

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

DATE OF DECISION: July 2, 2008

PLAT/PROJECT NAME: Northpointe Retail

APPLICANT/  
LANDOWNER: Northpointe Ventures, LP  
16108 Ash Way, Suite 203  
Lynnwood, Washington 98087

FILE NO.: 07-115112 LU

TYPE OF REQUEST: Planned Community Business Zone Official Site Plan for the development of a 228,900 square foot retail center including an 186,611 square foot retail store with an 11,000 square foot seasonal outdoor sales area; 7 freestanding retail buildings totaling 42,289 square feet; and a self-service fueling station, on an 18.3 acre site.

DECISION (SUMMARY): APPROVED subject to a Precondition and Conditions

**BASIC INFORMATION**

**GENERAL LOCATION:** 2812 – 168<sup>th</sup> Street SW, Lynnwood, Washington  
Southwest quadrant, intersection of 164<sup>th</sup> Street SW / 28<sup>th</sup> Avenue SW  
Section 10, Township 27 N, Range 4 E, W.M., Snohomish County, WA

ACREAGE: 18.3 acres

ZONING: CURRENT: Planned Community Business (PCB)  
PROPOSED: PCB

COMPREHENSIVE PLAN DESIGNATION:  
General Policy Plan Designation: Urban Center and Urban Commercial

SCHOOL DISTRICT: Edmonds School District 15

FIRE DISTRICT: No. 1  
WATER SOURCE: Alderwood Water and Wastewater  
SEWER SERVICE: Alderwood Water and Wastewater

SELECTED AGENCY RECOMMENDATIONS:

Department of:  
Planning and Development Services: Approve subject to conditions

### **INTRODUCTION**

The applicant filed the Master Application on December 27, 2007. See Exhibit 1A.

The Hearing Examiner (Examiner) made a site familiarization visit on June 24, 2008, in the morning.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by SCC 30.72.030(4). See Exhibits 6A (mailing), 6B (publication) and 6C (posting).

A SEPA determination was made on May 20, 2008. See Exhibit 5B. No appeal was filed.

The Examiner held an open record hearing on June 26, 2008, the 107th 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 June 26, 2008 at 1:03 p.m.

1. Tom Barnett, Planner, appeared on behalf of PDS and gave an overview of the application and staff report and answered questions from the Examiner.
2. James Egge, Mike Echelbarger, Kurt Burkhart, Mike Kleer, and Tom Gibbons and Eric Delfel, appeared and testified on behalf of the applicant, Northpointe Ventures, LP.
3. No one appeared in opposition of the proposed project.

The hearing concluded at 1:47 p.m.

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

## FINDINGS OF FACT

1. All exhibits and witnesses included on the Master Exhibit and Witness List were considered by the Examiner and are hereby incorporated by reference, as if set forth in full herein.
2. State Environmental Policy Act Compliance: A Revised Determination of Nonsignificance (DNS) was issued May 20, 2008. Exhibit 5B. The DNS was not appealed.
3. Nature of Request: The applicant has requested approval of a Preliminary Planned Community Business Zone Official Site Plan for the development of a 228,900 square foot retail center including an 186,611 square foot retail store with an 11,000 square foot seasonal outdoor sales area; seven freestanding retail buildings totaling 42,289 square feet; and a self-service fueling station, on an 18.3 acre site.
4. Site description: The property is bounded on the west side by SR-525, to the north by 164<sup>th</sup> Street SW, and along the east edge by 28<sup>th</sup> Street SW (also known as Alderwood Mall Parkway). Box Spring Creek flows from west to east on the southern end of the site, approximating the southern property line.

The site gently slopes from the high point of about 480 feet in the northwest corner, to the low point of about 420 feet in the southeast corner, with a few small hills between the top and the bottom. All of the structures on the property were removed under county demolition permits issued in 2007, and none exist there today. A small mobile home park (the Homewood Mobile Home Park) formerly was located near the center of the property. All of the mobile homes were removed by early 2008.

Most of the trees were removed from the land in 2007, under a forest practices permit. About 3500 cubic yards of grading was done at that time under a county grading permit, to prepare the property for future development. The site is now cleared and fenced, in anticipation of development dependent upon the requested approval of the official site plan, and subsequent building and grading permits.

5. Adjacent uses: Much of the land to the north, east, and west is zoned Business Park (BP) and Planned Community Business (PCB). Zoning to the west, across the SR-525 highway, is a mix of Multiple Residential (MR), Low Density Multiple Residential (LDMR), and single-family zonings. Single-family zoning within the City of Lynnwood exists to the southwest of the site, across SR-525.

Uses in the area include a mini self-storage complex adjacent to the south, a commercial garden and nursery business to the north, and several light industry businesses to the east. An apartment complex exists due west across SR-525. The 91-acre Northpointe Corporate Campus business park is being developed to the northeast of the property.

6. Environmental Impacts:

**A. Grading and drainage.**

The applicant submitted a targeted drainage plan (Exhibits 2A3 and 3B) that shows that site runoff will be collected in a system of pipes, catch basins and roofdrain downspouts, and then directed to two underground detention vaults. The system is designed using a hydrograph methodology known as the "SCS-SBUH analysis method". The criteria used include restriction

of the 2-year storm to half of the pre-developed rate, and restriction of the 10-year and 100-year flows to match the existing runoff for each of those events. A factor of safety of 1.3 is applied to the detention volumes for the corresponding events.

Detention will be provided in two underground detention vaults located under the parking lot area. One vault will collect the north basin of the site and will be located near the middle of the site near Alderwood Mall Parkway. The north detention vault will release flows to an existing 18" culvert that flows easterly under the Parkway.

The second vault will collect the south basin of the site and is located near the southwest corner of the site along the existing stream corridor of Box Spring Creek. The south detention vault will discharge to a bioswale which will convey the runoff releases to the creek along the southerly boundary of the site.

Water quality treatment to remove pollutants in the storm water runoff will be provided through the use of water quality BMPs. The north detention vault will discharge to a proprietary stormwater treatment filter, manufactured for this use by Contech Stormwater Solutions, Inc. The south detention system will utilize a biofiltration swale located near the southwest corner of the site.

Grading quantities are anticipated to be approximately 150,000 cubic yards of cut and 150,000 cubic yards of fill, primarily for road, drainage facility, and building site construction. 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 Department of Public Works' Surface Water Management Division reviewed the proposal, and determined that it presented no issues of concern. Planning and Development Services (Engineering) reviewed the conceptual targeted drainage plan, and recommended approval of the official site plan, subject to conditions which would be imposed during full drainage plan review pursuant to Chapter 30.63A SCC.

#### **B. Critical Areas Regulations (Chapter 30.62 SCC)**

A Type 4 urban stream flows from east to west in the southern portion of the subject property. This stream exists in a degraded state having been ditched well before the current project was proposed. During the review and approval of the previous grading permit (PDS file number 06-130549 CG) the applicant received authorization to fill three best management practices (BMP) wetlands as allowed per SCC 30.62.360(6) with subsequent mitigation consisting of plantings along the stream corridor. Since that time, and as part of the current PCB preliminary site plan application submitted to PDS in December, 2007, an expansion of properties associated with the original grading site occurred with the inclusion of a parcel that was previously occupied by a mobile home park. A man-made pond existing on the mobile home park parcel that had been drained at the time of the 2007 grading activity was subsequently determined not to be a jurisdictional wetland. Regardless, the applicant on the current Northpointe project has voluntarily agreed to mitigate for the man-made pond as if it had met the criteria for a small jurisdictional BMP wetland regulated pursuant to SCC 30.62.360(6).

The revised mitigation plan prepared by Sewall Consulting (Exhibit 3E1) reflects the additional voluntary mitigation offered for filling the man-made pond. The latest Sewall mitigation proposal is in addition to that which was previously approved in the mitigation plan prepared by Altmann Oliver Associates and will be implemented on site in conjunction with the current application. A Critical Areas Site Plan (CASP) was previously recorded for the approved grading permit as

Auditor's File Number (AFN) 200703200273. A revised CASP (Exhibit 3E2) has been recorded that reflects the addition of the former mobile home park parcel and the voluntary mitigation offered as compensation for filling the man-made pond. The new CASP replaces and supersedes the previous CASP and was recorded as AFN 20080507920.

The application is complete and in conformance with Chapter 30.62 UDC (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.

7. Parks Mitigation: (Chapter 30.66A SCC)

This project is not subject to the parks impact mitigation requirements of SCC 30.66A since it is not defined as a "development" pursuant to SCC 30.91D.200. Therefore, mitigation for impacts to county parks is not required per SCC 30.66A.010(2).

8. School Impact Mitigation:

This project is not subject to the school impact mitigation requirements of SCC 30.66C since it is not defined as a "development" pursuant to SCC 30.91D.200:

"30.91D.220 'Development' means any residential construction or expansion of a building, structure or use of land, or any other change in use of a building, structure, or land that creates additional dwelling units.

"This definition applies only to "School impact mitigation" regulations in chapter 30.66C SCC."

The Northpointe Retail project will not result in the creation or expansion of any dwelling units, and therefore mitigation for impacts to schools is not required per SCC 30.66C.010(2).

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

PDS Traffic reviewed the proposal for compliance with Title 13 and Chapter 30.66B of Snohomish County Code, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures. The Examiner adopts the PDS review as a finding of this decision. Excerpts from the review follow.

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

County code requires that a development must mitigate its impact upon the future capacity of the road system by paying a road system impact fee reasonably related to the impacts of the development on arterial roads located in the same transportation service area as the development, at the rate identified in SCC 30.66B.330 for the type and location of the proposed development.

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

ITE Land Use Category: Shopping Center

ITE Land Use Code: 820

Applicable Measurement Unit (ITE Independent Variable): trips/1000 sq. ft. Number of applicable measurement units for this development: 228,900 Sq. Ft

ITE Land Use Category: Gas/Service Station

ITE Land Use Code: 944

Applicable Measurement Unit (ITE Independent Variable): Trips/Vehicle Fueling Position.

Number of applicable measurement units for this development: 16 Positions

Code allows for a credit to be applied to the impact mitigation calculation for traffic that is generated from developments existing on a site. The estimates of trip generation for credit for the existing SFRs to be removed are based on the 7<sup>th</sup> Edition of the Institute of ITE Trip Generation Report as follows:

ITE Land Use Category: Single Family

ITE Land Use Code: 210

Applicable Measurement Unit (ITE Independent Variable): trips/single family residence

Number of applicable measurement units for this development: 9 Single Family Residences

ITE Land Use Category: Mobile Home

ITE Land Use Code: 240

Applicable Measurement Unit (ITE Independent Variable): Trips/mobile home

Number of applicable measurement units for this development: 28 Mobile Homes

The trip generation figures are in the applicant's traffic study from GTC dated April 15, 2008, and are summarized below:

Shopping Center & Gas Station

ADT	6,261.56
AM Peak	188.77
PM Peak	583.23

Impact fees amounts are as follows:

Shopping Center	\$1,176,759.92 (\$5.1409 per sq ft)
Gas Station	\$244,614.20
Total	\$1,421,374.12

These figures are based on \$227/ADT, the current fee rate for commercial developments inside the urban growth area, for TSA D. These figures include a 5% reduction/credit for on-site TDM measures. Consistent with SCC 30.66B.340, payment of this road system impact is required prior to building permit issuance.

2. 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 is concurrent as of March 3, 2008. The expiration date of the concurrency determination is six years from this date.

The development is concurrent on the following basis:

The subject development is located in TSA D, which, as of the date of submittal, had the following arterial units in arrears: Unit #202 – Seattle Hill Road between 132<sup>nd</sup> Street SE and 35<sup>th</sup> Avenue SE and Unit #204 – 35<sup>th</sup> Avenue SE between 168<sup>th</sup> Street SE and Seattle Hill Road.

Based on peak-hour trip distributions, the subject development will not add three or more peak-hour trips to any of the arterial units in arrears. The development generates 188.77 a.m. peak-hour trips and 583.23 p.m. peak-hour trips which is more than the threshold of 50 peak-hour trips, and thus, the development has also been evaluated under SCC 30.66B.035.

Pursuant to SCC 30.66B.035(1), the applicant has evaluated the future level-of-service on the road system consistent with the specific traffic study requirements imposed by the County and has found that there are one or more arterial units in arrears in the TSA based on forecast level-of-service conditions but the development will not impact any of them with three or more peak-hour trips. The development is deemed concurrent under SCC30.66B.160(2)(a).

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

Regardless of the existing level of service, any development which adds three or more p.m. peak-hour trips (PHT) to a location in the road system determined to have an existing inadequate road condition (IRC) at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC.

The traffic study submitted on January 25, 2008 shows that there are 3 PM peak-hour trips in the north direction and 2 PM peak-hour trips in the south direction on Meadow Road at the 164<sup>th</sup> Street SW intersection. There is an IRC at the Meadow Road/137<sup>th</sup> Street SW that could be impacted with a total of 3 PM peak-hour trips. The applicant's April 15, 2008, traffic study shows that this IRC will not be impacted by three or more PM PHT, therefore no mitigation is required with respect to IRCs.

### 4. Frontage Improvements [SCC 30.66B.410]

County code requires that all developments will be required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road. The required improvement shall be constructed in accordance with the EDDS, including correction of horizontal and vertical alignments, if applicable.

#### Alderwood Mall Parkway Frontage

The county's Transportation Needs Report indicates that Alderwood Mall Parkway (28<sup>th</sup> Ave W from 164<sup>th</sup> Street SW to the SR 525 off ramp) is to be designed to a total of 5 lanes with bike lanes, planter strips and sidewalks. Plate 3-030B of the EDDS shows that for a Minor Arterial designated to have 5 lanes the cross section is:

	R/W	Pavement Width	Bicycle Lane	Exterior lane	Interior Lane	Left Turn Lane
5 Lanes	92	62-68	5	12-14	11	12

The cross section would be ½ of 2-7' sidewalks, 2-5' planters, 2-0.5' curbs, 2-12' lanes, 2-11' lanes and a 12 center lane with 1.5' behind sidewalks to right-of-way line.

The cross section for Alderwood Mall Parkway would be:  
 1.5'-7"-5"-0.5'-5'-12"-11"-12'-11'-12'-5'-0.5'-5'-7'-1.5'

A minimum total right-of-way width of 96 feet results.

As per DPW Rule 4222.020(1) full urban frontage improvements are required along the subject parcel's frontage on Alderwood Mall Parkway and consist of:

- Asphalt concrete pavement consisting of 34 feet width from roadway centerline to the face of curb
- Cement concrete curb and gutter
- Planter strip with a width of 5 feet
- Cement concrete sidewalk with a width of 7 feet

The road, Alderwood Mall Parkway, on which the development's frontage improvements are required, is in the impact fee cost basis (Appendix D of the Transportation Needs Report), therefore credits towards the applicant's impact fee for any frontage improvements that can be used in the ultimate build-out of the road are applicable.

Construction of frontage improvements is required prior to occupancy of the development.

#### 164<sup>th</sup> Street SW Frontage

This development also has frontage on 164<sup>th</sup> Street SW, improved by a recent county road improvement project, which will not require the construction of frontage improvements. The only improvements anticipated will be the closing of the existing accesses onto the site and the construction of the new right in-right out access that will serve this site.

#### 5. Access and Circulation [SCC 30.66B.420]

All developments are required to provide for access and transportation circulation in accordance with the comprehensive plan and SCC 30.66B.420, design and construct such access in accordance with the EDDS, and improve existing roads that provide access to the development in order to comply with adopted design standards, in accordance with SCC 30.66B.430.

#### 164<sup>th</sup> Street SW

The single access into the development from 164<sup>th</sup> Street SW will be about 320 feet west of the center of the intersection of 164<sup>th</sup> Street SW and Alderwood Mall Parkway. There are two existing accesses onto 164<sup>th</sup> Street SW that will be eliminated. The new access will be right-in and right-out since there is a centerline curbing on 164<sup>th</sup> Street that will prevent left turns out.

## Alderwood Mall Parkway

This development is proposing 3 accesses into the development with the first access at about 480 feet south of the center of the 164<sup>th</sup> Street SW/Alderwood Mall Parkway intersection. The second access is about 380 feet south of the first access and the third access is about 415 feet south of the second access. The applicant is proposing to signalize the center access which is about 860 feet south of the signalized intersection of 164<sup>th</sup> Street SW and Alderwood Mall Parkway.

Public Works indicated that a signalized intersection can be approved at that location. The traffic study submitted for the application indicates that the center access point meets signal warrants. Signalization of the center access onto Alderwood Mall Parkway will be a condition of approval.

### 6. Dedication/Deeding 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.

#### 164<sup>th</sup> Street SW

The road serving this development, 164<sup>th</sup> Street SW, is designated as a Principal Arterial on the County's Arterial Circulation Map. This requires a right-of-way width of at least 50 feet on each side of the right-of-way centerline. Right-of-way was acquired along the development's frontage along 164<sup>th</sup> Street for the County's road improvement project that expanded 164<sup>th</sup> Street SW. No additional right-of-way will be required to be deeded along the development's 164<sup>th</sup> Street SW frontage.

#### Alderwood Mall Parkway

The road serving this development, Alderwood Mall Parkway, is designated as a Minor Arterial on the County's Arterial Circulation Map. This requires a right-of-way width of at least 40 feet on each side of the right-of-way centerline. The right-of-way along the development's frontage on Alderwood varies from 30 feet wide to 60 wide on the development's side of the right-of-way. In order to incorporate the frontage improvements, a minimum of ~~48~~ 43 feet of right-of-way will need to be deeded along any portion of the right-of-way where the right-of-way is less than ~~48~~ 43 feet wide. Deeding of the right-of-way will be required prior to the issuance of any building permit.

This road, Alderwood Mall Parkway is in the impact fee cost basis (Appendix D of the Transportation Needs Report), therefore credit towards the applicant's impact fee for the right-of-way deeded that is more than 30 feet from centerline is applicable.

Exhibit 21 details the location of the centerline of Alderwood Mall Parkway. Snohomish County Public Works and the applicant have agreed that "B" line is the true centerline for this project. This is the centerline as it existed prior to road construction in the vicinity in the 1980's. Use of this "B" line will allow for the transit bus pull-out and proper road alignment.

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<sup>1</sup> Scrivener's error corrected per Exhibit 21. 7/2/08.

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

When a development's road system includes a state highway, mitigation requirements will be established using the County's SEPA authority consistent with the terms of the interlocal agreement between the County and the WSDOT. This is consistent with the County's SEPA policy SCC 30.61.230(9), through which the county designates and adopts by reference the formally designated SEPA policies of other affected agencies for the exercise of the County's SEPA authority.

This development is subject to SEPA and thus is subject to Interlocal Agreement (ILA) with the Washington State Department of Transportation (WSDOT)/County effective December 21, 1997, and as amended.

Comments were received by email from the WSDOT on February 27, 2007, indicating that additional information was needed for review of LOS on State highways. Since this information has been requested the applicant and the State have agreed that if the applicant were to pay mitigation in the amount of \$36.00/new ADT that additional review or mitigation for LOS impacts would not be required. An acceptable offer for this payment has been received. The applicant's obligation to the State is:

Shopping Center	\$186,622.72 (\$0. 8153/sq ft)
Gas Station	\$38,793.44
Total	\$225,416.16

Payment of the total shown above amount will be a recommended condition of approval.

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

Mitigation requirements for impacts on streets inside cities and roads in other counties will be established consistent with the terms of interlocal agreements between the County and the other jurisdictions. There are no city jurisdictions that are subject to an ILA with the County that will be impacted by new trips from the subject development.

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

Transportation demand management (TDM) is a strategy for reducing vehicular travel demand, especially by single occupant vehicles during commuter peak hours. TDM offers a means of increasing the ability of transportation facilities and services to accommodate greater travel demand without making expensive capital improvements. The County requires TDM of developments inside the UGA and developments that impact arterial units designated as ultimate capacity.

All new developments in the urban area shall provide TDM measures. Sufficient TDM measures shall be provided to indicate the potential for removing a minimum of five (5) percent of the development's P.M. peak hour trips from the road system. This requirement shall be met by the provisions of site design requirements under SCC 30.66B.640, as applicable, except where the development proposes construction or purchase of specific offsite TDM measures or voluntary payment in lieu of site design, in accordance with SCC 30.66B.620 and SCC 30.66B.625.

This development adds three or more directional peak hour trips to an arterial unit designated as ultimate capacity (164<sup>th</sup> St SW) and is thus required to provide TDM measures sufficient to indicate the potential for removing a minimum of ten (10) percent of the developments PM peak hour trips from the road system.

The applicant submitted an acceptable TDM plan to fulfill 5% of this obligation. The applicant has also submitted an acceptable TDM cash offer to fulfill the other ½ of this obligation. The cash portion of their TDM obligation is equivalent to 5% of the 583.23 new PM peak hour trips x \$1,500.00 which equals \$35,648.90 (\$0.1557/sq.ft) for the retail portion of the site and \$8,093.35 for the gas station.

#### 10. Other Issues or Items

There is a public road right-of-way that crosses this development at the 168<sup>th</sup> Street SW alignment. The applicant has submitted an application to the DPW for vacation of this right-of-way that is being processed. Exhibit 24 is a copy of Snohomish County Council Ordinance 08-007 dated March 12, 2008 vacating a portion of 168<sup>th</sup> Street SW.

#### 10. Growth Management Act Compliance.

This application was complete on December 27, 2007. 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.

PDS evaluated this application for consistency with the version of the Growth Management Act (GMA) Comprehensive Plan which became effective on February 1, 2006, and as revised through the completeness date of the application. Said evaluation is adopted by the Hearing Examiner in this decision.

The following discussion addresses the project's consistency with key GPP goals, objectives, and policies. The discussion and analysis includes impacts associated with traffic, storm drainage, critical areas, and zoning code provisions addressing compatibility with surrounding properties. Conditions of approval will assure construction permits are consistent with the evaluation and official site plan approval.

This project is proposed on land that is designated Urban Commercial and Urban Center. Most of the site is designated Urban Center, with the area south of the (soon to be vacated) 168<sup>th</sup> Street SW right-of-way being designated Urban Commercial. Texts within the GPP pertaining to these designations are below.

#### Commercial and Industrial Designations

“The Urban Commercial (UC) and Urban Industrial (UI) designations of the GPP provide for a wide range of implementing zones and, in some cases, provide specific locational criteria or recommendations as to how the zones should be applied within the designation.”

### Urban Commercial (UC)

“This designation identifies commercial designations within the UGA which allow a wide range of commercial as well as residential uses. Implementing zones: Neighborhood Business, Planned Community Business, Community Business, General Commercial, Freeway Service and Business Park. In the Lake Stevens UGA, the implementing zoning shall be limited to Neighborhood Business, Community Business and Planned Community Business. In the Southwest County UGA, no rezones to General Commercial shall be approved out-side of the State Route 99 corridor.”

### Center Designations

“The Future Land Use Map identifies the specific locations for Urban Centers, Transit/Pedestrian Villages, Urban Villages and Manufacturing and Industrial Centers.

“Additional Centers may be designated in the future through amendments to the comprehensive plan. A rezone to Planned Community Business or Neighborhood Business is required to utilize the Urban Centers Demonstration Program (SCC 30.34A).”

### Urban Center

“This designation identifies a higher density area that contains a mix of residential and non-residential uses, and whose location and development are coordinated with the regional high capacity transportation system. The implementing zones are Planned Community Business and Business Park. Urban Centers Demonstration Program (SCC 30.34A) is an optional regulatory tool.”

The requested official site plan is consistent with the General Policy Plan’s Urban Commercial and Urban Center designations of the property.

### Pertinent GPP Policies

The policies within the GPP that are pertinent to the Northpointe Retail project are listed below. Discussion relating to a specific policy is included as appropriate.

#### *Land Use Policy 3.H.1:*

The county shall encourage mixed-use development in commercial and high density residential zones when adjacent to center or transit facilities or along transit corridors.

*The project will include a mix of retail and office uses, however, dwelling units are not proposed by the applicant.*

#### *Land Use Policy 3.H.2:*

Properties adjacent to centers, transit facilities or transit corridors shall provide pedestrian and bicycle connections to the center to encourage pedestrian activity and decrease auto trips.

*Pedestrian connections are provided throughout the project, and sidewalks will be constructed on the street frontages.*

*Transportation Policy 1.C.2:*

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

*The project has been reviewed by the county Fire Marshal's Office and has been recommended for approval by that agency. The Fire Marshal's Office also will review the detailed site and building plans required for building and site development permits.*

*Community Transit has reviewed the proposal and has not objected to the site design (Exhibit 8C4).*

*Transportation Policy 1.C.6:*

Bus stops and bus pull-outs and on-site circulation shall be located and designed to accommodate public transportation where potential ridership warrants such improvements.

*The review by Community Transit did not conclude that potential ridership warranted the improvements. However, testimony presented at the public hearing and in Exhibit 21 shows that a bus pull-out will be provided near the northeast corner of the site. This pull-out will result in no impacts to the proposed development across Alderwood Mall Parkway to the east.*

*Transportation Policy 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.

*Transportation Policy 1.C.10:*

Developments taking access from existing roadways shall be required to make offsite 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.

*Transportation Policy 2.B.1:*

Access and mobility for transit users and pedestrians without reliance on automobiles shall be enhanced through the design of pedestrian-scale neighborhoods and activity centers.

*Pedestrian access through the proposed development, and from/to each element of the site, is shown on the proposed official site plan.*

*Transportation Policy 3.B.1:*

Adequate pedestrian access to and circulation within all developments shall be maintained.

*Pedestrian access through the proposed development, and from/to each element of the site, is shown on the proposed official site plan.*

*Transportation Policy 3.B.2:*

Convenient and secure bicycle parking shall be provided within centers, at major destinations, and at transportation centers to accommodate intermodal connections.

*The nearest feasible intermodal connection is the park-and-ride lot across 164<sup>th</sup> Street SW to the northwest of the proposed project. Bicycle racks will be provided at convenient locations within the development.*

*Transportation Policy 4.A.2:*

Pedestrian facilities shall be encourage that will also accommodate elderly person and persons with disabilities.

*The project will be required to be in compliance with the applicable barrier-free access codes.*

*Transportation Policy 4.A.3:*

Safe and direct pedestrian and disabled access shall be designed to and from public rights-of-way, structures, and adjacent developments.

*Transportation Policy 4.D.1:*

In order to promote public safety and operations efficiency, access to principal, minor and collector arterials shall be limited.

*Please refer to the section within this document discussing compliance with the county roads ordinance (SCC 30.66B) for those GPP policies that pertain to traffic mitigation, access, and/or road improvements.*

*Transportation Policy 4.D.2:*

Vehicle access shall be limited to collector arterials and local roads as a condition of development whenever practicable.

*Transportation Policy 4.D.3:*

Preparation and approval of vehicle access, pedestrian access, and circulation schemes shall be required for major public or private developments.

*Transportation Policy 4.D.4:*

Adequate distance of driveways from intersections shall be required in order to promote safe and efficient flow of vehicular traffic.

*Transportation Policy 4.D.6:*

Driveways shall be located in a manner that provides adequate sight distance for all traffic movements and does not interfere with traffic operations at intersections.

*Transportation Policy 4.D.7:*

On-site traffic circulation shall be designed in a way that allows safe and efficient storage and movement of driveway traffic.

*Transportation Policy 4.D.8:*

Driveway and traffic flow restrictions shall be used to allow safe and efficient access for emergency vehicles when needed.

*Transportation Policy 4.E.1:*

Design standards, improvements and right-of-way shall be provided that vary by functional class of roadway in order to ensure safe and efficient flow of traffic.

*Transportation Policy 4.E.5:*

Safety improvements needed on roads due to the impact of new land development shall be provided concurrent with development.

*Transportation Policy 5.A.1:*

The county shall identify additional transportation mitigation for proposed developments that impact roadways determined to be at ultimate capacity.

*Transportation Policy 5.B.1:*

Employers in the urbanized area shall be encouraged to offer trip reduction programs for employees.

*Transportation Policy 5.A.5:*

Developments shall be required to provide, or contribute to, reasonable transportation demand management measures that improve roadway efficiency operations.

*Transportation Objective 5.C:*

Work to reduce parking demand by requiring accommodation within site plans for pedestrians, public transportation, ridesharing, and bicycles.

*Transportation Policy 5.C.1:*

Minimum and maximum off-street parking stall ratios shall be considered for different land uses to provide safe adequately sized parking facilities.

*The applicant has provided the minimum number of parking stalls as required by county code. The code has no maximum parking stall requirements.*

*Transportation Policy 5.C.3:*

Transit stops and transit access shall be provided for applicable land uses where they attract large numbers of employees and/or customers.

*Community Transit did not identify this project as having a sufficient number of employees and/or customers to require a transit stop or transit access. As found above a bus pull-out will be provided. A park and ride facility is located to the north of the proposed development.*

*Transportation Policy 5.C.5:*

Developers of new sites shall accommodate mobility of pedestrians.

*Pedestrian access through the proposed development, and from/to each element of the site, is shown on the proposed official site plan.*

*Transportation Policy 5.D.3:*

Development review shall be performed with transit agency participation to ensure site plan compatibility with public transportation and other high-occupancy vehicles.

*Community Transit reviewed and commented on this proposal (Exhibit 8C4).*

*Transportation Policy 7.B.5:*

Where proponents of land development commit to a feasible transportation demand management program, they shall receive credit for reductions in traffic impacts they generate.

11. Zoning (Chapter 30.2 SCC) The proposed retail development is an allowed use in the PCB zone pursuant to the definition of retail at SCC 30.91R.140 and 30.91R.150, and the allowed use matrix at SCC 30.22.100, *Urban Use Matrix*.
12. Business Park (BP), Planned Community Business (PCB), Neighborhood Business (NB) and Industrial Park (IP) Zones (Chapter 30.31A SCC)

Development for any allowed use within the PCB zone is required to comply with the standards within SCC 30.31A, *Business Park (BP), Planned Community Business (PCB), Neighborhood Business (NB) and Industrial Park (IP) Zones*. A discussion of the project's compliance with the applicable portions of SCC 30.31A follows.

*30.31A.020 Minimum zoning criteria.*

"(4) A tract of land must be in single ownership or, for multiple parcels, under unified control. This requirement shall apply during preliminary and final plan stages to ensure continuity of plan development."

*The project's developer has documented that the development will be under unified control through the final plan stages; see Exhibit 1H.*

"(5) Zoning request must be accompanied by a preliminary development plan prepared by a team of design professionals in compliance with the regulations and requirements of this chapter."

*The property was rezoned to Planned Community Business by Snohomish County as part of prior comprehensive plan compliance efforts; therefore no zoning request is necessary. The request for approval of the PCB Zone Official Site Plan is the "preliminary development plan" referenced in 30.31A.020(5).*

*30.31A.100 General performance standards.*

"Each planned zone and uses located in the BP, PCB, NB and IP zones shall comply with the following requirements unless more specific requirements are provided in code:

"(1) Processes and Equipment. Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable beyond the boundaries of the lot upon which the use is located by reason of offensive odors, dust, smoke, gas, or electronic interference;"

*The project as proposed at the preliminary plan stage does not present any obvious reason to believe that objectionable processes, equipment, or goods as defined in this section will be present at the completed development. Subsequent permits issued for the site will include review by the department for compliance with this section.*

"(2) Development Phases. Where the proposal contains more than one phase, all development shall occur in a sequence consistent with the phasing plan which shall be presented as an element of the preliminary plan unless revisions are approved by the department;"

*Phasing is not proposed on this project. Construction of the buildings is intended to proceed upon approved of the preliminary plan, and issuance of building permits.*

“(3) Building Design. Buildings shall be designed to be compatible with their surroundings, both within and adjacent to the zone;”

*A description of any project's compliance with this section is somewhat subjective. It can be assumed that the buildings will be compatible with their surroundings within the development, since a single developer will be asserting unified control on the overall project. Aesthetically pleasing retail centers are likely to attract more shoppers, and thus the developer has a financial incentive to provide an attractive site.*

*The project narrative (Exhibit 1B) describes the buildings as using earth-tone colors. Site design elements such as “stamped concrete, pedestrian directing bollards, low growth landscaping, planter areas, [and] soft lighting” will be provided. The site plans show a plaza at the northeast corner of the site. Building height in the PCB zone is limited to 40 feet.*

*Compatibility with the design of the surrounding buildings is much more nebulous concept. This is in part due to the transitional nature of older land uses and buildings to more contemporary commercial structures. For example, the existing nursery and garden store across 164<sup>th</sup> Street to the north appears to be a converted rambler-style single family residence, along with several large greenhouses. Development west of the nursery and garden store includes a large park-and-ride lot and an industrial park developed in the 1970's.*

*Contrasted with the older nursery facility, the Northpointe Corporate Campus, located northeast of the proposal across 164<sup>th</sup> Street SW, consists of several office buildings in excess of 100,000 square feet. These buildings have a modern office park style that likely will be very compatible with the completed development.*

*The multifamily project located to the west of the site across SR-525, the Avalon Wildwood apartments, cannot be seen from the Northpointe Retail site. However, there is no reason to believe that this project would be incompatible with a large modern apartment complex.*

*An existing light industrial development known as Glen's Welding has operated across Alderwood Mall Parkway to the east for at least 30 years. These buildings have a well-maintained industrial look to them, typical for industrial buildings built in this area in the 1960's. Just south of Glen's Welding are four older single-family residences, all of them single story. It is reasonable to assume that these older uses will eventually be replaced with more contemporary, upscale facilities, which will themselves undergo a compatibility analysis with the then existing Northpointe project, and the PCB zone.*

*Proposed to the north of Glen's Welding is a project named “Alderwood Spectrum”, which is planned to be a 17,150 square foot, 3-story office/retail building with underground parking on 0.9 acre. Proposed to the south of the four existing single-family residences is a project named “Manor Bell, which is planned to be a 22,200 square foot retail building on 1.9 acres. Both projects are proposed in the PCB zone, but neither will require Hearing Examiner approval due to the exemption for sites of less than five acres (SCC 30.31A.200). Neither project has yet completed the environmental review process required by SEPA. It is not yet possible to determine if these projects will be compatible with their surroundings.*

*The existing mini self-storage project to the south consists of ten long, single storage warehouse buildings. Each of the buildings is at least 250 feet long. It is not likely that the buildings proposed at the Northpointe Retail project will present a compatibility problem with*

*them, unless the architectural style of the mini self-storage project is determined to be one that is desirable for a new retail center.*

“(4) Restrictive Covenants. Restrictive covenants shall be provided which shall ensure the long-term maintenance and upkeep of landscaping, storm drainage facilities, other private property improvements, and open space areas and facilities. Further, the covenants shall reference the official or binding site plan(s) and indicate their availability at the department, and shall provide that Snohomish County is an additional beneficiary with standing to enforce, and shall preclude the avoidance of performance obligations through lease agreements;”

*Provision of the restrictive covenants in compliance with this section is a recommended condition prior to the approval of the Final PCB Zone Official Plan.*

*Note that SCC 30.63A.350 requires the submittal of a maintenance covenant for the stormwater drainage facilities in addition to the restrictive covenants required at SCC 30.31A.100(4):*

*“30.63A.350 Maintenance covenant.*

*“(1) The owners with a record interest in the private drainage facilities specified in SCC 30.63A.340 shall sign and record a covenant which runs with the land and requires the owners of the property, and their heirs, successors and assigns to maintain the drainage facilities. The covenant shall be in a form specified by the director. The restrictions set forth in such covenant shall include, but not be limited to a description of the owner's maintenance responsibilities and obligations, the right of entry for inspection by the county, and provisions for notice to the persons holding title to the property of a county determination that maintenance and/or repairs are necessary to the facility and a reasonable time limit in which such work is to be completed.”*

“(5) Off-street Parking. Permanent off-street parking shall be in accordance with terms of chapter 30.26 SCC;”

*The proposed site plan shows sufficient off-street parking to comply with SCC 30.26. Exhibit 1F shows a summary of the parking ratios provided.*

“(6) Signing. Signs for business identification or advertising of products shall conform to the approved sign design scheme submitted with the final plan, and must comply with chapters 30.54B and 30.27 SCC;”

*The requirement for a sign design scheme is a recommended condition prior to approval of the Final PCB Zone Official Plan.*

“(7) Noise. Noise levels generated within the development shall not exceed those established in chapter 10.01 SCC - noise control, or violate other law or regulation relating to noise. Noise of machines and operations shall be muffled so as to not become objectionable due to intermittence or beat frequency, or shrillness; and”

*There are no uses proposed which are obviously likely to exceed the noise limits established at SCC 10.01.*

“(8) Landscaping. General landscaping and open space requirements shall be in accordance with chapter 30.25 SCC.”

*The landscaping plan (Exhibit 2A5) and the landscape summary letter (Exhibit 1G) demonstrate compliance with SCC 30.25.*

*30.31A.110 PCB zone performance standards.*

The PCB and NB zones may also include areas designated on the future land use map as urban center or urban village, respectively, with specific performance requirements for applications submitted under SCC 30.34A. The PCB-TPV subzone shall meet the minimum zoning criteria and general performance standards of this chapter and chapter 30.34A. In addition to the minimum zoning criteria and general performance standards set forth above, the following are specific performance requirements in the PCB and NB zone:

- (1) All uses permitted in this zone shall be entirely contained within an enclosed structure except the following:
  - (a) Public utility transmission facilities;
  - (b) Eating establishments where the space for outdoor public service is adjacent to the closed structure and does not disrupt vehicular traffic within or adjacent to the zone;
  - (c) Permitted signing;
  - (d) Parking and loading facilities;
  - (e) Plant nurseries;
  - (f) Outdoor storage areas, when in conjunction with an enclosed principal use; and
  - (g) Public realm.

*The proposed Preliminary PCB Zone Official Site Plan complies with SCC 30.31A.110(1). Building permits issued subsequent to approval of this preliminary plan will be reviewed for compliance with this section.*

- (2) No outside loading and unloading of goods and materials shall occur between the hours of 11:00 p.m. and 7:00 a.m. unless approved in writing by the director based upon a showing that any resulting impact to adjoining properties is minor.

*There has been no request filed with the director of PDS or the Examiner to load or unload outside of the hours identified by this section.*

*30.31A.200 Rezone procedures*

- (4) "Prior to development of any BP, IP, or PCB site five acres or larger in size, the developer shall submit a preliminary site plan and fees as required by chapter 30.86 SCC for hearing examiner review and approval."

*The project is 18.3 acres in size, and therefore approval by the Hearing Examiner of the preliminary site plan is required. The fees required by SCC 30.86 have been paid to PDS.*

13. Public Comments: There are no extraordinary issues of concern pertaining to this project, particularly in light of its relative size. A single comment letter was received from a member of the public, expressing a desire to see a high quality grocery store being constructed on the property. Testimony presented at the hearing indicated that the anchor store will be a Fred Meyer store. This business will have about 25% of the retail floor space dedicated to a grocery store with such amenities as a deli and a bakery. Testimony at the hearing also indicated that there will not be a swap meet rather there will be a plant and nursery area in the "seasonal sales area." The City of Lynnwood has expressed interest in several aspects of the project, including critical areas, stormwater management, traffic, and architectural design. Findings regarding these issues have been made above.

14. Any finding in this report and decision which should be deemed a conclusion is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Examiner has original jurisdiction over the application.
2. The proposal is consistent with the GMACP; GMA-based county codes, the type and character of land use permitted on the project site, and applicable design and development standards.
3. If approved with the recommended conditions, the proposal would make adequate provisions for the public health, safety and general welfare.
4. The proposed Planned Community Business Zone Official Site Plan will be in conformance with the General Policy Plan land use designation, and the applicable GPP policies.
5. The proposed Planned Community Business Zone Official Site Plan is a logical extension of development existing in the area of the proposal.
6. The property was zoned PCB at the time the application was determined to be complete. The proposed retail use is an allowed use in the PCB zone.
7. The recommended official site plans are in compliance with the ordinances in effect as of the date of the application being determined complete.
8. Potable water, sanitary sewers, and the full range of urban utilities will be available at the site. No utility providers have raised an objection to the proposed Planned Community Business Zone Official Site Plan.
9. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

### **DECISION**

APPROVAL of the proposed Preliminary Planned Community Business Zone Official Site Plan is granted subject to the following PRECONDITION and CONDITIONS:

#### **PRECONDITION**

- A. A record of developer's Chapter 30.66B SCC mitigation obligations shall have been recorded with the County Auditor.

#### **CONDITIONS**

- A. The Planned Community Business Zone Official Site Plans received by PDS June 25<sup>th</sup> shall be the official site plans and approved site configuration. SCC 30.31A.500 governs changes to the PCB Zone Official Site Plan.

- B. Prior to the approval of the Final PCB Zone Official Site Plan:
1. Restrictive covenants pursuant to SCC 30.31A.100 (4) shall have been submitted to and approved by Planning and Development Services.
  2. A sign design scheme pursuant to SCC 30.31A.100 (6) shall have been submitted to and approved by Planning and Development Services.
  3. All construction plans shall have been revised to use the "B" Line within the Alderwood Mall Parkway right-of-way, in conformance with the approved Preliminary Planned Community Business Zone Official Site Plan.
- C. Prior to any development activity (e.g. clearing, grading or filling) on the site and/or prior to issuance of any development permits by the county:
1. The project proponent 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.
- D. Prior to issuance of any building permit:
1. The applicant shall pay an impact fee to Snohomish County for traffic impacts to Transportation Service Area D in the amount of \$1,176,759.92 (\$5.1409 per sq ft) for the retail portion of the site and \$244,614.20 for the gas station. These payments may be made proportionately with each building permit.
  2. The applicant shall make a payment to Snohomish County for Transportation Demand Management measures within Transportation Service Area D in the amount of \$35,648.90 (\$0.1557 per sq ft) for the retail portion of the site and \$8,093.35 for the gas station. These payments may be made proportionately with each building permit.
  3. The applicant shall make a payment to Snohomish County for the WSDOT in the amount of \$186,622.72 (\$0.8153 per sq ft) for the retail portion of the site and \$38,793.44 for the gas station for mitigation of traffic impacts to State highways. These payments may be made proportionately with each building permit.
- E. Prior to issuance of the first Certificate of Occupancy for any building on the site:
1. 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 project proponent 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.
  2. NGPA signs shall have been placed no greater than 100 feet apart around the perimeter of the NGPA. Minimum placement shall include one Type 1 sign per wetland, and at least one Type 1 sign shall be placed in any lot that borders the NGPA, unless otherwise approved by the county biologist. The design and proposed locations for the NGPA signs shall be submitted to the Development Review and Construction Division for review and approval prior to installation.

3. The Northpointe Final Buffer Enhancement Plan prepared by Sewall Wetland Consulting, Inc. dated May 6, 2008 as received late by PDS on May 7, 2008 shall be satisfactorily implemented
4. The features on the approved TDM plan shall be constructed/installed.
5. Urban frontage improvements shall be constructed along the parcel's frontage on 164th St SW and Alderwood Mall Boulevard to the satisfaction of the County.
6. The traffic signal at the middle access onto Alderwood Mall Parkway shall have been installed by the applicant and approved by the Department of Public Works.
7. Additional right-of-way, parallel and adjacent to the right-of-way centerline of Alderwood Mall Parkway shall be dedicated/deeded to the County along the development's frontage such that a minimum of ~~248~~ 43 feet of right-of-way exists from centerline of the Alderwood Mall Parkway right-of-way.

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.

Decision issued this 2<sup>nd</sup> day of July, 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, 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 **JULY 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]**

<sup>2</sup> Scrivener's error corrected per Exhibit 21. 7/2/08  
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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 **JULY 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 this case.

Staff Distribution:

Department of Planning and Development Services: Tom Barnett

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.

**This decision is binding but will not become effective until the above precondition(s) have been fulfilled and acknowledged by the Department of Planning and Development Services (PDS) on the original of the instant decision. Document(s) required for fulfillment of the precondition(s) must be filed in a complete, executed fashion with PDS not later than JULY 2, 2009.**

1. "Fulfillment" as used herein means recordation with the County Auditor, approval/acceptance by the County Council and/or Hearing Examiner, and/or such other final action as is appropriate to the particular precondition(s).
2. One and only one six month period will be allowed for resubmittal of any required document(s) which is (are) returned to the applicant for correction.
3. This conditional approval will automatically be null and void if all required precondition(s) have not been fulfilled as set forth above; PROVIDED, that:
  - A. The Examiner may grant a one-time extension of the submittal deadline for not more than twelve (12) months for just cause shown if and only if a written request for such extension is received by the Examiner prior to the expiration of the original time period; and
  - B. The submittal deadline will be extended automatically an amount equal to the number of days involved in any appeal proceedings.

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### **ACKNOWLEDGMENT OF FULFILLMENT OF PRECONDITIONS**

The above imposed precondition(s) having been fulfilled by the applicant and/or the successors in interest, the Department of Planning and Development Services hereby states that the instant Decision is effective as of \_\_\_\_\_, \_\_\_\_\_.

Certified by:

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Title)

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