

**DECISION of the SNOHOMISH  
COUNTY HEARING EXAMINER**

DATE OF DECISION: October 11, 2011

PLAT/PROJECT NAME: **CAMILLA MEADOWS**

APPLICANT/  
LANDOWNER: Joel Haack  
3922 - 87<sup>th</sup> Avenue NE  
Marysville, WA 98270

FILE NO.: 10-109066 SD

TYPE OF REQUEST: 5-Lot Subdivision

DECISION (SUMMARY): **APPROVED SUBJECT TO CONDITIONS**

**BASIC INFORMATION**

LOCATION: 11220 60<sup>th</sup> Street NE, Lake Stevens, WA 98258

ACREAGE: 31.4 acres

NUMBER OF LOTS: 5

AVERAGE LOT SIZE: 208,616 square feet

MINIMUM LOT SIZE: 200,105 square feet

GROSS DENSITY: 0.16 dwelling units per acre (du/ac)

COMPREHNSIVE PLAN DESIGNATION: Rural Residential-5 (1 du/per 5 acres, Basic)

ZONING: R-5

UTILITIES:

Water: Individual, Exempt Wells  
Sewer: On-site individual septic  
Electricity: Snohomish County PUD No. 1

SCHOOL DISTRICT: Lake Stevens District No. 4

FIRE DISTRICT: Snohomish County Fire District No. 8

PDS STAFF RECOMMENDATION: Approve, subject to conditions

## **FINDINGS, CONCLUSIONS AND DECISION**

### **FINDINGS OF FACT**

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

#### **A. INTRODUCTION**

1. Regulatory Review and Vesting. A complete application was submitted to Planning and Development Services (PDS) on January 7, 2011 for purposes of regulatory vesting. The 120-day clock started on that date. PDS and the Applicant exchanged various plan sets and review comments from January through July 29, 2011. As of the hearing date, 133 days of the 120-day period had elapsed.
2. Public Hearing. A public hearing was held on September 20, 2011. Appearing for the Applicant was Joel Haack and his consultant, Dave Gardner, ASPI, and drainage engineer, Joe Smeby. Appearing for PDS was Ed Caine, Ken Crossman and Mark Brown. 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), as amended at the public hearing to include a new exhibit as part of Exhibit H.2 (September 15, 2011 email from Estelle King to Mark Brown) 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.

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

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 E.2, F.1, F.2 and F.3)

## B. Background Information

5. Applicant's Proposal: The Applicant is requesting a 5-lot subdivision on a 31.4 acre parcel. Each lot is in excess of 200,000 square feet, which is the minimum lot size in the R-5 zone. Access to each lot will be by individual driveways off of a new private road off of 60<sup>th</sup> Street NE. Each lot will be served by individual wells and individual septic systems.
6. Site Description: The southeastern portion of the site is forested, but the remainder of the site is pasture. The four wetlands within the southeastern portion of the site are Category 2 wetlands. The pasture portion of the site is developed with a single-family residence with outbuildings. The site slopes to the southwest at slopes less than 15 percent.
7. Adjacent Zoning/Uses: Adjacent zoning is R-5. Adjacent uses are either as single-family residences or undeveloped and either pasture or forested.
8. Issues of Concern:
  - A. Agency Comments. Agency reviews and PDS reviews have identified no unresolved issues of concern.
  - B. Citizen Comments. Members of the public provided comments on various issues. (Exhibit H.1 through H.4) These include concerns about the impact of the proposed wells on the existing wells in the neighborhood, access to the landlocked property to the south, traffic impacts from the development, emergency services response to the subdivision, the style of homes to be built, drainage and construction questions. The Hearing Examiner has reviewed each comment and the PDS staff/Applicant response to each and finds that these issues have been adequately addressed. (Exhibit I)

## C. Compliance with Codes and Policies

9. Park and Recreation Impact Mitigation. (Chapter 30.66A SCC)

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

PDS has reviewed the proposal for compliance with Title 13 and Chapter 30.66B SCC, Snohomish County Engineering Design and Development Standards (EDDS), and the

appropriate policies and procedures. The subject property is located within Transportation Service Area (TSA) "B."

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.

The impact fee for this proposal is based on the new average daily trips (ADT) generated by five new lots, which is 9.57 ADT/lot. This rate comes from the 7<sup>th</sup> Edition of the ITE Trip Generation Report. The development will generate 38.28 new ADT and has a road system capacity impact fee of \$15,197.16 (\$3,799.29 per lot) based on \$397/ADT. This impact fee must be paid prior to building permit issuance. PDS has included a recommended condition to require mitigation fee payment. The Hearing Examiner has included such a condition.

B. Concurrency [SCC 30.66B.120]

The County makes a concurrency determination for each development application to ensure that the development will not impact a county arterial unit in arrears. The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent as of February 18, 2011. The expiration date of the concurrency determination is six years from this date or February 18, 2017.

Development generating 50 or fewer peak-hour trips in TSA with no arterial unit in arrears, SCC 30.66B.130 (4): The subject development is located in TSA "B", which as of the date of submittal of the application had no arterial units in arrears. The subject development generates 3 AM peak-hour trips and 4.04 PM peak-hour trips which is not more than the threshold of 50 peak-hour trips in which case the development would also have to be evaluated under SCC 30.66B.035.

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

Regardless of the existing level of service, any development which adds three or more PM peak hour trips to a location in the road system determined to have an existing inadequate road condition (IRC) at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC. Here, the development will not impact any IRC location identified within TSA "B."

D. Frontage Improvements [SCC 30.66B.410]

All developments are required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road. The required improvement shall be constructed in accordance with the EDDS, including correction of horizontal and vertical alignments, if applicable. Here, the Applicant is required to provide full rural frontage improvements along the subject parcel's frontage on 60<sup>th</sup> St NE pursuant to DPW Rule 4222.020(1). Those improvements shall consist of asphalt concrete pavement, 11 feet in width from the right-of-way centerline, with a 7-foot paved shoulder. The Applicant has agreed to construct these improvements and they are adequately shown on the plat drawings. (Exhibit B.4)

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

According to SCC 30.66B.420, all developments are required to: (a) Provide for access and transportation circulation in accordance with the comprehensive plan and provisions of Chapter 30.66B SCC, applicable to the particular development, (b) Design and construct such access in accordance with the EDDS, and (c) Improve existing roads that provide access to the development in order to comply with adopted design standards, in accordance with Chapter 30.66B.430 SCC. In addition, access to state highways and city streets shall be in accordance with the applicable state or city standards and requirements. Finally, all developments that propose to take access via an existing public or private road which, for the vehicle trips projected to use the road after full occupancy of the development, is not designed and constructed in accordance with the EDDS, will be required to improve such road to bring it into compliance with the EDDS when the Director of Public Works determines it necessary to provide for safety and the operational efficiency of the road. The extent of improvements will be established by the Director of Public Works in accordance with Chapter 30.66B.430 SCC.

In the present case, the site is directly served by 60<sup>th</sup> Street NE. Additional public streets in the area that may be utilized by residents include 105<sup>th</sup> Avenue NE, 54<sup>th</sup> Place NE, 99<sup>th</sup> Avenue NE, SR-9, and SR-92. The closest transit stop is 1.4 miles to the south. The proposal will require a new private road within an easement taking access off of 60<sup>th</sup> Street NE to the south, serving the development. (Exhibit E.1) The easement must extend to the southern boundary of the subject property in order to provide access to a landlocked, 40-acre parcel to the south. Given the development potential of this southern parcel and the need for connectivity, the private road could be converted to a public road at some future time. As such, a "no protest" covenant is required on the face of the plat as to a future conversion of the road from private to public.

The traffic generated by the proposed development is 38 ADT, with four new PM peak hour trips and three new AM peak hour trips. The proposal will not impact IRC locations. Sight distance has been reviewed and was not listed as a concern at this location. (Exhibit B.4, E.1 and I)

Based on the foregoing, the Hearing Examiner finds that the Applicant has made adequate provisions for public access, road circulation and connection, adequate sight distances and emergency response vehicle access and turnaround by dedicating proposed right-of-way and by constructing a new road to serve the development lots, along with the other proposed road improvements described above.

F. Extent of Improvements [SCC 30.66B.430]

In determining the extent of improvements required, the Director of Public Works considers, among other relevant factors, the criteria set forth in SCC 30.66B.430(a) through (p). The Hearing Examiner has reviewed the PDS Staff Recommendation (Exhibit I) and finds that no specific analysis of the factors required by SCC 30.66B.430 is included in the record. However, in reviewing the staff analysis related to the extent of frontage improvements required, access and transportation circulation, and right-of-way requirements, the Hearing Examiner finds that the PDS staff has performed such an analysis in reviewing the application. Additionally, no waivers, modifications or deviations from such requirements have been requested. As such, the Hearing Examiner finds that the Applicant is required to meet the requirements of EDDS and the County's design regulations found in Title 30 SCC as described in Exhibit I.

G. Dedication of Right-of-Way [SCC 30.66B.510 and 30.66B.520]

A development shall be required to dedicate, establish, or deed right-of-way to the County for road purposes as a condition of approval of the development, when to do so is reasonably necessary as a direct result of a proposed development, for improvement, use or maintenance of the road system serving the development. Here, the road serving the development is 60<sup>th</sup> Street NE, which is a nonarterial. It requires a 60 foot right-of-way width, 30 feet on each side of the centerline of the roadway. Currently there is 20 feet of right-of-way on the development's side of the centerline, and the Applicant is required to dedicate an additional ten (10) feet of right-of-way to bring the road up to the county's standards. The additional road width is shown on the plat map. PDS reports that 60<sup>th</sup> Street NE is not in the cost basis of the Transportation Needs Report at Appendix D and, therefore, no credits toward the payment of impact fees can be given resulting from the dedication of right-of-way.

H. Impacts to State Highways [SCC 30.66B.710]

This development is subject to SEPA and thus is subject to the Interlocal Agreement (ILA) with the Washington State Department of Transportation (WSDOT) and

Snohomish County effective December 21, 1997, and as amended. When a development's road system includes a state highway, mitigation requirements are established using the County's SEPA authority consistent with the terms of the ILA between the County and the WSDOT. This is consistent with the County's SEPA policy SCC 30.61.230(9), through which the County designates and adopts by reference the formally designated SEPA policies of other affected agencies for the exercise of the County's SEPA authority.

Here, the Traffic Study shows that the proposed development will impact state highways. Accordingly, mitigation is required as a condition of approval. The Applicant has offered to pay \$1,378.08 (\$344.52/lot) to the State for traffic mitigation. WSDOT has accepted this offer. (Exhibit G.2) Payment of this amount is a required condition of approval.

I. Impacts to City 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 ILA between the County and the other jurisdictions. Here, there are no other city jurisdictions that have an ILA with the County that will be significantly impacted by the subject development. As such, no city impact fees shall be collected.

J. 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.

11. 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. PDS received comments from the Lake Stevens School District. (Exhibit G.7) The District indicated that students' bus stop location for all grade level students will be at an existing stop adjacent to the development, located on 60<sup>th</sup> Street NE. The Applicant is required to provide a safe walking path to the bus stop and safe waiting area at the bus stop, to the extent such facilities do not already exist. (Exhibit G.7) PDS has determined that no additional facilities are needed at this location. Accordingly, the requirements of RCW 58.17.110 have been met.

The County's current adopted County Wide Bicycle Facility System Map became effect on February 1, 2006. The subject development does not border on a right-of-way that has been identified on the adopted Bicycle Facility System Map. A bicycle path is not required along the developments frontage on 60<sup>th</sup> St. NE.

12. 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. School impact mitigation fees are determined according to the Base Fee Schedule in effect for the Lake Stevens School District No. 4, at the time of building permit submittal and collected at the time of building permit issuance for the proposed units. Credit is to be given for three (3) existing lots. PDS has included a recommended condition of approval for inclusion within the project decision to comply with the requirements of Chapter 30.66C SCC. The Hearing Examiner has included a condition that requires payment of any school impact fees at the time of building permit issuance.

13. Drainage and grading.

Drainage. The development proposes new impervious surfaces in excess of 5,000 square feet, and is a “major development” within the meaning of Chapter 30.63A SCC. Therefore the Applicant must provide a full drainage plan prior to site disturbance. A Stormwater Pollution Prevention Plan (SWPP) and a Land Disturbing Activities Plan must also be submitted.

The drainage design is for approximately 9.4 acres of site disturbance (clearing and grading) and an additional 2.3 acres of disturbance for future improvements on adjacent tax parcel 30063100100100. Stormwater from the private road and lawn areas is being routed to a detention and water quality pond located in future Tract 999. Approximately 10,000 square feet of new impervious surface per lot is proposed.

Frontage improvements along 60th St. NE will include widening to provide an 11-foot travel lane and 7-foot shoulder. Water quality treatment to address new pollution generating impervious surfacing in the right-of-way is required. An on-site bioswale is proposed in Tract 996 to address this requirement.

Approximately 6,000 cubic yards of cut and 7,000 cubic yards of fill are proposed for this project. Frontage improvements for this project are approximately 6,000 square feet of pollution generating impervious surfaces.

Stormwater from the detention facility is being dispersed through two level spreaders which discharge to a natural low point on the southwest corner of the property. The intent of the level spreaders is to ensure flow which will be in the form of sheet flow which will mimic existing conditions. The developed basin will detain the runoff prior to release which will reduce the peak flows leaving the site when compared to existing conditions. The site is modeled as “forested” for pre-developed conditions for all areas proposed for land disturbing activity.

Four e-mails with drainage concerns about the development were received (Exhibit H.4). Responses to those concerns were received from Omega Engineering; Inc. (Exhibit A.5). PDS concurs with those responses.

Grading. The project is proposing approximately 6,000 cubic yards of cut and 7,000 cubic yards of fill. Proposed grading is in excess of 100 cubic yards which triggers the need for a



grading permit and a SWPP per SCC 30.63B and Rule 3044. PDS has included recommended conditions to require approval of the construction plans, the drainage report, and the SWPP Plan.

Based on the preliminary findings made by the staff of PDS's Engineering Section relating to drainage and grading, this project will meet the requirements of Chapters 30.63A and 30.63B SCC. Water quality shall be controlled during construction by use of silt fences and straw bales or other BMPs in accordance with a Temporary Erosion and Sedimentation Control Plan (TESCP) required by Chapter 30.63A SCC. The Examiner has included conditions of approval requiring completion of a full drainage plan, a SWPP, grading permit, and a right-of-way permit for any work within the County right-of-way. The detention ponds shall be landscaped.

14. Critical Areas Regulations.

The project area is approximately 31.4 acres in size. Although there are identified critical areas on the site, no impacts are proposed to any of them or their buffer areas. All critical areas and buffers are proposed to be permanently protected as NGPA/Es or in separate tracts as NGPAs. PDS has included conditions to require critical area protections. (Exhibit C.2) An evaluation of the information submitted in the revised application coupled with an on-site investigation has resulted in a determination that the application is in conformance with Chapter 30.62 SCC (Critical Areas Regulation) and is consistent with the purpose and objectives of the Chapter in regulation of development activities in critical areas to safeguard the public health, safety and welfare. Accordingly, the Hearing Examiner finds that the proposed mitigation plan requiring the protection of critical areas meets the requirements of the County Code and should be imposed as a condition of development approval.

15. 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 proposal has been reviewed for consistency with the Comprehensive Plan. The subject property is located outside the UGA. The land is designated as rural under the future land use map (FLUM). Residential uses are allowed on rural lands.

16. Utilities.

- A. Sewer. Sewer will be supplied by individual septic systems. The Snohomish Health District (SHD) recommended approval of the preliminary plat on January 4, 2011. (Exhibit G.3).
- B. Electricity. The PUD indicated on December 22, 2010 that electricity can be supplied to the development. (Exhibit G.5)

C. Water. Water will be supplied by individual exempt wells. The SHD reviewed the proposal and recommended approval on January 4, 2011. (Exhibit G.3).

17. Zoning (Chapter 30.2 SCC)

PDS staff have reviewed the proposed plat design and found that the proposal meets zoning code requirements for lot size, bulk regulations and other zoning code requirements. The minimum zoning requirement is 200,000 square feet. No lot is less than 200,000 square feet, and all lots comply with minimum lot width and setback requirements.

18. Fire Code

PDS sent a request for review document to Fire District # 8 on December 13, 2010. PDS did not receive a response from Fire District # 8. The County Fire Marshall of Snohomish County conducted an internal review of the proposed plat and recommended approval of the preliminary plat on May 5, 2011. The conclusions of the review were that: (a) Each lot is a minimum of one acre or more in size and is therefore exempt from fire hydrant and fire flow requirements by this office. (b) Fire apparatus access as depicted meets the minimum requirements of Snohomish County Code 30.53A.150 and we have no further requirements. The application complies with the requirements contained in SCC 30.53A, including fire flow and emergency vehicle access.

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

PDS issued a Determination of Nonsignificance (DNS) for the subject application on July 29, 2011. (Exhibit E.2) The DNS was not appealed. Notice was properly given of the SEPA determination. The requirements of SEPA have been met.

20. Subdivision Code (Chapter 30.41A SCC)

The proposed plat also meets Chapter 30.41A SCC requirements. 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. As conditioned, the plat will meet all SCC 30.41A.210 design standards for roads. In addition to Findings of Fact Nos. 5 through 20, the following general subdivision standards have been met:

A. Roads. The Examiner finds that based on the information provided in the file, the PDS Staff Report and in the public hearing, the design standards for roads are met.

B. Flood Hazard. The Examiner finds that the lots as proposed are outside of all regulated flood hazard areas and that none of the lots are proposed in areas that are subject to flood, inundation or swamp conditions. (SCC 30.41A.110).

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 walking conditions for students.

The Hearing Examiner finds that 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 will be in character with the existing 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 subdivision applications pursuant to Chapter 30.72 SCC and Chapter 2.02 SCC.
2. The Examiner must review the proposed subdivision 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.

3. The proposal is consistent with 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.
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 5-lot subdivision is hereby **GRANTED** subject to the following **CONDITIONS**:

### **CONDITIONS**

- A. The preliminary plat received by PDS on June 29, 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 plattor 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.
  - iii. A full drainage plan (construction plans) shall be submitted for review and approval. Demolition, grading and/or land disturbing activity permit(s) may be required.
  - iv. A Stormwater Pollution Prevention 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 park impact fees (Centennial # 306) in the amount of \$1,361.22 per newly approved dwelling unit pursuant to Chapter 30.66A SCC. Payment of these mitigation fees is required prior to building permit issuance; provided that the building permit has been issued within five years after the application is deemed complete. After five years, park impact fees shall be based upon the rate in effect at the time of building permit issuance."

ii. "Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:

\$3,799.29 per lot for mitigation of impacts on County roads paid to the County. Credit for certain expenditures may be allowed against said payments to the extent authorized by County code. Any reduction of the per lot amount shall be documented in the RECORDS OF DEVELOPER OBLIGATIONS FORM.

\$344.52 per lot for mitigation of impacts on state highways paid to the County.

These payments are due prior to or at the time of building permit issuance for each single-family residence. Notice of these mitigation payments shall be contained in any deeds involving this subdivision or the lot[s] therein."

iii. "The lots within this subdivision will be subject to school impact mitigation fees for the Lake Stevens School District No. 4 to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for three (3) existing parcels. Lots 1 through 3 shall receive credit."

iv. All critical areas and buffers shall be designated Critical Area Protection Areas (CAPA) and placed in separate tracts;

"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."

v. "Well protection zones are shown in the Snohomish Health District records for Lots 1-5 of this plat. The well protection zones are not based upon actual constructed wells. The well protection zones may require revision if the well cannot be located as proposed. If moved, the 100 foot radius well protection zone shall not extend beyond the subdivision exterior boundaries without written consent and recorded well protection covenant from the affected property owner(s). After installation of any water well to serve lots within this subdivision, all owner(s), and successors agree to maintain 100 foot well protection zones in compliance with current state and local well siting and construction regulations,

which, at a minimum, prevent installation of drainfields within the well protection zone. The revision of the well protection zone location is a private matter between the affected lot owners and does not require a plat alteration.”

- vi. “In consideration of the subdivision access approval, the owners of the lots of the subdivision, their heirs, successors, and assigns, covenant and agree not to protest the conversion of the sixty foot access easement and sixty foot private road easement used to access lots one (1) through five (5), to a public road at any time the County determines a public road is necessary, or a public road is required for further development of any lots that have access to said road. The owners of the subdivision lots, their heirs, successors, and assigns further agree and covenant to provide all necessary authorizations and to execute all necessary conveyance documents, at no cost and expense to the County, to accomplish the dedication and/or conversion of the private road to the County for public road purposes. This covenant touches and concerns the property, runs with the land, and is binding upon all subsequent purchasers, heirs, successors, and assigns. This covenant to provide right-of-way in no way obligates the owners to fund any construction or maintenance of a public road.”
- vii. An easement shall be shown that provides for access and utilities, including a private road, for the adjoining 40 acre lot adjoining on the south which will accommodate access for the full development of the adjacent 40 acre parcel.

D. Prior to recording of the final plat:

- i. Rural frontage improvements shall be constructed along the parcel’s frontage on 60<sup>th</sup> St. NE to the satisfaction of the County.
- ii. Critical Area Protection Areas (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 plattor 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.

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 wetland, and at least one Type 1 sign shall be placed in any lot that borders the CAPA, unless otherwise approved by the County biologist. The design and proposed locations for the CAPA signs shall be submitted to PDS for review and approval prior to installation.

- iii. Landscaping for the detention pond shall be installed.

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) 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 11th day of October, 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. 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 **OCTOBER 21, 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. 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 **OCTOBER 24, 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.

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.