

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

In the Matter of the Application of)
) **FILE NO. 97 103274**
G & M INVESTMENTS)
)
Major revision to an approved preliminary plat)

DATE OF DECISION: July 13, 2006

PLAT/PROJECT NAME: *Valterra View Estates*

DECISION (SUMMARY): The application for a major revision of an 84-lot subdivision is **CONDITIONALLY APPROVED.**

BASIC INFORMATION

GENERAL LOCATION: This project is located on the east side of Sunnyside Boulevard, approximately ¾ mile north of its intersection with 4th Street SE and south of Soper Hill Road in Everett, Washington.

ACREAGE: 37.48 acres

NUMBER OF LOTS: 84

AVERAGE LOT SIZE: 7,697 square feet

MINIMUM LOT SIZE: 4,709 square feet

DENSITY: 2.24 du/ac (gross)
5.68 du/ac (net)

ZONING: PRD-7,200

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Low Density Residential (4-6 du/ac)
Subarea Plan: Snohomish/Lake Stevens
Subarea Plan Designation: Suburban (2-4 du/ac)

UTILITIES:

Water: Snohomish County PUD No. 1
Sewer: Lake Stevens Water District

SCHOOL DISTRICT: Lake Stevens No. 4

FIRE DISTRICT: No. 8

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 July 23, 2002. (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 14 and 15)

A SEPA determination was made on April 28, 2006. (Exhibit 13) No appeal was filed.

The Examiner held an open record hearing on June 21, 2006. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

PUBLIC HEARING

The public hearing commenced on June 21, 2006 at 1:04 p.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. At the applicant’s request, the Deputy Examiner heard this matter instead of the original Examiner to avoid delay due to Examiner schedules.
2. The applicant, G & M Investments, was represented by Steve Mason and David Harmsen of Harmsen & Associates and attorney Peter Buck. Snohomish County was represented by Ed Caine and Dwayne Overholser of the Department of Planning and Development Services and by Ann Goetz of the Department of Public Works.
3. Letters of public concern and opposition are of record from Joseph B. Heineck (Exhibit 31), Kim Henderson (Exhibit 45), David and Kirsten Iseminger (Exhibits 18 and 44), Ronald Martinez & Ken Eisenberger (Exhibit 19) and Don and Marge Minor (Exhibits 20 and 32). Those who appeared and gave testimony are Joseph Heinick, Donald & Marge Minor and Scott Bumstead.

The hearing concluded at 3:35 p.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 PDS staff report has 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 Policy Act (SEPA). That staff report is hereby adopted by the Examiner as if set forth in full herein except where specifically noted otherwise.
3. The request is for a major revision to the approved preliminary plat of Valterra View Estates. A major revision requires processing as a new preliminary short subdivision application. (SCC 30.41B.310) However, unrevised elements of the originally approved application (if not timely appealed) are not subject to review in the revision process. (A rezone application filed concurrently with the plat is not at issue herein.)
4. The preliminary subdivision approved by the Snohomish County Hearing Examiner subject to conditions on June 27, 2002 divided the approximately 34 acres into 86 lots to contain 99 dwelling units. The applicant proposes revisions to that subdivision in order to comply with express conditions upon approval imposed by the Hearing Examiner. The principal revisions are: (1) a changed layout for the 29 lots in Phase I, in order to accommodate a different access point at the southwest corner of the plat at Sunnyside Boulevard, and (2) an amended storm drainage system to tightline drainage across the Heineck Farm into Ebey Slough, thus requiring an administrative Shoreline Master Program permit. As revised, the subdivision will have 84 lots instead of 86 lots for 92 instead of 99 dwellings. With fewer dwellings, impacts such as vehicular trips are slightly reduced under the revised layout.
5. The amended lot layout applies only to the westernmost 29 proposed lots, which are separated topographically from the balance of 55 lots which will have vehicular access via Lundeen Parkway to the east. Concerned neighbors, particularly Don and Marge Minor, assert that all 84 lots should have access via Lundeen Parkway so that no increase in traffic would be caused on Sunnyside Boulevard. They point out that Lundeen Parkway is designed for ease of future widening in contrast to Sunnyside Boulevard, which has impediments to widening, including slope cuts and fills. They point out that it is five miles shorter to leave the subject plat headed east to shop at Frontier Village than to travel first west to Sunnyside Boulevard, then north or south to Soper Hill road or Route 204. They estimate that growth in the area will put 6,000 daily trips on Sunnyside Boulevard soon. They submit an accident summary report and a speed study to demonstrate the relationship between speed and both stopping sight distance and intersection sight distance and to highlight their concern that the revised access point will be dangerous, given the narrow width, curves, high speed and growing number of vehicles on Sunnyside Boulevard. They express concern that grading to improve sight distances at the proposed access is limited by proximity to a buried fuel pipeline of Olympic Pipeline Co.

6. In counterpoint, the applicant notes that there is a 50-foot elevation difference between the western and eastern cul-de-sacs of the proposed subdivision, which would require 40 percent road grade. That grade exceeds any allowed road grade. That is why no road can link the western 29 lots to plat roads on the eastern portion of the subdivision and, thence, to Lundeen Parkway. The applicant notes that it is required to widen the entire Sunnyside Boulevard frontage of the proposed subdivision and, as part of that process, will have to meet EDDS requirements for sight distance. The applicant asserts that a distance of approximately 50 feet separates the fuel pipeline from any grading to be done for the road or drainage improvements. Exhibit 23 is a letter from Olympic Pipeline Company expressing acceptance of the proposed access. The applicant asserts that the prior Hearing Examiner decision considered the same traffic arguments now made by the same opponents and approved the same volume of trips to be added to Sunnyside Boulevard but ordered an alternative location for vehicular ingress and egress but still via Sunnyside Boulevard. The applicant points out that the decision was not appealed.
7. The record shows (Exhibit 32) that opposition to the originally proposed access was, in part, because the access road would have blocked access to four parcels of five acres each owned by the Minors. That access is now proposed in Tract 990 and, as such, will be unthreatened. The Examiner in 2002 refused to allow that blockage absent an agreement with the Minors or an alternative access point for this subdivision. (See Backstein Condition 14.B.) That is, the Examiner did not find as fact nor conclude as law that Sunnyside Boulevard should not carry the approximately 300 daily trips attributable to the 29 lots at issue herein.
8. In summary, the only traffic issue before the Examiner in the current proceeding is whether the preponderance of the evidence of record supports use of the proposed revised access point. The Examiner here finds as fact that the evidence does so. This Examiner so finds with caution, mindful that Joseph and Peggy Heineck's daughter was killed on Sunnyside Boulevard by a speeding driver.
9. The above-mentioned Heinecks own land astride Weiser Creek abutting the southwest corner of the Valterra subdivision and own a farm across (west of) Sunnyside Boulevard over which this proposed subdivision's storm water drainage is to be tightlined over Diking District 2's dike into Ebey Slough. That drainage is the second issue before this Examiner: i.e., does the preponderance of the evidence of record support the drainage plan proposed herein as a revision in response to the original Examiner's decision? (See Backstein Condition 14.A.)
10. At the request of the Diking District No. 2 and vicinity farmers, Examiner Backstein required further effort on a final drainage plan that would ensure that Valterra's drainage discharge would not delay the growing time of vicinity farms; i.e., the pre-development condition should remain. The proposed solution is a quarter-mile tightline which rises over the dike to discharge into Ebey Slough. The text (Exhibit 31) of Joseph Heineck's testimony points out that the easement across his farm is 24-feet wide, not the 40-feet indicated in the draft drainage plan in the record. He also points out the need to designate an entity responsible for maintenance of the tightline and service road. The County's Dwayne Overholser testified that the Department of Public Works' Maintenance Division will check the filter cartridges and contact the homeowners' association about maintaining those filters and those obligations will be on the face of the plat. Further, a 10-year contract will be entered with a private firm for cleaning of the tightline itself.
11. Joseph Heineck requests that a proposed pipe to divert a portion of the Valterra storm runoff into Weiser Creek be placed along the east side of Sunnyside Boulevard instead of the west side, where the route would encounter two Olympic Pipeline Co. lines, fruit trees, guardrails, telephone lines and would require excavation into the Heinecks' front yard. This Examiner denies that request because the route will be in the road right-of-way.

12. The applicant proposes to augment the volume of water in Weiser Creek when the flow in the Creek is that of a two-year storm event or greater. Mr. Heineck challenges the logic of augmenting the water in the creek during a storm. His testimony is that, if the purpose of the diversion is to assist the fish, the fish would welcome diversion of cool water during hot periods of dry weather and low flows, not during winter storms. If the need is simply to maintain the pre-development growing season by handling the storm runoff caused by Valterra, then it seems the tightline should be sized to do so rather than diverting storm event flows into Weiser Creek. The diversion into the creek should be denied.
13. The project would comply with park mitigation requirements under Chapter 30.66A SCC (Title 26A SCC) by the payment of \$1,040 for each new single-family home.
14. 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.
15. School mitigation requirements under Chapter 30.66C SCC (Title 26C SCC) have been reviewed and set forth in the conditions.
16. 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).
17. The Snohomish County Health District has no objection to this proposal provided that public water and sewer are furnished. Public water and sewer service and electrical power will be available for this development.
18. 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). 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.
19. The proposed use (single-family detached development) is essentially compatible with existing single-family detached developments on larger lots. Because the property is within a UGA, policies were adopted to promote urban densities of development. 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.
20. 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.

21. 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.
22. 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, except where stated otherwise, 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. This decision is not intended to stand alone but, rather, is intended to supplement that decision of the Hearing Examiner entered June 27, 2002 as to revisions proposed for compliance with conditions imposed therein.
5. This project is vested to the codes in effect on the date the project was deemed complete, which was July 22, 2002.
6. Any conclusion in this decision which should be deemed a finding of fact is hereby adopted as such.
7. The request should be approved subject to compliance with the following conditions:

CONDITIONS

- A. The preliminary plat received by PDS on June 1, 2006, (Exhibit 10A and B) shall be the approved plat configuration. Changes to the approved plat are governed by Section 19.20.010(1) SCC.
- B. Lots 60 through 67 may be developed with duplex structures.
- C. 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 have submitted to the Department of Planning and Development Services covenants, deeds and homeowners' association by-laws and other documents guaranteeing maintenance and common fee ownership, if applicable, of open space, community facilities, private roads and drives, and all other commonly owned and operated property. These documents shall be reviewed and accompanied by a certificate from an attorney that they comply with SCC 18.51 requirements prior to approval by the Department of Planning and Development Services.
- iii. Prior to any construction related to this application, a Haul Route Agreement shall be obtained from the Department of Public Works.
- iv. The platlor shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by Title 32 SCC, or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the county.
- v. A full drainage plan and calculations shall be provided to PDS to provide the details of the siphon design for the stormwater system. All plans and details shall be consistent with the intent of 30.63A SCC. There shall be no diversion of storm drainage into Weiser Creek.
- vi. All necessary permits and approvals, including but not limited to an HPA from Washington State Department of Fish and Wildlife, an NPDES permit from Washington State Department of Ecology, consultation with NOAA Fisheries (National Marine Fisheries Service) for Chinook salmon and Fish and Wildlife Service for bull trout, and approval from the Corps of Engineers, shall be obtained for the high flow overflow direct discharge into Ebey Slough.
- vii. Diking District No. 2 approval is required for the high flow overflow discharge system that is within their jurisdiction and such approval shall not be unreasonably withheld.
- viii. Provide a Maintenance Covenant and a Maintenance Manual and a schedule of maintenance for the high flow overflow system and the stormwater treatment cartridge system.

D. 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 Lake Stevens School District No. 4 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 26C.20.020.
- ii. All required landscaping and recreational facilities shall have been installed in accordance with the approved landscape plan prior to occupancy of any unit. Approval from Snohomish County Planning & Development Services, Land Use Division is required.
- iii. All open space shall be protected as open space in perpetuity. Use of the open space tracts within this subdivision are restricted to those uses approved for the planned residential development. 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.”

- iv. All Critical Areas shall be designated Native Growth Protection Areas (unless other agreements have been made) with the following language on the face of the plat;

“The NATIVE GROWTH PROTECTION AREA is to 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 32.10.110(29) (a), (c), and (d), are allowed when approved by the County.”

- v. Lots 60 through 67 may be developed with duplex structures subject to the payment of transportation, parks and school fees for duplexes.
- vi. 35 feet of right-of-way shall be dedicated along the development’s frontage, parallel to the right-of-way centerline of Sunnyside Boulevard.
- vii. No direct access to 83rd Avenue NE or Sunnyside Boulevard will be permitted. All lots shall take access from internal subdivision roads only.
- viii. Emergency vehicle access for lots 60 through 64 will be via 83rd Avenue NE. Fences and obstructive landscaping shall not be installed between the residences and 83rd Avenue NE.

E. Prior to recording of the final plat:

- i. The sum of \$1,040 per each new unit shall have been paid to Snohomish County as mitigation for project impacts on park and recreation services. The mitigation payment may be deferred if the requirements of SCC 26A.04.020 are followed. Some or all of the mitigation obligation may be satisfied pursuant to SCC 26A.03.080 and .090 by provision of certain approved on-and/or off-site facilities. (Title 26A SCC)

- ii. Prior to recording Phase I:

Safe stop locations, a farside bus pullout pursuant to EDDS 4.050, on Sunnyside Boulevard shall be constructed unless opposed on safety ground by the School District.

The sum of \$71,880.27 based on 29 units x 9.57 ADT/unit x \$259.00 per ADT for TSA B inside the Urban Growth Area (old 26B rate) shall have been paid to Snohomish County as mitigation for project impacts on road system capacity within Transportation Service Area “B”.

The sum of \$2,196.75 (29.29 PM PHT x \$1,500 x 5%) shall have been paid to Snohomish County for Transportation Demand Management within Transportation Service area “B”.

Frontage improvements conforming to county standards shall have been installed along the property’s frontage on Sunnyside Boulevard. Improvements shall include a bus pullout.

Street illumination at the intersection of Sunnyside Boulevard and Road A shall have been installed.

A detailed plan to scale will be included with the construction plans showing the extent and exact location of the grading needed at the Sunnyside Boulevard / Road A intersection to obtain the required amount of sight distance based on the line of sight from Road A. The intersection sight distance on Sunnyside Road at the Road A shall meet the requirement of EDDS.

iii. Prior to recording Phase II:

The sum of \$156,153.69 based on 63 units x 9.57 ADT/unit x \$259.00 per ADT for TSA B inside the Urban Growth Area (old 26B rate) shall have been paid to Snohomish County as mitigation for project impacts on road system capacity within Transportation Service Area "B".

The sum of \$4,772.25 (63.63 PM PHT x \$1,500 x 5%) shall have been paid to Snohomish County for Transportation Demand Management within Transportation Service area "B".

The sum of \$10,070.92 (\$1,808.63 to the SR-92 improvement project from SR-9 to 84th, \$4,299.82 to the SR-9/SR-2 interchange project, and \$3,962.53 to the SR-9 improvement project at 42nd Street NE) shall have been paid to Snohomish County for the Washington State Department of Transportation as mitigation for project impacts on state highways. These amounts include the proposed duplexes. This mitigation is due prior to the recordation of Phase II, not Phase I, because Phase I traffic does not impact these projects. No Washington State Department of Transportation mitigation will be required prior to recording Phase I.

iv. 83rd Avenue NE shall have been improved to the minimum standards required by EDDS from the constructed portion of 83rd Avenue NE within Helena Hills to the northern property line of Valterra View Estates. Improvements may terminate at a point where a 2:1 cut bank will meet existing topography to the north. 83rd Avenue NE must be improved to a point where emergency vehicle can access lot 64. Improvements shall include bus pullouts/waiting areas on both sides of 83rd Avenue NE.

v. A bond or other guarantee of performance shall have been submitted to and approved by the Department of Planning and Development Services for installation of required landscape improvements, or said landscaping shall have been installed.

vi. Native Growth Protection Area boundaries shall be permanently marked on the site prior to final inspection by the county, with both Native Growth Protection Area 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 a Native Growth Protection Area 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.

vii. The final wetland mitigation plan shall be completely implemented.

F. **EXAMINER'S CONDITIONS** from June 27, 2002, Reconsideration Decision:

i. The applicant shall comply with the requirements and conditions for the Diking District. Such conditions must relate directly to the impact caused by this development alone.

- ii. No access shall be had to Sunnyside Boulevard until the applicant has secured approval of all property owners, or, alternatively provided another access as recommended by the Department of Public Works and reviewed by the Examiner at a public hearing.
- iii. The applicant shall provide for preservation of the steep slopes by the retention of the trees growing thereon, wherever possible.
- iv. The applicant shall, at the time of final drainage plan approval, provide sufficient evidence to show that the release of waters from this development will not delay the growing time of farms in this area and adjacent to Sunnyside Boulevard.
- v. The new Chapter 24 SCC, adopted in 1998 shall be the one used in this matter.

G. In conformity with applicable standards and timing requirements:

- i. The preliminary landscape plan (Exhibit 10R) shall be implemented. All required detention facility landscaping shall be installed in accordance with the approved landscape plan.

H. 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. The decision from the Reconsideration Hearing was made on on June 27, 2002, so the preliminary approval is scheduled to expire on June 27, 2007 (without an extension).

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 requests for a major revision of a preliminary plat for an 84-lot subdivision is hereby **CONDITIONALLY APPROVED**, subject to the conditions set forth in Conclusion No. 7 above.

Decision issued this 13th day of July, 2006.

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, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, 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 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, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **JULY 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 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.

Staff Distribution:

Department of Planning and Development Services: Ed Caine
Department of Public Works: Ann Goetz

<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>
