



Hearing Examiner's Office

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

**DECISION of the SNOHOMISH  
COUNTY HEARING EXAMINER**

DATE OF DECISION: January 19, 2011  
PROJECT NAME: **Valley View Middle School**  
APPLICANT: Snohomish School District No. 201  
1601 Avenue D  
Snohomish, WA 98290

**Millie Judge**  
Hearing Examiner

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

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

Contact: Camie Anderson  
Shockey Planning Group  
2716 Colby Avenue  
Everett, WA 98201

FILE NO.: 09 104066 LU

TYPE OF REQUEST: **Major Revision to Conditional Use Permit (CUP)** to replace existing middle school

DECISION (SUMMARY): **APPROVED WITH A PRECONDITION AND CONDITIONS**

LOCATION: 14308 Broadway Avenue, Snohomish, Washington

**INTRODUCTION**

Snohomish School District No. 201 is requesting a major revision to its existing CUP (file number CU 84-79) for the Valley View Middle School to demolish the existing 80,122 square foot middle school designed for approximately 700 students and replace it with a new 190,434 square foot middle school (179,521 sq. ft. of habitable building space, plus 10,913 square feet of mechanical equipment loft), three stories tall, accommodating up to approximately 950 students and 77 staff. Associated with the project is installation of an additional access driveway, a 350 stall parking lot with school bus drop off area, play areas, stormwater management system incorporating low impact development features, ornamental landscaping and construction of a paved shoulder along the northerly 250 feet of the property's Broadway Avenue frontage. (Exhibit A2)

A complete application was submitted on June 29, 2009. (Exhibit A1) As of the date of the hearing, 381 days of the 120 day review period will have elapsed. The 120 day time frame could not be met due to the unusually heavy workloads and lengthened review times experienced by the Department of Planning and Development Services (PDS).

**PUBLIC HEARING**

The Examiner held an open record hearing on January 6, 2011 at 9:00 a.m. Witnesses were sworn *en masse*, testimony was presented, and all of the exhibits were entered into evidence at the hearing, including the Tape Log. Monica McLaughlin and Mark Brown appeared for PDS.

Camie Anderson, Shockey Planning Group, Tim Jewett, Dykeman Architects, and Steve Moore appeared on behalf of the applicant.

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

### **FINDINGS, CONCLUSIONS AND DECISION**

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

#### **FINDINGS OF FACT**

1. The introductory information set forth herein, and the documents and information described in the Master List of Exhibits and Witnesses, along with the testimony of witnesses and exhibits received at the public hearing (including revised Sheet 1 of Exhibit B-1 showing the location of new portables for future placement and use), and the Tape Log ("the record"), were entered into evidence in this proceeding. The entire record was considered by the Examiner in reaching this decision. The record is hereby incorporated into these Findings of Fact as if set forth in full.
2. The Examiner finds that the PDS Staff Recommendation has correctly analyzed the nature of the application, the issues of concern, the application's consistency with adopted codes and policies and land use regulations, and procedural compliance with the State Environmental Policy Act (SEPA). (Exhibit I)
3. PDS gave proper public notice of the open record hearing as required by the County Code. (Exhibits F1, F2 and F3)
4. A State Environmental Policy Act (SEPA) Mitigated Determination of Nonsignificance (MDNS) was issued on April 8, 2010. No appeals of the SEPA Determination were filed. (Exhibits E1, E2, F1, F2 and F3)
5. Only one issue of concern was raised during the processing of the application by any public agencies, regarding water supply to the site. The issue has been resolved to the satisfaction of the Cross Valley Water District. No letters or e-mails from neighborhood residents concerning this project were received by PDS.
6. The 38.8 acre site is square in shape and lies on the west side of Broadway Avenue approximately  $\frac{3}{4}$  mile southeast of the intersection of Broadway Avenue and State Route 9 and approximately  $\frac{3}{4}$  miles west of the Snohomish River. The site is developed with the existing school, sports fields and parking lot. The topography of the property slopes downward from south to north and was significantly modified during construction of the existing school, with the buildings, parking areas and ball fields terraced into the native slopes. The undeveloped portions of the lot to the north, west and south are forested. There are three wetlands and two streams on the property.
7. The application must meet the requirements of SCC 30.42C.100, the conditional use permit criteria. Each criterion is analyzed below:

**A. The proposal is consistent with the comprehensive plan;**

- i. This application has been evaluated for consistency with the version of the GMA Comprehensive Plan ("GMACP"), which became effective on December 12, 1996, as revised through the completeness date of the application. The property is located outside of an Urban Growth Area (UGA) and is designated as Rural Residential (1 du/5 acres basic) on the GPP's Future Land Use Map (FLUM). The existing zoning of the property, R-5, is listed in the GPP as an implementing zone for this designation. The Hearing Examiner finds that the application is consistent with the GMACP designation for the subject property.
- ii. The expansion of the school is consistent with Goal CF-10 of the GPP, which seeks to ensure that county growth and development anticipated under the Comprehensive Plan can be accommodated by present and future school facilities. Although CF Policy 10A.5 discourages the location of middle and high schools outside of UGAs, the present proposal is replacing an existing school constructed prior to adoption of the GPP. Additionally, the school serves students living in both rural as well as urban neighborhoods within its service area. Also, although no court has yet addressed the issue, a school may be determined to be an essential public facility, which can be sited where needed regardless of an inconsistency with the County's GMACP or FLUM. The Hearing Examiner finds that the proposed application is consistent with the GMACP and the current zoning for the site.

**B. The proposal complies with applicable requirements of this title;**

- iii. As shown in the PDS Staff Recommendation (Exhibit I) and Exhibits in the record, the proposal meets the applicable requirements of the Snohomish County Code, including:
  - Traffic Mitigation and Road Design Standards (Title 13 SCC & Chapter 30.66B SCC)
    - The applicant shall pay a road impact fee of \$34,932.00 to Snohomish County. The development was analyzed for concurrency and was found to be concurrent as of November 12, 2009.
    - The school will keep its existing access road and a requirement is needed to ensure adequate sight distance, which is included as a condition of approval.
    - The Department of Public Works (DPW) Director has adequately considered the extent of improvements required pursuant to SCC 30.66B.430. DPW determined in its review that 35 feet of right of way for Broadway Avenue needed to be dedicated to the County. This was accomplished by the School District. The existing right-of-way is adequately shown on the plans and documents.
    - A deviation was granted to allow the existing frontage improvements to remain with no additional paving, except that the northerly 250 feet of improvements on Broadway Avenue, consisting of a 7-foot paved shoulder, shall be constructed. The

frontage improvements are consistent with existing improvements to the south.

- The subject development does not cause the level of services (LOS) to fall below established levels.
  - The project will not impact any inadequate road condition (IRC) location.
  - No Transportation Demand Measures (TDM) are required of this development because it is outside of the UGA.
  - Impacts to state highways have been analyzed and no mitigation is required by the Washington State Department of Transportation (WSDOT).
  - Where an Interlocal Agreement (ILA) has been executed with the County, impacts to city streets have been analyzed. The City of Monroe has indicated that no mitigation is required.
  - The need for bicycle facilities has been analyzed and no new facilities are required. The existing shoulder of the right-of-way will serve as a bicycle path.
  - Finally, as a precondition of approval, a Record of Developer Obligations shall be recorded by DPW after any appeal period expires. Conditions are included in this decision to ensure traffic requirements are met.
- Park and Recreation Impact Mitigation (Chapter 30.66A SCC) - The project is not subject to fees associated with Chapter 30.66A SCC;
  - School Impact Mitigation (Chapter 30.66C SCC) - The project is not subject to school impact fees associated with Chapter 30.66C SCC;
  - Drainage and Grading (Chapters 30.63A, 30.63B, and 30.63C SCC) – The school redevelopment proposes to use low impact development techniques to meet the Living Building Challenge standards. This voluntary “green building” set of standards meets or exceeds the County’s regulations with regard to achieving net zero energy use, harvesting rainwater, providing rain gardens and pervious pavers for maximum stormwater infiltration and reuse. The application also proposes to use best management practices (BMPs) from the former Puget Sound Action Team (now Puget Sound Partnership), Low Impact Development Technical Guidance Manual for Puget Sound and hydrologic modeling parameters found in the 2005 Department of Ecology Stormwater Management Manual. This exceeds the standards to which they are vested and a modification allowing use of the newer standards was approved by PDS. (Exhibit G2)
    - Runoff from the existing school is currently collected via catch basins and interceptor ditches and conveyed to a wetland/stream located in the north central portion of the site. From here the water is piped to the wetland located at the northeast corner of the site. Stormwater from Broadway Avenue is also directed into the wetland system adjacent to the road. The downstream conveyance from the northeast corner of the site is a defined

channel that flows in a north/northwesterly direction eventually entering a small gully. The channel grades are reported to be 5-10 percent. The engineer reports no flow restriction or signs of slope instability within the downstream gully. Soils on the site are classified as Cathcart Loam per the Soil Conservation Service. The soil was formed from sandstone, siltstone and in volcanic ash.

- The entire developed portion of the site will be revised to some extent as the current building will become a new parking area, the existing parking changing to a playfield, and the existing ball fields will contain the new school building and overflow parking. The track will be reconstructed and will contain two sub-surface stormwater infiltration/detention systems. Three overflow parking areas and the maintenance access to the football field and track will be constructed using a reinforced grass paving system. The bus loops will utilize porous concrete. Rain gardens are proposed for the passenger car parking areas. Cisterns will be located around the downspouts of the proposed building and they will overflow to the stormwater collection system. Runoff treatment will be provided using filtration BMPs including porous pavement and rain gardens:
- The site is divided into two drainage basins. Runoff control for the west basin will be provided by an infiltration/detention facility located under the western portion of the track. Runoff control for the east basin will be provided by an infiltration/detention facility located under the east portion of the track. In compliance with the Hydrologic Balance Review prepared by Geotest (Exhibits C4 and C5), flows out the infiltration/detention structures are approximately equal and it is Geotest's opinion that the current hydrologic balance to the wetlands will be maintained. A Limited Infiltration Investigation report has been prepared by Geotest (see Exhibit C7) that made recommendations on infiltration rates and vertical separation from the bottom of the infiltration facility and seasonal high groundwater or impervious layer.
- A grading permit, including a temporary erosion and sedimentation control plan (TESCP) consistent with regulatory provisions of Title 30.63B SCC and Chapter 33 UBC, must be obtained for any grading outside of the county right-of-way. Two grading permit applications (file numbers 10-100784 CG and 10-105753 CG) have been submitted and approved for the project. Phase 1 grading, for initial preparation of the building pad and geothermal heating wells, consists of 60,500 cubic yards of cut and 47,000 cubic yards of fill. Phase 2 grading for complete build out amounts to 71,000 cubic yards of cut and 46,000 cubic yards of fill. Because the grading proposed is in excess of 100 cubic yards, a Storm Water Pollution Prevention Plan (SWPP) in accordance with Volume 2 of the 2005 DOE Stormwater Manual was required (see Exhibit C8) and has been approved by PDS.

- Fire Code (Chapter 30.53A SCC) - Fire apparatus access as depicted has been found to meet the minimum requirements of SCC 30.53A. The applicant requested an administrative decision from the Fire Marshal's Office to modify fire flow requirements for the facility, which was approved. The project will incorporate additional fire resistant construction features into the building design per the International Wildland-Urban Interface Code (see Exhibit G3). The new school will be provided with a NFPA 13 fire sprinkler system and a fully monitored fire alarm system with smoke detection throughout and fire pull stations at each exit and on each floor level. The locations of the proposed fire hydrants as shown on the plans are acceptable as is installation of proposed grass pavers in the fire lane. PDS inspection staff will ensure that prior to the start of combustible construction, fire hydrants are installed and operational, that the address is placed on the building as required and that pavement striping denoting fire lanes has been provided. No comments were received from the local fire department, Snohomish County Fire District 4.
- Critical Areas Regulations (Chapters 30.62, 30.62A, 30.62 B, and 32.62C SCC)  
PDS has reviewed the Critical Areas Study (Exhibit C6) and associated final mitigation plan submitted with the grading permit application for the project (Exhibit B5) and has determined that the project can comply with the county's Critical Areas Regulations (CAR). There are three wetlands on the site: Wetland 1 is a 0.27 acre scrub/shrub-emergent located south of the unpaved access road in the northeast corner of the site. Wetland 1 is classified as a Category II with a 150 foot standard buffer. Wetland 2 is a 0.35 acre (area of wetland on-site only) scrub/shrub located north of an unpaved access road in the northeast corner of the site, north of Wetland 1. Wetland 2 is classified as a Category III, with a 150 foot buffer. Wetland 2 is associated with both of the streams on the site. Wetland 3 is a 0.01 acre emergent type located in a shallow grassy depression just west of the existing track. The buffer requirement for a Category III wetland is a 60 feet.

Additionally, there are two unnamed streams on the site; Stream 1 is a Type F (fish-bearing) that enters the site via a culvert under Broadway Avenue, flows north through Wetland 1, and is conveyed through a pipe under a gravel road to Wetland 2. Stream 2 is a narrow and shallow seasonal tributary to Stream 1. Stream 2 flows east in a 500 foot long pipe under the trail before day-lighting near the confluence with Stream 1 in Wetland 2.

Construction of the project will permanently impact a total of approximately 7,978 square feet of wetland/stream buffer. Of the 7,978 square feet, 7,088 square feet will occur from expansion of the track into the buffer of Wetland 1 and Stream 1, and another 890 square feet will be from frontage improvements on Broadway Avenue. Of the 7,798 square feet of buffer impacts, 4,208 square feet is to shrub and 3,770 square feet is to maintained lawn. Mitigation for the permanent buffer impacts includes 3,770 square feet of expansion and 16,832 square feet of

enhancement to the buffer adjacent to Wetland 1 and Stream 1. The buffer mitigation is consistent with the buffer mitigation requirements of section 30.62A.320 SCC. The wetlands and streams, along with their required buffers, will be preserved and designated as a Critical Area Protection Areas (CAPA). Conditions of approval have been included at the end of this report to assure compliance with the requirements of the Critical Areas Regulations.

- Zoning and General Development Standards (Subtitle 30.2 SCC) - This project meets Zoning Code requirements for building setbacks, height, bulk, lot coverage (Chapter 30.23 SCC), landscaping (Chapter 30.25 SCC) and parking (Chapter 30.26) as described in the PDS Staff Recommendation (Exhibit I). A condition is included at the end of this report to assure that the features on the site and landscape plans are installed and approved prior to final occupancy of the building.
  - State Environmental Policy Act (SEPA) (Chapter 30.61 SCC) – SEPA has been complied with through the submittal of a SEPA Checklist and the issuance of a MDNS. No appeals were filed.
- iv. The Hearing Examiner finds that the proposal, with the request for a conditional use, meets zoning code requirements for building height and setbacks, parking, landscaping and all other applicable code requirements.

**C. The proposal will not be materially detrimental to uses or property in the immediate vicinity;**

- v. Having reviewed the entire record, the Examiner finds that the proposed construction and use of a new Valley View Middle School will provide a material benefit to the uses and properties in the immediate area. No letters or e-mails from neighborhood residents concerning this project were received by PDS. The replacement school building will be approximately 400 feet away, and the play fields approximately 250 feet away, from the nearest residential dwelling (south of the site). The applicant is proposing to retain the existing perimeter native vegetation along the north, west and south property lines which will continue to screen the school from adjoining properties as it has up until now. A condition has been included at the end of this report to insure that this buffer is retained into the future. The architectural design of the proposed building will be attractive. Installation of ornamental landscaping provided throughout the parking lot and along the road frontage will enhance the project's curb appeal.

Per SCC 30.26.075, parking lot lighting shall be arranged or shielded so as to reflect the light away from any dwelling units and the public right-of-way. The applicant states that the parking lot lighting will be on all night for security purposes, but that the fixtures have the ability to be at 50% and if they detect motion, they would increase to 100%. Also, the applicant states that the sports fields will not be lighted. Since PDS does not review lighting permits, a condition is recommended to insure that any

parking lot lighting installed in the future be shielded to comply with county code. Adherence to county development regulations and special conditions of approval attached to the CUP will ensure that the development will not be detrimental to the immediate vicinity. Accordingly, the Examiner finds that the proposal will not be materially detrimental to uses or properties in the immediate vicinity.

**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;**

vi. The Examiner finds that the proposal is consistent with the provisions of SCC 30.28A and 30.42C. The Examiner further finds that the proposal is compatible with and incorporates specific features, conditions, or revisions, as demonstrated in the record, that ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.

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

### **CONCLUSIONS OF LAW**

The Examiner having fully reviewed the entire record and testimony provided at the public hearing and being fully informed hereby enters the following Conclusions of Law:

1. The Hearing Examiner has jurisdiction over the issuance of a CUP pursuant to SCC 30.72.020. The Examiner concludes that the application is consistent with the requirements of SCC 30.42C.100.
2. The proposal is consistent with the GMACP; GMA-based County regulations, the type and character of land use permitted on the project site, the permitted density and applicable design and development standards.
3. If approved with the recommended precondition and conditions, the proposal will make adequate provisions for the public health, safety and general welfare.
4. The proposed CUP, with the recommended conditions of approval, will be consistent with the comprehensive plan and comply with the applicable requirements of Title 30 SCC. Adequate public services exist to serve the proposal.
5. The CUP, with recommended conditions of approval, will not be materially detrimental to uses or properties in the immediate vicinity.
6. The CUP, with recommended precondition and 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.

7. The proposal, as conditioned and designed, meets all of the requirements of Chapter 30.42C SCC and a CUP should be granted to the Snohomish School District No. 201 for the construction of the improvements described in the Exhibits, and for the operation and maintenance of a new middle school and all related appurtenances and facilities, including athletic facilities, parking features, trails, storage facilities and portable classrooms.
8. The recipient of any CUP shall file a Land Use Permit Binder on a form provided by PDS with the County Auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the County, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The binder shall serve both as acknowledgement of and agreement to abide by the terms and conditions of the CUP and as a notice to prospective purchasers of the existence of the permit. (SCC 30.42C.200)
9. Any Conclusion of Law 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 request for a **CONDITIONAL USE PERMIT** is hereby **APPROVED**, **SUBJECT TO** the following **PRECONDITION AND CONDITIONS**:

#### **PRECONDITION**

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

#### **CONDITIONS**

- A. Conditional Use Permit No. CU-84-79 is hereby modified and superseded in its entirety by the terms and conditions set forth in this Conditional Use Permit decision.
- B. The site plan received by PDS on ~~December 21, 2010~~ January 5, 2011<sup>1</sup> (Exhibit B1) 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. SCC 30.42C.110 governs revisions to Conditional Use Permits.
- C. Per SCC 30.26.075, parking lot lighting shall be arranged or shielded so as to reflect the light away from any dwelling units and the public right-of-way.
- D. Existing native vegetation buffers along the north, south and west property lines shall be retained as indicated on the approved plans.
- E. Prior to grading permit issuance:

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<sup>1</sup> Scrivener's error – corrected February 3, 2011. Revised site plan submitted at Open Record Hearing

- i. The boundaries of the Critical Area Protection Areas (CAPA) or the limits of proposed limits outside of the CAPA shall be marked with temporary markers using methods and materials acceptable to the County.
  - ii. A final mitigation plan shall be submitted and approved based on the conceptual plan contained in the *Critical Areas Study – Valley View Middle School Improvement Project* (Parametrix, March 2010) (Exhibit C6)
- F. Prior to building permit issuance:
- i. The applicant shall have paid an impact fee to Snohomish County for traffic impacts to Transportation Service Area "C" in the amount of \$34,932.00.
  - ii. Per SCC 30.43A.130, a Land Use Permit Binder, on a form provided by PDS, shall be executed by the applicant and recorded with the County Auditor.
  - iii. The building plans shall demonstrate compliance with the International Wildland-Urban Interface Code, as outlined in the administrative decision request report by Aegis Engineering dated August 24, 2009 (Exhibit G3) approved by the Fire Marshal's Office.
- G. Prior to the issuance of certificate of occupancy:
- i. Frontage improvements shall be completed to the satisfaction of the County along the northern portion of the subject parcel on Broadway Avenue.
  - ii. Vegetation and bank removal as necessary shall be completed at the southerly access point to improve intersection sight distance to the satisfaction of the County.
  - iii. The boundaries of the CAPAs shall have been permanently marked on the site, with both NGPA signs and adjacent markers which can be magnetically located (e.g. rebar, pipe, 20 penny nails, etc.). Other permanent methods and materials may be used 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. CAPA signs shall have been placed no greater than 100 feet apart around the perimeter of the CAPA.
  - iv. The final critical areas mitigation plan shall be completely implemented, inspected and approved.
  - v. Site improvements and landscaping depicted on the approved plans shall be installed, inspected and approved.
- H. The Conditional Use Permit approval shall expire after five years if construction of the proposed school has not commenced.

Nothing in the permit/approval shall excuse the applicant, owner, lessee, agent, successor or assigns from full compliance with any other federal, state or local statutes,

ordinances or regulations applicable to this project. In particular, no clearing, grading, filling, construction or other physical alteration of the site may be undertaken prior to the issuance of the necessary permits for such activities.

Decision issued this 19<sup>th</sup> day of January, 2011.

  
Millie Judge, 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 **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 January 31, 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 February 2, 2011**, 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: Monica McLaughlin

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation." A copy of this Decision is being provided to the Snohomish County Assessor as required by RCW 36.70B.130.

**This decision is binding but will not become effective until the above precondition(s) have been fulfilled and acknowledged by the Department of Planning and Development Services (PDS) on the original of the instant decision. Document(s) required for fulfillment of the precondition(s) must be filed in a complete, executed fashion with PDS not later than JANUARY 19, 2012.**

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

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**ACKNOWLEDGMENT OF FULFILLMENT OF PRECONDITIONS**

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

Certified by:

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

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

PARTIES OF RECORD REGISTER  
09 104066 LU VALLEY VIEW MIDDLE  
SCHOOL  
HG: 1/6/11  
09 104066 LU

SNO CO PUD NO 1  
DEAN SAKSENA  
PO BOX 1107  
EVERETT WA 98206-1107

SNO CO PLANNING & DEV/LAND USE  
MCLAUGHLIN / WHEELER  
3000 ROCKEFELLER AVE # 604  
EVERETT WA 98201

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

WA STATE DEPT OF  
TRANSPORTATION  
SCOTT RODMAN  
PO BOX 330310  
SEATTLE WA 97133-9710

SNOHOMISH HEALTH DISTRICT  
BRUCE A STRAUGHN  
3020 RUCKER AVE SUITE 104  
EVERETT WA 98201

STILLAGUAMISH TRIBES  
SHAWN YANITY  
PO BOX 277  
ARLINGTON WA 98223-0277

SNOHOMISH SCHOOL DISTRICT  
NUMBER 201  
DR. WILLIAM MESTER  
1601 AVENUE D  
SNOHOMISH WA 98290

SHOCKEY PLANNING GROUP  
CAMIE ANDERSON  
2716 COLBY AVENUE  
EVERETT WA 98201

PARAMETRIX  
CARTER DANNE  
411 108TH AVE NE, STE 1800  
BELLEVUE WA 98004-5571

CROSS VALLEY WATER DISTRICT  
GARY HAJEK  
8802 180TH ST SE  
SNOHOMISH WA 98296

CITY OF MONROE  
JOAN COOK  
NO ADDRESS GIVEN  
JCOOK@CI.MONROE.WA.US

DYKEMAN ARCHITECTS  
TIM JEWETT  
1716 WEST MARINE DRIVE  
EVERETT WA 98201-2098

HEERY INTERNATIONAL INC  
STEVEN MOORE  
1601 AVENUE D  
SNOHOMISH WA 98290