

**DECISION of the SNOHOMISH
COUNTY HEARING EXAMINER**

DATE OF DECISION: December 22, 2009

PLAT/PROJECT NAME: **PACA PRIDE GUEST RANCH**

APPLICANT/
LANDOWNER: David Capocci

FILE NO.: 08-107724-000-00-LU

TYPE OF REQUEST: **REZONE** from Rural-5 Acre (R-5) to Forestry & Recreation (F&R) and **CONDITIONAL USE PERMIT**, and **LANDSCAPE MODIFICATION** on a 14.96 acre site to allow recreation camping tents.

DECISION (SUMMARY): **APPROVAL SUBJECT TO A PRECONDITION AND CONDITIONS**

BASIC INFORMATION

GENERAL LOCATION: 28311 Mountain Loop Highway, Granite Falls, WA (in Section 01, Township 30 North, Range 7 East, W.M.), Snohomish County, Washington)

ACREAGE: 14.96 acres

ZONING: R-5

Comprehensive Plan Designation: Rural Residential-5 (1 du/5 acres)

School District: Granite Falls School District No.332

Fire District: Fire District No. 23

Water Source: Individual well Sewer Service: On-site septic system

PDS STAFF RECOMMENDATION: Approve with Conditions

INTRODUCTION

The applicant filed the Master Application on August 12, 2008, which was determined to complete as of the date of submittal. (Exhibit J)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. Exhibit F1 (Affidavit of Mailing); Exhibit F2 (Affidavit of Notification by Publication); Exhibit F3 (Posting Verification).

A Determination of Nonsignificance (DNS) was made by the Granite Falls School District on March 11, 2009. (Exhibit E2) The DNS was not appealed.

The Examiner held an open record hearing on November 18, 2009. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

NOTE: The oral transcript is hereby made a part of the record in this matter. For a full and complete record, a verbatim recording of the hearing is available in the Office of the Hearing Examiner.

FINDINGS OF FACT

Based on all of the evidence of record, the following Findings of Fact are entered.

A. Background

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. Summary of Proposal:

The applicant is requesting a rezone from R-5 to F&R, a CUP and a landscape modification for the approval of a campground allowing the applicant to offer transient non-community primitive camping accommodations via the use of tents on an existing alpaca farm. As a guest ranch, retreat and seminar center, the applicant will feature overnight camping sites and educational opportunities and demonstrations related to, but not limited to the following:

- Alpacas and llamas: from fibers to fashion and animal breeding
- Historical background of Robe Canyon and the Everett and Monte Cristo Railway;
- Environmental education in conjunction with groups such as the Snohomish Conservation District, Department of Natural Resources (DNR) and the Forest Service;
- Green practices and self-sufficiency;
- Local 4H Clubs;
- Llama walks and animal interaction.

3. Site Description

The subject parcel is approximately 14.96 acres in size, and consists of zero percent to 30 percent slopes. The project site is currently developed with one single-family residence at the

northwestern portion of the site with several outbuildings that are associated with the farming practice of raising alpacas and llamas. All existing structures will remain. There are wetland and stream critical areas throughout the central and southern portions of the site and there is a segment of steep slope in the center of the site. The site is bounded by the public Mountain Loop Highway to the south.

4. Adjacent Zoning/Uses.

The subject parcel is surrounded by large sized lots, all zoned R-5. The surrounding parcels either contain a single-family residence and various outbuildings or are large parcels of undeveloped land.

B. Public Comment/Issues of Concern.

5. A letter (Exhibit H4), dated September 3, 2008, was received from the Stillaguamish Tribe of Indians. The letter states that the "...referenced permit application is located within the areas of traditional occupation by the Stillaguamish. With earth movement and development there is a possibility of cultural impact on the Tribe. The Tribe requests that extreme caution be observed". The letter from the Tribes was routed to the applicant and a condition has been added to ensure that the Tribe is included in the land use decision.

No other agency or technical reviews have identified any concerns for the rezone, CUP or landscape modification.

Written comments of support (Exhibits I1, I2 and I3) were received from the public regarding this project.

C. Compliance with Performance Standards.

6. Parks Mitigation.

This proposal is not subject to mitigation payments as contained in Chapter 30.66A SCC.

7. Traffic Mitigation and Road Design Standards (Title 13 SCC & Chapter 30.66B SCC).

The Traffic Engineering Section of PDS has reviewed the subject development proposal for compliance with Chapter 30.66B SCC (Snohomish County's Traffic Mitigation and Concurrency Ordinances), Title 13 SCC, Snohomish County Engineering Design and Development Standards (EDDS), the appropriate county rules and procedures, and has summarized that review below. This development proposal is subject to the requirements of the amended version of Chapter 30.66B SCC that became effective February 1, 2006.

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 (TSA) as the development, at the rate identified in SCC 30.66B.330 for the type and location of the proposed development.

The trip generation for this proposal is based on the applicant's description of the use and based on the proposed improvements to the site, because there are no similar uses in the Seventh Addition ITE Trip Generation handbook. The development will generate 6.33 new

average daily trips (ADT) and has a road system impact fee of \$2,171.19 based on \$343.00/ADT, the current fee rate for commercial developments outside the urban growth area (Urban Growth Area), for TSA B. Consistent with SCC 30.66B.340, payment of this road system impact is required as a condition to approval.

Trip Generation Calculations:

- Trip Generation Based on Average Rates:
- Camping is estimated to occur from May to September, approximately 22 weeks (154 days) per year.
- It is anticipated that each campsite will generate an average of three trips per day.
- New average daily trips – 154 days x five campsites x three trips/day = 2,310 ADT, which averaged for the year by dividing by 365 days per year = 6.33 ADT.

B. Concurrency [SCC 30.66B.120]

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

The development has been deemed concurrent on the following basis:

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent as of September, 24 2008. The expiration date of the concurrency determination is six years from this date. Consistent with Department of Public Works (DPW) Rule 4225.070, the point in time for which the concurrency analysis is based (the concurrency vesting date) is August 12, 2008.

Development generating 50 or fewer peak-hour trips in TSA with one or more arterial unit in arrears. SCC 30.66.160(2)(a): the subject development is located in TSA B, which as of the date of submittal had the following arterial units in arrears: Unit 238. Based on peak hour trip distributions, the subject development will NOT add three or more peak-hour trips to any of the arterial units in arrears. Pursuant to SCC 30.66B.160(2)(a); the development is determined concurrent. The development generates a negligible number of peak-hour trips, which is not more than the threshold of 50 peak-hour trips in which case the development would also have to be evaluated under SCC 30.66B.035.

C. Inadequate Road Condition (IRC).

Regardless of the existing LOS, any development which adds three or more PM peak-hour trips to a location in the road system determined to have an existing 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 proposal will not impact any IRC locations identified within TSA B with three or more of its PM peak-hour trips, nor will it create any. Therefore, it is anticipated that mitigation will not be required with respect to IRCs 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.

The improvement standard will be established by the Director of the DPW in accordance with SCC 30.66B.430 and as outlined in the DPW's administrative rules on frontage improvements.

The subject property frontage is located along the Mountain Loop Highway. The need for frontage improvements was reviewed by the DPW and it was determined that minimum frontage improvements will be required for this development in lieu of full frontage improvements, which is a paved driveway apron at the access point along the development's frontage. This decision was based on the provisions of DPW's Rule 4222, which pertains to frontage improvements. DPW Rule 4222.020 allows the DPW to make determination on the need and degree of frontage improvements as follows:

- *The required frontage improvement standard will be full standard improvements unless otherwise provided by this section. All developments, except duplexes on existing tax lots, will be required to make full standard frontage improvements unless the Department of Public Works determines that a development is not required to make full standard improvements in accordance with Department of Public Work's Rule 422.030 or 4222.040 below, as determined by Department of Public Works.*
- *Where Department of Public Works determines that a development is not required to make full standard frontage improvements, as stated above, a less than full standard frontage improvement will be required.*
- *Minimum frontage improvements shall consist of paved driveway aprons at each access point along the development's frontage.*

The decision to require minimum frontage improvements for the development was based on the following provisions of DPW Rule 4222:

Engineering reasons which may preclude the construction of full standard frontage improvements may include the following:

1. *The parcel abuts a road in the rural area with less than one half of a mile of frontage, and no other full standard frontage improvements exist within one half of a mile of the development, nor are anticipated to be constructed within on half of a mile of the development within the next six years, and the frontage is not within one half mile of any existing or proposed public facility such as a school, park, bus stop or walkway, or other attractor such as a neighborhood business, to which pedestrian access should be provided.*
2. *There are other significant reasons as determined by Public Works which may also preclude the construction of full standard frontage improvements at the time of development.*

One such reason for the decision was based on topography of the site along the property's frontage, which includes steep slopes down from the road, as well as wetland and stream

buffers. A guardrail was recently installed by the DPW along approximately 710 feet of the west frontage of the property. The guardrail was installed at that location because of the steep slopes along that section of the road, and the location of sensitive areas that would limit the ability to widen the shoulder of the road. A ten foot clear zone from the edge of the traveled way is required by EDDS 4-15 (A) for the rural roads with a posted speed of 35 miles per hour or less; and a steep drop off within the clear zone is considered to be an obstacle that requires a guardrail as a safety measure. There is currently a 6-7 foot wide gravel shoulder between the edge of the asphalt for the Mountain Loop Highway and the guardrail. If full standard frontage improvements were to be constructed, the guardrail would have to be relocated further north of the road, which would be cost prohibitive, and would create significant impacts to the critical areas north of the road.

This development will only be generating about 6.33 new ADT. It is most likely that most of those trips would be coming from the west (Granite Falls) and going back to the west. The situation seems to meet item (1) in DPW Rule 4222 above, because there are no other full standard frontage improvements within one-half mile of the development, nor are there any anticipated within the next 6 years. In addition, there are no attractions within walking distance which require pedestrian access from the site.

SCC 30.66B.430 provides:

The extent of frontage improvements, offsite road improvements, or access and transportation circulation improvements necessary to meet the requirements of this chapter and Title 13 SCC will be established by the director of public works. The developer may be responsible for preparing any aspect of engineering design or investigation necessary to establish the extent of improvements if the director of public works does not have the design or investigation programmed or under way consistent with the development's schedule. The traffic study shall contain analysis of the extent of any improvements determined to be necessary by the director of public works. SCC 30.66B.430(1).

Design improvements shall be in accordance with the EDDS. Where an interim or partial improvement is implemented through SCC 30.66.440, the improvement design shall be compatible with the adopted standard. SCC 30.66B.430(2)

In determining improvements required, the director of public works will consider, with other relevant factors the following: (a) Extent of the development proposed; (b) Priority if improvements to involved county roads in the county's six-year transportation improvement plan; (c) Condition of existing transportation facilities in comparison to adopted standards; (d) Existing and project land uses and development densities; (e) Current and projected levels of service on the affected road system; (f) Availability of public transit; (g) Any traffic study submitted; (h) Availability of a specific improvement program; (i) the number of dwelling units currently using the road system that must be improved and projected to use the road system after full occupancy of the development; (j) The needs of low-income persons for decent, affordable, low-cost housing; (k) Transportation system or demand management measures proposed by the developer; (l) The need for pedestrian and bicycle facilities; (m) Continuity with existing and proposed improvements; (n) Development

standards of adjacent cities; (o) The need for safety improvements for school children; and (p) The types, sizes and performance of vehicles generated by the development, including but not limited to large trucks.

The proposed project is a very low impact development. Only a minimal amount of traffic would be generated, which wouldn't occur during the winter months and most traffic would likely be traveling to and from the west side of the property. Mountain Loop Highway is not a critical arterial unit and is not predicted to be in the future.

The proposed development offers activities on site and there is no reason for pedestrians or bicyclists to be generated by the development onto Mountain Loop Highway. Full frontage improvements are not being required because full standard frontage improvements would not match the rest of the existing Mountain Loop Highway corridor.

A paved driveway approach per EDDS 2-040 is a condition of approval of the CUP.

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. As stated in 7.D above, the applicant will be providing a paved driveway to access the site in accordance with EDDS 2-0404 as a condition of approval of the CUP.

F. Right-of-Way Requirements [SCC 30.66B.510, SCC 30.66B.520]

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

The road serving this development, Mountain Loop Highway, is designated as a major collector arterial road on the County's Arterial Circulation Map. This requires a right-of-way width of 40 feet on each side of the right-of-way centerline. Currently, more than 40 feet exists along the west 544 feet of the property frontage, and 30 feet of right-of-way exists along the east 766 feet of the property frontage on the development's side of the right-of-way. Therefore, the development is required to deed 10 feet of additional right-of-way along the east (approximately) 766 feet of the property's frontage. This is adequately shown on the plans and has been added as a condition of approval.

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

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

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

Comments dated January 26, 2007 (Exhibit H6), have been received from WSDOT indicating that if a development does not generate three total peak hour trips WSDOT does not need to review it and no contribution would be requested. Therefore, no road impact fees will be required to WSDOT.

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

This project is subject to the requirements of SEPA, so it is subject to the requirements of the City of Granite Falls/County interlocal agreement. An offer to pay the City of Granite Falls \$1,485.00 is based on 6.33 ADT generated by the proposed development x 0.66 of the number of ADT generated by the development. Please note that Granite Falls' fee rate is based on the development, which is 9.57 ADT to produce a ratio of 66 percent for use in the calculation for the mitigation fee.

Due to a difference caused by rounding numbers in the equation, the applicant offered \$1,485.00, but the City of Granite Falls responded with a request for \$1,487.94 in a letter dated May 28, 2009 (Exhibit H1), based on the following calculation: 154 days per year of campsite use divided (averaged) by 365 days per year x five campsites proposed x three trips per campsite x \$261.23 per trip (\$2,500 per residence divided by 9.57 ADT per residence = \$261.33 per ADT) x 90 percent for sub area location. PDS Traffic has determined that if the applicant offered to pay \$1,485.00 for traffic mitigation to the City, they would be willing to pay an additional \$2.94, so the original offer is adequate. Payment of \$1,487.94 is a condition of approval for the CUP.

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

TDM is a strategy for reducing vehicular travel demand, especially by single occupant vehicles during commuter peak hours. TDM offers a means of increasing the ability of transportation facilities and services to accommodate greater travel demand without making expensive capital improvements. The County requires TDM of developments inside the UGA and developments that impact arterial units designated as ultimate capacity.

SCC 30.66B.630 requires development inside the UGA to provide TDM measures. Since this development is outside of the UGA, TDM measures are not required.

9. Mitigation for Impacts to Schools [Chapter 30.66C SCC]

The project is not subject to fees associated with Chapter 30.66C SCC.

10. Drainage and Grading.

The site is approximately 14.96 acres in size. Site soils are Skykomish Gravelly Loam with zero percent to 30 percent slopes. Stormwater runoff enters the site via sheet flow across the northwest corner and northern property line. Stormwater runoff exits the site via stream flow at the southern boundary of the property. The project site is currently development with one single-family residence at the northwestern portion of the site and with a barn, well house, yurt and long gravel driveway. All existing structures will remain. There are wetland and stream critical areas throughout the central and southern portions of the site and there is a segment of steep slope in the center of the site. The site is bounded by the public Mountain Loop Highway to the south.

The upstream area for this site is approximately 60 acres north of the site from the slope of Green Mountain. A wedge of the upstream area sheet flows to the on-site wetlands and stream and exits the site as channel flow through the on-site stream.

Downstream the stream flow passes under the Mountain Loop Highway through a culvert and then flows approximately 1,000 feet to the Stillaguamish River.

There are no recorded drainage complaints within the vicinity of the project. There are no reported public concerns with the project's drainage.

The development proposes less than 5,000 square feet of new impervious surface which, per SCC 30.63A, causes it to be under the threshold for water quality treatment. The development proposes under 0.1 cfs of new 100-year, 24-hour stormwater runoff which, per SCC Chapter 30.63A, causes it to be under the threshold for runoff control. Therefore, a final Drainage Report and Plan are not required. Less than 100 cubic yards of grading are estimated, therefore, pursuant to SCC 30.63B and Rule 3044, the project will not require full construction plans with Temporary Erosion and Sedimentation Control (TESC) plans and Stormwater Pollution Prevention Plan Analysis (SWPPP) and grading permit.

Existing drainage patterns would be maintained. No downstream flooding would be impacted by this project. Based on the preliminary findings made by the staff of PDS Engineering Section relating to drainage and grading, this project will meet the requirements of SCC 30.63A, 30.63B, EDDS 2004 Edition and Rule 3044. The Hearing Examiner concurs with this finding.

11. Critical Areas Regulations (Chapter 30.62 SCC)

County staff initially reviewed site conditions under a Type 4G Forest Practice Permit (Exhibit A8) application in 1997 (Snohomish County file number 97-107815 FP). The permit was approved by the DNR on October 29, 1998. A Critical Area Site Plan (CASP) (Exhibit C2) was recorded with the Snohomish County Auditor's Office (Auditor's File Number 9809110001) on September 11, 1998. The CASP recorded a Native Growth Protection Area (NGPA) restriction covering a Category 3 wetland/Type 4 stream corridor, critical slopes and required buffer area. Pockets of small (less than 5,000 square foot) wetlands were approximately located and no timber harvesting within these areas was allowed.

The subject property contains a Category 3 riparian wetland that contains a Type NS stream that transverses the site from east to west. Four additional isolated Category 3 wetlands are located within the eastern portion of the parcel (Exhibit B1). County staff has verified the wetland boundary and stream assessment conducted by Randy Arnold of Northwest Biological Consultants, LLC (Exhibit B3) for a description of critical area conditions. The application was deemed complete on September 9, 2008 and as such was reviewed for compliance with Chapter 30.62A, B and C SCC that went into effect on October 1, 2007.

The subject property contains an existing single-family residence and other structures within the northwest portion of the site. No development activities are proposed to the on-site wetlands, stream, critical slopes or buffers that would require a Critical Area Study and/or mitigation plan under SCC 30.62A.140. The standard wetland and stream buffers are depicted on the revised October 5, 2009 site plan in accordance with the requirements of SCC 30.62A.320(1)(a). A Critical Area Protection Area (CAPA) will be required protecting the critical areas and buffers in accordance with SCC 30.62A.160. The NGPA established under the forest practice permit will be superseded with the recordation of the CAPA which is listed as a condition of approval for the CUP.

An evaluation of the information submitted in the revised application, coupled with on-site investigations, has resulted in a determination that the application complies with Chapter 30.62A SCC (Wetlands and Fish and Wildlife Habitat Conservation Areas) and is consistent with the purpose, applicability and intent of the chapter in the regulation of development activities for wetlands and for fish and wildlife habitat conservation areas required by Chapter 30.70A RCW.

12. Consistency with the GMA Comprehensive Plan.

On December 21, 2005, effective February 1, 2006, the Council adopted Amended Ordinances 05-069 through 05-079, 05-081 through 05-085, 05-090 which amended the map and text of the Snohomish County GMA Comprehensive Plan, added rural lands to UGAs and adopted area-wide rezones within the UGAs of the county respectively.

The subject property is designated Rural Residential on the GPP Future Land Use map, and is located outside the UGA. It is not located within a mapped Growth Phasing Overlay. The implementing zones within this designation are the Rural-5 zone and other zones with a minimum lot size requirement of larger than 5 acres.

13. Rezone.

The applicant requests a rezone from R-5 to F&R. The F&R zone is not identified as an implementing zone within the Rural Residential-5 designation. Nonetheless, this zone has been traditionally treated by PDS as a floating zone that can be implemented within any land use designation. By definition under the zoning code, however, the intent and function of the F&R zone is "to provide for the development and use of **forest land** for the production of forest products as well as certain other compatible uses such as recreation, including recreation uses where remote locations may be required, and to protect publicly-owned parks in UGAs." SCC 30.21.025(3)(b)(emphasis added). Under the zoning code, the term "forest land" is limited to those lands designated as forest resource land under the Growth Management Act. That does not include lands within the Rural Residential-5 designation.

By its terms, the zoning code precludes the rezone that the applicant requests. However, since PDS has by practice allowed this zone to act as a floating zone across all designations, the Examiner will not penalize this applicant for the error that PDS has made in its reading of the code. The Examiner will grant this rezone, because it is not opposed by anyone in the community and fits the traditional guidelines set by PDS. However, the Examiner requests that PDS immediately fix the code to avoid making this error again.

The proposed site will allow this site to offer recreational activities such as camping and educational opportunities oriented toward the farming activities associated with the raising of alpacas and llamas on the farm and the ecosystem on site. The rezone is supported by the community and will also allow much needed lodging space in the Granite Falls area and in the Mountain Loop recreational area.

14. Utilities

- A. Water. The State Department of Health approved the Group B water system (ID#AC212N) in a letter dated 26 January 2009. (Exhibit H2)
- B. Septic/Snohomish Health District Approval. Snohomish Health District (SHD) has no objection to the proposed rezone and administrative conditional use. SHD makes the following comments:

The existing onsite sewage disposal system is presently approved to serve a maximum of five campsites in addition to the single family residence on the property. However, additional campsites could be added in the future upon Snohomish Health District approval of an expanded or additional onsite sewage system and water supply.

(Exhibit H3).

- C. Power. The residence has existing power that was approved when the residence was constructed, and is not proposing any additional power requirements with the proposed rezone and CUP.

15. State Environmental Policy Act Determination (Chapter 30.61 SCC)

PDS issued a Determination of Nonsignificance (DNS) for the subject application on August 12, 2009 (Exhibit E2). PDS did not receive any comments during the comment period and the DNS was not appealed.

16. Conditional Use Permit Criteria

In considering the application, the Examiner must apply SCC 30.42C.100, which outlines the decision criteria for a CUP as follows:

1. The hearing examiner may approve, approve with conditions, or deny a conditional use permit only when all the following criteria are met:
 - (a) The proposal is consistent with the comprehensive plan;
 - (b) The proposal complies with applicable requirements of this title;
 - (c) The proposal will not be materially detrimental to uses or property in the immediate vicinity; and
 - (d) The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.
2. As a condition of approval, the hearing examiner may:
 - (a) Increase requirements in the standards, criteria, or policies established by this title;
 - (b) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides, or traffic;
 - (c) Require structural features or equipment essential to serve the same purpose set forth in 30.42C.100 (2)(b);

- (d) Impose conditions similar to those set forth in items 30.42C.100 (2)(b) and 30.42C.100 (2)(c) as may be deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters. The hearing examiner may not in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use nor otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;
- (e) Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;
- (f) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need;
- (g) Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements; and
- (h) Impose any requirement that will protect the public health, safety, and welfare.

The applicant has requested a CUP to be able to utilize the existing alpaca and llama ranch as a campground. Approving this request will allow the applicant to offer transient non-community primitive camping accommodations via the use of tents on the existing alpaca farm. As a guest ranch, retreat and demonstrations to the public related to, but not limited to the following:

- Alpacas and llamas: from fibers to fashion and animal breeding;
- Historical background of Robe Canyon and the Everett and Monte Cristo Railway;
- Environmental education in conjunction with groups such as Snohomish Conservation District, DNR and the Forest Service;
- Green practices and self-sufficiency;
- Local 4-H Clubs;
- Llama walks and animal interaction.

The project site is currently developed with one single-family residence at the northwestern portion of the site with several outbuildings that are associated with the farming practice of raising alpacas and llamas. All existing structures will remain.

The following analysis demonstrates how the proposal meets the first criteria for granting a CUP: consistency with the comprehensive plan.

(a) *The proposal is consistent with the comprehensive plan;*

GOAL LU 6 Protect and enhance the character, quality, and identity of rural areas.

Objective LU 6.B Encourage land use activities and development intensities that protect the character of rural areas, avoid interference with

resource land uses, minimize impacts upon critical areas, and allow for future expansion of UGAs.

The land activities proposed with the CUP include primitive campsites, trails and educational opportunities for farming activities and the ecosystem found on the site. These activities will be set up and controlled by the owners such that the character of the site is maintained. The proposed campsites are located in areas southeast of the existing house and outside of any critical areas. Trails are established that protect the critical areas located on site. Any measures that have been established as conditions to protect the critical areas on the site will be completed. The proposal will not impact the potential future expansion of the Granite Falls UGA.

LU Policies 6.B.2 The retention of small forest, farming, horse farm and other livestock based farm operations and hobby farms shall be encouraged in rural areas.

The proposed CUP will keep the existing forested areas on the site, no additional clearing or cutting of trees, except damaged, diseased or hazardous, will be completed. The site is currently used as a farm for the raising of alpacas and llamas. A grant was recently received from the Snohomish Conservation District for additional fencing on the site to keep the livestock out of the critical areas located on the site.

LU Policies 6.B.4 Resource-dependent tourism and recreation-oriented uses such as commercial horse stables, guide services, golf courses, and group camps should be allowed on a conditional use basis in rural areas provided they do not adversely impact adjoining rural uses.

The proposed CUP will allow this site to offer recreational activities such as camping and educational opportunities oriented towards the farming activities associated with the raising of alpacas and llamas on the farm and the ecosystem on the site. The applicant has completed a farm plan in cooperation with the Snohomish County Conservation District which uses best management practices to protect environmental features on the property from farming practices.

LU Policies 6.B.5. Nonresource-dependent tourism and recreation-oriented uses such as commercial horse stables, guide services, golf courses, and group camps should be allowed on a conditional use basis in the rural areas provided they do not adversely impact adjoining rural uses.

The proposed CUP will allow this site to offer recreational activities such as camping and educational opportunities oriented towards the farming activities associated with the raising of alpacas and llamas on the farm and the ecosystem on the site. . The applicant has completed a farm plan in cooperation with the Snohomish County Conservation District which uses best management practices to protect environmental features on the property from farming practices. The proposed camping activities, because of the carefully sited location of the campsites, and the containment of existing trails on the subject property, will not result in an adverse impact to adjoining rural areas.

LU Policies 6.B.7 Except for athletic facilities located near urban growth areas, campgrounds, parks, recreational facilities, and trails shall consist of low intensity and density uses and be sited and designed to avoid adverse impacts on residents and the environment.

The proposed CUP will offer camping sites and trails that will consist of low intensity activities and density uses that are suited to this site. The proposed uses on the site will be directed to avoid impacts on residents and the environment. It is anticipated that a majority of the use will be during weekends and no more than five campsites will be provided at any time.

(b) The proposal complies with applicable requirements of this title;

The existing residence and outbuildings were designed and permitted pursuant to SCC 30.23 (establishes minimum net density, lot width, setbacks, height limits under the R-5 zone). The existing house and outbuildings are within the height requirement of the F&R zone (Exhibit A3).

A campground is allowed in the F&R zone with CUP approval. The maximum overall density shall be seven camp or tent sites per acre and the minimum site size shall be 10 acres per SCC 30.22.130(32). This CUP proposal is consistent with code.

(c) The proposal will not be materially detrimental to uses or property in the immediate vicinity; and

The proposed primitive camping, tents, and the ability to utilize the subject site for retreats and/or educational purposes in regards to the environment and the ecosystem found on site will not adversely affect the existing or potential uses or property in the immediate area. The camping activities have been carefully sited to the interior of the subject site, and the existing trails are contained to the subject property. The existing mature vegetation has been not only retained but enhanced to provide the required screening buffers. The proposed project will appeal to the outdoor recreational enthusiast currently traveling the Mountain Loop Highway, and help preserve the rural character of the area.

(d) The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.

The proposed CUP will allow this site to offer recreation-oriented activities such as camping and educational activities oriented towards the livestock currently raised on the farm and the ecosystem on the site. These activities will not result in an adverse impact of the site and surrounding property.

The CUP will allow the applicant to offer camping facilities and trails that will consist of low intensity activities and density uses that are suited to this site. The proposed uses on the site will be directed to avoid impacts on residents and the environment. The site is anticipated to be used as summer seasonal use only. It is anticipated that a majority of the use will be during weekends and no more than five campsites at any time.

The applicant has requested a landscape modification per SCC 30.25.040 (Exhibit G1), stating that the existing landscaping and additional trees planted by the applicant meet/exceed the requirements. The pictures submitted with the landscape modification request (attached to Exhibit G1) show that the existing mature vegetation on the site ensure that the proposal responds appropriately to the existing and intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.

There has been one letter (Exhibit I1), and two emails (Exhibits I2 and I3), written to PDS in support of Paca Pride from surrounding property owners. Paca Pride was also recently awarded the *Commercial Farm of the Year* by the Snohomish Conservation District. The letter and emails from the surrounding property owners all have a common theme. Comments in the written materials state that the Paca Pride Guest Ranch “is a good steward of the land” and opine that the development will “fully comport with the historic recreational uses of the area”.

The criteria for approval have been met.

17. Landscape Modification.

The applicant has requested a landscape modification pursuant to SCC 3 30.25.040 to review existing trees and vegetation as a part of project review. Under SCC 30.25.040, the decision maker (either the department or the hearing examiner) may approve a request for modification when:

- (a) The proposed landscaping represents an equal or better result than would be achieved by strictly following the requirements of the code; or
- (b) The proposed landscaping fulfills its intended purpose as described in this chapter, or when applicable, Chapter 30.42B SCC.

In considering requests for modification of perimeter landscaping requirements, preservation of existing vegetation, particularly healthy trees standing 50 feet or more in height or other groupings of natural vegetation in consolidated locations. Any modification is not required to provide more than the minimum width, density, or quality of landscaping.

The existing mature landscaping and additional trees planted by the applicant meet/exceed the requirements for the required, Type A, perimeter, landscaping for a CUP (SCC 30.25.020), the required parking lot landscaping (SCC 30.25.022), and the 10 feet of Type B road frontage landscaping (SCC 30.25.020), as shown in Exhibit G1.

CONCLUSIONS OF LAW

1. The Examiner has original jurisdiction over CUP applications pursuant to Chapter 30.72 SCC and Chapter 2.02 SCC.
2. In considering the CUP, application of many of the decision criteria require the exercise of discretion.
3. The proposal is consistent with the GMACP; GMA-based county codes, the type and character of land use permitted on the project site, the permitted density and applicable design and development standards.
4. Adequate public services exist to serve the proposal.
5. If approved with the recommended precondition and conditions, the proposal will make adequate provisions for the public health, safety and general welfare.

6. The proposed rezone, CUP and landscape modification, with recommended precondition and conditions of approval, are consistent with the comprehensive plan and comply with the applicable requirements of Title 30 SCC.
7. The rezone, CUP and landscape modification, with recommended precondition and conditions of approval, will respond to as well as maintain compatibility with surrounding uses and incorporate specific features, conditions, or revisions that ensure it responds appropriately to the character, appearance, quality of development, and physical characteristics of the site and surrounding properties.
8. The CUP, with recommended precondition and conditions of approval, will respond to as well as maintain compatibility with surrounding uses and incorporate specific features, conditions, or revisions that ensure it responds appropriately to the character, appearance, quality of development, and physical characteristics of the site and surrounding properties.
9. Any Conclusion of Law in this decision, which should be deemed a Finding of Fact, is hereby adopted as such, and vice versa.

DECISION

Based on the Findings of Fact and Conclusions of Law entered above, the decision of the Hearing Examiner on the applications is as follows:

The requests for a **REZONE, CONDITIONAL USE PERMIT** and **LANDSCAPE MODIFICATION** are hereby **CONDITIONALLY APPROVED**, subject to the following **PRECONDITION** and **CONDITIONS**:

PRECONDITION

- A. A record of developer obligations and certificate of concurrency shall have been recorded with the County Auditor against the real property on which the development is proposed.

CONDITIONS:

- A. The Conditional Use Permit site plan, received by PDS on October 10, 2009 (Exhibit B1) shall constitute the official site plan. Any revisions to the Conditional Use Permit and/or development plan exhibits shall be in accordance with SCC 30.42C.110.
- B. This site is located within the areas of traditional occupation by the Stillaguamish Tribe of Indians. With earth movement and development there is a possibility of cultural impact on the Tribe. The Tribe requests that extreme caution be observed. If human remains are encountered, the applicant must stop work, secure the area, and contact the State Department of Archaeology and Historic Preservation, the County, the Tribe and the Medical Examiner immediately.
- C. Nothing in this 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.

- D. Prior to building permit issuance and/or prior to issuance of any development/construction permits by the County:
- i. The applicant shall have paid an impact fee to Snohomish County for traffic impacts to Transportation Service Area "B" totaling \$2,171.19 (PDS Transaction Code 5208). [SCC 30.66B.310]
 - ii. The sum of \$1,487.94 shall have been paid to the City of Granite Falls for mitigation of impacts on City streets. Proof of payment is needed. [SCC 30.66B.720]
 - iii. Ten feet of additional right-of-way, parallel and adjacent to the right-of-way centerline of Mountain Loop Road shall be deeded to the County along the development's frontage, to total 40 feet of right-of-way.
 - iv. A Land Use Permit Binder shall have been completed, signed and recorded with the County Auditor's Office. (Forms can be obtained from PDS)
- E. Prior to the issuance of certificate of occupancy/final inspections;
- i. Storm water drainage measures shall be implemented.
 - ii. Site improvements, interior circulation area improvements and any general site landscaping shall be installed, inspected and approved consistent with the official site plan and exhibits.
 - iii. A paved driveway approach per EDDS 2-040 shall have been completed.
- F. In conformity with applicable standards and timing requirements:
- i. Facility buffering and interior circulation area improvements and general site landscaping shall be implemented consistent with the official site plan exhibits.
 - ii. Critical Area Protection Area (CAPA) boundaries shall have been permanently marked on the site prior to final inspection by the county, with both CAPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The applicant may use other permanent methods and materials provided they are first approved by the county. Where a CAPA 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.

Decision issued this 22nd day of December, 2009.



Barbara Dykes, Hearing Examiner

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 **JANUARY 4, 2010**. 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 **JANUARY 5, 2010** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

An appeal must contain the following items in order to be complete: a detailed statement of the grounds for appeal; a detailed statement of the facts upon which the appeal is based, including citations to specific Hearing Examiner findings, conclusions, exhibits or oral testimony; written arguments in support of the appeal; the name, mailing address and daytime telephone number of each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any; the name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and the required filing fee.

The grounds for filing an appeal shall be limited to the following:

- (a) The decision exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- (c) The Hearing Examiner committed an error of law; or
- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by substantial evidence in the record. [SCC 30.72.080]

Appeals will be processed and considered by the County Council pursuant to the provisions of Chapter 30.72 SCC. Please include the County file number in any correspondence regarding the case.

Staff Distribution:

Department of Planning and Development Services: Roxanne Pilkenton

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.
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This decision is binding but will not become effective until the above precondition(s) have been fulfilled and acknowledged by the Department of Planning and Development Services (PDS) on the original of the instant decision. Document(s) required for fulfillment of the precondition(s) must be filed in a complete, executed fashion with PDS not later than DECEMBER 22, 2010.

1. "Fulfillment" as used herein means recordation with the County Auditor, approval/acceptance by the County Council and/or Hearing Examiner, and/or such other final action as is appropriate to the particular precondition(s).
2. One and only one six month period will be allowed for resubmittal of any required document(s) which is (are) returned to the applicant for correction.
3. This conditional approval will automatically be null and void if all required precondition(s) have not been fulfilled as set forth above; PROVIDED, that:
 - A. The Examiner may grant a one-time extension of the submittal deadline for not more than twelve (12) months for just cause shown if and only if a written request for such extension is received by the Examiner prior to the expiration of the original time period; and
 - B. The submittal deadline will be extended automatically an amount equal to the number of days involved in any appeal proceedings.

ACKNOWLEDGMENT OF FULFILLMENT OF PRECONDITIONS

The above imposed precondition(s) having been fulfilled by the applicant and/or the successors in interest, the Department of Planning and Development Services hereby states that the instant decision is effective as of _____, _____.

Certified by:

_____ (Name)

_____ (Title)