.17.110. Adequate public services are available to serve the proposal.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

### **DECISION**

The request for approval of the **RURAL CLUSTER SUBDIVISION** of **DUBUQUE RIDGE II** is **GRANTED**, subject to the following conditions:

## **CONDITIONS**

- A. The preliminary plat received by PDS on March 25, 2008 (Exhibit 2B) shall be the approved plat configuration. Changes to the approved plat are governed by SCC 30.41A.330.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
  - i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
  - ii. The plattor shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by Chapter 30.62 SCC, or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the county.
  - iii. A final mitigation plan based on the Wetland and Stream Critical Area Study and Conceptual Mitigation Plan for Dubuque Ridge I prepared by A. C. Kindig & Company dated March 25, 2008 (Exhibit 3C) shall be submitted for review and approval during the construction review phase of this project. The final mitigation plan was prepared in conjunction with the Habitat Management Plan for Dubuque Ridge I by Cedarock Consultants, Inc. dated March 25, 2008.
  - iv. Prior to road and storm drainage construction plan approval, the approximate Native Growth Protection Area Easements (NGPA/E) shown on the preliminary plat having slopes that require being designated NGPA/E by county code shall be confirmed by field topographic survey. Those verified areas will be designated as NGPA/E on the construction plans, as well as on the final plat. The note on steep slopes on the cover sheet (Sheet 1) shall be modified as shown on the Triad Associates letter of April 30, 2008 (Exhibit 25).
  - v. The easement recorded under Auditor's File Number 199907270614 shall have been extinguished.
  - vi. A revised landscape plan for each fenced detention facility shall be provided demonstrating a minimum of a 6 foot wide perimeter area of Type A landscaping.
- 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 Snohomish School District No. 201 to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit

issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for one existing parcel. Lot 1 shall receive credit.”

- ii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:

\$3,799.29 per lot for mitigation of impacts on county roads paid to the county,

\$ 261.12 per lot for mitigation of impacts on state highways 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 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. Any grading and/or sight distance easements necessary to obtain sight distance.

- iv. 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.”

- v. Residents and guests within the subdivision shall be subject to the terms and conditions imposed by the City of Everett in regard to access to Tract 993, the equestrian pasture area, as set forth in the City’s right-of-way permit. (The issue date and any file number for the permit shall be shown.)

- vi. Forest lands disclosure text provided in SCC 30.32A.220.

D. Prior to recording of the final plat:

- i. Rural frontage improvements shall be constructed along the parcel’s frontage on Dubuque Road to the satisfaction of the County.

- ii. Native Growth Protection Area boundaries (NGPA) shall have been permanently marked on the site prior to final inspection by the county, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The plattor may use other permanent methods and materials provided they are first approved by the

county. Where an NGPA boundary crosses another boundary (e.g.: lot, tract, plat, road, etc.), a rebar marker with surveyors' cap and license number must be placed at the line crossing.

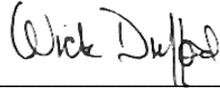
NGPA signs shall have been placed no greater than 100 feet apart around the perimeter of the NGPA. Minimum placement shall include one Type 1 sign per wetland, and at least one Type 1 sign shall be placed in any lot that borders the NGPA, unless otherwise approved by the county biologist. The design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

- iii. The final wetland mitigation plan shall be completely implemented.
  - iv. Covenants, deeds and homeowners association bylaws and other documents as appropriate, to be recorded prior to, or simultaneously with, final plat recording shall have been approved as to substance and completeness by the Department of Planning and Development Services, and shall at a minimum:
    - (a) Establish all restricted open space as shown on the approved preliminary plat in separate tracts.
    - (b) Establish a Homeowner's Association, guaranteeing maintenance of restricted open space in as much as such maintenance is required by the Open Space Management Plan (Exhibit 1D), as modified by these conditions.
  - v. The plat of Dubuque Ridge I (PFN 07-104292) shall have been recorded.
  - vi. The pasture facility shall be installed.
- E. In conformity with applicable standards and timing requirements:
- i. The preliminary landscape plan shall be implemented. All required detention facility landscaping shall be installed in accordance with the approved landscape plans.
  - ii. PDS shall review the site obscuring buffer for adequacy. Additional plantings shall be required for areas where vegetation is removed or damaged within the site obscuring buffer.
- 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 21<sup>st</sup> day of May, 2008.



Philip Wickstrand Dufford, Hearing Examiner Pro Tempore

### EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

The Decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more Parties of Record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

#### **Reconsideration**

Any Party of Record may request reconsideration by the Examiner. A Petition for Reconsideration must be filed in writing with the Office of the Hearing Examiner, 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 **JUNE 2, 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 **JUNE 4, 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: David Radabaugh

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.