



**DECISION of the SNOHOMISH  
COUNTY HEARING EXAMINER**

**Hearing Examiner's Office**

Email: [Hearing.Examiner@co.snohomish.wa.us](mailto:Hearing.Examiner@co.snohomish.wa.us)

DATE OF DECISION: September 9, 2011

**Millie Judge**  
Hearing Examiner

PLAT/PROJECT NAME: *Pilchuck Foothills*

M/S 405  
3000 Rockefeller Ave.  
Everett, WA 98201

APPLICANT/  
LANDOWNER: WB Foresters, Inc.  
P.O. Box 1126  
Stanwood, WA 98292

(425) 388-3538  
FAX (425) 388-3201

FILE NO.: 07-103042 SD

TYPE OF REQUEST: **Preliminary Rural Cluster Subdivision (RCS) Approval**  
(under former Chapter 30.41C SCC)

DECISION (SUMMARY): ***Granted Subject to Conditions***

**BASIC INFORMATION**

LOCATION: East side of Robe Menzel Road, approximately .2 miles north of its intersection with North Carpenter Road, Granite Falls, Washington

ACREAGE: 44.2 acres

NUMBER OF LOTS: 13

AVERAGE LOT SIZE: 33,886 square feet

MINIMUM LOT SIZE: 30,890 square feet

GROSS DENSITY: .29 du/ac

GMACP DESIGNATION: Rural Residential-5 (1 du per 5 acres, Basic)

ZONING: R-5

**UTILITIES:**

Water: Snohomish County PUD No. 1

Sewer: On-site individual septic

Electricity: Snohomish County PUD No. 1

SCHOOL DISTRICT: Granite Falls School District No. 332

FIRE DISTRICT: Snohomish County Fire District No. 16

PDS STAFF RECOMMENDATION: *Approve Subject to conditions*

**NOTE:** For a complete record, an electronic recording of the hearing in this case and the Tape Log is available in the Office of the Hearing Examiner.

Based on a preponderance of the evidence of record, the following Findings of Fact, Conclusions of Law and Decision are entered.

### **FINDINGS OF FACT**

1. **Regulatory Review and Vesting.** A complete application was submitted to Planning and Development Services (PDS) on April 30, 2007, and was vested as of May 28, 2007 for purposes of regulatory review. The 120-day clock started on May 28, 2007. PDS and the applicant exchanged various plan sets and review comments from May of 2007 through May, 2011. The applicant requested and was granted one extension of time, extending the expiration of its application on September 10, 2009. (Exhibit I) As of the hearing date, 297 days of the 120-day period had elapsed.
2. **Public Hearing.** A public hearing was held on August 25, 2011. Appearing for the applicant was their consultant, Merle Ash of Land Technologies. Appearing for PDS was Ed Caine. Notice was provided as required by SCC 30.70.050. No other witnesses testified at the public hearing.
3. **The Record.** All of the Exhibits shown on the master list of exhibits (Exhibits A through I) were entered into the record as evidence, along with the testimony of witnesses presented at the open record hearing and the Tape Log. The entire record was considered by the Examiner in reaching this decision.
4. **Public Notice.** The Examiner finds that PDS concurrently gave proper public notice of the Open Record Hearing, SEPA threshold determination, and Traffic Concurrency and Impact Fee Determinations as required by the County Code. (Exhibits F.1, F.2 and F.3)

#### **A. Background Information**

5. **Applicant's Proposal:** The applicant is requesting a 13-lot RCS on a 44.2 acre parcel. Access to the lots will be through a new private road off of Robe-Menzel Road. Seventy-three percent of the subject property will be reserved in Restricted Open Space. The site is undeveloped and contains a large wetland complex on the northern half of the property and along the eastern property boundary. Some areas within the wetland complex contain trees, as does the southern portion of the site. The remainder of the site has been cleared of significant vegetation. Adjacent properties are zoned R-5. Adjacent uses include lands with a Mineral Resource Overlay (MRO) to the west. Otherwise, the adjacent lands are either undeveloped or single-family residences. Although some adjacent sites have agricultural activities, the lands are not designated as commercial farmland on the Future Land Use Map (FLUM) of the Comprehensive Plan.
6. **Issues of Concern:**
  - A. **Agency Comments.** No issues of concern were raised during agency reviews.
  - B. **Citizen Comments.** No issues of concern were raised by members of the public.

## B. Compliance with Codes and Policies.

7. Park and Recreation Impact Mitigation (Chapter 30.66A SCC) The proposal is within Robe Canyon Park Service Area, No. 303, and is subject to Chapter 30.66A SCC. However, no mitigation is required for new residential units in this area. PDS recommends that no park mitigation fees should be imposed within five years of complete permit application. However, after five years (May 28, 2012), the Park Mitigation Fee will be based upon the rate in effect at the time of building permit issuance.
8. Traffic Mitigation and Road Design Standards (Title 13 SCC, & Chapters 30.24 and 30.66B SCC) The Hearing Examiner has considered the impacts of the development in light of the requirements under Title 13 SCC and Chapters 30.24 and 30.66B SCC and finds that the development proposal, as conditioned based on the information in the record and in the PDS Staff Recommendation, meets the County's traffic mitigation and road design standards.
  - (a) Road System Impacts, Concurrency and Inadequate Road Conditions (IRC). The applicant shall be required to pay a road system capacity impact fee to the County in the amount of \$49,390.77 (\$3,799.29 per single-family residence) pursuant to SCC 30.66B.310. The application was deemed to be concurrent pursuant to SCC 30.66B.120 and SCC 30.66B.130(4) as of December 18, 2009. The expiration date of the concurrency determination is six years from this date. IRCs have been considered according to the requirements of SCC 30.66B.210. The applicant's proposal does not impact any IRC locations and no improvements are required.
  - (b) Frontage Improvements (SCC 30.66B.410)

According to EDDS, the design standard indicated for a subcollector road (ADT 250 to 1,000) is two 10-foot wide travel lanes and a 7-foot paved shoulder. For full standard frontage improvements for a non-arterial road in the rural area, DPW requires asphalt concrete pavement, 18 feet wide from right-of-way centerline for an 11-foot wide travel lane and a 7-foot wide paved shoulder. However, the applicant submitted a deviation (Exhibit G.2) request to narrow the pavement width for a section of the frontage improvements on Robe Menzel Road to avoid impacts to a Category 1 wetland and a stream adjacent to the road. The design proposed is to reduce the width of the paved shoulder from 7 feet to 3 feet in the center section of the frontage improvements, which comprises approximately 700 feet out of a total of 1,710 feet of property frontage. The request was approved by the County Engineer with the condition that the minimum paved shoulder width be revised to 4 feet instead of 3 feet. Approval of the design is based on the location of a stream and a Category 1 wetland adjacent to the road; and because Note 3 on EDDS Standard Drawing 3-040 states that the cross section for the Typical Non-Arterial Road – Rural Areas may be altered where a stream or wetland borders the road.

The following improvements are required by DPW: A 7-foot paved shoulder will be provided along approximately 1,010 feet of property frontage. The remaining 700 feet will have a 4-foot wide paved shoulder instead of 7-foot. A paved shoulder for a pedestrian or bicycle facility will be provided along the entire frontage and the impacts to a wetland and stream near the road will be reduced, as is allowed by EDDS, and Rule 4222.

- (c) Access and Circulation (SCC 30.66B.420 and Chapter 30.24 SCC) The Public Works Department (DPW) considered the application in light of its proposed access and road circulation, the extent of existing facilities and right-of-way, sight-distances and any needed improvements to any of these items. Their analysis is shown on pages 5-6 of the PDS Staff Recommendation (Exhibit I), which is incorporated herein by this reference as if set forth in full. The County Engineer and DPW staffs have determined that with the imposition of the conditions set forth in Exhibit I, the proposed development meets the requirements of SCC 30.66B.420 and Chapter 30.24 SCC.
- (d) In determining the extent of required improvements, the Director of DPW considers, among other relevant factors, the criteria set forth in SCC 30.66B.430(a) through (p). The Hearing Examiner has reviewed those factors and finds that the recommended extent of improvements are consistent with SCC 30.66B.430 and the facts set forth in the entire record.
- (e) Right-of-Way Requirements (SCC 30.66B.510 and 30.66B.520) The applicant will not be required to dedicate any additional right-of-way along Menzel Robe Road to meet the County's non-arterial standard of 30 feet, as it presently exists on the development's side of the road.
- (f) Impacts to State Highways (SCC 30.66B.710) The Applicant's traffic study indicates that the project will not impact any state highways. (Exhibit C.1) Therefore, no impact fees are required to be imposed for WSDOT. The State has not requested any mitigation. (Exhibit H.2)
- (g) Impacts to City Streets and Roads (SCC 30.66B.720)

Mitigation requirements for impacts to streets within nearby cities will be established consistent with the terms of an interlocal agreement between the County and the other jurisdictions pursuant to the County's SEPA substantive authority. Here, the County has executed a Reciprocal Traffic Mitigation Interlocal Agreement with the City of Granite Falls.

Through its traffic and SEPA reviews, DPW identified significant adverse environmental impacts from the development on the City of Arlington's street system which can be mitigated through the payment of an impact fee, as authorized through the ILA and SCC 30.66B.055(4).

For impacts to the City of Granite Falls' streets, and pursuant to the ILA and SCC 30.66B.055(4), a written proposal to mitigate the development's impacts is required. The applicant submitted a traffic mitigation offer of \$8,125.00 (\$625 per SFR), which was accepted by the City. (Exhibit H.1) The County has reviewed the City requested mitigation and written proposal for mitigation submitted by the applicant and has determined that the proposed mitigation measures are reasonably related to the impacts of the development and recommends that they be imposed on the development as a condition of approval.

- (h) Transportation Demand Management (TDM) (SCC 30.66B.630)

This proposal lies outside of the Urban Growth Area (UGA). Therefore, the provisions of SCC 30.66B.630 do not apply.

9. Pedestrian Facilities (RCW 58.17.110)

The County is required to make findings regarding safe walking conditions for school children who may reside in the subject subdivision, as well as the adequacy of pedestrian or bicycle facilities. The need for safe pedestrian facilities has been analyzed by the DPW and the Granite Falls School District. (Exhibits H.8 and I) The road improvements to be required as part of the recommended conditions of approval for the internal, private road within the development, will provide the needed pedestrian facilities to the bus stops identified by the local school district. The School District indicated that the bus stop location for all grade level students living in the subject development would be located at the entrance of the development on Robe Menzel Road.

All roads inside the development will be constructed in accordance with EDDS and therefore will provide adequate pedestrian facilities to the bus stop location identified by the school district. Construction of frontage improvements on Robe Menzel Road will provide a paved area outside of the traveled way for students to wait for the bus. No offsite pedestrian or bicycle facilities are required. The Examiner finds that existing and proposed facilities are consistent with the County Code, EDDS, that no school children will be required to walk to school from the site, and that the facilities will provide for the general public health, safety and welfare.

10. Mitigation for Impacts to Schools (Chapter 30.66C SCC)

Chapter 30.66C SCC provides for collection of School Impact Mitigation Fees at the time of building permit issuance based upon certified amounts in effect at that time. Pursuant to Chapter 30.66C SCC, School Impact Mitigation Fees will be determined according to the Base Fee Schedule in effect for the Granite Falls School District No. 332, at the time of building permit submittal and collected at the time of building permit issuance for the proposed units. (Exhibits H.8) Credit is to be given for three existing lots. Payment of school impact fees has been included as a condition of approval of the development.

11. Drainage and Land Disturbing Activities (Clearing and Grading) (Chapters 30.63A and 30.63B SCC)

Land Disturbing Activities. The applicant proposes to cut and fill approximately 15,000 cubic yards on the site and requires a Land Disturbing Activities (LDA) permit and the preparation of a Stormwater Pollution Prevention Plan (SWPPP).

Stormwater Drainage. The applicant was granted a drainage waiver (Exhibit G.4) to use full dispersion and the provisions of the 2005 Department of Ecology Western Washington Stormwater Manual in addressing stormwater impacts from the development.

Individual lot drainage is proposed to be fully dispersed per BMP 5.30 thru native vegetation to address flow control and water quality. Native vegetative flow paths will be required to be protected thru recorded easements on individual lots. Private road runoff will be either be fully dispersed or routed to a bio-retention cell for water quality and quantity mitigation. Filter strips and bioswale design is proposed on the private road from station 16+00 approximately to the cul-de-sac to address water quality. The remainder of the private road is routed thru compost amended check dams to the water quality pond at the private road entrance. Other LID features such as rural country driveways and grass or stone pavers may be employed during construction plan approval.

Pubic Road drainage from Robe-Menzel frontage improvements will be addressed by a grass filter strip for water quality and allowed to disperse. The new impervious surface for the walkway does not trigger flow control requirements in the 2005 DOE Stormwater Management Manual.

Additional soil testing is required beneath the proposed bioretention facility to confirm existing soils are in accordance with the Low Impact Development Technical Guidance Manual For Puget Sound.

The applicant proposes greater than 5,000 square feet of new impervious. A full drainage plan is therefore required per SCC 30.63A.120. Frontage improvements are required and construction plans are necessary to address work in the right of way. The applicant proposes greater than 100 cubic yards of grading. Therefore, a grading permit and Storm Water Pollution Prevention Plan (SWPP) in accordance with Volume 2 of the 2005 DOE Stormwater Manual are required. Recommended conditions to implement the drainage and grading requirements are included.

Based on the preliminary findings made by the staff of PDS's Engineering Section relating to drainage and grading, the Hearing Examiner finds that is project will meet the requirements the SCC 30.63A, SCC 30.63B and the 2005 DOE Stormwater Manual.

12. Critical Areas Regulations (Chapter 30.62 SCC) This projected is vested to an older version of the County's Critical Areas Regulations, Chapter 30.62 SCC.

The site contains four different critical areas:

- A Category 1 wetland (Wetland A) which requires protection through a standard 100 foot buffer which occupies much of the center part of the property;
- A fish-bearing Type 2 pond located in the center of Wetland A, which requires protection through a standard buffer of 100 feet;
- A Category 3 wetland (Wetland B) located northwest of the large central beaver pond/Wetland A, which requires protection through a standard buffer of 50 feet; and
- A Type 3 anadromous fish-bearing stream (which is presumed to be habitat for ESA-listed bull trout), which requires protection through a Salmonid Habitat Management Plan Administrative Rule enhanced buffer of 150 feet. However, the applicant is proposing to reduce the standard 150 foot buffer to 100 feet using buffer averaging (See, SCC 30.62.350(1)(c)(i)), and Innovative Development Design (SCC 30.62.370). Innovative Development Design allows alternatives to the standard protection requirements, provided that it can be demonstrated that the alternative approach provides a net improvement to the functions and values of the critical area and/or its buffer. The total proposed area of the buffer reduction is 35,892 square feet. As mitigation for the reduction, the applicant is proposing 151,819 square feet of additional buffer area on the north side of the central wetland complex, and the installation of a split rail fence along the edge of the wetland buffer between the proposed lots and the central wetland complex.

Another 7,990 square feet of buffer is proposed to be impacted for a pedestrian trail that will in part follow an existing road on the northwestern part of the property, with the remainder running through vegetated buffer areas in the central, northern, and eastern portions of the

property. Mitigation for the proposed trails is being offered through the designation of 16,024 square feet of additional buffer area.

The wetlands, streams and parts of their buffers will be established into separate tracts as required by 30.62.175(3)(a) SCC. Some of the buffer will be located in easements on Lots 1-8 as allowed pursuant to 30.62.175(3)(b) SCC. All of the critical areas and their buffer will be designated as Native Growth Protection Areas (NGPA) as required under 30.62(1)(d) SCC. PDS evaluated the proposal and concluded that the applicant has made reasonable and adequate attempts to avoid critical area and buffer impacts as required pursuant to section 30.62.365 SCC. The total permanent buffer impacts of 43,882 square feet are adequately mitigated by the addition of 167,842 square feet of buffer area spread throughout Tract 999.

With implementation of the required conditions of approval, the Hearing Examiner finds that the project complies with the requirements for the protection of Wetland and Fish & Wildlife Habitat Conservation Areas provisions contained in chapter 30.62A SCC, and is recommended for preliminary plat approval. Recommended conditions are included to implement the mitigation plan and to protect the critical areas.

13. Consistency with the GMA Comprehensive Plan.

The subject property is designated Rural Residential (RR: 1 du/5 acre Basic). The implementing zones within this designation are the Rural-5 Acre zone and other zones with a minimum lot size requirement larger than five acres. The base density of one dwelling unit per five acres (1 du/5 ac) may be increased consistent with Policy LU 6.B.9. The proposal is consistent with the density provisions of Snohomish County's GMA-based zoning regulations under Subtitle 30.2.

14. Utilities.

- A. Sewer. Sewer will be supplied by individual septic systems. The Snohomish Health District recommended approval of the preliminary plat on August 27, 2008. (Exhibit H.3)
- B. Electricity. The Snohomish County PUD No. 1 notified the County on May 7, 2007, that they can provide electrical service to the development. (Exhibit H.4)
- C. Water. Potable water will be supplied by the Snohomish County PUD No. 1 (PUD). The PUD has indicated that adequate water supply is available to serve the development, however an extension of the utility's infrastructure may be required to serve the proposed subdivision. (Exhibit H.7)

15. Zoning (Chapter 30.2 SCC)

This project meets zoning code requirements for lot size, including RCS provisions, bulk regulations and other zoning code requirements. The project is adjacent to another parcel with a MRO designation. Accordingly, notice of the existence of adjacent mineral lands is required for all lots within 2,000 feet of those lands and will be made a condition of approval. (Exhibits B.1, D.1, D.2, and I)

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

PDS issued a Determination of Nonsignificance (DNS) for the subject application on June 23, 2011. (Exhibit E.2) Notice was properly given of the SEPA determination. (Exhibits F.1, F.2, F.3) The DNS was not appealed. The requirements of SEPA have been met.

17. Subdivision Code (Chapter 30.41A SCC)

The proposed plat also meets Chapter 30.41A SCC requirements. As proposed, the subject lots will not be subject to flood, inundation or swamp conditions. The lots as proposed are outside of all regulated flood hazard areas. As conditioned, the Plat will meet all SCC 30.41A.210 design standards for roads. In addition, the subdivision meets all of the County's transportation and road regulations and design standards. The Examiner finds that all 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. (SCC 30.41A.110) The Fire Marshall has determined that the project will meet the County's fire regulations subject to the proposed conditions included in the PDS Staff Recommendation. (Exhibit I) Accordingly, the Hearing Examiner finds that 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.

18. Rural Cluster Subdivision Code Design Standards (Former Chapter 30.41C SCC).

The subject development application is vested to the *former* provisions of Chapter 30.41C SCC, which was later amended by Ordinance No. 08-087 in November, 2009, effectively repealing and replacing the earlier regulations with new standards. The Hearing Examiner has reviewed each of the criteria in *former* Chapter 30.41C SCC and finds that the application is consistent with its requirements. Specifically, as conditioned according to the PDS Staff Recommendation set forth in Exhibit I, the subdivision complies with the provisions of:

- SCC 30.41C.010 (clustering lots),
- SCC 30.41A.200(1) (critical areas protection),
- SCC 30.41C.230 and SCC 30.41C.240 (rural cluster subdivision lot yield calculations)
- SCC 30.41C.200(2) (vegetated sight-obscuring buffers),
- SCC 30.41C.200(3) (access roads),
- SCC 30.41C.200(4) (utilities),
- SCC 30.41C.200(5) (unbuildable land),
- SCC 30.41C.200(8) (mineral resource land disclosure statements),
- SCC 30.41C.200(10) (open space management plan),
- SCC 30.41C.200(11) (physical separation of clusters),
- SCC 30.41C.200(12) (lots abutting open space or buffer),
- SCC 30.41C.200(13) (design fits with natural features and maintains rural character),
- SCC 30.41C.200 (14) (no sanitary sewers absent health order),
- SCC 30.41C.200(15) (Location of lot clusters)
- SCC 30.41C.200(16) (location within fire district required), and
- SCC 30.41.C.200(17) (rural concurrency standards).

19. The Hearing Examiner further finds that based on the facts and circumstances of the proposed development application, the following provisions of the *former* RCS regulations do not apply:

SCC 30.41C.200(6) (buffers for resource land),



SCC 30.41C.200(7) (designated resource land disclosure statements),  
SCC 30.41C.200(9) (location of open space tracts near open space tracts on adjacent properties)

20. Rural Cluster Subdivision Standards—General

The subject RCS application has been reviewed for conformance with the RCS standards in Chapter 30.41C SCC. The applicant has provided the information required on an RCS development plan and preliminary plat (Exhibit B.1), and an Open Space Management Plan (Exhibit A.4). The RCS application meets all of the criteria required for preliminary approval listed in SCC 30.41C.200 as further discussed in Findings of Fact 18 and 19. All utilities shall be located underground. The proposal meets requirements for restricted open space and bulk regulations, lot yield, and bonus residential density. The proposal complies with the provisions of SCC 30.41C.010 by clustering the lots on the most buildable and least environmentally sensitive portion of the site, while retaining over 50% of the property in restricted open space; the proposal is considered preferable to traditional lot-by-lot development through its efficient use of the most buildable portion of the site together with the retention of environmentally sensitive areas in permanent open space tracts; the use of the clustering concept provides greater compatibility with the surrounding development by providing buffers between adjoining properties; the use of the clustering concept has reduced the need for impervious surfaces resulting in the protection of groundwater and potential water pollution from erosion and other drainage related problems; the project complies with critical areas regulations, thereby minimizing the loss of the county's environmentally sensitive areas.

21. 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. The 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 pedestrian facilities for students.

The proposed subdivision conforms generally with the development regulations of the UDC. There is open space provided within the subdivision in the form of wetland, and buffer areas. The single-family homes within the subdivision will be in character with the rural area. 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 Chapter 30.63C SCC. The plat, as conditioned, will conform to Chapters 30.66A, 30.66B and 30.66C SCC, satisfying county requirements with respect to parks and recreation, traffic, roads and walkway design standards, and school mitigation. Adequate drinking water will be provided by the PUD and sewage disposal will be provided by individual wastewater septic systems.

22. 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 RCS applications pursuant to Chapter 30.72 SCC and Chapter 2.02 SCC.

2. The Examiner must review the proposed RCS application under RCW 58.17.110, the legal standard for approval of a preliminary subdivision. The Examiner must find that:

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. The Examiner concludes the applicant has met its burden in showing the established criteria have been met. The proposal is consistent with the state subdivision statute, the GMACP; GMA-based county codes, the type and character of land use permitted on the project site, the permitted density and applicable design and development standards.

3. Given the information provided in the record and the Findings of Fact made above, the Examiner also concludes that the applicant has met its burden in showing that the RCS application should be approved as described in Chapter 30.41C SCC.
4. Adequate public services exist to serve this proposal.
5. If approved with the recommended conditions, the proposal will make adequate provisions for the public health, safety, and general welfare.
6. Any Conclusion of Law in this Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

### DECISION

Pursuant to the Examiner's authority under SCC 30.72.060 and 2.02.155(2), the application for preliminary plat approval of a **RURAL CLUSTER SUBDIVISION** is hereby **GRANTED** subject to the following **CONDITIONS**:

#### CONDITIONS

- A. The Preliminary Plat received by PDS on May 6, 2011 (Exhibit B.1) 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.
  - ii. The applicant shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) or the limits of the proposed site disturbance outside of the NGPA using methods and materials acceptable to PDS.
  - iii. A final mitigation plan based on the above referenced plans and reports shall be submitted for review and approval by PDS.

- iv. The drainage plans shall include provisions for infiltrating all impervious surfaces within 300 feet of the fish-bearing pond, wetland and/or stream.
  - v. Construction plans shall be submitted for review and approval.
  - vi. A Full Drainage Plan shall be submitted for review and approval.
  - vii. A Land Disturbing Activities permit, including a Stormwater Pollution Prevention Plan (SWPP Plan) shall be submitted for review and approval.
- C. The following additional restrictions and/or items shall be indicated on the face of the final plat:
- i. "The dwelling units within this development are subject to no park impact fees in the pursuant to Chapter 30.66A SCC, provided that the building permit has been issued on or before May 28, 2012 (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. "Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for a single-family residence:  
  
\$3,799.29 per lot for mitigation of impacts on county roads paid to Snohomish County;  
\$625.00 per lot for mitigation of impacts on city streets paid to the City of Granite Falls.  
Proof of payment will be required.  
  
These payments are due prior to or at the time of building permit issuance. Notice of these mitigation payments shall be contained in any deeds involving this subdivision, of the lots therein or binding site plan."
  - iii. "The lots within this subdivision will be subject to school impact mitigation fees for the Granite Falls School District No. 332 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 3 existing parcels. Lots 1 through 3 shall receive credit."
  - iv. All critical areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made) with the following language indicated on the face of the plat;  
  
"All NATIVE GROWTH 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."
  - v. "The Open Space Management Plan (Exhibit A.4) shall be fully implemented and all required maintenance shall be performed by the Home Owners Association."

- vi. "The Landscape Plan, including all vegetated sight obscuring buffers shown on the approved site plan, shall be fully implemented and maintained by the Home Owners Association."
- vii. "All utilities shall be placed underground."
- viii. "Your real property is on or within 2,000 feet of designated mineral resource lands, on which mineral extraction, or a variety of activities related to mineral extraction, may occur that are not compatible with residential development for certain periods of limited duration. An application might be made on the designated mineral resource land for mining-related activities, including, mining, extraction, washing, crushing, stockpiling, blasting, transporting, and recycling of minerals."
- ix. "The minimum required fire flow for this project has been determined to be 750 GPM at 20 psi for a 2-hour duration. If the required fire flow cannot be provided the new dwellings shall be provided with NFPA 13-D fire suppression systems."

D. Prior to recording of the final plat:

- i. Construction of frontage improvements shall have been completed along Robe Menzel Road to the satisfaction of PDS/DPW, unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.
- ii. Construction of the private road to the satisfaction of PDS/DPW shall have been completed.
- iii. Native Growth Protection Areas (NGPA) boundaries 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 platlor 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.

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 PDS for review and approval prior to installation.

- iv. The final wetland mitigation plan shall be completely implemented.
- v. The 100 foot buffer line shown north of lot 2 on plan sheet 1 of 2 needs to be removed. The actual buffer line lies within lot 2.

E. In conformity with applicable standards and timing requirements:

- i. The preliminary landscape plan (Exhibit B.1) shall be implemented. All required detention facility landscaping shall be installed in accordance with the approved landscape plan.

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 seven (7) 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 9th day of September, 2011.



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Millie Judge, Hearing Examiner

<b>EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES</b>
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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 **within 10 days** from the date of this decision. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2<sup>nd</sup> Floor, Robert J. Drewel Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S No. 405, 3000 Rockefeller Avenue, Everett WA 98201) **on or before, SEPTEMBER 19, 2011**. 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 **within 14 days from the date of this decision**. 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 No. 604, 3000 Rockefeller Avenue, Everett, WA 98201) **on or before, SEPTEMBER 23, 2011**, and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00) for each appeal filed; PROVIDED, that the fee shall not be charged to a department of the County. The filing fee shall be refunded in any case where an appeal is summarily dismissed in whole without hearing under SCC 30.72.075.

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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### 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.

PARTIES OR RECORD REGISTER  
07-103042-SD PILCHUCK FOOTHILLS  
HG: 8/25/11  
07-103042-SD

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MERLE ASH  
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SNO CO PUD NO 1  
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SNO CO PLANNING & DEV/LAND USE  
CAINE / WHEELER / GOETZ  
3000 ROCKEFELLER AVE # 604  
EVERETT WA 98201

DEPT OF PUBLIC WORKS  
COUNTY ENGINEER  
3000 ROCKEFELLER AVE # 607  
EVERETT WA 98201

WA STATE DEPT OF  
TRANSPORTATION  
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GERRY JAMES  
NO ADDRESS GIVEN

SNOHOMISH HEALTH DISTRICT  
BRENT RAASINA  
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GRANITE FALLS SCHOOL DISTRICT  
SHEILA WINTERS  
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