

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

DATE OF DECISION: May 21, 2007

PLAT/PROJECT NAME: ***BLACKSTONE RESIDENTIAL COMMUNITY***

APPLICANT/
LANDOWNER: Pacific Ridge Homes Inc.

FILE NO.: 06-125286-000-00-LU

TYPE OF REQUEST: Approval of an Official Site Plan for a 139 Unit Multi-family
Development.

DECISION (SUMMARY): GRANTED subject to PRECONDITIONS and CONDITIONS

BASIC INFORMATION

LOCATION: 15730 Manor Way, Lynnwood. At the SW corner of Manor Way and 156th
St SW

ACREAGE:: 7.67

NUMBER OF LOTS: 6

MINIMUM NET DENSITY: $139 \text{ (DU)} / 7.13 \text{ (AC)} = 19.5 \text{ DU per AC}$

MAXIMUM ALLOWED DENSITY: $(2,000 \text{ Sq. Ft. per unit}) 311,009 \text{ SF} / 2,000 = 155.51 \text{ DUs}$

ZONING: Planned Community Business (PCB)

SCHOOL DISTRICT: Edmonds School District No. 15

FIRE DISTRICT: No. 1

UTILITIES: Alderwood Water & Waste Water District

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban High Density Residential (12-24 du/acre)

SELECTED AGENCY RECOMMENDATIONS:

Staff recommendation on behalf of Snohomish County Executive Branch is for **APPROVAL** of the proposed Official Site Plan is recommended subject to the **PRECONDITION** and **CONDITIONS** set for in the county staff report.

INTRODUCTION

The applicant is requesting approval of an Official Site Plan for the development of a 139 unit multi-family development located at 15730 Manor Way, Lynnwood. The subject application was originally submitted to Planning and Development Services (PDS) on December 1, 2006, and was determined on January 26, 2007 to be complete as of the date of submittal for regulatory purposes, but insufficient for further review. A resubmittal of the application was received on March 5, 2007, which was determined on March 15, 2007 to be sufficient for further review. As of the hearing date, 49 days of the 120-day review period will have elapsed. (Exhibit 28)

The Hearing Examiner (Examiner) made a site familiarization visit on May 7, 2007.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 14-16)

PDS issued a Determination of Nonsignificance (DNS) for the subject application on March 15, 2007 (Exhibit 13). The DNS was not appealed.

The Examiner held an open record hearing on Tuesday, May 8, 2007, the 49th 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 May 8, 2007 at 9:01 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. He explained the procedure and order of testimony that would be followed in the hearing.
2. Exhibits 1-28 included with the staff report were admitted.
3. Those in attendance indicating a desire to testify were sworn under oath.
4. Erik Olson from Snohomish County Planning and Development Services appeared and testified under oath. He presented the PDS staff report. He said that the county is recommending approval of the application subject to various conditions. His testimony included a description

of the proposed 139 unit development located near 157th and Manor in the Lynnwood area of the county. The project will entail removing three houses and associated out buildings. He described how the internal access ways meet or exceed county code requirements. Internal off street parking will be provided and the internal access ways will be posted with no parking signs to keep emergency vehicle access clear. He described the general nature of the proposed surface water drainage. The water will be directed toward a vault to be located under the north-east corner of the parcel. From there it will be released to an 18 inch culvert running under Manor Way. This 18 inch culvert is replacing the current 12 inch culvert.

5. Louis Coletta from PDS appeared and testified under oath. He is a Public Engineer and audited the applicant's drainage proposal. His standard is that the proposal meet the standards of Department of Ecology. The drainage report shows that the plan is more than is needed for approval and thus he has no objects to the proposal.
6. Eric Olsen from PDS reappeared and testified. He gave additional testimony regarding the drainage plans which are contained as exhibit 4.
7. John Mirante of Group Four, the applicant's representative, appeared and testified under oath. He provided further details of the proposed project. He explained that the site is bound to the west by State Route 525. He described the buildings and landscaping which were to be removed prior to the start of construction. No critical areas are on the site. There are single family residences, a vacant parcel and a switching station surrounding the lot. There will be access off both Manor Way and 156th. A left turn lane will be constructed on Manor Way to assist access to the project. Internal access ways will be privately owned and will comply to county standards. Concurrency has been met. Impact fees will be paid. ADA compliance is part of the plan. Water is from Alderwood Water. He briefly covered the drainage plans.
8. Brian Caferro of Group Four, a civil engineer, appeared and testified under oath. He discussed the size of the project. He discussed the current drainage to a ditch along Manor Way. This ditch then drains to a 12 inch culvert under Manor Way and flows away. There is additional upstream flow from SR 525 which is deposited on the subject parcel. He testified that the proposed plan includes a detention pond and an underground vault. The majority of the parcel will drain to the vault, the rest to the pond. These will comply with county code. There will be a 50% reduction in the two year 24 hour rain event. Future runoff will be the same as the 10 year and 100 year rate of the current rate. This is a redevelopment. He described the methodology used in calculating flows and quality. He testified about filters other methods to treat the storm water prior to release. He described the outflow of the water and how it would be held and released it at a rate not to exceed current conditions.
9. John Mirante of Group Four, reappeared and testified about landscaping for the project. He talked about the on-site parking. He agrees with the conditions contained in the staff report.
10. Christopher Kelly, 2722 156th St SW Lynwood, appeared and testified under oath, appeared with questions about the drainage plans. He discussed the 72% impervious coverage of the project. He owns the down hill parcel where the water will be distributed. He thinks there will be an increase of water distributed on his parcel. He said there is a stream on the subject parcel. He doesn't think the vault system will work, and he feels that there will be a failure of

maintenance of the vault. He is concerned with erosion. He feels the county should support the community better with surface water management. He proposed an optional drainage route along 156th that he thinks should be used rather than to his property.

11. Upon the question of the Hearing Examiner no other citizens expressed a desire to testify.
12. John Mirante of Group Four, reappeared and testified to answer questions that had been raised. He discussed the 156th facility is used by the water district as an emergency drainage from a water tank. That facility is not available for use by the project. The water from the project is supposed to flow where it currently does so that the down-hill wetlands and streams are kept hydrated. The existing 12 inch culvert shows evidence of crushing and erosion which undercut Manor Way. It needs to be increased in size to meet current standards. The proposed system will mimic the current flows. He discussed onsite erosion issues during construction. He said there will be compliance with the county silt plan to stay in compliance with Department of Ecology.
13. Louis Coletta from PDS reappeared and testified. He discussed DOE rules. He discussed the 50% flow rate of the two year event rain. He feels that this reduction may be conservative. He discussed ground saturation and hill sloughing problems. He indicated the proposed plan will lead to less intense flows to Mr. Kelly's property and thus may help reduce erosion. He said the county plan is to maintain the current flow paths.
14. Mike Jefferson appeared and was sworn in. She testified that she lives directly across from the project. She is not opposed nor is she in favor of the project. She is also concerned about drainage. She discussed the current situation with water draining from the State Route across from the Smith property to her property. She testified that sometimes she needs to sandbag her driveway. There are current drainage problems caused by another development.
15. John Mirante of Group Four, reappeared and testified. He asked were the Jefferson property was. He indicated that all water from the site will go to the detention facility. There will be no direction of water toward their driveway. He discussed that he is willing to work with them to make certain there is no damage to their property during construction.
16. Louis Coletta from PDS reappeared and testified. He discussed the Washington Department of Transportation drainage policy and how the county supports Ms. Jefferson's attempt to halt the excess drainage of WSDOT water. He described county resources available to those who feel there are violations of code and conditions.
17. Steve Johnson the applicant appeared and testified that he would like a prompt decision.
18. Christopher Kelly reappeared. Mr. Johnson did not oppose Mr. Kelly's further comments. Mr. Kelly testified that two streams run through the subject property. These streams will be redirected from the south east to the north east drainage facility. He again emphasized his opinion that there will be an increased flow of surface water from the project to his property. He said the stream is seasonable. He doesn't think the homeowners' association will maintain the drainage system. It will be the county's obligation to maintain it.

19. John Mirante of Group Four, reappeared and testified. He said the applicant's biologists determined that there are no critical areas, including streams, on the site. This finding was confirmed by the county's biologist. He reemphasized the erosion control plans. He discussed the maintenance of the facility will be by a management company rather than a homeowners' association.
20. Eric Olsen from PDS reappeared and testified. He talked about ground water saturation and the balance between drainage and erosion. He discussed the maintenance of the facility by the property owners. This is the same as all other plats. There will be a maintenance covenant granted to the county in case there is a failure of maintenance by the property owners.
21. Christopher Kelly expressed a desire to testify a third time. This request was denied by the hearing examiner as he had already testified twice

The hearing concluded at 9:59 a.m.

NOTE: The above information reflects the information submitted to the Examiner summarizing the statements that were made at the hearing. However, for a full and complete record, verbatim audio tapes of the hearing are available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file, as if set forth in full herein.
2. The PDS staff report has correctly analyzed the nature of the application, the issues of concern, the application's consistency with adopted codes and policies and land use regulations, and the State Environmental Protection Act (SEPA) evaluation with its recommendation and conditions. This report is hereby adopted by the Examiner as if set forth in full herein.
3. The site is a rectangular shaped 7.67 acre property that is bordered by Manor Way on the east, 156th St. SW on the north, SR 525 on the west and private property to the south. The site slopes downward from west to east. The site is made up of 6 lots. Currently the northern 5 lots are developed with one single family residence with various out buildings and is covered with grass, trees, shrubs and drive areas. The southern parcel is developed with two single family residences and is covered with grass and drive aisles.
4. **ZONING:** The properties to the north are zoned PCB and one is undeveloped and a portion of the other is developed with a commercial structure. The properties to the south are zoned PCB and are developed with single family residences. The property directly adjacent to the south is one lot that was granted official site plan approval and rezone approval to MR, effective as of July 7, 2005, for the development of 16 detached single family residences. The property was rezoned to PCB at the same time as the subject property. The properties to the east across Manor

Way are zoned PCB and are developed with single family dwellings, some with one dwelling per lot and others with multiple dwellings per lot. The area was zoned MR, before the current PCB zoning, and developed out at per the MR allowed density. Now that the area is zoned PCB single family detached housing is not allowed.

5. Matters of Concern: PDS received a letter (Exhibit 19) by a property owner to the east across Manor Way expressing concerns about possible drainage impacts to their property from the development and about traffic on Manor Way. Testimony from citizens during the hearing reemphasized the concerns about surface water drainage caused by the proposed project. The applicant has responded both by Exhibit 20 and by testimony during the public hearing. PDS has reviewed the comments submitted and the response by the applicant. PDS, through site visits, review of the submitted drainage plan and study and the traffic study, has determined that the drainage from the proposed development will comply with county code and the development will increase the traffic to the county road system but will not increase it to the point where it will cause a road section to go into arrears or require a light at Manor Way and 156th St. SW. The testimony from both the county's and the applicant's engineers is that for two year storm events the proposed drainage facility will decrease the run off by 50%. The run off for higher rain events will be the same as for current conditions. The proposed detention vault and pond will stretch out the time that the water is released. The vault and pond have features to improve the quality of the water which will be released. Appropriate provisions have been made to maintain the drainage facility. The water can not be directed to another drainage facility; rather, it will follow its current drainage course to keep down hill wetlands and water features hydrated.
6. The proposal is within the Nakeeta Beach Park Service Area No. 307 and is subject to Chapter 30.66A SCC, which requires payment of \$491.05 per each new single-family residential unit, to be paid prior to building permit issuance for each unit. Such payment or contribution of in-kind mitigation is acceptable mitigation for parks and recreation impacts in accordance with county policies.
7. PDS Traffic reviewed the request with regard to traffic mitigation and road design standards. This review covered Title 13 SCC and Chapter 30.66B SCC Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures 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, PDS has determined that the development is concurrent and has no objection to the requests subject to various conditions. (See Pages 3-7, Exhibit 28)

A. Road System Impact Fee (SCC 30.66B.310)

A development must mitigate its impact upon the future capacity of the road system by paying a road system impact fee reasonably related to the impacts of the development on arterial roads located in the same transportation service area as the development, at the rate identified in SCC 30.66B.330 for the type and location of the proposed development.

Based on Land Use Code 220; Apartments, rentals triplexes or greater and 139 attached rental units, the development will generate 869.19 new average daily trips (ADT) and has

a road system impact fee of \$232,074.53 (\$1,669.60/unit) based on \$267/ADT, the current fee rate for residential developments inside the urban growth area, for TSA D. These figures include credit for on-site TDM measures. Consistent with SCC 30.66B.340, payment of this road system impact is required prior to building permit issuance.

B. Inadequate Road Condition (IRC) [SCC 30.66B.210]

Regardless of the existing level of service, any development which adds three or more p.m. peak-hour trips to a location in the road system determined to have an existing inadequate road condition (IRC) at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC.

The subject development proposal will not impact any IRC locations identified within TSA D with three or more of its p.m. peak hour trips, nor will it create any. Therefore, it is anticipated that mitigation will not be required with respect to inadequate road conditions and no restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under this section of Chapter 30.66B SCC.

C. Concurrency [SCC 30.66B.120]

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent as of May 21, 2006. The expiration date of the concurrency determination is six years from this date.

The development has been deemed concurrent on the following basis: A request for a preapplication concurrency approval was filed in accordance with SCC 30.66B.175. On May 21, 2006, the County granted the preapplication concurrency approval. In accordance with SCC 30.66B.37 (7) the applicant's traffic consultant asked that the Public Works Director waive the requirements of a new traffic study. The Public Works Director found that conditions on the roads impacted by this development have not significantly changed since May of 2006, and a new traffic study would not be required.

D. Frontage Improvements [SCC 30.66B.410]

All developments will be required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road. The required improvement shall be constructed in accordance with the EDDS, including correction of horizontal and vertical alignments, if applicable.

As per DPW Rule 4222.020(1) full urban frontage improvements are required along the subject parcel's frontage on Manor Way and consist of:

- _____ Asphalt concrete pavement consisting of 23 feet width from roadway centerline to the face of curb
- _____ Cement concrete curb and gutter
- _____ Planter strip with a width of 5 feet
- _____ Cement concrete sidewalk with a width of 7 feet.

A northbound to westbound left turn pocket is required at the intersection of the projects entrance and Manor Way. As per DPW Rule 4222.020(1) full urban frontage improvements are required along the subject parcel's frontage on 156 Street SW and consist of:

- _____ Asphalt concrete pavement consisting of 18 feet width from roadway centerline to the face of curb.
- _____ Cement concrete curb and gutter
- _____ Planter strip with a width of 5 feet
- _____ Cement concrete sidewalk with a width of 7 feet.

Manor Way on which the development's frontage improvements are required, is not in the impact fee cost basis (Appendix D of the Transportation Needs Report), therefore credits towards the applicant's impact fee for any frontage improvements that can be used in the ultimate build-out of the road are not applicable.

156th Street SW on which the development's frontage improvements are required, is not in the impact fee cost basis (Appendix D of the Transportation Needs Report), therefore credits towards the applicant's impact fee for any frontage improvements that can be used in the ultimate build-out of the road are not applicable.

Construction of frontage improvements is required prior to occupancy of the first unit unless bonding of improvements is allowed by PDS.

E. Access and Circulation [SCC 30.66B.420]

All developments are required to provide for access and transportation circulation in accordance with the comprehensive plan and SCC 30.66B.420, design and construct such access in accordance with the EDDS, and improve existing roads that provide access to the development in order to comply with adopted design standards, in accordance with SCC 30.66B.430.

This development has frontage on two roads, a county designated arterial and a non-arterial. The EDDS states that if a development has frontage on two roads and one of them is an arterial, then all access will be from the non-arterial. Based on the size of the project, one access on to the non-arterial road would not be sufficient. The access onto Manor Way has been approved based on a conversation with the Traffic Engineer of the Department of Public Works.

A traffic analysis was done for the proposed intersection of this development that indicates that left-turn channelization will be required at the development's intersection with Manor Way. As part of the frontage improvements for this development, a left turn pocket will be constructed on Manor Way to the requirements of the Department of Public Works.

F. Right-of-Way Requirements [SCC 30.66B.510, SCC 30.66B.520]

A development shall be required to dedicate, establish, or deed right-of-way to the county for road purposes as a condition of approval of the development, when to do so is reasonably necessary as a direct result of a proposed development, for improvement, use or maintenance of the road system serving the development.

The road serving this development, Manor Way, is designated as a Collector Arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 35 feet on each side of the right-of-way centerline. Currently, 20 and 30 feet of right-of-way exists on the development's side of the right-of-way. Therefore, the development is required to deed the necessary right-of-way such that 37 feet of right-of-way will exist along the developments frontage on Manor Way. The extra two feet of right-of-way is required to unclose the frontage improvements within the right-of-way.

The road serving this development, 156th Street SW, is designated as a non-arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 30 feet on each side of the right-of-way centerline. Currently, 30 feet of right-of-way exists on the development's side of the right-of-way. Therefore, the development is required to deed 2 feet of additional right-of-way along the 156th Street SW frontage to enclose the frontage improvements within the right-of-way.

The additional right-of-way deeding is adequately shown on the site plan.

Deeding of additional right-of-way that is tangent to the ultimate right-of-way on 156th Street SW and Manor Way with a 35 foot radius curve is required.

G. State Highway Impacts [SCC 30.66B.710]

When a development's road system includes a state highway, mitigation requirements will be established using the County's SEPA authority consistent with the terms of the interlocal agreement between the County and the WSDOT. This is consistent with the County's SEPA policy SCC 30.61.230(9), through which the county designates and adopts by reference the formally designated SEPA policies of other affected agencies for the exercise of the County's SEPA authority.

This development is subject to SEPA and thus is subject to Interlocal Agreement (ILA) with the Washington State Department of Transportation (WSDOT)/County effective December 21, 1997, and as amended.

Comments in an email from the WSDOT, dated December 27, 2006, state the WSDOT received a review package on December 11, 2006 and again on December 13, 2006 and due to the complexity of the application an extension in the review time was necessary.

Subsequent comments from the WSDOT dated March 28, 2007 state, "This development will not have a significant adverse traffic impact upon state highways. Therefore, WSDOT does not request any traffic mitigation for state highways from the applicant."

H. Other Streets and Roads [SCC 30.66B.720]

Mitigation requirements for impacts on streets inside cities and roads in other counties will be established consistent with the terms of interlocal agreements between the County and the other jurisdictions.

There are not any city jurisdictions that have an ILA with the County that will be impacted by new trips from the subject development project.

I. Transportation Demand Management (TDM) [SCC 30.66B.630]

Transportation demand management (TDM) is a strategy for reducing vehicular travel demand, especially by single occupant vehicles during commuter peak hours. TDM offers a means of increasing the ability of transportation facilities and services to accommodate greater travel demand without making expensive capital improvements. The County requires TDM of developments inside the UGA and developments that impact arterial units designated as ultimate capacity.

All new developments in the urban area shall provide TDM measures. Sufficient TDM measures shall be provided to indicate the potential for removing a minimum of five (5) percent of the development's P.M. peak hour trips from the road system. This requirement shall be met by the provisions of site design requirements under SCC 30.66B.640, as applicable, except where the development proposes construction or purchase of specific offsite TDM measures or voluntary payment in lieu of site design, in accordance with SCC 30.66B.620 and SCC 30.66B.625.

The applicant submitted an acceptable TDM Plan (Exhibit 4H) and has therefore been credited the five percent (5%) of the development's P.M. peak hour trips from the road system and the impact fees have been reduced to reflect this reduction.

8. School Mitigation (Chapter 30.66C SCC)

The Snohomish County Council amended Chapter 30.66C SCC by Amended Ordinance 97-095, adopted November 17, 1997, which became effective January 1, 1999, in accordance with Amended Ordinance 98-126, to provide for collection of school impact mitigation fees at the time of building permit issuance based upon certified amounts in effect at that time. The subject application was determined to be complete after the effective date of amended Chapter 30.66C SCC. Pursuant to Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Edmonds School District No. 15, at the time of building permit submittal and collected at the time of building permit issuance for the proposed units. Credit is to be given for the 6 existing lot(s). PDS has included a recommended condition of approval for inclusion within the project decision to comply with the requirements of Chapter 30.66C SCC that the credit will be allocated to units 1 through 6. .

9. There are no Critical Areas located on or within 100 feet of the subject property.

10. The drainage system will consist of a series of underground pipes and catch basins channeling storm drainage to the covered vault. The water is then released into a pipe in the NE corner of the site that runs eastward under Manor Way then across property to the east, were it ultimately discharges into Swamp Creek. The existing drainage pipe under Manor Way is under sized and

failing and will be replaced with a new 18” diameter pipe. The discharge under Manor Way and across property to the east is a normal discharge point and channel. The release of drainage from this site will be in conformance with that allowed by county code.

Planning and Development Services (Engineering) reviewed the concept offered and recommends approval of the project, subject to conditions which would be imposed during full drainage plan review pursuant to Chapter 30.63A SCC. Grading quantities are anticipated to be approximately 31,754 cubic yards of cut and 17,694 cubic yards of fill, primarily for road, drainage facilities, internal circulation, and building site construction. Water quality would be controlled during construction by use of silt fences and straw bales in accordance with a Temporary Erosion and Sedimentation Control Plan (TESCP) required by Chapter 30.63A SCC.

11. Public water and sewer service will be available for this development as well as electrical power.
12. Four elements of the Snohomish County GMA Comprehensive Plan (GMACP) were adopted pursuant to Ordinance 94-125, which became effective on July 10, 1995. These elements are: the General Policy Plan (GPP); the Transportation Element; the 1995-2000 Capital Facilities Plan; and the Comprehensive Parks & Recreation Plan. On November 27, 1996, effective December 12, 1996, the Council adopted Amended Ordinances 96-074, and 96-071 which amended the map and text of the Snohomish County GMA Comprehensive Plan, and adopted an area-wide rezone within the Urban Growth Areas of the county respectively. This application was complete on December 1, 2006 after the effective date of Amended Ordinances 96-074 and 96-071. This application has been evaluated for consistency with the version of the GMA Comprehensive Plan, which became effective on December 12, 1996, as revised through the completeness date of the application.

The subject property is designated Urban Center. This designation identifies a higher density area that contains a mix of residential and non-residential uses, and whose location and development are coordinated with the regional high capacity transportation system. The implementing zone is Planned Community Business. The Urban Centers Demonstration Program (SCC 30.34A) is an optional regulatory tool.

The applicant has chosen to not utilize the provisions of the Urban Centers Demonstration Program (SCC 30.34A).

The 139 units proposed are consistent with the density provisions of Snohomish County’s GMA-based zoning regulations under Subtitle 30.2.

13. This project meets zoning code requirements for lot size, bulk regulations i.e. density, parking, landscaping, lot coverage, height limits, type of use allowed and other zoning code requirements.

The minimum net density for this development is $139 \text{ (DU)} / 7.13 \text{ (AC)} = 19.5 \text{ DU per AC}$, which is in excess of the 4 DU per acre required. The 139 units proposed is under the maximum allowed density of $(2,000 \text{ Sq. Ft. per unit}) 311,009 \text{ SF} / 2,000 = 155.51 \text{ DUs}$.

14. The project parcels are within the PCB zone. Residential development in the PCB zone is regulated by SCC 30.23.040 (1), (5), (15) which read as follows:

- (1) MR bulk requirements shall apply for all residential development permitted in urban commercial zones;
- (5) In the MR zone, the maximum density shall be calculated based on 2,000 square feet of land per dwelling unit;
- (15) MR and LDMR setbacks.
 - (b) Other structures shall have minimum side and rear setbacks of five feet (10 feet where abutting residential, rural, or resource zones). Building separation between primary MR and LDMR structures shall be a minimum of 15 feet. Building separation between primary structures and secondary/accessory structures, including but not limited to carports and garages, and separation between secondary structures themselves, shall be determined by the applicable sections of the Uniform Building Code (UBC).
 - (c) Multi-story structures shall increase all setbacks by three feet and building separations by five feet for each additional story over two stories.

30.31A.200 Rezone procedures.

(3) County-Initiated Rezone Alternative Procedure for BP, IP, and PCB. When recommended by the comprehensive plan, Snohomish County may initiate rezoning to BP, IP, and PCB as part of the comprehensive plan implementation process pursuant to chapter 30.71 SCC as a Type 2 Process. When this alternative is exercised, the provisions of SCC 30.31A.020 (1), (2), (3), and (4) shall be waived, including the portion that establishes minimum lot size for BP and PCB. Prior to development of any BP, IP, or PCB site five acres or larger in size, the developer shall submit a preliminary site plan and fees as required by chapter 30.86 SCC for hearing examiner review and approval. Prior to the approval of a preliminary site plan the hearing examiner shall hold a public hearing conducted pursuant to chapter 30.71 SCC. Notice of the hearing shall be provided in accordance with the notice requirements described in SCC 30.71.060.

On December 21, 2005, effective February 1, 2006, Snohomish County rezoned the subject property to Planned Community Business (PCB) as part of the 10 year comprehensive plan update with the passage of Ordinance 05-090.

The official site plan submitted for approval is in general conformance with these code provisions and should be approved.

- 15. PDS issued a Determination of Nonsignificance (DNS) for the subject application on March 12, 2007 (Exhibit 13). The DNS was not appealed.
- 16. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

CONCLUSIONS:

1. The Examiner having fully reviewed the PDS staff report, hereby adopts said staff report as properly setting forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their effect upon the request. It is therefore hereby adopted by the Examiner as a conclusion as if set forth in full herein, in order to avoid needless repetition. There are no changes to the recommendations of the staff report.
2. The Executive Branch of Snohomish County recommends that the request be approved 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. Adequate public services exist to serve the proposed project.
5. The proposal makes adequate provisions for the public health, safety and general welfare.
6. The request should be approved subject to compliance by the applicant with the following Conditions:

PRECONDITIONS

- A. A record of developer's Title 30.66B SCC mitigation obligations shall have been recorded with the county auditor against the real property on which the development is proposed.

CONDITIONS

- A. The Official Site Plan received by PDS on March 5, 2007 (Exhibit 5) shall be the Official Site Plan and approved development configuration. SCC 30.31A.500 governs changes to the Official Site Plan.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
- i. A Final Plan shall have been submitted by the applicant and approved by PDS, per the provisions of SCC 30.31A.310.
 - ii. Additional right-of-way, parallel and adjacent to the right-of-way centerline of Manor Way shall be deeded to the County along the development's frontage such that 37 feet of right-of-way exists from centerline of the Manor Way right-of-way.
 - iii. Additional right-of-way, parallel and adjacent to the right-of-way centerline of 156th Street SW shall be deeded to the County along the development's frontage such that 32 feet of right-of-way exists from centerline of the 156th Street SW right-of-way.
 - iv. Additional right-of-way connecting the intersecting right-of-way lines of Manor Way and 156th Street SW with a 35 foot radius curve shall have been deeded to the County.
 - v. In accordance with the provisions of chapter 30.66B SCC the developer shall pay the County \$1,669.60 per unit as mitigation for project impacts on road system capacity within Transportation Service Area "D".
 - vi. In accordance with the provisions of Chapter 30.66A SCC the developer shall pay the County \$491.05 per new dwelling unit as mitigation for parks and recreation impacts to the Nakeeta Beach Park Service Area No. 307.
 - vii. In accordance with the provisions of SCC 30.66C.010, the applicant shall pay school impact mitigation fees on a per unit basis, for the Edmonds School District No. 15, which are 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. Credit shall be given for 6 existing parcel(s). Units 1 through 6 shall receive credit."
- C. Prior to combustible construction the developer shall provide a final certificate of water availability indicating that all hydrants have been installed charged and they are operational. The hydrants shall provide a minimum 1,000 gpm for a 2 hour duration at 20 psi.
- D. Prior to the final and occupancy of the first unit:
- i. Frontage improvements conforming to county standards shall have been installed along the Manor Way and 156th Street SW frontage.
 - ii. A northbound to westbound left turn pocket shall have been constructed at the project entrance/Manor Way intersection to the satisfaction of the DPW.
 - iii. Address numbers shall be on the building and street signage shall be in place.

- iv. Fire apparatus access shall not be obstructed in any manner including the parking of vehicles.
 - v. Signage stating “NO PARKING – FIRE LANE” to ensure access availability as indicated on the no parking plan shall be provided.
 - vi. The tops of new hydrants shall be colored light blue and the hydrants shall be provided with a 4” STORZ fittings.
 - vii. In conformity with applicable standards and timing requirements the 10-foot wide landscape buffer along Manor Way and 156th St. SW as shown on the preliminary landscape plan (Exhibits 5D through 5G) shall be implemented.
 - viii. In conformity with applicable standards and timing requirements all required detention facility landscaping shall be installed in accordance with the approved landscape plan.
- E. Prior to the final and occupancy of each subsequent unit, in conformity with applicable standards and timing requirements, all interior landscaping around each building and in the parking areas shall be installed in accordance with the approved landscape plan. Installation of landscaping for a completed structure that may be impacted by an adjacent structure under construction may be delayed until the adjacent structure is completed to a point to allow the installation of the landscaping.
- F. After final asphalt lift install a blue street reflector on the hydrant side of centerline to indicate hydrant locations.
- G. Prior to the final and or occupancy of the last unit and in conformity with applicable standards and timing requirements, all internal landscaping shall be installed.
- H. All development activity shall conform to the requirements of Chapter 30.63A SCC.

Nothing in this 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.

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

DECISION:

The request for an Official Site Plan for a 139 unit multi-family development with the project name Blackstone Residential Community is hereby APPROVED, SUBJECT TO COMPLIANCE by the applicant, with the CONDITIONS set forth in Conclusion 6, above.

Decision issued this 21st day of May, 2007.

James A. Densley, Pro Tem 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 **May 31, 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, 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 **June 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.

Staff Distribution:

Department of Planning and Development Services: Erik Olson

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.

This decision is binding but will not become effective until the above precondition(s) have been fulfilled and acknowledged by the Department of Planning and Development Services (PDS) on the original of the instant decision. Document(s) required for fulfillment of the precondition(s) must be filed in a complete, executed fashion with PDS not later than May 21, 2008.

1. "Fulfillment" as used herein means recordation with the County Auditor, approval/acceptance by the County Council and/or Hearing Examiner, and/or such other final action as is appropriate to the particular precondition(s).
2. One and only one six month period will be allowed for resubmittal of any required document(s) which is (are) returned to the applicant for correction.
3. This conditional approval will automatically be null and void if all required precondition(s) have not been fulfilled as set forth above; PROVIDED, that:
 - A. The Examiner may grant a one-time extension of the submittal deadline for not more than twelve (12) months for just cause shown if and only if a written request for such extension is received by the Examiner prior to the expiration of the original time period; and
 - B. The submittal deadline will be extended automatically an amount equal to the number of days involved in any appeal proceedings.

ACKNOWLEDGMENT OF FULFILLMENT OF PRECONDITIONS

The above imposed precondition(s) having been fulfilled by the applicant and/or the successors in interest, the Department of Planning and Development Services hereby states that the instant decision is effective as of _____, _____.

Certified by:

(Name)

(Title)