

# **REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER**

DATE OF DECISION: February 21, 2007

PLAT/PROJECT NAME: *MEADOW LAKE NORTH*

APPLICANT/  
LANDOWNER: Teresa & Gregory Miller

FILE NO.: 05 126519 SD

TYPE OF REQUEST: 7 lot Rural Cluster Subdivision on 17.1 acres

DECISION (SUMMARY): APPROVE subject to Conditions

## **BASIC INFORMATION**

GENERAL LOCATION: The property is located at 19424 Meadow Lake Road, Snohomish, WA

ACREAGE: 17.1

DENSITY: 0.41 du/ac (gross)

NUMBER OF LOTS: 7

AVERAGE LOT SIZE: 57,021 square feet

MINIMUM LOT SIZE: 44,224 square feet

ZONING: Rural-5 Acre (R-5)

COMPREHENSIVE PLAN DESIGNATION:

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

UTILITIES:

Water: Individual on-site wells  
Sewage: Individual on-site septic

SCHOOL DISTRICT: Snohomish

FIRE DISTRICT: No. 4

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 May 3, 2006. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on February 5, 2007 in the morning.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 20, 21 and 22)

A SEPA determination of nonsignificance was made on December 8, 2006. (Exhibit 19) No appeal was filed.

The Examiner held an open record hearing on February 6, 2007, the 101<sup>st</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 February 6, 2007 at 10:00 a.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.

The hearing concluded at 10:07 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. 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. Teresa and Gregory Miller (Applicants) propose to subdivide a 17.1 acre site at 19424 Meadow Lake Road into seven single-family lots, using the Rural Cluster Subdivision provisions of the Snohomish County Code. Access to the site will be from Meadow Lake Road by a private road serving six of the seven lots. Lot 1 will take direct access from Meadow Lake Road.

4. The site slopes to the south, with a Category 1 wetland in the southern portion of the site. A Type 3 stream is found in the northwest portion of the site. In addition, there are steep slopes and special flood hazard on the property. The residential sites will be located outside of these critical areas.
5. The site is designated for rural residential uses in the comprehensive plan. It is zoned R-5 and is outside an Urban Growth Area.
6. There was no public comment on the proposed subdivision.
7. Applicants will pay impact fees for parks, roads, state highways and schools.
8. The proposal will generate 57 average daily vehicle trips, with five in the a.m. peak hour, and six in the p.m. peak hour. It was deemed concurrent by the Department of Public Works.
9. Applicants will provide rural standard frontage improvements on Meadow Lake Road, and will dedicate 10 feet of right-of-way for this road. Children will take a school bus at the entrance to the plat, and will have safe walking and waiting conditions.
10. Each lot will be served by individual on-site wells and septic systems. Storm water will be collected and routed to a central water quality catch basin. From there the water will be conveyed to the wetland. A full drainage plan must be approved prior to site development.
11. 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.
4. The request should be approved subject to compliance by the applicant with the following Conditions:

### **CONDITIONS**

- A. The preliminary plat received by PDS on November 16, 2006 (Exhibit 17) 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/Habitat Management Plan and Mitigation Plan for Meadow Lake North* prepared by Wetland Resources dated October 9, 2006 (Exhibit 5) shall be submitted for review and approval during the construction review phase of this project.
- iv. A detailed landscape plan for the required perimeter buffers shall have been submitted to and approved by PDS. The plan shall be in conformance with Exhibit 16.

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 Snohomish School District No. 201 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(s). Lot 1 shall receive credit.”
- ii. “The developer shall pay the County \$1,361.22 per single family unit as mitigation for impacts to the Centennial park service area of the County parks system in accordance with SCC 30.66A. Payment of these mitigation fees is required prior to building permit issuance, provided that the building permit is issued by May 3, 2011 (five years after the completeness date of the subject application). After this date, park impact fees shall be based upon the rate in effect at the time of building permit issuance.”
- iii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:  
  - \$1,361.67 per lot for mitigation of impacts on county roads paid to the County;
  - \$295.30 per lot for mitigation of impacts to state highways paid to the County;
  - \$207.11 per lot for the Badke Road/Trombley Road intersection latecomers’ payment approved by Snohomish County Ordinance No. 95-067.

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.

- iv. Additional right-of-way, parallel and adjacent to the right-of-way centerline of Meadow Lake Road shall be dedicated to the County along the development’s frontage such that thirty feet of the right-of-way exists from centerline of the Meadow Lake Road right-of-way.
- v. 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 30.91N.010 are allowed when approved by the County."

D. Prior to recording of the final plat:

- i. The two approved Boundary Line Adjustment applications, file numbers 06-136269 BA and 06-126272 BA, shall have been recorded with the County Auditor's office.
- ii. Frontage improvements conforming to County standards shall have been constructed along the development's frontage on Meadow Lake Road, including a safe waiting area for the students from the development
- iii. 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.

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

E. In conformity with applicable standards and timing requirements:

- i. The preliminary landscape plan (Exhibit 16) shall be implemented. All required 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.

5. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

**DECISION:**

The request for approval of a **RURAL CLUSTER SUBDIVISION** of seven lots on a 17.1 acre site at 19424 Meadow Lake Road is hereby APPROVED, SUBJECT TO COMPLIANCE by the Applicants, with the CONDITIONS set forth in Conclusion 4, above.

Decision issued this 21st day of February, 2007.

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Gordon F. Crandall, Hearing Examiner Pro-Tem

## EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

The decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more parties of record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

### **Reconsideration**

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **March 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 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 **March 7, 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: Michael Dobesh

<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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