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## MEMORANDUM

**TO:** Snohomish County Council  
**FROM:** Yorik Stevens-Wajda, Senior Legislative Analyst  
**DATE:** March 11, 2021  
**SUBJECT:** Appeal of Hearing Examiner Decision: Ironwood Plat  
No. 20-102399 PSD/SPA/WMD/REZO

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This memorandum provides an overview of the closed record appeal hearing scheduled for March 17, 2021, under the provisions of [Chapter 30.72](#) of the Snohomish County Code (SCC).

The record for the council's consideration of this appeal is limited to that which was before the Hearing Examiner and written argument timely filed with the council. Issues on appeal are limited to those raised by the appellant that are within the jurisdiction of the council. At the hearing, the council will take oral argument pertaining to the existing record. No new testimony will be taken and no new evidence or exhibits will be accepted unless specifically requested by the council.

A closed record appeal is a quasi-judicial hearing and councilmembers must abide by the appearance of fairness doctrine, codified in chapter [42.36](#) RCW.

### Timeline

- February 18, 2020 – Applicant submits development application.
- September 10, 2020 – Applicant submits revised environmental checklist under the State Environmental Policy Act (SEPA).
- October 21, 2020 – Planning & Development Services issues a SEPA threshold determination of non-significance.
- December 15, 2020 – Planning & Development Services issues a staff recommendation and supplemental staff report
- December 22, 2020 – The Hearing Examiner conducts an open record hearing.
- January 19, 2021 – The Hearing Examiner issues a decision.
- September 18, 2020 – The county council receives an appeal letter from the appellant
- March 17, 2021 – Closed record appeal hearing scheduled 1:30 p.m.

## **The Development Application**

The applicant, Pacific Ridge – DRH LLC, applied for a rezone of three of eleven parcels from R-9,600 to R-7,200, a preliminary plat of 88 lots, a planned residential development official site plan, an [urban residential design standards](#) administrative site plan, and a landscaping modification.

The application was submitted on February 18, 2020, and the Snohomish County Department of Planning & Development Services (PDS) determined the application to be complete, vesting the project to development regulations in effect on that date.

The proposed 15.99-acre site is in unincorporated Snohomish County near 17721 North Road. The comprehensive plan [future land use](#) designation is Urban Low Density Residential, and the [zoning](#) is R-7,200 and R-9,600. See a vicinity map on the last page of this memorandum.

## **The Planning & Development Services Staff Recommendation**

On December 15, 2020, the Snohomish County Department of Planning and Development Services issued a staff recommendation (Exhibit L.1) and supplemental staff report (Exhibit L.2) that recommended approving the rezone request and approving with conditions the preliminary subdivision, site plan, and landscape modification.

## **The Hearing Examiner Decision**

The Snohomish County [Hearing Examiner](#) held an open record hearing on the application on December 22, 2020 and accepted public comment at the hearing. Based on the comments received, the written record, and applicable law, the Hearing Examiner issued a decision (Exhibit P.2) on January 19, 2021. The decision:

1. Denies the SEPA appeal.
2. Approves the requested rezone from R-9,600 to R-7,200;
3. Approves the preliminary plat and Planned Residential Development official and URDS administrative 12 site plans subject to the conditions below; and
4. Approves the landscaping modification.

## **Appeal of the Hearing Examiner Decision**

On September 18, 2020, the county council received an appeal of the Hearing Examiner's decision (Exhibit P.1).

### Requirements for filing a Type 2 appeal

Requirements for filing a Type 2 appeal are presented in SCC [30.72.080](#):

An appeal must be in writing and contain:

- A detailed statement of the grounds for appeal and the facts upon which the appeal is based, including references to specific hearing examiner findings or conclusions, and to exhibits or oral testimony in the record
- Argument in support of the appeal
- Contact information

The grounds for an appeal are limited to the following:

- The decision exceeded the hearing examiner's jurisdiction;

- The hearing examiner failed to follow the applicable procedure in reaching the decision;
- The hearing examiner committed an error of law; or
- The hearing examiner's findings, conclusions, and/or conditions are not supported by substantial evidence in the record.

#### Summary of grounds for this appeal

The appeal letter requests reversal of the Hearing Examiner's decision on the grounds that the Hearing Examiner failed to follow applicable procedure and that the decision reflected an error of law and/or was not supported by substantial evidence with regard to the following topics:

- Wetland designation
- Wetland drainage
- Stormwater modeling
- Stormwater detention
- Landscaping buffer
- Adequacy of the determination of nonsignificance under SEPA
- Open record hearing procedures

#### **Responses and Rebuttals**

The council has received the following written arguments from the Appellant, the Applicant, and Parties of Record.

- Appellant's appeal letter (exhibit P.1)
- Applicant's response argument (exhibit P.3)
- Written argument from a Party of Record (exhibit P.4)
- Written argument from a Party of Record (exhibit P.5)

#### **Request for Summary Dismissal**

In its response letter, the applicant requested summary dismissal of the appeal for lack of jurisdiction over the SEPA threshold determination of nonsignificance.

The council, by oral motion on March 8, 2021, granted the request to summarily dismiss the issue or issues raised by the Sno-King Watershed Council alleging error with the Hearing Examiner's Decision to affirm the Determination of Non-Significance issued under State Environmental Policy Act. The County Council has no jurisdiction over appeals of threshold determinations made under the State Environmental Policy Act as established in the county code and state law.

No grounds to summarily dismiss the remaining appeal issues were identified by the council.

#### **Decision Options**

At the conclusion of closed record public hearing, the council must issue a decision in writing. The decision shall set forth findings and conclusions, which may include those of the Hearing Examiner, that support the council's decision.

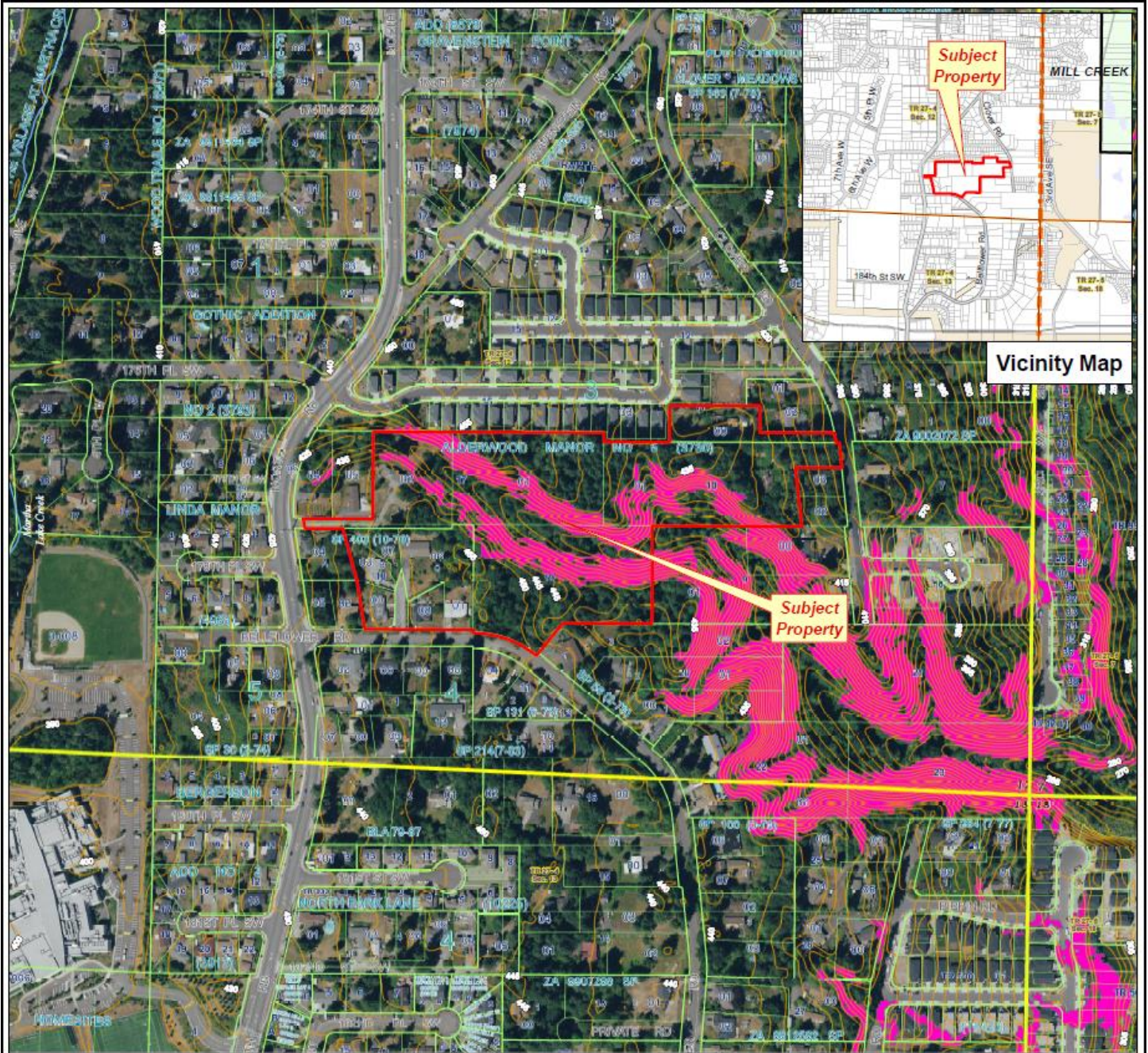
The council's options, pursuant to SCC [30.72.120\(2\)](#):

- Affirm the Hearing Examiner's decision
- Reverse the Hearing Examiner's decision either in whole or in part
- Remand the matter to the Hearing Examiner for further proceedings in accordance with the council's findings and conclusions.

The council must issue a written decision within 60 days of the last day of the appeal period and within 15 days of the council's hearing, unless the applicant agrees to an extension. In this case the council's written decision should be issued no later than Monday, April 5, 2021.

cc: Matt Otten, Deputy Prosecuting Attorney

# Vicinity Map



All maps, data, and information set forth herein ("Data"), are for illustrative purposes only and are not to be considered an official citation, or representation of, the Snohomish County Code. Amendments and updates to the Data, together with other applicable County provisions, may apply with are not depicted herein. Snohomish County makes no representation or warranty concerning the content, accuracy, currency, completeness or quality of the Data contained herein and expressly disclaims any warranty of merchantability or fitness for any particular purpose. All persons accessing or otherwise using the Data assume all responsibility for the use thereof and agree to hold Snohomish County harmless from and against any damages, loss, claim, or liability arising out of any error, defect, or omission, contained within said Data. Washington State Law, CH 42.56 RCW, prohibits state and local agencies from providing access to lists of individuals intended for use for commercial purposes and thus, no commercial use may be made of any Data comprising lists of individuals contained herein.

Map Produced by Planning & Development Services, CartographyGIS  
www.sno.co.org  
485.388.3311



- Subject Property
- Public Survey Section
- Assessor Parcel
- Township Grid
- City Boundary
- > 33% CAR Slope
- UGA Boundary
- Water Body
- 5 ft Contours
- Water Course



**Snohomish County Planning & Development Services**  
Permitting Division

## Aerial Photography & Vicinity Map

**Ironwood PRD**

PFN 20-102399

Exhibit D-2  
PFN: 20-102399 PSD/SPA/REZO/WMD

Date of aerial photography: 2018