



Snohomish County

Hearing Examiner's Office

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**DECISION of the SNOHOMISH COUNTY
HEARING EXAMINER**

Gordon Sivley
Hearing Examiner

M/S 405
3000 Rockefeller Ave.
Everett, WA 98201

(425) 388-3538
FAX (425) 388-3201

DATE OF DECISION: February 12, 2013

PLAT/PROJECT NAME: Glennwick Grove

**APPLICANT/
LANDOWNER:** Phoenix Development
16108 Ash Way, Suite 201
Lynnwood, WA 98087

FILE NOS.: 12-104437 SD and 12-104441 LU

TYPE OF REQUEST: Preliminary Subdivision Approval and Landscape Modification

**DECISION
(SUMMARY):** **Landscape Modification is DENIED;
Preliminary Subdivision Application is REMANDED**

GENERAL LOCATION: 52nd Avenue West and 164th Street SW

ACREAGE: 18.74 acres

NUMBER OF LOTS: 45 lots

AVERAGE LOT SIZE: 12,377 square feet

MINIMUM LOT SIZE: 5,000 square feet

GROSS DENSITY: 2.6 du/acre (6.7 du/acre net)

GMACP DESIGNATION: Urban Low Density Residential

ZONING: R-8400

UTILITIES:

Water: Alderwood Water and Wastewater District
Sewer: Alderwood Water and Wastewater District
Electricity: Snohomish County PUD No. 1

SCHOOL DISTRICT: Edmonds School District No. 15

FIRE DISTRICT: Snohomish County Fire District No. 1

PDS STAFF RECOMMENDATION: Approve, subject to conditions.

BACKGROUND INFORMATION

1. **The Record.** The official record for this proceeding consists of the Exhibits entered into evidence (Exhibits A.1 through L.6), 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 Tape Log are available at the Hearing Examiner's Office.

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 January 30, 2013. 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, F.3 and F.4) Notice was concurrently given concerning the SEPA Threshold Determination, Traffic Concurrency and Impact Fee Determinations as required by the County Code. (Exhibits F.1, F.2, F.3 and F.4).

Stacey Abbott and Mark Brown appeared and testified on behalf of the Snohomish County Department of Planning and Development Services (PDS). Appearing for the Applicant was Jim Egge of Phoenix Development, Inc., Rob Long of Blueline Group and Ann Olson of Talasaea Consultants, Inc.

In addition, an interested citizen appeared at the public hearing. David Larson offered testimony on the proposal primarily raising traffic concerns.

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 is requesting approval of a 45 lot single-family residential subdivision. The new lots in Phase I would be served by a new public road system off 56th Avenue West. The new lots in Phase II will access directly from 52nd Avenue West via shared driveways. Lot sizes within the development average 12,377 square feet. Lots 1 through 4 located in Phase II are duplex lots.

A landscape modification has also been requested. This request is to either reduce or eliminate the 15 foot perimeter buffer required when implementing the 30% reduction of replacement trees allowed in Snohomish County Code 30.25.016(5).

The Applicant is also requesting approval of an Administrative Site Plan pursuant to SCC 30.23A.100.

2. **Site Description and Surrounding Uses.** The subject site is vacant and is approximately 18.72 acres in size and largely forested. Lund's Gulch Creek flows through the subject property within a steep ravine in the eastern portion of the site adjacent to 52nd Avenue West. Slopes range from 0-20% along the central plateau, to greater than 33% along portions of the Creek.

The properties immediately adjacent to the site on the south and to the west are located within the city limits of Lynnwood. The parcels to the west and a portion of the lots to the south are single-family residential lots. A school is located on a larger parcel on the southern boundary of the subject site.

The parcels to the north and east are located within Snohomish County jurisdiction. The parcels to the north are zoned PRD-8400 and R-9600 and contain single-family residences. The parcels to the east are zoned multi residential. The larger parcel contains a church and the smaller parcel, a single-family residence.

3. Project Chronology. The preliminary plat and landscaping modification application were originally submitted to PDS on June 1, 2012. The 120-day clock started on June 28, 2012 and then stopped on August 19, 2012 when a review packet was provided to the Applicant's contact. A resubmittal was made on November 19, 2012. The 120-day clock started on December 4, 2012 and the submitted materials were determined to meet the regulatory requirements. As of the hearing date, 109 days of the 120-day review period has elapsed.

4. Issues of Concern:

A. Agency Comments. During agency reviews, the State Department of Ecology raised an initial question concerning the connectivity of Critical Area Protection Area (CAPA) tracts in order to maintain habitat function.

B. Citizen Comments. Correspondence from seven citizens was received by PDS (Exhibits I.1-I.6 and L.1). These commenters included Cynthia Arthur, Chad Braithwaite, Randall Hashimoto, Kathy Holzschuh, Michael Knight, Kelly Stokell and Diane Murray. They expressed concerns regarding the following subjects:

Lot Size: Although the minimum lot size is 8,400 square feet in an R-8400 zone, this proposal uses Lot Size Averaging (LSA) which has resulted in some lots being 5,000 square feet or less. Questions were raised about compatibility with the surrounding area where the lot sizes are considerably larger.

Use of Duplexes: Neighbors viewed duplexes as multifamily dwellings and incompatible with the single-family homes in the area.

Traffic: Several commenters raised concerns about added traffic congestion on the area road system and whether the entrance to the development could be relocated.

Environmental Impacts: Concerns were voiced regarding tree removal and negative development impacts on Lunds Gulch and the need for stream and wildlife habitat protection and drainage control.

Landscaping and Tree Removal: Neighbors were concerned about tree removal and impacts upon privacy and property values and increased run-off.

5. Applicable Regulations.

A. Landscaping Modification.

(1) SCC 30.25.016(1) provides as follows:

(1) No person, corporation, or other entity engaged in residential land development or construction within unincorporated urban growth areas shall remove a significant tree without first obtaining county approval, except as provided in SCC 30.25.016(2). County approval shall be integrated into the permit review process for any activity requiring a county permit on a site where any significant trees are present.

(2) SCC 30.25.016(4) states, pertinent part:

(4) All significant trees within any perimeter landscaping required pursuant to SCC 30.25.020, on-site recreation space pursuant to SCC 30.23.A.080, or critical area protection areas and required buffers shall be retained, except for trees exempted by SCC 30.25.016(2). All other significant trees that are removed shall be replaced by a number of new trees as set forth in SCC Table 30.25.016(3), except as may be modified by the provisions of SCC 30.25.016(5) and (6).

(Emphasis added).

SCC 30.25.016(5) provides as follows:

(5) The number of required replacement trees shall be reduced by 30% if an additional buffer of 15 feet is provided around the edge of a subdivision and all significant trees and native understory in the buffer are retained. This buffer must be in addition to all buffer and landscaping requirements in the code, and it must be provided around the entire subdivision except where roads and other required infrastructure enter the subdivision.

(Emphasis added).

(3) The Applicant has sought a landscaping modification that would permit it to obtain the 30% reduction in replacement trees provided for by SCC 30.25.016(5) but without providing the 15 feet of additional buffer. The Applicant proposes that the buffer be eliminated for most of the perimeter and reduced to 10 feet for the remainder.

(4) With regard to landscaping along the perimeter of the plat, the proposed landscape plan, Exhibit B.3, depicts the following: along the north perimeter, no landscaping is to be provided along the north lot lines of Lots 24 and 25 in Phase 1; 10 feet of landscaping is to be provided along the north lot line of Lot 4 in Phase 2 and no other buffer is to be provided along the remainder of the north perimeter other than the buffers already required for Tracts 995, 997 and 998 in accordance with other plat approval requirements. Along the east perimeter of the plat, no additional buffer is to be provided beyond the vegetation otherwise required in Tracts 994 and 995. Along the south perimeter, 15 feet of landscaping is to be provided along the south boundary of Tract 999 and 10 feet of landscaping is to be provided along the south lot lines of Lots 1 through 15 in Phase 1. The remainder of the south perimeter of the Plat is the south

boundary of Tract 995 which is retained in its present, vegetated condition to meet other plat approval requirements, although a paved walking trail meanders through the southern-most 15 feet of Tract 995. Finally, along the west perimeter of the plat, no buffer is provided other than the natural vegetation in Tract 998 which is retained under critical area buffering and mitigation requirements.

(5) A road (the plat access road) enters the site on the west boundary of the plat. No other road enters the site, although 52nd Avenue West abuts and runs parallel to the east boundary of the site and 56th Avenue West abuts and runs parallel to a portion of the west boundary of the site. A sewer pipe is proposed to enter the site at the southeast corner of the site and it appears another sewer stub may enter the site at the northeast corner to serve Phase 2 (Exhibit B.4, Sheet 5). While it can be expected that other infrastructure such as electrical power lines, water lines, natural gas lines, telephone lines and television cable will also enter the site, their locations are less clear. No other infrastructure enters the site.

(6) In the request for landscaping modification, the Applicant claims that because of right-of-way dedication and road frontage improvement requirements, the road frontages along 56th Avenue West on the west perimeter of the plat and along 52nd Avenue West on the east perimeter of the plat are exempt from perimeter buffering requirements. Similarly, the Applicant claims that a perimeter buffer is not required along the south perimeter of the plat at the back of Lots 1 through 14 in Phase 1 because those lots will have individual lot drainage infiltration wells within those lots that parallel the south lot lines. The Applicant provides no explanation or argument regarding the lack of 15 foot perimeter buffer along the north boundary of Lots 24 and 25 in Phase 1. (Exhibit A.4).

(7) While SCC 30.25.016(5) requires that to qualify for a 30% reduction in tree replanting, an additional 15 feet of buffer is to be provided around the entire perimeter of the plat (with limited exceptions), as detailed above, the Applicant has not provided any of the 15 foot qualifying additional buffer. Hence, the requested landscaping modification

(8) The Applicant notes that, under the plat design as currently proposed, "there is insufficient room for healthy tree replanting" of the number of replacement trees required by the code. Further, the Applicant also indicates that, "forcing new trees into already well vegetated steep slope, open space areas is counter-productive, and may be damaging to existing vegetation." The Applicant argues that the tree retention/replacement code should not be strictly applied to this site because it is already heavily forested and because strict application of the code would likely lower the density of lots from that which is currently proposed. (Exhibit A.4).

(9) The plat design includes extensive buffers along the north perimeter of the plat as well as along roughly half of the west perimeter and in the southeast corner of the plat. However, all of these are being provided under critical area buffer and mitigation requirements. (See Exhibit C.5) Thus, unless a modification was granted, the Applicant would need to provide 15 feet of additional buffers in these areas to meet the code requirements for entitlement to the 30% reduction in tree replacement.

(10) While PDS notes that the Applicant has requested a landscaping modification to enable it to obtain a 30% reduction in replacement trees, but without providing the additional 15 feet of buffer around the perimeter of a subdivision, and PDS recommends approval of the modification, PDS provides no analysis of how the Applicant meets the landscaping modification requirements. (Exhibit K.1).

(11) In response to the Examiner's question at the hearing, PDS indicated that this case presents the first occasion in which an Applicant has sought to obtain the kind of landscaping modification at issue. It does not appear that such a reduction has previously been granted.

(12) Pursuant to SCC 30.25.040, an Applicant may request a modification of landscaping requirements as part of project review. 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; and (b) The proposed landscaping fulfills the purpose of this chapter set forth in SCC 30.25.010(1).

Here, because the Applicant has requested a modification of a perimeter landscaping requirement, SCC 30.25.040(4) provides that the following alternative screening and buffering strategies shall be favored:

- (a) Preservation of existing vegetation, particularly significant trees or other groupings of natural vegetation in consolidated locations;
- (b) Better accommodation of existing physical conditions on site, including incorporation of elements to provide for wind protection or improve solar access;
- (c) Incorporation of elements to protect or improve upon water quality;
- (d) Increased landscaping width adjacent to residential uses or zones or in other strategic locations;
- (e) Provision of a unique focal point of interest or better useable open space; and
- (f) Increased protection of wetlands and fish and wildlife habitat conservation areas and their buffers beyond.

(13) With regard to the requirement that the modified landscaping proposed will represent an equal or better result than would be achieved by strictly following the code, the Applicant notes that (because of otherwise required critical areas buffers and mitigation), the proposed development plan would provide more landscaped area than that required to meet the landscaping requirements of SCC 30.25.015 and SCC 30.25.016(6)(c). (Exhibit A.4). The landscaping requirements referred to in SCC 30.25.015 and SCC 30.25.016(6)(c) are the general landscaping requirement that a minimum of 10% of the total gross area of the site be landscaped. However, the landscaping requirement for which the modification is requested is related to tree retention and replacement requirements under SCC 30.25.016 – specifically the requirement that an additional 15 foot buffer be provided around the perimeter of the site (in order for the project to qualify for the 30% reduction in replacement trees). The Applicant proposes to eliminate this additional buffer along most of the perimeter and to reduce it to 10 feet along the south boundary of lots 1 through 14 of Phase 1 and the north boundary of Lot 4 in Phase 2.

The Applicant also states that there is insufficient room for healthy replanting of the number of replacement trees required by the code and that forcing new trees into already well vegetated steep slope, open space areas is counter-productive, and may be damaging to existing vegetation. (Exhibit A.4). This statement does not address how an equal or better result would be achieved by not providing the code-required 15 foot buffer than if such buffer was provided.

The Applicant also asserts that under the modification it seeks, the site would contain nine more significant trees than what currently exist on the property. However, it is not clear how the Applicant reached this number. The landscaping plan shows that the site currently contains 1405 significant trees. The Applicant proposes to retain 883 of these significant trees. (Exhibit B.3, Sheet 2). The landscape plan shows that if the code is strictly followed (the 30% reduction

in replacement trees would not occur because the required 15 foot perimeter buffer is not provided), 804 replacement trees would be required. This would result in a total of 1684 trees on the site if the code was strictly followed. Under the modification request, 564 replacement trees would be provided resulting in a total of 1447 on the site.

Finally, the Applicant asserts that strict application of the code (requiring the 15 foot perimeter buffer) does not take existing conditions into account for a heavily forested site. Again, this statement does not address how an equal or better result would be achieved by not providing the code-required 15 foot buffer along those portions of the site that will not remain forested than if such buffer was provided.

(14) As noted above, SCC 30.25.040(2)(b) requires that a landscaping modification can only be approved where the modified landscaping “fulfills the purpose of this chapter set forth in SCC 30.25.010(1).” SCC 30.25.010(1) provides as follows:

(1) The purpose of this chapter is to establish standards for landscaping, tree retention and tree replacement to implement the policies of the comprehensive plan and to achieve the following objectives:

- (a) Enhance neighborhood livability and mitigate potential land use incompatibility through landscaping and screening;
- (b) Reduce tree loss during land development and construction; and
- (c) Mitigate tree loss by providing for tree replacement.

Thus, in evaluating the landscaping modification sought here, the most pertinent portion of the policy of Chapter 30.25 SCC is the policy to achieve the listed objectives. The Applicant’s arguments regarding these objectives are set forth at pages 3 and 4 of Exhibit A.4. These arguments do not squarely address how eliminating or reducing the 15 foot perimeter buffer would further these objectives.

(15) The tree retention and replacement requirements were added to Chapter 30.25 SCC by Section 20 of Ordinance 08-101. This Ordinance also revised the stated purpose of Chapter 30.25 and the standards for evaluating landscaping modification requests. The County Council made a number of findings which are set forth in Ordinance 08-101 to explain why the new requirements were adopted. The pertinent findings are set forth below:

[M]ost Snohomish County cities are concerned with the density, public infrastructure standards, including those for roads, pedestrian and recreational facilities, parking, and landscaping provided in some of the developments they would inherit if these developments were annexed.

[P]ublic and stakeholder comment emphasized several issues, among them: the use of city standards, tree retention and replacement, landscaping, design of transition areas, compatibility of infill, aesthetics and circulation.

[T]he general removal of trees should be appropriately controlled and, where possible, existing trees should be preserved on-site.

Amendments to Title 30 SCC are necessary to strengthen and clarify county standards and requirements for landscaping, tree retention and general design within urban residential neighborhoods to better achieve Land Use Objective LU

4.A and to improve the livability of urban residential neighborhoods in unincorporated Snohomish County.

The addition of tree retention provisions to chapter 30.25 SCC follows the policy direction of Land Use Policy 5.A.8, which prescribes that natural features and open space, as well as critical areas, be preserved to enhance neighborhood identity.

Trees play a pronounced and important role in county-wide soil conservation, soil enrichment and erosion control, and provide wildlife habitat. According to water budget studies prepared in developing the *Low Impact Development Technical Guidance Manual for Puget Sound*, approximately 50 percent of annual rainfall is intercepted by foliage, including trees, and evaporated during the rainy season, which serves as a stormwater management tool.

Trees enhance the value of property by creating a visually, psychologically, and aesthetically appealing environment. They improve soil stabilization, improve water quality, reduce stormwater runoff and better preserve the forested character of our region and county.

Land Use Policy 5.A.8 is better implemented through the broader application of tree retention requirements beyond the optional planned residential development format to encompass all forms of residential development.

Amendments to SCC 30.25.010 are necessary to incorporate tree retention and replacement objectives into the purpose statement. The addition of tree retention and tree replacement requirements as a part of land development activity enables the county to advance multiple objectives for neighborhood livability and environmental quality articulated in various chapters of the GMACP. Specifically, these provisions are intended to produce the following benefits to the natural environment and to the citizens of Snohomish County: enhanced residential property values; improved soil stabilization; improved water quality; reduced stormwater runoff; improved air quality; enhanced wildlife habitat; and better preservation of the forested character of our region and county.

B. Subdivision Approval.

The subdivision as submitted is dependent upon approval of the landscaping modification requested. The Findings on the landscaping modification set forth above are, therefore, dispositive. Unless and until the landscaping modification is granted, the Examiner is unable to make any determinative Findings related to the proposed subdivision.

6. 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 subdivision applications and landscape modification requests pursuant to Chapter 30.41A SCC, Chapter 30.72 SCC, Chapter 30.25 SCC and Chapter 2.02 SCC.

2. The site of the proposed Glennwick Grove subdivision presents numerous difficulties for development due to the presence of the Lunds Gulch Creek ravine which runs through the eastern portion of the site and along the northwest portion of the site as well as several on-site wetlands.
3. Because, the site is currently heavily forested, with numerous significant trees, the County's newly adopted tree retention and replacement requirements compound the difficulties the developer has encountered in trying to achieve its desired lot yield on the site.
4. Also, because the tree retention and replacement policy means that developments must make more room for trees, that of necessity means there will be less room for homes or other structures.
5. The tree retention and replacement requirements adopted by Ordinance 08-101 are the result of a change in County policy to significantly limit the removal of trees in the course of subdivision development as compared to what had been permitted in the past. Now, under SCC 30.25.016(1) no significant trees may be removed by a developer without prior County approval. This prohibition is backed up with a \$5000 fine – the largest fine by far for any violation listed in SCC 30.85.130 - for each tree removed in violation of the prohibition. SCC 30.25.016(10); 30.85.130. The numerous legislative findings made by the County Council in the adoption of Ordinance 08-101 attest to the importance the County Council placed on the need to adopt tree retention and replacement requirements to change how urban area development in the County will occur in the future.
6. The County Council provided few exceptions or limitations on the replanting requirements of SCC 30.25.016(4). While the Applicant argues that the tree replacement requirements should not be strictly enforced in the instant case because the site is already heavily forested, the County Council did not provide any special rules expressly for heavily forested sites nor would such special treatment be consistent with the policies behind the adoption of the tree retention and replacement requirements.
7. The Applicant has sought to utilize the one clear method available to significantly reduce the tree replacement requirement. SCC 30.25.016(5) provides for an automatic 30% reduction in the tree replacement requirement. However, to qualify for this reduction, the code requires something in exchange – that an additional 15 foot buffer around the entire edge of a subdivision be provided. This buffer is to be in addition to all other buffer and landscaping requirements in the code.
8. While the Applicant seeks to obtain the 30% reduction in tree replacement, it does not wish to provide the code-required buffer in exchange. Rather, the Applicant has sought a landscaping modification to significantly reduce or eliminate the 15 foot buffer.
9. The criteria for granting landscaping modifications are clear: the landscaping that the Applicant **does** provide must yield an equal or better result than would be achieved by strictly following the code requirements and such landscaping must fulfill the purpose of the landscaping code chapter. Here, the Applicant fails to satisfy either of these requirements.
10. The code envisions an additional 15 foot vegetated buffer around the entire perimeter of the subdivision. The Applicant here proposes no additional 15 foot buffer around any portion of the site's perimeter. But neither does the Applicant propose anything to provide the functional

equivalent – nothing that would yield an equal or better result than if the 15 foot buffer were provided.

11. Part of the lack of satisfactory substitute for the 15 foot buffer appears to arise from the Applicant's misinterpretation of the code. The code does not require the buffer "where roads or other required infrastructure **enter** the subdivision." This does not say. "where roads or other required infrastructure **parallel** the boundary of the subdivision." However, this appears to be the Applicant's erroneous interpretation of the code. The Applicant claims that no buffer is required along the **road frontages** of 56th Avenue West and 52nd Avenue West. This is not what the code says. If the County Council had meant to exempt road frontages from the buffer requirement, it could have and would have said so. Roads upon which a subdivision fronts and which parallel the boundary of the subdivision do not "enter" the subdivision. "Enter" means "1. to come or go in ... 5. to come or go into ... 6. to penetrate or pierce." *Webster's Encyclopedic Unabridged Dictionary of the English Language* (1989). Thus for a road or other infrastructure to "enter" a subdivision, it must go from being **outside** the subdivision to being **inside** the subdivision.
12. The Applicant also erroneously asserts that individual lot bioretention swales that are located 10 feet from the south plat boundary at the backs of Lots 1 through 14 of Phase 1 constitute infrastructure that **enters** the subdivision. These bioretention swales do not even directly abut the subdivision boundary, much less enter the subdivision. Rather, they are wholly contained **within** the subdivision. Thus, a 15 foot buffer would be required along this south boundary. The Applicant has proposed providing a 10 foot buffer at this location. The Examiner cannot conclude that providing a 10 foot buffer would yield an equal or better result than would be achieved by providing the required 15 foot buffer.
13. The modified landscaping that the Applicant proposes also does not fulfill the purpose of the landscaping chapter of the code as required by SCC 30.25.040(2)(b). Allowing a 30% reduction in tree replacement without the Applicant providing the substitute additional 15 foot buffer around the perimeter of the subdivision would not achieve the objectives of providing landscaping and screening, reducing tree loss during development or mitigating tree loss by providing tree replacement.
14. Since the requested landscaping modification pertains to a perimeter landscaping requirement, it must be evaluated to determine whether the requested modification favors the alternative screening and buffering strategies listed in SCC 30.25.040(4). The modification requested here does not appear to favor any of the listed strategies.
15. The landscaping modification sought does not meet the requirements for approval set forth in SCC 30.25.040 and should, therefore, be denied.
16. Because the landscaping modification should be denied, the Applicant would not be entitled to a 30% reduction in tree replacement. The subdivision was designed on the assumption that 240 less replacement trees would need to be planted than would have been the case without the requested modification. As noted in the Findings of Fact above, the Applicant has indicated that, under the current plat design, "there is insufficient room for healthy tree replanting" of the required number of replacement trees and that, "forcing new trees into already well vegetated steep slope, open space areas is counter-productive, and may be damaging to existing vegetation." (Exhibit A.4). Therefore, the Examiner concludes that the subdivision must be redesigned so that either less existing significant trees are removed or more replacement trees can be planted or some combination of the two.

17. The preliminary plat application should be remanded to PDS to allow for the revisions necessary in light of the denial of the landscaping modification.
18. 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:

The landscaping modification is DENIED.

The preliminary plat application for Glennwick Grove is REMANDED to PDS for revision in accordance with this decision.

DATED this 12th day of February, 2013.



Gordon Sivley, 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 **within 10 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 February 22, 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]

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 has been 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 February 26, 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: Stacey Abbott

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.

PARTY OF RECORDS REGISTER
12-104437-SD GLENNWICK GROVE
HEARING: JAN 30, 2013
1/9/2012 karnett

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CITIZENS FOR MEADOWDALE
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SNOHOMISH HEALTH DISTRICT
BRENT RAASINA
NO ADDRESS GIVEN

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JOHN WESTFALL
NO ADDRESS GIVEN