

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

DATE OF DECISION: April 25, 2008

PLAT/
PROJECT NAME: **20TH STREET SHORT PLAT**

OWNER/
APPLICANT: CHB Development LLC
(now Ronin Northwest)

FILE NO: 05-125473-000-00-SP

TYPE OF REQUEST: Nine lot short plat with public road

DECISION
(SUMMARY): **APPROVE WITH CONDITIONS**

BASIC INFORMATION

GENERAL LOCATION: 11618 – 20th Street, SE, Everett, within Section 29,
Township 29 North, Range 6 East, W.M.,
Snohomish County, Washington.

ACREAGE: 2.3 acres

NUMBER OF LOTS 9

AVERAGE LOT SIZE: 7,663 square feet

MINIMUM LOT SIZE: 5,280 square feet

DENSITY: 3.9 du/ac (gross)

CURRENT ZONING: R-7,200

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Low Density Residential
(6 du/ac – Lake Stevens UGA)

UTILITIES:

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

SCHOOL DISTRICT: Snohomish

FIRE DISTRICT: No. 8

SECLECTED AGENCY RECOMMENDATIONS:

Planning and Development Services: Approve with conditions

INTRODUCTION

The application (Exhibit 1) was originally submitted to Planning and Development Services (PDS) on November 3, 2006, and determined complete for regulatory purposes as of the date of submittal. Additional information was submitted on August 1, 2007, September 4,, 2007, and November 14, 2007.

An issue involving a City of Everett water easement was not resolved until conditional approval was received from the City on January 10, 2008.

The Deputy Hearing Examiner made a site familiarization visit on February 16, 2008.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record public hearing as required by the County code. Exhibit 14 (Affidavit of Mailing); Exhibit 15 (Affidavit of Notification by Publication); Exhibit 16 (Posting Verification).

A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on January 14, 2008. (Exhibit 10). No appeal was filed.

The Deputy Examiner held an open record hearing on February 21, 2008. Witnesses were sworn, testimony was presented, and exhibits were entered. Subsequently, with the applicant's consent, a pro tempore hearing examiner reviewed the audio CD of the hearing and rendered the decision herein.

PUBLIC HEARING

The public hearing commenced on February 21, 2008 at 11:32 a.m.

1. Representing PDS was Monica McLaughlin, Planner.
2. Representing the Applicant was Tasha Branch of Ronin Northwest.
3. Tom Sage, Engineer, PDS, added testimony on access. There was no public testimony.

The hearing concluded at 11:44 a.m.

NOTE: For a complete record, an electronic record of this hearing is available through the Office of the Hearing Examiner.

FINDINGS OF FACT

A. General

1. The master list of Exhibits and Witnesses are in the record in this file. All exhibits were considered by the Examiner and are hereby incorporated by reference, as if set forth in full herein.
2. Summary of the Proposal: The applicant proposes a nine-lot short subdivision on 2.3 acres. Access will be through the new residential plat to the south (Pasadera Heights) via extension of 116th Drive SE, creating a culdesac within the property. This culdesac will be a public road. An existing single-family home on one of the new lots will be retained. The nine single-family residential lots will be created with the use of lot averaging. The average lot will be 7,663 square feet in size. The smallest lot area will be 5,280 square feet. All lots will be accessed from 116th Drive SE. The present access to the existing home from 20th Street SE will be closed. Right-of-way improvements along 20th Street SE shall consist of curb, gutter, planter strip and sidewalk. The stormwater management system will incorporate an underground detention vault and stormfilter. There will be a separate detention tract and a small open space tract. Water service will be provided by the Snohomish County PUD No. 1. Sewer service will be provided by the Lake Stevens Sewer District. Mitigation fees are to be paid in accordance with Chapters 30.66A, B, and C, SCC, for the project impacts to community parks, nearby road system traffic and to the Snohomish School District.

3. Site Description: The 2.3 acres site is rectangular in shape and lies on the south side of 20th Street SE (Hewitt Avenue) approximately 1.2 miles east of SR-9. There are no slopes greater than 33% on the parcel. The north and south sides of the property are forested with mature native trees. There are no streams or wetlands. The southern part of the site contains a 100-foot wide easement granted to the City of Everett for its water transmissions mains. The easement area is vegetated in grass. Grassy patches also surround the existing home.
4. Adjacent zoning and uses: The subject property and adjacent areas are all zoned R-7,200. There is single-family residential development to the north and east. A new single-family residential plat lies to the south. The property to the west is vacant.

B. Issues of Concern

5. There was no public testimony at the hearing. No letters or emails from neighborhood residents were received by PDS during processing of the application. However, concerns were raised by the City of Everett Department of Public works regarding the layout of the short plat and its compatibility with Everett's 100-foot wide water transmission line easement which runs east-west through the southern part of the property. Within this easement are three 48-inch water mains. There are plans to replace two of these lines – one within 2-3 years and the other in approximately 10 years. Because this work could severely impact access to lots within the short plat for several weeks, the City requested that potential lot buyers be notified of the plans and that provisions for adequate fire protection be provided. Conditions of approval addresses these requests. The applicant will need to obtain permits from the City of Everett in order to construct the proposed roadway and any utilities within the easement.

C. Compliance with Codes and Policies

6. Parks Mitigation:

The project will comply with Chapter 30.66A SCC, which in this case requires payment of \$1,361.22 per each new single family residential unit to be paid prior to building permit issuance for each unit. Compliance with Chapter 30.66A SCC is acceptable mitigation for parks and recreation impacts in accordance with county policies.

7. Traffic Mitigation and Road Design Standards
(Title 13 SCC & Chapter 30.66B SCC):

The Traffic Review Section of PDS, in concert with the Department of Public Works (DPW), has reviewed the proposal for compliance with Title 13 and Chapter 30.66B of Snohomish County Code and is recommending approval. A summary of their comments is provided below.

A. Road System Capacity [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.

The development will generate 76.56 new average daily trips (ADT) and has a road system impact fee of \$27,867.84 (\$3,483.48/unit) based on \$364/ADT, the current fee rate for residential developments inside the urban growth area, for TSA B. These figures do not 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.

The estimates of trip generation for the development are based on the 7th Edition of the Institute of ITE Trip Generation Report as follows:

ITE Land Use Category: Single Family detached housing

ITE Land Use Code:210

Applicable Measurement Unit (ITE Independent Variable): number of SFR residential units

Number of applicable measurement units for this development: 8

Trip Generation Calculations

Trip Generation Based on Average Rates

New average daily trips = $8 \times 9.57 = 76.56$ ADT

New PM peak-hour trips = $8 \times 1.01 = 8.08$ PM PHT

New AM peak-hour trips = $8 \times 0.75 = 6.00$ AM

B. Concurrency [SCC 30.66B.120]

The County makes a concurrency determination for each development application to ensure that the development will not impact a county arterial unit in arrears.

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent as of Dec 26, 2006. The expiration date of the concurrency determination is six years from this date.

The development has been deemed concurrent on the following basis:

Development generating 50 or fewer peak-hour trips in TSA with one or more arterial unit in arrears, SCC 30.66B.160(2)(a). The subject development is located in TSA B which, as of the date of submittal, had the following arterial units in arrears: Unit 238. Based on peak-hour trip distributions, the subject development did NOT add three (3) or more peak-hour trips to any of the arterial units in arrears. Pursuant to SCC 30.66B.160(2)(a) the development is determined concurrent. The development generates 6.00 a.m. peak-hour trips and 8.08 p.m. peak-hour trips which is not more than the threshold of 50 peak-hour trips in which case the development would also have to be evaluated under SCC 30.66B.035.

C. 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 B 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.

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 20th Street SE 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 5 feet

The road, 20th St SE, 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 recording unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.

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.

Access to the site will be provided by an extension to 116th Dr SE within the plat of Pasadera Heights which will be constructed as a public residential street. The street is proposed to end with a cul de sac onsite. All proposed lots will have access to the 116th Dr SE extension, either directly or through a shared driveway. DPW accepts the proposed layout.

F. Dedication of Right-of-Way [SCC 30.66B.510 and 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.

20th St SE is designated as a minor urban arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 40 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 dedicate 10 feet of additional right-of-way. This is adequately shown on the preliminary short plat.

This road 20th St SE is not in the impact fee cost basis (Appendix D of the Transportation Needs Report), therefore credit towards the applicant's impact fee for the right-of-way dedicated that is more than 30 feet from centerline is not applicable.

G. State Highway Impacts [SCC30.66B.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.

The applicant has determined that this project requires no mitigation to WSDOT:

WSDOT was provided notice of application for this project and an opportunity to comment. Comments from WSDOT have been received as of Nov. 13, 2006. WSDOT agrees that mitigation is not required by 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.

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.

Since a TDM plan was not submitted with the initial application a cash payment is required. The trip reduction percentage for this development is 5 percent. The TDM obligation for this development is therefore equivalent to 5% of the 8.08 new PM peak hour trips x \$1,500.00 which equals \$606.00 (\$75.75/lot). A written offer for payment of this TDM obligation was received on Sept 12, 2006.

J. Pedestrian Facilities [RCW 58.17.110]

Per a phone call on February 13 2008, and subsequent email from Gayle Kniseley of the Snohomish School District, the location of the school bus stop that will serve the short plat is at 117th Street SE and 22nd Street SE within the adjoining plat of Pasadera Heights. Sidewalks are to be installed within the subject short plat which connect to the sidewalk system within Pasadera Heights. Hence, safe walking conditions will be provided and the applicant will not be required to construct any off-site walkways.

8. Mitigation for Impacts to Schools (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 Snohomish School District at the time of building permit submittal and collected at the time of building permit issuance for the proposed units. Credit will be given for the one existing lot.

9. Drainage and Grading (Chapters 30.63A and 30.63B SCC)

PDS has found the drainage plan (Exhibit 12) and supplementary drainage report (Exhibit 13) submitted with the land use application to be in conformance with the regulatory provisions of the County's drainage code, SCC 30.63A. Rainwater runoff from the majority of the site will be collected and transported via catch basins and pipes to an underground detention vault which is to be installed at the southwest corner of the site. Water from the vault will be released at a controlled rate into a stormfilter catch basin to help clean the water before it is discharged to a level spreader and sheet flow to the southwest to the historic drainage course. Drainage from most of Lot 7 and the homes on Lots 8 and 9 will be routed to the existing drainage system within 116th Drive SE. The downstream analysis in the drainage report states that there were no observed downstream problems within a ¼ mile of the proposed development. A grading permit, including a temporary erosion and sedimentation control plan (TESCP) consistent with regulatory provisions of Title 30.63B SCC and Chapter 33 UBC, must be obtained for any grading outside of the county right-of-way. Grading to accommodate site development is estimated at 3,500 cubic yards excavation and 750 cubic yards fill.

10. Critical Areas Regulations (Chapter 30.62 SCC)

A site investigation found no wetlands or other critical areas as defined by Snohomish County Critical Areas Regulations (SCC 30.62) on or within 100 feet of the subject property.

11. Uniform Fire Code (Chapter 30.53A SCC)

Fire apparatus access as depicted has been found to meet the minimum requirements of SCC 30.53A.150. Prior to the start of combustible construction, fire hydrants will need to be installed and operational. Approved addresses are required to be placed on all new buildings and signs or pavement striping denoting fire lanes shall be placed on proposed roads as necessary (to be determined by the County Fire Marshal's Office during the construction plan review stage) to ensure access by emergency vehicles is not impeded. Because access to all lots other than Lot 9 could be impacted when the replacement of water transmission line #2 begins, dwellings on all lots, except Lot 9, shall be provided with NFPA 13-D fire suppression systems.

12. Utilities

Water service is to be provided by the Snohomish County PUD No. 1 (Exhibit 20) and sewer service by the Lake Stevens Sewer District (Exhibit 23). The Snohomish County P.U.D. No. 1 indicates that it has sufficient capacity to provide electrical power to the proposed project (Exhibit 24).

13. Consistency with GMA Comprehensive Plan

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 Plan; and the Comprehensive Park & Recreation Plan. The General Policy Plan has been revised since its initial adoption by a number of amendments. On December 21, 2005, effective February 1, 2006, the Council adopted Amended Ordinances 05-069 through 05-079, 05-081 through 05-085, 05-090 which amended the map and text of the Snohomish County GMA Comprehensive Plan, added rural lands to Urban Growth Areas and adopted area-wide rezones within the Urban Growth Areas of the county respectively. This application was complete after the effective date of the Amended Ordinances. Therefore, the subject application has been evaluated for consistency with the version of the GMA Comprehensive Plan, which became effective on February 1, 2006, and as revised through the completeness date of the application.

The subject property is designated as Urban Low Density Residential (6du/ac Lake Stevens UGA only) on the Future Land Use map. The Urban Low Density Residential- (6) designation "allows mostly detached housing developments on larger lot sizes in the Lake Stevens UGA. It is applied to most of the non-constrained ULDR land in the Lake Stevens UGA. Implementing zones include R-7,200 and PRD 7,200." A rezone is not proposed with this application.

14. Zoning (Unified Development Code, Title 30)

Single family dwellings are a permitted use in the R-7,200 zone. The number of lots proposed (9) is allowed per code. The proposal meets the minimum net density requirements of SCC 30.23.020 and access requirements of SCC 30.24.052. Prior to the issuance of building permits for the proposed dwellings, PDS staff will verify that the building setbacks, building height, and lot coverage requirements outlined in SCC 30.23 will be met.

The proposal complies with the lot size averaging provisions of SCC 30.23.210, which provide that the minimum lot area of the applicable zone is deemed to have been met if the area in lots plus critical areas and their buffers and areas designated as open space or recreations uses, if any, divided by the total number of lots equals or exceeds the minimum lot area of the zone in which the property is located. In no case shall the density achieved be greater than the gross site area divided by the underlying zoning. Lots may not be less than 3,000 square feet in area, and any lot having an area less than the minimum zoning requirement must provide a minimum lot width of not less than 40 feet.

Lot size averaging calcs for this proposal are as follows:

Area in lots [68,965] +NGPA [0] + open space [1,926] = 70,891 ÷ number of proposed lots [9] = 7,876 (exceeds the minimum lot size of 7,200 for proposed underlying zone).

15. State Environmental Policy Act (Chapter 30.61 SCC)

PDS issued a DNS for the subject application on January 14, 2008. (Exhibit 10). The DNS was not appealed.

16. Short Subdivision Code (Chapter 30.41B SCC)

SCC 30.41B.030(1) states that a short plat which involves dedication of right-of-way for new public road shall be processed as a Type 2 decision (requiring a public hearing and Hearing Examiner approval). The proposed short plat meets all applicable Chapter 30.41B SCC requirements and, as conditioned, meets the approval criteria outlined under SCC 30.41B.100 with respect to health, safety and general welfare of the community and also as noted below under the section titled RCW 58.17 of this report. The subject lots are outside of all flood hazard areas and will not be subject to flood, inundation or swamp conditions.

17. Plat – Subdivisions – Dedications (Chapter 58.17 RCW)

The short plat has been reviewed for conformance with criteria established by RCW 58.17.060 and .195. Such criteria requires that no short plat may be approved unless it is in conformity with any applicable zoning ordinance or other land use controls which may exist, and that provisions for sidewalks and other planning features that assure safe walking conditions for students who walk to and from school are made.

The proposed plat conforms to applicable zoning codes and the comprehensive plan. There is open space within the plat in the form of open space tracts. The single-family homes on individual lots will be in character with the existing neighborhood. Provisions for adequate

drainage have been made in the conceptual short plat design which indicates that the final design can conform to Chapter 30.63A SCC and State Department of Ecology drainage standards. The short plat, as conditioned, will conform to Chapters 30.66A, B and C SCC, satisfying county requirements with respect to road and walkway design standards, and with parks and recreation, traffic and school mitigation. Confirmation of availability of water, sewer and electrical service to the project has been obtained from the respective local utility purveyors.

18. The reviewing Examiner concurs in the determinations made by PDS and adopts the same.
19. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Examiner has original jurisdiction over this preliminary short plat application pursuant to Chapters 30.72 and 2.02 SCC.
2. The requirements of SEPA have been met.
3. A short plat which involves dedication of right-of-way for a new public road is processed as a Type 2 decision requiring a public hearing and Hearing Examiner approval. SCC 30.72.060(7).
4. The proposal is consistent with the GMA-Comprehensive Plan and with the applicable County development regulations. RCW 58.17.160, 195. Appropriate mitigation of project-related impacts is provided for.
5. The proposal, as conditioned, adequately provides for the public health, safety and general welfare, and for necessary items of design and infrastructure. Adequate public services exist to serve the proposal.
6. The public use and interest will be served by the creation of the short plat.
7. Any finding herein which may be deemed a conclusion is hereby adopted as such.

DECISION

Pursuant to the authority granted under SCC 30.72.060 and SCC 2.02.155(2), the application for preliminary short plat approval is hereby GRANTED, subject to the following CONDITIONS.

CONDITIONS

- A. The Preliminary Short Plat received by PDS on November 17, 2008 (Exhibit 11) shall be the approved plat configuration. Changes to the approved preliminary short plat are governed by SCC 30.41B.310.

- 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. A Right-of-Way Use Permit shall be obtained from the City of Everett prior to any construction within the City's 100-foot wide water transmission line easement (AF#792615.)

- C. The following additional restrictions and items shall be indicated on the face of the final plat:
 - i. "The lots within this short subdivision shall be subject to school impact mitigation fees for the Snohomish School District 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 33.66C.010. Credit shall be given for one existing parcel. Lot 5 (containing the existing house) shall receive credit."

 - ii. "The dwelling units within this development are subject to park impact fees in the amount of \$1,361.22 per single-family unit as mitigation for impacts to the Centennial parks 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 November 3, 2011 (5 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 new lot mitigation payments in the amounts shown below for each single-family residential building permit:

\$3,484.48 per lot for mitigation of impacts on County roads paid to the County.

\$75.85 per lot for Transportation Demand Management paid to the County.


These payments are due prior to or at the time of building permit issuance for each single-family residence. Notice of these mitigation payments shall be contained in any deeds involving this short plat or the lots therein. Once building permits have been issued all mitigation payments shall be deemed paid by PDS.”

- iv. “No lot shall take access from 20th Street SE. Access shall be from 116th Drive SE.”
 - v. “Access to all lots, except Lot 9, may be affected by future pipeline construction and/or maintenance activities associated with the 100-foot wide City of Everett water transmission line easement depicted on the short plat.”
 - vi. “The dwellings on all lots, except Lot 9, shall be provided with NFPA 13-D fire suppression systems.”
- D. Prior to recording of the final plat:
- i. Urban standard frontage improvement shall be constructed along the parcel’s frontage along 20th Street SE to the satisfaction of the County
 - ii. Ten (10) feet of additional right-of-way width on the south side of 20th Street SE shall be dedicated to the County
- E. 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 short 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 property requested and granted pursuant to SCC 30.41B.300.

Order issued this 25th day of April, 2008



Wick Dufford, Hearing Examiner Pro Tempore

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 5, 2008**. 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 **MAY 9, 2008** 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: David Radabaugh

<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>
