

REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: June 21, 2006

PLAT/PROJECT NAME: *PACIFIC MEADOWS*

APPLICANT/
LANDOWNER: Pacific Ridge Homes

FILE NO.: 05 127553

TYPE OF REQUEST: A 157-lot Planned Residential Development (PRD) subdivision of 29.4 acres with a Boundary Line Adjustment

DECISION (SUMMARY): APPROVED subject to a precondition conditions

BASIC INFORMATION

GENERAL LOCATION: The property is located northwest of the intersection of 116th Street NE and 55th Avenue NE, east of the city limits of Marysville, WA

ACREAGE: 29.4 acres

DENSITY: 5.3 du/ac (gross)
7 du/ac (net)

NUMBER OF LOTS: 157

AVERAGE LOT SIZE: 4,572 square feet

MINIMUM LOT SIZE: 3,910 square feet

OPEN SPACE: 5.9 acres

ZONING: R-7200

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Low Density Residential
Subarea Plan: Marysville
Subarea Plan Designation: Agriculture (1 du/10 ac)

UTILITIES:

Water: City of Marysville Municipal System
Sewage: City of Marysville Municipal System

SCHOOL DISTRICT: Marysville

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 February 9, 2006. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on June 1, 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 15, 16 and 17)

A SEPA determination was made on May 4, 2006. (Exhibit 14) No appeal was filed.

The Examiner held an open record hearing on June 6, 2006 the 70th 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 June 6, 2006 at 2:02 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 appeared on behalf of the applicant and indicated that the open space would be 5.9 acres.

He stated that the request meets Marysville's density requirements, which is lower than the County requirement of 205, which is 48 lots less.

He stated that he agrees with the recommended conditions in the PDS staff report, except for C.iv., which the City of Marysville may change in the future.
3. Mr. Bob Pemberton, PDS, submitted a revised traffic report. (Exhibit 35)
4. There were parties in the audience. However, no one wished to speak on the matter.
5. Mr. Molver submitted Exhibit 36, which was written by a county employee, Mr. Wright, and indicated that the drainage system is all being pulled to the south.
6. Mr. Jack Hurley, PDS, reiterated that the drainage is to the south and that it is satisfactory to him and appears to follow the statements in Exhibit 36.

7. Mr. Andrew Smith, DPW, asked to keep the record open for two days regarding Condition C.iv.

The hearing concluded at 2:50 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. The request is a 157-lot PRD preliminary subdivision of 29.4 acres. There is also a Boundary Line Adjustment with the property to the northwest, which is subject to administrative approval by PDS.
4. The site and surrounding properties are zoned R-7200 and are in an Urban Growth Area.
5. One main issue of concern raised by neighbors to the north and east is the status of the ditch stream existing along the east and south boundaries of the site, and they desire the right to maintain the drainage course to allow drainage of their property, including farm fields.
6. The project would comply with park mitigation requirements under Chapter 30.66A SCC (Title 26A SCC) by the payment of \$48.82 for each new single-family home.
7. 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 3-6, Exhibit 34)
8. School mitigation requirements under Chapter 30.66C SCC (Title 26C SCC) have been reviewed and set forth in the conditions.
9. Water courses along the boundary of the site are ditched streams which have been maintained and are not required to be designated as Native Growth Protection Areas. These courses are proposed to remain undisturbed by this development. The application complies with Chapter 30.62 SCC (Chapter 32.10 SCC) Critical Area Regulations.
10. Stormwater runoff from the newly created impervious surfaces will be collected by a system of pipes and catch basins and directed to a covered stormwater detention vault located in the southwest portion of the site. 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).

11. The Snohomish County Health District has no objection to this proposal provided that public water and sewer are furnished and with the understanding that the existing onsite sewage systems will be abandoned in accordance with Health District regulations.
12. Public water and sewer service will be available for this development as well as electrical power.
13. The property is designated Urban Low Density Residential (ULDR 4-6 du/ac) on the General Policy Plan (GPP) Future Land Use Map (FLUM) and is located within an Urban Growth Area (UGA). According to the GPP, the ULDR designation covers various subarea plan designations which would allow mostly detached housing developments on larger lot sizes. Land in this category may be developed at a density of 4-6 du/ac and one of the implementing zones is the R-7,200 zone which is the case here.
14. The proposal is to develop the property pursuant to Planned Residential Development under Chapter 30.42B SCC. The PDS staff analysis in this development provides that this may be done and is set forth in detail on Pages 8-11 of the PDS staff report. (Exhibit 34) Specifically, it also provides that the total open space is met with 256,841 square feet, a little over 20% percent of the gross site area which is 256,157 square feet.
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. The proposal has been evaluated by PDS for compliance with the Planned Residential Development provisions of Chapter 30.42B SCC. This proposal is consistent with these provisions.
17. 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.
18. The aerial photograph (Exhibit 10) very clearly and effectively shows the location of the proposal and how it would fit into the surrounding area.
19. The Examiner received a couple of e-mails between Mr. Molver and Mr. Pemberton regarding the requirements of the City of Marysville. (Exhibits 38 and 38A)
20. 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, except for Condition C.iv.
2. The Department of Public Works recommends that the request be approved as to traffic use subject to certain conditions.
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 will allow for the development of single-family homes in this rapidly growing area adjacent to the City of Marysville and would be consistent with what is taking place there now.
5. Condition C.iv. should be changed, or, as may be approved by the City of Marysville.
6. The request should be approved subject to compliance by the applicant with the following Conditions:

PRECONDITION

- A. Eliminate the Native Growth Protection Area designation of the perimeter drainage courses.

CONDITIONS

- A. The PRD official site plan/preliminary plat received by PDS on March 30, 2006 (Exhibit 12A) shall be the PRD official site plan and approved plat configuration. SCC 30.42B.220 governs changes to the planned residential development official site plan; 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. A detailed landscape and recreational facilities plan shall have been submitted to and approved by PDS. The plan shall be prepared in general conformance with Exhibit 12A and in conformance with all required landscape standards for perimeter, streetscape and open space treatment, and shall include a significant tree retention plan.
 - iii. PRD covenants, deeds and homeowners' association bylaws and other documents shall have been submitted to and approved by PDS guaranteeing maintenance of open space, community facilities, private roads and drives, and all other commonly-owned and operated property. The documents shall have been reviewed by and accompanied by a certificate from an attorney that they comply with Chapter 30.42B SCC requirements prior to approval by PDS. To ensure permanent, ongoing maintenance of landscape areas, landscape maintenance covenants shall be

prepared by the applicant and submitted together with documents otherwise required for maintenance of site improvements pursuant to SCC 30.42B.250.

- C. The following additional restrictions and/or items shall be indicated on the face of the final plat:
- i. “The lots within this subdivision will be subject to school impact mitigation fees for the Marysville School District No. 25 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 one existing parcel. Lot 1 shall receive credit.”
 - ii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:
 - \$2,200.114 per lot for mitigation of impacts on county roads paid to the county,
 - \$24.45 per lot for mitigation of impacts to WSDOT project DOT-1 (I-5 at R531) paid to the county.
 - \$85.37 per lot for mitigation of impacts to WSDOT project DOT-5 (SR 531 from 43rd Ave to 67th Ave) paid to the county.
 - \$33.13 per lot for mitigation of impacts to WSDOT project DOT-34 (SR9 at 108th Street NE) paid to the county.
 - \$2,598.04 per lot for mitigation of impacts on city streets for the City of Marysville paid to the city. Proof of payment shall be provided
 - \$212.36 per lot for mitigation of impacts on city streets for the City of Arlington paid to the city. Proof of payment shall be provided.

These payments are due prior to or at the time of building permit issuance for each SFR. 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 by PDS.
 - iii. Thirty feet of right-of-way shall be dedicated to Snohomish County, parallel and adjoining the existing right-of-way along the parcel’s frontage on south side of 55th Avenue NE along with a 25 foot radius right-of-way at the northeast corner of 55th Avenue NE and 116th Street NE, on the final recorded plat [SCC 30.66B.510].
 - iv. A minimum corner clearance of 50 feet shall be maintained between any driveway and an adjacent parallel travel way, or as may be approved by the City of Marysville. (See Exhibit 38A)
 - v. “All open space shall be protected as open space in perpetuity. Use of the open space tracts within this subdivision is restricted to those uses approved for the planned residential development, to include open play areas, picnic areas, recreation trail system, viewing platform, drainage facilities, benches and required landscape improvements as shown on the approved site plan and the approved landscape plan. Covenants, conditions and restrictions as recorded with the plat, and as may be amended in the future, shall include provisions for the continuing preservation and maintenance of the uses, facilities and landscaping within the open space as approved and constructed.”

- D. Prior to recording of the final plat:
- i. The developer shall pay the County \$48.82 per new dwelling unit as mitigation for parks and recreation impacts in accordance with Chapter 30.66A SCC; provided, however, the developer may elect to postpone payment of the mitigation requirement until issuance of a building permit for that lot. The election to postpone payment shall be noted by a covenant placed on the face of the recorded plat and included in the deed for each affected lot within the subdivision.
 - ii. Urban frontage improvements shall be constructed along the parcel's frontage on 55th Avenue NE to the specifications of the DPW [SCC 30.66B.410].
 - iii. Pedestrian Facilities shall be constructed to the specifications of the DPW throughout the development [EDDS].
 - iv. Right-of-way within the southern portion of the intersection of 116th Street NE and 55th Avenue NE from Tax Parcel Number 30051000301700 as depicted on the plans received by PDS on March 30, 2006 shall be deeded to Snohomish County.
 - v. A bond or other guarantee of performance shall have been submitted to and accepted by PDS to assure compliance with the provisions of SCC 30.42B.125.
- E. In conformity with applicable standards and timing requirements:
- i. The preliminary landscape plan (Exhibit 12A – Sheets L-1 to L-6) 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 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.

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.

7. 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 157-lot Planned Residential Development Subdivision proposing development in two phases with a Boundary Line Adjustment is hereby APPROVED, SUBJECT TO COMPLIANCE by the applicant, with the PRECONDITION and CONDITIONS set forth in Conclusion 6, above.

Decision issued this 21st day of June, 2006.

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 3, 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 5, 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: Bob Pemberton
Department of Public Works: Andrew Smith

<p>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.</p>
