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

In the Matter of the Application of)
C & B INVESTMENTS NW, LLC) **FILE NO. 06-103847 SD**
12-lot planned residential development subdivision)
on 1.65 acres with a concurrent rezone from R-9,600)
to R-7,200)

DATE OF DECISION: January 4, 2008

PLAT/PROJECT NAME: *Leonesse*

DECISION (SUMMARY): The 12-lot planned residential development subdivision and concurrent rezone to R-7,200 are **CONDITIONALLY APPROVED with a precondition.**

BASIC INFORMATION

GENERAL LOCATION: This project is located at 19327 Grannis Road located in Section 17, Township 27 North, Range 5 East, W.M., Snohomish County, Washington.

ACREAGE: 1.65 acres

NUMBER OF LOTS: 12

DENSITY: 7.3 du/ac (gross)
8.6 du/ac (net)

ZONING: CURRENT: R-9,600
PROPOSED: R-7,200

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Low Density Residential (4-6 du/ac)
Subarea Plan: Paine Field
Subarea Plan Designation: Urban (4-6 du/ac)

UTILITIES:

Water/Sewer: Alderwood Water and Wastewater

SCHOOL DISTRICT: Northshore No. 417

FIRE DISTRICT: No. 7

INTRODUCTION

The applicant filed the Master Application on June 5, 2006. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 21, 22 and 23)

A SEPA determination was made on August 23, 2007. (Exhibit 20) No appeal was filed.

The Examiner held an open record hearing on November 13, 2007, the 169th day of the 120-day decision making period. Witnesses were sworn, testimony was presented and exhibits were entered at the hearing. 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.

PUBLIC HEARING

The public hearing commenced on November 13, 2007 at 1:04 p.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore had a general idea of the particular request involved.
2. The applicant, C & B Investments, LLC, was represented by Ry McDuffy of Land Resolutions with concurrence of the subject site's owner, Jeffrey A. Lynk. Snohomish County was represented by David Radabaugh of the Department of Planning and Development Services. Robert Pemberton of that County Department was involved but did not appear at the hearing. No member of the general public appeared at the hearing. A pre-hearing letter of opposition (Exhibit 27) was submitted jointly by vicinity residents Ted Baughman and Jennifer Treiberg. They raise issues of traffic, steep slopes, wetlands and creeks, and neighborhood character. Their concerns are examined below.

The hearing concluded at 1:46 p.m.

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

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS OF FACT

Based on all of the evidence of record, the following findings of fact are entered.

1. The applicant, C & B Investments, LLC, filed an application to rezone from R-9600 to R-7200 the subject 1.6-acre site addressed 19327 Grannis Road in order to construct thereon a 12-lot single-family subdivision as a planned unit development with the smallest lot being 2,641 square feet and the average lot being 3,086 square feet. One existing home will be removed. Existing septic systems will be decommissioned. Public water and sewer service will be supplied by Alderwood Water and Wastewater District.

Neighborhood Character and Environmental Effects

2. Vicinity residents Ted Baughman and Jennifer Treiberg (hereinafter "opponents") reside at 19411 Grannis Road adjoining the subject site. They assert by pre-hearing document (Exhibit 27) that the proposed planned residential development deviates from the developed character of the vicinity. The opponents note (as does the staff report, Exhibit 38) that currently the subject site and all abutting properties are zoned R-9600 and developed as such. The abutting recorded plat of Stafford Vista has lots ranging from one-quarter acre to one-third acre. Lots to the northwest of the subject site across Grannis Road are one-half acre or larger. Opponents point out that abutting the subject site on the northeast are 23 homes on lots laid out pursuant to R-9600 zoning requirements. In all, opponents assert, there are dozens of homes in the vicinity, many of which date to the early part of the last century. The opponents argue that to place the proposed R-7200 density development adjacent to those homes:

"...would be an irresponsible aberration which will significantly degrade the quality of the existing neighborhood."

3. The ravine of Sulfur Springs Creek abuts on the immediate south below onsite slopes of up to 40%. A Category 3 wetland lies at the foot of those slopes and extends offsite to the south to include the Grannis Pond wetlands. A six-foot wide gravel walking trail ending in a loop lies along the southwestern edge of the proposed subdivision (Tract 997) to provide access to the wooded recreational open space area (Tract 99) at the southern base of the slope. A report dated February 15, 2006 titled, "Subsurface Exploration, Geologic Hazard, and Geotechnical Engineering Report" by Associated Earth Sciences, Inc. (Exhibit 10) is thorough and specific in its recommendations for seismic and erosion hazards and mitigation and design recommendations. For example, the report (at p. 7) recommends that no storm water be allowed to discharge onto or near the top of the site's moderate to steep slopes and, instead, be tightlined into an approved storm water drainage system. Those recommendations are adhered to by the detention vault and tightline down the southwestern property line to an outfall near the above-mentioned wetland and ravine. That report also recommends that a professionally prepared topographical survey be done to assist the County in determining whether any of the slopes should be deemed a Landslide Hazard Area. That survey was completed approximately three months later on May 5, 2006 (Exhibit 18b). The report (Exhibit 10) includes a slope stability assessment (p.5) with the opinion that the risk of deep-seated landslides is low for static conditions if the recommendations in the report are followed. The Drainage Plan Report (Exhibit 9) at "Core Requirements" appears consistent with the recommendations of the above-cited geotechnical report (Exhibit 10).

4. The Examiner's review of the site drawings indicates 90% or more of all development including grading will occur at or above the 345-foot elevation contour in the northern two-thirds of the subject site. Consequently, there is minimal disturbance to the above-mentioned steep slopes on the southern one third of the subject site or to the fir forest thereon. Development above the steepest sections of the slopes will end at contour 355 and drop 50 feet to contour 305 in a lateral distance of approximately 150 feet. Development of all 12 proposed lots will occur on the northern two-thirds of the subject site, where the slope is less severe or rolling. The Category 3 wetland will be protected by a 25-foot buffer and will be undisturbed as a designated Native Growth Protection Area.
5. The opponents note that their property has for 60 years had a territorial view over the mixed fir and cedar forest "...now facing decimation." They urge denial of the requested rezone, asserting that the existing zoning's lower density would allow more greenbelt area to alleviate the adverse impact on the neighborhood. As noted in the foregoing findings, the forest is primarily on the steep slopes on the southern one-third of the subject site and that forest is not going to be disturbed.

Traffic

6. All 12 lots will have vehicular access via a private road extending to the east from Grannis Road. The average weekday vehicular trips generated by 12 lots at 9.57 trips per home totals 115 trips. Without the requested rezone to R-7200, the applicant could develop the site under the current R-9600 zoning with an estimated 9 dwellings, using the planned unit development bonus. Thus, the proposed rezone adds only three lots generating 29 more average daily trips than could be produced as currently zoned
7. The staff and applicant argue that the proposed subdivision will not place three or more peak hour trips at any inadequate road condition site or at any arterial segment in arrears. In some factual settings, the Examiner finds concurrency analysis to be inadequate consideration of actual, project-specific traffic. Here, the three-lot difference in density between the existing zoning and the proposed zoning is not sufficient to find as fact that the requested rezone will materially increase the vicinity traffic. Grannis Road is designated an arterial on the County's Arterial Circulation Map and commensurate traffic loads are intended.
8. However, neighbors Baughman/Treiberg argue (Exhibit 27) that it is irresponsible to add any more traffic at all to the Grannis Road/196th Street SE corridor linking 35th Avenue SE on the east and SR 527 (Bothell-Everett Highway) on the west until the currently needed (but unfunded) signal at the Grannis Road/35th Avenue SE intersection is installed and until contiguous sidewalks, bike lanes or shoulders are built along that corridor. They note that speeds in the vicinity tend to exceed the posted limit. They point out: "*Development cannot be viewed in a vacuum...*" and they note the numerous developments approved along 35th Avenue SE and the 196th Street SE/Grannis Road corridor.
9. No evidence of record contradicts the facts presented by Baughman/Treiberg in Exhibit 27. However, the record demonstrates (Exhibit 38) 15 feet for widening Grannis Road will be dedicated along the entire frontage of the subject site to facilitate one more improved segment of that heavily-traveled road. The required frontage improvements are vertical curb, five-foot planter and five-foot sidewalk, all to be constructed prior to occupancy. Further, the development will have vehicular access for all lots via a private, cul-de-sac road without a through connection due to steep slopes and in order to avoid neighborhood impacts of cut-through traffic seeking a short cut between Grannis Road and 35th Avenue SE.

10. Northshore School District No. 417 reports (Exhibit 30) that school children of all grade levels will be bussed to and from a school bus stop located at 193rd Place SE and Grannis Road. That location is approximately 150 feet north of the terminus of the required frontage improvements. Therefore, the applicant is required to construct an offsite walkway to the bus stop.
11. The DPW reviewed the request with regard to traffic mitigation and road design standards. That review covered Title 13 SCC and Chapter 30.66B SCC (Title 26B SCC) as to road system capacity, concurrency, inadequate road conditions, frontage improvements, access and circulation, and dedication/deeding of right-of-way, state highway impacts, impacts on other streets and roads, and Transportation Demand Management. As a result of this review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions. The Department of Public Works recommends that the request be approved as to traffic use subject to conditions specified below herein

The Planned Residential Development

12. The proposal must comply with the provisions of SCC 30.42B (effective May 17, 2004), which establishes the planned residential development (PRD) as an alternative to a traditional subdivision in Urban Growth Areas in order to allow flexibility and creativity in site layout and design and protect critical areas through the use of open space. (SCC 30.42B.010)
13. The staff report and recommendation (Exhibit 38) to the Hearing Examiner is thorough and detailed in this record. The portions of that report at Section J addressing the PRD are incorporated herein by this reference. That staff analysis demonstrates that the application is in compliance with the unit yield and bonus provisions of SCC 30.42B.040(2) and (3) and that the application appropriately proposes to construct single-family detached residential dwellings pursuant to SCC 30.42B.100. The project would comply with park mitigation requirements under Chapter 30.66A SCC (Title 26A SCC) by the payment of \$1,244.49 for each new single-family home. School mitigation requirements under SCC 30.66C have been reviewed and set forth in the conditions.
14. The staff report concludes that the application meets the design criteria for open space (SCC 30.42B.115), for landscaping, tree retention, drainage detention facilities, and roads, access, circulation, pedestrian facilities and parking. (SCC 30.42B.125 – 140) The application also meets requirements for dimensional standards and other bulk regulations, housing types and PRD official site plan criteria. (SCC 30.42B.145, .150 and .200)
15. A PRD is required to comply with the subdivision requirements of SCC 30.41A and RCW 58.17.100, .110, .120 and .195. The staff report notes that the PRD lots will not be subject to flood, inundation or swamp conditions, are all outside regulated flood hazard areas and the proposed roads meet all design standards. (SCC 30.41A 100 and .210)
16. The Alderwood Water and Wastewater District provided a preliminary certificate of water and sewer availability dated June 22, 2006 (Exhibit 32) but which expired after one year and must be renewed as a precondition to this decision of the Hearing Examiner becoming effective. (Rules of Procedure, Part 900)

The Proposed Rezone to R-7200

17. Chapter 30.42A covers rezoning requests and applies to site-specific rezone proposals that conform to the Comprehensive Plan. The two applicable decision criteria under SCC 30.42A.100 provide that the Hearing Examiner may approve a rezone only when (1) the proposal is consistent with the comprehensive plan and (2) the proposal bears a substantial relationship to the public health, safety, and welfare.
18. The proposed rezone to R-7200, unlike a rezone to LDMR, does not authorize stacked apartments or other density as a result of potential future applications. The proposed rezone is generally consistent with the General Policy Plan's designation of the subject site as Urban Low Density Residential (4-6 dwellings per acre). Although the density proposed is 7.3 dwellings per acre, the site is within an Urban Growth Area intended for increased density and the density is consistent with the density standards of the requested R-7200 zoning, which is an implementing zone for the Urban Low Density Residential designation (Exhibit 38). The 12 lots proposed is a density consistent with the Comprehensive Plan and the GMA-based zoning regulations of SCC Subtitle 30.2.
19. The staff report methodically devotes nearly four full pages to a listing of General Policy Plan policies applicable to the proposed rezone and PRD. There is no value in reprinting those four pages here. Instead, the full text of those pages (pgs. 8 – 11) are adopted by this reference because the Examiner concurs with the analysis fully, which covers 29 enumerated policies of the GPP from elements of land use, housing, transportation, capital facilities, utilities and natural environment. If staff review had been cursory or not supported by the evidence of record, the Examiner would independently evaluate compliance with the GPP. In this instance, the staff report is well done.
20. Any finding of fact in this decision which should be deemed a conclusion is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner's decision on a rezone application is a Type 2 decision based on (1) a report by the County staff and a file assembled by that staff and (2) evidence received through an open record public hearing. The burden of proof is on the applicant to demonstrate by a preponderance of the evidence that the proposed rezone meets the two applicable rezone decisional criteria set out at SCC 30.42A.100: (1) that the proposed rezone is consistent with the Comprehensive Plan and (2) that the proposed rezone bears a substantial relationship to the public health, safety and welfare. The Hearing Examiner's decision on those criteria is the final County action unless appealed to the County Council. (SCC 30.72.020 -.025)
2. The request is for a site-specific rezone and, therefore, must be consistent with the GMA Comprehensive Plan and Snohomish County Code regulatory provisions which implement that plan. The request for R-7,200 zoning here is consistent with the type and character of land use permitted on the project site by the General Policy Plan (GPP) ULDR designation of the property. However, in addition to being consistent with the map designation, the proposal must also be consistent with relevant Plan policies such as (but not limited to) Land Use Policy 1.A.4 concerning infrastructure capacity, Land Use Policy 2.A.3 concerning critical areas, and Housing Policy 2.A.1 concerning preservation of the character of stable residential neighborhoods. (See County Council Motion No. 07-447.) In fact, the General Policy Plan provides at page LU-15 that the County will broaden the variety of housing types in traditional single-family and multi-family neighborhoods:

“...while respecting the vitality and character of established residential neighborhoods A mix of housing types with a range of densities will be encouraged throughout UGA’s, as long as they are carefully sited, well designed, and sensitively integrated into existing communities.” (Emphasis supplied.)

3. As noted above, the instant proposal’s consistency with the Comprehensive Plan is only one of the two applicable criteria set out at SCC 30.42A.100 which must be met before a rezone can be approved. A rezone must also comply with the second criterion: i.e., the rezone must bear a substantial relationship to the public health, safety and welfare. The bold-quoted language above is an expression of the second of the two rezone criteria. Stated in the converse, the quoted language provides that until it is determined that a proposed rezone’s housing types are carefully sited, well designed, and sensitively integrated into an existing community, the proposed rezone cannot be found to bear a substantial relationship to the public health, safety and welfare. That burden of proof which must support that determination cannot be met without actual consideration of site-specific facts. A conclusory statement that a proposed rezone meets the criteria is no more acceptable than would be a conclusory statement that the proposed rezone fails to meet the criteria. The departmental staff and, in turn, the Hearing Examiner, must “show your work” and rationale in concluding whether or not a proposed rezone meets or does not meet the applicable criteria.
4. The requirement to actually consider the applicable criteria, particularly when relevant citizen concerns are expressed, is mandated by the County Council’s Amended Ordinance No. 07-022 effective June 4, 2007, which at page 2 repeats the above-quoted Comprehensive Plan provision encouraging a mix of housing types with a range of densities only if “*carefully sited, well designed, and sensitively integrated into existing communities...*” The County Council reinforced that requirement to “show your work” in its Motion No. 07-447 of August 8, 2007 remanding a rezone application on appeal (Brookstone Investments, LLC, 06-135148) for failure to have adequately evaluated all project-level factors concerning the two criteria discussed above herein.
5. The Examiner concludes that although the proposal is unarguably at a significantly greater density than the surrounding community, the application demonstrates an attempt to be carefully sited, well designed and sensitively integrated into the existing community. For example, the existing community has a pattern of infill developments at approximately the proposed density. The PRD will have public sewers and potable water, not the septic and wells which tend to be incompatible with a surrounding existing community. The record does not establish that the PRD will add traffic beyond the capacity of vicinity streets and the PRD will not be opening a through road to carry significant traffic through neighborhood streets not designed to bear such load. The wooded steep slopes will be undisturbed but for relatively minor dwelling placement near the crest of the slopes. The geotechnical report sets out recommendations for assuring slope stability to protect the wetland below. The drainage system meets all sizing and functional standards. Safe walkways for school children will be provided.
6. For all of the above reasons, the request complies with the Snohomish County Subdivision Code, Chapter 30.41A SCC (Title 19 SCC) as well as the State Subdivision Code, RCW 58.17 and with the Planned Residential Development provisions of SCC 30.42B. The proposed subdivision complies with the established criteria therein and makes the appropriate provisions for public, health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and other planning features including safe walking conditions for students.

7. In summary, the rezone to R-7200 and the 12-lot PRD made possible by that rezone are consistent with the Comprehensive Plan and serve the public use and interest and make appropriate provision for the public health, safety and welfare are required by the Snohomish County Code and the Revised Code of Washington (citations above). The applications should both be approved subject to a precondition assuring water and sewer availability and to conditions set forth below.
8. Any conclusion of law in this decision which should be deemed a finding of fact is hereby adopted as such.

DECISION

Based on the findings of fact and conclusions of law entered above, the decision of the Hearing Examiner on the application is as follows:

The requests for a preliminary plat for a 12-lot subdivision with a current rezone from Residential-9,600 to Residential-7200 are hereby **CONDITIONALLY APPROVED**, subject to the following precondition and conditions:

PRECONDITION

- A. Updated letters of water and sewer availability shall be obtained from the Alderwood Water and Wastewater District.

CONDITIONS

- A. The PRD official site plan/preliminary plat received by PDS on July 2, 2007 (Exhibit 18) shall be the PRD official site plan and approved plat configuration. SCC 30.42B.220 governs changes to the planned residential development official site plan; changes to the approved plat are governed by SCC 30.41A.330.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
 - i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
 - ii. The platlor shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by Chapter 30.62 SCC, or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the county.
 - iii. A detailed landscape and recreational facilities plan shall have been submitted to and approved by PDS. This plan shall include Type B landscaping for the rear yard of Lot 12. The plan shall be prepared in general conformance with Exhibit(s) 19, with the changes noted in this condition, and in conformance with all required landscape standards for perimeter, streetscape and open space treatment, and shall include a significant tree retention plan.

- iv. PRD covenants, deeds and homeowners' association bylaws and other documents shall have been submitted to and approved by PDS guaranteeing maintenance of open space, community facilities, private roads and drives, and all other commonly-owned and operated property. The documents shall have been reviewed by and accompanied by a certificate from an attorney that they comply with Chapter 30.42B SCC requirements prior to approval by PDS. To ensure permanent, ongoing maintenance of landscape areas, landscape maintenance covenants shall be prepared by the applicant and submitted together with documents otherwise required for maintenance of site improvements pursuant to SCC 30.42B.250.
- v. The plat construction shall minimize the grading on lots 9 through 11 and be based on the concept that house design shall include daylight basements.

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 Northshore School District No. 417 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. Lot 1 shall receive credit."

- ii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:

\$2,017.75 per lot for mitigation of impacts on county roads paid to the county,

\$69.38 per lot for transportation demand management paid to the county,

These payments are due prior to or at the time of each building permit issuance. Notice of these mitigation payments shall be contained in any deeds involving this subdivision, short subdivision of the lots therein or binding site plan. Once building permits have been issued all mitigation payments shall be deemed paid by PDS.

- iii. All Critical Areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made) with the following language on the face of the plat;

"All NATIVE GROWTH PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur, except removal of hazardous trees. The activities as set forth in SCC 30.91N.010 are allowed when approved by the County."

- iv. "All open space shall be protected as open space in perpetuity. Use of the open space tracts within this subdivision is restricted to those uses approved for the planned residential development, to include open play areas, picnic areas, recreation trail system, viewing platform, drainage facilities, benches and required landscape improvements as shown on the approved site plan and the approved landscape plan. Covenants, conditions and restrictions as recorded with the plat, and as may be amended in the future, shall include provisions for the continuing preservation and maintenance of the uses, facilities and landscaping within the open space as approved and constructed."

- v. The developer shall pay the County \$1,244.49 per new dwelling unit as mitigation for parks and recreation impacts in accordance with Chapter 30.66A SCC; provided, however, the developer may elect to postpone payment of the mitigation requirement until issuance of a building permit for that lot. The election to postpone payment shall be noted by a covenant placed on the face of the recorded plat and included in the deed for each affected lot within the subdivision.
- vi. On lots with more than one road frontage, county Engineering Design and Development Standards (EDDS) restricts lot access to the minor road, unless the Department of Public Works grants a formal deviation.
- vii. The final plat shall show a 15-foot right-of-way dedication along the property frontage with Grannis Road to total 35 feet from the right-of-way centerline.
- viii. All trees in Tract 999 shall be preserved unless deemed to be hazardous.

D. Prior to recording of the final plat:

- i. Urban standard frontage improvements shall be constructed along the property frontage on Grannis Road, unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development. [SCC 30.66B.410]
- ii. Construction of an offsite walkway to the nearest bus stop location for the public school students as identified by the Northshore School District (currently the intersection of Grannis Road and 193rd Place SE) must have been completed along a legal and the most direct route in any location where none exists. If the bus stop location changes, the condition for an offsite walkway would change accordingly.
- 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 plattor 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. A bond or other guarantee of performance shall have been submitted to and accepted by PDS to assure compliance with the provisions of SCC 30.42B.125.

E. In conformity with applicable standards and timing requirements:

- i. The preliminary landscape plan (Exhibit 19), as modified by Condition B.iv. shall be implemented. All required detention facility landscaping shall be installed in accordance with the approved landscape plan.

F. All development activity shall conform to the requirements of Chapter 30.63A SCC.

Nothing in this permit/approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.

Preliminary plats which are approved by the county are valid for five (5) years from the date of approval and must be recorded within that time period unless an extension has been properly requested and granted pursuant to SCC 30.41A.300.

Decision issued this 4th day of January, 2008.

Ed Good, Deputy 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 **JANUARY 14, 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 **JANUARY 18, 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>

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 JANUARY 4, 2009.

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.
 - 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)
