DECISION of the SNOHOMISH COUNTY
HEARING EXAMINER

DATE OF DECISION: August 23, 2013

PLAT/PROJECT NAME: Carter Estates

APPLICANT/ LANDOWNER: Jerry Sebranke
3805 Mallby Road
Bothell, WA 98012

FILE NO.: 08-105784 SD

TYPE OF REQUEST: Rezone and Preliminary Subdivision/PRD Approval

DECISION (SUMMARY): Rezone is GRANTED;
Preliminary Subdivision and Planned Residential Development approval is GRANTED, subject to CONDITIONS.

BASIC INFORMATION

LOCATION: Intersection of York Road and Jewell Road, Bothell

ACREAGE: 3.37 acres

NUMBER OF LOTS: 24 lots

MINIMUM LOT SIZE: 3423 square feet
GROSS DENSITY: 7.12 du/acre

GMACP DESIGNATION: Urban Low Density Residential (ULDR)

ZONING: R-9600
PROPOSED ZONING: R-7200

UTILITIES:
Water: Alderwood Water and Wastewater District
Sewer: Alderwood Water and Wastewater District
Electricity: Snohomish County PUD No. 1
SCHOOL DISTRICT: Northshore School District No. 417

FIRE DISTRICT: Snohomish County Fire Protection District No. 7

PDS STAFF RECOMMENDATION: Approve, subject to conditions.

A. BACKGROUND INFORMATION

1. The Record. The official record for this proceeding consists of the Exhibits entered into evidence (Exhibits A.1 through K.1), as well as the testimony of witnesses received at the open record hearing. The entire record was admitted into evidence and considered by the Examiner in reaching the decision herein.

   NOTE: For a complete record, an electronic recording of the hearing in this case and the Hearing Log is available in the Office of the Hearing Examiner.

2. Parties of Record. The Parties of Record are set forth in the Parties of Record Register and include interested parties who testified at the Open Record Hearing.

3. Public Hearing. A public hearing was held on August 7, 2013 and the hearing was continued until August 13, 2013 to permit the Department of Planning and Development Services (PDS) to obtain updated information on the schools that will be used by the children from the proposed development and the locations of bus stops and walking routes. Witnesses were sworn, testimony was presented, and exhibits were entered into the record at the hearing. Notices of the application and public hearing were issued according to the provisions of SCC 30.70.050. (Exhibits F.1, F.2 and F.3) Notice was concurrently given concerning the SEPA Threshold Determination, Traffic Concurrency and Impact Fee Determinations as required by the County Code.

   Monica McLaughlin and Mark Brown appeared and testified on behalf of PDS. Appearing for the Applicant was Ted Trepanier. No members of the general public appeared or testified at the public hearing.

4. Site Visit. The Examiner conducted a site visit to the subject property on August 12, 2013.

B. FINDINGS OF FACT

The following Findings of Fact are supported by a preponderance of the evidence presented in the record pertaining to this matter.

1. Applicant’s Proposal. The Applicant requests Preliminary Plat and Official Site Plan approval for a 24 lot subdivision/Planned Residential Development (PRD), along with a rezone of the site from R-9.600 to R-7.200. Three existing residences on the property will be demolished and the new lots developed with single-family homes. Associated with the project is a stormwater management system incorporating an above ground stormwater detention pond, installation of
curb, gutter, sidewalk and planter strips along the site's public road frontage, utilities, ornamental landscaping and recreational open space. A new public cul-de-sac road intersecting with Jewell Road is to be constructed within the development. Four of the lots in the plat will be accessed via a drive aisle connecting with the end of the cul-de-sac. Grading for the development is estimated at 10,000 cubic yards cut and 15,000 cubic yards fill. Water and sewer service is to be provided by the Alderwood Water and Wastewater District.

2. **Site Description.** The project site is comprised of three lots, each with a single family home. The site slopes down towards the east. Vegetation is comprised of lawn and ornamental landscaping, mature trees and shrubs. No critical areas exist on-site as there are no wetlands, streams or significant slopes on the site.

3. **Adjacent uses.** The surrounding properties are zoned R-9,600 and are developed with single-family residences.

4. **Project Chronology.** The subject applications were submitted to PDS on June 10, 2008 and were determined to be complete as of the date of submittal. In response to review comments by the County, the Applicant submitted revised review materials on November 17, 2010, February 7, 2013, April 9, 2013 and July 10, 2013. As of the date of the August 7, 2013 hearing, 276 days of the 120 day review period had elapsed. The Applicant was notified that the decision of the Hearing Examiner will be rendered outside of the usual 120 day review period and has provided a letter waiving the clock. (Exhibit A.4) The applications are vested to the County’s development regulations in effect on the date of application, June 10, 2008. The Applicant sought and PDS granted extensions to the effectiveness of his applications under SCC 30.70.140 in 2009 and 2012 so that the June 10, 2008 vesting date has been maintained.

5. **State Environmental Policy Act Compliance.** PDS issued a Determination of Nonsignificance (DNS) (Exhibit E.2) for the subject application on June 16, 2013. The DNS was not appealed. Accordingly, the Examiner finds that compliance with the substantive and procedural requirements of SEPA have been met.

6. **Issues of Concern.**

   A. **Public Agency Review.** No significant issues of concern were raised by reviewing agencies.

   B. **Citizens.** Prior to the hearing, PDS received correspondence from three citizens concerning the proposal. (Exhibits I.1-I.4) They raised issues concerning the following:

   - Whether the subject proposal needs to be designed to Low Impact Development (LID) standards.
   - Whether the storm drainage from the proposal will impact wetlands across the street and cause flooding and damage to nearby septic systems.
   - Traffic impacts.
   - The need for fencing of play areas near the road to protect children.
7. Approval Criteria.

A. Rezone.

The Applicant seeks a rezone of the site from R-9600 to R-7200 pursuant to Chapter 30.42A SCC. In order to grant a rezone, the Hearing Examiner must find that (1) the proposal is consistent with the comprehensive plan; (2) that the proposal bears a substantial relationship to the public health, safety and welfare and (3) where applicable, that minimum zoning criteria found in Chapters 30.31A through 30.31F SCC are met.

(i) The proposal is consistent with the Comprehensive Plan. The proposed project seeks a rezone to R-7200. The rezone will allow higher densities than would be allowed under the existing zoning of R-9600.

The subject property is designated as Urban Low Density Residential (ULDR) on the Future Land Use map (FLUM) of the Snohomish County GMA Comprehensive Plan (GMACP) and is located within an Urban Growth Area (UGA). The ULDR designation allows mostly detached housing developments on larger lot sizes. As outlined in the comprehensive plan, allowed implementing zones for this designation are R-7200, PRD-7200, R-8400, PRD-8400, R-9600, PRD-9600 and WFB. The Applicant is proposing a rezone of the site from R-9600 to R-7200, a listed implementing zone.

The Population and Employment Element of the General Policy Plan (GPP) requires that growth be directed primarily to the urban areas (Objective PE 1.A, page PE-4) that have existing or planned public facility and service capabilities to accommodate growth (PE Policy 1.A.2., page PE-4). As discussed below, the project will provide adequate public facilities and service capabilities, and, therefore, meets the criteria of the Population and Employment section.

The Land Use Element - Urban Development Patterns Policy (LU-15) and Goal LU-2 (LU-16) are intended to improve the efficiency of urban residential land utilization and to require a minimum net density of 4-6 dwelling units per acre. LU Policies 2.A.1 and 2.A.3 (LU-16) require minimum densities of 4-6 du/acre. The project will result in a net density of 9.16 du/acre. This density satisfies the requirement.

The Housing Element of the GPP requires efficient infill development in UGA's (HO Policy 1.D.3., page HO-5). The rezone is a necessary component of the development, which is an infill development within both established and newly developing neighborhoods. The proposed rezone to R-7,200 will allow the construction of more affordable homes on smaller lots which will implement land use and housing comprehensive plan policies by facilitating the accommodation of new population growth into urban areas and encouraging infill development and a wide range of housing types. In fact, the neighborhood is experiencing rapid in-fill residential development.
during the last several years, with many larger parcels being redeveloped into small lot single-family subdivisions. Hence, the proposed single-family subdivision will fit into the existing single-family character of the immediate neighborhood.

The comprehensive plan encourages innovative land use measures to accommodate new growth. The project is being developed as a PRD, which includes more rigorous development standards than a traditional plat, including providing recreational open space, preserving trees and providing guest parking. The project has been designed to provide adequate road access, connection and circulation to minimize traffic congestion, ensure adequate utility services, and provide emergency vehicle access. The configuration and design of the roads and access facilities in this development are in accordance with Chapter 30.24 SCC, 30.66B SCC, Chapter 30.53A SCC, and the Engineering Design and Development Standards (EDDS). The project has been designed to provide adequate and safe pedestrian access to and circulation within the development by sidewalks. The Applicant proposes a fenced above ground detention pond for detention of stormwater. Preliminary plans have been determined to conform to the provisions of Chapter 30.63A SCC, Washington Department of Ecology Drainage Manual, and the EDDS. The project complies with county Critical Areas Regulations (CAR), Chapter 30.62A SCC and water, sewer and electric service can be provided to the project. The existing on-site septic systems for the homes will be decommissioned in accordance with the regulations of the Snohomish Health District. The proposed rezone will maintain a residential neighborhood and will not allow commercial agricultural uses, commercial development, and multifamily development on the site.

Based upon the foregoing discussion, the Examiner finds that the proposed rezone is consistent with the GMACP.

(ii) The proposal bears a substantial relationship to the public health, safety, and welfare. The application for the proposed rezone is concurrent with the application for a subdivision. Review of the land development proposal has been made for compliance with the relevant codes, policies, and standards of Snohomish County. PDS and the Department of Public Works (DPW) have determined that the project, as conditioned, will satisfy those requirements, including a concurrency determination for access routes to and from the development, an evaluation of the road and access routes to comply with the relevant EDDS standards and SCC 30.66B, evaluation of the adequacy of stormwater and drainage system, adherence to the subdivision codes, compliance with the fire and emergency access requirements, and provision of adequate potable water and sewage disposal. The intent of the Snohomish County codes, policies, and standards is to ensure that adequate provisions have been made for the public health, safety, and welfare of the citizens. The Examiner finds that the proposed rezone, as conditioned, bears a substantial relationship to the public health, safety and welfare.

(iii) If applicable, minimum zoning criteria found in chapters 30.31A through 30.31F SCC are met. Here, the proposed site is located within a developing residential neighborhood. The proposed rezone is to remain a residential zone within the ULDR designated area. Therefore, the zones specified in SCC 30.31A-F are not applicable to the proposal.
Based on the foregoing analysis, the Hearing Examiner finds that proposed rezone meets the requirements of Chapter 30.41A SCC and the rezone should be granted from R-9600 to R-7200.

B. **Subdivision Approval.**

In order to grant preliminary subdivision approval, the Examiner must find that the Applicant has met the approval criteria set forth in SCC 30.41A.100 et seq. The Examiner considers each regulation in turn.

(i) **Park and Recreation Impact Mitigation.** (Chapter 30.66A SCC) The proposal is within the Nakeeta Beach Park Service Area and is subject to Chapter 30.66A SCC, which requires payment of $1,244.49 per each new single-family residential unit, to be paid prior to building permit issuance for each unit. PDS has recommended a condition of approval for inclusion within the project decision to comply with the requirements of Chapter SCC 30.66A SCC. The Examiner finds that such payment is acceptable as mitigation for parks and recreation impacts in accordance with County codes and policies.

(ii) **Traffic Mitigation and Road Design Standards.** (Title 13 SCC, & Chapters 30.24 and 30.66B SCC)

(a) **Road System Impacts, Concurrency and Inadequate Road Conditions (IRC).**

(1) **Road System Capacity Impacts.** (SCC 30.66B.310) A development must mitigate its impact upon the future capacity of the road system by paying a road system impact fee reasonably related to the impacts of the development on arterial roads located in the same transportation service area as the development, at the rate identified in SCC 30.66B.330 for the type and location of the proposed development.

The impact fee for this proposal is based on the new average daily trips (ADT) generated by 21 new homes, which is 9.57 ADT/home. This rate comes from the 7th Edition of the ITE Trip Generation Report (Land Use Code 210). The development will generate 200.97 new ADT and has a road system capacity impact fee of $46,223.10 ($1,925.96/building permit) based on $230.00/ADT, the rate for a residential development located in the UGA in TSA E. The impact fee payments are due in accordance with the provisions of SCC 30.66B.340. Payment of such impact fees as mitigation for impacts to County roads demonstrates compliance with SCC 30.66B.310.

(2) **Concurrency.** (SCC 30.66B.120) The County makes a concurrency determination for each development application to ensure the development will not impact a County arterial unit in arrears or cause a County arterial to go in arrears. The subject development is located in TSA E. As of the date of submittal of the subject application, June 10, 2008, arterial unit 420 (York Road & 35th Ave. SE from SR 524 to Grannis Road) was in the arrears. On October 31,
2008 unit 420 was removed from this status and thus, when the concurrency determination was made on February 4, 2009, the development was deemed to be concurrent. The proposed development generates 15.75 new AM peak-hour trips and 21.21 new PM peak-hour trips which is less than the threshold of 50 peak-hour trips and, therefore, the development was not evaluated under SCC 30.66B.035.

(3) Inadequate Road Conditions. (SCC 30.66B.210) Regardless of the existing level of service, development which adds three or more PM peak-hour trips to a location in the road system determined to have an existing Inadequate Road Condition (IRC) at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC.

As of the date of submittal of the subject application, June 10, 2008, the intersection of York Road and Jewell Road was on the IRC list. However, after improvements were made to the intersection, as of August 7, 2008, the York Road/Jewell Road intersection had been removed from the IRC list. The DPW, therefore, determined that the subject development proposal will not impact any IRC locations identified within TSA E with three or more of its PM peak hour trips, nor will it create any IRC. Mitigation will not be required with respect to IRC and no restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under SCC 30.66B.210.

(b) Frontage Improvements (SCC 30.66B.410) All developments are required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road. The required improvement is to be constructed in accordance with the EDDS, including correction of horizontal and vertical alignments, if necessary.

Here, the construction of full urban frontage improvements along the subject property's frontage on York Road is required. Required improvements will consist of:

- 23 foot of asphalt concrete pavement width from right-of-way centerline to curb face
- Cement concrete curb and gutter
- Five (5) foot planter strip
- Five (5) foot cement concrete sidewalk

The County's previous plan was to convert Jewell Road to a one-way road between the new public intersection proposed in the subject project and York Road. However, because that plan has changed and Jewell Road remains open to two-way traffic with the intersection of York/Jewell revised for right-in-right-out only and because the current project design shows access by Lots 18 – 24 onto Jewell Road, full urban frontage improvements are required by the Applicant on Jewell Road along the parcel’s frontage. Required improvements will consist of:

- 18 foot of asphalt concrete pavement width from right-of-way centerline to curb face
- Cement concrete curb and gutter
- Five (5) foot planter strip
- Five (5) foot cement concrete sidewalk

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

(c) **Access and Circulation.** (SCC 30.66B.420 and Chapter 30.24 SCC) 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.

Access to the lots in the proposed development will be from Jewell Road using the newly constructed internal public road for Lots 1 – 8 and 13 – 17. A drive aisle serves Lots 9 – 12 from the internal plat road and Lots 18 – 24 will access directly to Jewell Road. The County Engineer approved an EDDS deviation to allow the proposed drive aisle. (Exhibit G.1)

Under the authority of the County Engineer and in accordance with the EDDS the new internal public road has been classified as a local access road. The design speed for the road is 25 mph. The road shown on the plans meets the minimum requirements of EDDS for road grades, horizontal and vertical curves.

The County Engineer, in accordance with the EDDS, has classified Jewell Road as a non-arterial collector road. Jewell Road serves less than 3000 ADT. The posted speed for Jewell road is 35 mph.

In accordance with the adopted Snohomish County Arterial Circulation map, effective February 1, 2006, York Road is classified as a Minor Arterial. The posted speed for York Road is 35 mph.

The proposed development will take access from Jewell Road approximately 400 feet north of York Road. The proposed access location meets EDDS standards 3-08 for sight distance.

(d) **Right-of-Way Requirements.** (SCC 30.66B.510 and 30.66B.520) A development is 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, York Road is designated as a Minor Urban Arterial 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. The PDS traffic reviewer testified that currently, 30 feet of right-of-way exists on the development’s side of the right-of-way from the intersection of Jewell Road for approximately half the parcel’s frontage and 20 feet exists on the remainder. The development is required to dedicate right-of-way such that 40 feet exists along the entire frontage. The required right-of-way is not adequately shown on the preliminary plat. A condition of approval will be imposed requiring that the needed right-of-way be shown on the face of the final plat.

The other road serving this development, Jewell Road, is designated as a Non Arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 30 feet on each side of the right-of-way centerline. Currently 30 feet of right-of-way exists on the development’s side of the right-of-way. Therefore, no additional right-of-way is required for Jewell Road. The existing right-of-way is adequately shown on the preliminary plat.

(e) **Impacts to State Highways.** (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 Washington State Department of Transportation (WSDOT) and Snohomish County effective December 21, 1997, and as amended. The Applicant’s traffic study indicates that no WSDOT projects be impacted by three or more directional peak hour trips. Comments from the WSDOT in an e-mail dated June 19, 2008, indicate that the subject development will not have a significant adverse impact on state highways and does not request any mitigation. Therefore, the Examiner finds that mitigation is not required for State highway impacts.

(f) **Impacts to City Streets and Roads.** (SCC 30.66B.720) Mitigation requirements for impacts on streets inside cities and roads in other counties are to be established in a manner that is consistent with the terms of a Reciprocal Traffic Mitigation ILA between the County and the other jurisdiction(s).

Snohomish County has an ILA with the City of Bothell and this development is within the influence area that requires traffic mitigation be considered for the City. The Applicant submitted a written proposal to the City on June 3, 2008 proposing measures to mitigate impacts on City streets. This offer was accepted by the City on June 12, 2008 (Exhibit H.1), in the amount of $13,185.90 ($549.41/lot).

The subject development is also within the five percent zone when using the “Area Average” method for the City of Mill Creek. As long as five percent of the development's
new PM peak hour trips are less than 3.00 then no mitigation is required. The Applicant’s traffic study indicates that this amount is 1.06. The PDS traffic reviewer agreed with calculation. Accordingly, no mitigation is required for the City of Mill Creek.

(g) **Transportation Demand Management (TDM).** (SCC 30.66B.630) The County requires all new developments in the urban area to provide TDM measures. Sufficient TDM measures are to be provided to indicate the potential for removing a minimum of five percent of a development’s P.M. peak hour trips from the road system. This requirement is to be met by site design requirements provided under SCC 30.66B.640, except where the development proposes construction or purchase of specific off-site TDM measures or voluntary payment in lieu of a site design, in accordance with SCC 30.66B.620 or 30.66B.625. (SCC 30.66B.630). In this case, the Applicant has submitted a voluntary payment offer on June 3, 2008 in lieu of a site TDM design. The TDM obligation for this development is therefore equivalent to five percent of the 21.21 new PM peak hour trips x $6,500.00 which equals $6,893.25 ($287.22/lot).

Based on the Findings of Fact set forth above, the Examiner finds that the proposed subdivision as conditioned, will meet the County’s traffic mitigation and road design standards.

(iii) **Pedestrian Facilities.** (RCW 58.17.110) The County is required to make findings regarding safe walking conditions for school children that may reside in the subject development. Comments from the Northshore School District No. 417 dated June 18, 2008 (updated via e-mail on February 4, 2009) were received by PDS. (Exhibit H.6) Those initial comments indicated that elementary students who live in the development will walk to the nearby Fernwood Elementary School and junior high students will walk to the bus stop at Jewell Road and 199th Street SE. High school students will be picked up by bus at the intersection of 198th Place and 35th Avenue SE. Updated information was obtained from the School District when the hearing was continued. The School District has now indicated that the junior high students will not be bussed but will walk to the Skyview Junior High.

When the required internal road and frontage improvements are constructed, adequate pedestrian facilities will exist for the elementary students to reach Fernwood Elementary School utilizing the internal road sidewalks, the new sidewalk on Jewell Road constructed by the Applicant and the existing walkway and sidewalk north of the proposed development along Jewell Road. The PDS traffic reviewer indicated that as long as a short segment of walkway along York Road south of the proposal is improved, adequate pedestrian facilities consisting of a mix of sidewalks and at-grade paved shoulder walkways will exist for the junior high students to reach Skyview Junior High.

The most direct route for high school students to reach the bus stop at 198th Place and 35th Avenue SE would be along the internal road sidewalks to Jewell Road, north on the Jewell Road sidewalk and walkway to 199th Street, west on 199th Street and then north on York Road to 198th Place. Because there currently is no sidewalk or walkway on York Road between 199th Street and 198th Place, PDS has recommended that the Applicant be required to construct a walkway on York Road between 199th Street SE and 198th Place SE.
The Applicant noted that with the potential for construction of the new high school currently proposed immediately north of Fernwood Elementary School, some flexibility should be granted to modify the school walkway requirements to meet the school district’s needs at the time of completion of the final plat, which may not be for up to seven years in the future. PDS indicated it concurred with that approach.

(iv) Bicycle Facilities. The County’s current adopted County Wide Bicycle Facility System Map became effect on February 1, 2006. The subject development does not border on a right-of-way that has been identified on the adopted Bicycle Facility System Map. A bicycle path is not required along the development’s frontage on 27th Avenue SE.

(v) Mitigation for Impacts to Schools. (Chapter 30.66C SCC) Chapter 30.66C SCC provides for collection of school impact mitigation fees at the time of building permit issuance based upon certified amounts in effect at that time. Pursuant to Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Northshore School District No. 417 at the time of building permit submittal and collected at the time of building permit issuance for the proposed units. Credit is to be given for three existing lots. Payment of school impact fees will be included as a condition of approval of the development. These school mitigation fees are designed to address the impacts of new development on possible crowding of local schools.

(vi) Drainage and Land Disturbing Activities (Clearing and Grading). (Chapters 30.63A, 30.63B and 30.63C SCC). PDS reviewed the targeted drainage plan (Exhibit B.4) and report (Exhibit C.2) and concluded that the proposal can conform to the code’s drainage and grading requirements. The proposed subdivision was reviewed for compliance with the requirements of Drainage and Land Disturbing Activity codes and policies (SCC 30.63A and 30.63B). In addition the proposal was reviewed for compliance with the requirements of SCC 30.62C Critical Aquifer Recharge Areas.

Some public comments questioned whether the proposal should not be required to comply with the Low Impact Development (LID) standards. The requirement to provide LID within the Little Bear Creek watershed under Ordinance 06-115 (as codified in SCC 30.63C.025), applies only to properties added to UGA areas after December 20, 2006. The subject property was already in the UGA prior to that date, so LID is not required (see Exhibit B.6).

While a concern was raised about a grading violation by the same Applicant on other nearby property, because that property is not subject to the development applications under review in this matter, that grading violation will need to be addressed separately. PDS has indicated that the grading violation on property on the opposite side of York Road from the current proposal will be handled by the PDS Code Enforcement Division.

Based on the information provided from the Applicant, the proposed drainage system will provide stormwater quantity and quality treatment in an open ponding area. The detention facility proposal shown includes vertical walls and maintenance access off of York Road. Water quality will be provided in the lower portions of the pond which will be designed to achieve a variety of depths and plantings for biological treatment of the storm water runoff. Detention

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quantities are based on controlling the peak flow rate at the discharge to 1/2 of the existing (prior
to development) runoff rate for the two year 24 hour storm event and matching the existing
runoff rate for the 10 and 100 year 24 hour storm events. These flows will be discharged
through a piped system to a location north of the site in Jewell road. From there the flows will
continue to the Little Bear Creek drainage basin.

Final drainage plan review will be conducted during construction plan review. Temporary
erosion and sedimentation control measures must be utilized during construction to minimize
construction impacts to downstream drainage systems and water quality. Adherence to Chapter
30.63A SCC will ensure that potential drainage impacts are addressed by the “appropriate
provisions” required by code.

The proposed construction will include approximately 5,000 cubic yards of imported material.
The additional material will be placed in the location of the new lots to provide sufficient
elevation for connection to the proposed gravity sewer system. The proposed earthwork activity
is subject to the requirements of SCC 30.63B and the details of the proposal will be reviewed
prior to issuance of Land Disturbing Activity Permit.

The proposed development of residential units is an allowable land use under the provisions of
the requirements of SCC 30.62C Critical Aquifer Recharge Areas and no additional conditions
are required to satisfy that section of the code.

Resources, Inc. dated February 2, 2013 was submitted for review (Exhibit C.3) which evaluated
critical areas on the subject property and within 300-feet of the property boundaries.

The evaluation identified several wetlands and a stream within the vicinity of the project area but
no critical areas were identified onsite. The report examined previously recorded critical areas
on neighboring properties and concluded that a small portion of 75-foot recorded wetland buffer
extends across Jewell Road onto the subject property. The critical area buffer was established
pursuant to the requirements outlined in SCC 30.62. A segment of this wetland system has not
been previously evaluated and required assessment under SCC 30.62A. The review identified
a Category 1 wetland (Wetland A) across Jewell Road. Pursuant to SCC 30.62A.320(1)(a)
table 2B, based on high intensity land use, a 150-foot buffer would be required for this system.
No portion of the 150-foot buffer would extend on to the project area from the offsite Category 1
wetland complex.

Approximately 4,252 square feet of buffer extends onto the subject property from the wetland
complex located east of Jewell Road. Frontage improvements will impact approximately 2,326
square feet of buffer. The remainder of the buffer extending onto the property is approximately
1,926 square feet. The assessment prepared by Wetland Resources concludes that based on
Best Available Science for buffer functions and Washington State Department of Ecology
Guidance, buffers provide the following functions to wetland protection: removing sediment,
removing excess nutrients, removing toxics, influencing microclimate, maintaining adjacent
habitat, screening adjacent disturbances and maintaining habitat connectivity. The first four
functions listed above relate to water quality improvement and the report concludes that the
buffer west of Jewell Road is physically isolated from the wetland. The road prism divides any hydrological connection of this buffer segment from the wetland. The remainder of the buffer functions listed above relate to wildlife habitat. The road eliminates the connectivity to the wetland for all but avian species and the current condition of the buffer consists of maintained lawn, driveway and sparse trees and provides minimal wildlife habitat functions to the off-site wetland complex. The report submitted by Wetland Resources concludes that permanent protection or mitigation for impacts to the isolated buffer segment on the subject property is not warranted, as this area does not provide significant functions and values for the protection of the offsite wetland. Pursuant to SCC 30.91B.190, buffers are defined as an area adjacent to a critical area consisting of naturally occurring or re-established vegetation having a width adequate to protect the critical area. County staff concurred with the determination that this small isolated segment does not provide sufficient protection to the offsite wetland system and does not meet the definition of buffer. Therefore, the Examiner finds that no dedication of critical areas is required for this project. As currently presented, the project has been designed to avoid critical area impacts.

A citizen concern was raised whether the storm drainage from the proposal will impact wetlands across the street and cause flooding and damage to nearby septic systems. The majority of the storm drainage from the project will be discharged into the existing drainage system within Jewell Road, which flows to the north. Therefore, the Category I wetland across the street to the east should not be impacted. Drainage from the frontage improvements proposed in York Road will be routed to an existing culvert that discharges to a to a Category 3 wetland buffer on the south side of York Road. As the amount of drainage flow is not significant, it is not anticipated that any downstream flooding will occur.

The Examiner concludes that the information submitted in the application, coupled with an investigation of surrounding properties is complete and in conformance with Chapter 30.62A SCC (Critical Areas Regulation) and is consistent with the purpose and objectives of the Chapter in regulation of development activities in Critical Areas to safeguard the public health, safety and welfare.

(viii) **International Fire Code.** (Chapter 30.53A SCC) The Office of the Fire Marshal determined that the project was in compliance with Chapter 30.53A SCC, provided it complies with the following conditions:

(a) Fire flow and fire hydrants must be provided in accordance with Snohomish County Code 30.53A.514 through 30.53A.520. Fire hydrants serving single-family dwellings must have a maximum lateral spacing of 600 feet with no lot or parcel more than 300 feet from a hydrant. Hydrant locations must be depicted on the face of the plat, and locations for new hydrants must be approved by the Fire Marshal. All hydrants must meet the following requirements: four (4) inch storz-type steamer port fittings must be provided on new hydrants, the tops of the hydrants must be colored green and blue street reflectors must be installed on the hydrant side of the centerline of the streets serving the lots in the plat to indicate hydrant locations.
(b) The minimum required fire flow for this project is to be 1000 GPM at 20 psi for a one-hour duration. Prior to final plat approval, in order to assure consistency with the applicable provisions of SCC 30.53A.520(16), the Applicant must provide the required fire hydrants and written confirmation from the water purveyor that the minimum required fire flow of 1000 gpm at 20 psi for a one-hour duration can be provided. If the required fire flow cannot be provided, the new dwellings must be provided with NFPA 13-D fire suppression systems. If there are dwellings that exceed 3,600 square feet, the required fire flow shall be determined using Appendix B of the 2009 edition of the International Fire Code. This requirement must appear on the face of the final plat.

(c) Fire apparatus access shall not be obstructed in any manner including the parking of vehicles. Signage or pavement striping shall be provided on both sides of the access road if it is less than 28 feet in width and one side of the road if it is 28 feet wide but less than 36 feet wide stating “NO PARKING – FIRE LANE” to ensure access availability. If pavement striping is used the curbs shall be painted yellow with black lettering.

(d) Approved numbers or addresses must be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property and must be in place prior to occupancy. Numbers shall contrast with their background, as required by Section 505.1 of the International Fire Code.

(ix) Utilities. Water and sanitary sewer will be supplied by the Alderwood Water and Wastewater District. Certificates of Water and Sewer Availability were received dated June 27, 2008. (Exhibit H.5) The Snohomish Health District has no objections to the project as long as public sewer and water is provided. The Health District recommends approval with the understanding that the existing/removing onsite sewage systems will be abandoned by having the septic tanks pumped by a certified pumper, then having the top of the tanks removed or destroyed and the voids filled (Exhibit H.3)). The Snohomish County Public Utility District provided correspondence dated June 26, 2008 indicating that it can provide electrical service for the project. (Exhibit H.4)

(x) Zoning. (Chapter 30.2 SCC) This project will meet zoning code requirements for lot size, bulk regulations and other zoning code requirements, including those required under the Planned Residential Development Code, as discussed below.

C. Planned Residential Development Approval. (Chapter 30.42B SCC)

In addition to meeting the requirements of the County’s subdivision regulations, the Applicant is seeking to develop a Planned Residential Development (PRD), and must meet the additional requirements of Chapter 30.42B SCC.

(i) Unit Yield. (SCC 30.42B.040) PDS determined that the Net Development Area is 146,636 square feet yielding 20.37 units under the 7200 square foot lot size minimum. Since there are no critical areas or buffers, there is no bonus under SCC 30.42B.040(2)(c). Therefore,
the total unit yield under SCC 30.42B.040(2)(d) is 24 units. The Applicant has proposed 24 units.

In the R-7200 zone, the maximum number of dwelling units allowed is reduced so that the maximum net density does not exceed nine dwelling units per net acre. The net density for the subject application is 7.14 du/acre. Accordingly, the requirement has been met.

(ii) **Design Criteria (SCC 30.42B.100)** The proposed project has been reviewed by PDS and was found to meet the requirements of the applicable zoning regulations. This PRD is accompanied by an application for a preliminary subdivision and the Applicant has appropriately proposed the construction of single-family detached residential units in the R-7200 zone.

(a) **Open Space.** A minimum of 20 percent of the gross site area or 29,327 square feet of open space, is required. The total open space provided is 29,332 square feet which meets the requirement. Total open space will be permanently established in clearly designated separate tracts. The tracts in this development will be owned by all lot owners in accordance with SCC 30.42B.115(1)(e)(iii). Required covenants, conditions and restrictions will be recorded to provide for maintenance of the total open space in a manner which will assure its continued use as approved.

(b) **Usable Open Space.** Total open space must contain usable space to be developed for active and/or passive recreation purposes in the amount of 600 square feet per dwelling unit. The minimum requirement in this case is 24 units x 600 = 14,400 square feet and the Applicant has provided 20,817 square feet of the open space as usable open space within Tract 999. Forty percent (5760 square feet) of the required usable open space must be located in a single open space tract or permanent easement and this is provided since Tract 999 contains 20,817 square feet of usable open space. No areas of usable open space are less than 20 feet wide as required by SCC 30.42B.115(2)(d), except for segments containing trails. Usable open space must be accessed by all-weather pedestrian pathways and/or sidewalks from all lots and dwellings within the PRD. SCC 30.42B.115(2)(e). The proposal complies with these provisions.

(c) **Active Recreation Uses.** Thirty percent of the required useable open space is to be developed for active recreation uses. Based upon the useable open space provided of 20,817 square feet, 6245.1 square feet of active recreation area is required. The Applicant is providing a tot lot, trail and grassed play areas within Tract 999 to meet this requirement. A concern was raised in public comments about fencing for the play areas. The Applicant has proposed fencing along York Road that will protect children playing in the play area from running into York Road. Also, the proposed detention pond will be fenced.
(d) **Landscaping.**

(1) **Drainage Detention Facility Landscaping.** An above ground detention pond surrounded by a fence is proposed within Tract 998. A landscaping buffer must be installed around the outside of the fence.

(2) **Site Perimeter Landscaping.** Site perimeter landscaping is required and must be established as a tract or easement along any property boundary of a PRD where adjacent property is currently zoned or designated for single-family residential use unless the exceptions in SCC 30.42B.125(3)(a) applies. PDS determined that certain exemptions apply as follows:

When the front or side yards of the perimeter lots of a PRD abut a road frontage, no site perimeter landscaping will be required other than streetscape landscaping pursuant to SCC 30.42B.125(4). This section applies to the easterly boundary of the plat along the frontage of Jewell Road.

When the perimeter of the PRD abuts a property where the adjacent abutting rear yards are 40 feet or greater in depth, no site perimeter landscaping is required. Lots 1-12 abut adjacent developed lots with rear yards over 40 feet in depth. Therefore, no perimeter buffer is needed along the north property line.

The remainder of the perimeter of the proposed development is usable open space area.

(3) **Streetscape Landscaping.** Landscaping has been provided that complies with the criteria for streetscape as shown on the landscape plans (see Exhibit B.3).

(4) **Landscaping Performance Bond.** The submittal of a bond or other guarantee of performance, for approval by PDS prior to construction plan approval, will be required as provided in the County Code.

(e) **Tree retention.** The Applicant has submitted a conceptual tree plan (Exhibit B.3) that provides trees at the required rate of two per lot and identifies the number of significant trees to be retained and/or replaced within the open space tracts, perimeter landscaping buffers and native growth protection areas. Trees within these types of tracts, which cannot be saved due to site grading, are required to be replaced at a 2:1 ratio under the requirements of SCC 30.42B.130(3)(b). A total of three significant trees will be removed within the area proposed for open space tracts. Seventy seven (77) new trees are proposed to be planted in addition to the eight significant trees retained within Tract 999.

(f) **Drainage detention facilities.** The Applicant proposes an above ground detention vault for detention of stormwater. Preliminary plans have been determined by PDS to

(g) **Roads, Access, Circulation, Pedestrian Facilities and Parking.** In a PRD, roads, access, circulation, and pedestrian facilities are to be provided pursuant to Chapter 30.24 SCC. This PRD has been designed to provide adequate road access, connection and circulation to minimize traffic congestion, provide connection to adjoining neighborhoods where feasible, ensure adequate utility services, and provide emergency vehicle access. The configuration and design of the roads and access facilities in this development have been reviewed extensively and have been found to comply with Chapter 30.24 SCC, Chapter 30.66B SCC, Chapter 30.53A SCC, and the Engineering Design and Development Standards (EDDS).

A new public road intersecting with Jewell Road is proposed within the development. The preliminary plat shows a public road that serves Lots 1 – 8 and 13 – 17. There is a drive aisle that will serve Lots 9 – 12 and Lots 18 – 24 will access directly to Jewell Road. The County Engineer approved an EDDS deviation to allow the proposed drive aisle. (Exhibit G.1)

The County Engineer has determined the project provides adequate connection to County roads. Because the site is a triangular shaped corner lot and the property to the north is already developed a road connection to adjacent property is not possible.

The PRD has been designed to provide adequate and safe pedestrian access to and circulation within the development by sidewalks and trails.

The PRD has been designed to provide parking as required by Chapter 30.26 SCC. The Code requires two spaces per dwelling unit plus ½ space per dwelling unit for guest parking. Two spaces per single-family dwelling unit (located in each home’s garage) are proposed. Additional parking spaces for guests are proposed in the driveways in front of the garages. Because guest parking is to be provided in the driveways, a condition will be imposed that the driveways be at least 18 feet long, in accordance with code, so that this requirement is carried over into the building permit stage.

The County Engineer approved two EDDS deviations. (Exhibit G.1-2)

(h) **Bulk Requirements.** PDS determined that the proposed PRD site plan complies with the dimensional standards within Table 1 of SCC 30.42B.145 for single-family residential development, including lot width, lot area, setbacks and lot coverage. The Applicant has demonstrated that all lots meet the bulk requirements.

(i) **Specific Housing Types.** The Applicant proposes single-family residential structures for this development. The development plans indicate variation in modulation of the front setbacks and building envelopes of the proposed residences. Typical floor plans and street elevation drawings submitted (see Exhibit B.5) will provide for a visually
diversified streetscape as shown in the plans. The use of a variety of floor plans, elevations, and product types provide the modulation and variation prescribed. No portion of any building or appurtenance shall project into any open space. A condition will be imposed on the final plat to insure that this requirement is carried over into the building permit stage.

8. Any Finding of Fact in this Decision, which should be deemed a Conclusion of Law, is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Examiner has original jurisdiction over rezone, subdivision and PRD applications pursuant to Chapters 30.42A, 30.41A, 30.42B and 30.72 SCC and Chapter 2.02 SCC.

2. The Applicant has met its burden of proof to show that the rezone meets the requirements of Chapter 30.42A SCC and should be approved from R-9600 to R-7200.

3. The Examiner must review the proposed subdivision application under RCW 58.17.110, the legal standard for approval of a preliminary subdivision. The Examiner must find that:

   The proposed subdivision complies with the established criteria therein and makes the appropriate provisions for public, health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and other planning features including safe walking conditions for students.

   The Examiner concludes that the Applicant has met its burden in showing the established criteria have been met. The proposal is consistent with the state subdivision statute.

4. The proposed subdivision also meets Chapter 30.41A SCC requirements. The proposed subdivision conforms generally with the development regulations of Title 30 SCC. There is open space provided within the subdivision in the form of active open space. The single-family homes within the subdivision will be in character with the urban area. Provisions for adequate drainage have been made in the conceptual plat design which indicates that the final design can conform to Chapter 30.63A SCC and Chapter 30.63C SCC. The subdivision, as conditioned, will conform to Chapters 30.66A, 30.66B and 30.66C SCC, satisfying County requirements with respect to parks and recreation, traffic, roads and walkway design standards, and school mitigation. The proposal as conditioned meets the applicable version of the International Fire Code. Adequate drinking water and sewage disposal will be provided by the Alderwood Water and Wastewater District.

5. Given the information provided in the record and the Findings of Fact made above, the Examiner also concludes that the Applicant has met its burden in showing that the subdivision application meets the requirements of Chapter 30.41A SCC.
6. Based on Finding of Fact 7.C. and a review of the code requirements for Planned Residential Developments (Chapter 30.42B SCC), the Examiner concludes that the development as designed meets the design and performance standards of the PRD regulations and the Official Site Plan should be approved.

7. The Examiner concludes that adequate public services exist to serve this proposal.

8. If approved with the recommended conditions, the proposal will make adequate provisions for the public health, safety, and general welfare.

9. Any Conclusion of Law in this Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

**DECISION**

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Examiner hereby issues the following final decision and order:

1. The application for a **REZONE** of the subject property from R-9600 to R-7200 is **GRANTED**.

2. The approval of a **PRELIMINARY SUBDIVISION** and **PLANNED RESIDENTIAL DEVELOPMENT** is hereby **GRANTED** subject to the following **CONDITIONS**.

**CONDITIONS:**

A. The Preliminary Plat and PRD Official Site Plan received by PDS on July 10, 2013 (Exhibit B.1), shall be the approved plat configuration and PRD Site Plan. Changes to the approved preliminary plat are governed by SCC 30.41A.330. Changes to the PRD Official Site Plan are governed by SCC 30.42B.220.

B. Prior to initiation of any further site work, and/or prior to issuance of any development permits by the County:

   i. A detailed landscape, tree retention and recreational facilities plan shall have been submitted to and approved by PDS. The plan shall be prepared in general conformance with Exhibit B.3 and with all required landscape standards for perimeter, streetscape and open space treatment.

   ii. A bond or other guarantee of performance shall have been submitted to and accepted by PDS to assure compliance with the provisions of SCC 30.42B.125(5)(b) and SCC 30.42B.210(3) (PRD development and landscaping).

   iii. Construction plans and a Full Stormwater Site Plan shall be submitted for review and approval, subject to Minimum Requirements 1-9.
iv. A Land Disturbing Activities (LDA) permit shall be obtained, including a Stormwater Pollution Prevention Plan (SWPPP).

C. All site development work shall comply with the requirements of the plans and permits approved pursuant to Conditions A and B above and the following requirements:

i. Fire flow and fire hydrants shall be provided in accordance with Snohomish County Code 30.53A.514 through 30.53A.520. The approved development/construction plans shall show hydrant locations and locations for new hydrants shall be approved by the Fire Marshal. Fire hydrants serving single-family dwellings shall have a maximum lateral spacing of 600 feet with no lot or parcel in excess of 300 feet from a hydrant. The following requirements shall apply to the installation of any required hydrant:

Four (4) inch storz type steamer port fittings shall be provided on new hydrants.

The top(s) of the hydrant(s) shall be colored green.

Blue street reflector(s) shall be installed on the hydrant side of centerline to indicate hydrant location(s).

ii. Fire apparatus access shall not be obstructed in any manner including the parking of vehicles. Signage or pavement striping shall be provided stating “NO PARKING – FIRE LANE” to ensure access availability. If pavement striping is used the curbs shall be painted yellow with black lettering.

iii. Approved numbers or addresses must be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property and must be in place prior to occupancy. Numbers shall contrast with their background, as required by Section 505.1 of the International Fire Code.

D. The following additional restrictions and/or items shall be indicated on the face of the final plat:

i. "SCC Title 30.66B requires the new lot mitigation payments in the amounts shown below for each single-family residence building permit:

$1925.96 per lot for mitigation of impacts on County roads paid to the County

$287.22 per lot for Transportation Demand Management shall be paid to the County

$549.41 per lot for mitigation of impacts on Bothell streets paid to the City. Proof of payment is required

These payments are due prior to or at the time of building permit issuance for each single-family residence. Notice of these mitigation payments shall be contained in any deeds involving this subdivision or the lots therein."
ii. "The dwelling units within this development are subject to park impact fees for the Nakeeta Beach park and recreation impact mitigation fee area of the County parks system in accordance with SCC 30.66A which requires payment of $1244.49 for each new single-family residential unit to be paid prior to building permit issuance, provided that if the building permit is not issued within five years after the application is deemed complete, the fee shall be based upon the rate in effect at the time of building permit issuance."

iii. "The lots within this subdivision will be subject to school impact mitigation fees for the Northshore School District No. 417 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 three existing lots. Lots 1-3 shall receive credit."

iv. "If there are dwellings that exceed 3,600 square feet the required fire flow shall be determined using Appendix B of the 2009 edition of the International Fire Code. If the dwellings that exceed 3,600 square feet cannot meet the required fire flow of Appendix B, the dwellings shall be provided with NFPA 13D fire suppression systems."

v. "Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or access way fronting the property. Numbers shall contrast with their background Section 505.1 IFC."

vi. "All development within the plat shall be consistent with the PRD Official Site Plan and the landscape and open space/recreation plans approved for construction under file number 08-105784 SD."

vii. "All open space shall be protected as open space in perpetuity. Use of the open space tracts within this subdivision is restricted to those uses approved for the planned residential development, to include any critical areas and their buffers, open play areas, sport courts, tot lots, trails, drainage facilities, picnic tables, benches, and required landscape improvements as shown on the approved site plan and the approved landscape plan. Covenants, conditions and restrictions as recorded with the plat, and as may be amended in the future, shall include provisions for the continuing preservation and maintenance of the uses, facilities and landscaping within the open space as approved and constructed."

viii. "Driveways in front of garage doors to be used for required or guest parking shall be a minimum of 18 feet deep."

ix. "In accordance with SCC 30.42B.150(1)(d), floor plans and street elevations of the proposed single-family homes in the plat shall be designed to reduce the visual impact of the garage doors and emphasize the entry living space."

E. The final plat shall show a right-of-way dedication along the property frontage on York Road sufficient to provide 40 feet of right-of-way from the road centerline to the satisfaction of the County.
F. Prior to recording of the final plat:

i. The new public road shall have been constructed to the satisfaction of DPW.

ii. Urban standard frontage improvements shall have been constructed along the property frontage on York Road and Jewell Road to the satisfaction of DPW unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.

iii. Pedestrian facilities shall be constructed on York Road from 199th Street SE to 198th Place SE to the satisfaction of the County and the pedestrian facilities on York Road south of the intersection with Jewell Road shall be improved to meet County standards, PROVIDED, that if, prior to final plat approval, the school district changes the schools or the school bus stop locations to be utilized by students from the subdivision, these requirements for pedestrian facilities may be modified to provide for alternative bus stop location(s) as determined to be acceptable to the school district and as approved by the County Engineer.

iv. The Applicant shall submit to PDS covenants, deeds, and homeowners’ association bylaws, and other documents guaranteeing maintenance of landscaping, commonly owned tracts and common fee ownership, if applicable, and restricting use of the tracts to that specified in the approved PRD Official Site Plan. Membership in the homeowners association and payment of dues or other assessments for maintenance purposes shall be a requirement of home ownership. The documents shall have been reviewed by and accompanied by a certificate from an attorney that they comply with Chapter 30.42B SCC requirements prior to approval by PDS.

v. Documentation demonstrating that any existing onsite sewage systems have been abandoned by having the septic tank pumped by a certified pumper, then having the top of the tank removed or destroyed and the void filled (WAC 246-272A-0300) shall be provided to the PDS inspector and to the Snohomish Health District.

vi. The developer shall provide the required fire hydrants and written confirmation from the water purveyor that the minimum required fire flow of 1,000 gpm at 20 psi for a one-hour duration can be provided. If the required fire flow cannot be provided the new dwellings shall be provided with NFPA 13-D fire suppression systems. It shall be noted as a restriction in the recording of the final plat that if there are dwellings that exceed 3,600 square feet the required fire flow shall be determined using Appendix B of the 2009 edition of the International Fire Code.

G. In conformity with applicable standards and timing requirements:

i. Site improvements including landscaping, fencing, pedestrian facilities, recreational amenities and trails depicted on the approved PRD Official site plan and landscape plans shall be installed, inspected and approved.

ii. Fire lane signs and/or striping shall be completed as required by the county Fire Marshal’s Office.
iii. Street signage shall be in place.

iv. Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or access way fronting the property. Numbers shall contrast with their background Section 505.1 IFC.

v. The Applicant shall provide a maintenance bond for all required landscape improvements within each phase in an amount and form satisfactory to PDS.

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.

Preliminary plats which are approved by the County are valid for seven (7) 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.

DATED this 23rd day of August, 2013.

[Signature]
Gordon Sivley, Hearing Examiner

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**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 **within 10 calendar days** from the date of this decision. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, Robert J. Drewel Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S No. 405, 3000 Rockefeller Avenue, Everett WA 98201) **on or before September 3, 2013.** 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]. The petitioner should file with the Office of the Hearing Examiner an affidavit of mailing or other proof of service at the time the petition for reconsideration is filed.

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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 within 14 days from the date of this decision. 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 No. 604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before September 6, 2013 and shall be accompanied by a filing fee in the amount of five hundred dollars ($500.00) for each appeal filed; PROVIDED, that the fee shall not be charged to a department of the County. The filing fee shall be refunded in any case where an appeal is summarily dismissed in whole without hearing under SCC 30.72.075.

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: Monica McLaughlin

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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<td>2802 WETMORE AVE SUITE 220</td>
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<td>SCOTT RODMAN</td>
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