

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

DATE OF DECISION: August 21, 2008

PLAT/PROJECT NAME: **GREENBROOK PHASE 1**

APPLICANT/
LANDOWNER: The McNaughton Group
PO Box 100
Edmonds, WA 98020

FILE NO.: 08-104182 LU

TYPE OF REQUEST: **REZONE** from Residential-7200 (R-7200) to Low Density Residential (LDMR)

DECISION (SUMMARY): Approved

BASIC INFORMATION

GENERAL LOCATION: 14613 Jefferson Way, Lynnwood. Property is located on the east side of Jefferson Way, approximately 600 feet north of 148th Street SW.; in Section 35, Township 28 North, Range 4 East, W.M., Snohomish County, Washington.

ACREAGE: 2.26 Acres

ZONING: CURRENT: R-7200
PROPOSED: LDMR

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Medium Density Residential

UTILITIES:

Water: Alderwood Water and Wastewater District
Sewage: Alderwood Water and Wastewater District

SCHOOL DISTRICT: Mukilteo School District No. 6

FIRE DISTRICT: No. 1

SELECTED AGENCY RECOMMENDATIONS:

Department of:
Planning and Development Services: Approve

INTRODUCTION

The applicant filed the Master Application on April 21, 2008. (Exhibit 1A)

The Hearing Examiner (Examiner) made a site familiarization visit on August 12, 2008 in the morning prior to the public open record hearing.

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

A SEPA determination was made on June 17, 2008. (Exhibit 5B) No appeal was filed.

The Examiner held an open record hearing on August 12, 2008, the 41st 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 12, 2008 at 10:01 a.m.

1. The Examiner indicated that he has 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, planner for PDS, appeared and testified under oath. He presented the staff report.
3. Brian Holtzclaw, agent for the applicant, appeared and testified under oath. He described the project and the situation regarding the request for a rezone.
4. No one appeared in opposition to the request.

The hearing concluded at 10:34 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, is hereby made a part of this file, as if set forth in full herein.
2. The request is for a rezone from R-7200 to LDMR. This property is part of an overall SFDU project on this and adjoining property owned by the applicant.
3. The site is composed of two lots which are encompassed on three sides by property owned by the applicant and are part of the same overall project. The general area is hilly with grasslands and some trees. The overall proposed development area contains two Category 3 wetlands and an associated Type 4 stream. The northwest portion of Stream A/Wetland A buffer has been maintained as lawn and is proposed to be restored/enhanced as mitigation for permanent impacts. The southeast portion of Stream A/Wetland A, Wetland B and the corresponding buffers are forested. The wetland and buffers impact the southern of the two parcels contained in this application. Some clearing of vegetation and trees has been accomplished on the overall properties, but not on these two subject parcels.
4. The vicinity is suburban single-family residential uses. There has been a transition within the last approximately 5 years to higher density. Currently the two parcels are bounded on the north, south and east by property owned by the applicant which is part of the same overall project. This property has been recently rezoned to LDMR. Across Jefferson Way, to the east, the property is zoned R-7200 and PRD -7200. The zoning in the vicinity is shown on Exhibit 4B.
5. No public testimony or unresolved comments were received. An e-mail raised the concern that an eagle was seen flying in the vicinity of the proposal. The applicant hired an expert who determined that this is not an eagle nesting or roosting site. (Exhibit 21)
6. PDS Traffic reviewed the overall proposal, of which these two parcels are part, for compliance with Title 13 and Chapter 30.66B SCC, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures during the review of the administrative site plan. Concurrency was issued and mitigation and conditions issued on August 14, 2007. There has been no appeal of the PDS administrative determination.
7. PDS (Engineering) during the administrative site plan and grading review, reviewed the applicant's proposal and recommended approval of the overall project, subject to conditions which would be imposed during full drainage plan administrative review pursuant to Chapter 30.63A SCC.
8. The northern parcel to be rezoned contains no Critical Areas. The southern parcel to be rezoned contains a portion of the Type 4 stream and its corresponding buffer. PDS reviewed the Critical Areas Study and Mitigation Plan during the administrative site plan review for the overall project and determined that the project complies with the Critical Areas Regulations.
9. Snohomish County Parks had no comments on the project. (Exhibit 8B2) Park impact fees will be imposed as part of the building permit application process.

10. Mukilteo School District provided documentation that public schools serve the project. (Exhibit 8C7) The District requested that sidewalks be constructed to provide safe walking conditions for students. The applicant testified that such sidewalks were part of the project. School impact fees will be imposed as part of the building permit process.
11. Certificates of water and sewer availability are included in the file on this application. (Exhibits 8C1)
12. The applicant has submitted the required documents for a rezone. The overall project of which the two parcels are part, has been subject to an administrative site plan review. Single-family residences are allowed as permitted uses in this LDMR zone and the request will satisfy minimum zoning code requirements relating to the number of dwelling units allowed on the lot (30.23.040(4), building setbacks, height and lot coverage (30.23.040(15) & 30.23.040(1)), landscaping (30.25) and parking (30.26).
13. Chapter 30.42A SCC covers rezoning requests and applies to site specific rezone proposals that conform to the Comprehensive Plan. The decision criteria under SCC 30.42A.100 provides as follows:

The hearing examiner may approve a rezone only when all the following criteria are met:

- (1) The proposal is consistent with the comprehensive plan;
- (2) The proposal bears a substantial relationship to the public health, safety, and welfare; and
- (3) Where applicable, minimum zoning criteria found in chapters 30.31A through 30.31F SCC are met.

It is the finding of the Examiner that the request meets these requirements generally and should be approved.

13. The Comprehensive plan designation is Urban Medium Density Residential. This designation supports a rezone to LDMR.
14. The request is consistent with Section 30.70.100 SCC (Section 32.50.100 SCC), which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP, and GMA-based county codes.
15. The request complies with the Snohomish County subdivision code, Chapter 30.41A SCC, as well as the State Subdivision Code, RCW 58.17. The proposal complies with the established criteria and makes appropriate provisions for the public health, safety, and general welfare. Open spaces are provided by the wetlands and associated buffers. Provisions are made for drainage, streets, transit stops, water and sewer service, parks and recreation, schools and safe walking conditions for students.
16. Since this request involves rezoning only, any details or conditions which would normally come from DPW will be done at the time of administrative plat approval and are not required here.
17. The request for a rezone was based upon the information and impacts submitted in the Determination of Nonsignificance.

18. Exhibit 4C is an aerial photograph which very clearly shows the property itself and the surrounding area and its compatibility in this area.
19. The PDS analysis of the project's compliance with the rezone criteria as required by the Snohomish County Council Decision 07-447 was not fully set out in the staff report by PDS. However the applicant conducted such an analysis (Exhibit 1B) which was reviewed by PDS. The following is an extract of said analysis:
- A. Is this area already characterized by urban growth that has adequate existing facility and service capacities to serve such development for the following types of public facilities and services? (as per LU-1)
- i. Streets, roads and highways
- This project abuts Jefferson Way on the west, which is designated on the County arterial map as a "local arterial." As part of this proposal TMG has already deeded the required amount of right-of-way, and will be installing the required frontage improvements, consistent with the local arterial designation for Jefferson Way.*
- ii. Sidewalks
- Sidewalks will be provided along the project frontage on Jefferson Way. Walkways will be provided along one-side of the internal private drive aisles within the proposed development.*
- iii. Street and road lighting systems
- County Code and EDDS do not require any street lighting for this project. Adequacy of street lighting along Jefferson Way has not been raised as an issue or concern either by any County department, agency with jurisdiction or citizen/neighbor.*
- iv. Traffic signals
- There are none within the immediate vicinity of this proposal.*
- v. Domestic water systems
- Domestic water is available and will be provided by Alderwood Water & Wastewater District ("AWWD"), which has issued a preliminary certificate of water availability.*
- vi. Sanitary sewer systems
- Domestic sanitary sewer is available and will be provided by AWWD, which has issued a preliminary certificate of sewer availability.*
- vii. Public parks and recreational facilities, or useable open space, common areas, or other recreational facilities within the development.

The project is located within the Nakeeta Beach Park Service Area (#307) for which mitigation fees will be required for each unit developed per the County Code. No on-site recreational facilities or useable open space are proposed within the rezone area. However, the parcels for which the rezone is requested are a part of the larger Greenbrook Phase I development. Within the larger proposal there is open space that can be used as passive recreation, and a trail is being built to provide a connection between the two sides of the Greenbrook Phase 1 development that are split by an on-site wetland/stream system. This trail will provide on-site recreation, and the buffers for the wetlands and stream will provide passive recreation opportunities.

viii. Storm and sanitary sewer disposal system

The Greenbrook Phase 1 proposal as a whole will provide an on-site storm system designed by a professional engineer consistent with adopted County standards. The system includes two underground detention vaults (both located along the southern property line). Both collect storm water, release it to a bioswale for filtering and cleaning, and then release the storm water to a level spreader prior to discharging it back into the on-site wetland for rehydration. Sanitary sewer will be provided by extending and connecting to the AWWD sewer system. The existing on-site septic systems for the homes will be decommissioned in accordance with the regulations of the Snohomish Health District.

ix Fire suppression and protection

Fire protection will be provided by Fire District No. 1. Fire hydrants will be installed within the project in accordance with the fire code. Additionally, the internal private drive aisles have been designed to meet emergency vehicle access with 20 foot wide asphalt lanes; some areas are wider which will allow for parallel parking. Those areas that do not allow the additional parking will have the curbs painted yellow with black lettering that state, "NO PARKING- FIRE LANE". The applicant is unaware of any comments from Fire District No. 1 objecting to the proposed development for which the rezone is requested.

x. Law enforcement

Police protection will be provided by the Snohomish County Sheriff's Department. The applicant is unaware of any comments from the Sheriff's Department objecting to the proposed development for which the rezone is requested.

xi. Public health

No potential health issues have been identified regarding the proposed development for which the rezone is requested.

xii. Education

The proposed development for which the rezone is requested is located within the boundaries of the Mukilteo School District No. 6. The District has confirmed that the children within this development will be bussed to existing schools for all three grade levels (elementary, middle, and high). The District is requesting to have safe walkways internally within the project and curb, gutter and sidewalk along Jefferson Way. Our Greenbrook Phase I administrative site plan is proposing that; therefore meeting this request. In addition, school impact fees will be required for the new units to be constructed in the proposed development (which fee is assessed based on the "base fee schedule" in effect at the time of building application submittal).

xiii. Other services

No other services have been identified as being necessary to serve the proposed development for which the rezone is requested.

B. Will the rezone help to establish development patterns that use urban land more efficiently? (See Goal LU-2)

The Jefferson Way corridor has been part of the UGA since 1995 and has been historically characterized by suburban sized lots (i.e. ½ acre, 1 acre and greater). However, this area has been rapidly developing in the last 3-5 years with new subdivisions and commercial development (along and North of 164th Street SW) being approved and developed in the corridor consistent with the County's GMA comprehensive plan and implementing zoning regulations. The densities occurring within the Jefferson Way corridor, including the current proposal, promote achieving the densities contemplated by the GMA within the UGA, which is a more efficient use of land than the historical suburban sized lots. The rezone of the 2.26 acre portion of Greenbrook Phase 1 would be consistent with the rezone previously approved by the Hearing Examiner's Office for the remaining 8.11 acres of the project site.

Does the development concentrate and intensify development at an appropriate location? (Objective LU-2.A)

As noted above, the County has long identified this area for medium density residential development. The comprehensive plan FLUM designation for the property is UMDR. TMG's proposed administrative site plan for the entire Greenbrook Phase I proposal encompasses a total of 10.37 acres. The three (3) parcels (totaling 2.26 acres) of the Greenbrook Phase I property that are the subject of the present rezone are part of the Greenbrook Phase 1 project of which 8.11 acres was previously rezoned to LDMR. The proposed rezone would ensure that the entire 10.37 acre project is consistently zoned. Moreover, some properties east of Greenbrook Phase 1 were re-designated on the FLUM as part of the Ten Year Update to Urban High Density Residential, while others were rezoned as part of the TYU to MR zoning. The proposed rezone is therefore consistent with the higher density.

i. Is the development carefully sited?
(a) Critical areas/shorelines

- (i) Please describe the type and location of any critical areas on or in close proximity to the site (if any). (Policy LU 2.A.3)

Overall for the entire Greenbrook Phase 1 project, there are two (2) on-site category 3 wetlands and (1) type 4 stream, which runs north-south through the site. A small portion of the type 4 stream and its associated buffer lies within the rezone area (within the southeast corner of tax parcel 003733-004-014-00).

- (ii) Describe how impacts to critical areas will be avoided. (Policy LU 2.A.3)

Impacts to all of the on-site critical areas located within the overall Greenbrook Phase 1 development, including the rezone area, will generally be avoided with the construction of the site (grading, utilities, drive aisles, and future units). A sewer line does cross the site (east to west) through the wetland/stream corridor. This would be a temporary construction impact and has been mitigated for with an offsite project. Another temporary impact to the wetland buffer will be associated with construction/installation of the bioswale and filter strip for the storm water systems. The PDS biologist has approved the mitigation plans for addressing these temporary construction impacts. The proposed development maintains the required buffers from the wetlands and stream, and provides the required BSBL (Building Set Back Line) from the buffers.

It is important to note that the applicant has a separate project, known as Greenbrook Phase II (PFN 05-129152 LU), for which it has obtained approval for an administrative site plan of 69 detached single-family units on the property immediately east of Greenbrook Phase 1. The County has approved and issued construction/grading plans for Greenbrook Phase II. The issued plans show the offsite utility impacts through Greenbrook Phase 1 for the sanitary sewer system; which was discussed above. This critical area impact is mitigated for as part of the approved Greenbrook Phase II plans.

- (iii) Please describe any shoreline environment that the proposed rezone/development is located within and how the rezone complies with goals and policies of the Snohomish County Shoreline Master Program.

The rezone area does not include any shoreline environments regulated under the County's Shoreline Master Program.

- (b) Is the rezone or development proposed in an area within walking distance of transit access or designated transit corridor, medical facility urban centers, parks and recreational amenities?

Yes. The nearest transit corridor is community transit bus service at Hwy-99 and 148th ST SW and/or at the Ash Way Park-n-Ride down by 164th

ST SW, both of which are approximately one mile south of the project site. The nearest urban center (or area designated for commercial activity) is Newberry Square on Ash Way approximately 1 mile to the southeast of the project site, and the established commercial areas along Hwy-99 approximately 1 mile to the west.

- (c) How will the development made possible by the requested rezone tend to lessen dependence on private automobiles and promote the use of alternative forms of transportation? (Policy LU-15).

The applicant has proposed to pay Transportation Demand Management fees pursuant to chapter 30.66B SCC for the proposed development to promote alternative forms of transportation. In addition, as already noted above, the project site is located approximately 1 mile from existing Community Transit bus service making transit a convenient alternative for those who live in this development.

- ii. Is the rezone proposal/development sensitively integrated into the existing community? (See LU-15)

- (a) What is the character of the existing neighborhood? How would the requested rezone or development proposal be appropriate in the context of the existing neighborhood, keeping in mind that the GPP calls for a mix of housing types in medium density areas? (LU-15, policy 2.A.4)

There is no readily identifiable "existing neighborhood" as the surrounding area generally largely includes suburban sized lots developed with single-family residences at densities well below those contemplated by the GMA and the County's comprehensive plan, as well as some newer Planned Residential Developments (PRD) and single family detached condominium projects with LDMR zoning.

The rezone area is abutted on the west by Jefferson Way and is otherwise entirely surrounded by the 8.11 acres of the Greenbrook Phase 1 property for which a rezone to LDMR was previously approved by the Hearing Examiner's Office in December 2005. This area has been designated on the FLUM for some time as UMDR. LDMR zoning is consistent with the surrounding area. The property immediately east of this proposal (the Greenbrook Phase II development) is zoned MR and has an approved administrative site plan of 69 single family detached units. The Greenbrook Phase II project is currently under construction for grading of utilities and site preparation. To the north, south and west of this proposal are pockets of approved LDMR zones and projects as well as developed PRD residential developments. In general, this area and our proposal is consistent with the Council's higher density vision for this property as reflected on the FLUM.

It is also important to note that the proposed site plan for the detached single family units has been carefully designed to fully protect the onsite wetlands and stream, and their associated buffers. In addition, a full landscape plan has been prepared detailing proposed landscaping to ensure the entire site is carefully designed. That landscape plan includes a 10' landscape buffer along the entire frontage on Jefferson Way to help integrate the development into the surrounding area.

- (b) Does the rezone/development proposal help to provide a mix of variety of affordable housing types, if the area is a medium density area? (Policy LU 2.A.4)

Yes, the rezone area, and the entire Greenbrook Phase I proposal, will include a mix of housing sizes.

- (c) Is the requested rezone/development close to a city that is likely to annex it in the future? If so, what comments, if any are in the record regarding the proposed rezone/development? (See Policy I.C.2)

The project site is located within the Southwest County UGA. The applicant is not aware of any cities having submitted any planner review comments regarding this proposal.

- iii. If known at the time of submittal of the rezone, is the development well designed?

- (a) Even if density is at a higher level are efforts made to have the character fit into the existing community? If so, what is the character of the existing community and how will the development maintain it? (See LU-15)

The rezone area is entirely surrounded by other portions of the Greenbrook Phase 1 proposal that were rezoned to LDMR per the approval granted by the Hearing Examiner's Office in December 2005. Outside the boundaries of the Greenbrook Phase 1 proposal there is no identifiable "character of the existing community" as the surrounding area is rapidly developing from suburban sized lots to more intense residential development consistent with the comprehensive plan and zoning designations adopted pursuant to the GMA. The proposed rezone area is adjacent to Greenbrook Phase II to the east, which is an under construction MR development.

- (b) How specifically will the building design integrate into the existing neighborhood? Are structures of a size, height, mass, and separation to be consistent with vicinity homes and the surrounding neighborhood? Describe in detail. Will the development be at the same elevation as the rest of the existing neighborhood? How will the elevation affect the perception of the development? (LU-15)

Topography on this site is quite hilly with the wetland/stream corridor being at the lowest point bisecting the Greenbrook Phase 1 project into two. As noted above, the proposed development within the rezone area will be similar in density and intensity with the remaining overall portion of the Greenbrook Phase I proposal, and with development of the property that abuts this project to the east (Greenbrook Phase II). The rezone area is also buffered from the property to the west by Jefferson Way. To the north is a PRD plat called "Jefferson Crest," which was required to provide perimeter landscaping to buffer itself from surrounding properties (including the Greenbrook Phase 1 property). None of the proposed rezone areas abuts any surrounding properties but is instead surrounded by the remaining portion of the Greenbrook Phase 1 property previously rezoned to LDMR. TMG asserts that the size, height, mass and separation of structures on the development as a whole will not be an issue in terms of integrating into the neighborhood. As to the "perception of the development," the proposal will provide a 10' Type B landscape buffer along

Jefferson Way and the interior drive aisles and parking areas will be landscaped with trees, shrubs and grass.

- (c) If applicable, what selective and innovative land measures will be used to preserve the character of the stable residential neighborhood? (See Policy HO 2.A.4)

There is no existing "stable residential neighborhood" in this immediate area to speak of. Rather, this area is characterized by suburban sized lots and has been rapidly developing in the last 3-5 years with new subdivisions and condominium/commercial projects consistent with the adopted comprehensive plan and zoning designations.

- (d) If the proposed rezone/development will have negative impacts on the character of the surrounding neighborhood, describe whether the developer plans on using features such as landscaping, fencing, setbacks, or other design features to soften or eliminate those impacts. (LU-15)

As noted above, the proposed rezone area is surrounded by property already rezoned to LDMR. Moreover, there is no existing "stable residential neighborhood" to speak of in this immediate area. Rather, this area is characterized by suburban sized lots and has been rapidly developing in the last 3-5 years with new subdivisions and condominium/commercial projects consistent with the comprehensive plan and zoning designations.

(The Applicant is) proposing a 10' wide Type B Landscape buffer along Jefferson Way and internal 'parking lot' landscaping within the development. Additionally, the wetland/stream corridor in the middle of the overall project site also softens the development and creates passive open space.

- (e) Will the development be designed to provide for adequate fire and medical emergency access through the provision of adequate resident and guest parking, cul-de-sac radii, and building separation? Has the opinion of both the County Fire Marshall and any local Fire District been placed in the record? (LU-15)

Yes, there will be adequate fire protection. Water service is available to the site from AWWD. TMG will provide enough fire hydrants within the proposed development to meet the required fire flow and spacing requirements. The internal private drive aisles have been designed to meet emergency vehicle access with 20 foot wide asphalt lanes; some areas are wider which will allow for parallel parking. Those areas that do not allow the additional parking will have the curbs painted yellow with black lettering that state, "NO PARKING- FIRE LANE". Parking is being provided per code requirements found in SCC 30.26.030(1); 2 parking spaces per unit. This parking is provided for in the unit garages; all units will have attached 2-car garages. All units will meet the 10' minimum building separation between units and all will be a minimum of 5' from the private drive aisle to allow ample back out space from the unit garage. Additionally, comments from the County Fire Marshal were received, stating that the design requirements (i.e. markings for hydrant locations, hydrant specifications, etc.) have been approved.

- (f) Is the public health, safety and welfare adequately provide for (examples are safe pedestrian access, safe place for children to wait for school bus, adequate off street parking so that a fire truck can access development)? (See LU-15)

Public health, safety, and welfare issues have been addressed for this proposal as it meets all of the County's code requirements. The proposal includes walkways along one side of the private drive aisles within the development, and a sidewalk along the project frontage on Jefferson Way, consistent with EDDS requirements. As discussed above, more than adequate off-street parking is provided through garages and parking stalls within the development.

20. 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 this decision.
2. The request is for a rezone and, therefore, must be consistent with the GMACP; GMA based county codes. In this regard, the request is consistent with those plans and codes. The type and character of land use permitted on the project site is consistent with the General Policy Plan (GPP) ULDR designation of the property and meets the required regulatory codes as to density, design and development standards.
3. The request would allow for LDMR zoning.
4. The request is for a rezone and therefore must comply with Chapter 30.42A SCC. This is a site specific rezone that conforms to the Comprehensive Plan and since no evidence was submitted contrary to the requirements of Chapter 30.42A SCC, the evidence is presumed to meet these requirements.
5. The request should be approved as submitted.
6. Any Conclusion in this Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION

The request for a **REZONE** from Residential-7200 (R-7200) to Low Density Residential (LDMR) for this property is hereby **APPROVED**.

Decision issued this 21st day of August, 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 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, 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 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: 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.