

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

DATE OF DECISION: April 2, 2008

PROJECT NAME: **JOHN WARNICK**

APPLICANT/
LANDOWNER: John Warnick
4222 Stonebridge Way
Lynnwood, WA 98037

FILE NO.: 07-114299-LU

TYPE OF REQUEST: **REZONE** from Residential-8400 (R-8400) to Residential-7200 (R-7200) for a two-lot short subdivision (to be administratively approved by the Department of Planning and Development Services) and a **ZONING CODE VARIANCE**

DECISION (SUMMARY): Granted, subject to conditions

BASIC INFORMATION

GENERAL LOCATION: The subject property is located on the north side of 224th Street SW, 300 feet west of its intersection with 80th Avenue W., ¼ mile south of the city limits of Edmonds, in Section 30, Township 27 North, Range 4 East, W.M., Snohomish County, Washington.

Acreage: 0.36 acres

Avg. Lot Area: 7,854 square feet

Gross Density: 5.6 d.u/ac

Lots: 2

Smallest Lot Area: 7,260 square feet

Net Density: 5.6 d.u/ac

ZONING: CURRENT: R 8400
PROPOSED: R-7200

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Medium Density Residential (UMDR)

School District: Edmonds No. 15

Fire District: No. 1

Water Source and Sewer Service: Olympic View Water and Sewer District

SELECTED AGENCY RECOMMENDATIONS:

Department of Planning and Development Services: Approve

INTRODUCTION

The applicant filed the Master Application on November 29, 2007. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on March 19, 2008 in the afternoon.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 15, 16, 17)

A SEPA determination was made on January 30, 2008. (Exhibit 14) No appeal was filed.

The Examiner held an open record hearing on Thursday, March 20, 2008, the 103rd 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 20, 2008 at 10:00 a.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. John Warnick, the applicant, appeared and testified under oath. He gave a presentation on the nature of the application and answered questions from the Hearing Examiner. Robert Pemberton, PDS appeared and testified under oath. He presented the staff report and answered questions from the Examiner

The hearing concluded at 10:12 a.m.

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

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file, as if set forth in full herein.
2. No letters of concern were received from the general public. Agency letters are Exhibits 20-26.
3. The nature of the request is for a rezone from R-8400 to R-7200, a two-lot short subdivision and a variance request for lot width on a 0.36 acre site. The rezone and variance are under the jurisdiction of the Hearing Examiner. The short subdivision will be administratively approved by PDS if the rezone and variance are granted. The proposed single-family residential lots are 7260 square feet and 8448 square feet in size with the larger lot containing an existing residence. Approval of the variance request, together with the rezone and subdivision, would allow the existing, vacant 55-foot wide parcel next to the house to be eligible for a building permit for one single-family residence.
4. The two subject parcels were created sometime around 1981 following the probate of the prior owners' wills. (Exhibit 2, page 1) However, the formal short subdivision will be conducted as described above.
5. This 15,708 square foot site is almost square lying on the north side of 224th Street SW. The site contains an existing residence in the west portion of the site with typical residential landscaping. The eastern portion of the site is vacant of structures, containing trees and shrubs. The site slopes down gradually to the east.
6. This site and all surrounding properties are zoned R-8400, a single-family residential zone. The area across 224th Street SW to the south is developed with single-family residences on small lots and to the north and east are small lots developed with single-family residences. Immediately to the west is a developed church site. Further west are more single-family residences on small lots.
7. 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.
8. The DPW reviewed the request with regard to traffic mitigation and road design standards. This 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. (See Pages 4-7, Exhibit 29)

9. School mitigation requirements under Chapter 30.66C SCC (Title 26C SCC) have been reviewed and set forth in the conditions. (See Pages 7-8, Exhibit 29)
10. No critical areas are known to exist on or near the site.
11. On the one lot to be added, the new impervious surfaces created will equal less than 5000 square feet (approximately 3500 square feet). It is proposed that roof drains to splash blocks be used to mitigate runoff impacts. PDS (Engineering) has reviewed the concept offered and is recommending approval of the project. Grading quantities are anticipated to be approximately 100 cubic yards of cut and 100 cubic yards of fill, primarily for road, drainage facility, and home site construction. Water quality would be controlled during construction by use of silt fences and straw bales in accordance with a Best Management Practices applicable to single-family residential development.
12. The Snohomish County Health District has no objection to this proposal provided that public water and sewer are furnished. (Exhibit 25)
13. Public water and sewer service will be available for this development as well as electrical power. (Exhibits 21 and 26)
14. With approval of the rezone and variance, this project will meet zoning code requirements for lot size, bulk regulations and other zoning code requirements. The two lots proposed are consistent with the density provisions of Snohomish County's GMA-based zoning regulations under Subtitle 30.2.
15. The property is designated Urban Medium Density Residential (UMDR) on the General Policy Plan (GPP) Future Land Use Map (FLUM) and is located within an Urban Growth Area (UGA). The Urban Medium Density Residential designation covers various sub-area plan designations which allow a combination of detached homes on small lots, townhouses, and apartments in low density, multi-family residential developments. Land in this category may be developed up to a maximum density of twelve dwelling units per acre. Implementing zones include the requested Low Density Multiple Residential zone.

Urban Medium Density Residential (UMDR: 6 to 12 dwelling units per acre). This designation covers various sub-area plan designations which allow a combination of detached homes on small lots, townhouses, and apartments in low density, multifamily residential developments. Land in this category may be developed up to a maximum density of twelve dwelling units per acre. Implementing zones include the LDMR, PRD-LDMR, Townhouse, R-7,200, PRD-7,200 and WFB zones. The requested rezone to R 7200 and variance will be consistent with the General Policy Plan designation of the property. The existing zoning of R-8400 is not listed as an implementing zone for this area. The subject rezone and future development proposal is for a 2-lot short plat resulting in a density of 5.6 dwelling units per acre. The requested rezone is consistent with, and

implements the General Policy Plan's Urban Medium Density Residential designation of the property.

16. The following are the relevant Goals and Policies of the GPP that apply to this application.

Land Use

The GMA requires that urban growth areas (UGAs) be designated through the county's plan. UGAs are to include areas and densities sufficient to permit the urban growth that is projected to occur in the county over the next twenty years. Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. (LU-1)

GOAL LU 1 Establish and maintain compact, clearly defined, well designed UGAs.

Objective LU 1.A Establish UGAs with sufficient capacity to accommodate the majority of the county's projected population and employment growth over the next 20 years.

The subject property is located in an area that is in essence "...already characterized by urban growth that have adequate existing public facilities and service capacities...." Public facilities and services such as, but not limited to, roads, sidewalks, water, sewer and storm collection currently exist, or are being constructed throughout the general vicinity. Fire protection and law enforcement services are available.

Goal LU 2 Establish development patterns that use urban land more efficiently.

Objective LU 2.A Increase residential densities within UGAs by concentrating and intensifying development in appropriate locations.

LU Policies 2.A.1 Within UGAs, development regulations shall be adopted and maintained which will require that new residential subdivisions achieve a minimum net density of 4-6 dwelling units per acre in all unincorporated UGAs, except (1) in the UGAs of Darrington, Index, and Gold Bar as long as those cities do not have sanitary sewer systems and (2) in areas without sanitary sewers which the sewer purveyor with jurisdiction, or in nearest reasonable servicing proximity will certify are either an unsewered urban enclave or are not capable of being connected to public sewers via annexation within the next six years or by the improvements provided pursuant to its adopted six year capital facilities plan, (3) where regulations for development on steep slopes require reduced lot or dwelling unit yields, or (4) where a lower density is necessary because of the existence of critical areas that are large in scope, with a high rank order value, and are complex in structure and function. Lot size averaging, planned residential developments, sewerage regulations and other techniques may be used to maintain minimum density

or to insure later development at minimum densities is not inhibited when sanitary sewers become available.

This development will achieve 5.6 dwelling units per acre. Minimum net density requirements were achieved. The parcel is located within the Southwest County UGA. This project meets these policies.

GOAL LU 5 Encourage land use patterns that create connected, identifiable neighborhoods and communities in UGAs through a consolidated system of past and future neighborhood plans.

Objective LU 5.A Revitalize or create identifiable, pedestrian-oriented neighborhood areas with focal points, mixed-use centers, and employment areas that are linked with each other.

5.A.9 Infrastructure improvements shall be coordinated and shall be provided, where financially feasible, to support the creation of neighborhoods, focal points, and Neighborhood and Community Commercial Centers.

This parcel is surrounded by and connected to existing single-family development and established neighborhoods. Infrastructure such as drainage, walkways and road improvements exists in the local area.

A mix of urban commercial/business facilities is located approximately ½ mile to the east. (76th Avenue West).

Housing

The Housing Element relates closely to many elements of the Comprehensive Plan. The Land Use Element determines the types and locations of various types and densities of residential uses. This is part of the Land Use Element's function of laying out all land uses in suitable amounts, locations and relationships to each other.

The Housing Element is also closely tied to the county's land capacity evaluation program, particularly efforts to use urban land more efficiently (RCW 36.70A.215). Residential land uses are analyzed to assure that there is sufficient land devoted to the denser housing types where low and moderate cost housing development typically takes place.

The Housing Element and Economic Development Element are closely related. Affordable, well-planned housing located with good accessibility to employment is an essential part of a healthy economy.

The Housing Element is related to Utilities, Capital Facilities and Transportation, as well as education and government services. All these facilities and services are necessary to support households directly, or support their ability to connect to jobs and government support programs.

GOAL HO 2 Ensure the vitality and character of existing residential neighborhoods.

Objective H0 2.A Promote opportunities for all county residents to reside in safe and decent neighborhoods.

2.A.4 The county shall encourage development and maintenance of safe and secure outdoor environments, including the development of safewalks (**is this correct?**) in new subdivisions.

This proposal will add one additional single-family residence to an established residential neighborhood on a lot which is similar in size and shape to those existing in the area. Frontage improvements are required along the subject parcel's frontage on 224th Street SW.

Capital Facilities

This chapter of the General Policy Plan provides the overall direction and detailed policy guidance for the Capital Facilities Element of the GMA comprehensive plan. The Capital Facilities Element also includes the Capital Facilities Plan and the 6-year Capital Improvement Program. The CFP contains more detailed information concerning the inventory of existing public facilities and a forecast of future needs for these facilities. The CIP presents a six-year program of public improvements that is reviewed, revised and adopted each year as part of the budget process.

CF Policy 7.1 The county shall utilize impact fees as authorized under the GMA to help fund the cost of parkland and facilities expansion and as required to serve new development.

The proposed future development will be subject to parks impact fees, to be collected at the time of building permit issuance (see "Parks Mitigation" section above).

Utilities

The utility systems of water supply, wastewater collection and treatment, and electric power are widely considered as essential infrastructure to support urban development, and will be treated accordingly in this plan. There are some general goals, objectives, policies, and implementation measures that apply to all three utility systems, and these are presented in this and the next section. Utility-specific issues and corresponding goals, objectives, and policies are discussed in sections to follow.

- GOAL UT 1 Enhance the efficiency and quality of service from utility providers through the review of utility, land use, transportation and natural environment planning documents.
- Objective UT 2.A All new residential developments should be able to demonstrate the availability of a potable water supply meeting state water quality standards and of sufficient capacity to serve domestic requirements.
- UT Policy 2.A.1 The county shall review new residential projects requiring land use or construction permit approval for the availability of an adequate water supply.

UT Policy 3.A.1 The county shall review new residential projects within urban growth areas requiring land use or construction permit approval for the availability of an adequate public wastewater and treatment system.

Electric Power All electric power in Snohomish County is provided by Snohomish County Public Utility District #1 (page UT-7).

As indicated in the correspondence received from the Olympic View Water and Sewer District (Exhibit 21), water and sewer will be available to serve the proposed development. The Snohomish County PUD #1 indicates that it has sufficient capacity to provide electrical service to the proposed development (Exhibit 26).

Transportation

The county provides for different types and levels of transportation services to urban areas versus rural areas. People living in low-density areas traveling to employment dispersed throughout the county tend to use the automobile over other modes of transportation. It is very difficult to serve these types of trips with traditional, fixed route, public transportation (i.e., bus or rail). Ridesharing services such as vanpools and personalized ride-matching for carpools may be the most appropriate form of mass transportation for rural areas. Public transportation is most effective in moving people where population and employment are concentrated in denser neighborhoods and Activity Centers. Urban site design needs to accommodate public transportation by allowing efficient access and circulation of transit vehicles.

TR 1.C.2 Adequate access to and circulation within all developments shall be maintained for emergency service and public transportation vehicles.

Access to each proposed lot will be directly from 142nd Street SW and is accessible by emergency vehicles.

TR 1.C.4 Local residential streets shall be designed that link neighborhoods and complementary land uses for efficient circulation and discourage high speed vehicular traffic.

TR 1.C.5 Roadway networks shall be designed with direct routing and connections to avoid concentrating the burden of traffic flow on a few roadways.

The subject rezone has frontage on 224th Street SW, which is part of the existing road network. The proposal does not involve the creation of any new streets or roads. Due to the size of the subject property and location of surrounding roads, it is not practical, feasible, or necessary to apply policies TR 1.C.4 and TR 1.C.5 even though they have been considered.

TR 1.C.9 Existing roadways shall be improved to meet adopted design standards in order to enhance the safety and mobility of pedestrians, transit users, bicyclists and motorized traffic as part of construction of frontage improvements by developments and by the county as funding allows within the county's capital improvement program.

TR 1.C.10 Developments taking access from existing roadways shall be required to make off-site improvements to improve them to at least minimum standards for vehicular

access based upon such factors as the volume and other characteristics of existing and newly-generated traffic.

Applicable frontage improvements have been required per TR 1.C.9 and TR 1.C.10. Consistent with TR 4.E, required frontage improvements include pedestrian facilities. These facilities will be reviewed under the Snohomish County EDDS and ADA standards at the time of construction review. Based on preliminary review it appears feasible to construct compliant facilities. The surrounding road system meets minimum standards for emergency access and vehicle circulation.

TR 1.C.12 The county shall require that development make access and/or circulation provisions for arterials designated by the comprehensive plan and for needed local roadways to include, but not be limited to: (a) dedication of right-of-way, (b) reservation of right-of-way, (c) design for potential way of access, (d) recording of easements, (e) location of public or private roads, (f) design and construction of public or private roads (including stub-roads), and/or (g) improvements to existing roads.

Per TR 1.C.12, additional right-of-way dedication has been required as applicable along the frontage of subject rezone.

224th Street SW is not identified as existing or proposed bike paths on the Countywide Bicycle Facility Map, Map 2 of the Snohomish County GMA Comprehensive Plan, which was created to identify where bicycle facilities are needed within the County in accordance with TR 4.E

It should be noted that the subject rezone will result in two lots where one developed lot currently exists. The impacts of the subject development on the County road system will be negligible and all applicable mitigation has been required.

Based on the discussions above, the Examiner finds that: The proposed rezone and proposed two-lot subdivision are consistent with the General Policy Plan statement for encouraging and broadening the mix of urban housing types, promoting more efficient utilization of land within UGAs and reducing consumption of rural lands. The proposed subdivision will implement as well as encourage the policies and objectives from the Land Use, Capitol Facilities, Utilities, Transportation and Housing elements from the GPP.

Specific analysis of the proposed subdivision as well as the subject rezone included impacts associated with traffic, storm drainage, parks and recreation, public schools, and zoning code provisions addressing compatibility with surrounding properties. Future approval of construction permits, and final plat consistent with such evaluation and short subdivision approval will substantiate GMA code compliance prior to permit issuance. Such approvals will sufficiently mitigate for future impacts associated with development patterns, site design and sensitively integrating site development into the immediate community.

Review and analysis of the rezone, short subdivision, and expected future development activity finds that current GMA adopted regulations, governing future site development activity, will implement such Goals, Objectives, and Policies and thus specific development activity, as reviewed and analyzed under the subject request, bears a substantial relationship to the public health, safety and welfare.

15. Chapter 30.42A covers rezoning requests and applies to site-specific rezone proposals that conform to the Comprehensive Plan. The decision criteria under SCC 30.42A.100 provides as follows:

The hearing examiner may approve a rezone only when all the following criteria are met:

- (1) the proposal is consistent with the comprehensive plan;
- (2) The proposal bears a substantial relationship to the public health, safety, and welfare; and
- (3) Where applicable, minimum zoning criteria found in Chapters 30.31A through 30.31F SCC are met.

It is the finding of the Examiner that the request meets these requirements generally and should be approved.

16. Variance Criteria

The application includes a request for a variance to lot width. The code requires in the R-7,200 zone that each lot be at least 65 feet wide. The currently undeveloped parcel in this proposed short plat is 55 feet wide. The currently developed parcel in this proposed short plat is 64 feet wide. All the surrounding lots are developed. There is no opportunity to increase the lot width by boundary line adjustment because all the adjacent lots are owned by others and are developed with houses, outbuildings and typical residential landscaping.

SCC 30.71.020(13) holds that a variance is processed as a Type 1 administrative decision. However, pursuant to SCC 30.43B.020(2), any variance submitted with another application requiring a pre-decision hearing by the hearing examiner shall be processed concurrently before the hearing examiner as a Type 2 decision. Since the rezone of the property is before the Hearing Examiner, the variance request is also under the jurisdiction of the Hearing Examiner.

“The Department may approve or approve with conditions a variance request when the following criteria are met:

- (1) There are special circumstances applicable to the subject property or to the intended use, such as size, shape, topography, location or surroundings, that do not apply generally to other properties or classes of use in the same vicinity and zone;
- (2) A variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other properties in the same vicinity and zone but which because of special circumstances is denied to the property in question;
- (3) The granting of the variance will not be materially detrimental to the public welfare or injurious to the properties or improvements in the vicinity and zone in which the subject property is located; and
- (4) The granting of the variance will not adversely affect the comprehensive plan.”

[SCC 30.43B.100]

A variance application must be shown to meet all four criteria before approval may be granted. No other review criteria are applicable.

17. The standard of review for a variance is conformity with the approval criteria by a preponderance of the evidence. The applicants bear the burden of proof.
18. Special findings required for variance:
 - A. A special circumstance is presented by the size and configuration of the existing lot. As created and established, the lot does not meet lot width requirements. This situation does not generally apply to other properties or uses in the vicinity. The application conforms to criterion 1.
 - B. As noted, the applicant has sufficiently demonstrated that if the variance is not granted the parcel cannot be issued a building permit. An infringement of that right would be caused by denial of the requested variance. The application conforms to criterion 2.
 - C. No detriment to adjoining private properties or improvements in the area would be caused by the requested variance. The variance (together with the rezone and short subdivision) would allow the currently vacant parcel to be issued a building permit. The application conforms to criterion 3.
 - D. No detriment to the implementation of the comprehensive plan will ensue from granting the variance. The lot sizes are consistent with the comprehensive plan designation of Urban Medium Density Residential which includes Low Density Multiple Residential and R-7200 as implementing zones. The application conforms to criterion 4.
 - E. As the approval criteria are met by the request, the variance should be granted.
19. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

CONCLUSIONS:

1. The Examiner has jurisdiction to hear this matter and render a decision thereon.
2. The request is consistent with the GMACP; GMA-based County codes; and the type and character of land use permitted on the site and the permitted density with the applicable design and development standards.
3. The request is for a rezone and therefore must comply with Chapter 30.42A. This is a site-specific rezone that conforms to the Comprehensive Plan and since no evidence was submitted contrary to the requirements of Chapter 30.42A, the evidence is presumed to meet these requirements.

4. Adequate public services and adequate provisions for the public health, safety and general welfare exist to serve the proposal.
5. As found above, the variance approval criteria are met by the request, thus the variance request should be granted.
6. As found above, the short plat subdivision portion of the application shall be handled administratively by PDS and this decision does not address that issue.
7. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

The requests for a **REZONE** and **ZONING CODE VARIANCE** are hereby **APPROVED**.

Decision issued this 2nd day of April, 2008.

James A. Densley, Hearing Examiner Pro Tem

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 **APRIL 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 **APRIL 16, 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: Bob Pemberton

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.