

REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: July 14, 2006

PLAT/PROJECT NAME: *BACK & BEYOND*

APPLICANT/
LANDOWNER: John Marasco

APPELLANTS: Joyce Hoikka, *et. al.*
Little Bear Creek Protective Association

FILE NO.: 05 117306 SD

TYPE OF REQUEST: 1) An appeal of the Determination of Nonsignificance
2) A 32-lot Rural Cluster Subdivision (RCS) of 72.77 acres

DECISION (SUMMARY): 1) Appeal DENIED, however see Findings & Conclusions
2) RCS APPROVED subject to conditions

BASIC INFORMATION

GENERAL LOCATION: The property is located at 19521 51st Avenue SE, Bothell, WA

ACREAGE: 72.77 acres

NUMBER OF LOTS: 32

AVERAGE LOT SIZE: 23,463 square feet

MINIMUM LOT SIZE: 18,180 square feet

OPEN SPACE: 69.9% (50.87 acres)

ZONING: Rural-5 Acre (R-5)

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Rural Residential (1 du/5 acre – Basic)
Subarea Plan: North Creek
Subarea Plan Designation: Watershed-Site Sensitive Areas and Rural (.4-1 du/ac)

UTILITIES:

Water: Cross Valley Water District
Sewage: On-site septic systems

SCHOOL DISTRICT: Northshore

FIRE DISTRICT: No. 7

SELECTED AGENCY RECOMMENDATIONS:

Department of:
Planning and Development Services: Approve subject to conditions
Public Works: Approve subject to conditions

INTRODUCTION

The applicant filed the Master Application on March 28, 2005. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on June 8, 2006 in the morning.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 21, 22 and 23)

A SEPA determination was made on April 28, 2006. (Exhibit20) A timely SEPA appeal was filed on May 17, 2006. (Exhibit 45) (Note: Clarification is Exhibit 49)

A Status Conference was held on May 22, 2006 at 11:00 a.m. Discussions were had with regard to the settlement of some or all of the issues. However, the parties were unable to reach an agreement following the status conference.

The Examiner held an open record hearing on June 8, 2006, the 119th day of the 120th day of the decision making period, commencing at 2:05 p.m. At this hearing, the parties confirmed that they had not been able to reach an agreement and the SEPA appeal would not be withdrawn. (Exhibit 68)

The matter was then continued until June 29, 2006 at 9:00 a.m. for hearing on the appeal and the subdivision.

The parties submitted additional information and/or pre-hearing briefs. The Examiner indicated that the information received pursuant to the negotiations would be placed in an envelope and sealed. The Examiner did not review any of this information, and the sealed envelope is part of the file listed as Exhibit 63. (See Examiner’s Report Exhibit 68)

PUBLIC HEARING

The public hearing commenced on June 29, 2006 at 9:00 a.m. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. The appellants proceeded first with Mr. Greg Stephens speaking as president of the Little Bear Creek Protective Association. He stated that the road crossing 1800 feet of the wetlands, is ill advised and that the Army Corps of Engineers has been contacted. He was concerned that this road will interfere with flood waters.

He stated that Exhibit 75, the Little Bear Creek Water Clean Up Plan, shows a high level of bacteria and that more houses and more septic tanks will cause a problem. He stated that the septic process here is not good

3. Ms. Joyce Hoikka appeared, and stated that her primary concerns related to septic tanks and the roads. She referred to the information from the Department of Ecology (See her Exhibit 77). She said that the existing roadway and bridge was done for the purpose of logging 30 acres in 1993. She stated that the road is sort of floating on a fabric with soil dumped on top of it. She stated that this would require excavation to a solid foundation.

She stated that with regard to the septic tanks, they will cause problems because water comes off the hill. She is concerned about it going to Little Bear Creek and believes that it violates the purpose of No. 6 in the RCS regulations.

She stated that RCS's should not be placed in an environmentally sensitive area.

She indicated that people living on the ridge will now see the houses below.

She indicated that she has no degree, but has lived on the wetlands for 55 years, and has read government reports.

4. Mr. Stephens continued with his testimony and stated that what he calls a "skid road" is not to be considered as an existing road. It should be considered as a wetland.

He stated that 1800 feet will be 1800 feet from 51st Avenue, and that it is barely above the wetland and that a new road would act as a dam.

He stated that there are fish, deer, bear and other animals which use this as an animal passage.

In cross-examination he stated that he had looked at the two years ago, and the "skid road" has been there about 13 years.

5. Mr. Paul MacCready, PDS, appeared and recommended approval of the RCS with conditions and, at the same time, recommended denial of the appeal.

He stated that they had asked for responses, and did not receive any from DOE, but did get one from the Health Department recommending approval for this concept. (Exhibit 28)

He stated that the road will be built to current standards and that this is a floodway fringe area.

6. Mr. Andy Smith, DPW, stated that a deviation of 30-26 feet for the road was approved by the DPW with conditions. (Exhibit 79)
7. The applicant appeared with their attorney, Ms. Ann Gygi. Ms. Gygi had Ms. Debra Overbay speak to the soils and who stated that septics are o.k. in Alderwood soils and stated that they would extend the roadway foundation to till.

She indicated that there will be no excavation of the existing road; only on one side.

8. Mr. Edward Koltonowski, traffic engineer for the applicant appeared, and stated that the volumes are extremely low in this area and that there is no problem with sight distance.

He indicated that there would be 32 peak hour trips.

9. Ms. Margaret Bender appeared and stated that she feels that if the road becomes public, there will be huge impacts and is concerned with the effect on the wetlands. (See Exhibit 72)
10. Mr. Chris Petersen appeared and stated that he feels that this will open a flood gate to the area.
11. Mr. Mark Villwock, an engineer for the applicant appeared, and stated that they had used county figures for flood calculations. He feels that a 42 foot wide span is adequate, and that the flood level would be lowered.

He stated that the bridge would be used by fisheries and wildlife and that animals will be able to pass under the bridge.

He stated that the private road will meet public road standards.

12. Mr. Patrick McGraner, Biologist, PDS stated that he was concerned about the wetlands being maintained.
13. Mr. Louis Eminheiser appeared and stated that three acres of wetland enhancement will be provided.
14. Mr. Ry McDuffy appeared on behalf of the applicant, and stated that he agrees with the PDS staff report and recommended conditions, and that the Snohomish Health District will inspect what is being done.

He indicated that there would be a monitoring well and that the request meets all requirements.

15. In closing, Mr. Stephens indicated that he desired to submit the county's new low impact manual and Ms. Gygi, on behalf of the applicant, indicated that the SEPA appeal contained merely allegations, and that there is no showing that they are probable to happen.
16. The hearing concluded at 12:09 p.m.

NOTE: The above information reflects the information submitted to the Examiner summarizing the statements that were made at the hearing. However, for a full and complete record, verbatim audio tapes of the hearing are available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file, as if set forth in full herein.
2. The PDS staff report has generally analyzed the nature of the application, the issues of concern, the application's consistency with adopted codes and policies and land use regulations, and the State Environmental Protection Act (SEPA) evaluation with its recommendation and conditions. This report is hereby accepted by the Examiner as if set forth in full herein.
3. The request is for approval of a preliminary RCS of 72.77 acres for 32 single-family lots, under Snohomish County Code 30.41C. Access to the development will be from a private road on the east side of 51st Avenue SE, at the intersection of 196th Street SE. The new access will follow an existing logging road through extensive wetlands, across Little Bear Creek, via a new bridge to the proposed new building lots.

Individual on-site septic systems are proposed, and the Cross Valley Water District would provide public water.

4. The site consists of six original parcels. The property is currently undeveloped and contains no structures.

Little Bear Creek, a Type 2 stream, flows south through the middle of the site and an extensive Category 1 wetland system is adjacent to the stream on both sides, while two on-site Type 4 streams flow into the creek. The entire critical area system occupies about $\frac{3}{4}$ of the site.

5. The site is outside of the Urban Growth Area and is currently zoned R-5. The property is surrounded by single-family homes on large lots, pastureland, and undeveloped forested wetlands. A farm and equestrian center are located directly adjacent to and northwest of the large wetland along 51st Avenue, with all of the surrounding property being zoned R-5.
6. The area itself can best be described as a very attractive rural area. It is shown well by viewing the aerial photograph. This exhibit (Exhibit 82), shows the area of the proposed road and the proposed lots in relationship to the surrounding area. Also, Exhibit 12 shows the area as well, and Exhibit 83 shows the location of the properties and the wetlands. A review of these exhibits gives an excellent bird's eye view of the area and what is proposed.
7. A flood hazard determination for the proposed preliminary plat has been done, and a portion of the proposed access road and bridge crosses Little Bear Creek which lies within the floodway fringe area. The Flood Hazard Zone (FHZ) is A, which means that the base flood elevation has not been determined. All proposed building lots lay outside of the FHZ.
8. The project would comply with park mitigation requirements under Chapter 30.66A SCC (Title 26A SCC) by the payment of \$1,244.49 for each new single-family home.

9. The DPW reviewed the request with regard to traffic mitigation and road design standards. This review covered Title 13 SCC and Chapter 30.66B SCC (Title 26B SCC) as to road system capacity, concurrency, inadequate road conditions, frontage improvements, access and circulation, and dedication/deeding of right-of-way, state highway impacts, impacts on other streets and roads, and Transportation Demand Management. As a result of this review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions. (See Pages 3-5, Exhibit 44)
10. School mitigation requirements under Chapter 30.66C SCC (Title 26C SCC) have been reviewed and set forth in the conditions.
11. A Category 1 wetland, and two Type 4 streams associated with Little Bear Creek Type 2 ESA stream containing Chinook salmon occupy the majority of the site, with the wetland extending off-site to both the north and the south. The central portion of the wetland is forested and turns into pasture to the west. Little Bear Creek flows south through the center of the wetland. The streams and wetlands will be contained within Native Growth Protection Area (NGPA) easements in the restricted open space tracts pursuant to Chapter 30.62 SCC (Chapter 32.10 SCC) Critical Area Regulations.
12. Stormwater runoff from the proposed building lots and private roads will be conveyed to a detention and water quality wet pond located in Tract 999 next to the wetlands. The PDS Engineering Division has reviewed the concept of the proposed grading and drainage and recommends approval of the project subject to conditions, which would be imposed during full detailed drainage plan review pursuant to Chapter 30.63A SCC (Title 24 SCC).
13. The subject property is designated Rural Residential (1 du/5 Acres-Basic) on the GPP Future Land Use Map and is located outside of an Urban Growth Area. The property is designated Watershed-Site Sensitive Areas and Rural (.4-1 du/1 acre) on the pre-GMA North Creek Subarea Plan. The 32 lots proposed are consistent with the density provisions of Snohomish County's GMA-based zoning regulations under subtitle 30.2.
14. The proposal complies with the provisions of Section 30.41C.010 by clustering the lots on the most buildable and least environmentally sensitive portion of the site while retaining approximately 69.9% (50.87 acres) of the property in restricted open space. The proposal is considered preferable to traditional lot-by-lot development through its efficient use of the most buildable portion of the site together with the retention of environmentally sensitive areas in permanent open space tracts; the use of the clustering concept provides greater compatibility with the surrounding development by providing buffers between adjoining properties; the use of the clustering concept has reduced the need for impervious surfaces resulting in the protection of groundwater and potential water pollution from erosion and other drainage-related problems; the project complies with Snohomish County's Critical Areas Regulations, thereby minimizing the loss of the county's environmentally sensitive areas.

In this regard, the staff has correctly analyzed the effect of the Rural Cluster Subdivision on page 8 and 9 of the PDS staff report. (Exhibit 44)

15. The request complies with the Snohomish County Subdivision Code, Chapter 30.41A SCC (Title 19 SCC) as well as the State Subdivision Code, RCW 58.17. The proposed plat 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.

16. With regard to the SEPA appeal, Ms. Hoikka has submitted an excellent memorandum setting forth her concerns on the SEPA evaluation. (Exhibit 77) Other neighbors have submitted supporting statements from their own experiences.
17. Responses to the SEPA appeal were submitted by Paul MacCready, PDS, Exhibit 71, and the pre-hearing brief of the applicant. (Exhibit 73)
18. The information submitted by all parties with regard to the SEPA appeal, while it elaborates and expands on the issues raised therein, does not present any new evidence which would show that there would be a probable significant adverse impact on the environment by clear and convincing evidence. Those persons appearing who expressed valid concerns as to what might happen in the future did not provide expert evidence or specific conclusions in support of their appeal. Therefore, since the decision to issue a Determination of Nonsignificance under the Snohomish County Code is entitled to substantial weight, and may be overturned only if proven to be clearly erroneous, the appellants have failed to carry that burden of proof to show this. (See SCC 30.61.310)
19. After reviewing all of the evidence, the Examiner is not left with a definite and firm conviction that a mistake has been committed, and therefore the appeal has been denied.
20. However, the Examiner clearly heard the concerns of those persons testifying with regard to the road and wetlands, and has added conditions to ensure that these concerns are carefully considered at the time of the final design stage.
21. The Snohomish County Health District has no objection to this proposal. (Exhibit 38)
22. Public water will be available for this development as well as electrical power.
23. The request is consistent with Section 30.70.100 SCC (Section 32.50.100 SCC), which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP, and GMA-based county codes.
24. The Examiner is concerned however, in regard to the logging road being converted to a full sized road, and at this point in time there being only a conceptual recommendation of what is to be done. There is no showing that there will be sufficient areas or culverts for the wetlands and for the animal life that lives in the wetlands, nor for the fact that floodwaters will not be provided for. Therefore, the Examiner has placed a condition, along with the other already existing conditions, to provide for this protection and review prior to the issuance of any preliminary plat by those parties filing the application.
25. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

CONCLUSIONS:

1. The Examiner having fully reviewed the PDS staff report, hereby accepts said staff report as generally setting forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their effect upon the request. It is therefore hereby adopted by the Examiner as a conclusion as if set forth in full herein, in order to avoid needless repetition. However, there are changes to the recommendations of the staff report requiring additional review. These are shown as Examiner's Conditions.

2. The Department of Public Works recommends that the request be approved as to traffic use subject to certain conditions. This is supported by Mr. Koltonowski, an independent traffic engineer.
3. The request is consistent with the GMACP; GMA-based County codes; and the type and character of land use permitted on the site and the permitted density with the applicable design and development standards.
4. The request complies basically with the standards set forth in SCC 30.41C rural cluster subdivisions. The Snohomish County Council has enacted this chapter and has set the basic standards for the allowance of RCS. The Examiner has reviewed the request and with the imposition of certain conditions, has determined that the request complies with the basic desires of the Council to allow the RCS in a rural area.
5. Therefore, upon a review of SCC 30.41C.010 this request meets the general purposes set forth by the Council for a RCS, when and if the conditions are complied with.
6. The Examiner has imposed several Examiner's Conditions based upon the testimony at the hearing in order to ensure that the request does not adversely affect the neighborhood once the plat is started. Discussion was had as to the requirements being conceptual. Surely, a preliminary plat is basically a conceptual proposal. However, there must be sufficient specificity in the request or design so that the public and the Examiner have some concept of what will happen once the final design is proposed. For this reason the Examiner has imposed several conditions to ensure this comes about.
7. The request should be approved subject to compliance by the applicant with the following Conditions:

CONDITIONS

- A. The revised preliminary plat/rural cluster subdivision received by PDS on January 3, 2006 (Exhibit 18) shall be the approved plat configuration. Changes to the approved plat are governed by SCC 30.41A.330.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
 - i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
 - ii. The platlor shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by Chapter 30.62 SCC, or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the County.
 - iii. A final mitigation plan based on the Critical Area Study and Mitigation Plan for Back and Beyond, prepared by Wetland Resources, Inc. dated October 19, 2005 and date stamped received on November 8, 2005 (Exhibit 16) shall be submitted for review and approval during the construction review phase of this project.

- C. The following additional restrictions and/or items shall be indicated on the face of the final plat:
- i. “The dwelling units within this development are subject to park impact fees in the amount of \$1,244.49 per newly approved dwelling unit pursuant to Chapter 30.66A. Payment of these mitigation fees is required prior to building permit issuance; provided that the building permit has been issued within five years after the application is deemed complete. After five years, park impact fees shall be based upon the rate in effect at the time of building permit issuance.”
 - ii. “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 six existing parcels. Lots 1 through 6 shall receive credit.”
 - iii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single family residential building permit:
 - \$2,038.41 per lot for mitigation of impacts on county roads paid to the County,
 - \$120.69 per lot for impacts to WSDOT Project No. DOT-14 paid to the County,
 - \$87.64 per lot for impacts to WSDOT Project No. DOT-15 paid to the County,
 - \$50.30 per lot for impacts to the City of Mill Creek paid to the City. Proof of payment is required prior to permit issuance.

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. Once building permits have been issued all mitigation payments shall be deemed paid.
 - iv. The following statement shall be on the face of the recorded plat and within the covenants of the recorded plat:

"In consideration of the modification of the subdivision access standards, the owners of the lots of the subdivision, their heirs, successors, and assigns, covenant and agree not to protest the conversion of the sixty (60) foot easement and private road throughout the development, to a public road at any time the county determines a public road is necessary, or a public road is required for further development of any of the lots within the subdivision. The owners of the subdivision lots, their heirs, successors, and assigns further agree and covenant to provide all necessary authorizations and to execute all necessary conveyance documents, at no cost and expense to the county, to accomplish the dedication and/or conversion of the private road to the county for public road purposes. This covenant touches and concerns the property, runs with the land, and is binding upon all subsequent purchasers, heirs, successors, and assigns."
 - v. All Critical Areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made) with the following language on the face of the plat:

"All NATIVE GROWTH PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur, except removal of hazardous trees. The activities as set forth in SCC 30.91N.010 are allowed when approved by the County."

D. Prior to recording of the final plat:

- i. Rural frontage improvements shall be constructed along the parcel's frontage on 196th Street SE/51st Avenue SE to the specifications of the County.
- ii. The internal private road shall be constructed to the specifications of the County [EDDS].
- iii. Pedestrian facilities shall be constructed to the specifications of the County throughout the development [EDDS].
- iv. Native Growth Protection Area boundaries (NGPA) shall have been permanently marked on the site prior to final inspection by the county, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The platlor may use other permanent methods and materials provided they are first approved by the county. Where an NGPA boundary crosses another boundary (e.g.: lot, tract, plat, road, etc.), a rebar marker with surveyors' cap and license number must be placed at the **line crossing**.

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

- v. The final mitigation plan shall be completely implemented.

E. In conformity with applicable standards and timing requirements:

- i. The preliminary landscape plan (Exhibit 4) shall be implemented. All required detention facility landscaping shall be installed in accordance with the approved landscape plan.

F. All development activity shall conform to the requirements of Chapters 30.63A SCC and 30.63B SCC.

Nothing in this recommended approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.

Preliminary plats which are approved by the county are valid for five (5) years from the date of approval and must be recorded within that time period unless an extension has been properly requested and granted pursuant to SCC 30.41A.300.

EXAMIENR'S SPECIAL CONDITIONS

- A. A monitoring well should be placed at the site and in the area determined by the Snohomish Health District to ensure that the ground water and the wetlands are not contaminated, and that there is sufficient warning of any such possibility.
- B. The proposed road, following the location of the old logging road must be designed prior to the plat proceeding forward in order to ensure that there is adequate protection for the wetlands and any future flood plain area involvement. This design shall include adequate provisions made for floods by first determining flood elevations and shall require and contain culverts or other passage ways for the wildlife in the area, in addition to the proposed bridge.

The roadway from 51st Avenue to these properties shall not be constructed until there has been assurance that the designs have been submitted to all parties for their review and comment, that it can be done in such a manner as to not interfere with the wetlands and the animals residing and using these wetlands or that provisions are made therefore.

- C. An affidavit shall be submitted by the applicant with regard to construction of the homes in such a way as to meet the requirements of SCC 30.41C.200(15) as to their locations. This is based upon the decision of the Snohomish County Council indicating their intention in the *Panther Lake Ridge* case (04-112029) that there is no other place for the homes to be feasibly located.
 - D. The applicant and/or PDS shall submit to the traffic engineer the proposal in order to determine that all steps have been taken to provide for traffic control and safety.
 - E. All required minimum buffers under SCC 30.41C shall be placed.
8. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

The SEPA appeal is DENIED.

The request for a Rural Cluster Subdivision is hereby APPROVED for 32 lots, SUBJECT TO COMPLIANCE by the applicant, with the CONDITIONS set forth in Conclusion 7, above.

Decision issued this 14th day of July, 2006.

Robert J. Backstein, Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

This 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 Examiner's action on reconsideration would be subject to appeal to the Council.) The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council rules of procedure.

Reconsideration

Any Party of Record may request reconsideration by the Examiner. A Petition for Reconsideration must be filed in writing with the Office of the Hearing Examiner, 2802 Wetmore Avenue, 2nd Floor, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **JULY 24, 2006**. 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 Examiner exceeded his jurisdiction;
- (b) the Examiner failed to follow the applicable procedure in reaching his decision;
- (c) the Examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of Snohomish County Code, or other county or state law or regulation;
- (d) the Examiner's findings, conclusions and/or conditions are not supported by the record;
- (e) newly discovered evidence alleged to be material to the Examiner's decision which could not reasonably have been produced at the Examiner's hearing; and/or
- (f) changes to the application proposed by the applicant 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. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 5th Floor, County Administration Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **JULY 28, 2006** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the county and PROVIDED FURTHER that the filing fee shall be refunded in any case where an appeal is 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 are limited to the following:

- (a) the Examiner exceeded his jurisdiction;
- (b) the Examiner failed to follow the applicable procedure in reaching his decision;

- (c) the Examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of Snohomish County Code, or other county or state law or regulation; and/or
- (d) the Examiner’s findings, conclusions and/or conditions are not supported by the record.

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

Staff Distribution:

Department of Planning and Development Services: Paul MacCready
Department of Public Works: Andrew Smith

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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