

**DECISION OF THE SNOHOMISH  
COUNTY HEARING EXAMINER PRO TEMPORE**

DATE OF DECISION: May 6, 2008  
PLAT/PROJECT NAME: **HIGHLAND HILLS ESTATES**  
APPLICANT/OWNER: Dennis Parker  
FILE NO: 06 133308 SD  
TYPE OF REQUEST: **RURAL CLUSTER SUBDIVISION**  
19.59 acres divided into six lots

DECISION: **APPROVE** with conditions

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**BASIC INFORMATION**

GENERAL LOCATION: 4105 Newberg Road, on the east side of the road,  
approximately 400 feet north of its intersection with 40<sup>th</sup>  
Place NE, within Section 1, Township 29 North, Range 6  
East, W.M.  
ACREAGE: 19.59 acres  
NUMBER OF LOTS: 6  
AVERAGE LOT SIZE: 50,358 square feet  
MINIMUM LOT SIZE 42,642 square feet  
ZONING: R-5  
DENSITY 3.27 du/ac (gross)

COMPREHENSIVE PLAN DESIGNATION: General Policy Plan: Rural Residential

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UTILITIES

Water: Snohomish County Public Utility District No. 1  
Sewer: On-Site Septic

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SCHOOL DISTRICT: Snohomish School District #201

FIRE DISTRICT 8

### **INTRODUCTION**

The applicant filed the Master Application on December 19, 2006. (Exhibit 1) The application was determined to be complete as of the date of submittal.

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

A Determination on Nonsignificance (DNS) under the State Environmental Policy Act (SEPA) was issued on February 7, 2008. (Exhibit 20) No appeal was filed.

The Examiner held an open record public hearing on May 1, 2008. Witnesses were sworn, testimony was presented, and exhibits were entered. The decision here is based on the record made.

### **PUBLIC HEARING**

The public hearing commenced on May 1, 2008, at 9:03 a.m.

1. The applicant, Dennis Parker, was represented by Ted Trepanier, P.E.
2. PDS was represented by Elbert Esparza, Planner, and Anne Goetz, Transportation Reviewer.
3. Public testimony was given by Rick O'Brien, a neighboring property owner.

### **FINDINGS OF FACT**

#### **A. GENERAL**

1. The master list of exhibits and witnesses are contained in the record in this file. All testimony and exhibits were considered by the Examiner and are hereby incorporated by reference, as if set forth in full herein.
2. Summary of Proposal. The application is for a Rural Cluster Subdivision (RCS), dividing 19.59 acres into six lots. The property contains critical slopes and wetlands which will be protected by Native Growth Protection Areas, replaced or mitigated. The proposal also will enclose up to 60.1% of the land in a restricted open space tract. The access will be via a private roadway leading off of 40<sup>th</sup> Place NE. Potable water will be furnished by Snohomish County Public Utility District No. 1 (PUD #1). Sewage disposal will be by individual septic systems. Impacts fees will be provided for impacts to the road system and schools.

3. Site Description. The majority of the site is forested, with patches of maintained pastures. There is an existing single family residence off-site and adjacent to Newberg Road on the west. The topography is undulating with, in general, a westerly aspect. An existing gravel road bisects one of the eight existing wetlands. Three of the wetlands are forested and less than 5,000 square feet in size. All wetlands are non-riparian, forested Category 3 wetlands. The largest wetland is Wetland E in the eastern portion of the site which is part of large wetland/ecosystem that drains to Lake Bosworth.. An off-site Type 4 stream flows west from Wetland A and then down slope into a culvert that crosses under Newberg Road.
4. Adjacent Zoning/Uses. The site and the area are zoned R-5 and predominately used for single-family residences. The property to the east is owned by the State Department of Natural Resources and is unlikely to be developed.

**B. ISSUES OF CONCERN**

5. One neighbor expressed concern over the use of 40<sup>th</sup> Place NE for access to the proposed plat. Use of 40<sup>th</sup> Place NE will allow the preservation of a Category 3 wetland and protection for an offsite Type 4 stream. The applicant has an existing easement to access off of 40<sup>th</sup> Place NE which will be adjusted to avoid another wetland. The portion of 40<sup>th</sup> Place NE from Newberg Road to the access way into the plat will be improved with pavement and widened.

At the hearing, another neighbor expressed concerns about visual impacts, wetland preservation, drainage and road maintenance. Visual impacts will be mitigated by buffers. A professionally designed drainage system will insure that pre-development conditions are maintained off-site. The lot owners will be members of a homeowners association which will, among other things, be obliged to participate in the maintenance of the relevant portion of 40<sup>th</sup> Place NE and to maintain the new private access way into the development.

**C. COMPLIANCE WITH CODES AND POLICIES**

6. Parks Mitigation. (Chapter 30.66A SCC) No parks mitigation fees will be required.
7. Traffic Mitigation and Road Design Standards. (Title 13 SCC & Chapter 30.66B SCC)

A. Road System Capacity [SCC 30.66B.310]

The development will generate 57.42 new average daily trips (ADT) and has a road system impact fee of \$22,795.74 (\$3,799.29/unit) based on \$397/ADT, the current fee rate for residential developments outside the UGA, for TSA C. Consistent with SCC 30.66B.340, payment of this road system impact is required prior to building permit issuance.

B. Concurrency [SCC 30.66B.120]

Since this development will not impact any arterial unit in arrears, and will not cause any arterial unit to fall in arrears, and does not impact any designated ultimate capacity arterial units, it is deemed concurrent. A concurrency certificate has been included with Public Works' final recommendation, which will expire six calendar years from the date the concurrency determination was made. Prior to the expiration date of the development's concurrency certificate, plat construction shall have been obtained or a new concurrency determination will be required.

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

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]

The property fronts on Newberg Road for 55 feet. Full standard frontage rural improvements shall be constructed along Newberg Road, which shall consist of 20 feet of pavement from the right-of-way centerline (a 12-foot travel lane and an 8-foot shoulder). Construction of frontage improvements is required prior to recording of the plat unless bonding of improvement is allowed by PDS, in which case construction is required prior to any occupancy of the development.

E. Access and Circulation [SCC 30.66B.240]

Originally access was proposed via a road on the panhandle of the site adjacent to the existing residence on Newberg Road. However this route would have been very steep and have entailed a large wetland impact. Therefore, this approach was abandoned and, instead, just a portion of the panhandle will be used for the driveway access to the existing residence.

Now, access to the development is proposed via a new private road off of 40<sup>th</sup> Place NE. The latter is an existing private road that intersects with Newberg Road south of the subject site. It provides access for as many as 15 lots. 40<sup>th</sup> Place NE may remain private, but a "do not protest conversion to public" statement will be required to be placed on the face of the plat so that other users may convert the road to public status in the future at their own expense with the permission of the remaining parties in interest.

The applicant will be required to improve 40<sup>th</sup> Place NE to comply with EDDS 3-090, Rural Private Subcollector, from the Newberg Road to the proposed private road into the development. A pavement width of 27 feet is required for two 10-foot lanes, a 7-foot paved shoulder on one side, and a 1-foot gravel shoulder on the other side. The homeowners association will be obliged to provide the development's share in road maintenance.

The location of wetlands, buffers, and NGPA areas limits development potential to the east. The large parcel of property that is owned by the State of Washington (Department of Natural Resources) has a low probability for development. The private road off of 40<sup>th</sup> Place NE will be a rural private low volume access road per EDDS 3-080. The minimum design requirement is a 20-foot wide gravel road in a 30-foot easement, and a 40-foot radius cul-de-sac. The plans show these features.

F. Dedication of Right-of-Way [SCC 3066B.510 and 30.66Bf.520]

Newberg Road is designated a minor collector arterial on the County's Arterial Circulation Map. This requires a right-of-way on each side of the right-of-way centerline. Thirty feet of right-of-way presently exist on the development's side of the street. Therefore, five feet of additional right-of-way is required. This is shown on the plans.

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

The Washington Stated Department of Transportation (WSDOT), with whom the County has an Interlocal Agreement, was provided notice of application for this project and an opportunity to comment. Comments from WSDOT, dated January 4, 2007, were received. WSDOT agrees that no mitigation measures for state highways are needed, based on the traffic study dated December 7, 2006, by SnoCoTraffic Studies (Exhibit 14).

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

No City jurisdictions that have an Interlocal Agreement with the County will be impacted by new trips from the subject development.

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

SCC 30.66B.630 requires developments inside an Urban Growth Area (UGA) to Provide TDM measures. Since this development is outside any UGA, TDM measures are not required.

J. Pedestrian Facilities [RCW 58.17.110]

Comments dated January 10, 2007, were received from the school district, identifying the location of the bus stop as Newberg Road and 40<sup>th</sup> Place NE (Exhibit 34). The 7-foot paved shoulder walkway constructed on 40<sup>th</sup> Place in addition to two 10-foot paved travel lanes on 40<sup>th</sup> Place NE will provide safe walking conditions for children walking to the bus stop.

8. Fire Code

The road shown on the preliminary plat map (Exhibit 19) meets the minimum requirements of Chapter 30.53A and the IFC for width and slope and turn around radii for the cul-de-sac shown at the end of the private road.

Each lot is a minimum of one acre in size and therefore the project is exempt from fire hydrant and fire flow requirements per SCC 30.53A.315(1).

Per UFC section 901.4.4, the new dwellings shall be provided with approved address numbers placed in a position that is plainly legible and visible from the road fronting the property. The numbers shall contrast with their background.

Per UFC sections 902.2.4.2 and 103.1.2, if there is a gate installed at the entrance of the private roadway into the site, the gate shall be activated by the emergency vehicle opticom strobe that opens the gate automatically with the approach of an emergency vehicle in either direction, or by a means acceptable to the local fire district. In the event of power failure, the gate shall open automatically and remain in the open position until the power is restored. The gate shall provide a minimum 20-foot clear opening for fire apparatus access. This shall be noted as a restriction on the fact of the plat. No comments were received from Fire District #8.

9. School Mitigation (Chapter 30.66C SCC)

Pursuant to Chapter 30.66C, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Snohomish School District No. 201 at the time of building permit submittal and will be collected at the time of building permit issuance for the proposed units. PDS has included a recommended condition of approval for inclusion in the project decision.

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

The documents provided were of sufficient detail to determine a recommendation on the preliminary drainage and grading review. The plat application for the *Highland Hills Estates* project has been reviewed and found in compliance by the Engineering Section within PDS with reference to 1992 DOE, EDDS 2004, UDC Chapters 30.63A, 30.63B and 30.63C SCC.

PDS (Engineering) has reviewed the concept offered and is recommending approval of the project, subject to conditions which would be imposed during full drainage plan

review pursuant to Chapter 30.63A SCC. 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.

The 19.0 acre site is undeveloped. Average slopes on the site are approximately 0.50 percent with the steepest being approximately greater than 35 percent in the east portion of the site. The topography slopes to the east. There are no existing structures found on-site. Soils on-site are mapped as Tokul gravelly sandy loam per the NRCS Soil Survey of Snohomish County and that classified as High Erosion Hazard Area SCC 30.62.200.

The approximate new impervious surfacing is 50,100 square feet (1.15 ac).

It is assumed that this proposal will create more than 5,000 square feet of new impervious pollution generating surface, which is the definition for a major development activity per SCC 30.63A.120. Proposed grading is in excess of 100 cubic yards which does trigger the need for a grading permit and SWPP Plan per SCC 30.63B and Rule 3044. A grading permit, to include a TESCP, issued pursuant to the UDC Chapter 30.63.B shall have been obtained for any on-site grading.

The designer shall submit a request to modify Section 30.63A.330(8) SCC and allow the proposed vault to exist in a shared tract. Detention systems must be in a separate tract or a waiver must be approved to forego this requirement for this site development.

No downstream flooding was reported by Surface Water Management or the downstream drainage report in the targeted drainage report prepared by Mr. T. Trepanier, P.E. (Exhibit 16)

11. Critical Areas Regulations (Chapter 30.62 SCC)

The site is dominated by second growth forest and has four principal wetland areas on-site, all Category 3 forested systems with three very small forested Category 3 wetlands that together are less than 1,500 s.f. There is an off-site Category 3 wetland adjacent on both side of the access roadway near the intersection with Newberg Road.

The applicant is proposing a six lot RCS with access via a private road that connects with 40<sup>th</sup> Place NE to Newberg Road. A portion of 40<sup>th</sup> Place NE is existing gravel which is bounded on two sides by Category 3 wetlands that were likely connected at one time. The six lots are to be configured in the western portion of the site along the private road which has a cul-de-sac at the eastern end serving three of the lots. To the east of the cul-de-sac is the largest of the Category 3 wetlands with three smaller wetlands along the private road. Some minor buffer impacts for the creation of the access road are proposed to be mitigated through buffer averaging. Three very small wetlands are to be filled under the Best Management Practices (BMP) section of code. All of the mitigated critical areas and buffers are proposed to be permanently protected as NGPA/Es.

The minor impacts proposed to the outer portions of Category 3 wetland buffers for the creation of the access road, driveway for Lot 1 and the detention facility, have all been compensated for directly through the application of the buffer averaging criteria as

allowed per SCC 30.62.350(1)(c)(i) and as described in the approved conceptual Critical Area Study and Mitigation Plan for Parker – Newberg Road prepared by Wetland Resources, Inc., dated December 13, 2006, received by PDS on December 19, 2006. Forested habitat will be added at a 1:1 ratio for lost forested buffer. In one location, forested habitat will be added at a 1:1 ratio even though the buffer impact area is currently pasture. Three small wetlands are proposed to be filled pursuant to SCC 30.62.360(6) with mitigation in the form of added forested buffer at a 1:1 ratio. The lost storage capacity for the water volume within Wetlands F, G & H will be added to the drainage calculations and the detention pond re-sized accordingly. The three filled BMP wetlands together total 1,431 s.f.

An evaluation of the information submitted in the revised application coupled with an on-site investigation has resulted in a determination that the application is complete and in conformance with Chapter 30.62 SCC (Critical Areas Regulation) and is consistent with the purpose and objectives of the Chapter in regulation of development activities in critical areas to safeguard the public health, safety and welfare.

12. GMA Comprehensive Plan (General Policy Plan, GPP)

The subject property is designated Rural Residential – 5 on the GPP Future Land Use map, and is not located within an UGA. It is not located within a mapped Growth Phasing Overlay. According to the GPP, the Rural Residential – 5 designation “includes lands that were designated Rural on pre-GMA subarea comprehensive plans and zoned Rural 5.” “The implementing zone in this designation will continue to be the R-5 zone.”

The 6 lots proposed are consistent with the density provisions of Snohomish County’s GMA-based zoning regulations under Subtitle 30.2.

13. Zoning (Chapter 30.2 SCC)

This project meets zoning code requirements for lot size, including rural cluster subdivision, bulk regulations and other zoning code requirements.

14. Environmental Policy (Chapter 30.61 SCC)

PDS issued a Determination of Nonsignificance (DNS) for the subject application on February 2, 2007 (Exhibit 20). The DNS was not appealed.

15. Subdivision Code (Chapter 30.41A SCC)

The proposed plat also meets Chapter 30.41A SCC requirements. A complete application for the proposed plat was received by PDS on December 19, 2006. The proposed plat, as conditioned, also meets the general requirements under Section 30.41A.100 with respect to health, safety and general welfare of the community. As proposed, the subject lots will not be subject to flood, inundation or swamp conditions. The lots as proposed are outside



of all regulated flood hazard areas. As conditioned, the plat will meet all SCC 30.41A.210 design standards for roads.

16. Rural Cluster Subdivision Standards (Chapter 30.41C SCC)

The subject RCS application has been reviewed for conformance with the RCS standards in Chapter 30.41C SCC. The applicant has provided the information required on an RCS development plan and preliminary plat, the latest versions of which were received by PDS on January 18, 2008 (Exhibit 19), and in an open space management plan (Exhibit 15) that is to be implemented by a homeowner's association. The RCS application meets all of the criteria required for preliminary approval listed in SCC 30.41C.200. All utilities shall be located underground. The proposal meets requirements for restricted open space and bulk regulations, lot yield, and bonus residential density.

The proposal complies with the provisions of SCC 30.41C.010 by clustering the lots on the most buildable and least environmentally sensitive portion of the site while retaining approximately 60.1% (11.77 acres) of the property in restricted open space; the proposal is considered preferable to traditional lot-by-lot development through its efficient use of the most buildable portion of the site together with the retention of environmentally sensitive areas in permanent open space tracts; the use of the clustering concept provides greater compatibility with the surrounding development by providing buffers between adjoining properties; the use of the clustering concept has reduced the need for impervious surfaces resulting in the protection of groundwater and potential water pollution from erosion and other drainage related problems; the project complies with critical areas regulations, thereby minimizing the loss of the County's environmentally sensitive areas.

The application has been reviewed for compliance with the requirements of SCC 30.41C.200 as follows: critical areas have been identified and designated as NGPA; a sight-obscuring buffer of native vegetation has been provided (Exhibit 15) by utilizing existing vegetation instead of landscaping; in accordance with the provisions of Table 30.41C.210(1), DPW has indicated that the public roads shall be constructed to EDDS standards; all utility lines are to be located underground; there is no unbuildable land as defined by Chapter 30.41C SCC located on site which would be required to be included in NGPAs; no on-going agriculture or forestry uses are proposed within the open space tracts ; there are no adjacent designated open spaces which affect the location of the open space in the RCS; an Open Space Management Plan has been provided detailing the required maintenance and management tasks for the proposed open space; physical separation of clusters is provided; at least 75% of the residential lots abut a required buffer or open space tract; the proposed RCS has been designed in accordance with the natural features of the site, maintains rural character, and maximizes the visibility of the open space tracts from the adjoining road; the proposal is not served by public sanitary sewers; clusters of lots are located near the interior of the site and are not located on prominent topographic features, to the extent feasible; and the site is located within a rural fire district.

The site will be served by public water by Snohomish County Public Utility District Number 1, Water Services, as shown by the Preliminary Certificate of Water Availability dated January 1, 2007 (Exhibit 33) and based upon site/soil review can recommend preliminary approval for individual septic systems with conditions (Exhibit 35).

The application complies with the provisions of SCC 30.41C.230 and SCC 30.41C.240 based on the following analysis:

Basic lot yield: 853,399 square feet/200,000 square feet = 4.26 lots

Bonus residential density	= 15%
Additional bonus density	= 15.1%
Total lot yield	= 5.54 lots
Total lot yield-rounded	= 6 lots
Total lots proposed	<u>= 6 lots</u>

17. State Subdivision Statute (Chapter 58.17 RCW)

RCW 58.17.100, 110, 120 and 195 require that the plat conform with applicable zoning ordinances and comprehensive plans and make “appropriate provisions” for the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, other public ways, potable water supplies, sanitary wastes, schools and other planning features including safe walking conditions for students.

The proposed plat conforms with the applicable zoning standards and the Comprehensive Plan. Open space is provided in the form of wetlands and buffer areas. The single-family homes will be in character with the existing neighborhood. Provisions for adequate drainage have been made in the conceptual lot design which indicates that the final design can conform to Chapter 30.63A SCC. The plat, as conditioned, will conform to Chapters 30.66B and C SCC, satisfying County requirements with respect to traffic, roads, walking conditions and school mitigation. Public water is to be provided. On-site systems will adequately treat sewage.

18. The Examiner concurs with the analysis set forth in the Staff Report by the various County Departments 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 jurisdiction over this application.
2. The requirements of SEPA have been met.

3. The proposal is consistent with the GMA-Comprehensive Plan and with applicable development regulations. (RCW 58.17.100.195) In particular the proposal meets the requirements of Chapter 30.41C SCC, Rural Cluster Subdivisions.
4. The proposal makes “appropriate provisions” for the public health, safety and general welfare, and for applicable items of design and infrastructure as required by RCW 58.17.110. Adequate public services are available to serve the proposal.
5. The public use and interest will be served by the platting of the subdivision.
6. Any finding herein which may be deemed a conclusion is hereby adopted as such.

### **DECISION**

The application for the ***HIGHLAND HILLS ESTATES RURAL CLUSTER SUBDIVISION*** is hereby **GRANTED**, subject to the following conditions:

#### **CONDITIONS**

- A. The preliminary plat received by PDS on 1/18/2008 (Exhibit 19) shall be the approved plat configuration. Changes to the approved plat are governed by SCC 30.41A.330.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the County:
  - i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
  - ii. The platting 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. During construction review, the applicant shall include the lost storage capacity for the 1,431 s.f. of BMP wetland fill in the drainage calculations for the purpose of sizing the detention pond.
- C. The following additional restrictions and/or items shall be indicated on the face of the final plat:
  - i. “The lots within this subdivision will be subject to school impact mitigation fees for the Snohomish School District No. 201 to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for one existing parcel. 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:

\$3,799.29 per lot for mitigation of impacts on County roads 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 short subdivision of the lots therein. 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. The final plat shall show a 5-foot right-of-way dedication, to total 35 feet from the centerline of the right-of-way (the section line) along the property frontage on Newberg Road.

- v. "In consideration of the access approval, the owners of the lots of the development, their heirs, successors, and assigns, covenant and agree not to protest the conversion of the thirty (60) foot easement and private road, 40<sup>th</sup> Place NE, to a public road at any time the county determines a public road is necessary, or a public road is required for further development of any lots that have access to or abut on said road. The owners of the units, their heirs, successors, and assigns further agree and covenant to provide all necessary authorizations and to execute all necessary conveyance documents, at no cost and expense to the county, to accomplish the dedication and/or conversion of the private road to the county for public road purposes. This covenant touches and concerns the, successors, and assigns. This covenant to provide right-of-way in no way obligates the owners to fund any construction or maintenance of a public road."

D. Prior to recording of the final plat:

- i. Rural standard frontage improvements shall have been constructed along the property frontage with Newberg Road unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.
- ii. The private plat road shall have been constructed to EDDS 3-080 as the minimum required road standard.
- iii. 40<sup>th</sup> Place NE shall have been constructed to EDDS 3-090 as the minimum required road standard between Newberg Road and the private plat road.

- iv. Native Growth Protection Area boundaries (NGPA) shall have been permanently marked on the site prior to final inspection by the County, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The plat may use other permanent methods and materials provided they are first approved by the County. Where an NGPA boundary crosses another boundary (e.g.: lot, tract, plat, road, etc.), a rebar marker with surveyors' cap and license number must be placed at the line crossing.

NGPA signs shall have been placed no greater than 100 feet apart around the perimeter of the NGPA. Minimum placement shall include one Type 1 sign per wetland, and at least one Type 1 sign shall be placed in any lot that borders the NGPA, unless otherwise approved by the County biologist. The design and proposed locations for the NGPA signs shall be submitted to PDS for review and approval prior to installation.

- v. During construction review, the applicant shall include the lost storage capacity for the 1,431 s.f. of BMP wetland fill in the drainage calculations for the purpose of sizing the detention pond.

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 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 6<sup>th</sup> day of May, 2008

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Wick Dufford, Hearing Examiner Pro Tempore

<b>EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES</b>
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The Decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more Parties of Record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

**Reconsideration**

Any Party of Record may request reconsideration by the Examiner. A Petition for Reconsideration must be filed in writing with the Office of the Hearing Examiner, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing

Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **MAY 16, 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, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **MAY 20, 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 this case.

Staff Distribution:

Department of Planning and Development Services: Elbert Esparza  
Department of Public Works: Ann Goetz

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.