

**BEFORE THE**  
**SNOHOMISH COUNTY HEARING EXAMINER**  
**DECISION of the DEPUTY HEARING EXAMINER**

In the Matter of the Application of )  
 )  
**GROUSE RIDGE, LLC** ) **FILE NO. 05 127453 SD**  
 )  
16-lot Rural Cluster Subdivision (RCS) on 54 acres )

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DATE OF DECISION: August 29, 2006

PROJECT NAME: *Lake Martha Highlands*

DECISION (SUMMARY): The proposed 16-lot rural cluster subdivision is **CONDITIONALLY APPROVED.**

**BASIC INFORMATION**

GENERAL LOCATION: The property is located at 7232 188<sup>th</sup> Street NW, Stanwood, Washington.

ACREAGE: 54 acres

NUMBER OF LOTS: 16

AVERAGE LOT SIZE: 31,754 square feet

MINIMUM LOT SIZE: 28,016 square feet

ZONING: R-5

COMPREHENSIVE PLAN DESIGNATION:

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

Subarea Plan: Northwest County

Subarea Plan Designation: Rural (1 du/2.3-5 ac)

UTILITIES:

Water: Seven Lakes Water Association  
Sewer: On-site septic

SCHOOL DISTRICT: Stanwood

FIRE DISTRICT: No. 14

SELECTED AGENCY RECOMMENDATIONS:

Department of:

Planning and Development Services (PDS): Approval subject to conditions  
Public Works (DPW): Approval subject to conditions

### **INTRODUCTION**

The applicant filed the Master Application on January 17, 2006. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 17, 18 and 19)

A SEPA determination was made on June 13, 2006. (Exhibit16) No appeal was filed.

The Examiner held an open record hearing on August 8, 2006, the 74<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 August 8, 2006 at 11:06 a.m.

1. The Examiner announced that he had read the PDS staff report, reviewed the file and viewed the area and therefore was generally apprised of the particular request involved.
2. The applicant, Grouse Ridge, LLC, was represented by Merle Ash of Land Technologies. Snohomish County was represented by Paul MacCready and Dwayne Overholser of the Department of Planning and Development Services.
3. Two letters were received from the general public expressing concerns about aspects of the proposal: a letter from Ms. Carole J. Kirkwood (Exhibit 22) and another from C. Joan Lucas and Evan F. Lucas (Exhibit 23). No member of the general public attended the hearing.
4. No contested issue exists between the applicant and the County.

The hearing concluded at 11:29 a.m.

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

## **FINDINGS, CONCLUSIONS AND DECISION**

### **FINDINGS OF FACT**

Based on all the evidence of record, the following findings of fact are entered.

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 applicant, Grouse Ridge, L.L.C., filed an application for a 16-lot rural cluster subdivision on 54 acres zoned R-5 addressed 7232 – 188<sup>th</sup> Street NW, Stanwood. The site is undeveloped. The developable portion is a plateau bounded by steep slopes on all but the north side. The western and southern slopes drop into the Lake Martha Basin at slopes of up to 60%. That topography is a cause of some of the public concern about the proposal.
3. Rather than restate the public concerns (Exhibits 22 and 23), the following facts address those concerns in the record. First, the only vehicular access to the plat is via Frank Waters Road. No access is from the west via 184<sup>th</sup> Street NW. Thus, there is no connection to the Lake Martha community. Approximately 75% of land mass will be in restricted open space as a Native Growth Protection Area, with sight-obscuring buffers on all sides. There is no landfill in use or closed on the site. The closed landfill is on an adjacent parcel. Stormwater runoff will be managed through approved low impact development techniques.
4. Snohomish County's Department of Planning & Development Services staffers Paul MacCready and Dwayne Overholser testify that the proposal is a model of the County's new, Low Impact Development (LID) techniques. No wetlands or streams are located on or within 100 feet of the subject site. Several areas of the restricted open space have slopes greater than 33%. The steep slopes are located on both the east and west/southwest sides of the plateau. The new lots will be located on the plateau, not on the steep slopes. All of the steep slope areas will be protected by Native Growth Protection Areas Easements (NGPA/E).
5. The subject site is outside the urban growth area and is zoned R-5. Undeveloped forest land lies to the south. Single-family homes on large lots lie to the south and west. Lake Martha is approximately 1,000 feet to the west. To the east is a closed landfill owned by Snohomish County. All surrounding property is zoned R-5.
6. The 16 proposed single-family homes will generate 153 average daily vehicular trips, of which 12 will be morning peak hour trips and 16 will be p.m. peak hour trips. 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 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 that review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions.
7. The project would comply with park mitigation requirements under Chapter 30.66A SCC by the payment of \$811.29 for each new single-family home.

8. School mitigation requirements under Chapter 30.66C SCC have been reviewed and set forth in the conditions.
9. 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.
10. The Snohomish County Health District has no objection to this proposal provided that water and sewer are available. The Seven Lakes Water Association will provide public water. Private individual on-site septic systems are proposed for wastewater disposal.
11. The subject property is designated Rural Residential -5 on the GPP Future Land Use map, and is not located within an Urban Growth Area (UGA). It is not located within a mapped Growth Phasing Overlay. According to the GPP, the Rural Residential-5 designation applies to lands which were previously designated Rural by various subarea plans and have been subsequently zoned R-5. The implementing zone in this designation will continue to be the R-5 zone.
12. The proposed use (single-family detached development) is essentially compatible with existing single-family detached developments on larger lots. A comparison with the present lower density character of much of the area is inappropriate since the present density of development in much of the surrounding area is inconsistent with both the adopted comprehensive plans and the present zoning.
13. The request complies with the Snohomish County Subdivision Code, Chapter 30.41A 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.
14. The proposed plat also meets Chapter 30.41A SCC requirements. A complete application for the proposed plat was received by PDS on May 31, 2005. The proposed plat as conditioned also meets the general requirements under Section 30.41A.100 with respect to health, safety and general welfare of the community as noted in this report. As proposed, the subject lots will not be subject to flood, inundation or swamp conditions. The lots as proposed are outside of all regulated flood hazard areas. As conditioned, the plat will meet all SCC 30.41A.210 design standards for roads.
15. The subject rural cluster subdivision (RCS) application has been reviewed for conformance with the RCS standards in Chapter 30.41C SCC. The applicant has provided the information required on an RCS development plan and preliminary plat, the latest versions of which were received by PDS on February 1, 2006 (Exhibit 15), and in an open space management plan (Exhibit 8) that is to be implemented by a homeowners' association. The RCS application meets all of the criteria required for preliminary approval listed in SCC 30.41C.200.
16. The request is consistent with Section 30.70.100 SCC, which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP and GMA-based county codes.
17. Any finding of fact in this decision which should be deemed a conclusion is hereby adopted as such.

## **CONCLUSIONS OF LAW**

Based on the findings of fact entered above, the following conclusions of law are entered.

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.
2. The Department of Public Works recommends that the request be approved as to traffic use subject to conditions specified below herein.
3. The request is consistent with the (1) GMACP, GMA-based County codes, (2) the type and character of land use permitted on the site, (3) the permitted density, and (4) the applicable design and development standards.
4. 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 March 23, 2006 (Exhibit 12) 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.
- 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 \$811.29 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 Stanwood School District 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 four existing parcels. Lot 1 through 4 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:  
\$2,143.68 per lot for mitigation of impacts on County roads paid to the County.

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.

- D. Prior to recording of the final plat:
  - i. A pedestrian waiting area shall be constructed on Frank Waters Road at the entrance to the subdivision to the satisfaction of the County.
- E. All development activity shall conform to the requirements of Chapter 30.63A SCC.

Nothing in this approved recommendation 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.

- 5. Any conclusion in this decision which should be deemed a finding of fact is hereby adopted as such.

**DECISION**

Based on the findings of fact and conclusions of law entered above, the decision of the Hearing Examiner on the application is as follows:

The request for a 16-lot rural cluster subdivision and boundary line adjustment on 54 acres is hereby **CONDITIONALLY APPROVED**, subject to the conditions set forth in Conclusion No. 4 above.

Decision issued this 29<sup>th</sup> day of August, 2006.

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Ed Good, Deputy 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. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **SEPTEMBER 8, 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 Hearing Examiner exceeded the Hearing Examiner’s jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner’s decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner’s findings, conclusions and/or conditions are not supported by the record;
- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The applicant proposed changes to the application in response to deficiencies identified in the decision.

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the County file number in any correspondence regarding this case.

## **Appeal**

An appeal to the County Council may be filed by any aggrieved party of record. 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, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **SEPTEMBER 12, 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 or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

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.

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Staff Distribution:

Department of Planning and Development Services: Paul MacCready  
Department of Public Works: Mark Brown

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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