

# **REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER**

DATE OF DECISION: October 20, 2005

APPLICANT/  
LANDOWNER: Lake Stevens Sewer District

FILE NO.: 05 122796

TYPE OF REQUEST: Conditional Use Permit and Landscape Modification

DECISION (SUMMARY): APPROVED subject to conditions

## **BASIC INFORMATION**

GENERAL LOCATION: The property is located at 2603 103<sup>rd</sup> Avenue SE, Lake Stevens, WA

ACREAGE: Tract 983, consisting of 6,839 square feet or .16 of an acre

ZONING: R-7200

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Low Density Residential (6 du/ac – northern 2/3)  
Urban Low Density Residential (4-6 du/ac; southern 1/3)

Subarea Plan: Snohomish-Lake Stevens (Lake Stevens UGA Plan)

Subarea Plan Designation: Urban Low Density Residential (6 du/acre – northern 2/3)  
Urban Low Density Residential (4-6 du/ac – southern 1/3)

UTILITIES:

Water: Lake Stevens Water and Sewer District

Sewage: Lake Stevens Water and Sewer District

SCHOOL DISTRICT: Lake Stevens

FIRE DISTRICT: No. 8

## **SELECTED AGENCY RECOMMENDATIONS:**

Department of:

Planning and Development Services: Approve subject to conditions

Public Works: No recommendation – insignificant traffic impact

## **INTRODUCTION**

The applicant filed the Master Application on July 29, 2005. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on September 28, 2005 in the afternoon.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 11, 12 and 13)

A SEPA determination was made on July 25, 2005. (Exhibit 11) No appeal was filed.

The Examiner held an open record hearing on October 5, 2005, the 37<sup>th</sup> day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

## **PUBLIC HEARING**

The public hearing commenced on October 5, 2005 at 10:07 a.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. Ms. Melanie Clark, representing the applicant appeared and indicated that she had nothing further to add to the PDS staff report and had no objection to the conditions.
3. Mr. Erik Olson appeared on behalf of PDS and had nothing further to add.
4. No one appeared in opposition to the request.

The hearing concluded at 10:17 a.m.

**NOTE:** Audio tapes of this 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 correctly 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 adopted by the Examiner as if set forth in full herein.
3. The request is for approval of a conditional use permit and a landscape modification for the construction and operation of a sanitary sewer lift station by the Lake Stevens Sewer District. The lift station will be located within Tract 983 of the preliminary plat of *Pasadera*, which was approved on May 26, 2005 and is now under construction. This modification will replace the required 20 foot wide Type A perimeter landscape buffer with a six foot high, black chain link fence and also will utilize the vegetation that is on Tract 988 which is to the north and east of the lift station and will be a permanent Native Growth

Protection Area tract. Tract 983 is 6,839 square feet and is located at the southern end of the approved preliminary plat of *L16-1 Pasadera*, just north of the plat's detention vault.

4. This tract is within the approved preliminary plat of *Pasadera*.
5. Drainage from the impervious surface from this facility will be directed to go through the plat's drainage system, which design has been approved and is under construction.
6. Tract 988 to the north and east of the subject site and is designated as an NGPA in the approved preliminary plat and will be recorded as such. This project complies with critical areas regulations under Chapter 30.62 SCC.
7. The project is located on the Lake Stevens UGA planning area and is designated Urban Low Density Residential. The project itself meets zoning code requirements.
8. The proposed utility use is an allowed conditional use in the R-7200 zone. PDS staff has correctly analyzed the effect of the conditional use permit under Chapter 30.42C. SCC as well as the landscape modification request under SCC 30.25.040. These requirements and the analysis of their effect, are found on pages 3, 4, 5 and 7 of Exhibit 19, and are hereby adopted by the Examiner in order to avoid needless repetition.
9. The aerial photograph, Exhibit 9, sets forth very clearly the area and location of the project.
10. 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 adopts said staff report as properly 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. There are no changes to the recommendations of the staff report.
2. 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.
3. The request for a sewer lift station in this location would help to adequately and efficiently serve the homes which are being constructed in this part of the county and would help to complete the sewer system.
4. The request should be approved subject to compliance by the applicant with the following Conditions:
  - A. The site plan(s) marked Exhibit 2A, B and C, shall be the official approved development plan(s) for this project. Any discrepancy between the content of the official approved development plan(s) and the performance standards of the UDC SCC shall be resolved in favor of the standards contained within the UDC SCC. Revision of official approved development plan(s) is regulated by SCC 30.42C.110.

- B. The landscape modification is approved based on the installation of a minimum of a 6-foot high Black Chain Link Fence installed around the facility and all other landscaping as shown on the approved landscape plan.
  - C. The fence and frontage landscaping shall be installed prior to the initialization of the facility or the final of the first single family residence in the plat known as *L16-1 Pasadera*.
5. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

**DECISION:**

The requests for a Conditional Use Permit and Landscape Modification for the construction of a sewer lift station are hereby APPROVED, SUBJECT TO COMPLIANCE by the applicant, with the CONDITIONS set forth in Conclusion 4, above.

Decision issued this 20th day of October, 2005.

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Robert J. Backstein, Hearing Examiner

<b>EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES</b>
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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, 2<sup>nd</sup> Floor, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **October 31, 2005**. 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 **November 3, 2005** 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: Erik Olson

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.