

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

In the Matter of the Application of )  
 )  
**DICK KING** ) **FILE NO. 05 123637 SD**  
 )  
8 lot Rural Cluster Subdivision (RCS) on 17.84 acres )

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DATE OF DECISION: April 20, 2007

PROJECT NAME: *Stoney Ridge*

DECISION (SUMMARY): The application for an eight-lot rural cluster subdivision is **CONDITIONALLY APPROVED** after having been remanded for further geotechnical analysis and related drainage and septic analysis and following further open record hearing which now has been completed thereon.

**BASIC INFORMATION**

GENERAL LOCATION: The property is located at 23427 Florence Acres Road, Monroe, Washington.

ACREAGE: 17.84 acres

NUMBER OF LOTS: 8

AVERAGE LOT SIZE: 47,436 square feet

MINIMUM LOT SIZE: 21,788 square feet

DENSITY: .45 du/ac (gross)  
.47 du/ac (net)

ZONING: R-5

**COMPREHENSIVE PLAN DESIGNATION:**

General Policy Plan Designation: Rural Residential (1 du/5 acres Basic)  
Subarea Plan: Skykomish Valley  
Subarea Plan Designation: Residential Estate (1-2 du/ac)

**UTILITIES:**

Water: Highland Water District  
Sewer: Individual Septic

**SCHOOL DISTRICT:** Monroe No. 103

**FIRE DISTRICT:** No. 3

**INTRODUCTION**

The applicant filed the Master Application on August 22, 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 19, 20 and 21)

A SEPA determination was made on October 4, 2006. (Exhibit 18) No appeal was filed.

The Examiner held an open record hearing on December 7, 2006, the 99<sup>th</sup> day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing. On December 22, 2006, the Examiner issued a decision remanding the matter for supplemental geotechnical analysis concerning storm drainage and septic design impacts, if any, on slope stability.

**PUBLIC HEARING**

The initial public hearing commenced on December 7, 2006 at 11:01 a.m.

1. The Examiner stated that he had read the PDS staff report, reviewed the file and viewed the area.
2. The applicant, Dick King, was represented by himself and by Theodore Trepanier of Trepanier Engineering. Snohomish County was represented by Ed Caine of the Department of Planning and Development Services. Abutting landowner and resident Susan Conner submitted pre-hearing letters of opposition (Exhibits 24 and 33), the latter including a geotechnical opinion by HWA GeoSciences Inc. dated October 24, 2006 examining slope and drainage aspects of the proposed subdivision. Ms. Conner also submitted a letter from her lawyer, Steven J. Gordon (Exhibit 25). Ms. Conner testified at the hearing as well. (Details are below.)
3. The hearing concluded at 11:58 a.m.
4. The open record public hearing on remand was held on April 6, 2007. The same parties appeared as had done so at the initial hearing with the addition of engineer Kitty Mac, called by Susan Conner as an expert on slope measurement and related issues. The hearing opened at 1:01 p.m. and closed at 1:35 p.m.

**NOTE:** For a complete record, an electronic recording of both hearings 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. This supplemental and final decision reprints the decision of December 22, 2006 by which the matter was ordered remanded for further specific geotechnical analysis, and amends that December 22, 2006 decision to incorporate evidence produced in the proceedings on the remand
2. The applicant, Richard King, filed an application to divide 17.8 acres into eight lots as a rural cluster subdivision addressed 23427 Florence Acres Road, Monroe. It is proposed that a private road provide access to six lots in the center of the subject site. A house exists on Lot 7. Lot 8 is proposed west of Lot 7 with Lot 8's storm drainage to a retention/detention pond. All other lots have individual infiltration systems. Tracts 996 and 999 comprise the retention/detention pond and open space. Tract 998 is the infiltration trench for the road serving Lots 1 through 6.
3. Witness Susan Connor owns and resides at Emerald Glen Farm addressed 23200 Yeager Road abutting the western boundary of the subject Stoney Ridge eight-lot subdivision. Her home is at the toe of the steep slope which comprises most of the subject site. Her home is directly downslope from the house (above-mentioned) already built by applicant Dick King on Lot 7 of the proposed eight lots. The slope drops vertically more than 100 feet (Exhibit 13, p. 7) to Ms. Connor's home.
4. Ms. Connor is the plaintiff in Snohomish County Superior Court Cause No. 05-2-12497-9 which involves a boundary line dispute between Ms. Connor and applicant Dick King. Ms. Connor's lawyer, Steven J. Gordon, a year ago by letter of November 28, 2005 (Exhibit 25), urged that Snohomish County should defer action on the proposed subdivision until the Superior Court has ruled on the size of the King parcel. The Examiner does not agree: such policy could be used to freeze a project in limbo pending a civil trial and all appeals therefrom. The Examiner prefers to process the application at the applicant's choice and at the applicant's peril in the event that the Courts subsequently decide the applicant does not own all land claimed in the application. (The Examiner lacks jurisdiction to adjudicate ownership of realty.)
5. A pivotal issue in the instant matter is the interplay between steep slopes and stormwater drainage. As to slope, Ms. Connor points out that approximately 70% of the 18-acre subject site is steep sloped. Her consultants, HWA GeoSciences Inc., calculate from topographic contours and scale provided in this record that slopes range from 38% to 47%; not the less steep 25% to 33% printed on the plans for the Native Growth Protection Areas, critical areas and restricted open space areas on the north part of the site (Exhibit 33). As to water, Ms. Connor's consultants challenge the conclusion of the applicant's consultant, Liu & Associates (Exhibit 13) that "...it is unlikely for shallow groundwater to exist under the site." Ms. Connor's consultants assert that, on the contrary, there is ample evidence of standing water at the top, the side and the toe of the slope, as follows:

- (A) standing water observed in several areas on the slope and at the base of the slope during an October 19, 2006 site visit,
- (B) a flowing pipe from a spring in the hillside draining into a steel horse trough,
- (C) another “seasonal” spring at a different location at the toe of the slope shown in the project plans,
- (D) wetlands shown by the project plans on the slope itself and south of Florence Acres Road: i.e., two on-site Category 3 wetlands, the on-site Type 5 salmon-bearing Woods Creek, and the off-site Category 1 wetland across Florence Acres Road,
- (E) several areas recently logged, after the applicant’s geotechnical report had been prepared,
- (F) other areas of minimally established vegetative cover, blanketed only by creeping buttercup, which typically indicates recent disturbance or saturated conditions. (Exhibit 33)

6. The Liu Report (Geotechnical Investigation, Exhibit 13) concludes:

“Recessional outwash deposits of high permeability would allow stormwater to seep through very easily and would greatly reduce the potential of groundwater seepage springing out of the steep slope. Therefore, it is our opinion that as long as vegetation cover over the steep slopes is maintained, the potential for landslides on the site or the steep slope north of it should be minimal.”

7. Ms. Connor’s consultant describes (Exhibit 33) the above-quoted geotechnical finding as “...generally reasonable...” but points out the differences of opinion between the consultants as to the “...degree of saturation of at least some of the soils beneath the site.”

8. The record demonstrates that the County staff also had concerns about groundwater saturation in view of the absence of any public stormwater system here. The applicant proposes that Lots 1 through 5 storm water be drained to each Lot’s separate infiltration trench. The applicant’s consultant, Liu & Associates, Inc., recommended that those stormwater infiltration dispersion trenches be located at least 100 feet from the top of the slope but may have subsequently reduced that to 20 feet. The County staff insists on the 100-foot setback. Further, Liu & Associates, Inc. recommended by letter of July 21, 2006, that septic drainfield areas have that same 100-foot setback (Exhibit 33). (Liu letter of July 21, 2006 is not of record, nor perhaps other related documents.) However, the plat Land and Development Map (Exhibit 16) shows the septic drain field areas of Lots 3, 4, 5 and 7 to be set back less than one-half of that 100-foot distance. Ms. Connor challenges allowing 450 gallons per day of septic water for each of those lots to be discharged within the 100-foot setback from the top of the slope. She also asserts that she observed salmon spawning in Wood’s Creek on October 24, 2006. (Exhibit 33)

9. The Snohomish Health District had, prior to the instant hearing, merely conducted preliminary soil review four years earlier on November 4, 2003. (Exhibit 27) Since then, logging and grading has occurred on the portion of the site to be developed. Ms. Connor asserts that she has observed increased runoff and erosion from the hillside onto her property since the logging (Exhibit 33). Exhibit 27 is the Snohomish Health District’s letter of March 28, 2006, which provides, in part, that prior to final plat approval:

“...Drainfield(s) must be located within areas of approved test holes and **meet all setback requirements**. Designs must show all features that may affect placement of sewage disposal facilities, e.g., wetlands, drainage, native growth protection area, house, driveway, surface water, etc.” (Emphasis added.)

10. The need for caution and adherence to slope setbacks on the subject site is also evidenced by consultant Liu & Associates, Inc.’s recommendation that a 40-foot building setback from the top of the slope be maintained:

“The purpose of building setback from the top or toe of an overly steep portion of a slope is to establish a buffer zone between the structure and the steep slope, such that if a slope failure should occur the damages to the structure can be minimized. To maintain stability of the houses to be constructed on the site, we recommend that they be set back at least 40 feet from the crest of the steep slope within the site.” (Exhibit 13, p. 5)

11. HWA GeoSciences Inc. argues (Exhibit 33) that Liu & Associates provides two stormwater infiltration rates in this record: one of eight inches per hour and the other of half that at only four inches per hour. HWA asserts that Liu & Associates performed no on-site explorations, no soil classifications and no testing but, rather, completed its report based only on observations of the site surface and on published information. HWA opines that the determination of infiltration rates for purposes of infiltration facility design typically requires site explorations employing grain size analysis of soil samples or pilot infiltration testing. None of that had been done here at the time of the initial hearing despite the steepness of the site and combined with the evidence of significant stormwater saturation, the absence of any public storm sewers, the septic drainfield’s proximity to the top of the bank and the salmon stream downstream. Also, absent such analysis, the concerns expressed by the Snohomish Health District’s letter of March 28, 2007 could not be adequately addressed.
12. Based on Finding No. 11 above, the Examiner remanded this matter for further geotechnical and related drainage analysis. In response, the applicant contracted Western Geotechnical Consultants, Inc., which firm produced its report dated January 19, 2007 (Exhibit 34). The County’s project engineer conducted a technical review of that report and concluded that the report “...**adequately addressed the potential for slope failure that may be exacerbated by storm drainage and septic drainfield issues associated with the plat.**” (Exhibit 35, emphasis supplied.) Thus, the County’s engineer concurred with the consultant’s conclusion that, subject to conditions, the proposed plat would not contribute to the destabilization of the slopes. In reliance thereon, the County’s staff recommendation to the Examiner was amended to include five additional conditions upon approval. The applicant did not oppose any of those conditions.
13. At the second hearing, Susan Conner and her expert witness, Kitty Mac, argued that slope gradients are understated throughout this record. The Examiner finds that the evidence of record leads to a contrary finding. The record shows slopes of up to approximately 60% and the opponents assert slopes of approximately 67%. There are likely some localized grades of 67% or more but, in the opinions of professionals in this record, and here stated as the Examiner’s finding of fact, slope gradients are substantially as listed at page four of the supplemental reconnaissance done by Western Geotechnical Consultants, Inc. (Exhibit 34). Moreover, the Examiner did not remand the matter for the purpose of more accurate slope gradient measurement. Instead, the Examiner remanded the matter to address the question of whether the slopes – whatever their gradient – would remain stable if the plat were built as proposed. To be sure that stability is achieved, the Examiner read on the record a further condition upon plat approval requiring adherence to the geotechnical consultant’s recommendation (Exhibit 34).

14. The applicant protests the County's recommended condition upon preliminary plat approval that the applicant be required to construct frontage improvements along Florence Acres Road. The applicant's deviation request was partially approved and the applicant appealed that partial approval. The appeal was granted in part. As a result, the County now recommends that the applicant be required to construct full, rural standard frontage improvements along only the lot area of the subject site and a minimum three-foot to five-foot wide paved shoulder along Tract 999. Those road improvements will be part of the means by which storm drainage is channeled to a detention facility in Tract 996. Further, those improvements are needed by students residing on all of the subject lots as access to a paved shoulder walkway as a safe walking route to the school bus stop (paved 12-foot by 60-foot bus pullout) at Lot 1 on Florence Acres Road. The record shows that the subject site is in proximity to the steadily developing area on Old Owen Road. The Examiner finds as fact that the frontage improvements recommended by the County are properly required here in that those improvements have a rough proportionality to the impact of the proposed plat, bear a substantial relationship to the public health, safety and welfare, are reasonable and are capable of being accomplished.
15. The seven homes to yet be built on the subject site (as noted, the first has already been built) will generate average weekday traffic of 67 trips, of which five trips are morning peak-hour trips and seven are 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. The Examiner finds that the proposed development does not create any traffic-related impact not analyzed in the staff report.
16. The project would comply with park mitigation requirements under Chapter 30.66A SCC by the payment of \$344.52 for each new single-family home.
17. School mitigation requirements under Chapter 30.66C SCC have been reviewed and set forth in the conditions.
18. There are critical slopes, two Category 3 wetlands, and two Type 5 streams on site. All of the critical areas, the associated buffers, and steep slopes have been designated as NGPA/E and are included within Tract 999. PDS has reviewed the Critical Areas Study and Mitigation Plan and determined that the project complies with the critical areas regulations.
19. 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.
20. The Snohomish County Health District has no objection to this proposal provided that water and sewer are available. However, the District's concerns about individual lot septic drainfields are expressed above herein. Public potable water will be supplied by the Highlands Water District (Exhibit 10).
21. The subject property is designated Rural Residential (RR: 1 du/5 acre Basic). This designation includes all lands which are currently designated as Rural or Residential Estates on existing subarea comprehensive plans and most of which were previously zoned to R-20,000; Suburban Agriculture-1 Acre; or Rural Conservation. Also included are lands which have a higher density subarea comprehensive plan designation but were zoned RC by the county subsequent to the subarea plan

adoption. The implementing zones within this designation are the Rural-5 Acre zone and other zones with a minimum lot size requirement larger than 5 acres. 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.

22. The proposed use (single-family detached development) is essentially compatible with existing single-family detached developments on larger lots. Adjoining properties are zoned R-5. Pasture and farms lie to the north and in all other directions lie either undeveloped land or single-family residences.
23. As conditioned herein to require compliance with an expanded geotechnical report, the proposal will comply with the Snohomish County Subdivision Code, Chapter 30.41A SCC as well as the State Subdivision Code, RCW 58.17. With adherence to that further geotechnical analysis, 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.
24. 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 herein 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 decision. 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.
25. The subject rural cluster subdivision (RCS) application has been reviewed for conformance with the RCS standards in Chapter 30.41C SCC. Ms. Connor points out that the intent of the rural cluster subdivision is to preserve developable land as open space. She asserts that more than 65% of the restricted open space in the subject plat is unbuildable land: that almost no developable land is being preserved as open space. The County disagrees, asserting that 48.5% of the site is retained in restricted open space and that there is no unbuildable land as defined by Chapter 30.41C SCC on site which would be required to be included in native growth protection areas (Exhibit 32). The staff report also notes that 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. The Examiner concurs with the staff interpretation and application of SCC 30.41C as to eligibility of the proposed development for a rural cluster subdivision.
26. The Examiner finds as fact that, but for salmon, no other protected species has been identified as specifically impacted by this proposed development. As to salmon in this instance, no Critical Area regulation has been demonstrated to be violated and the State Environmental Policy Act threshold determination of nonsignificance issued October 4, 2006 (Exhibit 18) was not appealed.
27. 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.

28. Based on the preponderance of the evidence of record as reported and examined above herein, the Examiner further finds as fact that the proposed preliminary plat should be approved subject to compliance with the recommendations in the supplemental geotechnical analysis at Exhibit 34 and that such approval will be in the interest of the public health, safety and welfare.
29. 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 and supplemental staff report, hereby adopts said staff reports as properly setting forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their effect upon the request. In order to avoid needless repetition, the staff reports are hereby adopted by the Examiner as a conclusion except as otherwise stated in the text of this decision.
2. The Examiner concludes as a matter of law that the conceptual preliminary plat approval is so dependent on the supplemental geotechnical analysis and related drainage analysis that the locations proposed for plat roads, houses, drainage trenches and septic drainfields and all other plat improvements must be consistent with the findings as to site conditions and the conclusions and recommendations of the Western Geotechnical Consultants, Inc. report (Exhibit 34).
3. The Department of Public Works recommends that the request be approved as to traffic use subject to conditions specified below herein.
4. 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.
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 an eight-lot rural cluster subdivision on 17.84 acres is hereby **CONDITIONALLY APPROVED** subject to the following stipulations:

### **CONDITIONS**

- A. The preliminary plat received by PDS on September 26, 2006 (Exhibit 15) shall be the 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. 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.
- 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 Monroe School District No. 103 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:  
  
\$2,114.97 per lot for mitigation of impacts on county roads paid to the county,  
\$344.52 per lot for mitigation of impacts on State highways paid to the county,  
  
These payments are due prior to or at the time of building permit issuance. Notice of these mitigation payment obligations shall be contained in any deeds involving this subdivision or the lots therein. Once building permit has been issued all mitigation payments shall be deemed paid.
  - 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."
  - iv. An adequate turnaround area must be provided for lots 7 and 8, and shown on the construction plan.
  - v. The developer shall pay the County \$344.52 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.

- vi. Lots 3, 4, 5, 7, and 8 shall maintain a 40 foot building setback line for all impervious surfaces.
- vii. The slope area and area within the BSBL shall be maintained in its natural, undisturbed state.
- viii. All surface drainage shall be directed away from the slope and to a suitable outlet.
- ix. Vegetation along the cress of the slopes shall not be disturbed. Evergreen trees shall not be topped.
- x. Yard waste and other deleterious material shall not be placed on or over the slope.
- xi. The above-stated conditions are imposed, in part, on reliance upon the analysis and recommendations in the Liu Geotechnical Investigation (Exhibit 13) and the supplemental investigation completed on remand by Western Geotechnical Consultants, Inc. (Exhibit 34), which two investigations are primary inducements for this development's approval. To ensure that the requirements of those two investigations are followed and enforceable, compliance with those two investigations is hereby expressly made a condition upon any grading permits issued by the Department of Planning and Development Services for this development, which permits shall contain the following language:

*Any substantial deviation from the recommendations of the Liu Geotechnical Investigation (Exhibit 13) or the Western Geotechnical Investigation (Exhibit 34) at any phase in the construction or maintenance of the proposed development shall only be made following submittal to, and approval by, PDS of a revised and updated investigation by either or both applicable firms addressing the deviation(s).*

D. Prior to recording of the final plat:

- i. The road within the subject development shall have been constructed in accordance with EDDS 3-080 for a private rural subcollector road.
- ii. An asphalt approach per EDDS 3-100 shall have been constructed on the private road.
- iii. An adequate turnaround area must be provided for Lots 7 and 8, shown on the construction plan.
- iv. An asphalt approach per EDDS 2-030 shall have been constructed for the driveways to Lots 7 and 8.
- v. Rural standard frontage improvements consisting of 19 feet of pavement width from the centerline of the right-of-way shall have been constructed along the subject property frontage from the southeast property line to the southwest corner of lot 8; and a minimum of 14 feet to 16 feet of pavement width along Tract 999. The construction plans must show the proposed width of the pavement widening, and provide the slope information so that the minimum departure from 16 feet pavement width can be determined along Tract 999.
- vi. A 12-foot x 60-foot paved bus pullout shall have been constructed along the frontage with Lot 1 on Florence Acres Road.
- 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 platator 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.

- E. In conformity with applicable standards and timing requirements:
  - i. The preliminary landscape plan (Exhibit 10) 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 20<sup>th</sup> day of April, 2007.

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Ed Good, Deputy Hearing Examiner

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| <b>EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES</b> |
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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 **APRIL 30, 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 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 **MAY 4, 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 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: Ed Caine / Ann Goetz

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| <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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