

REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: April 24, 2008

PLAT/PROJECT NAME: **PACIFIC MEADOWS 3**

APPLICANT/
LANDOWNER: J & J Properties NW LLC

FILE NO.: 06-135149-000-00-SD

TYPE OF REQUEST: 47-lot Planned Residential Development Subdivision of approximately 8.47 acres.

DECISION (SUMMARY): Approval with conditions

BASIC INFORMATION

GENERAL LOCATION: 11901 – 55th Avenue NE, Marysville (in Section 10, Township 30 North, Range 5 East, W.M., Snohomish County, Washington)

ACREAGE: 8.47 acres

NUMBER OF LOTS: 47

AVERAGE LOT SIZE: 4,764 square feet

MINIMUM LOT SIZE: 4,111 square feet

DENSITY: 5.5 du/ac (gross)
9 du/ac (net)

ZONING: R-7,200

COMPREHENSIVE PLAN DESIGNATION:

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

UTILITIES:

Water: City of Marysville

Sewer: City of Marysville

SCHOOL DISTRICT: Marysville

FIRE DISTRICT: No. 12

PDS STAFF RECOMMENDATION: APPROVE preliminary subdivision and PRD official site plan with conditions

INTRODUCTION

The applicant filed the Master Application on June 7, 2007. (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. Exhibit 24 (Affidavit of Mailing); Exhibit 25 (Affidavit of Notification by Publication); Exhibit 26 (Posting Verification).

A SEPA determination was made on January 17, 2008. (Exhibit 23) No appeal was filed.

The Examiner held an open record hearing on March 11, 2008, the 91st day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

PUBLIC HEARING

The public hearing commenced on March 11th at 11:02 a.m.

1. Representing PDS was Monica McLaughlin, Senior Planner.
2. The applicant was represented by Jack Molver.

The hearing concluded at 11:35 a.m.

NOTE: The oral transcript is hereby made a part of the record in this matter. For a full and complete record, a verbatim recording of the hearing is available in the Office of the Hearing Examiner.

FINDINGS OF FACT

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

1. The master list of exhibits and witnesses which is a part of this file and which exhibits were considered by the Examiner is hereby made a part of this file as if set forth in full herein.
2. Summary of Proposal: The applicant requests preliminary plat approval for a 47 lot subdivision/Planned Residential Development on an 8.47 acre site zoned Residential-7,200 (R-7,200). An existing mobile home park on the site will be removed, and the new lots developed with single family homes. A new public road will be constructed through the development which will connect with both 55th Avenue NE and 57th Avenue NE. A cul-de-sac road is also proposed within the development which will intersect with the new connecting road. Also associated with the proposal is a stormwater management system incorporating infiltration and an open water quality pond, utilities, and right of way improvements consisting of curb, gutter, planter strip and sidewalk along the development's road

frontages. A Type 5 stream/drainage ditch along the north and west property lines and its associated buffer will be placed within open space tracts. Water and sewer service is to be provided by the City of Marysville.

3. Site Description: The “L” shaped property is situated on the west side of 57th Avenue SE at its intersection with 119th Place NE., within the new plat of Pacific Meadows Div. 1. The property is currently accessed by 55th Avenue NE, which physically dead ends at the southwest corner of the site. The parcel is developed with an older mobile home park and associated outbuildings. Vegetation on the site consists of lawn, ornamental landscaping and scattered mature trees. A Type 5 stream/drainage ditch runs along the north and west property lines. Terrain is flat.

4. Adjacent Zoning/Uses:

Location	Existing Use	Zoning
Subject property	Mobile home park	R-7,200
South of subject parcel	New plat of Pacific Meadows Div. 1	R-7,200
West of subject parcel	Single family residential	R-8,400 and R-7,200
North of subject parcel	New Plat of Meadows at Two Cedars and existing single family residential	R-7,200
East of subject parcel	New plat of Pacific Meadows Div. 1	R-7,200

B. Public Comment/Issues of Concern.

5. Comments were received (see Exhibit 31 and 32) from the owners of property northwest of and adjacent to the proposed plat (the Wrights). The Wrights expressed concerns about how the proposed development would impact the historical driveway to their property. The applicant responded to these concerns by redesigning the plat to grant the Wrights a legal easement over the subject property so that they could continue to use this driveway. Also, the design of the plat provides for an additional access to the Wright property directly onto the new public road within the plat, which will accommodate future redevelopment of the Wright parcel, if they choose to do so. (See also Exhibit 19, the applicant’s written response to the Wrights’ comments.)

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 \$48.82 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).

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

The impact fee for this proposal is based on the new average daily trips (ADT) generated by 47 lots (and credit for existing trips on the site), which is 9.57 ADT/lot. This rate comes from the 7th Edition of the ITE Trip Generation Report (Land Use Code 210). A 5% credit for ADT and peak hour trips has been given to this project because a Transportation Demand Management (TDM) plan was submitted with the application and has been found acceptable by DPW. The

development will generate 295.35 new ADT and has a road system capacity impact fee of \$71,474.70, based on \$242.00/ADT. This impact fee must be paid proportionately prior to the issuance of each building permit.

Credit for the existing mobile home park was calculated using the trip generation rater from the 7th Edition of the ITE Trip Generation Report (Land Use Code 240) for Mobile Home Park. Each mobile home generates 4.99 ADT, 0.44 AM PHT and 0.59 PM PHT.

The ADT has been calculated as follows: $(47 \text{ lots} \times 9.57 \text{ ADT/lot}) - (24 \text{ mobile homes} \times 4.99 \text{ ADT/unit}) - (2 \text{ single family homes} \times 9.57 \text{ ADT/home}) \times 0.95 \text{ for TDM credit} = 295.35$

The PM PHT has been calculated as follows: $(47 \text{ lots} \times 1.01 \text{ PM PHT/lot}) - (24 \text{ mobile homes} \times 0.59 \text{ PM PHT/unit}) - (2 \text{ single family homes} \times 1.01 \text{ PM PHT/home}) \times 0.95 = 29.73$

The AM PHT has been calculated as follows: $(47 \text{ lots} \times 0.75 \text{ AM PHT/lot}) - (24 \text{ mobile homes} \times 0.44 \text{ AM PHT/unit}) - (2 \text{ single family homes} \times 0.75 \text{ AM PHT/home}) \times 0.95 = 22.03$

B. Concurrency [SCC 30.66B.120]

"Level-of-service" means a qualitative measure describing operational conditions within a traffic stream, and the perception thereof by road users. Level-of-service (LOS) standards may be evaluated in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety. The highway capacity manual defines six levels of service for each type of facility for which analysis procedures are available. They are given letter designations, from A to F, with level-of-service A representing the best operating condition, and level-of-service F the worst.

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and the Department of Public Works has made a determination that the development is concurrent as of July 27, 2007.

A record of developer obligations documenting the concurrency determination will be prepared by DPW in accordance with the provisions of SCC 30.66B.070. The expiration date of the concurrency determination will be six years from July 27, 2007. The development was deemed concurrent on the following basis:

Small or Medium-Sized Development in TSA with no arterial unit in arrears, SCC 30.66B.130 (4): The subject development is located in TSA A which, as of the date of submittal of the application, had no arterial units in arrears. The subject development generates 22.03 AM peak-hour trips and 29.73 PM 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]

The subject proposal will not impact any IRC locations identified at this time within TSA A 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.

D. Frontage Improvements [SCC 30.66B.410]

The subject property frontage is located along 55th Avenue NE. Urban standard frontage improvements are required to match the improvements that have been recently constructed adjacent to the south in the development of Pacific Meadows (PFN 05 127553), consisting of a minimum of 20 feet of pavement, curb, gutter, planter and sidewalk.

Construction of frontage improvements is required prior to recording of the plat 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]

Access is proposed from 55th Avenue NE, which has been improved to the south property line of the subject development north from 116th Street NE by the development of Pacific Meadows Divisions 1 and 2. The development will connect to 55th Avenue in the southwest corner of the property and will extend the public road through the property to the northeast area, where the road will connect to 57th Avenue NE from the development of Pacific Meadows Division 1. 57th Avenue has been constructed north into the development of Meadows at Two Cedars (PFN 05 128311) connecting to 51st Avenue NE via 121st Street, and 57th Avenue is constructed south to 116th Place NE, which connects to 51st Avenue NE. There is a cul-de-sac road off of 55th Avenue to serve the lots in the center of the property. The development will be connected in at least two locations to another constructed road or roads that meet the applicable standards for the resulting traffic volume, as is required by EDDS 3-01 (B.4).

The proposed public road through the property was initially designed as an urban collector road with 55 feet of right-of-way and a 36-foot wide pavement section. After reviewing the road system provided by the developments to the north and to the south, it has been concluded that the proposed public road through the plat may be a residential rather than a collector road. A network of connecting roads have been constructed in the area that would distribute the trips so that it is more likely that 55th Avenue would function as a residential road with 1,000 ADT or less. The north/south road that 55th Avenue intersects with at the east property line, 57th Avenue NE, has been built as a collector road, as it connects 116th Street NE in the south with 121st Street NE in the north. The plans were revised for the subsequent review to show 55th Avenue NE as a residential road; with a right-of-way width of 50 feet. The road was designed to meet the City of Marysville's design standards instead of the County's with a 50-foot right-of-way width instead of a 51-foot width, so the applicant submitted a deviation request to ask that the City's design standards be accepted. The request was approved because the development is within Marysville's urban growth area, and the same request was approved for Divisions 1 and 2 to the south and east.

The same design for 55th Avenue will be continued from the south, which is a "half" road with a 20-foot minimum pavement width, vertical curb, planter and sidewalk built to the City of Marysville's standards. The property at the southwest corner of the development has proposed a short plat (Umniah PFN 07-111533) that would complete the west portion of the improvements for 55th Avenue. North of the Umniah property is a 30-foot wide strip of right-of-way, so the west portion of 55th Avenue will be completed by the Pacific Meadows Division 3 developer where 55th is located within the right-of-way.

The need for changing the new public road design to facilitate a connection to the public right-of-way to the west that was created through the plat of Scottsdale Lane (PFN 01 110845) was considered in this review. It was determined that the connection can be made through

properties to the south of Scottsdale Lane to intersect with 55th Avenue NE in the southwest area of this development where the public right-of-way touches the west property line.

Public comment regarding this proposed development has indicated that there is an unofficial walkway between the older developments northwest of the subject property and Marysville Pilchuck High School that pedestrians have been using for many years. There is a 30-foot wide strip of unopened right-of-way west of the subject property line that could be used for that purpose by pedestrians from northwest of the development. The unopened right-of-way connects to the improved section of 55th Avenue NE, which leads directly to the back of the high school campus. Because the existing pedestrian route is off-site, the Department of Public Works required no improvements to the walkway route.

The owner and the residents of the property at the northwest corner of the development (the Wright property) commented that they were concerned about the location of their access through the development property. It appears that the issues have been resolved to their satisfaction, as well as DPW's satisfaction since the applicant has provided an easement for the existing driveway through Tract 998 and has stubbed public right-of-way for a future road connection to the southeast corner of the property for when the property develops in the future.

There are no vertical curve, road grade, or sight distance issues for this development.

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.

55th Avenue NE is designated as a non-arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 30 feet on each side of the right-of-way centerline. No right-of-way presently exists on the development's side of the right-of-way. Therefore, 30 feet of right-of-way is required, which has been shown on the plans.

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

This development is subject to the Washington State Department of Transportation (WSDOT)/County Interlocal Agreement (ILA) which became effective on applications determined complete on or after December 21, 1997.

The impact mitigation measures under the ILA, Section IV(4.1)(b), may be accomplished through a) voluntary negotiated construction of improvements, b) voluntary negotiated payment in lieu of construction, c) transfer of land from the developer to the State, or d) a voluntary payment in the amount of \$36.00 per ADT. Should the applicant choose the voluntary payment option to mitigate their impact to the state highway system, the payment is calculated at

$$295.35 \text{ ADT} \times \$36.00/\text{ADT} = \$10,632.60$$

The Gibson Traffic study dated April 30, 2007 indicated that trips from the project would not impact any WSDOT improvements projects with three or more PM peak hour directional trips. Comments dated August 17, 2007 were received from WSDOT that agreed with the Gibson Traffic study, and the state does not request traffic mitigation, so none will be required.

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

Public Works will recommend mitigation measures of the development's direct traffic impact on the city, town or other county roads to the approving authority and the approving authority will impose such measures as a condition of approval of the development in conformance with the terms of the interlocal agreement referred to in SCC 30.61.230 between the county and the other agency.

An interlocal agreement has been executed between the County and the City of Marysville for traffic mitigation for impacts on the City's road systems. A copy of a Traffic Mitigation Offer to the City of Maryville for \$162,792.00 was submitted for 48 lots and is acceptable to Marysville. The mitigation amount can be adjusted to reflect one less home proposed; 47 homes instead of 48 as follows (please note that the City does not recognize TDM credit, so no credit has been given in this calculation): 31.29 PM peak hour trips x 80% x \$6,300.00 = \$157,701.60.

An interlocal agreement has been executed between the County and the City of Arlington for traffic mitigation for impacts on the City's road systems. The Gibson Traffic study dated April 30, 2007 indicated that Section 3 (a) 2 of the ILA states that a City of Arlington improvement project in the impact fee basis must be impacted with 3 directional trips from the project before mitigation fees are required. An e-mail dated November 5, 2007 was received from Kelli Hale, the Senior Engineer for the City of Arlington, indicating that the City would accept the conclusion made in the traffic study that the development does not impact a City road project with 3 directional trips, so traffic mitigation is not required.

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. SCC 30.66B.610(1). SCC 30.66B.630(1) succinctly states the basic requirements:

All new developments in the urban growth area are required to provide sufficient TDM measures to indicate the potential for removing a minimum of five (5) percent of a development's P.M. peak hour trips from the road system. SCC30.66B.630. This requirement may be met by:

- (a) Earning trip reduction credits for construction of onsite features pursuant to SCC 30.66B.640;
- (b) Construction of offsite TDM measures pursuant to SCC 30.66B.620; or
- (c) A voluntary payment into an account established for the purpose of contributing to the construction or purchase of specific TDM measures pursuant to SCC 30.66B.625.

A TDM plan was submitted with the application for this development. Exhibit 16. Therefore the TDM obligation fee has been waived, and a 5% reduction credit on the number of ADT generated by this project has been given in the impact fee calculation.

8. Pedestrian Facilities [RCW 58.17.110]

The county is required to make findings regarding safe walking conditions for school children who may reside in the subject development. Comments dated June 5, 2007 have been received from the Marysville School District indicating that all grade levels of public school children would be provided with bus service to school. The bus stop identified by the school district is located at 51st Ave. NE and 116th Street NE. Sidewalks will have been constructed on both sides of the new public roads in this

development and by the adjacent development to the south that connects to 116th Street. Sidewalks will be constructed on the east side of 55th Avenue NE to 116th Street by these developments as well. The section of 116th Street NE between 55th Avenue NE and 51st Avenue NE has a paved shoulder walkway already in place.

9. Mitigation for Impacts to Schools [Chapter 30.66C SCC]

The Snohomish County Council amended Chapter 30.66C SCC by Amended Ordinance 97-095, adopted November 17, 1997, which became effective January 1, 1999, in accordance with Amended Ordinance 98-126, to provide for collection of school impact mitigation fees at the time of building permit issuance based upon certified amounts in effect at that time. The subject application was determined to be complete after the effective date of amended Chapter 30.66C SCC. Pursuant to SCC 30.66C.100, school impact mitigation fees will be determined, according to the Base Fee Schedule in effect for the Marysville School District, at the time of building permit application and collected at the time of building permit issuance for the proposed new units. Credit shall be given for 1 existing lot.

10. Drainage and grading.

Drainage. Rainwater runoff from the roads and driveways will be collected and transported via catch basins and pipes to a water quality/detention pond to be located at the southwest side of the site, within Tract 999. Water from the pond will be released at a controlled rate into an infiltration bed south of the pond. Supplementary documentation from Cornerstone Geotechnical engineers (Exhibit 21) indicates that the native soil in this area is suitable for the proposed infiltration system. An emergency overflow structure and conveyance system will direct runoff from the pond in excess of a 100 year design storm to the northwest into an existing agricultural ditch/Type 5 stream. Water downstream from the site generally flows into the aforementioned agricultural ditch/Type 5 stream. The drainage report notes that there are no reported drainage problems within a ¼ mile “downstream” of the proposed development. Prior to site development, a full drainage plan must be approved pursuant to Chapter 30.63A SCC. Planning and Development Services (Engineering) has reviewed the targeted drainage plan (Exhibit 20C) and supplementary drainage report (Exhibit 9) submitted with the land use application to be in conformance with the regulatory provisions of Chapter 30.63A SCC.

Grading. Grading quantities are anticipated to be approximately 45,000 cubic yards excavation and 45,000 cubic yards fill cubic yards of fill, primarily for road, drainage facility, and home site construction. Water quality will be controlled during construction by using best management practices, including the following cited in the targeted drainage plan:

A temporary gravel construction entrance shall be used between the road and development area, as necessary to knock mud off of tires on vehicles exiting the site. Additionally, minimizing area and duration of soil exposure, construction of temporary storage basins and protective dikes to control storm runoff, and stockpiling and sheathing of stripping, will further reduce the potential for silt-laden runoff. Interim measures to be employed during construction will include the construction of sediment basins, the installation of silt fences along the low side of areas to be cleared and graded, and mulching and hydro seeding of exposed soils after attainment of final grade. Stockpiles will be covered with polyethylene sheathing. If necessary, additional erosion control measures such as baker tanks, sand filters, soil cement additives and chemical stormwater treatment (Liquid Flocc) may be used to prevent sediment laden runoff from exiting the site.

Exhibit 9.

In addition, the applicant has prepared a Storm Water Pollution Prevention Plan and Temporary Erosion and Sedimentation Control Plan (TESCP) as required by Chapter 30.63A SCC.

11. Critical Areas Regulations (Chapter 30.62 SCC)

PDS has determined that the project can comply with county Critical Areas Regulations (CAR). An agricultural ditch located is along the north site of the site within Tract 996 and at the west side of Tract 997. Water within the stream generally flows in a westerly direction. Type 5 streams require a 10 foot wide buffer be designated adjacent to the stream channel. However, the applicant is not required to designate the stream and buffer as a Native Growth Protection Area or easement per SCC 30.62.320 because they lack native vegetation. The standard buffer setbacks have been properly depicted on the plans.

12. Consistency with the 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 on the Future Land Use map and is located within an Urban Growth Area (UGA). The Urban Low Density Residential designation allows mostly detached housing developments on larger lot sizes. Allowed implementing zones are R-7,200, PRD-7,200, R-8,400, PRD-8,400, R-9,600, PRD-9,600 and WFB. The property is already zoned R-7,200 and hence a rezone is not proposed with this application. However, the applicant has demonstrated that the development's density and proposed development is consistent with comprehensive plan. See Exhibit 18.

13. Planned Residential Development Code (Chapter 30.42B SCC)

The applicant has proposed a planned residential development as well as a subdivision. The requirements for a planned unit development are set out below:

SCC 30.42B.040(2) - Unit yield and bonus. The application complies with the requirements for maximum number of dwelling units as follows:

Net Development 30.42B.040 (2)(a)

Gross Site Area	= 369,102 square feet (8.47 acres)
Minus critical areas and buffers	= 13,519 square feet (.31 acres)
Minus lakes and ponds	= 0 square feet
Net Development Area	= 355,583 square feet (8.16 acres)

30.42B.040 (2)(b)

Net Development Area (355,583 square feet) divided by 7,200 (underlying zone) = 49 dwelling units

30.42B.040(2)(c)

Divide critical areas and buffer (13,519 square feet) by 7,200 (underlying zone) = 2

30.42.040(2)(d)

add the numerical unit results of (2)(b), 49 and (2)(c), 2 = 51 and multiply by 1.2 = 61.2 Unit Yield (61 units allowed)

[SCC 30.42B.040(4) allows the maximum number of dwelling units to be rounded to the nearest whole number.]

Per SCC 30.42B.040(3), the maximum number of dwelling units in the residential zones shall be reduced so that maximum net density does not exceed 9 du/net acre. The maximum net density as calculated per SCC 30.42B.040(3) is 5.75 du/ac and does not exceed 9 du/ac.

Section 30.42B.100 - Design criteria - General. The application complies with all of the general design criteria. All requirements of the underlying zone have been applied to this project. This PRD is accompanied by an application for a preliminary subdivision and the applicant has appropriately proposed the construction of single-family detached residential units in the 7,200 zone.

Section 30.42B.115 - Design criteria – Open Space.

(1) Total Open Space: A minimum of 20% of the gross site area, which is 73,820 square feet (1.69 acres) of open space, is required. The total open space provided is 74,901 square feet (1.72 acres).

Total open space will be permanently established in clearly designated separate tracts. The tracts in this development will be owned by all lot owners per SCC 30.42B.115(1)(e)(iii). Required covenants, conditions and restrictions will be recorded to provide for maintenance of the total open space in a manner which will assure its continued use as approved.

(2) Usable Open Space: Total open space must contain usable open space to be developed for active and/or passive recreation purposes, in the amount of 600 square feet per dwelling unit. The minimum requirement in this case is 47 units x 600 = 28,200 square feet. The developer has provided 43,273 square feet of the total open space as usable.

"40% (11,280 square feet) of the required usable open space shall be located in a single open space tract or permanent easement." Tract 999, outside of the fenced detention pond, contains 43,273 sq. ft. of usable open space.

As required by SCC 30.42B.115(2)(d), no areas of usable open space can be less than 20 feet wide (except for segments containing trails, which can be no less than 10 feet wide). Usable open space shall be accessed by all-weather pedestrian pathways and/or sidewalks from all lots and dwellings within the PRD [SCC 30.42B.115(2)(e)]. All usable open space is accessible by the sidewalk system within the PRD.

(3) Active Recreation Use: 30% of the provided usable open space is to be developed for active recreation uses. Usable open space (43,273 square feet) x .30 = 12,982 square feet active recreation required. The applicant is providing a total of 43,273 square feet of active open space within that portion of Tract 999 outside of the detention pond.

Section 30.42B.125 - Design Criteria - Landscaping.

(2) Drainage Detention Facilities: A Type A buffer is required around the outside of the fenced detention/water quality pond and has been depicted on the preliminary landscape plans.

(3) Site Perimeter Landscaping: Site perimeter landscaping shall be established as a tract or easement along any property boundary of a PRD, except for any portion developed as usable open space pursuant to SCC 30.42B.115 or as permanently protected as Native Growth Protection Area (NGPA), where adjacent property is currently zoned or designated for single-family residential use. Perimeter landscaping shall consist of a vegetative screen located along the perimeter of the PRD site with a minimum planting bed width of no less than 15 feet when adjacent property is not developed as a PRD.

(3)(a) – Exceptions:

The following exceptions are applicable to this project:

(iii) When the front or side yards of the perimeter lots of a PRD abut a road frontage, no site perimeter landscaping will be required other than street landscaping pursuant to SCC 30.42.125 (4).

(vi) When the perimeter of the PRD abuts another property zoned PRD, no site perimeter landscaping will be required.

(vii) Where the proposed perimeter lots have a minimum area of 6000 square feet (or) are at least 100 feet in depth, no site perimeter landscaping will be required.

The 15 foot wide perimeter buffer is not required along the west side of Tract 998 or the north side of Tract 996 because of location of the stream and required buffer. Because the front or side yards of the lots on the east side of the site abut road frontage, no perimeter landscaping is required. The lots on the south side of the project abut another PRD Plat, so perimeter landscaping is not required. Perimeter landscaping is not required along the north side of Lot 39 or the west side of Lot 40 because the lots are larger than 6,000 square feet. Nevertheless, the applicant has offered to install a 6 foot high fence along these property lines.

(4) Streetscape Landscaping: Landscaping has been provided that complies with the criteria for streetscape as shown on the landscape plans.

(5) Performance Bond: The submittal of a bond or other guarantee of performance, for approval by PDS prior to construction plan approval, will be required as per the requirements of county code.

Section 30.42B.130 - Design criteria - Tree retention. The applicant has provided a preliminary tree survey that identifies areas of significant trees on the site within the open space tracts (see Exhibit 28). Trees that cannot be saved due to site grading are allowed to be replaced at a 2:1 ratio per SCC 30.42B.130(3)(b). Prior to construction plan approval, the applicant will need to provide PDS with a definitive significant tree survey and replacement plan

Section 30.42B.135 - Design criteria – Drainage detention facilities. The applicant proposes a fenced open pond for detention of stormwater. Preliminary plans have been determined to conform to the provision of Chapter 30.63A SCC, Washington Department of Ecology Drainage Manual, and the Engineering Design and Development Standards (EDDS).

Section 30.42B.140 - Roads, access, circulation, pedestrian facilities and parking.

(1) The PRD has been designed to provide adequate road access, connection and circulation to minimize traffic congestion, provide connection to adjoining neighborhoods where feasible, ensure adequate utility services, and provide emergency vehicle access.

(2) The configuration and design of the roads and access facilities in this development are in accordance with Chapter 30.24 SCC, 30.66B SCC, Chapter 30.53A SCC, and the Engineering Design and Development Standards (EDDS).

(3) Access to all lots in the plat will be by public cul-de-sac road except for Lot 19, which will be accessed by a shared driveway easement over Lot 18.

(5) The county engineer has determined the project provides adequate connection to county roads.

(6) The PRD has been designed to provide adequate and safe pedestrian access to and circulation within the development by sidewalks.

(7) The PRD has been designed to provide parking as required by Chapter 30.26 SCC. The code requires two spaces per dwelling unit plus ½ space per dwelling unit for guest parking. Two spaces per single family dwelling unit (located in each home's garage) are proposed, as well as two additional spaces per dwelling unit (located in the driveway in front of each garage) for guest parking.

(8) The County Engineer approved an EDDS deviation to allow the road design to be to the standards of the City of Marysville (see Exhibit 22).

Section 30.42B.145 - Design criteria – Bulk Regulations. The proposed PRD site plan has been determined to comply with the dimensional standards within Table 1 for single-family residential development to include lot width, lot area, setbacks and lot coverage. All lots can meet these requirements.

Section 30.42B.150 - Specific Housing Types. The applicant proposes single-family residential structures for this development. The development plans indicate variation in modulation of the front setbacks and building envelopes of the proposed residences. The typical floor plans and street elevation drawings submitted (see Exhibit 17) will provide for a visually diversified streetscape as shown in the plans. The use of a variety of floor plans, elevations, and product types provide the modulation and variation prescribed. No portion of any building or appurtenance shall project into any open space.

Section 30.42B.200 - Approval of PRD official site plan - Decision criteria. PDS recommends approval of the PRD official site plan, subject to conditions provided in Section V. of this report. The applicant has provided all of the minimum submittal requirements and demonstrated the project can comply with the requirements of Chapter 30.42B SCC as noted above.

14. Zoning.

Single family dwellings are a permitted use in the R-7,200 zone. There are no duplexes proposed for any of the lots. Prior to the issuance of building permits for the proposed dwellings, PDS staff will confirm that building setbacks and lot coverage requirements outlined in this section are met as well as the building height requirements outlined in SCC 30.23.030(1) Bulk Matrix. The proposal meets the minimum net density requirements of SCC 30.23.020.

15. Utilities

- A. Water. Water is available from the City of Marysville. Exhibit 40.
- B. Sewer. Sewer service is available from the City of Marysville. Exhibit 40.
- C. Electricity. The Snohomish County PUD submitted a letter stating that it has sufficient capacity to provide electric power to the proposed project. Exhibit 35.
- D. Snohomish Health District Approval- the SHD has no objections to the preliminary subdivision approval but indicates that any existing onsite septic systems must be abandoned as required by WAC 246-272-18501 prior to final plat approval and any existing wells must be decommissioned. The Examiner will incorporate these requirements as conditions of approval. Exhibit 38.

16. State Environmental Policy Act Determination (Chapter 30.61 SCC)

PDS issued a Determination of Nonsignificance (DNS) for the subject application on January 17, 2008 (Exhibit 23). The DNS was not appealed.

17. Subdivision Code (Chapter 30.41A SCC)

The proposed plat also meets Chapter 30.41A SCC requirements. A complete application for the proposed subdivision was received by PDS on June 7, 2007. 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. Specifically, the following are met:

- A. Roads. The Examiner finds that based on the information provided in the file, staff report and in the public hearing, the design standards for roads are met. See SCC 30.41A.210.
- B. Flood Hazard. The Examiner finds that the lots as proposed are outside of all regulated flood hazard areas and that none of the lots are proposed in areas that are subject to flood, inundation or swamp conditions. See 30.41A.110.
- C. Fire Code. Fire apparatus access as depicted has been found to meet the minimum requirements of SCC 30.53A.150 by the Fire Marshall's Office. Prior to the start of construction, fire hydrants will need to be installed and operational. Approved addresses are required to be placed on all new buildings and signage or pavement striping denoting fire lanes placed on proposed roads as necessary (to be determined by the county Fire Marshall's Office during the construction plan review stage) to ensure access by emergency vehicles is not impeded. See Exhibit 34.

- D. As indicated earlier in this decision, applicant has met the requirements of the health district, school district, parks, the county drainage and grading code, critical areas regulations and planned residential development code, among others.
- E. The requirements of SCC 30.41A.250 do not apply when the applicant has combined a PRD with a subdivision. See SCC 30.41A.250(2).

18. Plats – Subdivisions – Dedications (Chapter 58.17 RCW)

The subdivision has been reviewed for conformance with criteria established by RCW 58.17.100, .110, .120, and .195. Such criteria 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, 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.

The proposed preliminary subdivision conforms with applicable zoning codes and the comprehensive plan. There is open space provided within the plat in the form of wetland, and buffer areas, the single-family homes on small lots will be in character with the existing neighborhood. Provisions for adequate drainage have been made in the conceptual plat design which indicates that the final design can conform to Chapter 30.63A SCC and State DOE drainage standards. The plat, as conditioned, will conform to Chapters 30.66A, B and C SCC, satisfying county requirements with respect to parks and recreation, traffic, roads and walkway design standards, and school mitigation. A public water and sewer service will be provided by the City of Marysville.

- 19. Any finding of fact in this decision which should be deemed a conclusion is hereby adopted as such.

CONCLUSIONS OF LAW

- 1. The Examiner has original jurisdiction over preliminary subdivision applications pursuant to chapter 30.72 SCC and chapter 2.02 SCC.
- 2. The legal standard the Examiner must review a preliminary subdivision under the state subdivision code, chapter 58.17 RCW, is:

whether 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

RCW 58.17.110.

- 3. Given the information provided in the record and the findings of fact made above, the Examiner concludes that the applicant has met its burden in showing that the preliminary subdivision application should be approved.

4. The Examiner also concludes that given the information provided in the record and the findings of fact made above, the applicant has met its burden in showing that the planned residential development official site plan should be approved.
5. Any conclusion 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 request for Pacific Meadows Division Three, a 47-lot subdivision and PRD official site plan on 8.47 acres, is hereby **CONDITIONALLY APPROVED**, subject to the following conditions:

CONDITIONS

- A. The Preliminary Plat (Exhibit 20A) received by PDS on January 30, 2008, shall be the approved plat configuration. Changes to the approved preliminary plat are governed by SCC 30.41A.330. The PRD Site Plan received by PDS on January 30, 2008 (Exhibit 20B) and Detailed Landscape and Recreation approved per condition B. i., below, shall constitute the PRD Official Site Plan. Changes to the PRD Official Site Plan are governed by SCC 30.42B.220.
- B. Prior to initiation of any further site work, and/or prior to issuance of any development permits by the county;
 - i. A detailed landscape, tree retention and recreational facilities plan shall have been submitted to and approved by PDS. The plan shall be prepared in general conformance with Exhibits 28 and 20F and with all required landscape standards for perimeter, streetscape and open space treatment.
 - ii. 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(5)(b) and SCC 30.42B.210(3) (PRD development and landscaping).
- C. The following additional restrictions and/or items shall be indicated on the face of the final plat:
 - i. SCC Title 30.66B requires the new lot mitigation payments in the amounts shown below for each single-family residence building permit:

\$1,520.74 per lot to Snohomish County as mitigation for project impacts on county roads.

\$3,355.35 per lot for mitigation of impacts on Marysville streets paid to the city. Proof of payment is required.

Notice of these mitigation payment obligations shall be contained in any deeds involving this subdivision or the lots therein. Once building permit has been issued all mitigation payments shall be deemed paid.

- ii. 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.
- iii. All development within the plat is to be consistent with the PRD Official Site Plan approved under file number 06-135149 SD.
- 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 any critical areas and their buffers, open play areas, sport courts, tot lots, trails, drainage facilities, picnic tables, 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 dwelling units within this development are subject to park impact fees in the amount of \$48.82 per newly approved dwelling unit, as mitigation for impacts to the River Meadows park service area of the County parks system in accordance with SCC 30.66A. Payment of these mitigation fees is required prior to building permit issuance, provided that the building permit is issued by June 7, 2012 (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.
- vi. The lots within this subdivision will be subject to school impact mitigation fees for the Marysville 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 30.66C.010. Credit shall be given for 1 existing lot. Lot 1 shall receive credit.
- vii. In accordance with SCC 30.42B.150(1)(d), floor plans and street elevations of the proposed single family homes in the plat shall be designed to reduce the visual impact of the garage doors and emphasize the entry living space.

D. Prior to recording of the final plat:

- i. The applicant shall submit to PDS covenants, deeds, and homeowners' association bylaws, and other documents guaranteeing maintenance of landscaping, commonly owned tracts and common fee ownership, if applicable, and restricting use of the tracts to that specified in the approved PRD Official Site Plan. Membership in the homeowners association and payment of dues or other assessments for maintenance purposes shall be a requirement of home ownership. 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.
- xi. Site improvements and landscaping depicted on the approved site and landscape plans shall be installed, inspected and approved unless PDS approves deferral until building occupancy and a bond or other guarantee of performance is submitted to and accepted by PDS.

- xii. 55th Avenue NE shall be completed to the City of Marysville design standards from the current north end of the improvements. A “half” road with a 20-foot minimum pavement width is required along the frontage with property parcel 30051000204200 (Umniah PFN 07-111533) and a full road improvement section shall be constructed where the development property fronts the 30-foot strip of existing right-of-way.
- vi. The applicant will abandon any existing onsite septic systems by having the septic tank(s) removed by a certified pumper, then having the top of the tank removed or destroyed and filling the void (WAC 246-272-18501). Existing wells must be decommissioned pursuant to WAC 173-160-381. Documentation demonstrating completion of this work must be submitted to Snohomish Health District as required by Exhibit 38 prior to final plat approval.

E. Prior to occupancy of any unit in the PRD:

- xi. The applicant shall provide a maintenance bond for required landscape improvements, in an amount and form satisfactory to PDS.

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 24th day of April, 2008.

Barbara Dykes, Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

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

Reconsideration

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **MAY 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 8, 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: Monica McLaughlin

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.