

**CORRECTED  
REPORT and DECISION of the SNOHOMISH  
COUNTY HEARING EXAMINER PRO TEM**

DATE OF DECISION: January 25, 2007  
DATE OF CORRECTED  
DECISION: February 14, 2007  
PLAT/PROJECT NAME: *CARLSON ESTATES*  
APPLICANT/  
LANDOWNER: Greg and Pamela Carlson  
FILE NO.: 05 100472 SD  
TYPE OF REQUEST: Rural Cluster Subdivision of 39.71 acres into 14 lots  
DECISION (SUMMARY): APPROVED subject to conditions

**BASIC INFORMATION**

GENERAL LOCATION: The property is located at the east terminus of 204<sup>th</sup> Street NW, east of the intersection of 204<sup>th</sup> Street NW and Happy Valley Road, Stanwood, WA  
ACREAGE: 39.71 acres  
DENSITY: 0.353 du/ac (gross)  
0.388 du/ac (net)  
NUMBER OF LOTS: 14  
AVERAGE LOT SIZE: 48,609 square feet  
MINIMUM LOT SIZE: 43,563 square feet  
OPEN SPACE: 19.92 acres  
ZONING: Rural-5 Acre (R-5)  
COMPREHENSIVE PLAN DESIGNATION:  
General Policy Plan Designation: Rural Residential (1 du/5 acres – Basic)  
Subarea Plan: Northwest County  
Subarea Plan Designation: Rural (1 du/2.3-5 acres)

UTILITIES:

Water: Individual wells  
Sewage: Individual septic systems

SCHOOL DISTRICT: Arlington

FIRE DISTRICT: No. 19

**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 August 10, 2005. (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 21, 22 and 23)

A SEPA determination was made on November 28, 2006. (Exhibit 20) No appeal was filed.

The Examiner held an open record hearing on January 16, 2007, the 84<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 January 16, 2007 at 10:04 a.m.

1. The Examiner indicated that he had read the PDS staff report and reviewed the file and therefore has a general idea of the particular request involved.

The hearing concluded at 10:11 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. Greg and Pamela Carlson (Applicants) propose to subdivide a ~~39.24~~ 39.71<sup>1</sup> acre tract at the east terminus of 204<sup>th</sup> Street NW, east of Happy Valley Road, Stanwood, into 14 residential lots using the rural cluster subdivision provisions of the Snohomish County Code. The site and surrounding area is undeveloped and

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<sup>1</sup> Scrivener's error  
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forested, as is much of its surroundings. The site includes five wetlands and a Type 4 stream. In addition, the site contains a portion of the buffer for a Category 3 off-site wetland.

3. Applicants will extend 204<sup>th</sup> Street NW across the north side of the property and access the plat with a new public road. The existing 204<sup>th</sup> Street NW must be widened with a 20 foot pavement, and a turn around will be located at the east end. Another road will proceed south to a stub at the limit of the plat. All roads will be dedicated to the county as public roads.
4. One public comment was received with concern for loss of trees and increased traffic. A rural cluster plat preserves at least 45% of the site in restricted open space. The plat will generate 134 average daily vehicle trips, with 11 a.m. and 14 p.m. peak hour trips. The proposal was deemed concurrent as of August 31, 2005.
5. Applicants will pay impact fees for schools, county roads, Arlington city streets, and parks.
6. School children will be bused to school. The bus stop will be located at the entrance to the plat if an adequate turn around and pull out are provided. If these are not provided, Applicants must construct an off-site walkway to Happy Valley Road for pedestrians.
7. Stormwater will be collected and routed to a detention system and ultimately into a Category 2 wetland. Conditions for the system will be imposed during full drainage plan review.
8. The lots will be clustered on the most buildable and least environmentally sensitive portions of the site. Approximately 50.2% of the property will be in restricted open space. Utility lines will be underground. All other RCS requirements will be satisfied.
9. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

#### **CONCLUSIONS of LAW:**

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 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. Compliance with the rural cluster provisions of Chapter 30.41C SCC will assure that the development is consistent with the rural character of the area and minimizes adverse environmental impacts.
4. 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 RURAL CLUSTER SUBDIVISION of ~~six~~ 14<sup>2</sup> lots on ~~49.53~~ 39.71<sup>3</sup> acres is hereby **CONDITIONALLY APPROVED**, subject to compliance by Applicant with the following conditions:

**CONDITIONS**

- A. The preliminary plat received by PDS on August 30, 2006 (Exhibit 14) 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.
  - ii. The platlor shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by Chapter 30.62 SCC, or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the county.
  - iii. A final mitigation plan based on the *Critical Areas Study and Buffer Mitigation Plan* prepared by Liu & Associated, Inc., dated February 27, 2006 (Exhibit 12) shall be submitted for review and approval during the construction review phase of this project.
- 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 Arlington School District No. 16 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 1 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:  
  
\$1,837.44 per lot for mitigation of impacts on county roads paid to the county,  
\$419.35 per lot for mitigation of impacts on city roads paid to the City of Arlington,  
  
These payments are due prior to or at the time of each building permit issuance. Notice of these mitigation payments shall be contained in any deeds involving this subdivision, short subdivision of the lots therein or binding site plan. Once building permits have been issued all mitigation payments shall be deemed paid by PDS.
  - iii. All Critical Areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made) with the following language on the face of the plat;  
  
"All NATIVE GROWTH PROTECTION AREAS shall 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.”

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<sup>2</sup> Scrivener’s error

<sup>3</sup> Scrivener’s error

- iv. The developer shall pay the County \$811.29 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.

D. Prior to recording of the final plat:

- i. Where existing vegetation within the Vegetated Visual Screening Buffer fails to meet the intended function, then supplemental plantings shall be made. The supplemental plantings shall be native vegetation with trees at 10-feet on center and shrubs at 3-feet on center. A minimum of 75% of the trees shall be conifers.
- ii. A temporary turnaround and easement shall be provided near the east end of 204<sup>th</sup> Street NW, and at the south end of public road near the south property line.
- iii. The right-of-way for 204<sup>th</sup> Street NW shall be dedicated and the road constructed in accordance with EDDS 3-040 / 3-060 for a public rural residential (subcollector) road from the west property line (or current end of 204<sup>th</sup> Street) to the east property line.
- iv. 204<sup>th</sup> Street NW must be improved to a minimum paved width of 20 feet from Happy Valley Road to the northwest property corner.
- v. The road within the subject development shall have been constructed in accordance with EDDS 3-040 / 3-060 for a public rural local access road to the south property line and to the cul-de-sac.
- vi. Construction of an offsite walkway (meeting the requirements of EDDS) to the nearest bus stop location for the public school students as identified by the Arlington School District (currently the intersection of 204<sup>th</sup> Street NW and Happy Valley Road) must have been completed along 204<sup>th</sup> Street NW. An adequate turnaround for the school bus on 204<sup>th</sup> Street NW at the entrance of the development road may be constructed as an alternative to the offsite walkway if the school district agrees to pick up students at that location. [RCW 58.17.110 and SCC 30.66B.430 (O)]
- vii. Native Growth Protection Area boundaries (NGPA) shall have been permanently marked on the site prior to final inspection by the county, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The plat may use other permanent methods and materials provided they are first approved by the county. Where an NGPA 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.

NGPA signs shall have been placed no greater than 100 feet apart around the perimeter of the NGPA. Minimum placement shall include one Type 1 sign per wetland, and at least one Type 1 sign shall be placed in any lot that borders the NGPA, unless otherwise approved by the county biologist. The design and proposed locations for the NGPA signs shall be submitted to the Land Use Division for review and approval prior to installation.

- viii. The final wetland mitigation plan shall be completely implemented.

E. In conformity with applicable standards and timing requirements:

- i. The preliminary landscape plan (Exhibit 15F), in conjunction with Condition D. i., above, 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.

Decision issued this 25<sup>th</sup> day of January, 2007.

Corrected Decision issued February 14, 2007.

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Gordon Crandall, Hearing Examiner Pro-Tem

## 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~~<sup>4</sup>, 3000 Rockefeller, Admin-East, 2<sup>nd</sup> Floor, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **February 5, 2007**. 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.

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<sup>4</sup> Scrivener's error  
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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 **February 8, 2007** 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: Ed Caine

<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>
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