

The appellant (Ramar Estates) then petitioned for reconsideration. This document is the Hearing Examiner's decision denying the petition.

Another thing to note; Even though the original decision was in 2003, the pre-conditions were not fulfilled until August 11, 2004. So, the actual preliminary plat approval date is the 2004 date. The final plat was then recorded on March 30, 2005.

The developer (Ramar Estates) petitioned for reconsideration on Finding 11(see pg 12, of document 1) and Condition C (i) **See Document 1 for description (we have highlighted these in red) Finding 11 is very important....

The request was DENIED, the reason for the denial are listed in this document under supplemental finding

Side Note, Page 3 under supplemental conclusions #2

The Snohomish County Senior Planner explained that it would be very difficult for any new applicant to petition for a revision because of the density bonus the golf course property along with the single residence on Tract D permitted. That "density bonus" allowed for more homes on smaller lots than what the zone allowed for. Any new applicant would have to show how they would continue to meet the density bonus requirements. There would have to be posted public hearings for any type of rezoning.

**SUPPLEMENTAL REPORT AND
DECISION OF THE SNOHOMISH COUNTY
HEARING EXAMINER DENYING THE PETITION
FOR RECONSIDERATION**

Applicant: MONA LISA ESTATES
PARTNERS
RAMAR ESTATES

File No.: 95 101304

Date of Initial Decision: August 15, 2003

Name of Petitioner: Mona Lisa Estates Partners

Date Petition Filed: August 25, 2003

WHEREAS, the Examiner issued a decision on this matter on August 15, 2003 (Exhibit 202); and

WHEREAS, the applicant filed a timely Petition for Reconsideration regarding the above-referenced Decision asking for clarification of Condition C(i) and Finding 11, in that the golf course requirement be modified, with a Memorandum in Support of Motion (Exhibit 204); and

WHEREAS, the Examiner accepted the Petition and called for comments thereon and extended the time for comments (Exhibits 207 and 208); and

WHEREAS, the Examiner received the following responses thereto:

1. Letter to Hearing Examiner from Steven and Monika Miller dated 9-5-03 (Exhibit 209)
2. Letter to Hearing Examiner from Barbara Headrick, Friend of Monroe Golf Course dated 9-8-03 (Exhibit 210)
3. Letter to Hearing Examiner from Clive Ellard and Robert Ellard received 9-5-03 (Exhibit 211)
4. Certificate of Service – Rebecca Cerino, of Jane Koler’s office dated 8-5-03 (Exhibit 212)
5. E-mail to Kris Davis, Clerk of the Hearing Examiner, from James and Kathy Cooper dated 9-7-03 (Exhibit 213)
6. Letter to Hearing Examiner from Elmore S. Buringrud received 9-10-03 (Exhibit 214)
7. Letter to Hearing Examiner from Gordon Homme dated 9-9-03 (Exhibit 215)
8. Letter to Hearing Examiner from Don and Sally West dated 9-9-03 (Exhibit 216)
9. Letter to Hearing Examiner from Barbara Headrick dated 9-8-03 (Exhibit 217 – Original of Exhibit 210)
10. Letter to Hearing Examiner from Lyle and Barb Armstrong dated 9-13-03 (Exhibit 218)

11. Letter to Hearing Examiner from William and Kathleen Sather dated 9-16-03 (Exhibit 219)
12. Memo to Hearing Examiner from Department of Planning and Development Services dated 9-15-03 (Exhibit 220)
13. E-mail to Kris Davis, Clerk of the Hearing Examiner, from Daniel L. Sandvig dated 9-18-03 (Exhibit 221)
14. E-mail to Kris Davis, Clerk of the Hearing Examiner, from Don Foltz dated 9-19-03 (Exhibit 222)

WHEREAS, the Examiner has reviewed the Petition for Reconsideration and the responses thereto and as a result thereof hereby makes the following Supplemental Findings, Supplemental Conclusions and Supplemental Decision.

SUPPLEMENTAL FINDINGS

1. The responses in opposition to the Petition almost uniformly state that all parties relied upon the fact that the golf course was to be included as a part of the proposed subdivision.
2. The Snohomish County Department of Planning and Development Services stated that the golf course is intertwined with the Planned Residential Development (PRD) of Ramar Estates and should be required to be maintained. (Exhibit 220)
3. The golf course, from the inception of this request before the Examiner, was an integral part of the design and development of the PRD; with the PRD being a “planned” development area thereby requiring that design integrity be maintained. Therefore, the conditions imposed regarding the maintenance of the golf course were done in order to mitigate the impact of the intensity of this development upon the property and the surrounding area.
4. Statements were made in some of the responses regarding the character and integrity of the applicant and/or the water firm called Holmes Harbour Water District. In this regard, the Examiner did not give any credence or weight to these statements since this is a matter over which the Examiner has no control or jurisdiction. That must be determined at another time and before another body. It should be noted however that there are no conditions requiring that the Holmes Harbour Water District be utilized by the PDS staff when reviewing the water requirements.
5. An issue arose as to whether or not the applicant had mailed the Petition for Reconsideration to all parties of record. In this regard a certificate of service regarding the mailing on August 4, 2003 to all parties of record was received by the Examiner. (Exhibit 212) The Examiner notes however that the decision was issued on August 15, 2003 and the Petition for Reconsideration was dated August 21, 2003. (Exhibit 212)
6. Since the rezone request to PRD and approval of the subdivision plat are required to be submitted together, one cannot stand without the other. So would this be also true of the conditional use permit. Therefore, the request taken as a whole is so intertwined together as to require them to be approved as a unit and not separately,

in order to provide the proper balance to the request required under the comprehensive plan and existing land use laws.

This is especially true where it was presented as such at the required public hearing and all parties relied upon the proposal.

7. Any Finding of Fact in this Supplemental Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

SUPPLEMENTAL CONCLUSIONS

1. **The applicant's statement that if the golf course were to fail, that they should not be bound in perpetuity by this requirement is purely speculative at this point in time and may or may not happen. Much of this is within the control of the applicant who made the request initially that the golf course and the subdivision be considered together.**
2. **However, should this situation arise some time in the future, then the applicant may bring the matter back for a full public hearing, setting forth the new circumstances and the reasons for any change, so that all parties may then be able to respond, particularly to any new requests, thereby placing on the applicant the burden and responsibility to justify and submit evidence in support of any changed request pursuant to the existing land use regulations.**
3. **It is the conclusion of the Examiner that the whole request for PRD approval, subdivision approval and conditional use permit approval for the golf course, as originally approved, are so intertwined and of such a key part of the development in this particular location, that one cannot be had without the other.**
4. **In order to maintain design integrity, the golf course must be a vital part of the subdivision development in order to fit the criteria of a PRD.**
5. **No evidence has been submitted which would justify the deletion of Finding 11 and Condition C(i) as requested by the applicant.**
6. Any Conclusion in this Supplemental Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.
7. The decision and conditions of the Examiner heretofore issued on August 15, 2003 are hereby REAFFIRMED by the Examiner as issued, and as elaborated on herein as set forth in these Supplemental Findings and Conclusions.

SUPPLEMENTAL DECISION

The request and/or motion for the Petition for Reconsideration for change of Finding 11 and Condition C(i) is hereby DENIED for the reasons set forth herein.

ORDER issued September 23, 2003.

EXPLANATION OF APPEAL PROCEDURES

An appeal to the County Council of the Decision after reconsideration may be filed by any aggrieved Party of Record. "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." [SCC 30.72.070(2)] 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 **October 7, 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 and PROVIDED FURTHER that the filing fee shall be refunded in any case where an appeal is dismissed in whole without hearing under SCC 30.72.075.

An appeal must contain the following items in order to be complete: a detailed statement of the grounds for appeal; a detailed statement of the facts upon which the appeal is based, including citations to specific Hearing Examiner Findings, Conclusions, exhibits or oral testimony; written arguments in support of the appeal; the name, mailing address and daytime telephone number of each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any; the name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and the required filing fee.

The grounds for filing an appeal are limited to the following:

- (a) the Examiner exceeded his jurisdiction;
- (b) the Examiner failed to follow the applicable procedure in reaching his decision;
- (c) the Examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of Snohomish County Code, or other county or state law or regulation; and/or
- (d) the Examiner's findings, conclusions and/or conditions are not supported by the record.

Appeals will 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.

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.