

DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: January 15, 2010

PLAT/PROJECT NAME: *Vine Maple*

APPLICANT/
LANDOWNER: PP&S, LLC

FILE NO.: 07-102437-000-00-SD

TYPE OF REQUEST: 15-lot subdivision utilizing lot size averaging

DECISION (SUMMARY): **APPROVAL WITH CONDITIONS**

BASIC INFORMATION

GENERAL LOCATION: Approximately 950 feet south of the intersection of 103rd Ave SE (Vine Maple Road) and Chapel Hill Road, at the NW corner of the intersection of 103rd Avenue SE and 4th Street SE, Lake Stevens in Section 18, Township 29 North, Range 6 East, W.M., Snohomish County, Washington

ACREAGE: 3.4 acres

NUMBER OF LOTS: 15

Smallest Lot Area: 4231 square feet **Net Density:** 6.55 du/ac **Gross Density:** 4.41 du/ac

Lot Size Averaging: 7,437 square feet per lot **Open Space:** 0 acres

Current Zoning: R-7200 **Proposed Zoning:** No change

COMPREHENSIVE PLAN DESIGNATION:

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

UTILITIES:

Water: Snohomish County PUD No. 1

Sewer: Lake Stevens Sewer District

SCHOOL DISTRICT: Lake Stevens School District No. 4

FIRE DISTRICT: No. 8

PDS STAFF RECOMMENDATION: Approve preliminary subdivision with conditions

INTRODUCTION

The applicant filed the Master Application on July 18, 2007; the application was determined to be complete as of the submittal date. (Exhibit A1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. Exhibit F1 (Affidavit of Mailing); Exhibit F2 (Affidavit of Notification by Publication); Exhibit F3 (Posting Verification).

A SEPA determination was made on October 23, 2009. (Exhibit E2) No appeal was filed.

The Examiner held an open record hearing on December 9, 2009. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

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

FINDINGS OF FACT

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

A. Background.

1. The master list of exhibits and witnesses which is a part of this file and which exhibits were considered by the Examiner is hereby made a part of this file as if set forth in full herein.
2. Summary of Proposal: The applicant is requesting approval of a preliminary with 15 lots on 3.39 acres using lot size averaging. An open space tract is proposed for the development to be used for stormwater detention. Another tract is proposed for the purpose of landscaping along the new access road. Building lots average 6,646 square feet, with the largest being 7,988 square feet and the smallest being 4,231 square feet. Public water service will be provided by the Snohomish County PUD No. 1 and sewer service will be provided by the Lake Stevens Sewer District. Mitigation fees are to be paid in accordance with SCC Chapters 30.66A, B, and C, for project impacts to community parks, nearby road system traffic and to the Lake Stevens School District No. 4.
3. Site Description: The subject site is 3.4 acres and consists of two original rectangular shaped parcels. It is located at the southwest end of the opened portion of 103rd Avenue SE. The site

is located on a hillside that slopes toward the east. The gradients of the slopes range from 25 percent up to 38 percent within the eastern half of the site. The slopes within the western half of the site are much more moderate. No structures exist on the site. Vegetation consists of mature evergreen and deciduous trees, (fir, cedar and maple), with a relatively thick understory of native bushes. An access easement along the southern 20 feet of the property is proposed to be relinquished upon recording of the plat.

4. Adjacent Zoning/Uses: The subject site is primarily surrounded by R-7200 and R-9600 zoned property, mostly single family residences or vacant. A low density multiple residential (LDMR) development lies to the south and west of the property. The subject properties are located within the Lake Stevens Municipal Urban Growth Area (MUGA), an area recently approved for annexation into the City of Lake Stevens. The effective date of the annexation is December 31, 2009.

B. Public Comment.

5. Issues of Concern. Four comment letters were received from the public (Exhibits I 1-4). Concerns expressed about the proposed project included: increased traffic impacting 103rd Ave SE, stormwater runoff, and increased density.

Traffic improvements are discussed in length in this decision (see Finding of Fact 7). Improvements to the existing road are conditions of approval. Stormwater runoff created from the new development will be detained and treated on-site. A response from the applicant concerning this issue is Exhibit I.2. Density in this area of the Lake Stevens Urban Growth Area is required to be a minimum of six units per acre. The net density proposed is 6.55 units per acre. This development meets the density requirements of the General Policy Plan (GPP).

C. Compliance with Codes and Policies.

6. Parks Mitigation. The proposal is within Centennial Park Service Area, No. 306, and is subject to Chapter 30.66A SCC, which requires payment of \$1,361.22 per each new single-family residential unit, to be paid prior to building permit issuance for each unit. Such payment is acceptable mitigation for parks and recreation impacts in accordance with county policies and is included as condition of approval of this development.
7. Traffic Mitigation and Road Design Standards (Title 13 SCC & Chapter 30.66B SCC).

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

The impact fee for this proposal is based on the new average daily trips (ADT) generated by 15 new homes, which is 9.57 ADT/home. This rate comes from the 7th Edition of the ITE Trip Generation Report (Land Use Code 210). The development will generate 143.55 new ADT and has a road system capacity impact fee of \$52,252.20, based on \$364.00/ADT (\$3,483.48 per lot). The Examiner has included a condition of

approval that this impact fee must be paid proportionately, prior to issuance of each building permit.

B. Concurrency [SCC 30.66B.120]

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

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and has been deemed concurrent as of September 5, 2007. The concurrency determination approval will expire on September 5, 2012, six years from the date concurrency was given.

The development has been deemed concurrent on the following basis:

Medium-Sized Development in TSA with one or more arterial unit in arrears, SCC 30.66B.160:

The subject development is located in TSA B which, as of the date of submittal, had the following arterial unit in arrears: Arterial Unit 238. Based on peak-hour trip distributions, the subject development did not add three or more peak-hour trips to any of the arterial units in arrears. Pursuant to SCC 30.66B.160(2)(a); the development is determined concurrent. The development generates 11.25 a.m. peak-hour trips and 15.15 p.m. peak-hour trips which is not more than the threshold of 50 peak-hour trips in which case the development would also have to be evaluated under SCC 30.66B.035.

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

The subject proposal will not impact any IRC locations identified at this time within TSA B with three or more of its p.m. peak hour trips, nor will it create any. Therefore, it is anticipated that mitigation will not be required with respect to inadequate road conditions and no restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under this section of Chapter 30.66B SCC.

D. Frontage Improvements [SCC 30.66B.410]

The subject property frontage is located along 103rd Avenue SE (Vine Maple Road). Urban standard frontage improvements are required consisting of 18 feet of pavement from centerline of right-of-way, curb, gutter, five-foot planter strips, and five-foot sidewalks. Construction of frontage improvements is required prior to recording the

subdivision unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development. The Examiner has included this requirement as condition of approval for this development.

E. Access and Circulation [SCC 30.66B.420]

Internal Road Classification:

Access is proposed via a new public cul-de-sac road off of 103rd Avenue SE (Vine Maple Road). The road standard for this development is a residential road with 51-foot right-of-way width per EDDS 3-050, which EDDS specifies serves 1 to 1,000 ADT. The road grade, horizontal and vertical curves must meet EDDS requirements for a 25 mph design speed or a deviation request with sufficient justification for approval is necessary.

The access point was revised from the original location near the south property line to adjacent to the north property line. The new design meets the minimum centerline offset requirements of EDDS Table 3-11, which specifies 125 feet of separation between the centerline of the residential road proposed to serve the plat and another residential or subcollector road. In this case, the spacing in question (290 feet) is between the plat road and the unopened right-of-way for 4th Street SE in case a public road is constructed in that location in the future. The spacing exceeds the requirements.

The revised design for the plat road includes widening the right-of-way where the road curves toward the south property line so that the right-of-way touches the south property line. The purpose of that is to serve the property adjoining to the south that currently has one home on approximately 1 acre, and may propose a short plat in the near future. The home to the south currently has a driveway that cuts across the southeast corner of the development property, shown on the plans in a temporary access easement “to be relinquished upon approval of adjacent subdivision”. It appears that the required amount of stopping and intersection sight distance (for a 20 mph design speed) will be available at the intersection of the new plat road and the future short plat road at the south property line, and the line of sight will be within the available right-of-way. The applicant must provide a viable right-of-way width of at least 31 feet for a residential urban road to serve a short plat with 90 ADT or less.

Deviation Requests:

- EDDS Table 3-5 requires a maximum grade of 12% for the road, and the proposed grade is 15%. A deviation request was submitted for a design speed of 20 mph, and for the proposed road grade of 15% on the plat road. The requests were approved by the County Engineer because EDDS Table 3-2 specifies a design speed of 25 mph for a residential urban road, but note 2 indicates that may be reduced to 20 mph on a cul-de-sac road with no tangent longer than 250 feet, which applies to this road.

The 15% road grade was approved based on the adverse topography of the site, and since it is a dead end road with no tangent longer than 250 feet.

- EDDS Table 3-4 specifies a horizontal curve with a minimum radius of 165 for a road with a design speed of 25 mph. A deviation request was submitted for two horizontal curves in the road with a radius of 90 feet, which meets EDDS requirements for a 20 mph design speed. The request was approved because EDDS Table 3-2 specifies a design speed of 25 mph for a residential urban road, but note 2 indicates that may be reduced to 20 mph on a cul-de-sac road with no tangent longer than 250 feet, which applies to the proposed public plat road. The vertical curves proposed meet EDDS requirements.
- 103rd Avenue SE (Vine Maple Road) is a dead end public road that will serve more than 250 ADT with the addition of the 15 lots proposed by this development. The applicant submitted a deviation request asking to accept that situation as-is. The request was approved because the applicant has provided a road stub to the south property line for a future road connection for the property to the south. There is existing unopened right-of-way for 4th Street SE that extends east at the current end of the road, which we anticipate will be constructed in the future to connect with South Davies Road to the east. In addition, the plat of Stevens Ridge Estates PFN 01-111862, (which is one property parcel south of the subject development) will construct a road stub to the north that PDS anticipates will eventually connect the south end of 103rd Avenue to South Davies Road to the east when the property parcel in-between develops in the future.

External Road; 103rd Avenue SE (Vine Maple Road):

There are currently 18 homes served by 103rd Avenue SE (172 ADT), a dead end public road south off of Chapel Hill Road. Three developments are proposed on properties served by 103rd Avenue SE that are currently unoccupied by homes. Those three properties include the subject property, which proposes 15 homes (143.55 ADT); Shadow Hawk (PFN 07-113490) proposing 25 homes (239.25 ADT) located approximately 160 feet north of the subject development; and the Vine Maple Short Plat, PFN 06-100730 located across 103rd Avenue to the east from the subject development, proposing 5 homes (47.85 ADT).

Without any of the proposed developments, 103rd Avenue SE serves 172 ADT. With the subject development it would serve 315.55 ADT. With the other two proposed developments it would serve 602.65 ADT. The current zoning of the properties along 103rd Avenue SE is R-7200, and there are several properties that are large enough to have development potential. The road would be classified as an urban residential road, EDDS 3-050, which serves 1 to 1,000 ADT. The improvements specified by EDDS for that type of road is a 28-foot pavement width, vertical curbs, 5-foot planters and 5-foot sidewalks.

103rd Avenue SE has a substandard pavement width (less than 20 feet wide) along the frontage of the property, which will be corrected by the frontage improvements. The substandard width continues approximately 100 feet north of the property, and PDS recommends a condition of approval that this development widen the road to a minimum of a 20-foot pavement width for two travel lanes in order to meet the provisions of SCC 30.66B.420 (3), which states:

All developments that propose to take access via an existing public or private road which, for the vehicle trips projected to use the road after full occupancy of the development, is not designed and constructed in accordance with the EDDS, will be required to improve such road to bring it into compliance with the EDDS when the director of public works determines it necessary to provide for safety and the operational efficiency of the road.

DPW has established a minimum offsite road width of 20 feet in order to make provisions for emergency vehicles. In addition to that; since the school district comments indicate that children would walk to a bus stop located at the intersection with Chapel Hill Road, an offsite paved walkway will be required in order to meet the requirements of RCW 58.17.110. That will result in a pavement width of a minimum of 27 feet along the entire length of the road, which will be 20 feet for vehicle travel lanes and 7 feet for pedestrians. This is considered by DPW to be an interim improvement until frontage improvements are completed by other properties when developed in the future. The Examiner will impose this condition as recommended by PDS.

The short plat proposed opposite the subject development on the east side of 103rd Avenue SE (Vine Maple Short Plat PFN 06 100730) proposes four lots along 103rd Avenue SE; each lot will have direct driveway access to 103rd Avenue. There are no design standard requirements regarding alignment of a public or private road across from a residential driveway, so there are no issues related to the spacing or alignment with the short plat driveways, or with any other access points on 103rd Avenue.

The applicant proposes to vacate the unopened right-of-way along the south property line (4th Street SE) except for a 114-foot width where the right-of-way for the plat road stubs to the south property line. It is anticipated that 103rd Avenue SE will be extended to the south in the future. The plat of Stevens Ridge Estates PFN 01-111862, (which is one property parcel south of the subject development) will construct a road stub to the north that it is anticipated will eventually connect to the south end of 103rd Avenue to Davies Road to the east when the in-between property parcel develops in the future. PDS has recommended that the Examiner include a condition of approval for the 114-foot width where the right-of-way for the plat road stubs at the property line, and the Examiner will do so.

Sight Distance:

The intersection sight distance (ISD) from Vine Maple Road on Chapel Hill Road does not meet the minimum EDDS requirements looking east. A sight distance analysis was submitted by the applicant's engineer that identified the available ISD, and analyzed the problem. The line of sight and the clear sight triangle is blocked by a wood fence and a hedge by the property owners located in the southeast quadrant of the intersection. Those obstacles were located outside of the county right-of-way, and inside private property. The applicant has obtained a sight distance easement from the property owners that has been reviewed, approved and recorded by Snohomish County DPW. (Exhibit G2) The easement will allow the applicant to remove the obstacles from the clear sight triangle in order to obtain the required minimum ISD; and will allow DPW Road Maintenance to maintain the area in the future.

The Examiner will include a condition of approval that the obstacles within the clear sight triangle be removed prior to recording the subdivision.

F. Dedication of Right-of-Way [SCC 30.66B.510]

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.

103rd Avenue SE is designated as a non-arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 30 feet on each side of the right-of-way centerline. Twenty feet of right-of-way presently exists on the development's side of the right-of-way. Therefore, ten feet of additional right-of-way is required, which has been shown on the plans. The Examiner has included this requirement as a condition of approval for the subdivision.

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

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

The impact mitigation measures under the ILA, Section IV(4.1)(b), may be accomplished through a) voluntary negotiated construction of improvements, b) voluntary negotiated payment in lieu of construction, c) transfer of land from the developer to the State, or d) a voluntary payment in the amount of \$36.00 per ADT.

The Gibson Traffic study indicates that the development will not impact any WSDOT improvement project with 3 or more PM peak directional trips, so no mitigation fee is required. Comments dated September 24, 2007 have been received from WSDOT

indicating that the development will not have a significant adverse traffic impact upon state highways so they do not request any traffic mitigation from the applicant. (Exhibit H1) No traffic mitigation to the state will be required.

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

DPW will recommend mitigation measures of the development's direct traffic impact on the city, town or other county roads to the approving authority and the approving authority will impose such measures as a condition of approval of the development in conformance with the terms of the interlocal agreement referred to in SCC 30.61.230 between the county and the other agency. There are no City jurisdictions that have an ILA with the County that will be significantly impacted by the subject development.

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

All new developments in the urban area shall provide transportation demand management measures. Sufficient transportation demand management measures shall be provided to indicate the potential for removing a minimum of five percent of a 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 30.66B.625.

It has been determined that the cost of removing one peak hour trip from the road system is approximately \$1,500.00. This is based on the average cost of one stall in a park and ride lot and the average cost of one "seat" in a 15-passenger van. For a development required to provide TDM, the development's TDM obligation will equal \$1,500.00 times the required trip reduction percentage times the development's peak hour trip generation. [SCC 30.66B.615]

The trip reduction percentage for this development is five percent. The TDM obligation for this development is therefore equivalent to 5% of the 15.15 new PM peak hour trips x \$1,500.00, which equals \$1,136.25. A written offer for payment of this TDM obligation was not found in the material routed for the preliminary review; nor was a TDM Plan. A copy of an offer for \$1,136.25 signed by the applicant was submitted for the subsequent revision review. Payment of that amount will be a recommended condition of approval for this development.

8. Pedestrian Facilities for Students [RCW 58.17.110]

The County is required to make findings regarding safe walking conditions for school children who may reside in the subject development. Comments dated November 15, 2007 were received from the Lake Stevens School District indicating that the school bus stop for the

development would be located at the entrance to the development. (Exhibit H8) Since it is a dead end road, and the school district previously submitted comments for the short plat across 103rd Avenue SE to the east that differed from the current comments. The school district transportation department was contacted to clarify the school bus stop location. The response from the school district was to verify that the school bus would not drive to the end of 103rd Avenue SE because there is no turnaround for the bus, and that the bus stop in this case would be located on Chapel Hill Road at 103rd Avenue. The Examiner will require as a condition of approval of the development construction of an off-site walkway between the development and Chapel Hill Road.

Construction plans have been submitted by the Vine Maple Short Plat 06-100730 for an offsite paved shoulder walkway along the east side of 103rd Avenue SE to Chapel Hill Road that would be located directly across 103rd Avenue SE from the subject development property. Since there is a State law indicating that a legal crossing for pedestrians is at the intersection of two public roads, and there is adequate sight distance at that location, PDS would approve the use of the paved shoulder walkway on the east side for children to use from this development for safe walking conditions to the bus stop on Chapel Hill Road if it has been constructed by the time this development is ready to record. The condition for constructing the offsite walkway will still apply to this development in case the walkway is not completed by the developer of the short plat. The developer of this development would have the option to construct the walkway on either side of 103rd Avenue SE.

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

The Snohomish County Council amended Chapter 30.66C SCC by Amended Ordinance 97-095, adopted November 17, 1997, which became effective January 1, 1999, in accordance with Amended Ordinance 98-126, to provide for collection of school impact mitigation fees at the time of building permit issuance based upon certified amounts in effect at that time. The subject application was determined to be complete after the effective date of amended Chapter 30.66C SCC. Pursuant to Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Lake Stevens School District No. 4, at the time of building permit submittal and collected at the time of building permit issuance for the proposed units. Credit is to be given for the two existing lots. The Examiner has included a condition of approval to comply with the requirements of Chapter 30.66C SCC.

10. Drainage and grading.

Drainage. The proposed development will remove the existing vegetative cover and grade the site to provide a new roadway to access the new lots. The cuts at the perimeter of the project will be as much as twelve feet (according to the contours shown on Sheet 1 of 2 of the Targeted Drainage Plan). These cuts will be treated with a rock wall facing. The SEPA Checklist estimates that there will be about 30,000 cubic yards of exported earth material.

The proposed drainage system will collect runoff from the proposed impervious surfaces (estimated at 1.6 acres) into a detention (quantity control) vault and releasing a controlled discharge through a water quality vault from which flows are routed to the existing drainage system in 103rd Avenue SE (public right of way).

The development proposes in excess of 5,000 square feet of new impervious surface, which meets the definition of major development activity per SCC 30.63A.120. A full drainage plan will be required at construction permit application per SCC 30.63A.140(2) and is a recommended condition of approval. The proposed vault (quantity control facility) can be designed to meet the requirements of SCC 30.63A.210(1) by controlling the peak discharge rates. The proposed water quality vault (with treatment cartridges) is a recognized best management practice (BMP) acceptable to both Snohomish County and Washington State Department of Ecology for water quality treatment. This proposed BMP meets the requirements of SCC 30.63A.210(4).

No downstream flooding was reported by Snohomish County Surface Water Management (SWM) or the downstream analysis included in the Targeted Drainage Report prepared by Geoff Tapert, P.E. (Exhibit C2).

The Examiner will include that condition for a full drainage plan at construction permit application as part of the preliminary plat approval.

Grading. The details of Erosion and Sedimentation Control are addressed as part of the construction documents required by PDS prior to permit issuance. The project proposes earthwork quantities of approximately 30,000 cubic yards. The applicant states that the excess material will be placed at a permitted site.

Critical Areas Regulations (Chapter 30.62 SCC)

No streams or wetlands are located on or within 100 feet of the subject property. No critical areas study was required.

The subject site slopes from west to east with 11% of the site sloping at greater than 33%. The site is currently wooded with under story vegetation (see photos 9 and 10 in Section 4 of the Targeted Drainage Report, Exhibit C2). The soils and slopes on site were evaluated by the applicant's consultant and no landslide hazard areas were identified.

11. Consistency with the GMA Comprehensive Plan.

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.

The subject property is designated Urban Low Density Residential - 6 dwelling units per acre only (ULDR: 6 DU/Ac) on the GPP Future Land Use map, and is located within the Lake Stevens Urban Growth Area (UGA). According to the GPP, this Urban Low Density Residential designation is specific to the Lake Stevens Municipal Urban Growth Area (MUGA) and only allows a minimum of six dwelling units per acre.

The 15 lots proposed are consistent with the density provisions of Snohomish County's GMA-based zoning regulations under Subtitle 30.2.

12. Consistency with Bulk and Performance Standards. [Subtitle 30.2 SCC]

According to the PDS staff report, this project meets zoning code requirements for lot size, including lot size averaging provisions, bulk regulations and other zoning code requirements. Exhibit J at 10.

The proposal has been evaluated for compliance with the lot size averaging (LSA) provisions of SCC 30.23.210, which provide that the minimum lot area of the applicable zone is deemed to have been met if the area in lots plus critical areas and their buffers and areas designated as open space or recreational uses, if any, divided by the number of lots proposed, is not less than the minimum lot area requirement. In no case shall the density achieved be greater than the gross site area divided by the underlying zoning. In determining the appropriate calculation, lots may not be less than 3,000 square feet in area, and any lot having an area less than the minimum zoning requirement must provide a minimum lot width of not less than 40 feet, and right-of-way (ROW) setbacks of 15 feet, except that garages must be setback 18 feet from the ROW (except alleys) and corner lots may reduce one ROW setback to no less than 10 feet. Lot coverage for this proposed subdivision is a maximum of 55 percent.

The LSA calculation is as follows:

Area in Lots (97,580 square feet) + Critical Areas and Buffers (0 square feet) + Open Space (11,721 square feet) = (109,301 square feet) ÷ (15 of lots proposed) = (7,286) square feet

The minimum zoning requirement is 7,200 square feet. No lot is less than 3,000 square feet, and all lots comply with minimum lot width and setback requirements. Roadways and surface detention/retention facilities are not counted toward the LSA calculations. The proposal is consistent with the lot size averaging provisions of SCC 30.23.210.

13. Utilities

- A. Water. Public water service will be supplied by the Snohomish County PUD No. 1. A Certificate of Water Availability was received on July 31, 2007 and on March 10, 2009. (Exhibit H6)
- B. Sewer. Public sanitary sewer service will be supplied by the Lake Stevens Sewer District. A Certificate of Sewer Availability was received on July 23, 2007. (Exhibit H7)

- C. Electricity. The Snohomish County PUD submitted a letter stating that electricity is available. (Exhibit H3)
- D. Snohomish Health District Approval. The Snohomish Health District recommended approval of the preliminary plat on November 28, 2009. (Exhibit H2)

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

PDS issued a Determination of Nonsignificance (DNS) for the subject application on October 23, 2009. (Exhibit E2) The DNS was not appealed.

15. Subdivision Code (Chapter 30.41A SCC)

The proposed plat also meets Chapter 30.41A SCC requirements. A complete application for the proposed plat was received by PDS on September 6, 2006. The proposed plat as conditioned also meets the general requirements under Section 30.41A.100 with respect to health, safety and general welfare of the community. Specifically, the following are met:

- A. Roads. The Examiner finds that based on the information provided in the file, staff report and in the public hearing, the design standards for roads are met. Finding of Fact 7; see SCC 30.41A.210.
- B. Flood Hazard. The Examiner finds that the lots as proposed are outside of all regulated flood hazard areas and that none of the lots are proposed in areas that are subject to flood, inundation or swamp conditions. Exhibit B1; See 30.41A.110.
- C. Fire Code/Fire District Requirements. The County Fire Marshall of Snohomish County conducted an internal review of the proposed plat and recommended approval of the preliminary plat on January 16, 2008. (Exhibit J at 10-11.) The conclusions of the review were that:
 - a) Fire flow and fire hydrants shall be provided in accordance with Snohomish County Code 30.53A.514 through 30.53A. 520. Fire hydrants serving single-family dwellings shall have a maximum lateral spacing of 600 feet with no lot or parcel in excess of 300 feet from a hydrant. It is a recommended condition that hydrant locations shall be depicted on the face of the plat, and locations for new hydrants shall be approved by this office.
 - b) The minimum required fire flow for this project has been determined to be 1,000 GPM at 20 psi for a two-hour duration. Prior to final plat approval, in order to assure consistency with the applicable provisions of Snohomish County Code 30.53A.300, the developer shall provide the required fire hydrants and written confirmation from the water purveyor that the minimum required fire flow of 1,000 gpm at 20 psi for a two-hour duration can be provided. If the required fire flow cannot be provided the new dwellings shall be provided with NFPA 13-D fire suppression systems.

c) Fire apparatus access as depicted meets the minimum requirements of Snohomish County Code 30.53A.150. No further requirements are necessary for the preliminary plat.

The application complies with the requirements contained in SCC 30.53A, including fire flow and emergency vehicle access. No additional conditions are necessary as those requirements will be addressed through construction plan review and approval.

The Examiner will impose the condition requested by the Fire Marshall in subsection a) above as a condition on the face of the plat.

D. As indicated earlier in this decision, applicant has met the requirements of the health district, school district, parks, the county drainage code, code requirements for building area, lot size averaging, and minimum net density.

E. Safe Walking Conditions to School. The Applicant will be providing safe walking conditions to the bus stop as discussed in Finding of Fact 8.

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

The subdivision has been reviewed for conformance with criteria established by RCW 58.17.100, .110, .120, and .195. Such criteria require that the plat conform with applicable zoning ordinances and comprehensive plans, and make appropriate provisions for the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and other planning features including safe walking conditions for students.

The proposed preliminary subdivision conforms to applicable local subdivision and development codes and the comprehensive plan. There is open space provided within the plat in the form of detention and landscaping areas, and the single-family homes will be in character with the existing neighborhood. Provisions for adequate drainage have been made in the conceptual plat design which indicates that the final design can conform to Chapter 30.63A SCC and State DOE drainage standards. The plat, as conditioned, will conform to Chapters 30.66A, B and C SCC, satisfying county requirements with respect to parks and recreation, traffic, roads and walkway design standards, and school mitigation. A public water supply will be provided by and public sewer service will be provided by the Snohomish County PUD No. 1 and Lake Stevens Sewer District, respectively.

17. Any Finding of Fact in this decision which should be deemed a Conclusion of Law is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Examiner has original jurisdiction over preliminary subdivision applications pursuant to Chapter 30.72 SCC, Chapter 30.41A SCC, and Chapter 2.02 SCC.
2. The legal standard the Examiner must review a preliminary subdivision under the state subdivision code, Chapter 58.17 RCW, is:

whether the proposed subdivision complies with the established criteria therein and makes the appropriate provisions for public, health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and other planning features including safe walking conditions for students

RCW 58.17.110.

3. Given the information provided in the record and the findings of fact made above, the Examiner concludes that the applicant has met its burden in showing that the preliminary subdivision application should be approved.
4. Any Conclusion of Law in this decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION

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

The request for a 15-lot subdivision on 3.4 acres is hereby **CONDITIONALLY APPROVED**, subject to the following conditions:

CONDITIONS:

- A. The revised preliminary plat received by PDS on February 27, 2008 (Exhibit B1) shall be the approved plat configuration. Changes to the approved plat are governed by SCC 30.41A.330.
- B. Prior to initiation of any site work; and/or prior to issuance of any development/construction permits by the County:
 - i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above, and this decision.

- ii. Construction plans shall be submitted for review and approval by PDS.
- iii. A full drainage plan shall be submitted for review and approval for the construction of the plat.

C. The following additional restrictions and/or items shall be indicated on the face of the final plat:

- i. The following language shall be indicated on the face of the final plat.
“The dwelling units within this development are subject to park impact fees in the amount of \$1,361.22 per newly approved dwelling unit pursuant to Chapter 30.66A SCC. Payment of these mitigation fees is required prior to building permit issuance; provided that the building permit has been issued within five years after the application is deemed complete. After five years, park impact fees shall be based upon the rate in effect at the time of building permit issuance.”
- ii. The following language shall be indicated on the face of the final plat.
“Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:
\$3,483.48 per lot for mitigation of impacts on County roads paid to the County,
\$75.75 per lot for transportation demand management paid to the County,
These payments are due prior to or at the time of building permit issuance for each single family residence. Notice of these mitigation payment obligations shall be contained in any deeds involving this subdivision or the lots therein. Once building permit has been issued all mitigation payments shall be deemed paid.”
- iii. The following language shall be indicated on the face of the final plat:
“The lots within this subdivision will be subject to school impact mitigation fees for the Lake Stevens School District No. 4 to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for two existing parcels. Lots 1 through 2 shall receive credit.”
- iv. Ten feet of property shall be dedicated on the west side of the right-of-way centerline of 103rd Avenue SE (Vine Maple Road), to make a total of thirty feet.
- v. The access easement to Parcel 004933-014-001-03, as shown on the revised preliminary plat received by PDS on February 27, 2008 (Exhibit B1), shall be relinquished upon the recording of the preliminary plat.
- vi. Fire hydrant locations shall be depicted on the face of the plat, and locations for the new hydrants shall be approved by the Fire Marshall/PDS.

D. Prior to recording of the final plat:

- i. Urban standard frontage improvements shall be constructed along the property frontage with 103rd Avenue SE (Vine Maple Road) to the satisfaction of Snohomish County unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.
 - ii. All landscaping, including landscaping around the detention pond shall be installed, unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.
 - iii. The Right-of-way Vacation process for 4th Street SE shall have been completed, except for a 114-foot section for access to the property to the south, and excepting a 10-foot strip aligning with the right-of-way dedication for 103rd Avenue SE, as shown on the plans received by PDS on January 9, 2008.
 - iv. A viable right-of-way width shall be provided along the 4th Street SE right-of-way of at least 31 feet to provide for a future residential urban road to serve a short plat with 90 ADT or less to the south for property parcel 00493301400103.
 - v. A temporary turnaround shall have been constructed at the end of Vine Maple Road in compliance with the EDDS and to the satisfaction of Snohomish County.
 - vi. 103rd Avenue SE (Vine Maple Road) shall be improved to a minimum pavement width of 20 feet (for travel lanes) between Chapel Hill Road and the subject development property.
 - vii. Construction of an offsite walkway to the nearest bus stop location for the public school students as identified by the Lake Stevens School District (currently the intersection of Chapel Hill Road and Vine Maple Road) shall have been completed along the legal and the most direct route in any location where none exist.
 - viii. All obstacles located within the clear sight triangle and line of sight for intersection stopping sight distance east of the intersection of 103rd Avenue SE at Chapel Hill Road shall be removed.
- E. All development activity shall conform to the requirements of Chapter 30.63A SCC. A full drainage plan shall have been submitted and approved pursuant to Chapter 30.63A SCC. A grading permit, to include a Temporary Erosion Sedimentation Control Plan (TESCP), issued pursuant to the Chapter 30.63B SCC shall have been obtained for any on-site grading.

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

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

Decision issued this 15th day of January, 2010.

Barbara Dykes, Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

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

Reconsideration

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **JANUARY 25, 2010**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

A petition for reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner’s attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

- (a) The Hearing Examiner exceeded the Hearing Examiner’s jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner’s decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner’s findings, conclusions and/or conditions are not supported by the record;

- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The applicant proposed changes to the application in response to deficiencies identified in the decision.

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the County file number in any correspondence regarding this case.

Appeal

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **JANUARY 29, 2010** 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: Paul MacCready

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.