

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

DATE OF DECISION: September 10, 2010

PLAT/PROJECT NAME: **HORSE RANCH SWITCHING STATION**

APPLICANT/ LANDOWNER: **PUGET SOUND ENERGY (PSE)**

FILE NO.: 09-107905 LU

TYPE OF REQUEST: MAJOR REVISION TO A CONDITIONAL USE PERMIT

DECISION (SUMMARY): APPROVE WITH CONDITIONS

**BASIC INFORMATION**

LOCATION: The subject property is located at 2509 87<sup>th</sup> Avenue SE, Everett; approximately one half mile south of 20<sup>th</sup> Street SE (a.k.a. East Hewitt Avenue), one half mile west of SR 9 and one half mile north of South Lake Stevens Road, 2509 87<sup>th</sup> Avenue SE.

ACREAGE: 2.2 acres

CURRENT ZONING: R-5

COMPREHENSIVE PLAN DESIGNATION: Rural Residential (1 du/5 acres-basic)

UTILITIES:

Water/Sewer: None

SCHOOL DISTRICT: Lake Stevens #4

FIRE DISTRICT: Lake Stevens

SELECTED AGENCY RECOMMENDATIONS:

Department of Planning and Development Services: Approval subject to conditions

**INTRODUCTION**

The applicant is requesting a major revision of a previously filed Conditional Use Permit (#96-110711 CU) that was issued July 18, 1997. (Exhibit J) The original approval was for a switching station on approximately 16,500 square feet within the total site area of 2.2 acres. The proposed revision is to expand and reconfigure the existing switching station to accommodate additional switching capacity. Improvements include expansion of the footprint from 16,500 feet to 28,000 square feet, and to replace the existing facilities with two incoming and one outgoing line.

The applicant submitted the major revision application to the Department of Planning and Development Services (PDS) on November 10, 2009. (Exhibit J) PDS determined on December 8, 2009 that the application was complete on the day of submittal for regulatory purposes. (Exhibit J) After processing the application, the matter was taken to hearing on July 13, 2010, day 168 of the 120-day regulatory permit processing review period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing. PDS gave proper public notice of the open record hearing as required by the county code. (Exhibits F1, F2, and F3).

A SEPA determination was made on June 11, 2010. (Exhibit E2) No appeal was filed.

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

## **FINDINGS, CONCLUSIONS AND DECISION**

### **I. FINDINGS OF FACT**

Based on all of the evidence of record, the following Findings of Fact are entered.

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file, as if set forth in full herein.
2. State Environmental Policy Act Compliance. A Determination of Nonsignificance (DNS) was issued June 11, 2010. (Exhibit E2) The DNS was not appealed.
3. Major Revision Request: The applicant is requesting a major revision of the Horse Ranch Switching Station (the Station). The Station is part of the regional PSE electrical transmission line network. The Station allows the isolation of faults within the transmission system, thereby reducing the length of power outages. Construction of the Station was specifically identified in the Utilities Element of the General Policy Plan of the Comprehensive Plan, and the Station was originally permitted under a 1997 Conditional Use Permit (CUP). (Exhibit A2) Several lines into the Station are being upgraded. The proposed project would expand the footprint of the Station to approximately 28,000 square feet. The existing switching station will be razed; three new circuit breakers and steel dead-end structures will be constructed; two dead-end structures will support incoming 230-kV transmission lines, and one structure will support the outgoing line. Two of the dead-end structures will be 55 feet in height, and one 40 feet in height. Switching racks and metal clad switch gear will also be located on the site.

As part of the expansion, the alignment of the existing access road will be shifted slightly but the width of the road will remain a total width of 20 feet. In addition, two new three-steel pole transmission line structures will be constructed north and south of the access drive, immediately west of the Station. (Exhibit A2).

4. Site description: The 2.2 acre site is currently developed as a switching station incorporating one PSE 115 kV transmission line known as the Sedro-Wooley-Bothell Line. Access off 87<sup>th</sup> Avenue NE is provided by a graveled road within the existing powerline easement.
5. Adjacent uses: Neighboring zoning is R-5. Adjacent uses include the existing powerline easements for transmission lines, undeveloped land, and single-family residences.
6. Public Comment in the Record. No issues of concern have been identified by reviewers or by the Hearing Examiner. PDS received a written public comment (Exhibit H1), but that comment only requested information on the availability of on-line site plans.

PROJECT CONSISTENCY WITH ADOPTED CODES AND POLICIES

7. Parks Mitigation. This proposal does not meet the definition of “development” in SCC 30.91D.200 and consequently, is not subject to parks mitigation fees in accordance with SCC 30.66A.010 (3).
8. Traffic Mitigation and Road Design Standards (Title 13 SCC & Chapter 30.66B SCC).

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

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.

Mitigation for traffic impact to County roads is not required, since the development will not generate any new trips.

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 LOS for each type of facility for which analysis procedures are available. They are given letter designations, from A to F, with LOS A representing the best operating condition, and LOS F the worst.

The County makes a concurrency determination for each development application that adds new trips to the road to ensure that the development will not impact a county arterial unit in arrears. The County did not make a concurrency determination for this development because it will not add any new trips to the county’s road system.

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

Regardless of the existing LOS, any development which adds three or more p.m. peak-hour trips to a location in the road system determined to have an existing 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 subject development proposal will not impact any IRC locations identified within TSA B with three or more peak hour trips, nor will it create any. Therefore, it is anticipated that mitigation will not be required with respect to IRCS 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]

All developments will be required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road.

The site has no frontage on a county road. Consequently, there are no requirements for frontage improvements.

E. 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.

The subject development currently has an access to 87<sup>th</sup> Avenue NE. The access is not proposed to be relocated.

F. Right-of-Way Requirements [SCC 30.66B.510, SCC 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.

The site has no right-of-way on a public road. Therefore, there are no requirements for right-of-way dedication.

G. 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 Washington State Department of Transportation (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 WSDOT/County effective December 21, 1997, and as amended. However, mitigation is not required, since the development will not generate any new trips on State highways.

H. 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 ILAs between the County and the other jurisdictions.

There are no other 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]

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 Urban Growth Area (UGA) and developments that impact arterial units designated as ultimate capacity.

SCC 30.66B.630 requires development inside the UGA to provide TDM measures. Since this development is outside of the UGA, TDM measures are not required.

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

The project is not subject to fees associated with Chapter 30.66C SCC.

10. Drainage and grading.

A. Drainage

A drainage waiver was submitted on November 10, 2009 (Exhibit G1), requesting relief from Chapter 30.63A.210 SCC. The waiver requested approval of use of the 2005 Department of Ecology Stormwater Manual to model stormwater runoff rather than the 1992 Stormwater Drainage Manual that is specified in the code. Under the 2005 Manual, the entire site is modeled with the presumption the site is forested, with no pre-existing development. The waiver was approved on May 4, 2010.

The applicant's engineer has modeled the site, demonstrating drainage runoff is sheet flow and proposing dispersion through a level spreader trench into native vegetation. (Exhibit C1) The result is an increase in stormwater runoff of less than 0.1 cfs, which is exempt from stormwater controls. Permanent water quality measures are not required according to the 2005 Manual, as infrequently used access roads are not considered pollution-generating surfaces, according to the Manual. The applicant proposes new impervious surfaces in excess of 5000 square feet (Exhibit B4), which puts the development over the threshold of a "major development activity" under the drainage code. See SCC 30.63A.120(2). Accordingly, a full drainage plan is required.

B. Grading

A grading permit will be required since grading in excess of 100 cubic yards is proposed. See 30.63B.020(2) Water quality will be controlled during construction by use of such methods as silt fences and straw bales in accordance with a Temporary Erosion and Sedimentation Control Plan (TESCP) required by Chapter 30.63A SCC. The Hearing Examiner will require as a condition that the full drainage plan must be approved before any permits are issued.

11. Critical Areas Regulations (CAR) (Chapter 30.62 SCC)

There is one Category 3 wetland in the southwest corner of the site that extends off-site to the west. The standard buffer for a Category 3 wetland adjacent to a high intensity land use (such as a switching station) is 80 feet. See SCC 30.62A.320(1). The applicant is proposing to reduce the standard 80-foot

buffer to 60 feet using the mitigation measures contained in SCC 30.62A.340(4)(b). (Exhibits C4, C5, C6, C7, and C10).

The applicant is proposing to permanently impact 977 square feet of buffer resulting from slope contouring, access road, and pole installation. Mitigation for the permanent buffer impacts includes adding 1390 square feet of additional buffer area and enhancing 171 square feet adjacent to the wetland. The wetland and its buffer will be designated as a Critical Area Protection Area (CAPA) in accordance with SCC 30.62A.160. The Examiner will include a condition to implement the mitigation plan and to insure the protections for the CAPA area.

PDS has concluded that under the avoidance sequence, the applicant has avoided impacts to the extent possible, and otherwise minimized and mitigated impacts as required by CAR.

12. 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 UGAs and adopted area-wide rezones within the UGAs of the county respectively.

The subject property is designated Rural Residential (RR: 1 du/5 acre Basic) on the GPP Future Land Use map, and is located outside the UGA. It is not located within a mapped Growth Phasing Overlay. The implementing zones within this designation are the Rural-5 zone and other zones with a minimum lot size requirement of larger than five acres. The base density of one dwelling unit per five acres may be increased consistent with General Policy Plan Policy LU6.B.9.

The proposal is for the revision and enlargement of an existing utility structure, a use which is allowed as a conditional use in the R-5 zone.

13. Zoning.

Utility structures are allowed as a conditional use in the R-5 zone. The current location is within the existing utility corridor for PSE and Bonneville Power. The site is currently developed as a switching station.

14. Utilities

- A. Water. Water is available from a private well.
- B. Sewer. Sewage disposal will continue to occur through on-site septic.
- C. Snohomish Health District (SHD) Approval - the SHD did not submit a letter in this case.

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

PDS issued a Determination of Nonsignificance (DNS) for the subject application on June 11, 2009 (Exhibit E2). PDS did not receive any comments during the comment period and the DNS was not appealed.

16. Conditional Use Permit Criteria

In considering the application, the Examiner must apply SCC 30.42C.100, which outlines the decision criteria for a conditional use permit as follows:

1. The hearing examiner may approve, approve with conditions, or deny a conditional use permit only when all the following criteria are met:
  - (a) The proposal is consistent with the comprehensive plan;
  - (b) The proposal complies with applicable requirements of this title;
  - (c) The proposal will not be materially detrimental to uses or property in the immediate vicinity; and
  - (d) The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.
2. As a condition of approval, the hearing examiner may:
  - (a) Increase requirements in the standards, criteria, or policies established by this title;
  - (b) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides, or traffic;
  - (c) Require structural features or equipment essential to serve the same purpose set forth in 30.42C.100 (2)(b);
  - (d) Impose conditions similar to those set forth in items 30.42C.100 (2)(b) and 30.42C.100 (2)(c) as may be deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters. The hearing examiner may not in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use nor otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;
  - (e) Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;
  - (f) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need;

- (g) Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements; and
- (h) Impose any requirement that will protect the public health, safety, and welfare.

17. **Regarding criteria (1)(a):**

The Examiner finds the following statements from the General Policy Plan support the major revision of the conditional use permit:

- *GPP Goal UT 4: Assist electric utility providers in fulfilling their public service obligations through planning for adequate system capacity to accommodate forecasted growth in a manner that is consistent with the Comprehensive Plan and protection of the natural environment.*
- *Objective UT-4B. Site transmission and major distribution corridors and substations to minimize potential adverse societal, environmental, and economic impacts to the community.*
- *Goal LU 6 Protect and enhance the character quality, and identity of rural areas.*
- *Establish rural infrastructure standards that are consistent with appropriate rural development standards*

The information in the record supports approval of the application. The new, improved transmission lines will help to minimize power outages and help the electrical grid system to function more efficiently. In terms of adverse societal and environmental impacts, the Station will be located within existing property owned by PSE, so that adverse societal and environmental effects will be left at a minimum.

While there is not a great deal of information in the GPP regarding this conditional use permit, the information available does support the application. The Examiner finds that the proposed major revision is consistent with the Comprehensive Plan.

18. **Regarding Criteria (1)(b) of the Conditional Use Permit Criteria.**

- (b) *The proposal complies with the applicable requirements of this title:*

The Examiner finds that the application for a major revision of the CUP complies with the applicable requirements of Title 30 SCC, as demonstrated in the Findings of Fact in this decision. See also Exhibit 2A at 2.

19. **Regarding Criteria (1)(c) of the Conditional Use Permit Criteria.**

- (c) *The proposal will not be materially detrimental to uses or property in the immediate vicinity.*

The Examiner finds that the proposal will not be materially detrimental to uses or property in the immediate vicinity. The Station is located at the intersection of transmission lines owned by the City of Seattle, Bonneville Power, and PSE. Lands adjacent are used for pasturing herd animals and rural residential development. The closest residents are approximately 500 feet to the north and south. Expansion of the Station will not result in additional vehicular traffic, air emissions, vibration, noise, light or glare that is detrimental to existing uses. (Exhibit A2).



20. **Regarding Criteria (1)(d) of the Conditional Use Permit Criteria.**

- (d) *The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.*

The proposed expansion has been designed to:

- Remain within the existing footprint of the PSE property and transmission line corridor
- Meet electrical safety code requirements (National Electrical Safety Code and PSE Design Standards) for vertical and horizontal separations between electrical components.
- Respond to the physical characteristics of the site; and
- Avoid impacts to critical areas and their buffers to the extent possible.

Approximately 12,000 square feet of additional clearing will be required to construct the expanded substation; approximately one-third of the clearing will require removal of mature trees. Removal of the trees, however, will not result in a significant change in the visual buffers between the station and the closest residential uses. (Exhibit A2 at 2).

SCC 30.42C.200 requires the recipient of any conditional use permit to file a Land Use Permit Binder (LUPB) prior to the initiation of any site work. The Hearing Examiner has included a condition of approval for inclusion within the project decision to comply with this code section.

**CONCLUSIONS OF LAW**

1. The Examiner has original jurisdiction over CUP applications pursuant to Chapter 30.72 SCC and Chapter 2.02 SCC.
2. In considering the major revision, application of many of the decision criteria require the exercise of discretion.
3. The proposal is consistent with the GMACP; GMA-based county codes, the type and character of land use permitted on the project site, and the applicable design and development standards.
4. If approved with the recommended conditions, the proposal will make adequate provisions for the public health, safety and general welfare.
5. The proposed major revision of the CUP, with the conditions of approval, will be consistent with the comprehensive plan and comply with the applicable requirements of Title 30 SCC.
6. The major revision of the CUP, with the conditions of approval, will not be materially detrimental to uses or properties in the immediate vicinity.
7. The major revision of the CUP, with the conditions of approval, will respond to as well as maintain compatibility with surrounding uses and incorporate specific features, conditions, or

revisions that ensure it responds appropriately to the character, appearance, quality of development, and physical characteristics of the site and surrounding properties.

8. Any Conclusion in this decision, which should be deemed a Finding of Fact, is hereby adopted as such, and vice versa.

### **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 **MAJOR REVISION TO AN EXISTING CONDITIONAL USE PERMIT** is hereby **APPROVED**, subject to the following **CONDITIONS**:

#### **CONDITIONS**

- A. The site plan (Exhibit B1) received by PDS on May 14, 2010, shall constitute the official site plan. Any discrepancy between the content of the official site development plan and the performance standards of Title 30 SCC shall be resolved in favor of Title 30. SCC 30.42C.110 governs revisions to conditional use permits.
- B. Prior to initiation of any site work; and/or prior to issuance of any development or construction permits by the County:
  - i. The recipient of the CUP must file a Land Use Permit Binder (LUPB) pursuant to SCC 30.42C.200. (Form provided by PDS)
  - ii. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above;
  - iii. The applicant shall mark with temporary markers in the field the boundary of all Critical Area Protection Areas (CAPA) required by Chapter 30.62A SCC, or the limits of the proposed site disturbance outside of the CAPA, using methods and materials acceptable to the County;
  - iv. A final mitigation plan mitigating all impacts to critical areas pursuant to Chapter 62A SCC based on Exhibit C10 shall be approved by PDS;
  - v. Construction plans, including a full drainage plan, shall be submitted and approved by PDS; and
  - vi. A grading permit shall be obtained for the ground disturbing activities associated with this activity;
- C. Exterior lighting shall be shielded so as not to create flare on off-site private properties and public roads.
- D. Prior to final acceptance (approval) of either grading or building permits;

- i. A Critical Areas Site Plan shall be recorded with the County in accordance with SCC 30.62.160.

“ALL CRITICAL AREA PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state. No clearing, grading, filling, building, construction or placement, or road construction of any kind shall occur, except removal of hazardous trees. The activities as set forth in SCC 30.91N.010 are allowed when approved by the County.

- ii. Critical Area Protection Area (CAPA boundaries shall have been permanently marked on the site prior to final inspection by the County, with both CAPA signs and adjacent markers which can be magnetically located (e.g., rebar, pipe, 20 penny nails, etc.). The applicant may use other permanent methods and materials provided they are first approved by the County. Where a CAPA 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.
- iii. CAPA signs shall have been placed no greater than 100 feet apart around the perimeter of the CAPA. Minimum placement shall include one Type 1 sign per critical area feature, and at least one Type 1 sign shall be placed in any lot that borders a CAPA, unless otherwise approved by the county biologist. The design and proposed locations for the CAPA signs shall be submitted to the Land Use Division for review and approval prior to installation.
- iv. The buffer mitigation plan will have been completed and inspected by PDS.

Nothing in this approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any federal, state, or local law, statute, code regulation or ordinance applicable to this project.

Decision issued this 10<sup>th</sup> day of September, 2010.



Barbara. Dykes, 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 **SEPTEMBER 20, 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, 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 **SEPTEMBER 24, 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.

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The Land Use Permit Binder, which must be executed and recorded as required by SCC 30.42C.200, will be provided by the department. The Binder should **not** be recorded until all reconsideration and/or appeal proceedings have been concluded and the permit has become effective.

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Staff Distribution:

Department of Planning and Development Services: Ed Caine

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.
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