

The HOA Board have read the documents provided by the Snohomish County Planning and Development Services and highlighted in RED the information we felt was important and supported what the Senior Planner from Snohomish County shared with us regarding what is allowed for the property.

The italic and underlined red portions are very important information with in highlighted areas

This document is the original Hearing Examiner decision dated August 15, 2003. The proposed subdivision was then called Ramar Estates. The appellant was the City of Monroe. The decision included:

- Approval of the preliminary plat;
- Approval of the planned residential development (PRD); Note: a PRD is really just a type of subdivision, but needs a separate site plan approval
- Approval of the rezone to PRD-20,000 (this is the zone that is now obsolete)
- Approval of the conditional use permit that allows the continuation of the golf course
- Denial of the appeal of the Environmental Impact Statement (EIS)

**REPORT and DECISION of the SNOHOMISH
COUNTY HEARING EXAMINER**

PLAT/PROJECT NAME: *Ramar Estates*

APPLICANT/
LANDOWNER: Mona Lisa Partners

APPELLANT: City of Monroe

RESPONDENT: Department of Planning and Development Services (PDS)

FILE NO.: 95 101304

TYPE OF REQUEST: 1. Appeal of the Adequacy of the Final
Environmental
Impact Statement (EIS)

2. Rezone from Residential-20,000 (R-20,000) to
Planned Residential Development-20,000 (PRD-
20,000) and Preliminary Plat approval to
subdivide approximately 56 acres into 104
single-family residential lots together with a
Conditional Use Permit to allow continued
operation of a nine-hole golf course

DECISION (SUMMARY): 1. Environmental Impact Statement Appeal - DENIED

2. Rezone, Preliminary Plat and continued
operation of the nine-hole golf course –
APPROVED in part, subject to Precondition
and Conditions

DATE OF DECISION: August 15, 2003

BASIC INFORMATION

GENERAL LOCATION: The property is located on the south side of Old Owen Road, 1300 feet east
of 21st Avenue SE and west of Florence Acres Road.

ACREAGE: 56.3 acres

DENSITY: 1.8 du/ac (gross)
2.1 du/ac (net)

NUMBER OF LOTS: 104
AVERAGE LOT SIZE: 8,251 square feet
MINIMUM LOT SIZE: 7,200 square feet
OPEN SPACE: 28.6 acres
ZONING: CURRENT: R-20,000
PROPOSED: PRD-20,000

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: N/A (application submitted prior to adoption of GPP)
Subarea Plan: Skykomish Valley
Subarea Plan Designation: Parks and Open Space

UTILITIES:

Water: City of Monroe
Sewage: Community Septic

SCHOOL DISTRICT: Monroe

FIRE DISTRICT: No. 3

SELECTED AGENCY RECOMMENDATIONS:

Department of:
Planning and Development Services: Approval subject to precondition and conditions
Public Works: Approval subject to conditions

INTRODUCTION

The applicant filed the Master Application on February 13, 1995. (Exhibit 22)

The Hearing Examiner (Examiner) made a site familiarization visit on June 3, 2003 in the afternoon.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 125, 126, 127, 133 and 134)

A SEPA determination was made on June 21, 1996 (Exhibit 40) with a Draft (Exhibit 2) and Final EIS being issued on July 30, 2002. (Exhibit 3) A timely appeal was filed on August 13, 2002. (Exhibit 1)

PUBLIC HEARING

The public hearing commenced on June 11, 2003 at 9:32 a.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. At the beginning of the hearing Ms. Jane Ryan Koler, applicant's attorney, appeared and made a Motion to Dismiss the City of Monroe's appeal for lack of standing. She indicated that the failure of the slope was based on pure speculation and the City has failed to show traffic problems and failed to file an appeal in 1996.
3. Mr. James Haney, an attorney representing the City of Monroe, appeared and responded that the Motion was out of order since scoping notices are not appealable issues.
4. The Examiner indicated that this Motion to Dismiss was premature at this time, but may be raised later at the end of this hearing should Ms. Kohler so desire.

The Examiner indicated that they would proceed in a certain order, in order to facilitate the hearing and all parties agreed to do this.

5. Mr. Haney stated in his opening remarks that they had appealed the EIS due to the inadequacy of the alternative review. He stated further that the report fails to note three areas of concern.
6. Mr. David Nelson, a geotechnical consultant and a licensed geologist, appeared and stated he had visited the site, reviewed the environmental evaluation and all engineers' reports.

He stated that he prepared Exhibit 136E, which shows the top of the slope where the critical area begins. He stated this was not in the analysis but should have been included.

He indicated that the Calhoun Road landslide is about 1,000 feet long and while you can not drive it, you can walk it. He does not believe there has been enough evaluation in this situation.

He stated the City of Monroe's waterline is in the slope area and is in jeopardy from future sliding. He stated the stormwater drainage shown in Exhibit 136F shows the Ramar property (fence and top of slope) and the other pictures show the drainage, standing water, down tree and leaning trees.

He indicated slope stability in the vicinity of the proposed pipeline route shows a continuing movement. He feels more analysis is needed. He stated he believes there is still movement and water appears to flow to the southwest to SP3. He concluded by stating the last pictures show broken asphalt and groundwater coming out halfway up the slope. He stated that his February 13, 2003 report contains the rest of his conclusions.

In answers to questions on cross examination, he stated the City waterline would be in jeopardy and regardless of *Ramar Estates* being constructed, there is approximately 120 feet from the top of the slope to the toe or valley floor. He stated he feels the flow is to the southwest not the southeast. He indicated the waterline is at risk east of the last house.

7. Mr. Kenneth Oswell, a traffic engineer with Entranco, appeared and stated that he is presently doing work for the City of Monroe and they are developing a plan for the City.

He submitted Exhibit 169, which shows the transportation elements of the Monroe Comprehensive Plan.

He indicated that Table 1, attached to the appeal, shows intersection Level of Service (LOS). He stated that some LOS has increased since 1995 due to increased traffic and, therefore, the Bell-Walker Study is out-of-date due to the increased traffic in this instance.

He stated the data space in their model is similar to that used by the county.

He submitted Exhibit 136A-G and stated this shows information regarding traffic in this area. He referred to Exhibit 136C, which shows the LOS for traffic with or without *Ramar Estates*. He stated that without *Ramar Estates* there would be an extreme LOS condition and with *Ramar Estates* there would be an increase from 1.5 seconds to an 11 second delay.

He stated that *Ramar Estates* would have a substantial impact that could be mitigated. He indicated there is no Interlocal Agreement with Snohomish County on Old Owen Road and a right-hand turn.

8. Ms. Gretchen Bruner appeared and stated the EIS did not include the land use analysis except for no action. She stated that on Page 45 of the SEPA handbook, the analysis was to review the impact of systems alternatives in the draft EIS, but did not do it until it was in the final period. She stated that as to the alternatives, one showed a reduced alternative for 71 lots versus the original 104 lots.

She stated that in WAC 197.11.440(5) it deals with alternatives. She stated on Pages 1-10 of the Final EIS review involved a proposal to limit the review of alternatives so that the only ones were the proposal versus no action.

She stated that in WAC 197.11.060(3)(a), that by the applicants defining the proposals objectives it limited the alternative review. However, some changes in the number of units would not make any difference in environmental impacts, such as achieving a water balance.

She felt that the proposal versus the no action were sufficient alternatives. She stated that Snohomish County issued the draft and final EIS and made the determination on the proposal.

9. Mr. Hiller West appeared and stated that he is the Community Development Director for the City of Monroe. He stated the City has a proposed waterline on the south side of the proposed plat. He indicated that repairs have been made to the line based on slides along Calhoun Road.

He raised issues in the EIS (See letter 3 of Exhibit 3) regarding traffic, soils, water, septic discharge and growth management. He believes there is an inadequacy in the EIS, since there was no traffic analysis.

He stated that alternatives should be those that approximate a proposed objective, not one that is limited to the number of lots in the proposal.

He stated that a limited scope EIS does not mean reasonable alternatives could not be considered. He concluded by stating that he does not believe this is an adequate EIS.

10. Public testimony was taken at this point and Ms. Eleanor Frei appeared and spoke. She stated that her property is sliding and she is surrounded by the proposed developments. She is concerned about the cumulative development impact and the lots on the south side.

No one else spoke in opposition to the request.

The June 11, 2003 hearing concluded at 3:45 p.m.

The public hearing continued on June 12, 2003 at 9:00 a.m.

1. At this time, Ms. Koler submitted her opening statement indicating that all stormwater will be conveyed off the site and this will help eliminate moisture in the future.

She stated the wastewater will be treated twice and the traffic will maintain the LOS at C.

She indicated they will pay over \$500,000.00 to mitigate impacts to the state, county, and schools. She stated they will give an improved 25 feet of right-of-way.

She indicated that RCW 82.02.050 did not intend for each jurisdiction to impose mitigation fees and concluded that the golf course will be maintained.

2. Mr. Charles Lindsay of GeoEngineers appeared and stated he has 20 years experience and has been involved with this property since 1995.

He submitted various Exhibits (174-177). Exhibit 176 shows that the existing site is essentially a golf course, while Exhibit 177 shows the golf course and the homes. He stated that approximately 25 percent of the site will be impervious surface.

He indicated that the data from all three proposed plats have been shared.

He stated from 1995 to 1999 monitoring wells were installed and monitored, generally on a quarterly basis, by all the plats.

He stated there is a silt and clay level in this area and a swell in the southeast area was also located. He indicated that ground water runs east to west generally then hits the silt and clay which directs it back to the southeast corner.

He stated by the use of water balance; in other words, putting water in and out both before and after, it could be brought to within five percent of maintenance of the status by using a detention pond. He stated they use a model of existing conditions and they can try different models to see how the water can be handled. He indicated that using the model they were able to compare existing conditions with future conditions and this then shows a slight decrease on the east and southerly boundaries, but essentially it stays the same.

He stated there is close to zero impact on nitrate concentration using enhanced nitrogen systems.

He stated the trough in the southeast corner is above the slide area of Calhoun Road and is hydrologically connected.

His statements are summarized in Exhibit 174.

Upon cross examination by Mr. Haney, he stated the water will flow to the southwest toward spring number 3 and there is some reason why it flows there but he does not know why.

3. Mr. J. Robert Gordon a Geotechnical and Civil Engineer who reviews landslides and liability issues appeared. He submitted Exhibit 183 and 184 with regard to soil stability issues. He indicated that earth work will not be done on the slopes but on sand and gravel. He stated that the stormwater will be directed to a lined infiltration pond.

He stated that what really impacts this site is precipitation which will cover 24 percent of the surface of the site. He showed Exhibit 185, which indicates they will take storm events away and lower ground water but they will not affect Calhoun Road.

He indicated that Calhoun Road was poorly built and the seeps there are above the road which is a drainage problem.

He indicated that the slide area is 150 feet away and they are not responsible for other areas.

He stated that there is a new seep at the base of the hill and there is some movement. He indicated also that construction should occur in the summer and the average setback from the top of the slope is 50 feet and he feels this is sufficient.

He stated that he never located the top of the toe of the slope and estimates it to be 40 feet, from the information he has. He stated it is a piece of data that is important as a factor of safety.

4. Mr. Jeff Schramm of Transportation Engineering Northwest, who has done over 100 studies on plats, appeared and stated there were three traffic reports. The Bell-Walker Study of 1995, the Ramar Traffic Studies which shows a 15 percent decrease in the last six years from 1995 to 2002. He stated the peak hour increase is only 27 cars, and the third study is the Old Owen Place Study which shows the same or a decrease.

He indicated that in 1995 it was a Level C with a 17 second delay, in 2001 it was Level B with a 17 second delay and in 2002 the Entranco Study shows it was a Level D with a 35.9 second delay.

He stated the Entranco Study used a non-commercial level and not a conventional one. He stated that if they had used a conventional study it would have been a Level B.

He stated the results are questionable and the traffic volumes remain the same and so should the LOS. He indicated the City has no method to show how traffic impacts could be mitigated.

He stated that in all six intersections Ramar would have less than a two percent impact.

He stated that RCW 82.02.050 does not allow for double payments and Ramar is already paying \$100,000.00 to the State.

On cross examination, he indicated that the increases in traffic in some intersections is happening.

He stated that an analysis of all three plats would raise the LOS to C based on a 20 percent growth at the intersection of Highway 2 and Old Owen Road.

5. Ms. Gretchen Bruner appeared and stated that she authored the draft of the EIS for Snohomish County on this project. She spoke to the EIS and feels this meets the intent of the SEPA.

She submitted Exhibit 186 regarding directions on alternatives.

6. Mr. John Vanier, a civil engineer, appeared and stated that he prepared the hydrology for this site. He stated there are three large septic systems which will introduce groundwater into the ground by using a balance system with a drainage pond, in other words, a detention system. He stated they will install a drainage system to Highway 2.

7. Mr. Ken Williams, Group Four, Inc., appeared and stated that these will be single-family residential suburban homes and will be developed around the golf course. He indicated the golf course will be retained for the benefit of the public. He stated the Parks fees are \$757.00 and that access from the property will be from Old Owen Road and Calhoun Road. He stated there will a widening of Old Owen Road in this area and \$97,000.00 will be given to the state. He indicated also there will be a bus turnout.

He stated the City of Monroe will provide water service and he concluded that a Conditional Use Permit will allow them to continue to operate the golf course.

8. Mr. Norm Stone, of the County Department of Public Works (DPW), stated there is no showing of approval as private roads and they should be the public. He referred to Tract B which is a recreation area.
9. Mr. Mark Buer, a civil engineer, appeared and stated that onsite septic systems can be designed to fit the situation and are of a higher type than a municipal system.
10. Mr. G. William Cantrell, appeared and stated he has degrees in environmental, wildlife and wetland matters. He stated there are no critical areas on this site.
11. Mr. Stone, DPW, stated that on August 15, 2001 statistics showed there would be approximately 8,500 trips and he feels the road can handle this volume.
12. Ms. Susan Scanlan, of the County Department of Planning and Development Services (PDS), appeared and stated that Snohomish County is the lead agency. She stated the County determined which elements would have a significant affect on the environment and they reviewed the draft and final EIS and they feel there is no new information that would change the report and they support the request subject to conditions.
13. By way of rebuttal, Mr. Kenneth Oswell stated that he agrees with the capacity of the road, but the City of Monroe is here because of the impact on the intersections. He stated that really they are looking at increases of delay from 1995 to 2008 and he wants to be sure that everyone bears

their fair share. He stated there are impacts and the impacts are measurable as a pro rata share and he submitted Exhibit 188 as potential mitigation.

14. Ms. Frei spoke and again no one else from the public desired to speak.

The June 12, 2003 hearing concluded at 4:30 p.m.

All parties were to submit their information on potential conditions and memorandums by July 1, 2003.

After reviewing the information submitted subsequent to the public hearing, the Examiner issued an Order Reopening the Hearing in order to allow full review and comments of the information submitted and to request additional information. This was done and additional information was submitted.

NOTE: The above information reflects the information submitted to the Examiner summarizing the statements that were made at the hearing. However, for a full and complete record, verbatim audio tapes of these hearings are available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

GENERAL FINDINGS:

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file, as if set forth in full herein.
2. By way of background, this matter arose with the filing of a Preliminary Plat/PRD application on February 13, 1995. The Preliminary Plat called for the creation of 124 lots and eliminating the golf course. The present request is for 104 lots in conjunction with the golf course.

About this time there were two companion requests filed for subdivisions entitled *Cougar Ridge* containing 60 lots and *Old Owen Place* containing 22 lots.

The preliminary plat of *Old Owen Place* was approved on February 6, 2002, appealed to the County Council and upheld on April 3, 2002. The preliminary plat of *Cougar Ridge* was approved on January 27, 2003, appealed and upheld by the County Council on June 4, 2003 with modifications.

These two plats were the result of an appeal from a decision of the County Council earlier to require an EIS pertaining to stormwater drainage impacts and impacts on the groundwater from sewage discharge. The Washington Supreme Court ultimately ruled that the EIS request would be upheld.

However, in this case, *Ramar Estates*, there has been no legal or court challenge, and although an EIS was required, however, this plat must stand on its own.

3. At the conclusion of the formal hearing on this matter on June 12, 2003, parties were allowed to submit further information and potential conditions and memorandums by July 1, 2003. This was done and Exhibits 189 to 195 were submitted.

As a result of this information submitted, the Examiner issued an Order Reopening the Hearing on July 16, 2003 so all parties could review the information and Exhibits which were submitted, and, to request additional information be submitted by July 31, 2003. (Exhibit 196)

Additional information and briefs were also submitted in response to the Examiner's request and they are as follows:

EXHIBITS:

- | | |
|------------|---|
| | 197. Memorandum to the Hearing Examiner from Susan Scanlan, PDS, regarding additional information requested, dated 7/18/03 |
| Order | 198. Hearing Memorandum – Response to Examiner's Request for Additional Information in Reopening Hearing from Jane R. Koler, dated 7/31/03 |
| Additional | 198-1. Memorandum to the Hearing Examiner from J. Gordon, GeoEngineers, regarding Mapping and Cross Sections, dated 7/30/03 |
| Status and | 198-2. Letter to Ken Williams, Group Four, Inc., from Susan Scanlan, PDS, regarding Project Evaluation, dated 9/9/99 |
| | 198-3. Mitigation Measures – pages from <i>Ramar Estates</i> PRD Draft EIS |
| Ridge | 198-4. Report and Decision of the Snohomish County Hearing Examiner regarding <i>Cougar</i> (ZA9005249) (Pages 1, 3, 5, 6 and 8) |
| | 198-5. Snohomish County Code Title 18, Chapter 18.51 Planned Residential Development |
| | 199. Proposed Plat Map of <i>Ramar Estates</i> , dated 7/31/03 |
| | 200. Large aerial photo (color) showing proposed plat |
| | 201. City of Monroe's Supplemental Authorities and Response to Hearing Examiner's Order Reopening Hearing from James Haney, appellant's attorney, dated 7/31/03 |

FINDINGS REGARDING SEPA APPEAL:

1. This appeal involved whether there had been sufficient environmental review and consideration given to stormwater drainage, soil stability, traffic impacts, impacts upon springs in the area and alternatives. This testimony and information was well organized and presented by the attorney for the appellant, the City of Monroe, and set forth in his briefs and memorandums. There were submitted responses in support of the EIS by the applicant and reports from county departments, as well as testimony, along with briefs and memorandums supporting their positions on the environmental information submitted. On a review of the testimony, briefs and memorandums, it appears that the issues raised in the appeal were identified and discussed in great detail.

Some of the discussion was had with regard to traffic impacts and how they could be mitigated. However, there exists no Interlocal Agreement between the City of Monroe and Snohomish County, such as to allow the County to proceed further on these issues in detail under the existing county ordinances.

2. Furthermore, the Examiner does not find where a granting of the appeal would allow any more significant information to be submitted than has already been presented and discussed.

CONCLUSIONS REGARDING SEPA APPEAL:

1. No new evidence was submitted which would show that even if there were an expanded EIS to be made regarding the SEPA appeal as to traffic and alternatives that would show there would be a probable significant adverse impact on the environment by clear and convincing evidence.
2. After reviewing all of the evidence and memorandums the Examiner is not left with a definite and firm conviction that a mistake has been committed and that the issues have not been fully discussed or reviewed under the rule of reason standard, and therefore the appeal should be denied.
3. Challenges were made in briefs and a Motion to Dismiss by the applicant that the City of Monroe had no authority to file the appeal or raise certain issues. The Examiner concludes that the City of Monroe clearly had the authority to raise these issues, which they raised in their SEPA appeal, and the Motion to Dismiss is denied.
4. The decision to issue the EIS under the Snohomish County Code is entitled to substantial weight and may be overturned only if proven to be clearly erroneous. The appellants have failed to carry the burden of proof to show this. [SCC 23.40.010(5)(SCC 30.61.310(3))]
5. While the Examiner recognizes the concerns of the City of Monroe with regard to traffic impacts, Snohomish County may only respond in detail to those issues if there is in effect an Interlocal Agreement. Here, there was none. SCC 26B.50.030 (SCC 30.66B.720), covers this issue and provides:

“As a policy of the county the provisions of this title do not limit the ability of the approving authority to impose mitigation requirements for the direct impacts of the development on state highways or city streets, where the other affected jurisdiction lies outside the road system of a development, as defined by this title, provided there is an agreement between the county and another affected jurisdiction which specifically addresses level of service standards, impact identification, documentation and mitigation, and which specifically references the environmental policies formally designated by the agency or jurisdiction, and it is determined that an adverse environmental impact would result from approval of a development without the imposition of such additional mitigation measures....”[Emphasis added]

NOTE: See also SCC 30.66B.720 containing similar language.

While there have been mitigation fees imposed for the benefit of Washington State in the amount of approximately \$97,000.00, this must suffice now, as far as the authority of Snohomish County. The City of Monroe must now look to the State of Washington for any such relief on intersections involving Washington State Highways.

6. After reviewing all of the evidence, the Examiner is not left with a definite and firm conviction that a mistake has been committed in the issuance of the EIS and therefore the appeal should be denied.

FINDINGS REGARDING THE REZONE FROM R-20,000 TO PRD-20,000 AND PRELIMINARY PLAT APPROVAL TOGETHER WITH A CONDITIONAL USE PERMIT FOR THE CONTINUED OPERATION OF A NINE-HOLE GOLF COURSE:

1. The PDS staff report 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 the State Environmental Protection Act (SEPA) evaluation with its recommendation and conditions and is made a part of this decision as if set forth in full herein.
2. This request is for approval of a Rezone from R-20,000 to PRD-20,000, concurrent with a 104 single-family lot subdivision, and a Conditional Use Permit for a nine-hole golf course which now exists and will continue to exist for public play.
3. The proposed lots would be located around the golf course and would take access from an internal road system that accesses Old Owen and Calhoun Roads. The lots would be served by public water from the City of Monroe and a community drainfield system is proposed to be located under the golf course.
4. In addition to the golf course, recreation facilities for the residents of the development would be provided in Tract B located in the northwestern portion of the property and would consist of a gazebo, tennis court, basketball court and putting green, with a portion of the trail system that connects the development and golf course. While the golf course area would be reduced from approximately 36.4 acres to 23.8 acres the existing clubhouse and parking area would be retained in Tract D.
5. The site is a relatively flat parcel lying on an east-west trending ridge located between the Woods Creek Valley to the north and the Skykomish River Valley to the south. There are no critical areas on site, however, there are steep slopes lying to the north and south. The site is currently developed as a nine-hole public golf course.
6. Many concerns were raised by opponents with regard to not wanting this development, nevertheless, the applicant has vested rights and under existing zoning laws may proceed with the request involved.
7. The properties in the vicinity of the parcel are zoned Rural Five Acre and are developed with low to suburban density residential housing.

The parcel adjacent to the east and the parcel one removed to the east have current land use applications for development. The adjacent property contains the approved preliminary plat of *Old Owen Place*, which is undergoing construction plan review. The property further to the east is the *Cougar Ridge* PRD proposal, approved by the Hearing Examiner and Council.

8. Neighbors of the proposal have expressed concern regarding the traffic impact that this project, the *Cougar Ridge* proposal and the approved plat of *Old Owen Place* would have on Old Owen Road. Additional concerns raised include, the density of the developments outside the urban growth area, potential impacts to the shallow aquifer underlying the site, development on the top of the ridge which may affect slope stability to the north and south facing slopes and the potentially adverse impact on the potability of springs on the south facing slope above the

Skykomish River Valley. Although the development's density is not in conformance with post-GMA adopted comprehensive plan, policies and zoning, the development does conform to the codes and ordinances in effect at the time of filing of the complete subdivision application and conditional use permit application.

Traffic conditions on Old Owen Road have changed since the submittal of the original applications and the applicant has been required to submit updated traffic information in order for the Department of Public Works to make a final recommendation on the proposal. Public Works has reviewed the projected capacity levels of Old Owen Road inclusive of all three new developments and has determined that sufficient capacity exists to accommodate all future trips generated by the developments.

A limited scope Determination of Significance was issued and Draft and Final EIS' prepared to address the issues of groundwater impacts and slope stability. The analysis conducted in these documents on the proposal concluded that there would not be an adverse impact to those elements of the environment, if the project were developed as described in the EIS.

9. The DPW reviewed the request with regard to traffic mitigation and road design standards. This review covered Title 13 SCC and Chapter 30.66B SCC (Title 26B SCC) as to road system capacity, concurrency, inadequate road conditions, frontage improvements, access and circulation, and dedication/deeding of right-of-way, state highway impacts, impacts on other streets and roads, and Transportation Demand Management. As a result of this review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions.
10. The applicant is proposing to utilize community drainfields for sewage disposal for the development that would be installed under the golf course. State regulations require that in order to develop a community drainfield system, a qualified entity must enter into a third party agreement accepting responsibility for the administration of that system, including maintenance responsibilities, should the primary entity fail. The Holmes Harbor Sewer District has signed an agreement with the applicant as a "Trustee" to assure the proper operation and maintenance of the Large On-site Sewer system. The Washington State Department of Health has indicated that this meets their requirements for administration of Large On-site sewer systems.
11. The proposal, as submitted with the continuation of the golf course, is intended by the applicant to eliminate much of the community opposition as had arisen. (See Page 2 and 3 of Exhibit 198) Currently this has done so; and to a great extent, the proposed homes around the golf course will present a very pleasing and attractive development. **However, this has allowed the development to be so intertwined as to require that the golf course be maintained as a vital part of this development. To do otherwise would be to destroy this vital concept.**

In this regard the Examiner requested information as to how many homes could be developed on the property without the golf course. For example, in the applicant's brief, the applicant states that under the existing zoning of R-20,000 and eliminating the golf course, 97 homes can be constructed. All of this information goes to show a significant number of lots could be constructed with or without the golf course under the then existing zoning regulations. The proposal now, before the Examiner, is to construct 104 lots along with existing golf course.

12. The Examiner also required that the exiting toe of the slope be set forth. This is done in great detail and with accompanying maps done in the applicant's brief, as set forth in Exhibit 198. In this regard, the Examiner would call attention to specifically to the Map listed as Exhibit 199. This Exhibit clearly reflects the toe of the slope and its relationship to the proposed living units to be developed. The Examiner notes that Lots 47 through 66, (20 lots) are particularly close to the toe of the slope and the slide area.

A review of all of the information pertaining to stormwater drainage and septic drainage and their effects upon the soils is had, in the earlier reports on *Old Owen Place* and *Cougar Ridge*, but is specifically supplemented by evaluations made by Soil Engineers on this property itself. The conclusion is that with the balancing methods proposed for maintaining the stability of the soil, that no serious adverse affects would be had upon the soil stability. This comes from the testimony and in particular the report of J. Gordon/GeoEngineers submitted July 31, 2003 in response to the Examiner's requests. (Exhibit 198-1) However, in order to eliminate any doubt as to any lingering questions, a trial period is proposed in the conditions.

13. While some testimony was submitted that the City of Monroe opposes the request, that is not found in their written opposition to the EIS. One of their main oppositions was as to traffic impacts, yet of the evidence shown, the Examiner was not convinced that such traffic impacts upon the intersections of the City of Monroe would be so severe as to deny the request, even if further evaluations were to be made.
14. The collection and routing of stormwater drainage off the site would eliminate concerns as to impact of the soil on the site. The PDS Engineering Division has reviewed the concept of the proposed grading and drainage and recommends approval of the project subject to conditions, which would be imposed during full detailed drainage plan review pursuant to Chapter 30.63A SCC (Title 24 SCC).

Road, building sites, recreation facilities and the golf course would be cleared, graded and compacted as necessary to achieve proper grade transition, drainage and structural stability. Based upon preliminary estimates, approximately 45,000 cubic yards of material would be excavated and, to the extent possible, used for backfill. Erosion and sedimentation control measures would be employed during construction, in accordance with best management practices and the Washing State Department of Ecology Stormwater Manual. Erosion and sedimentation control measures would include: filter fences, diversion swales, sedimentation ponds and/or riprap armoring.

Extensive fieldwork, modeling and analyses were conducted after issuance of the Determination of Significance to more thoroughly understand surface and groundwater patterns on site and in the vicinity. The proposed drainage system features detention and release of all stormwater from impervious surfaces. Stormwater runoff would be intercepted from all roadways on site, the Old Owen Road frontage adjoining the site and the impervious areas on all lots. Stormwater runoff from these areas would be conveyed to a single lined detention/wetpond located in the southwestern corner of the site that would provide detention and water quality treatment functions. From the detention/wetpond, runoff would release to a tightline system off site. This tightline system would eventually run to the Skykomish River for release. The water balance analysis for the current proposal, assuming the described stormwater drainage system, estimated

that the amount of groundwater recharge subsequent to development would be within 5 percent of the estimated groundwater recharge under existing conditions.

15. The setbacks from the toe of the slope appear to be sufficient so as not to affect the water line of the City of Monroe wherever that location might be along Calhoun Road.
16. The Examiner is concerned that there be no impacts upon existing springs and upon existing soil stability and to eliminate any such doubt, conditions are placed in the approval of the requests.
17. The project would comply with park mitigation requirements under Chapter 30.66A SCC (Title 26A SCC) by the payment of \$767.00 for each new single-family home.
18. School mitigation requirements under Chapter 30.66C SCC (Title 26C SCC) have been reviewed and set forth in the conditions.
19. The area of the proposed development does not contain any critical areas as defined by county code, nor is the development application subject to Chapter 32.10. The off-site route for the stormwater discharge contains both steep slopes and wetlands, which would be impacted by development of the proposed drainage system for the development.

The applicant has submitted a Critical Area Study and Habitat Management Plan which describes in detail the off-site critical areas which would be impacted by development of the stormwater conveyance system. A determination has been made that the off-site portion of the stormwater conveyance is in conformance with the county's Critical Area Regulations.

20. The proposal was originally submitted and determined complete prior to the adoption of the GMA General Policy Plan (GPP). The development is therefore subject to the pre-GMA Comprehensive Plan in effect at the time, which was the Skykomish Valley Area Plan. The valid comprehensive land use plan became effective on October 3, 1980. The subject property is designated Parks and Open Space on the pre-GMA Comprehensive Plan.
21. The applicable zoning for the proposal is R-20,000, which was the zoning at the time a complete application was filed for the development. Planned Residential Developments were an allowed method of development under the applicable code.

Golf Courses are conditional uses in the R-20,000 zone subject to the provisions of 30.42C SCC regarding the consideration for granting conditional use permits. The conditional use permit application submitted by the *Ramar Estates* proponent contains all elements necessary for the granting of the conditional use permit, especially where the golf course is already a pre-existing use.

22. The request complies with the Snohomish County Subdivision Code, Chapter 30.41A SCC (Title 19 SCC) as well as the State Subdivision Code, RCW 58.17. The proposed plat 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.

23. The request is consistent with Section 30.70.100 SCC (Section 32.50.100 SCC), which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP, and GMA-based county codes.
24. The Examiner is indebted to the attorney for the appellant, the City of Monroe, and the attorney for the applicant who have submitted excellent briefs and memorandums regarding this hearing, and in response to the Examiner's request for additional information. As shown in the Exhibit list, these are and will remain a part of the file.
25. The Examiner has reviewed the request for a conditional use permit and finds that this request meets the standards of the Snohomish County Code. The conditional use permit for a golf course is a reasonable request since a golf course already exists in this area and would have no adverse affects upon the area. Rather, it would have uplifting affect upon the neighborhood itself and the proposed development and should be allowed standing alone. No opposition was received to this conditional use request.
26. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

CONCLUSIONS REGARDING THE PRD REZONE, PRELIMINARY PLAT AND CONDITIONAL USE PERMIT:

1. The request is consistent with the GMACP; GMA-based County codes; and the type and character of land use permitted on the site and the permitted density with the applicable design and development standards.
2. The Examiner recognizes the concerns of those parties opposing the approval of these requests. However, under the vested rights and the existing zoning laws the applicant is entitled to proceed with the requests as long as the full nature of its effect has been analyzed and provisions made therefore. The Examiner believes that the conditions which follow will provide for that protection.
3. The Examiner has carefully reviewed all of the testimony, briefs and evidence presented in this matter. *It is the conclusion of the Examiner that the proposal to maintain the golf course in conjunction with the proposed homes is a request that is reasonable and consistent with existing zoning laws and ordinances and the vested rights which the property has.*
4. *This use will allow for the development of the property which, when based upon and done in conjunction with the consultants reports, should have no serious adverse affects upon the area; but rather would allow this property to be used and developed for those citizens who desire to live and reside in the Monroe area of Snohomish County, in a very attractive and pleasant living environment, as long as certain conditions are met.*
5. The request should be approved subject to compliance by the applicant with the following Precondition and Conditions:

PRECONDITION

- A. The applicant shall submit the necessary PRD documents pursuant to Section 30.42B.250 SCC, which shall include covenants guaranteeing maintenance of the open space/recreation designated areas on the PRD site plan as well as conformance of future development actions on the site to the approved PRD plan as it may be amended, and shall include other appropriate documents such as homeowner association by-laws and the documents insuring future maintenance and common fee ownership of the community facilities including recreation facilities, and common open space. These documents shall be reviewed in final form by and shall be accompanied by a certificate from an attorney indicating that they comply with the requirements of County Code.

CONDITIONS for PRD/Plat

- A. The preliminary plat map and PRD site plan received by the Department of Planning and Development Services on February 25, 2003 (Exhibit 140) shall be the approved plat configuration and official PRD site plan. Changes to the approved preliminary plat are restricted by SCC 30.41A.330; changes to the official site plan are restricted by SCC 30.42B.220.
- B. Prior to initiation of any site work; and/or prior to issuance of any development/construction permits by the county:
- i. Construction plans shall incorporate a stormwater control system designed to achieve a water balance between existing and post-development groundwater recharge rates. The system shall maintain existing groundwater levels and spring discharge rates in the area, precluding an increased risk in potential landslide activity.
 - ii. The proposed final design of any stormwater detention/infiltration facilities, associated conveyance facilities and outfall protection provision shall be evaluated and approved by a geotechnical engineer.
 - iii. A geotechnical report addressing specific recommendations for construction of the stormwater tightline conveyance including anchoring of the pipe shall be completed as part of the final design process.
 - iv. The sizing of the conveyance system and water quality treatment shall be designed to meet the drainage requirements which became effective September 1998.
 - v. A final mitigation plan shall be submitted for review and approval during the construction review phase of this project. The final mitigation plan shall be based upon the conceptual mitigation plan prepared by Cantrell and Associates, Inc. dated December 1, 2000.
 - vi. Prior to any development activity (e.g.: clearing, grading or filling) at the off-site drainage outfall location, the plat shall mark with temporary markers in the field the boundary of Native Growth Protections Areas, using methods and materials acceptable to the County.

- C. The following restrictions shall be placed on the final plat map:
- i. Tracts "A and D" shall be labeled as open space, and are restricted to the use of a golf course (Tract A) and associated normal and accessory uses (Tract D).
 - ii. The property owners of lots within the *Ramar Estates* development shall at all times have access to the golf course, such access may be conditioned upon the payment of a reasonable and fair fee.

NOTE: Since the Examiner has relied upon the representation of the applicant that the golf course and the proposed homes will be combined, these conditions are placed to insure that integrity of the use of homes combined with a golf course is maintained.

- D. Any fill planned for slopes steeper than 5H:1V on the site shall be benched into the slope and placed as structural fill. Compaction values and drainage recommendations for structural fill shall be provided by the geotechnical engineer as part of the final grading plan review process.
- E. To reduce the risk of increasing erosion or slope stability hazards as a result of construction, all permanent cut slopes in the natural sediments shall be graded to a maximum of 2H:1V. Slopes in structural fill soils shall not be steeper than 2H:1V, unless approved by the geotechnical engineer. Where steeper gradients are required, an approved erosion protection structure or retaining structure shall be used. Rockeries shall not be used as a retaining structure in association with unstable soil or non-reinforced fill soils. Rockeries could be used as erosion protection devices.
- F. An erosion control inspector, to be retained by the applicant, shall review all final erosion control plans and be on the site during construction to observe that the required mitigation functions as intended. The inspector shall provide site-specific recommendations during the construction phase, as necessary.
- G. Stormwater runoff from the construction site shall be collected and treated in some combination of sediment ponds, turf-covered sand filters, temporary filtration, or other approved method before release. All provisions of the National Pollutant Discharge Elimination System (NPDES) permit, obtained from the State Department of Ecology for construction discharge, would be met. Discharge shall be measured periodically with a portable turbidometer, and temporary erosion and sediment control measures would be adjusted, as warranted, to achieve compliance with water quality standards for turbidity and the conditions of the NPDES permit.
- H. Prior to the onset of winter, any exposed subgrade shall be hydroseeded, covered with plastic sheeting or otherwise protected. Hydroseeding shall occur prior to September to insure that grass is established by October. In addition, exposed construction slopes shall be trackwalked (up and down) to roughen the ground surface and reduce runoff velocities.

- I. Clearing shall be limited to the drier months (April to October) to allow time for the hydroseeded grasses to re-establish and to reduce the erosion potential following the winter.
- J. Major earthwork shall occur during the dry season (April through October), and limited by weather conditions at other times of the year.
- K. Soils that would be reused around the site shall be stored in such a manner as to reduce erosion. Protective measures shall include; but not be limited to: covering with plastic sheeting, the use of low stockpiles in flat areas, or the use of hay bales/silt fences.
- L. Four inches of compost shall be tilled to an approximate depth of 6 inches under all lawn areas, except for areas overlying septic drainfield and drainfield reserve areas. This organic layer would reduce pollutant loading to surface and groundwater.
- M. An educational bulletin shall be provided to each lot purchaser. The brochure would include the following:
 - notification and explanation of the proximity to springs emanating from the shallow aquifer;
 - alternatives to yard maintenance with pesticides;
 - alternatives to fertilization or minimization of fertilization;
 - avoidance of over-watering to avoid leaching and to promote better turf health; and
 - telephone and internet sources of additional information from county and state agencies promoting these programs.
- N. Prior to the recording of the final plat:
 - i. The sum of \$757.00 per new dwelling unit shall have been paid to Snohomish County as mitigation for project impacts on park and recreation services. The mitigation payment may be deferred if the requirements of SCC 26A.04.020 are followed. Some or all of the mitigation obligation may be satisfied pursuant to SCC 26A.03.080 and .090 by provision of certain approved on-and/or off-site facilities. (Title 26A SCC)
 - ii. The sum of \$2,906.00 per new lot being recorded shall have been paid to Snohomish County for the Monroe School District as mitigation for project impacts on said District. The mitigation payment may be deferred if the requirements of SCC 26C.07.080 are followed. Some or all of the mitigation obligation may be satisfied pursuant to SCC 26C.07.060 by provision of comparable in-kind options, if acceptable to said District.
 - iii. The sum of \$204,599.20 (\$1,967.30/lot) shall have been paid to Snohomish County for road system capacity impacts within Transportation Service Area "E". Credits for certain expenditures may be allowed against said payment to the extent authorized by county code.
 - iv. Frontage improvements conforming to county standards and incorporating a school bus turnout shall be installed along the property's frontage on Old Owen Road.

- v. The sum of \$97,268.60 (\$935.28/lot) shall have been paid to the Washington State Department of Transportation as mitigation for project impacts on the SR2/SR522 Monroe by-pass project.
- vi. A Critical Area Site Plan (CASP) is required for the length of the off-site stormwater conveyance system in partial fulfillment of SCC 32.10.240(6). The southern Critical Area Site Plan boundary shall be limited to that point where the stormwater converges with the existing drainage course as depicted on Sheet 1 of 1 of the conceptual grading and drainage plan prepared by Group Four, Inc.
- vii. Native Growth Protection Area boundaries shall be permanently marked at the off-site drainage outfall location prior to final inspection by the County, with both Native Growth Protection Area 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 a Native Growth Protection Area 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.
- viii. Native Growth Protection Area signs shall be placed no greater than 100 feet apart around the perimeter of the Native Growth Protection Area. 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 Native Growth Protection Area, unless otherwise approved by the county biologist. The design and proposed locations for the Native Growth Protection Area signs shall be submitted to the Land Use Division for review and approval prior to installation.
- ix. All Critical Areas shall be designated Native Growth Protection Areas (unless other agreements have been made) with the following language on the face of the Critical Areas Site Plan:

The NATIVE GROWTH PROTECTION AREA is to 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 32.10.110(29) (a), (c), and (d), are allowed when approved by the County.

- O. All residential buildings shall be constructed in accordance with the Uniform Building Code for Seismic Zone 3 to reduce structural damage potential as a result of a large earthquake.
- P. Once construction starts, there shall be regular monitoring to insure that there are no adverse affects upon adjacent or surrounding properties to existing water supplies, slopes and drainage area, by either water draining off the property or by water coming from potential septic tank usage.

The applicant shall measure water levels and collect water quality samples from monitor wells MW-1, MW-5, MW-6 and MW-7 during construction of the project, in order to insure that no adverse impacts will be had upon the soils, wells, and slopes on adjacent properties. Monitoring shall occur on a semi-annual basis, in September and March, for

three years after occupancy of the last house, but not to exceed five years from occupancy of the first house. If it is determined that adverse effects are occurring in the area, then all construction causing those effects shall cease and further hearing may be held.

- Q. The impervious surface of the lots shall be limited to 5,000 square feet.
- R. The developer shall dedicate 20 feet of additional right-of-way along Old Owen Road.

Preliminary plats which are approved by the county are valid for five (5) years from their effective date and must be recorded within that time period unless an extension has been properly requested and granted pursuant to SCC 19.20.010(1).

CONDITIONS FOR GOLF COURSE:

- A. The Conditional Use Permit site plan submitted February 25, 2003 (Exhibit 140) shall be the official site development plan for the golf course; any changes to this plan are restricted by SCC 30.42C.110.
- B. Prior to initiation of any site work; and/or prior to issuance of any development/construction permits by the County:
 - i. The applicant shall file a Land Use Permit Binder on a form provided by the Department of Planning and Development Services, with the County Auditor. The binder shall serve both as an acknowledgement of and agreement to abide by the terms and conditions of the conditional use permit and as a notice to prospective purchasers of the existence of the permit.
- C. The Fertilizer Management Plan prepared by AESI, dated December 8, 1999 (Appendix 6 to Appendix A.1 of the DEIS) shall be provided to the owner(s) of the golf course and made a part of the golf course management strategy.
- D. Any lighting shall be shielded or directed in such a way as to cast no glare onto neighboring properties.

EXAMINERS CONDITIONS:

- A. The applicant shall install and maintain monitoring wells in such locations as may be directed and chosen by the Department of Planning and Development services, and each well serving Lots 47-66 shall be monitored during construction of those lots. Monitoring shall occur for three years after occupancy of the last house built on lots 47-66, but not to exceed five years from occupancy of the first house in Lots 47-66, in order to insure that no adverse affects will be had upon the soils, the wells, the slopes, the City water line, or other adjacent property. If it is determined that adverse affects are occurring in the area, then all construction causing those affects shall cease and further hearing may be had.
- B. There shall be no development on Lots 47-66 until such time as there has been development in use of the existing lots, in order to insure that the balancing of the soil

stability recommendations and any effects on springs, are followed and which would then indicate that there are no adverse affects on this property and surrounding property or areas. This review should take place no later than one year from the completion and use of the other lots.

- C. All septic systems shall not be placed until review and approval of the Snohomish County Health District.
6. The recipient of any conditional use permit shall file a land use permit binder on a form provided by the department (Planning and Development Services) 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 conditional use permit and as a notice to prospective purchasers of the existence of the permit. (SCC 30.42C.200)
7. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

The requests for a Rezone from Residential-20,000 (R-20,000) to Planned Residential Development-20,000 (PRD-20,000) and Preliminary Plat approval to subdivide approximately 56 acres into 104 single-family residential lots, together with a Conditional Use Permit to allow continued operation of a nine-hole golf course are hereby APPROVED, SUBJECT TO COMPLIANCE by the applicant, with the PRECONDITION and CONDITIONS set forth in Conclusions 5 and 6, above.

Decision issued this 15th day of August, 2003.

Examiner

Robert J. Backstein, Hearing

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 AUGUST 15, 2004.

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.

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 rezone with official site plan is effective as of _____, _____.

Certified by:

(Name)

(Title)

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| EXPLANATION OF RECONSIDERATION PROCEDURES |
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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, 2802 Wetmore Avenue, 2nd Floor, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **AUGUST 25, 2003**. 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.

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| <p style="text-align: center;">EXPLANATION OF APPEAL PROCEDURES FOR THE REZONE, PRELIMINARY PLAT AND CONDITIONAL USE PERMIT</p> |
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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, 5th Floor, County Administration Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **AUGUST 29, 2003** 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 this case.

EXPLANATION OF APPEAL PROCEDURES FOR THE SEPA APPEAL

The decision of the Hearing Examiner is final and conclusive with right of judicial review in Superior Court following the county's final decision on the underlying application or proposal. (As noted above, reconsideration by the Examiner may also be sought by one or more parties of record.) For specific information about judicial review, please see SCC 30.61.330, RCW 43.21C.075 and WAC 197-11-680.

The Land Use Permit Binder, which must be executed and recorded as required by SCC 30.43B.120, 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.

Staff Distribution:

Department of Planning and Development Services: Susan Scanlan
Department of Public Works: Norm Stone

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.