

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

DATE OF DECISION: September 13, 2006

PLAT/PROJECT NAME: *SEVEN LAKES WATER ASSOCIATION RESERVOIR*

APPLICANT/  
LANDOWNER: Paul Lucas

FILE NO.: 05 125398 LU

TYPE OF REQUEST: A Conditional Use Permit for the construction of a 50 foot diameter, 120-foot tall steel water reservoir. The proposal also includes installation of a 12-inch water line from the reservoir to West Lake Goodwin Road; a distance of approximately 3,000 feet. In addition, the proposal includes replacement of existing water lines on West Lake Goodwin Road, from approximately 155<sup>th</sup> Street NW to Lakewood Road, and Lakewood Road from West Lake Goodwin Road to East Lake Goodwin Road.

DECISION (SUMMARY): APPROVE subject to conditions

## **BASIC INFORMATION**

GENERAL LOCATION: The property is located at 16430 62<sup>nd</sup> Avenue NW, Stanwood

ZONING: Rural-5 Acre (R-5)

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Rural Residential-5 (1 du/5 ac)

UTILITIES:

Water: Snohomish County PUD

Sewage: N/A

SCHOOL DISTRICT: Stanwood/Camano

FIRE DISTRICT: No. 14

SELECTED AGENCY RECOMMENDATIONS:

Department of:

Planning and Development Services: Approve subject to conditions

Public Works: Approve

**INTRODUCTION**

The applicant filed the Master Application on April 13, 2006. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on August 24, 2006 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 16, 17 and 18)

A SEPA determination was made on July 10, 2006. (Exhibit 15) No appeal was filed.

The Examiner held an open record hearing on August 29, 2006, the 25th 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 August 29, 2006 at 1:10 p.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. Mr. Jack Molver, David Evans & Associates, appeared and stated that the distance of the water line is 3000 feet, not 11,000. He stated that the tank will be painted with earth tones and that they will open up 164<sup>th</sup> Street as a graveled maintenance road. He stated that they have met with the neighbors along the route to discuss the proposed use.

He indicated that the property was logged seven years ago and that conifers trees have since grown there. He asked to have the precondition in the PDS staff report removed and that there has been quite a bit of dialogue regarding this and that he will meet with Darryl Eastin, PDS, to prepare a condition that will replace the precondition.

3. Mr. Darryl Eastin, PDS, indicated that he would meet and draft a condition to replace the precondition and that he would send a copy to the Examiner.
4. No one appeared in opposition to the request.

The hearing concluded at 1:40 p.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. This is a request for a conditional use permit to build a 1.75 million gallon painted steel water reservoir which will measure 50 feet in diameter and be 120 feet in height. It will be situated on a separate tract that will be part of the pending *Greendale North* rural cluster subdivision (05 121783 SD). The proposal also includes installation of a 12-inch water line from the reservoir to West Lake Goodwin Road, a distance of approximately 3,000 feet. In addition, the proposal includes replacement of existing water lines on West Lake Goodwin Road from approximately 155<sup>th</sup> Street NW to Lakewood Road, and along Lakewood Road from West Lake Goodwin Road to East Lake Goodwin Road. The reservoir project is to be constructed generally in conjunction with construction of the *Greendale North* subdivision. However, actual construction may begin before. The new reservoir will provide addition water service, fire protection, and standby storage to Seven Lakes Water Association customers including future residents of the *Greendale North* subdivision.
4. Access to the reservoir site will come from a planned public road that will be constructed as part of the *Greendale North* subdivision infrastructure improvements, with a temporary gravel road to be constructed within the 164<sup>th</sup> Street right-of way from West Lake Goodwin Road.
5. The site will be located on a separate tract within the pending *Greendale North* subdivision. The tract is described by a legal description on the site plan (Exhibit 10A). The surrounding property, including the tract of undeveloped land with R-5 zoning, and with the exception to the south of the tract will be for single family residences.
6. The proposal is not subject to park mitigation requirements.
7. PDS traffic has reviewed the proposal and has concluded that since the project will not directly result in an increase in traffic after completion, therefore no mitigation is required under Title 13 SCC and Chapter 30.66B SCC.
8. The request is not subject to school mitigation requirements under Chapter 30.66C SCC.
9. The drainage system is intended to utilize low impact development techniques and will be addressed with the development of the *Greendale North* subdivision.
10. The subject property is designated Rural Residential-5 (1 du/5 ac) on the GPP future land use map and is located outside an urban growth area. The implementing zone in this designation will continue to be the R-5 zone, which now covers the property and the proposed water reservoir facility (a utility facility) use is a conditional use in an R-5 zone. The PDS staff has analyzed this use and the proposed landscape screening consisting of evergreen conifer trees between 6-8 feet tall and an average of 50 feet wide (PDS staff report p. 5, Exhibit 29). The Examiner agrees with the analysis and its impact under Chapter 30.2 SCC.

11. 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 is a minor change to the recommendations of the staff report. The precondition was eliminated and replaced with addition wording under Condition B. iii.
2. The Department of Public Works recommends that the request be approved as to traffic use subject to certain conditions.
3. The request in this large area is reasonable and will provide with the new reservoir additional water service, fire protection, and standby storage to the Seven Lake Water Association customers, including the future residents of the *Glendale North* subdivision.
4. The request should be approved subject to compliance by the applicant with the following Conditions:
  - A. The CUP site plan received by PDS on June 29, 2006 (Exhibit 10B) shall be the official site plan. Changes to conditional use permits are governed by 30.42C.110 SCC.
  - 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. A Land Use Permit Binder for the proposal shall be recorded with the Snohomish County Auditor.
    - iii. A landscape plan indicating a native vegetation screen for the reservoir structure shall be provided and approved by PDS. The screen shall consist of existing native conifer trees and supplemental evergreen conifer trees at least 8 feet tall at time of planting, if necessary, spaced no more than 20 feet apart. The screen shall be at least 45 wide along the west boundary, and 50 feet wide along the south and east boundaries of the reservoir tract.
  - C. In conformity with applicable standards and timing requirements:
    - i. The approved landscape plan, pursuant to condition B(iii) above, shall be implemented.
  - D. All development activity shall conform to the requirements of Chapter 30.63A SCC.

Nothing in this permit/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.

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

**DECISION:**

The request for a Conditional Use Permit for: construction of an above-ground 1.75 million gallon, 50-foot diameter, 120-foot tall steel water reservoir; installation of a 12-inch water line from the reservoir to West Lake Goodwin Road and replacement of existing water lines on West Lake Goodwin road are hereby APPROVED, SUBJECT TO COMPLIANCE by the applicant, with the CONDITIONS set forth in Conclusion 4, above.

Decision issued this 13th day of September, 2006.

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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, 3000 Rockefeller Avenue, 2<sup>nd</sup> Floor, Admin-East Building, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **September 25, 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 **September 27, 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.

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### Staff Distribution:

Department of Planning and Development Services: Darryl Eastin/Ann Goetz

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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