SNOHOMISH COUNTY COUNCIL
INDEX TO FILE

FILE: Stillwater Preserve RB 25-101010 PSD

DATE: Closed Record Appeal Hearing - Wednesday, May 26, 2026 @ 1:30 p.m.

COUNCIL STAFF: Deb Bell

PDS STAFF: Stacey Abbott

PA: Jessica Kraft-Klehm

The complete Hearing Examiner record is available upon request of the Clerk of the Council

Exhibit No.

TBD Pending Council Staff Report

I. Appeal Letter

N.1 Appeal Letter received via e-mail April 7, 2026 @ 11:00 a.m. from Marty Robinett, Applicant and Appellant

II. Examiner's Decision

N.2 Decision of the Snohomish County Hearing Examiner dated March 24, 2026

Hearing Examiner List of Exhibits *(Exhibits available upon request at contact.council@snoco.org)*

Hearing Examiner Parties-of-Record

III. Copies of Hearing Examiner exhibits cited and/or germane to the appeal

K.1 Staff Recommendation

E.1 Determination of Nonsignificance with Environmental Checklist

D.1 Ownership - Zoning Map

D.2 Aerial Map

The following are additional exhibits listed in order as cited in the Appeal Letter (Exhibit N.1)

A.2 Project Narrative dated 1-6-25, received 9-9-25

M.5 Applicant Response, with Exhibits A-F, filed 3-3-26

H.6 Traffic Review Memo, dated 1-22-25

IV. Responses to Appeal

N/A

V. Rebuttal

N/A

VI. Submissions/Exhibits Entered for Council Closed Record Appeal

N.3 Signed Verification of Appeal Received by Cindy Todd on 4/6/26

N.4 Notice of Closed Record Appeal dated 4/14/26

N.5 Affidavit of Mailing – Notice Closed Record Appeal – e-mailed and U.S. mailed on 4/14/26

N.6 Letter to Applicant/posting notice – date 4/14/26

N.7 Notarized statement/affidavit – applicant posting notice – 4/15/26

N.8 Affidavit of Publication – Notice of Closed Record Appeal – dated 4/22/26

SNOHOMISH COUNTY COUNCIL
EXHIBIT # N.1
FILE 25-101010 PSD

RECEIVED
04/06/26:3:45 PM
SNOHOMISH COUNTY PLANNING
AND DEVELOPMENT SERVICES

BEFORE THE SNOHOMISH COUNTY COUNCIL

In Re Stillwater Preserve RB	Hearing Examiner No. 25-101010 PSD
Stillwater Preserve LLC, Applicant/Appellant.	County Council No. APPEAL TO SNOHOMISH COUNTY COUNCIL

I. INTRODUCTION

Stillwater Preserve is a proposed upscale, gated small rural cluster subdivision of 14 one-acre lots. *See*, Hearing Examiner ("HE") Exhibit A.2 Project Narrative and Exhibit M.5 Applicant Response. It is located south of the east-west County Road known as Dubuque Road. *See*, Decision of the Snohomish County Hearing Examiner dated March 24, 2026 (the "Decision") at page 1. On March 24, 2026, the Hearing Examiner issued his decision as to the preliminary 14-lot rural cluster subdivision wherein he approved the preliminary plat subject to 51 conditions. This is an appeal of Condition 44 only which reads as follows:

> 44. Pedestrian facilities shall have been constructed to the reasonable satisfaction of the county from the subject development on 52nd St SE to Dubuque Road or other location that has been accepted by the Snohomish School district and Snohomish County.

(the "Condition"). Decision at page 25, lines 9-11.

This unlawful condition would require this small 14-lot rural cluster subdivision to construct +/-2,700 lineal feet of off-site pedestrian pathway at a cost of $325,210.60. *See*, HE

Stillwater Preserve LLC
2805 Colby Avenue, Ste 304
Everett, WA 98201

Exhibit M.5 Applicant Response, Exhibit E. The off-site pedestrian pathway would cross an existing bridge. A deviation was granted such that the bridge would not be widened. *See*, HE Exhibit H.6 Traffic Review Memo. There would be no pathway on the bridge. *Id.* The absence of a sufficient bridge for a pathway, and the absence of a pathway, is a pre-existing condition. Decision at page 14, lines 11-25.

Why a pathway was not required when other properties in the area were developed is unexplained in the Decision. Why or how Stillwater creates a new or different hazard than the existing circumstances to require the Condition is also unexplained by evidence in the record.

II. BASIS OF THE APPEAL

Condition 44 in the Decision exceeded the Hearing Examiner's jurisdiction. The Hearing Examiner's jurisdiction is limited by statute and any County Code provision to the contrary is preempted. The Hearing Examiner, in imposing the Condition, committed multiple errors of law. These errors of law include, but are not limited to:

a. The Hearing Examiner exceeded his jurisdiction to impose the Condition.

b. The Hearing Examiner ignored state law that preempts County Code.

c. The Hearing Examiner made multiple material errors as to the evidence.

d. The Hearing Examiner improperly took "official notice" that violated the rules of evidence.

e. The Hearing Examiner relied on impermissible speculation.

f. The Hearing Examiner relied on his own impermissible predictions.

g. The Hearing Examiner did not properly apply the burden of proof.

h. The Hearing Examiner did not rely on proper evidence for proportionality. There is no evidence in the record of individualized analysis, calculations, and/or assessments of needs and impacts.

i. The Hearing Examiner used the wrong test for proportionality of the Condition to the impacts of the development.

j. The Hearing Examiner ignored the County's burden to prove nexus and proportionality.

k. The Hearing Examiner's findings and conclusions related to the Condition, and Condition 44 itself, are not supported by substantial evidence in the record consisting of:

1. Proof of reasonable necessity of the Condition as a direct result of the proposed development.

2. Evidence of individualized analysis, appropriate calculations, and demonstration of specific need of the Condition.

The Hearing Examiner made multiple errors which individually and/or collectively require reversal of his imposition of Condition 44 on Stillwater Preserve.

III. REVIEW OF THE RECORD; HEARING EXAMINER'S DISREGARD OF THE RECORD

Pages 4 to 17 of the Decision, under the heading IV. FINDINGS OF FACT, contain the Hearing Examiner's references to the evidence in the record and factual findings.

At Subsection E.3, public comments are reported. There is no mention of Condition 44 or anything like it. There is no comment and no evidence in this subsection related to an off-site school pedestrian pathway.

At Subsection F.7.C, a pedestrian facility is discussed. The subsection is a jumble of Hearing Examiner argument, with attempts at legal conclusions, and only two actual facts. Fact

1: The Snohomish School District's bus picks up at the intersection of 211th Avenue SE and Dubuque Road. Decision at page 15, lines 16-17. Fact 2: 211th Avenue SE lacks a pedestrian pathway. Decision at page 15, lines 17-18. Stillwater does not object to these two actual, accurate findings.

The Hearing Examiner makes no other actual findings of fact, and in the entirety of Subsection F.7.C, the Hearing Examiner cites to **no evidence** in the record. This is despite the existence of **much evidence** in the record. A review of this evidence in the record, with full citations to the record, follows.

As noted in the Introduction, at issue is the construction of +/-2,700 feet of off-site pedestrian pathway on 211th Avenue SE. At the present time, about 25 households front or take access from 211th Avenue SE. *See*, HE Exhibit M.5 Applicant Response, Exhibit A. Stillwater would add 14 more residences. Decision at page 9, line 10. Consistent with practices that have emerged since the 1970s, few children walk along 211th Avenue SE to Dubuque Road to ride on a school bus. *See*, HE Exhibit M.5 Applicant Response. Recent counts show only 1 child occasionally walked 211th to the bus stop at Dubuque Road. *See*, HE Exhibit M.5 Applicant Response, Exhibits B & F. There is no evidence to suggest that Stillwater's houses will increase this usage.

Also, as noted in the Introduction, any child pedestrians on the southern end of 211th currently cross a narrow bridge. A deviation was granted so no changes to the bridge are required to build Stillwater Preserve. Decision at page 14, lines 11-25. The deviation does require lighting on an existing power pole by the bridge and signage. Decision at page 14, lines 23-25.

The conclusions from this evidence in the record are inescapable. The absence of a pedestrian path is an existing condition. If there is a hazard, it already exists. There is no evidence

Stillwater Preserve will intensify any pedestrian use or interactions. There is minimal pedestrian usage today—consistent with developing trends—and with Stillwater Preserve, there will be minimal pedestrian usage in the future. *See*, HE Exhibit M.5 Applicant Response.

Other than bureaucratic intransigence, there is no reason and no evidence in the record to impose Condition 44 on Stillwater Preserve. With the absence of reason and evidence in the record, how did we get here? By speculation and prediction, the Hearing Examiner imagined his own evidence.

He imagines at the first paragraph of page 16 of the Decision that the homeowners in Stillwater Preserve will have school age children who "must be schooled." Further, that those children will be compelled to walk along 211th Avenue SE to Dubuque Road to the bus stop. Whether any of these imaginings are fully accurate, or accurate at all, he concludes that there is sufficient "nexus" for the need for a pathway. But the record does not show this and there is no "nexus" or "cause" for Stillwater to build a pedestrian path.

One must presume there was no nexus or cause for the existing development, houses and households using 211th Avenue SE or there would be an existing path. If there was no nexus or cause for them when they developed, then there can be no nexus for Stillwater to now build a pedestrian path.

The illogic of the Hearing Examiner's nexus finding is amplified for any number of reasons. The hypothetical children could be home schooled. Or they could go to private or parochial schools. Or they could be picked up by a private school bus, carpooled, or transported by their parents. There is no evidence in the record establishing "nexus" (or "causation") simply

because there are potential school age children that might dwell in Stillwater Preserve. In fact, the number of students who walk to school has decreased since the 1970s.[1]

The Hearing Examiner then suggests the hypothetical Stillwater children will be less safe than existing neighborhood children. The Hearing Examiner imagines the Stillwater children to be targets because walking on a road "places them at risk of being hit by cars and trucks." Never mind that there are 25 existing houses, some with children, and there is no evidence of any accidents or injuries resulting from collisions between schoolchildren and vehicles. Again, no evidence in the record, no nexus or causation.

One might also question if children are unsafe targets, how does a pathway make a difference? If cars or trucks are carelessly driven, a pathway on the shoulder hardly provides any protection.

The Hearing Examiner's imaginings in the first paragraph of Page 16 related to nexus then morph into "official notice." He states that in the Pacific Northwest, winter drop offs or pick-ups in the dark "increas[e]" students' "risk of being struck" by vehicles.[2]

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[1] "Over the past 4 decades, there has been a steady decline in the proportion of pedestrian fatalities among children 14 and younger. In the late 1970s children younger than 15 represented 18% of all pedestrian fatality victims. By 20211 [sic] they represented just 2.4% of all pedestrian fatalities. ***These decreases correspond with declining rates of walking by children as measured by national surveys of household travel.***" National Highway Traffic Safety Administration, *Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices*, 11th Edition, 2023 (emphasis added) (internal citations omitted) available at https://www.nhtsa.gov/book/countermeasures-that-work/pedestrian-safety.

[2] The Washington Traffic Safety Commission reported that about two-thirds of fatal crashes that occurred in December of a given year were in darkness, while two-thirds of fatal crashes in July occurred during daylight conditions. Fatal crashes involving impairment, distraction, speeding, and pedestrians were proportionately higher in darkness than in daylight conditions. "Driving During the Day and Night, Darkness and Light" by Washington Traffic Safety Commission, March 2019, available at https://wtsc.wa.gov/wp-content/uploads/dlm_uploads/2019/03/Daytime-and-Night-Darkness-and-Light_Mar2019.pdf

At the second paragraph of Page 16, he turns to the subject of "proportionality."[3] In other words, what directly relates to Stillwater Preserve's development to justify the cost to build the pedestrian pathway. The Hearing Examiner asserts the cost of a pathway is $300,000. He then imagines that this cost is proportionate to a future accident which causes death, injury, or property damage to a child walking along 211th to the school bus. He gratuitously adds that Stillwater will pass the cost of constructing the pathway on to the home purchasers. He then acknowledges he is "speculat[ing]" and it is "difficult to predict with any certainty the number of school age children who will reside in the new development." To which, Stillwater would add that it is even harder to predict their school choice and their transportation options. Speculation is not evidence in the record.

From speculation, the Hearing Examiner turns to a conclusion that is inexplicable:

> With respect to the current number of school bus pedestrians, the off-site pathway requirement is not due to the current number of school age children walking on 211th to meet their school bus but due to Stillwater's desire to build and sell 14 new homes.

So, there it is. On imagined facts, according to the Hearing Examiner, a perceived desire to build a home is always proportionate and obligates a developer, builder, lot owner, home purchaser, or person seeking a building permit for a home to build an off-site pathway for a hypothetical, speculative school child in public schools anywhere in the county where a path or a sidewalk does not already exist.

IV. ARGUMENT

A. The Hearing Examiner exceeded his jurisdiction to impose the Condition.

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[3] The Hearing Examiner does not refer to either strict proportionality or rough proportionality.

The only asserted present authority for pathways for school students is set out in RCW 58.17.110 which reads in salient part as follows:

> **RCW 58.17.110**
> **Approval or disapproval of subdivision and dedication—Factors to be considered—Conditions for approval—Finding—Release from damages.**
>
> (1) The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) If appropriate provisions are made for, but not limited to, 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 schoolgrounds, ***and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school;*** and (b) whether the public interest will be served by the subdivision and dedication.
>
> (2) A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure **safe walking conditions for students who only walk to and from school**; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through 82.02.090 may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat. No dedication, provision of public improvements, or impact fees imposed under RCW 82.02.050 through 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property. The legislative body shall not as a condition to the approval of any subdivision require a release from damages to be procured from other property owners. [...] [emphasis added]

The present language was added by 1990 1st Executive Session Laws, Chapter 17, Section 52. The critical language is "who only walk to and from school." The critical nature of this language is manifest from the 1989 version of RCW 58.17.110:

> The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine if appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and schoolgrounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure ***safe walking conditions for students who walk to and from school***, and determine whether the public interest will be served by the subdivision and dedication. If it finds that the proposed plat makes appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure ***safe walking conditions for students who walk to and from school***, and that the public interest will be served by the platting of such subdivision, then it shall be approved. [...]

Washington Laws, 1989, Chapter 330, Section 3 (emphasis added). The prior language left open the possibility of requiring sidewalks to a bus stop for students who walk part way to school by transiting to a bus stop and then taking a bus the rest of the way to school because the critical word "only" is absent.

Under the present language of RCW 58.17.110, and the addition of "only" in 1990, there is no express or implied authority to condition approval of a plat on the construction of off-site improvements for a walkway or sidewalk for school children who ride in part to school on a school bus.

This conclusion is consistent with the statute related to Student Transportation, RCW 28A.160.160 where definition (5) defines the "walk area" for access to school to be "a walking distance of less than one mile."

It is conceded that Snohomish County has failed to note and failed to revise its code to reflect the 1990 amendment. *See*, SCC 30.41A.100 which reads as follows:

30.41A.100 Decision criteria - general.

> (1) The hearing examiner and the department shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. The hearing examiner shall approve a preliminary subdivision only if appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, sites for schools and school grounds, fire protection and other public facilities. The hearing examiner shall consider all other relevant facts, including the physical characteristics of the site and sidewalks and other planning features that assure safe walking conditions for students ***who walk to and from school*** to determine whether the public interest will be served by the subdivision and dedication. [emphasis added]

County code conspicuously omits the word "only," thus conflicting with RCW 58.17.110.

The State Constitution, at Article XI Section 11 provides: "Any county ... may make and enforce within its limits all such local police, sanitary[,] and other regulations as are not in conflict with general laws."

RCW 58.17.110 sets out general law pertaining to school pedestrian pathways: "***that assure safe walking conditions for students who only walk to and from school.***" (emphasis added). Snohomish County's local provision, SCC 30.41A.100, irreconcilably conflicts because it authorizes pathways for students who only walk to a school bus pick up site when that is prohibited by the current RCW 58.17.110.

B. Except for evidence matters, Stillwater does not assert that the Hearing Examiner failed to follow applicable procedures.

SCC 30.72.080 details the ground for filing an appeal. So that this Appeal to County Council follows the prescribed format, this heading **B** has been included. Stillwater only challenges the evidence and evidence rulings of the Hearing Examiner and no other applicable procedures.

C. The Hearing Examiner committed multiple errors of law.

1. Authority.

Stillwater will not repeat its jurisdictional argument in the prior section. Suffice it to say that RCW 58.17.100 preempts any effort to exercise authority under County Code to require Condition 44, the pathway that would only go to a bus stop. The effort to impose Condition 44 therefore is contrary to law and is itself an error of law.

2. Official notice.

At page 16 of the Decision, the Hearing Examiner states:

> The Hearing Examiner takes official notice that during Pacific Northwest winters, school buses often pick up or drop off children in the dark or low light conditions, increasing their risk of being struck by vehicles while walking to the bus stop.

Stillwater does not object to the first half of this statement up to the word "conditions." The balance of this statement is not proper and is unlawful "official notice." This error of law is material because it is central to the Hearing Examiner's finding or conclusion of "nexus." "Nexus," along with "proportionality," must both exist under constitutional scrutiny and state statute (RCW 82.02.020) before an off-site condition such as Condition 44 can be imposed on a development.

"Official notice" is best understood from the Washington Rules of Evidence ("ER") where it is called "judicial notice." ER 201 provides as follows:

> ER 201 JUDICIAL NOTICE OF ADJUDICATIVE FACTS
> (a) Scope of Rule. This rule governs only judicial notice of adjudicative facts.
> (b) Kinds of Facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
> (c) When Discretionary. A court may take judicial notice, whether requested or not.
> (d) When Mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.

> (e) Opportunity To Be Heard. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.
> (f) Time of Taking Notice. Judicial notice may be taken at any stage of the proceeding

"Increasing their risk of being struck" is a fact subject to dispute and neither generally known or capable of accurate and ready determination. The Hearing Examiner could not take "official notice" of this fact.

The Hearing Examiner then compounded his error of law in attempting to take "official notice" by asserting this fact in a final decision where no opportunity to be heard existed. The Examiner therefore committed an error of law in taking improper "official notice."

3. Preemption.

Stillwater argues above that the Hearing Examiner has exceeded his jurisdiction. This is itself an error of law. The Hearing Examiner in Footnote 35 to the Decision has attempted to salvage his unlawful exercise of excess jurisdiction:

> The state legislature did not appear to preempt the field by enumerating all factors of the public interest to be considered when approving subdivisions. *State v. Richards,* 28 Wn. App. 2d 730, 746, 537 P.3d 1 1 1 8, 1 1 28 (2023), *aff'd,* 4 Wn.3d 83, 559 P.3d 1 07 (2024) (citations omitted). Snohomish County as a charter county may legislate unless preempted by the state legislature.

The Hearing Examiner therefore errs again. *Richards* is not authority for his assumption of jurisdiction. Nor is it good authority establishing preemption. The historic setting of changes made to RCW 58.17.110 must be considered. The precise language resulting from the changes must be considered. The distinct facts of *Richards* must be considered.

a. The Historic Setting.

As originally adopted in 1989, the at issue language in RCW 58.17.110 read: "... including sidewalks and other planning features that assure ***safe walking conditions for students who walk to and from school,*** ..." (emphasis added). But in 1990, the language was changed to read: "... ***safe walking conditions for students who only walk to and from school.***" (emphasis added). What happened? Between the two enactments, a decision by the then-Snohomish County Hearing Examiner happened.

On January 18, 1990 in the matter of the application of Sundquist Homes Inc. for Meadowdale Park Division 4, ZA 890734 and the County Council motion approving the said decision Motion 90-071 dated February 28, 1990, a school pedestrian pathway was required by construing the language "for students who walk to and from school" to apply to students who walk to a bus stop, because they walk "part" of the way to school. That decision was affirmed by the Motion, and thus Snohomish County established a practice of requiring off-site improvements consisting of a pathway to a school bus stop as part of a pathway to school.

The development community went to the Legislature and RCW 58.17.110 was changed to the present "who only walk to and from school" language. The historic setting establishes that the addition of "only" was remedial to address the exact practice the legislature did not countenance, i.e., any requirement to extend pathways or to require off-site dedication or construction of sidewalks to a school bus drop off site.

b. The exact language.

Once the historic context of the amendment to add "only" is appreciated, its plain meaning is manifest. Authority exists to require an off-site pathway only when students "only" walk to school. You cannot require an off-site pathway to walk to a bus stop, for students who, loosely put, "partly" walk to school by walking to the bus stop.

c. Richards *is distinguishable and not controlling.*

At issue in *Richards* was a small portion of RCW 16.08.070(2)(c) emphasized in the following:

> (2) "Dangerous dog" means any dog that (a) inflicts severe injury on a human being without provocation on public or private property, (b) kills a domestic animal without provocation while the dog is off the owner's property, **or (c) has been previously found to be potentially dangerous because of injury inflicted on a human,** the owner having received notice of such and the dog again aggressively bites, attacks, or endangers the safety of humans.

As described by the Court of Appeals, under the Wahkiakum County Code:

> ... a dog is a "dangerous dog" when the county has previously found it to be a potentially dangerous dog, the owner has received notice of that designation, and "the dog again aggressively bites, attacks[,] or endangers the safety of humans or domestic animals."

The Court of Appeals found that the County Code could be harmonized with the state statute and therefore the county regulation was not preempted and was lawful:

> We will not find preemption if "the two enactments can be harmonized." Rabon, 135 Wash.2d at 292, 957 P.2d 621. Thus, "a local ordinance does not conflict with a state statute in the constitutional sense merely because one prohibits a wider scope of activity than the other." City of Seattle v. Eze, 111 Wash.2d 22, 33-34, 759 P.2d 366 (1988)

The Wahkiakum Code therefore survived challenge because it prohibited a wider scope of activity. A potentially dangerous dog also could not endanger the safety of domestic animals.

RCW 58.17.110 and SCC 30.41A.100 function differently than the dangerous dog provisions at issue in *Richards.* Here, RCW 58.17.110 permits the requirements of sidewalks while **prohibiting** them when students do not "only" walk to school. Under *Richards*, County Code could prohibit sidewalks as mitigation for students who "only" walk to school also since that would be an expansion of a prohibition and not a conflict.

But *Richards* does not change the basic rule of conflict at play here. RCW 58.17.110 only allows sidewalks as a condition where those sidewalks would serve students who "only" walk to school. To require more—sidewalks for students who walk partly to school or to a bus stop—is a conflict and an impermissible expansion of a prohibition. It was error for the Hearing Examiner to rely on *Richards.*

4. Proportionality.

The evidence in the record was discussed at length under the earlier heading **III. REVIEW OF THE RECORD.** The Hearing Examiner speculated and predicted that there was a direct and consistent relationship between the hypothetical existence of one school age child walking 211th to the bus stop on Dubuque and substantial injury to that speculative child. The Hearing Examiner imagines that the cost of constructing the pedestrian path (approximately $300,000) is in a direct and consistent relationship with the speculative cost of at least $300,000 of damages for injury to the child in the event of accident. In effect, the Hearing Examiner found strict proportionality, as if this was a math problem and not a legal question.

"Proportionality" is defined by Dictionary.com as: (1) having due proportion; corresponding; (2) being in or characterized by proportion; (3) of, relating to, or based on proportion; relative; and (4) *Mathematics.* (a) (of two quantities) having the same or a constant ratio or relation; (b) (of a first quantity with respect to a second quantity) a constant multiple of. In mathematical terms this might be expressed "xy" always equals "z" ("xy = z"). So, where "x" is a house and "y" is a speculative child who may walk to school or walk to a school bus stop, then "xy" requires ("equals") a pathway "z."

But this is not what Washington case law requires. The Hearing Examiner uses the wrong test for proportionality and then puts it on its head. He also disregards the issue of burden of proof.

Under Washington law—whether framed as a "strict," "rough," or "direct relationship"—the County has the burden of proof on nexus and proportionality:

> [U]nder RCW 82.02.020 the burden of establishing that a condition is reasonably necessary as a direct result of the proposed development is on the [local government].

Isla Verde Intern. Holdings v. Camas, 146 Wash.2d 740, 755-756, 49 P.3d 867. Since Snohomish County submitted no proof of reasonable necessity as a direct result of the proposed development—no proof of nexus or proportionality—speculation and prediction by the Hearing Examiner does not substitute for and constitute proof to carry the County's burden to establish Condition 44.

But even if speculation and prediction could be taken as evidence, the speculation here is not sufficient evidence to establish a direct result, or "rough proportionality." The court in *Sparks v. Douglas County,* 127 Wn.2d 901, 915, 904 P.2d 738 (1995) stated:

> While Dolan disregarded precise calculations in analyzing development impacts, it ruled that local government must make some effort to quantify its findings to support its permit conditions. In this case, the findings made by the County were more than mere conclusory statements of general impact. They were the result of the kind of individualized analysis required under Dolan. The report prepared by the Planning Office for each of the short plats documented the deficiencies in the right of way width and surfacing of the adjoining streets. Douglas County's records also reflect calculation of increase in traffic and the specific need for dedication of rights-of-way based upon the individual and cumulative impacts of the series of short subdivisions.

"Rough proportionality" is not satisfied by "conclusionary statements." And, certainly, it would not be satisfied by "speculation" or "predictions." The record requires evidence of "individualized analysis, "appropriate calculations," and demonstration of "specific need." That

evidence, individualized analysis, appropriate calculation, and demonstration of specific need is absent in the record related to Stillwater Preserve and speculation and prediction is no substitute.

Truth be told, there is no Washington case on "proportionality" or "rough proportionality" where a +/-2,700-foot-long off-site pedestrian path was held "roughly proportional" to the impact of a 14-lot proposed preliminary plat.

One unpublished Court of Appeals Division I decision coincidentally discusses an apparent 2,700-foot-long path, *Rapczak v. City of Kirkland,* No. 85626-0-I (Wash App. Sep 30, 2024) (unpublished) (copy attached as Appendix A).

> Here, like in *Dolan*, the City's requirement that the Rapczaks dedicate a public pathway for pedestrian traffic is not roughly proportional to the effect of the Rapczaks' proposed development of a single-family home. The City does not allege, nor did it show, that the Rapczaks' development would increase pedestrian traffic such that it creates a need for a pedestrian easement.

Id.

As in *Rapczak,* here the County has not "shown," that is to say, carried the burden, that Stillwater Preserve creates a need for a +/-2,700-foot-long pedestrian path to a school bus stop.

The Hearing Examiner erred as a matter of law to conclude proportionality based upon speculation and predictions since the County did not carry its burden of proof. The Hearing Examiner's speculation "that if one school age child is injured in an accident the predicted damages might exceed the cost of the way pedestrian path" is a truism but not a showing of increased pedestrian use, not a showing of the potential for more accidents, and the truism is not substitute for individualized analysis, appropriate calculations (based on study), and demonstration of specific need.

D. Condition 44 and its related findings and conclusions are not supported by any evidence, let alone substantial evidence, in the record.

The evidence in and **not in** the record was reviewed at length in **III. REVIEW OF THE RECORD** above. The absence of "substantial evidence" has been demonstrated in various sections of this appeal. By the Hearing Examiner's own words, the Hearing Examiner speculated and predicted future use ("future use [of an off-site walkway] is speculative," and it is "difficult to predict with any certainty the number of school age children who will reside in the development.") In other words, the Hearing Examiner concedes there is no evidence, let alone any substantial evidence, related to children in the development, or children from the development who might make use of an off-site walkway.

At the same time, the Hearing Examiner concedes that from existing development there is a "current number of school bus pedestrians" who use the school bus by walking on 211th uneventfully.

If the Hearing Examiner has actually made any findings, they are not supported by substantial evidence, and the findings do not support the Hearing Examiner's conclusion that nexus and proportionality obligate Stillwater Preserve to build +/- 2,700 lineal feet of pedestrian walkway as required by Condition 44.

One final Hearing Examiner statement, whether a finding, a conclusion or something else requires comment. At page 17 of the Hearing Examiner Decision, the Hearing Examiner says:

> Having considered all relevant facts, including the characteristics of the site, the location of the bus stop, and the characteristics of 211th St. SE, the Hearing Examiner determines the public interest will not be served by a subdivision that does not have an adequate, safe pedestrian path to the children's school bus stop.

This statement demonstrates the detachment of the Hearing Examiner's decision from reality, its illogic, its predilection for circular logic and non-sequiturs. This statement entirely misses the point. The public interest might be served by the construction of a pathway. The point is,

however, the absence of any nexus or proportionality, any direct connection to Stillwater Preserve. Questions hammer home the point and the County Council is welcome to supplement the following list of unanswered questions as it reverses the requirement that Stillwater Preserve construct +/- 2,700 of off-site pedestrian pathway to a school bus site as required by Condition 44:

1. What relevant facts did the hearing examiner consider?
2. What characteristics of the Stillwater site obligate the developer of Stillwater Preserve to build the pathway?
3. What is unique about the location of the bus stop site that obligates the developer of Stillwater Preserve to build a pathway to that location?
4. What characteristics of 211th Avenue SE obligate the developer of Stillwater Preserve to build the pathway now?
5. If 211th Avenue SE is deficient, why does it not already have a pathway?
6. Where is the showing of need that the pathway is the obligation of Stillwater Preserve?

Imagination can probably double or triple the number of questions. The County Council is welcome to supplement the list of unanswered questions as it reverses the requirement that Stillwater Preserve construct +/-2,700 feet of off-site pedestrian pathway to a school bus site as required by Condition 44.

V. CONCLUSION

In 1961, British author Martin Esslin wrote a book entitled "The Theater of the Absurd," largely a commentary on theater and drama of the time, that is theater and drama that abandoned realism, was illogical, full of non-sequiturs, but full of circularity. The Hearing Examiner's

Decision here to impose Condition 44 is by its detachment from the real facts in the record, its illogic, non-sequiturs and circularity similarly absurd. The Hearing Examiner assumed authority he did not have, committed errors of law, and most grievously disregarded the evidence in the record to make findings and draw conclusions not supported by substantial evidence.

For these reasons, the County Council should sustain this appeal and rule on the true and real record of this matter that Condition 44 is unlawful and cannot be imposed on Stillwater Preserve.

DATED and respectfully submitted this 6th day of April, 2026.

By _____

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APPENDIX A

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Rapczak v. City of Kirkland

Court:	Washington Court of Appeals
Writing for the Court:	BOWMAN, J.
Docket Number:	85626-0-I
Decision Date:	30 September 2024
Citation:	Rapczak v. City of Kirkland, 85626-0-I (Wash. App. Sep 30, 2024)
Parties:	JESSE and FOREST RAPCZAK, and the marital community thereof, Appellants, v. CITY OF KIRKLAND, a municipal corporation, Respondent.

Id. vLex Fastcase: VLEX-1051005463

Link: https://fastcase.vlex.com/vid/rapczak-v-city-of-1051005463

JESSE and FOREST RAPCZAK, and the marital community thereof, Appellants, v. CITY OF KIRKLAND, a municipal corporation, Respondent.

No. 85626-0-I

Court of Appeals of Washington, Division 1

September 30, 2024

UNPUBLISHED OPINION

BOWMAN, J.

Jesse and Forest Rapczak sought a building permit to construct a new home on their Kirkland waterfront property. As a condition of issuing the permit, the city of Kirkland (City) required the Rapczaks to dedicate a public pedestrian path across their lot. The Rapczaks challenged the City's permit condition under the Land Use Petition Act (LUPA), chapter 36.70C RCW, arguing it amounts to an unconstitutional taking of private property. The trial court denied and dismissed the Rapczaks' LUPA petition with prejudice. Because the City's permit condition is not roughly proportional to the nature and impact of the Rapczaks' development, we reverse and remand for further proceedings.

The Rapczaks live in a single-family home at 315 Lake Avenue West on the Kirkland waterfront. As the picture below shows, to the west of their lot is Lake Washington,[1] and to the east is a steep hill. Lake Avenue West is a private road that runs north-south on the east side of the waterfront homes and serves several residences, including the Rapczaks. By car, there are two dead-end sections of Lake Avenue West-the northern section, which runs between 401 and 411 Lake Avenue West, and the southern section, which runs between 299 Lake Avenue West and the Rapczaks' home at 315 Lake Avenue West, with a "gap" in the road between the two sections. But by foot, the sections are connected by a pedestrian path along the Rapczaks' and their two northern neighbors' driveways.

(Image Omitted)

As shown in the picture below, from the south, the pedestrian path runs across the Rapczaks' driveway. It then narrows to an almost five-foot-wide compact dirt and gravel trail and ends at a gate, which opens to their northern neighbor's property.

(Image Omitted)

Members of the public use the pedestrian path, but the deed to the Rapczaks' property does not show a recorded pedestrian easement, and there has been no judicial determination as to a prescriptive easement. Instead, the Rapczaks' property is encumbered by a road and utility easement that created Lake Avenue West and extends north-south along the property in the area of the existing pedestrian path. A 1948 deed for the property describes an easement" '[20] feet wide'" for" 'road purposes, sewer, water pipes, power and light, [and] telephone and drainage ditches,'" and it reserves" 'the right to the use of said easement for [the] benefit of . . . other tracts in the near vicinity.'" A 1952 deed similarly reserves an easement for road and public utility purposes.[2]

In November 2020, the Rapczaks submitted preliminary plans to the City to build a new home on their property. The plans show that they would demolish their existing house and build a new, larger house, set back further from the water.[3] The Rapczaks' plans eliminated the existing pedestrian path.

In December 2020, the Rapczaks attended a meeting with City staff to discuss the project. At that meeting, the City informed the Rapczaks that it believed there is a public pedestrian easement across their property, and that they must maintain the pedestrian path as a permit condition under Kirkland Zoning Code (KZC) 105.19. KZC 105.19(1) provides that "the City may require [a building permit] applicant to install pedestrian walkways for use by the general public . . . and dedicate public pedestrian access rights . . . where the walkway is reasonably necessary as a result of the development activity." It then lists circumstances where walkways are reasonably necessary, such as "to provide efficient pedestrian access to an activity center of the City," to shorten pedestrian routes through "unusually long" blocks, or to "connect between . . . dead-end streets" or "[o]ther public pedestrian access walkways." KZC 105.19(1)(b), (d), (e)(i), (e)(iv).

Based on that discussion, the Rapczaks asked the City for a formal decision about its path requirement before they submitted final plans. On March 16, 2021, the City issued a decision, "requiring the dedication of a public pedestrian walkway easement" across the Rapczaks' property under KZC 105.19(1). In its decision, the City explained that Lake Avenue West is a privately owned right-of-way that encumbers the Rapczaks' property, and

cited the historic deeds' road and utility easement over the property. The City said that "for most of its life," the easement was "used as a vehicular access road" and "as a pedestrian pathway since at least [1952]."[4]

The City then found that the Rapczaks' proposed plans constituted "development activity." It applied the criteria under KZC 105.19(1) and determined that the pedestrian dedication is "reasonably necessary" because "[t]he pedestrian path on Lake Avenue West provides [a route for] pedestrian traffic between two shoreline parks," and "provides safe pedestrian access to downtown Kirkland, shopping areas, employment centers and transit." The City found that the path provides a route for pedestrians through a block that is "unusually long" because "Lake Avenue West is approximately 2,700 feet long," and "most Kirkland blocks follow the pre-established street grid measuring 500 feet in length." The City also found that pedestrian access is necessary to connect between dead-end streets where the north and south portions of Lake Avenue West terminate "at [the Rapczaks'] Property." Accordingly, the City concluded that under KZC 105.19(1), "a dedicated public pedestrian walkway will be required as part of [the Rapczaks'] application for a new single-family residence."[5]

On April 1, 2021, the Rapczaks filed a LUPA petition and a complaint for declaratory relief.[6] In the LUPA petition, the Rapczaks challenged the City's authority to require the dedication of a public pedestrian walkway. And in the declaratory action, the Rapczaks sought a declaration that there is no public right-of-way over their property. The City counterclaimed, seeking a declaration that there is a prescriptive easement for public pedestrian use across the Rapczaks' property. In June 2021, the Rapczaks and the City agreed to bifurcate the LUPA and declaratory causes of action and stipulated that the court should stay the requests for declaratory judgment until the LUPA cause of action concluded.[7]

In April 2022, the court held a hearing on the LUPA petition. At the hearing, the Rapczaks argued that the City cannot show the pedestrian path dedication was "reasonably necessary as a direct result of [their] replacement of their existing home" under KZC 105.19.[8] And they argued the City's permit condition amounted to an unconstitutional taking of private property under *Dolan v. City of Tigard*, 512 U.S. 374, 114 S.Ct. 2309, 129 L.Ed.2d 304 (1994), and *Nollan v. California Coastal Commission*, 483 U.S. 825, 107 S.Ct. 3141, 97 L.Ed.2d 677 (1987).[9] The City argued that there is a prescriptive easement across the Rapczaks' property because pedestrians had continuously used it since the 1950s. And it contended that because the Rapczaks' new development will eliminate the existing path, the dedication is reasonably necessary.

The trial court found that there were issues of fact about whether a prescriptive easement exists and remanded for factfinding "on the scope and boundaries of the alleged easement through the Rapczak property." The court ordered that once the factfinding is complete, "the matter shall be returned for a decision on this appeal." On remand, the City visited the site and produced a supplemental summary for the record in the LUPA action.

In its January 2023 supplemental summary, the City explained that the pedestrian path across the Rapczaks' property narrows at the northern portion to about five feet wide. And, based on a review of "dozens of emails and sworn statements," it asserted that "the public has used this trail openly and without permission for decades." As a result, the City determined that "there is sufficient evidence in the LUPA file to support a finding that the public had a prescriptive easement for a walking path across the [Rapczaks'] property." So, the City concluded that the Rapczaks should maintain the "decades-old pedestrian pathway across the property," and record "a [five]-foot-wide pedestrian pathway easement across the property" as a condition of the Rapczaks' redevelopment.

The Rapczaks responded that the City "wholly failed to prove the existence of a prescriptive easement" and reminded the court that the issue of prescriptive easement was not before it. They argued that the court "must assume that none exists for purposes of its LUPA ruling" and find that the permit condition is an unconstitutional taking.[10]

In May 2023, the trial court held a second hearing on the Rapczaks' LUPA petition. The Rapczaks again argued that the City has no authority to require them to dedicate a pedestrian path because their proposed development does not warrant a new public easement under KZC 105.19(1), RCW 82.02.020, or *Dolan* and *Nollan*. And the City again argued that the dedication is reasonably necessary under KZC 105.19(1) because the development will eliminate an existing path that connects two dead-end streets on an unusually long block between two parks. The City also argued there is substantial evidence in the record to support finding that there is a prescriptive pedestrian easement.

In July 2023, the court entered an "Order on LUPA Appeal," concluding that the City's "requirement for dedication of a pedestrian easement across the [Rapczaks'] Property pursuant to [KZC] 105.19(1) . . . is supported by law and substantial evidence in the record." The court explained that the requirement is reasonably necessary under KZC 105.19(1).[11] And it concluded that "the City's proposed requirement for dedication of a pedestrian pathway easement also meets the constitutional nexus and rough proportionality tests of *Nollan* and *Dolan*."[12] The court denied and dismissed with prejudice the Rapczaks' LUPA petition.

The Rapczaks appeal.

ANALYS

Is the Rapczaks argue that the trial court erred by denying and dismissing their LUPA petition because the City's permit condition that they dedicate a pedestrian path across their private property without compensation amounts to an unconstitutional taking of their property. We agree.

LUPA governs judicial review of land use decisions. RCW 36.70C.030. Under LUPA, a court may grant relief from a land use decision if the party seeking relief shows that the decision violates their constitutional rights. RCW 36.70C.130(1)(f). Constitutional issues are questions of law that we review de novo. *Olympic Stewardship Found. v. Envt'l &Land Use Hr'gs Off.*, 199 Wn.App. 668, 710, 399 P.3d 562 (2017).

The takings clause of the Fifth Amendment to the United States Constitution prohibits the government from taking private property "for public use, without just compensation." Similarly, under our state constitution, "[n]o private property shall be taken or damaged for public or private use without just compensation having been first made." WASH. CONST. art. I, § 16. The right to exclude others from the use of private property is" 'one of the most essential sticks in the bundle of rights that are commonly characterized as property.'" *Dolan*, 512 U.S. at 384 (quoting *Kaiser Aetna v. United States*, 444 U.S. 164, 176, 100 S.Ct. 383, 391, 62 L.Ed.2d 332 (1979)).

In *Dolan* and *Nollan*, the United States Supreme Court established a two-part test to determine whether a government condition on development that affects a property owner's rights amounts to an unconstitutional taking. Under *Dolan*, the government's condition on development must be roughly proportional to the effect of the proposed development. 512 U.S. at 391. And under *Nollan*, there must be an "essential nexus" between the government's condition on the development and the state interest served by imposing the condition. 483 U.S. at 837.

Together, *Dolan* and *Nollan* hold that the government may not condition approval of a land-use permit on the owner's relinquishment of a portion of his or her property unless there is rough proportionality between the government's demand and the effects of the proposed land use, and a nexus between the condition and the state interest served. *Koontz v. St. Johns River Water Mgmt. Dist.*, 570 U.S. 595, 599, 133 S.Ct. 2586, 186 L.Ed.2d 697 (2013); *Church of Divine Earth v. City of Tacoma*, 194 Wn.2d 132, 138, 449 P.3d 269 (2019). A city's uncompensated requirement to dedicate private property as public is unlawful where it fails to fulfill both requirements. *Divine Earth*, 194 Wn.2d at 138.

The Rapczaks argue that the City's permit condition requiring them to dedicate a public pedestrian path across their property amounts to an unconstitutional taking under *Dolan* because the condition "is not roughly proportionate to the nature and extent of the impacts of rebuilding a single-family home." The City argues that the requirement is roughly proportional because the path "has existed on the property for decades," and that the Rapczaks' development "will disrupt current and longstanding pedestrian access on Lake Avenue West." We agree with the Rapczaks.

In *Dolan*, business owner Florence Dolan sought to redevelop her 1.67-acre property in the city of Tigard's central business district. 512 U.S. at 378-79. Her lot had an existing 9,700-square-foot store and gravel parking lot on the east side of the property. *Id.* at 379. And a creek flowed through the southwest corner and along the west border of the property. *Id.* Dolan proposed plans to relocate the store to the west side of her property, nearly double the size of the store, and pave a 39-space parking lot. *Id.* She also proposed demolishing the existing store and adding a new structure and parking lot in its place for complementary businesses. *Id.*

The city's planning commission granted Dolan's permit but required her to "dedicate the portion of her property lying within the 100-year floodplain" as a public greenway "for improvement of a storm drainage system," and to dedicate "an additional 15-foot strip of land adjacent to the floodplain as a pedestrian/bicycle pathway." *Dolan*, 512 U.S. at 379-80. The city justified its requirement that Dolan dedicate a public greenway on her property on the commission's findings that "increased storm[ ]water flow from [her] property 'can only add to the public need to manage the [floodplain] for drainage purposes.'" *Id.* at 388.[13] And it justified its bicycle and pedestrian path dedication on her property on its finding that" 'the proposed expanded use of this site is anticipated to generate additional vehicular traffic thereby increasing congestion on nearby collector and arterial streets,'" so creating" 'a convenient, safe pedestrian/bicycle pathway system as an alternative means of transportation could offset some of the traffic demand on these nearby streets and lessen the increase in traffic congestion.'" *Id.* at 389.

Dolan requested variances from the city's standards, which the commission denied. *Dolan*, 512 U.S. at 380-81. It found that the floodplain dedication was reasonably related to the increase in impervious surface and stormwater runoff caused by the development, and that the pathway dedication was reasonably related to the need to accommodate increased traffic by providing alternative means of transportation. *Id.* at 381-82. Dolan appealed to the Oregon Land Use Board of Appeals, which agreed with the city that the dedications did not amount to unconstitutional takings because they were reasonably related to the impact they were meant to mitigate. *Id.* at 382-83. The Oregon Court of Appeals and Oregon Supreme Court affirmed. *Id.* at 383. Dolan

then appealed to the United States Supreme Court. *Id.*

The United States Supreme Court determined that the city's permit conditions did not bear the required relationship to the projected impact of Dolan's proposed development. *Dolan*, 512 U.S. at 394-95. The Court held that the constitution demands "rough proportionality" between the two. *Id.* at 391. And while "[n]o precise mathematical calculation is required," to satisfy the requirement of rough proportionality, "the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development." *Id.* The Supreme Court rejected the city's justifications, concluding they did not support finding that the required dedications were roughly proportional to the impact of Dolan's proposed development. *Id.* at 394-95.

On the requirement of a public greenway, the Court accepted the finding that "increasing the amount of impervious surface will increase the quantity and rate of storm[ ]water flow from petitioner's property." *Dolan*, 512 U.S. at 392. But it explained that "[t]he city has never said why a public greenway, as opposed to a private one, was required in the interest of flood control." *Id.* at 393. It explained that "[i]t is difficult to see why recreational visitors trampling along petitioner's floodplain easement are sufficiently related to the city's legitimate interest in reducing flooding problems." *Id.* That is, the city's interest in managing the floodplain through a public greenway was not roughly proportional to "eviscerat[ing]" Dolan's right to exclude others from her property. *Id.* at 394. The Court recognized that "[i]f [Dolan]'s proposed development had somehow encroached on existing greenway space in the city, it would have been reasonable to require [her] to provide some alternative greenway space for the public either on her property or elsewhere." *Id.* But the city's findings "do not show the required reasonable relationship between the floodplain easement and the petitioner's proposed new building." *Id.* at 394-95.

As for the bicycle path, the Court concluded even if the larger store increased street traffic, "the city has not met its burden of demonstrating that the additional number of vehicle and bicycle trips generated by [Dolan]'s development reasonably relate to the city's requirement for a dedication of the pedestrian/bicycle pathway easement." *Dolan*, 512 U.S. at 395. The city "simply found that the creation of the pathway 'could offset some of the traffic demand . . . and lessen the increase in traffic congestion.'" *Id.*[14]

Here, like in *Dolan*, the City's requirement that the Rapczaks dedicate a public pathway for pedestrian traffic is not roughly proportional to the effect of the Rapczaks' proposed development of a single-family home. The City does not allege, nor did it show, that the Rapczaks' development would increase pedestrian traffic such that it creates a need for a pedestrian easement. Instead, the City argues that the development would disrupt current public use of the path. As recognized in *Dolan*, such a condition may be roughly proportional to the Rapczaks' development if their new home somehow encroached on a public easement. But there is no recorded pedestrian easement across the Rapczaks' property. Nor is there a judicial determination as to a prescriptive easement. Indeed, whether a prescriptive easement exists is at issue in the parties' stayed declaratory actions.

Still, the City argues that even if there is no current pedestrian easement across the Rapczaks' property, KZC 105.19(1) justifies a dedicated public trail. According to the City, its zoning code supports such a dedication when a "walkway is reasonably necessary as a result of development activity." KZC 105.19(1). And under the code, a pedestrian path is reasonably necessary when it would provide "efficient pedestrian access to an activity center of the City, such as schools, parks, shopping areas, employment centers or transit," when "blocks are unusually long," or when "[p]edestrian access is necessary to connect between . . . [e]xisting or planned dead-end streets . . . or . . . [o]ther public pedestrian access walkways." KZC 105.19(1)(b), (d), (e)(i), (e)(iv).

But we must interpret municipal codes in a manner that renders them constitutional. *See Ace Fireworks Co. v. City of Tacoma*, 76 Wn.2d 207, 210, 455 P.2d 935 (1969) (we presume an ordinance is constitutional if it is reasonably capable of constitutional construction). So, we read the "reasonably necessary as a result of development activity" language in KZC 105.19(1) in the context of the rough proportionality test under *Dolan*.[15] And here, the City fails to meet that test.

We conclude that the trial court erred by denying and dismissing the Rapczaks' LUPA petition because the City fails to show rough proportionality under *Dolan*. We reverse the trial court's order dismissing the Rapczaks' LUPA petition and remand for it to determine whether the property is subject to a prescriptive pedestrian easement before ruling on the merits of the petition.[16]

---

[1] There is also a City sewer easement along the western part of their lot.

[2] In 2008, the homeowners served by the southern portion of Lake Avenue West recorded a "driveway easement," seeking to supersede and revise the road and utility easement "by eliminating the north 60 feet of said easement" so it would extend across only the southernmost 20 feet of the Rapczaks' property. The parties dispute the validity of the 2008 easement revision. Because the purported easement is unrelated to our determination, we do not weigh in on that dispute.

[3] If they rebuild, the Rapczaks must shift the footprint of the house east because of the sewer easement, which they cannot encroach or build on.

[4] The City noted the 2008 easement revision but found that it "is not relevant to the City's request for a dedicated 20-foot pedestrian easement."

[5] On May 14, 2021, the City issued a second formal determination letter, again requiring the Rapczaks to dedicate a public pedestrian access easement.

[6] The Rapczaks amended their petition on April 13, 2021 and again on May 28, 2021 without any substantive changes to their claims.

[7] The City later moved under CR 16 to "re-sequence" the claims so the court would hear the declaratory action first. After a hearing on the matter, the court denied the City's motion. It determined the parties' stipulation was binding, and there was no compelling reason to set it aside.

[8] They also argued the permit condition violates RCW 82.02.020. That statute prohibits local governments from imposing "any tax, fee, or charge, either direct or indirect, on the construction or reconstruction of residential buildings." But it allows

> dedications of land or easements within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.

RCW 82.02.020.

[9] Addressed further in our analysis, *Dolan* and *Nollan* hold that the government may not condition approval of a land-use permit on the owner's relinquishment of a portion of his or her property unless there is rough proportionality between the government's demand and the effects of the proposed land use, and a nexus between the condition and the state interest served. *Dolan*, 512 U.S. at 391; *Nollan*, 483 U.S. at 837.

[10] The Rapczaks also moved to strike portions of the City's January 2023 supplemental summary as incorrect, unsubstantiated, or extraneous to the factfinding ordered by the court. They argued that the court should consider only the information that is relevant to the scope and boundaries of the alleged easement and strike the rest. The court denied the motion to strike.

[11] The court also found the dedication reasonably necessary under RCW 82.02.020.

[12] The court also concluded that the City established that a prescriptive pedestrian easement exists along the path across the Rapczaks' property. The Rapczaks moved for reconsideration, asking that the court strike its conclusion on the prescriptive easement. The court granted the Rapczaks motion for reconsideration to strike that specific language, explaining that it did not intend to reach the legal issue of prescriptive easement in its LUPA order.

[13] Third alteration in original.

[14] Alteration in original.

[15] We also view the "reasonably necessary" language of RCW 82.02.020 in the context of the *Dolan* rough proportionality requirement. *See Grant v. Spellman*, 99 Wn.2d 815, 818-19, 664 P.2d 1227 (1983) (we reject statutory interpretations "in favor of a construction which will sustain the constitutionality of the statute"). As a result, the City's permit condition violates that statute as well.

[16] Because we reverse and remand to consider whether the Rapczaks' property is subject to a prescriptive pedestrian easement, we do not address the Rapczaks' argument that the permit condition violates the essential nexus test under *Nollan* or that the trial court erred by denying their motion to strike from the record parts of the City's January 2023 supplemental summary.

Decision here to impose Condition 44 is by its detachment from the real facts in the record, its illogic, non-sequiturs and circularity similarly absurd. The Hearing Examiner assumed authority he did not have, committed errors of law, and most grievously disregarded the evidence in the record to make findings and draw conclusions not supported by substantial evidence.

For these reasons, the County Council should sustain this appeal and rule on the true and real record of this matter that Condition 44 is unlawful and cannot be imposed on Stillwater Preserve.

DATED and respectfully submitted this 6th day of April, 2026.

By _____

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SNOHOMISH COUNTY COUNCIL

EXHIBIT # N.2

FILE 25-101010 PSD

Snohomish County
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Hearing Examiner

DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

I. SUMMARY

DATE OF DECISION:	March 24, 2026
PLAT:	Stillwater Preserve RB No Address Yet South of Dubuque Road, between 200th Drive SE and 211th Ave. SE Snohomish, Washington 98290
APPLICANT:	Stillwater Preserve LLC 2825 Colby Ave. Ste. 304 Everett, Washington 98201-3553
OWNER:	Stillwater Preserve LLC 2825 Colby Ave. Ste. 304 Everett, Washington 98201-3553
FILE NO.:	25-101010 PSD
TYPE OF REQUEST:	Preliminary 14-lot rural cluster subdivision
DECISION SUMMARY:	Preliminary 14-lot rural cluster subdivision is approved subject to conditions.

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III. SITE SUMMARY

LOCATION:	No Address Yet South of Dubuque Road, between 200th Drive SE and 211th Ave. SE Snohomish, Washington 98290
TAX PARCEL NUMBER:	005975-000-012-00
ACREAGE:	52.82 acres
COMPREHENSIVE PLAN DESIGNATION:	Rural Residential (1 dwelling unit/5 acres)
ZONING:	R-5
UTILITIES:	
Water:	Individual wells
Sewer:	On-site sewer system (septic)
Electrical:	Snohomish County Public Utility District No. 1
SCHOOL DISTRICT:	Snohomish School District No. 201
FIRE DISTRICT:	Snohomish County Fire District No. 16
PDS RECOMMENDATION:	Approve the proposed preliminary rural cluster subdivision, subject to conditions

The Hearing Examiner finds the following facts and legal conclusions based on a preponderance of the evidence.

IV. FINDINGS OF FACT

A. Vesting

Stillwater Preserve LLC applied to Snohomish County Planning and Development Services department (PDS) for approval of a rural cluster subdivision on January 22, 2025. PDS determined the application was complete and vested on the date submitted. Stillwater submitted additional information on September 9, 2025, and November 25, 2025.

During the open record hearing, the Hearing Examiner inquired of PDS and Stillwater whether the application indeed vested on January 22, 2025. An application vests to existing land use controls in county code when a complete application is filed. A complete application for a rural cluster subdivision must include, *inter alia,* "A completed third party certification checklist and proof of payment to the appropriate third party for the review and certification of the rural cluster development." SCC 30.41C.040(9) (2024). Such checklist and proof of payment did not appear to have been submitted as part of Stillwater's application.

PDS advised that completion of a third-party certification checklist before preliminary plat approval is not possible and that SCC 30.41C.030 had been amended prior to Stillwater's application to require a preliminary subdivision condition of approval for "proof of enrollment in a third-party certification program **prior to issuance of individual building permits**." SCC 30.41C.030(6) (2025) (emphasis added). Although SCC 30.41C.030 was amended, SCC 30.41C.040 was not, raising the possibility that Stillwater's application was incomplete and therefore did not vest.

In 2024, the county added sustainable construction requirements to rural cluster subdivision developments. Amend. Ord. 24-021 (adopted August 28, 2024, eff. September 19, 2024). An application for a rural cluster subdivision must include a "third party certification" and a "completed third party certification checklist and proof of payment to the appropriate third party for the review and certification of the rural cluster development." *Id.* at §7, 14:26-27. A rural cluster subdivision could not receive preliminary approval without "documentation of third party certification." *Id.* at §6, 13:23-24.

> Conditions of approval for the subdivision or short subdivision shall require all lots containing new buildings receive third party certification prior to issuance of individual building permits.

Id. at §6, 13:24-32.

Applicants could not comply with these new requirements, however, because third party certification occurs when homes are built, not when subdivision approval is sought or building permits are issued. Homes are not built prior to preliminary subdivision approval.

County Council adopted Amend. Ord. 25-052 to fix this problem.

> WHEREAS, Amended Ordinance No. 24-021 included a new provision within SCC 30.41C.030(6) requiring third-party certification of the environmental efficiency of proposed structures; and
>
> WHEREAS, SCC 30.41C.030(6) requires the applicant to obtain certification prior to issuance of building permits and preliminary approval of the rural cluster subdivision or short subdivision, and this timing does not align with the

> requirements of the Built Green Program that requires construction to be underway before it certifies the work; and
>
> WHEREAS, the code amendments contained in this ordinance will amend the timeline for the provision of third party certification for rural cluster subdivisions, short subdivisions, and building permits within such subdivisions to correct the discrepancy in timelines that make current code as adopted not feasible . . ..

Amend. Ord. 25-052, p. 1-2, ll. 36-4 (adopted September 17, 2025, eff. September 28, 2025). The ordinance only amended SCC 30.41C.030 regarding approval criteria and did not amend the submittal requirements of SCC 30.41C.040.

When Stillwater applied for approval of the subdivision on January 22, 2025, SCC 30.41C.030(6) and SCC 30.41C.040(9) conflicted. .030(6) required third party certification at the building permit stage and .040(9) required third party certification when the subdivision application was submitted, a practical impossibility.

The Hearing Examiner concludes that the amendment of .030(6) implicitly repealed .040(9).

> Repeal by implication is strongly disfavored. *State v. Peterson*, 198 Wn.2d 643, 647, 498 P.3d 937 (2021). "This disfavor is the result of a presumption that the Legislature acts with a knowledge of former related statutes and would have expressed its intention to repeal them." *Local No. 497, International Brotherhood of Electrical Workers, AFL-CIO v. Public Utility District No. 2 of Grant County*, 103 Wn.2d 786, 790, 698 P.2d 1056 (1985).
>
> A repeal by implication will be found only where (1) a "later act covers the entire field of the earlier one, is complete in itself, and is intended to supersede prior legislation" or (2) "the two acts cannot be reconciled and both given effect by a fair and reasonable construction." *State v. Conte*, 159 Wn.2d 797, 815, 154 P.3d 194 (2007).

W. Terrace Golf LLC v. City of Spokane, 29 Wn. App. 2d 755, 772–73, 542 P.3d 1029, 1039, *review denied sub nom. W. Terrace Golf v. City of Spokane*, 3 Wn.3d 1006, 549 P.3d 123 (2024). Amend. Ord. 25-052 did not "cover the entire field" because it did not address the criteria for a complete application in .040. However, .030(6) cannot be reconciled with .040(9) and both given effect by a fair and reasonable construction.

County Council clearly intended to require third party certification to occur at the building permit stage, not at preliminary subdivision approval or upon application. *McClain v. State*, 34 Wn. App. 2d 247, 266, 567 P.3d 1109, 1122 (2025), citing *State v. Buck*, 2 Wn.3d 806, 819, 544 P.3d 506 (2024).

Further, Stillwater implemented Council's intent by enrolling the proposed subdivision with BuiltGreen on January 13, 2025,[1] prior to its application to PDS on January 22, 2025. Therefore, its application on January 22, 2025, was complete and vested on that date.

The Hearing Examiner strongly urges PDS to review chap. 30.41C for consistency and alignment of County Council's intentions with third party certification practices and procedures and to seek amendments promptly to reconcile inconsistencies such as this.

B. Open Record Hearing

The Hearing Examiner held an open record hearing on February 10, 2026. Ry McDuffy of Land Resolutions, Inc., Everett, Washington, Joseph Smeby, P.E., of Omega Engineering, Inc., Everett, Washington, and Martin Robinett of Stillwater testified in favor of the application. Stacey Abbott, Rachael Carrigan, and Drew Bradshaw testified on behalf of PDS. Community member Cameron Stevens testified about his concerns. The Hearing Examiner left the record open until March 2, 2026, for the limited purpose of receiving additional information from Stillwater and PDS regarding safe walking conditions for school children and the completeness of the application on the vesting date.

C. The Record

The Hearing Examiner considered exhibits A.1 through H.6, H.8 through J.1, and L.1 through M.5. A recording of the hearing is available from the Office of Hearings Administration.

D. Public Notice

PDS notified the public of the open record hearing and determinations of traffic concurrency and impact fees.[2]

E. Background Information

1. Proposal

Stillwater requests approval of a preliminary 14-lot rural cluster subdivision of single-family residences on 52.82 acres.

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[1] Ex. M.4, PDF pp. 4-5.

[2] Exhibits F.1 through F.4.

2. Site Description and Surrounding Uses

The single parcel site is vacant and undeveloped, with two wetlands on it. The surrounding properties are zoned R-5.

3. Comments

Neighbors expressed several concerns by email and by commenting at the open record hearing. A neighbor objected to a rural cluster subdivision development,[3] but county code expressly allows rural cluster subdivisions. General concerns were also raised regarding stormwater, wildlife, and traffic.[4] County code and the drainage manual require that stormwater be treated for water quality and managed to minimize the risk of flooding and erosion. For example, stormwater falling on roofs will be collected by downspouts and discharged into vegetated strips of amended soil, allowing the stormwater to be treated naturally and to infiltrate. Stormwater falling on the new public road will be treated by a bioswale. As proposed and conditioned, this subdivision will comply with those requirements.[5] County code also provides standards for traffic on public roads generated by proposed subdivisions and this proposed subdivision complies with those standards.[6] Generalized concerns about wildlife are not legally sufficient to deny a development application; there is no evidence that this project will negatively affect species protected by state, federal, or local law. Neighbors raised concerns about an easement, but the easement they described is not part of this project; access will be by dedication of a new public road on property owned by Stillwater. Additional concerns were raised regarding whether septic drainfields will percolate, but the Health Department requires appropriate handling of septic effluent, and where drainfields are not feasible, devices such as auxiliary treatment units may satisfy Health Department requirements. Finally, several neighbors were concerned about the water quality of their wells. Approval will be conditioned on prohibiting development near a wellhead that would negatively affect water quality.[7]

F. Compliance with Codes and Policies

1. Subdivisions (Chapter 30.41A SCC)

Having considered all relevant facts, the Hearing Examiner finds the proposed subdivision as conditioned will serve the public interest and makes appropriate provision for the public health, safety, and general welfare,[8] for open spaces, drainage ways, streets, other public ways, potable

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[3] Ex. I.2.

[4] Exhibits I.2 and I.3.

[5] See discussion below at page 10.

[6] See discussion below at page 13.

[7] See condition 28.

[8] See discussion below at pages 15 *et seq.* regarding adequate pedestrian facilities for schoolchildren.

water supplies, sanitary wastes, parks and recreation, playgrounds, fire protection, and other public facilities.[9] The proposed lots will not be subject to flood, inundation, or swamp conditions. The proposed subdivision conforms to applicable zoning codes and the comprehensive plan.

2. Rural Cluster Subdivisions (Chapter 30.41C SCC)

a. Yield

The project clusters the lots on the least environmentally sensitive and most buildable portion of the site and retains approximately 67% of the site in restricted open space, exceeding the minimum requirement of 45%.[10] Including the bonus density for exceeding the amount of required restricted open space, county code allows a maximum of 16 dwelling units on this site and Stillwater proposes 14 dwelling units.[11]

b. Open Space Management

The proposed subdivision will have open space tracts, sight obscuring buffers, and designated critical areas. Stillwater submitted a preliminary open space management plan.[12] PDS determined the preliminary open space management plan demonstrates compliance with chapter 30.41C SCC. Approval will be conditioned on recording and implementation after PDS approves the final open space management plan.

c. Design Standards

The proposal complies with the design standards of SCC 30.41C.070 *et seq*. The transition from the residences to the adjoining properties and roads will be obscured from sight. Buffers are appropriately located and sized. Utilities will be located underground. No agricultural or forestry uses are proposed. The proposed cluster of lots complies with the requirement that lots be in clusters of no more than thirty lots per cluster. The subdivision has been designed consistently with the natural features of the site; it does not alter any of the most sensitive features, limits the amount of grading required, and otherwise maintains rural character. The subdivision will not be served by public sanitary sewer but will be served by individual on-site sewer systems pursuant to Snohomish County Health Department regulations. Domestic water will be supplied by on-site wells. The lots are located as close to the center of the site as feasible and are located within a fire district. As discussed below, PDS determined the proposal is concurrent.[13]

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[9] SCC 30.41A.100 (2006).

[10] Ex. B.1.

[11] Ex. B.1.

[12] Ex. B.4. *See* SCC 30.41C.120 (2024).

[13] See concurrency discussion below at page 13.

3. Fire Code

Stillwater demonstrated the feasibility of compliance with the fire code. The project is exempt from fire flow and fire hydrant requirements because the lots are larger than one acre.[14]

4. Environmental Review

a. SEPA (Chapter 30.61 SCC)

PDS determined the proposal is exempt from a threshold State Environmental Policy Act (SEPA) determination.[15]

b. Critical Areas Regulations (Chapters 30.62A, 30.62 B, and 32.62C SCC)

Four wetlands are either on site or within 300 feet of the site. Wetland A is small category IV depressional wetland off-site to the southeast with a habitat score of 6. The standard buffer width for such a wetland is 40 feet. Wetland B is off-site, lying 50 feet to the northwest. It is a small category III depressional wetland with a habitat score of 6. Wetland D is a category III depressional wetland with a habitat score of 6 that lies in the northwest corner of the site. The standard buffer width for wetlands B and D is 110 feet. Wetland C is a large category II depressional wetland extending off-site to the west and site. Its standard buffer width is 225 feet.

Approval will be conditioned on permanently protecting the on-site wetlands and buffers, placing buffers and on-site wetlands in one or more tracts, and installing signs and fencing around the tracts.

c. Drainage and Grading (Chapters 30.63A, 30.63B, and 30.63C SCC)

Infiltration is generally infeasible because subsurface exploration of native soils showed seepage within three of the test pits, dense soils at shallow depth, and silt content.[16] Stormwater will either be fully dispersed or detained and released a controlled rate from an off-site detention pond.[17] More than 5,000 sq. ft. of pollution generating impervious surfaces will be created, triggering a requirement to comply with minimum requirements 1 through 9. Stillwater expects grading quantities to be 12,000 cubic yards of cut and 10,000 cubic yards of fill.

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[14] Ex. H.5, PDF p. 3.

[15] SCC 30.61.035(1)(a) (2022).

[16] Ex. C.3, PDF p. 20.

[17] Ex. C.2, PDF p. 11.

Req't	Description	How Fulfilled?
1	Stormwater Site Plan	A stormwater site plan and targeted drainage report adequately address the on-site stormwater requirements.[18]
2	Stormwater Pollution Prevention Plan (SWPPP)	Stillwater provided a preliminary SWPPP.[19] The SWPPP will be reviewed as part of the land disturbing activity permit process.
3	Water Pollution source control for new development or redevelopment	Satisfied because residential projects typically do not have to provide water pollution source control after the project is completed.
4	Preservation of natural drainage systems	Natural drainage systems will be preserved to the extent feasible. No adverse downstream impacts have been identified.
5	On-site stormwater management	On-site stormwater management has been adequately addressed according to the drainage manual by dispersion.
6	Runoff treatment	Full dispersion through vegetative paths will provide water quality treatment from the lots. A bioswale will provide water quality treatment for 52nd St. SE.
7	Flow control requirements for new development or redevelopment	Plans for full dispersion and discharge from the detention pond to approved dispersion devices satisfy requirements at the preliminary plat approval stage. Stormwater will be discharged from dispersion trenches at a rate and volume mimicking predeveloped, forested conditions.
8	Detention or treatment in wetlands or wetland buffers	No detention or treatment will occur in wetlands or buffers.

[18] Exhibits B.2 and C.2.

[19] Exhibits B.2, sheet 2 and C.2, PDF pp.7 *et seq.*

9	Inspection, operation, and maintenance requirements	Stillwater provided sufficient information to ascertain feasibility of compliance with the minimum requirements.[20]

5. Mitigation

a. Park and Recreation Mitigation (Chapter 30.66A SCC)

Prior to building permit issuance for each dwelling, Stillwater must pay a fee for each new single-family dwelling unit as acceptable mitigation for parks and recreation impacts.[21]

b. School Impact Mitigation (Chapter 30.66C SCC)

Approval of the development will be conditioned upon the payment of school impact fees.[22] The amount for the Snohomish School District in effect on the date of vesting was $5,361.00 per dwelling unit. On or after January 23, 2030, the school impact fee will be the amount in effect at the time of building permit application. Credit will be given for the existing lot. The mitigation fee will be collected at the time of building permit issuance for the proposed dwelling units.

c. Traffic Mitigation (Chapter 30.66B SCC)

The site is in Transportation Service Area (TSA) C and is not in an urban growth area. The proposed development must mitigate its impact upon the future capacity of the county road system by paying a road system impact fee.[23] The road system impact fee will be equal to the average daily traffic (ADT)[24] created by the development multiplied by the per trip amount for the specific transportation service area identified in SCC 30.66B.330.

Road System Impact Fee Calculation

1.	Total number of dwelling units (DU)	14
2.	ADT per DU:	9.43
3.	Total ADT resulting from the development (line 1 x line 2):	= 132.02
4.	Credit for existing trips	-0-
5.	Net new ADT (line 3 – line 4)	= 132.02

[20] Ex. C.2, §11.

[21] SCC 30.66A.020 (2019). The project site lies in Centennial park service area. SCC 30.66A.040(1) (2021).

[22] SCC 30.66C.100.

[23] SCC 30.66B.310 (2021).

[24] ADT is calculated using the current edition of the Institute of Traffic Engineers' Trip Generation Report.

6.	TSA amount per ADT:	$568.00
7.	Road system impact fee for this development (line 5 x line 6):	= $74,987.36
8.	Impact fee per new DU: (line 7 divided by line 1)	$5,356.24

6. Concurrency Determination (SCC 30.66B.120)

The project is concurrent as of April 2, 2025. The project must be approved if it does not affect a county arterial unit in arrears or cause a county arterial to go into arrears.[25] The transportation service area had no arterial units in arrears as of the date of submittal. The project will not add three or more directional peak-hour trips to a unit in arrears and is therefore concurrent.[26] The proposed development does not need to be evaluated pursuant to SCC 30.66B.035 (2021) because it generates fewer peak hour trips than the 50-peak hour trip threshold that requires such analysis.[27]

7. Transportation (Title 13 SCC, EDDS 3-02, and SCC 30.66B.420)

a. Internal Road System

The development will be served by a new east/west public road, 52nd St. SE that intersects 211th Ave. SE. A new private road, 206th Dr. SE, will run north from 52nd St. SE and provide vehicular access to the lots in the new subdivision. 206th Dr. SE will terminate in a cul-de-sac. Stillwater may place a gate on the private road. If it does so, it must install an Opticom, Knox box, or other mechanism to allow emergency services access as required by the Fire Marshal.

b. Existing Public Roads

i. Improvements (SCC 30.66B.410) and Right of Way (SCC 30.66B.510, .520)

The development will access the public road system by constructing a new public road, 52nd St. SE, that will run east from 206th Dr. SE to 211th Ave. SE, a north/south public road.

52nd St. SE will be a rural non-arterial road, requiring an ultimate right of way width of 60 feet. Currently 20 feet of unopened right of way exist between the southern property line and the northern property line of the adjacent parcels. Approval will be conditioned on deeding sufficient right of way for a width of 60 feet through the adjacent property to public road stub out of the proposed development.

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[25] SCC 30.66B.120(1) (2003).

[26] SCC 30.66B.160(2)(a) (2003).

[27] 14 dwelling units x 0.70 AM peak hour trips = 9.80 AM PHT. 14 new dwelling units x .94 PM peak hour trips = 13.16 PM PHT.

Sight distances for the access points comply with EDDS §3-08. The proposed development does not front any public, open, maintained county road; frontage improvements will therefore not be required.

ii. Deviations

Stillwater asked the county Traffic Engineer to approve a deviation from EDDS' guidance for pedestrian paths on both sides and crowned section.[28] Stillwater proposed: (1) a ditch on the cut side of the road; (2) a pedestrian path on only one side; and (3) a slope of 2% across the entire road section instead of a crowned section. The county Traffic Engineer approved the deviation on conditions of an ultimate right of way width of 60 feet on 52nd St. SE and preventing stormwater prevent standing or ponding on the new roads.[29]

Stillwater also requested approval of a deviation from EDDS regarding the off-site pedestrian pathway PDS required for schoolchildren to meet their buses.[30] Schoolchildren will meet their buses at the intersection of 211th Ave. SE and Dubuque Road, requiring them to walk south on the new private road to the new public road of 52nd St. SE and then north on the public road of 211th Ave. SE. The new private road and 52nd St. SE will be built to current county road standards and will provide adequate pedestrian paths for schoolchildren. 211th Ave. SE is older, not built to current standards, and lacks an adequate pedestrian path. Stillwater proposed a separated pedestrian facility on one side of 211th, a low volume road with a posted speed limit of 25 mph. Woods Creek Bridge (no. 48150) crosses 211th and lacks a pedestrian facility. Woods Creek Bridge is flat, horizontally straight and has clear sight lines of 300 feet to the south and 150 feet to the north. Three homes exist south of the bridge. The new Stillwater subdivision will result in total of 17 homes south of the bridge. Instead of building a new pedestrian bridge across Woods Creek or rebuilding the existing bridge, Stillwater proposed installation of signage and illumination at the bridge. The County Traffic Engineer approved the deviation, conditioned on providing signing and illumination.[31]

iii. Inadequate Road Conditions (IRC) (SCC 30.66B.210)

Mitigation for inadequate road conditions (IRC) is not required now because the development proposal will not create an IRC, nor will it affect any IRCs within TSA C with three or more of its PM peak hour trips. Therefore, it is expected that mitigation will not be required with respect to IRC and no restrictions on building permit issuance or certificate of occupancy/final inspection will be imposed under SCC 30.66B.210.

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[28] Ex. G.1, ,PDS file no. 25-114525 WMD.

[29] Ex. L.3.

[30] Ex. G.2; PDS file no. 24-118579 WMD.

[31] The County Traffic Engineer noted that if a marked crossing is needed, the department of Public Works will provide the crosswalk markings.

iv. Bicycle Facilities

The proposed development does not border a bicycle facility on the county-wide bicycle facility system map. A bicycle path will therefore not be required.

v. State Highway Impacts (SCC 30.66B.710)

Pursuant to the county's authority under SEPA, a traffic mitigation payment is required if the development affects a state highway.[32] The proposed development is exempt from SEPA; therefore the county does not have authority to impose mitigation impact fees on behalf of WSDOT.

vi. Other Jurisdiction Traffic Impacts (SCC 30.66B.720)

Pursuant to the county's authority under SEPA, a traffic mitigation payment to another jurisdiction is required if that local jurisdiction and Snohomish County have a reciprocal traffic mitigation interlocal agreement. The proposed development is exempt from SEPA; therefore the county does not have authority to impose mitigation impact fees on behalf of another jurisdiction.

c. Pedestrian Facilities (RCW 58.17.110 and 58.17.060)

The development cannot be approved unless school children have safe walking conditions.[33] The Snohomish School District advised that schoolchildren from the development would meet their buses at the intersection of 211th Ave. SE and Dubuque Road. 211th Ave. SE lacks a pedestrian pathway. PDS therefore recommended conditioning approval of the subdivision on construction of an adequate pedestrian path along 211th Ave. SE from the intersection of new public road 52nd St. SE north to Dubuque Road, approximately half a mile. Stillwater requested a deviation from EDDS regarding Woods Creek Bridge that represented it would install a detached pedestrian pathway.[34]

Stillwater contends the off-site pedestrian pathway lacks sufficient nexus and is disproportionate because it may cost approximately $300,000. Stillwater also argues that state law and county code require off-site pedestrian pathways for children who "walk to school" and walking to a bus stop is not subsumed within that term.

PDS disagrees, and argues that it has long interpreted "walk to school" to include walking to a bus stop.

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[32] SCC 30.66B.055; Interlocal Agreement between Snohomish County and WSDOT (December 21, 1997).

[33] RCW 58.17.060(2) (1990); RCW 58.17.110(2) (1995); SCC 30.41A.100(1).

[34] See discussion at page 14 above.

First, the Hearing Examiner holds that an off-site pedestrian pathway for children to meet their school bus has sufficient nexus to a hazard requiring mitigation. Specifically, children in the houses constructed by Stillwater must be schooled, and walking a road with no attached shoulder, sidewalk, or detached path places them at risk of being hit by cars and trucks. The Hearing Examiner takes official notice that during Pacific Northwest winters, school buses often pick up or drop off children in the dark or low light conditions, increasing their risk of being struck by vehicles while walking to the bus stop. The harm sought to be avoided is directly caused by the construction of the dwellings by Stillwater.

With respect to proportionality, the Hearing Examiner finds the estimated cost of $300,000 is proportional to the potential harm to be mitigated. The out-of-pocket medical expenses of a pedestrian/vehicle collision can easily exceed $300,000, and future care and lost income also can easily exceed $300,000 that amount. Note, too, that the new residences of the subdivision will be sold to homeowners, and the homeowners will bear most, if not all, of the cost of the pedestrian pathway in the purchase price of the home. Stillwater also argues that the off-site walkway is disproportionate because few students walk on 211th or will do so in the future. Future use is speculative because it is difficult to predict with any certainty the number of school-age children who will reside in the new development. With respect to the current number of school bus pedestrians, the off-site pathway requirement is not due to the current number of school-age children walking on 211th to meet their school bus but due to Stillwater's desire to build and sell 14 new homes.

The Hearing Examiner concludes the public interest is not served by a development that does not have safe pathways for schoolchildren to walk to their bus stops. The Hearing Examiner cannot approve the preliminary subdivision unless it will "serve the public interest and makes appropriate provision for the public health, safety, and general welfare . . .." SCC 30.41A.100. The subdivision does not make appropriate provision for public health, safety, and general welfare unless children can safely go to school.

The question of whether "walk to school" includes walking to a school bus stop is a red herring, because county code states that "walk[ing] to school" is but one factor to consider when determining if appropriate provisions are made for the public health, safety, and general welfare whether a new subdivision is in the public's interest.

> The hearing examiner shall approve a preliminary subdivision only if appropriate provisions are made for, **but not limited to**, the public health, safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, sites for schools and school grounds, fire protection and other public facilities. **The hearing examiner shall consider all other relevant facts, including the physical characteristics of the site and sidewalks and other planning features that assure safe walking conditions for students who walk to and from school to**

determine whether the public interest will be served by the subdivision and dedication.

SCC 30.41A.100(1) (2006) (emphasis added).[35] Having considered all relevant facts, including the characteristics of the site, the location of the bus stop, and the characteristics of 211th St. SE, the Hearing Examiner determines the public interest will not be served by a subdivision that does not have an adequate, safe pedestrian path to the children's school bus stop.

Stillwater implicitly applies the statutory construction doctrine of *inclusio unius est exclusio alterius* to RCW 58.17.110 and SCC 30.41A.100, i.e., by arguing that inclusion of the phrase "walk to and from school" excludes walking to and from a school bus stop. Both legislative acts explicitly state that walking conditions for students walking to and from school are only one factor to be considered when determining whether the subdivision is in the public interest and whether adequate provision is made for public safety and general welfare. "When a statute utilizes 'include,' it is generally improper to conclude that entities not specifically enumerated are excluded." 2A Sutherland Statutory Construction § 47:25 (7th ed.) (footnote omitted).

Approval will therefore be conditioned on installation of an off-site pedestrian pathway to the school bus stop at Dubuque Road and 211th or such other location as mutually agreed by the Snohomish School District, Stillwater, and the county.

8. Utilities

Adequate provisions have been made for utilities. Sewage disposal will be provided by on-site sewer systems built according to Snohomish County Health Department regulations.[36] Electrical service will be provided Snohomish County Public Utility District No. 1.[37] Domestic water will be provided by on-site wells because the Public Utility District does not have any water mains near the site.[38]

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[35] See *also In re Meadowdale Park Div. 4*, Conclusion 11 (Snohomish County Hearing Examiner, January 19, 1990, ZA 8907314), affirmed by Motion 90-071 (Snohomish County Council, February 28, 1990). Stillwater contends *Meadowdale Park* is inapposite because it was decided before RCW 58.17.110 was amended to insert the word "only." However, County Code does not include the word only. The state legislature did not appear to preempt the field by enumerating all factors of the public interest to be considered when approving subdivisions. *State v. Richards*, 28 Wn. App. 2d 730, 746, 537 P.3d 1118, 1128 (2023), *aff'd*, 4 Wn.3d 83, 559 P.3d 107 (2024) (citations omitted). Snohomish County as a charter county may legislate unless preempted by the state legislature. Therefore, *Meadowdale Park* is still good law from the perspective of the Hearing Examiner.

[36] Ex. H.1.

[37] Ex. H.2.

[38] *Id.*

V. CONCLUSIONS

1. The Hearing Examiner has authority to approve preliminary rural cluster subdivisions.[39]

2. The Hearing Examiner concludes that Stillwater demonstrated its proposal is consistent with the comprehensive plan, county code, the type and character of land use permitted on the project site, and the permitted density, applicable design, and development standards.

3. The Hearing Examiner finds that adequate public services exist to serve the proposed project.

4. As conditioned, the proposed project adequately provides for the health, safety, and general welfare of the public.

5. Any finding of fact in this decision which should be deemed a conclusion of law is hereby adopted as a conclusion of law.

6. Any conclusion of law in this decision which should be deemed a finding of fact is hereby adopted as a finding of fact.

VI. DECISION

Based on the foregoing findings of fact and conclusions of law, the Hearing Examiner approves the preliminary plat, subject to the following conditions:

VII. CONDITIONS

A. General

1. The preliminary plat received by PDS on September 9, 2025,[40] shall be the approved preliminary plat. Changes to the approved plat are governed by chapters 30.41A SCC and 30.70 SCC.

2. The undated, proposed open space management plan shall be the approved preliminary open space management plan.[41]

3. The preliminary landscaping plan[42] dated July 1, 2025, shall be the approved preliminary landscape plan.

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[39] SCC 30.70.025 (2021); SCC 30.72.025 (2012); SCC 30.41C.030(1) (2009).

[40] Ex. B.1.

[41] Ex. B.4.

[42] Ex. B.3.

4. Any discrepancy between (a) the approved preliminary plat, preliminary landscape plan, or the rural cluster subdivision site plan and (b) title 30 SCC shall be resolved in favor of title 30 SCC.

5. The Auditor's file number of the recorded open space management plan shall be stated on all property deeds for real property in the rural cluster subdivision. SCC 30.41C.120(2) (2009).

6. A copy of the open space management plan approved by PDS and recorded with the County Auditor shall be provided with ownership documents to subdivision property owners and purchasers. SCC 30.41C.120(2) (2009).

7. The following notice shall be filed on the title of the properties within the plat: "Tract 999 is a restricted open space tract with limited uses pursuant to chapter 30.41C SCC. The open space tracts are intended to be preserved in perpetuity." SCC 30.41C.090(6) (2021).

8. All electrical, telephone, and other utility lines and support infrastructure shall be located underground. SCC 30.41C.070(3)(a) (2017).

9. If new private road 211th Dr. SE is gated, Stillwater shall have obtained and satisfied the conditions of any permit required by the Fire Marshal to enable emergency responders' access to the subdivision.

10. Nothing in this approval excuses Stillwater, any owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.

B. Site Development

Prior to any development activity on the site other than surveying and marking:

11. Stillwater must temporarily mark the boundary of all Critical Area Protection Areas (CAPAs) as required by chapter 30.62A SCC and the limits of the proposed site disturbance outside of the CAPA, using methods and materials acceptable to the county.

12. Stillwater shall obtain any permits required for site development work, such as:

    a. Land disturbing activity permits, as required by chapters 30.63A and 30.63B SCC;

    b. Forest practices activity class IV general conversion to the extent required by SCC 30.43F.100.

13. Stillwater shall include in its land disturbing activity permit application:

    a. CAPA signage specifications and locations.

    b. CAPA fencing specifications and locations, if required.

c. Landscape plan review fee pursuant to SCC 30.86.145(1).

d. Calculation of the amount of board feet of timber to be harvested. If harvesting more than 5,000 board feet of timber, the applicant must apply for a Class IV General – Forest Practices Activity permit. If selling, bartering, or trading any amount of timber (i.e., not harvesting) then the applicant must apply for a Forest Practices Activity – Class IV General Conversion permit.

e. Monumentation at the PC/PT of the unopened right of way of 52nd St SE at the intersection of 211th Ave SE. The monument shall include a rebar and cap in the interim while it's unopened right of way. When the right of way becomes an opened, constructed, and maintained public road, a permit can be filed with DNR to remove the rebar and cap and install the full road monumentation in accordance with EDDS §4-130 or its successor.

Prior to issuing any land disturbing activity permit:

14. Stillwater shall pay a landscape site inspection fee required by SCC 30.86.145(3).

15. Stillwater shall pay the amount required by the county for the installation of signs and striping. SCC 13.10.180.

Prior to final approval of the land disturbing activity permit or other site development permits:

16. All 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, or 20 penny nails). Stillwater 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, or road), a rebar marker with surveyors' cap and license number must be placed at the line crossing.[43]

17. 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. CAPA signs on not needed on the site's boundary abutting any CAPA on the adjacent site.

18. Any CAPA-compliant fencing shall have been satisfactorily installed where required.

19. All required common area landscaping shall have been installed, inspected and approved per chapter 30.25.SCC and in conformance with the approved final landscaping plan, unless

[43] SCC 30.62A.160(7) (2015).

deferral of improvements is allowed by PDS and a bond or other guarantee of performance is submitted to PDS. A qualified landscape designer shall certify that all landscaping is installed per the approved plan.

20. All existing vegetation shown to meet landscaping requirements of chapter 30.25 SCC, shall be retained in accordance with the landscape plan, and a qualified landscape designer shall certify that the retention of the vegetation complies with the code and the approved plans.

C. Final Plat Content

The following text shall be written on the face of the final plat:[44]

21. The lots within this subdivision will be subject to school impact mitigation fees for Snohomish School District No. 201. The fee per dwelling unit will be $5,361.00 for building permit applications submitted on or before January 22, 2030. For building permit applications submitted on or after January 23, 2030, the fee will be determined by the fee schedule in effect at the time of building permit application. The impact fees must be paid prior to building permit issuance, except as allowed by SCC 30.66C.200(2). Credit shall be given for one existing lot at the single-family rate. Lot 1 shall receive credit.

22. The dwelling units within this development are subject to a park and recreation facility impact fee for the Centennial park service area of the county parks system. The impact fee shall be $681.97 per dwelling unit for building permits submitted on or before January 22, 2030. For building permits submitted on or after January 23, 2030, the amount of the fee per dwelling unit will be determined by the fee schedule in effect at the time of building permit application. Payment of these mitigation fees is required prior to building permit issuance except as provided for in SCC 30.66A.020(4).

23. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each dwelling unit:

    $5,356.74 for each dwelling unit (to total $74,987.36) for mitigation of impacts on county roads paid to the county in accordance with the payment timing provisions of chapter 30.66B SCC.

    Payment of these fees is due prior to or at the time of building permit issuance, unless deferment is allowed pursuant to chapter 30.66B SCC, for the individual building permits. Notice of these mitigation payments shall be contained in any deeds involving this subdivision or the lots therein.

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[44] Numbering is for convenience and reference only.

24. Membership in the homeowners' association, and payment of dues or other assessment for maintenance purposes, shall be a requirement of lot ownership and shall remain an appurtenance to and inseparable from each lot. If the homeowners' association is dissolved, then each lot shall have an equal and undivided ownership interest in the tracts previously owned by the association as well as responsibility for maintaining the tracts.

25. The homeowners' association shall own and maintain tracts established pursuant to chap. 30.41 SCC, unless and until alternative ownership and maintenance responsibility is authorized by the Planning and Development Services department.

26. Tract 999 is a critical area protection area tract that shall be left permanently undisturbed in a substantially natural state and are intended to be preserved in perpetuity. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur, except removal of hazardous trees. The following are allowed in CAPAs: non-ground disturbing interior or exterior building improvements; routine landscape, maintenance of established, ornamental landscaping; non-ground disturbing normal maintenance or repair; felling or topping of hazardous trees based on review by a qualified arborist; removal of noxious weeds conducted in accordance with chapter 16-750 WAC; maintenance or replacement that does not expand the affected area of septic tanks and drainfields, wells, and individual utility service connections; data collection by non-mechanical means; and non-mechanical survey and monument placement.

27. Tracts 999 is a restricted open space tract with limited uses pursuant to chapter 30.41C SCC. Open space tracts are intended to be preserved in perpetuity.

28. Well protection zones are shown in the Snohomish County Health Department records for lots 1-14 of this plat. The well protection zones are not based on 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 drain fields 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.

The following shall be shown graphically and labeled where appropriate on the final plat to the satisfaction of the county:

29. All CAPAs and buffers.

30. Restricted open space tracts[45] must be labeled with references to the limited uses.[46]

31. A 40-foot right of way dedication from the proposed access point to 211th Ave. SE along 52nd St SE for a total of 60-feet of ultimate right of way, or as determined by the department of Public Works.

D. Final Plat Approval

Stillwater must fulfill the following conditions before approval of the final plat:

32. Stillwater shall have submitted and obtained PDS' approval of a final open space management plan for the long-term management of designated open space. The final plan shall provide for other qualified and capable parties to succeed to maintenance obligations for designated open space if necessary and provide for indemnification of the county by any person or entity responsible for maintenance if such person or entity does not maintain the open space.

33. Stillwater shall record the approved final open space management plan separately from the subdivision. The plan may be recorded simultaneously with the recording of the final subdivision. The open space management plan shall be updated with tract numbers consistent with the final plat map.

34. Stillwater shall have established a homeowners' association as a Washington corporation (profit or non-profit) for the purposes of tract ownership and maintenance. Stillwater shall provide PDS with a copy of the articles of incorporation of the homeowners' association filed with the Washington Secretary of State and with the by-laws adopted by the homeowners' association. The homeowners' association shall remain the owner of tracts unless tract ownership by all lots in the subdivision is authorized pursuant to a final plat alteration. The articles of incorporation and by-laws must provide that if the homeowners' association is dissolved, each lot shall have an equal and undivided ownership interest in the tracts previously owned by the association and shall have responsibility for maintaining the tracts. Stillwater shall record the by-laws with the County Auditor upon their approval by the county and adoption by the homeowners' association.

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[45] SCC 30.41C.090(1).

[46] SCC 30.41C.110(1).

35. Stillwater shall have conveyed tract 999 to the homeowners' association, recorded the conveyance instruments, and provided PDS with copies of the recorded instruments.

36. Stillwater shall have prepared covenants, conditions, and restrictions that:

    a. Identify the rights and responsibilities of the property owners and the homeowners' association for use and maintenance of common vehicle access areas, on-site recreation areas, landscaping, underground utilities, and common open space.

    b. Restrict use of the tracts to the uses specified in the approved preliminary plat and rural cluster development site plan and require compliance with the county regulations and conditions of final subdivision approval.

    c. State they are binding upon and inure to the benefit of the homeowners' association, the owners of all the lots within the subdivision, and all others having any interest in the tracts or lots.

    d. State that the county is an intended beneficiary of the covenants, conditions, and restrictions with the right to enforce them

37. After approval by the county, Stillwater shall record the covenants, conditions, and restrictions with the County Auditor and provide a copy of the recorded document to PDS.

38. Stillwater shall have provided the Health Department:

    a. An application for final subdivision review accompanied by the final plat map and review fee.

    b. Accurate-to-scale designs for each proposed lot, demonstrating area for a minimum 450 gallon/day on-site sewage system plus a 100% on-site sewage system reserve area. On-site sewage systems must be located within areas of approved soil log test holes and meet all minimum horizontal setback requirements. Designs must show all features that may affect placement of on-site sewage systems such as wetlands, drainage systems, surface water, cuts in topography, critical area protection areas, easements, building structures, driveways, etc.

39. All street signage shall have been installed. County forces will install public roads signage, and Stillwater shall install private road signage.

40. Any fire lane signage shall have been coordinated with the Fire Marshal's Office and installed.

41. All common area landscaping depicted on the approved plans shall have been installed, inspected, and approved unless deferral of the improvements is allowed by PDS and a bond or

guarantee of performance is submitted to PDS. A qualified landscape designer shall certify that landscaping is installed per the approved plan.

42. Any required site improvements, fencing, recreation facilities, open space and landscaping depicted on the approved plans shall have been installed, inspected and approved unless deferral of the improvements is allowed by PDS and a bond or guarantee of performance is submitted to PDS.

43. The road establishment and construction of 52nd St. SE shall have been completed and accepted by the county.

44. Pedestrian facilities shall have been constructed to the reasonable satisfaction of the county from the subject development on 52nd St SE to Dubuque Road or other location that has been accepted by the Snohomish School district and Snohomish County.

45. Stillwater shall possess a valid, signed plat name reservation.

E. Building Permits

46. Building permit applications shall include architectural plans complying with bulk regulations of chapter 30.23 and 30.41C SCC.140.

47. Front yard setbacks shall vary a minimum of 10 feet from those structures on adjacent lots.

48. Prior to building permit issuance, Stillwater shall have paid the impact fees described in conditions 22 (park and recreation facility mitigation fee), 23 (road system impact mitigation fee), and 21 (school district impact mitigation fee), unless allowed by county code to pay after building permit issuance.

F. Prior to Earlier of Any Certificate of Occupancy or Building Permit Final Inspection

49. New lots' access to the new roads shall have been paved.

50. Stillwater shall have provided to PDS copies of completed third-party certification checklists and proof of payment for review and certification.

G. Expiration

51. Approved preliminary plats are valid for five (5) years from the date of approval and must be recorded within that time unless an extension has been requested and granted pursuant to SCC 30.41A.300 or SCC 30.70.140(1) (table).

Decision issued this 24th day of March, 2026.

Peter B. Camp
Snohomish County Hearing Examiner

RECONSIDERATION AND APPEAL PROCEDURES

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 Hearing Examiner and Council Rules of Procedure.

Reconsideration—Who May Petition and Deadline

Any party of record may request reconsideration by the Hearing Examiner by filing a petition for reconsideration no later than **April 3, 2026.**

Filing

A petition for reconsideration must be filed in writing. A petition for reconsideration is deemed filed when:

(a) the original paper is delivered in person, by messenger, or by courier to the Office of Hearings Administration, 1st Floor, Administration West building, 3000 Rockefeller Avenue, Everett, Washington, before or at 4 p.m. on the day of the deadline;

(b) the original paper mailed to the Office of Hearings Administration, M/S No. 405, 3000 Rockefeller Avenue, Everett WA 98201 is postmarked by the United States Postal Service on or before the day of the deadline, though the postal service may deliver such postmarked original after the day of the deadline; or

(c) the emailed petition to Hearing.Examiner@snoco.org is timestamped as sent on or before midnight of the deadline day.

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 (including the applicant) on the date of filing. SCC 30.72.065. The petitioner for reconsideration shall file with the Office of Hearings Administration a declaration of service under penalty of perjury describing the documents served, the parties or persons served, and the method of service. A sample form is available from the Clerk upon request.

Contents

A petition for reconsideration does not have to be in a special form but must:

(a) Contain the petitioner's name, petitioner's mailing address, petitioner's daytime telephone number, and the signature of the petitioner or of the petitioner's attorney, if any;

(b) Identify the specific findings, conclusions, actions, and conditions for which reconsideration is requested;

(c) State the relief requested; and,

(d) If applicable, identify the specific nature of any newly discovered evidence and changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

(a) The Hearing Examiner exceeded his jurisdiction;

(b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;

(c) The Hearing Examiner committed an error of law;

(d) The Hearing Examiner's findings, conclusions, or conditions are not supported by the record;

(e) The petitioner discovered new evidence which could not reasonably have been produced at the hearing and which is material to the decision; 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 **on or before April 7, 2026.** If the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been decided by the Hearing Examiner. An aggrieved party may file an appeal directly to the County Council without first filing a petition for reconsideration. 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, 2nd Floor, Administration West building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S 604, 3000 Rockefeller Avenue, Everett, WA 98201), and shall be accompanied by a filing fee in the amount of five hundred dollars ($500.00) for each appeal filed. A county department does not need to pay the filing fee. The filing fee shall be refunded in any case where an appeal is summarily dismissed in whole without hearing under SCC 30.72.075.

Appeals may be accepted electronically by the Planning and Development Services Department and paid for by credit card over the phone as follows:

1. Scan the original manually signed (handwritten) copy of the appeal document;

2. Send your appeal as an email attachment to epermittech@snoco.org. Please include your phone number where you can be reliably reached.

3. Staff will call you to collect your credit card information and process your payment.

4. Mail the original to Snohomish County PDS, 3000 Rockefeller M/S 604, Everett, WA 98201.

An appeal must contain the following items in order to be complete: (a) a detailed statement of the grounds for appeal; (b) a detailed statement of the facts upon which the appeal is based, including citations to specific Hearing Examiner findings, conclusions, exhibits or oral testimony; (c) written arguments in support of the appeal, including all legal arguments on which the appeal is based; (d) the name, mailing address and daytime telephone number of each appellant or appellant's representative, together with the signature of at least one of the appellants or the appellant's representative; and (d) the required filing fee. SCC 30.72.080(1).

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, or conditions are not supported by substantial evidence in the record.

SCC 30.72.080(2). 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: Stacey Abbott

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.

Before the
HEARING EXAMINER
Snohomish County, Washington
LIST OF EXHIBITS & WITNESSES

Applicant: **Stillwater Preserve LLC**
Case No.: **25 101010 PSD**
Project Name: **Stillwater Preserve RB**

EXHIBITS: **Submitted for the open record hearing on February 10, 2026:**

A. APPLICATION:
- A.1 Master Permit Application, filed 1-13-25
- A.2 Project Narrative dated 1-6-25, received 9-9-25
- A.3 Signing Authority Information and Corporation Information
- A.4 Plat Name Reservation Certificate, expires February 19, 2026

B. PLANS:
- B.1 Plat Map, Site Plan received 9-9-25
- B.2 Preliminary Civil Drawings received 11-25-26
- B.3 Landscape Plans received 9-9-25
- B.4 Open Space Management Plan received 9-9-25

C. REPORTS:
- C.1 Traffic Report received 1-13-25
- C.2 Targeted Drainage Report revised and received 11—25-25
- C.3 Geotechnical Report dated 1-2-22, 7-24-25, and 11-6-25
- C.4 Critical Area determination report received 1-13-25

D. PROPERTY:
- D.1 Ownership – Zoning Map
- D.2 Aerial Map
- D.3 Verification of Legal Description

E. ENVIRONMENTAL:
- E.1 SEPA Exemption Determination, dated 1-27-26

F. NOTICE AND ROUTING DOCUMENTS:
- F.1 Notice of Application
- F.2 Affidavit of Mailing – Notice of Open Record Hearing, Threshold Determination, and Concurrency and Traffic Impact Fee Determinations
- F.3 Affidavit of Notification (publication) – Notice of Open Record Hearing, Threshold Determination, and Concurrency and Traffic Impact Fee Determinations
- F.4 Posting Verification – Notice of Open Record Hearing, Threshold Determination, and Concurrency and Traffic Impact Fee Determinations

G. OTHER SUBMITTAL ITEMS:

G.1 EDDS Deviation 25-114525 WMD
G.2 EDDS Deviation 24-118579 WMD

H. GOVERNMENT / TRIBAL COMMENTS:

H.1 Health Dept. approval 7-30-25
H.2 P.U.D. Electric dated 2-6-25 and Water unavailability dated 8-25-25
H.3 Snohomish School District email from Veronica Schmidt to Ry McDuffy, dated 11-4-25
H.4 WSDOT no comment, dated 1-27-25
H.5 Fire Review Memo, dated 10-7-25
H.6 Traffic Review Memo, dated 1-22-25
H.7 SUPERSEDED Drainage Review Memo, dated 12-9-25
H.8 Critical Areas Review Memo, dated 2-4-25

I. PUBLIC COMMENTS

I.1 Email from Abbey, Sally, received 2-4-25
I.2 Email from Bochan, Tamara, received 2-25-25
I.3 Email from Stevens, Cameron, and Bochan, Patty, received 2-13-25
I.4 Email from Walker, Katey, received 2-14-25
I.5 Letter from Loch, Andy dated 1-28-26

J. RESPONSE TO AGENCY / PUBLIC COMMENTS:

J.1 Applicant response to public comments

K. STAFF RECOMMENDATION - Department of Planning and Development Services

K.1 SUPERSEDED Staff Recommendation

L. RECEIVED BY THE HEARING EXAMINER PRIOR TO AND DURING HEARING

L.1 REVISED Drainage Review Memo, filed 2-6-26
L.2 Applicant response to public comment, 2-3-26
L.3 EDDS Staff Recommendation related to G.1, 9-8-25
L.4 REVISED Staff Recommendation
L.5 Abbey Comments 2-9-26
L.6 Quit Claim Deed: Boundary Line Adjustment, recorded 10-16-25
L.7 Applicant Robinett Submittal: Well Log WG55900 dated 5-17-25, filed 2-10-26
L.8 Applicant Robinett Submittal: Well Log WE49615 dated 7-29-22, filed 2-10-26
L.9 Applicant Robinett Submittal: Well Log WE55901, undated, filed 2-10-26

L.10 2nd REVISED Drainage Review Memo, filed 2-10-26
L.11 Cameron Stevens, Stevens Property in Relation to Stillwater, Unique Well #BPE909
L.12 Cameron Stevens, Certificate of Well Analysis, dated 4/2/24

M. RECORD REMAINED OPEN UNTIL FEBRUARY 23, 2026, AND RESPONSE DUE FROM APPLICANT MARCH 2 FOR SUBMITTAL OF THE FOLLOWING:

Clerk notes: LEED, build green cert/vesting date opinion. Code **30.41C.030-.040**
Safe walking conditions, analysis

M.1 PDS, Applicant Joint Request for more response time, filed 2-13-26
M.2 HE Scheduling Order, issued 2-17-26
M.3 Andy Loch Comment, 2-23-26
M.4 PDS Response, with 8 attachments, filed 2-23-26
M.5 Applicant Response, with Exhibits A-F, filed 3-3-26

WITNESSES AT THE HEARING ON FEBRUARY 10, 2026

Marty Robinett, Applicant
Stacey Abbott, PDS Senior Planner
Rachael Carrigan, PDS Traffic Review Engineer
Ry McDuffy, Land Resolutions
Joe Smeby, Omega Engineering
Drew Bradshaw, PDS Drainage Review Engineer

PUBLIC COMMENT

Cameron Stevens, email address on file

POR & AGENCY REGISTER
25-101010 PSD
Stillwater Preserve
Hearing: 02/10/2025 at 01:00 p.m.

Organization	Name	Address	City	State	Zip	Email	Service by
APPLICANT(s)							
Stillwater Preserve LLC	Marty Robinett					marty@robinettland.com	**email**
CONTACT PERSON(s)							
Land Resolutions	Ry McDuffy					ry@orcalandsurveying.com	**email**
OWNERS	Stillwater Preserve LLC					ginger@robinettland.com	**email**
GOVERNMENT/TRIBES							
SNO CO PLAN & DEV/LAND USE	Stacey Abbott	3000 Rockefeller Av #604	Everett	WA	98201	stacey.abbott@snoco.org	**email**
SNO CO DEPT OF PUBLIC WORKS	Doug McCormick	3000 Rockefeller Ave #607	Everett	WA	98201	doug.mccormick@sno.org	**email**
SNOHOMISH HEALTH DISTRICT	RAGINA GRAY	3020 Rucker Ave Suite #104	Everett	WA	98201	Ragina.Gray@co.snohomish.wa.us	**email**
SNO CO PUD NO 1	Mark Flury	PO BOX 1107	Everett	WA	98206-1107	MLWicklund@SNOPUD.com>	**email**
WA STATE OF TRANSPORTATION	DAWN ANDERSON	PO BOX 330310	Seattle	WA	98133-9710	dawn.anderson@wsdot.wa.gov	**email**
PUBLIC COMMENT							
	Sally Abbey					sally@sallyabbeyarts.com	**email**
	Katey Walker					kateygwalker@yahoo.com	**email**
	Jean Bochan					tamarabochan@gmail.com	**email**
	Cameron Stevens and Pa	4726 211 ave se	Snohomish	WA	98290	cameronstevenslandscape@gmail.com	**email**

Snohomish County
Departments of Planning and Development Services and Public Works

STAFF RECOMMENDATION

SUMMARY

FILE NUMBER:	25-101010 PSD
APPLICATION VESTING DATE:	January 22, 2025
PROJECT NAME:	Stillwater Preserve RB
APPLICANT:	Stillwater Preserve LLC 2805 Colby Avenue STE 304 Everett, WA 98201
PROJECT MANAGER	Stacey Abbott
HEARING DATE:	February 10, 2026
TYPE OF REQUEST:	Preliminary rural cluster subdivision approval of a 14-lot subdivision.
RECOMMENDATION:	Approve with Conditions

PROPERTY INFORMATION

Tax Parcel Numbers	005975-000-012-00
Location	South of Dubuque Road, between 200th Drive SE and 211th Ave SE, Snohomish, WA 98290
Section/Township/Range	31-29-7
Acreage	52.82 Acres
Current Zoning	R-5
Municipal Urban Growth Area	Not in a Municipal Urban Growth Area
County Urban Growth Area	Not in an Urban Growth Area
County Comprehensive Plan Designation	Rural Residential (1 DU/5 Acres Basic)
School District	Snohomish School District 201
Fire District	Fire District 16
Water Service	SnoPUD Integrated 3
Sewer Service	Not in a sewer district
Electrical Service	Snohomish County Public Utility District No. 1
Park Service Area	Centennial
Transportation Service Area	C

FINDINGS OF FACT

Background Information

Applicant's Proposal

The applicant is requesting preliminary rural cluster subdivision approval to subdivide 52.82 acres into a 14-lot development, in one phase in accordance with Chapter 30.41A and Chapter 30.41C of Snohomish County Code (SCC). The proposal includes new access via a proposed public road and private shared driveways and driveways. Water will be provided by Snohomish County PUD. A preliminary subdivision is a Type 2 application. Type 2 applications are subject to a decision made by the Hearing Examiner after an open record hearing pursuant to SCC 30.72.025.

Project Chronology

The preliminary subdivision was originally submitted to Snohomish County Planning and Development Services (PDS) and was determined on January 22, 2025 (the date applicable fees were paid) to be complete for regulatory purposes. However, after reviewing the application PDS determined the application needed corrections and additional information prior to a scheduling of a public hearing. Resubmittals of the application were received on September 9, 2025, and November 25, 2025. On December 10, 2025, PDS determined the application to be sufficient for scheduling of a public hearing.

Site Description

The site boundary is rectangular in shape with a small panhandle and consists of one parcel. The whole site is currently vacant and heavily forested. The subject site is generally follows the crest of a hill that runs from the northwest to the southeast of the site. The area of the site on either side of the hill slopes significantly down into wetlands or offsite. The wetlands encompass the southwest, west, and northwest portions of the site.

Zoning

The site is zone Rural-5 Acre (R-5) and all adjacent properties are also zoned R-5. Adjacent properties are either forested or consist of rural residential uses.

Issues of Concern

There were written public comments received. Topics of concern are summarized as follows:

- Wetland buffers and protections
- Wildlife
- Impact on existing well and water quality
- Increase in traffic

The applicant has provided written documents[1] in response to these concerns.

Project Consistency with Adopted Codes and Policies

Chapter 30.22 SCC Uses Allowed in Zones

"Dwelling, single family" is an allowed use in the R-5 zone per SCC 30.22.110.

Chapter 30.23 SCC General Development Standards – Bulk Regulations

Minimum Lot Size, Setbacks, Height, and Lot Coverage

In accordance with SCC 30.23.030, 30.23.040(24)(46), 30.23.043, 30.23.049(11), and 30.41C.130 the following bulk requirements apply to the development site:

- Minimum Lot Size: 20,000 square feet.
- Minimum Lot Width: 125 feet.
- Maximum building height is 45 feet.
- Maximum lot coverage is 35 percent.
- Building setbacks from side property lines are 10 feet.
- Building setbacks from rear property lines are five feet.
- Building setbacks from the public road are 20 feet with a ten-foot variation in setback between adjacent lots.

The preliminary plat map[2] and the project narrative[3] provided by the applicant show that these bulk regulations can be met. Recommended conditions have been included to require that all new structures comply with the applicable bulk regulation standards found in Chapter 30.23 SCC and SCC 30.41C.130.

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[1] Exhibit J.1

[2] Exhibit B.1

[3] Exhibit A.2

Building height and minor architectural exceptions are determined in accordance with SCC 30.23.050 and SCC 30.23.115. Compliance with all requirements will be verified at the time of building permit application.

Chapter 30.24 SCC General Development Standards – Access and Road Network

The proposed development will take access from 211th Avenue SE, an existing public road right-of-way (ROW). The primary on-site road network element will be a new public road, 52nd Street SE that will extend from 211th Street SE to the southeast corner of the subject site across three neighboring parcels and a section of unopened county right-of-way (ROW). Internal access will then extend north via another new public road, 206th Drive SE. Each lot will access the new public road via private shared driveway or driveway. The proposed access conforms to the requirements in SCC 30.24.020.

Pedestrian facilities will be provided on the south side of both 52nd Street SE and 206th Drive SE. See the traffic mitigation section (Chapter 30.66B SCC) for further discussion on pedestrian facilities.

Chapter 30.25 SCC General Development Standards – Landscaping

The landscape plan[4] submitted on September 9, 2025, demonstrates compliance with the provisions of Chapter 30.25 SCC.

Additional Landscaping Requirements for Rural Cluster Subdivisions – SCC 30.25.033

To protect and enhance rural character, landscaping for rural cluster subdivision development under Chapter 30.41C SCC shall provide screening to minimize the visibility of rural cluster subdivisions from adjoining roadways and from adjacent residential property. While 100 percent screening is not necessary, the view of new development should be softened and minimized to the greatest extent possible.

In accordance with SCC 30.25.033(1) the applicant has provided calculations on the site plan that show roughly 65 percent of the exiting tree canopy is proposed to remain once the site is developed. Almost all of this retained tree canopy will be permanently protected as part of site obscuring buffers, restricted open space, and critical area protection areas (CAPA) located in Tracts 999. Pursuant to SCC 30.25.033(2) all proposed setback and permitter buffers provide adequate visual screening through the retention of the exiting tree canopy. Additional visual screening is not required for this project; however, existing vegetation should be maintained. The applicant has provided landscaping detail on the site plan in the even that new plantings are needed in the future. SCC 30.25.033(3)(4-6) do not apply since no additional screening is proposed.

As proposed, all trees within the setback and perimeter buffers will be retained pursuant to SCC 30.25.033(7), as part of Tract 999. Given that existing vegetation will be preserved, the proposal complies with SCC 20.25.033(7), as any non-native vegetation that might exist on the site will be preserved in these open space tracts in accordance with SCC 30.25.033(8).

Landscaping Installation – SCC 30.25.043

[4] Exhibit B.3

The qualified landscape designer shall certify that the landscaping is retained per the landscape plan and in compliance with code. This will be verified prior to the final inspection of the LDA permit. A recommended condition states that all existing vegetation shown to meet landscaping requirements of Chapter 30.25 SCC, shall be retained in accordance with the site plan, and the qualified landscape designer shall certify that the retention of the vegetation complies with the code and the approved plans.

Landscaping Maintenance – SCC 30.25.045
Any dead or significantly damaged plants or landscaping material shall be replanted within three months of death or damage unless a planting delay is approved by PDS. In the instance of a planting delay, PDS may require a maintenance security device.

Chapter 30.26 SCC General Development Standards – Parking

SCC 30.26.030 requires each dwelling unit to provide two parking stalls. A total of 14 dwelling units are proposed; therefore, a total of 28 parking stalls are required. The preliminary plat map[5] shows that at least two parking spaces are feasible on each proposed lot. Final parking stall locations will be verified at building permit submittal.

Chapter 30.41A SCC Subdivisions

The proposed rural cluster subdivision meets Chapter 30.41A SCC requirements. Any discrepancy between the content of the preliminary plat map and the performance standards of Title 30 SCC shall be resolved in favor of Title 30. Revisions to approved preliminary plat are governed by SCC 30.41B.310.

Procedure and Special Notice Requirements (SCC 30.41A.040)
Subdivisions are processed as Type 2 applications that the Hearing Examiner may approve, approve with modifications, or deny, or deny without prejudice per Chapter 30.72 SCC.

Subdivision Name Reservation (SCC 30.41A.060)
Stillwater Preserve RB name reservation[6] was received and that reservation will expire February 19, 2026.

Decision Criteria – General (SCC 30.41A.100)
The preliminary subdivision application shall be approved only if the Hearing Examiner finds that the criteria in SCC 30.41A.100(1-5) have been met.

Regarding SCC 30.41A.100(1) this proposal makes appropriate provisions for public health, safety, and general welfare; for open spaces and other recreation facilities, site drainage, access, public transit; potable water supplies; sanitary wastes; sites for schools and school grounds; fire protection; and other public facilities as discussed throughout this recommendation. PDS has considered relevant facts, including the physical characteristics of the site, as well as other planning features that assure safe walking conditions for students who walk to and from school, and has determined the public interest will be served by the subdivision.

SCC 30.41A.100(2) states that the Hearing Examiner can approve or deny a proposed preliminary subdivision based on whether the subdivision makes appropriate provisions for the matters listed in SCC 30.41A.100(1) and whether the subdivision conforms to all applicable

[5] Exhibit B.1
[6] Exhibit B.3

development regulations and construction codes. The subdivision makes appropriate provisions for the matters listed in SCC 30.41A.100(1), and the subdivision conforms with all applicable development regulations and codes.

Regarding 30.41A.100(3), the subdivision will provide adequate dedication of land and payment of fees to all affected public bodies, with the recommended conditions herein. See the Traffic Mitigation (Chapter 30.66B SCC), School Mitigation (Chapter 30.66C SCC), and Park Service Mitigation Sections (Chapter 30.66A SCC) for more discussion on this topic.

Regarding SCC 30.41A.100(5) the proposed subdivision is not located on any forest, agricultural, and mineral lands and, therefore, will not conflict with the regulations of Chapters 30.32A, 30.32B, and 30.32C SCC.

With recommended conditions of approval, the proposed subdivision complies with the decision and general criteria requirements under SCC 30.41A.100 with respect to health, safety, and general welfare of the community, as well as the applicable decision criteria and design standards of SCC 30.41A.100 - 200 and 210 - 250. The development is not within a special flood hazard area, shoreline management area or airport compatibility area.

The proposed subdivision, with the recommended conditions of approval, will conform to applicable zoning codes and the Snohomish County Comprehensive Plan. The proposed subdivision will meet design standards for roads, storm drainage, landscaping, critical areas, and fire protection. There will be open space within the proposed subdivision in the form of open space tracts. Confirmation of availability of water and electrical service to the project has been obtained from the respective local utility purveyors.

Chapter 30.41C SCC Rural Cluster Development

The subject rural cluster subdivision (RCS) application has been reviewed for compliance with the RCS standards in Chapter 30.41C SCC. The applicant has provided the information required in the project narrative[7], preliminary plat map and site plan[8], and in an open space management plan[9] (OSMP) that is to be recorded and implemented. The proposal meets requirements for open space and bulk regulations, lot yield, and bonus residential density.

Applicability (SCC 30.41C.020)

The proposed RCS is eligible for subdivision in accordance with SCC 30.41C.020 as the property is zoned R-5 and located with a land use designation of Rural Residential (1 DU/5 Acres).

Approval Procedure

Conditions of approval for the subdivision or short subdivision shall require that all lots containing new buildings provide proof of enrollment in a third party certification program prior to issuance of individual building permits. Options for third-party certification are:

(a) Built Green Single Family/Townhome certification for building permits; (b) LEED Home certification for building permits; or (c) Additional third party certification as approved by the director and adopted through administrative rule. A recommended condition has been included.

Site Planning Principles (SCC 30.41C.050)

[7] Exhibit A.2

[8] Exhibit B.1

[9] Exhibit B.4

As conditioned, the RCS application can meet all the applicable site planning principles contained in SCC 30.41C.050. As shown on the site plan[10] existing vegetation, and other features, will be retained in such a way that provides an appearance similar to predevelopment, blends the development into the existing rural landscape, softens and minimizes the view of new development, retains over 50 percent of the existing tree canopy, and maintains a rural character (Principles 1-5). Furthermore, the lots will be configured in such a way as to maintain natural features and minimize topographic alteration, maintain visual diversity and dominance of natural features and, to the extent possible, provide connectivity to the natural habitat and wildlife corridors (Principles 6-8). Both the land disturbing activity and construction phasing will be done in one phase (Principle 9). Low impact development best management practices (Principle 10) are discussed further is the drainage section (Chapter 30.63A SCC) below.

Site Design and Development Standards - General (SCC 30.41C.070)

With recommended conditions, the RCS application can also meet all the applicable site planning principles contained in SCC 30.41C.070. The proposed plat complies with SCC 30.41C.070(1) as the preliminary plat map shows all lots will be clustered together. As shown on the preliminary plat map, the proposed cluster does not exceed 14 lots and includes more than two lots. The preliminary plat map shows that the front yard setbacks of each lot can vary a minimum of 10 feet from those structures on adjacent lots. Critical areas onsite will be permanently protected in Tracts 999, and no cluster is within 100 feet of designated natural resource lands. As discussed throughout this decision, much of the tree canopy on the site will be retained. The subject proposal, as conditioned, complies the requirements of SCC 30.53A.514 (See the Fire Code - Chapter 30.53A SCC section for more information) thus complying with SCC 30.41C.070(2).

In accordance with SCC 30.41C.070(3)(a), all utilities shall be located underground. This development will not be connected to sanitary sewer in compliance with SCC 30.41C.070(3)(b). A lighting plan was not provided for this development. If a plan is submitted at a later point it shall comply with SCC 30.41C.070(3)(c). The entrance sign plan submitted on the preliminary plat map complies with SCC 30.41C.070(3)(d) and SCC 30.27.060. The applicant shall continue to comply with these code regulations at sign permit submittal. SCC 30.41C.070(3)(e) requires that rural cluster subdivisions draw water supply from a public water utility if one is available within one-quarter mile of the project site as measured along the existing right-of-way. Water service will be provided by individual wells since water service[11] is not available within a quarter mile of the site

Site Design and Development Standards – Buffer and Open Space (SCC 30.41C.075)

With recommended conditions, the proposed development meets all the applicable site design and development standards contained in SCC 30.41C.075. As shown on the site plan a 100-foot site obscuring buffer is created through Tracts 999 where 52nd Street SE enters the site and along the western property line of the subject site where there is adjacent ROW. A 60-foot site obscuring buffer has been established along the perimeter of the subject site through site occurring buffer established in Tract 999. Only one cluster is proposed; therefore SCC 30.41C.075(3) is not applicable. Over 45 percent of the site will remain open space and all other requirements related to SCC 30.41C.075(4) are met as all lots are adjacent to Tract 999.

Site Design and Development Standards – Roadways, Gateways and Pedestrian Paths (SCC 30.41C.080)

[10] Exhibit B.1

[11] Exhibit H.2

With recommended conditions, the proposed development meets all the applicable site planning principles contained in SCC 30.41C.080. Access is provided via 52nd Avenue SE and 206th Drive SE which are proposed to be public road and will be designed to public road standards. Internal access to 206th Drive SE will be via shared driveway or driveway, in accordance with the Snohomish County Engineering, Design and Development Standards (EDDS), and Chapter 30.24 SCC. Only one access point is proposed at 211th Avenue SE.

Open Space Ownership and Maintenance (SCC 30.41C.090 through 30.41C.120)

In accordance with SCC 30.41C.090 all rural cluster subdivisions shall establish and maintain restricted open space as defined by SCC 30.41C.090(2). This restricted open space shall be held in separate tracts or lots. As shown on the site plan, restricted open space requirements are met through the placement of roughly 67 percent of the site in Tract 999 which is established for restricted open space uses and CAPA. This exceeds the 45 percent minimum threshold established in SCC 30.41C.090(3) for R-5 zoned properties. Over 30 percent of this restricted open space will be left undisturbed (CAPA areas) and more than 25 percent of the restricted open space tracts will be accessible to the development as a whole. No portion of the site is considered unbuildable as defined by SCC 30.91U.060. Restricted open space tracts are almost all completely forested or vegetated, maintaining the rural character. Pursuant to SCC 30.41C.090(6), Condition _ requires that the following notice be filed on the title of the properties within the plat and shall be placed on the face of the final plat:

"Tract 999 is a restricted open space tract with limited uses pursuant to chapter 30.41C SCC. The open space tract is intended to be preserved in perpetuity."

In accordance with SCC 30.41C.120, an open space management plan[12] was submitted by the applicant. This open space management plan (OSMP) is compliant with the requirements SCC 30.41C.120(1). A recommended condition has been included to require a final OSMP be recorded, as a separate document from the subdivision, prior to final plat approval. Also requires that the recording number for the final OSMP shall be referenced on all property deeds arising from the rural cluster subdivision and copies of the management plan shall be provided to property owners with ownership documents. The OSMP states maintenance of the open space tracts will be minimal as it consists of existing vegetation. Maintenance will be the responsibility of the current property owner until such time that full responsibility is transferred to the Homeowner's Association as described in the OSMP. Staff find the parties designated as responsible for maintenance of designated open space can perform this function.

Rural Cluster Bulk Regulations (SCC 30.41C.140)

The proposed development complies with the bulk regulations of this section as discussed in depth as part of the Bulk Regulations Section (Chapter 30.23 SCC).

Design Standards – Lot Yield and Bonus Residential Density (SCC 30.41C.230 through 30.41C.240)

The following information is related to lot yield and density bonuses:

Total Project Area = 2,338,538 divided by 200,000 = 11.69 units
Required Open Space (45 percent of gross area) = 1,052,342 square feet
Restricted Open Space provided = 1,541,055 square feet or 67 percent of the gross site area.
11.7 units multiplied by 1.35 (density bonus) = 15.52 units*.
*When this lot yield is rounded to the tenth decimal place the lot yield is rounded up to 11.7 units. According to SCC 30.41C.230(4) whenever the resulting yield results in a fractional

[12] Exhibit B.4

equivalent of 0.5 or greater, the yield shall be rounded up to the next whole number. In this case the next whole number is 16.
Maximum density allowed = 16 lots
Lots proposed = 14 lots

Based on the above calculations for lot yield and bonus residential density and confirmed on the site plan, this project is compliant with SCC 30.41C.230 and SCC 30.41C.240. No duplexes were proposed as part of these calculations; therefore, recommended.

Chapter 30.53A SCC Fire Code

The proposed project was reviewed for consistency with the adopted International Fire Code and Snohomish County Fire Code. The applicant has sufficiently demonstrated that the development can provide adequate fire apparatus access and sufficient fire protection water supply.

The Snohomish County Fire Marshal's Office provided a review memo[13] dated October 7, 2025, which outlines how each specific code section is met and provides recommended conditions of approval. These recommended conditions are incorporated into this recommendation.

Chapter 30.61 SCC Environmental Review (SEPA)

This project is exempt from SEPA review per the minor new construction exemption per SCC 30.61.035(1). An exemption[14] has been provided in the record.

Chapter 30.62A SCC Wetlands and Fish and Wildlife Habitat Conservation Areas

The proposed project was reviewed for compliance with the Snohomish County regulations related to Wetlands and Fish and Wildlife Habitat Conservation Areas. Both existing on-site conditions and submitted critical area report[15] was reviewed in addition to available critical areas GIS data and historical information.

As described in the Snohomish County Environmental Planner's Memo[16] dated February 4, 2025, the proposal will comply as conditioned with Chapter 30.62A SCC (Critical Areas Regulation/Wetlands and Fish & Wildlife Habitat Conservation Areas) 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. Conditions of approval from the memo are included with this recommendation.

Chapter 30.62B SCC Geologically Hazardous Areas
Chapter 30.62C SCC Critical Aquifer Recharge Areas
Chapter 30.63A SCC Drainage
Chapter 30.63B SCC Land Disturbing Activities

The proposed project was reviewed for compliance with the Snohomish County stormwater regulations and drainage manual and has been found to be compliant with these stormwater discharge regulations that prevent and control adverse impacts of drainage and stormwater on the public health safety, and general welfare, consistent with the provisions of the Federal Clean Water Act.

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[13] Exhibit H.5
[14] Exhibit E.1
[15] Exhibit C.4
[16] Exhibit H.8

The Snohomish County Drainage Review Memo[17] dated December 9, 2025. outlines how the project can feasibly fulfill the requirements of the Snohomish County Code and policies, including the Snohomish County Drainage Manuel and Engineering Design and Development Standards. The memo also outlines how the project is consistent with the minimum requirements 1-9 of the Snohomish County Drainage Manual**.** Conditions of approval from the memo are included with this recommendation.

Chapter 30.66A SCC Park and Recreation Facility Impact Mitigation

The proposal is in the Centennial Park Service Area and is subject to Chapter 30.66A SCC. This requires payment of impact fees at the rate in effect at the time of filing a complete application for the development; however, if the building permit is not issued within five years after the application is deemed complete, the fee will be based upon the rate in effect at the time of the building permit application. Payment is required prior to building permit issuance unless deferral of a fee payment is requested by the applicant and approved by PDS pursuant to SCC 30.66A.020(4). Based on the fee schedule in effect on January 22, 2025, the impact fee for townhouse units in Centennial Park service area is $681.97 per dwelling unit. Such payment is acceptable mitigation for parks and recreation impacts in accordance with county policies and is included as a recommended condition.

Chapter 30.66B SCC Traffic Mitigation

Traffic impacts of the proposed project were analyzed and reviewed for consistency with the traffic mitigation regulations of the Snohomish County Code (SCC) Chapter 30.66B and for access and road network requirements Chapter 30.24 SCC as well as the Snohomish County Engineering Design and Development Standards (EDDS). Specifically, the development meets or is conditioned to meet the following:

- Traffic Concurrency
- Inadequate Road Conditions (IRC)
- Road System Impact Fee
- Frontage improvements
- Access and Circulation requirements
- Right-of-way deeding/dedication
- Transportation Demand Management (TDM)
- Impacts of State Highways or Other Jurisdictions Streets and Roads
- Pedestrian Facilities (including safe walking routes to schools or bus stops)
- Bicycle Facilities

The Snohomish County PDS Transportation Reviewer Memo[18] dated December 4, 2025, describes how the proposed development complies or is conditioned to be in compliance with the transportation impact mitigation and concurrency Chapter 30.66B of the Snohomish County Code. Additionally, the memo discusses EDDS deviations PFN 25-114525 WMD[19] and 24-118579 WMD[20]. Conditions of approval from the memo are included with this recommendation.

[17] Exhibit H.7

[18] Exhibit H.6

[19] Exhibit G.1

[20] Exhibit G.2

Chapter 30.66C SCC School Impact Mitigation

In accordance with Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Snohomish School District 201 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 the one existing lot. A recommended condition of approval has been included to comply with the requirements of Chapter 30.66C SCC.

Utilities

The Snohomish County Health Department has provided an approval memo[21] dated July 30, 2025. Snohomish County Public Utility District has provided a letter[22] stating that the district has capacity to serve the proposed development.

CONCLUSIONS

A. The proposed development 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.

B. Adequate public services will be available to the property.

C. If approved with the recommended conditions, the proposal would comply with county codes and regulations, which will assure adequate provisions for public health, safety, and general welfare.

D. The development has been deemed concurrent. This concurrency decision may be appealed pursuant to SCC 30.66B.180. The decision applying a traffic impact fee under Chapter 30.66B SCC may be appealed pursuant to SCC 30.66B.370.

STAFF RECOMMENDATION

Snohomish County Planning and Development Services hereby recommends APPROVAL of the requested Rural Cluster Subdivision with the following conditions:

Conditions

A. General

1. The preliminary plat and site plan received by Snohomish County Planning and Development Services on September 9, 2025, shall be the approved preliminary plat map under 30.41A SCC for the development. configuration. Any discrepancies between the approved preliminary plat map and Title 30 SCC shall be resolved in the favor of title 30 SCC.
2. The front yard setbacks shall vary a minimum of 10 feet from those structures on adjacent lots.

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[21] Exhibit H.1

[22] Exhibit H.2

3. All water, sewer, electrical and communication distribution and service lines shall be underground except as may be allowed per SCC 30.23A.110(1) or 30.23A.110(2).

4. 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.

5. All common areas and elements of the development including within tracts shall be held by a homeowners' association or by all the owners of the individual unit lots.

B. Prior to Any Site Disturbance

Prior to any development activity on the site except surveying and marking:

6. The applicant must obtain one or more land disturbing activity permits as required by Chapters 30.63A and 30.63B SCC

7. A right-of-way use permit is required for work within the county and State road right-of-way.

8. Board feet of timber harvesting calculations are required to be submitted when applying for the Land Disturbing Activity (LDA) permit on the LDA application form. If harvesting more than 5,000 board feet of timber, a Class IV General- Forest Practices Activity permit would need to be applied for. If selling, bartering, or trading any amount of timber (i.e., not harvesting) then a Forest Practices Activity – Class IV General Conversion permit would be required to be applied for.

9. The design and proposed locations for the CAPA signs shall be submitted to Planning and Development Services (PDS) Permitting for review and approval prior to installation.

10. The project proponent shall mark with temporary markers in the field the boundary of all Critical Area Protection Area/Easements (CAPA/E) required by Chapter 30.62A SCC, or the limits of the proposed site disturbance outside of the CAPA/E, using methods and materials acceptable to the county.

11. A split rail fence and specifications for the rail fence shall be included for review and approval upon submittal of the LDA during the construction review phase of this project. The fence shall be designed in accordance with SCC 30.62A.320(1)(f)(ii).

12. The plan shall show the following: Monumentation is required at the PC/PT of the unopened right-of-way of 52nd St SE at the intersection of 211th Ave SE. The monument shall include a rebar and cap in the interim while it's unopened right-of-way. When the right-of-way becomes an opened, constructed, and maintained public road, a permit can be filed with DNR to remove the rebar and cap and install the full road monumentation in accordance with EDDS 4-130

C. Prior to Issuance of Any Land Disturbing Activity Permit

13. Provide draft of Stormwater Pond easement prior to LDA approval.

14. If any additional stormwater features are added during the LDA permit process, update Operations and Maintenance manual.

15. Pay a landscape site inspection fee consistent with SCC 30.86.145(3).

16. Pay the amount for installation of signs and striping shall be paid per SCC 13.10.180

D. Prior to Final Approval of Site Development Permits

17. All 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, or 20 penny nails). The project proponent 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, or road), a rebar marker with surveyors' cap and license number must be placed at the line crossing.

18. 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 the Land Use Division for review and approval prior to installation.

19. Split-rail fencing shall be installed satisfactorily around the boundary of CAPA/E.

20. All required common area landscaping shall have been installed, inspected and approved per chapter 30.25.SCC and in conformance with the approved final landscaping plan, unless deferral of improvements is allowed by PDS and a bond or other guarantee of performance is submitted to PDS. A qualified landscape designer shall certify that all landscaping is installed per the approved plan.

E. Final Plat Text

The following text shall be written on the face of the final recorded plat:

21. The dwelling units within this development are subject to the school impact fees for the Snohomish School District 201 the amount of $5,361 per dwelling unit, the certified amount within the Base Fee Schedule in effect on January 22, 2025 in accordance with the provisions of SCC 30.66C. For building permit applications received by PDS after January 22, 2030, five years from the filing of the complete land use application, the amount of the fee shall be based on the fee schedule in effect at the time of the building permit application. Payment of these mitigation fees is required prior to building permit issuance except as provided for in SCC 30.66C.200(2). Credit shall be given for the one existing lot. Lot 1 shall receive credit.

22. The dwelling units within this development are subject to the park and recreation facility impact fees for the Centennial Park Service Area of the county parks system in the amount of $681.97 per dwelling unit, the certified amount within the Base Fee Schedule in effect on January 22, 2025, in accordance with the provisions of Chapter 30.66A SCC. For building permit applications issued by PDS after January 22, 2030, five years from the filing of the complete land use permit application, the amount of the fee shall be based on the fee schedule in effect at the time of the building permit application. Payment of these mitigation fees is required prior to building permit issuance except as provided for in SCC 30.66A.020(4).

23. The final plat shall show a 30-foot right-of-way deeding from the proposed access point to 211th Ave SE along 52nd St SE for a total of 60-feet of ultimate right-of-way, or as determined by DPW.

24. "Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residence or twice the amount shown for each duplex:

$5,356.74 per dwelling unit (to total 74,987.36) for mitigation of impacts on County roads paid to the County in accordance with the payment timing provisions of Chapter 30.66B SCC. The impact fee shall be distributed to each Transportation Service Area in accordance with SCC 30.66B.350.

Payment of these fees is due prior to or at the time of building permit issuance, unless deferment is allowed pursuant to Chapter 30.66B SCC, for each single-family residence. Notice of these mitigation payments shall be contained in any deeds involving this subdivision or the lot[s] therein."

25. Membership in the homeowners' association and payment of dues or other assessments for maintenance purposes shall be a requirement of lot ownership and shall remain an appurtenance to and inseparable from each lot. If the homeowners' association is dissolved, then each lot shall have an equal and undivided ownership interest in the tracts previously owned by the association as well as responsibility for maintaining the tracts.

26. "All CRITICAL AREA PROTECTION AREAS/EASEMENTS shall be permanently left undisturbed in a substantially natural state. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur. Exceptions: The following are allowed in CAPA/E: Non-ground disturbing interior or exterior building improvements; routine landscape, maintenance of established, ornamental landscaping; non-ground disturbing normal maintenance or repair; felling or topping of hazardous based on review by a qualified arborist; removal of noxious weeds conducted in accordance with chapter 16-750 WAC; maintenance or replacement that does not expand the affected area of the following existing facilities: (a) septic tanks and drainfields; (b) wells; (c) individual utility service connections; data collection by non-mechanical means, and non-mechanical survey and monument placement."

27. Open space shall be protected in perpetuity. Use of the open space tracts within this subdivision is restricted to those uses approved for the residential development shown on the approved site plan and the approved landscape plan.

F. Prior to Approval of the Final Plat

28. All 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, or 20 penny nails). The project proponent 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, or road), a rebar marker with surveyors' cap and license number must be placed at the line crossing.

29. 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 the Land Use Division for review and approval prior to installation.

30. Rural frontage improvements shall be constructed along the parcel's frontage on 52nd St SE to the satisfaction of the County.

31. Pedestrian facilities shall have been constructed to the satisfaction of the County from the subject development on 52nd St SE to Dubuque Road or other location that has been accepted by the Snohomish School district and Snohomish County.

32. Provide FDASP on the final plat.

G. Prior to Issuance of Any Building Permit:

33. Prior to the issuance of any building permits, the applicant shall have paid the traffic, parks and school mitigation fees described in conditions 21, 22 and 24.

34. All new structures shall comply with the applicable bulk regulation standards found in Chapter 30.23 SCC and SCC 30.41C.130.

35. A built green certification shall have been received. The certification shall consist of the following: (a) Built Green Single Family/Townhome certification for building permits; (b) LEED Home certification for building permits; or (c) Additional third party certification as approved by the director and adopted through administrative rule.

H. Prior to Approval of Final Plat

36. Any required site improvements, fencing, recreation facilities, open space and landscaping depicted on the approved plans shall have been installed, inspected and approved unless deferral of the improvements is allowed by PDS and a bond or guarantee of performance is submitted to PDS.

37. All fire lane signage shall be installed per the approved site plan.

38. The applicant shall have established a homeowners' association as a Washington corporation (profit or non-profit) for the purposes of tract ownership and maintenance. The applicant shall provide PDS with a copy of the articles of incorporation of the homeowners' association filed with the Washington Secretary of State. The homeowners' association shall remain the owner of tracts unless tract ownership by all lots in the subdivision is authorized pursuant to a final plat alteration. The articles of incorporation must provide that if the homeowners' association is dissolved, each lot shall have an equal and undivided ownership interest in the tracts previously owned by the association and shall have responsibility for maintaining the tracts.

39. A valid signed plat name reservation shall be obtained

40. The applicant shall have submitted to PDS covenants, deeds, homeowners' association bylaws, and any other documents guaranteeing maintenance and common fee ownership of open space, any community facilities, CAPA/Easements, and private roads, and drives, and any other commonly owned, maintained, or operated property.

41. The covenants, conditions, and restrictions shall:
    a. Identify the rights and responsibilities of the property owners and the homeowners' association for use and maintenance common vehicle access areas, on-site recreation areas, landscaping, underground utilities, and common open space.
    b. Restrict use of the tracts to the uses specified in the approved preliminary plat and require compliance with the county regulations and conditions of final subdivision approval.

    c. State they are binding upon and inure to the benefit of the homeowners' association, the owners of all the lots within the subdivision, and all others having any interest in the tracts or lots.

d. State that the county is an intended beneficiary of the covenants, conditions, and restrictions with the right to enforce them.

42. A final open space management plan must be approved by the director and shall be recorded as a separate document from the subdivision. The plan shall include protections for all open space areas, and provisions for updating the file if open space is transferred. The final open space management plan shall also contain a provision indemnifying the county should the responsible parties not fulfill their management obligations.

I. Prior to Approval or Occupancy or Final Inspection of Any Dwelling Unit

43. Rural frontage improvements shall be constructed along the parcel's frontage on 52nd St SE to the satisfaction of the County.

44. The road establishment and construction of 52nd St SE shall have been completed and accepted by the County.

J. Timing of approval expiration:

45. In accordance with SCC 30.70.140, a preliminary subdivision approval under Chapter 30.41A SCC expires five years from the date of approval and must be recorded within that time period unless an extension has been properly requested and granted under SCC Table 30.70.140(1) or SCC 30.41A.300.

SEPA (State Environmental Policy Act) Exemption Determination

File Name: Stillwater Preserve RB
File Number(s): 25 101010 PSD
Project Description: 14-lot rural cluster subdivision.
Location: 9999 PENDING STREET SNOHOMISH, WA 98290-7405
Tax Account Number(s): 005975-000-012-00
Applicant: Stillwater Preserve LLC

This project is meeting the SEPA exemption threshold for minor new construction per SCC 30.61.035.

Stacey Abbott

January 27, 2026

Stacey Abbott

SNOHOMISH COUNTY COUNCIL
EXHIBIT # D.1
FILE 25-101010 PSD

ATTN: Conservation Futures
Parks Project ID: CF11-01
07-104212 SD

R-5
96-105557

TR 29-7
Sec. 31

TR 28-7
Sec. 6

TR 29-7
Sec. 32

TR 28-7
Sec. 5

MRL NOTICE 2,000 ft

CF NOTICE 500 ft

1000 ft. buffer

60' access Esmt.

Title Co. certified access to west over property to west

Subject Property

V-56-79

06-104035 AA, Denied

06-126025 BA

05-126472 SD

ZA 8606161
08-104140 SD

ZA 8605148

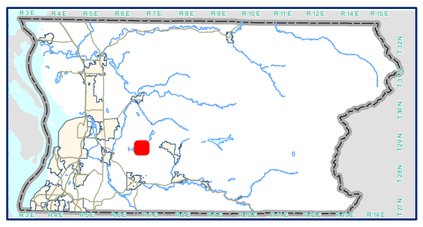
ZA 8702081

ZA 9104177 LLS

CF-FTA

Zoning Line	Commercial Forest (CF, LF)	Density Fringe	Block	Subject Property	
Urban Growth Area (UGA)	Commercial Forest (CF w/FTA)	FHA-FEMA 100 Year Flood	ROW	Subject Property Radius	
Rural/Urban Transition Area (R/UTA)	Commercial Forest Transition Area	Cities	Vac ROW		
Short Plat Lots	CF, LF Notice (500 ft.)	Tribes	Vac Lot		
Short Plat Easement	Mineral Resource Lands (MRL)	PLSS Section Lines	Lot		
Lot Status	MRL Notice 2,000 ft.	Cadastral Parcel	Subdiv		
Lot Status Easement	Airpark Notice 2,500 ft.; Airport Influence Area	Cadastral Easement	Other Lot		
Agriculture - RCF, UCF, LCF	Volcanic Lahar w/ Notice 200 ft.		Other Subdiv		
Agriculture Notice 1,300 ft.	Minimum Lot Size 10AC		Gov Lot		

Vicinity Map



Refer to Snohomish County Code
SCC 30.21.020 for Zoning Definitions

Snohomish County disclaims any warranty of merchantability or warranty of fitness of this map for any particular purpose, either expressed or implied. No representation or warranty is made concerning the accuracy, currency, completeness, or quality of data depicted on this map. Any user of this map assumes all responsibility for use thereof, and further agrees to hold Snohomish County harmless from and against any damage, loss or liability arising from any use of this map. The map was produced by the Snohomish County Department of Planning & Development Services, GIS Team. For more PDS information, please call (425) 388-3311, or visit us on the Internet at <LINK>http://www1.co.snohomish.wa.us/Departments/PDS.</LINK>

This product is not a survey, nor an instrument to make definitive Critical Area determinations. Water body features (rivers, streams, canals, etc.) have been partially revised to follow digital orthophotos and field observations by the County. All geo-datasets used to create this map have spatial uncertainties, including this depiction of tax parcels, zoning, and/or future land use features. Persons seeking the most current tax parcel, zoning, or future land use designations should consult the official files with the Snohomish County Assessor or the Department of Planning & Development Services (PDS) respectively.

W:\plng\carto\permit\Land_Use_Permits\Archive\2026\PermitMaps_StillwaterRCS_25_101010_v20260128.aprx

Project Folder Name: Stillwater RCS
Project Manager: Stacy Abbott
Cart. Code: 6116
Date:1/28/2026

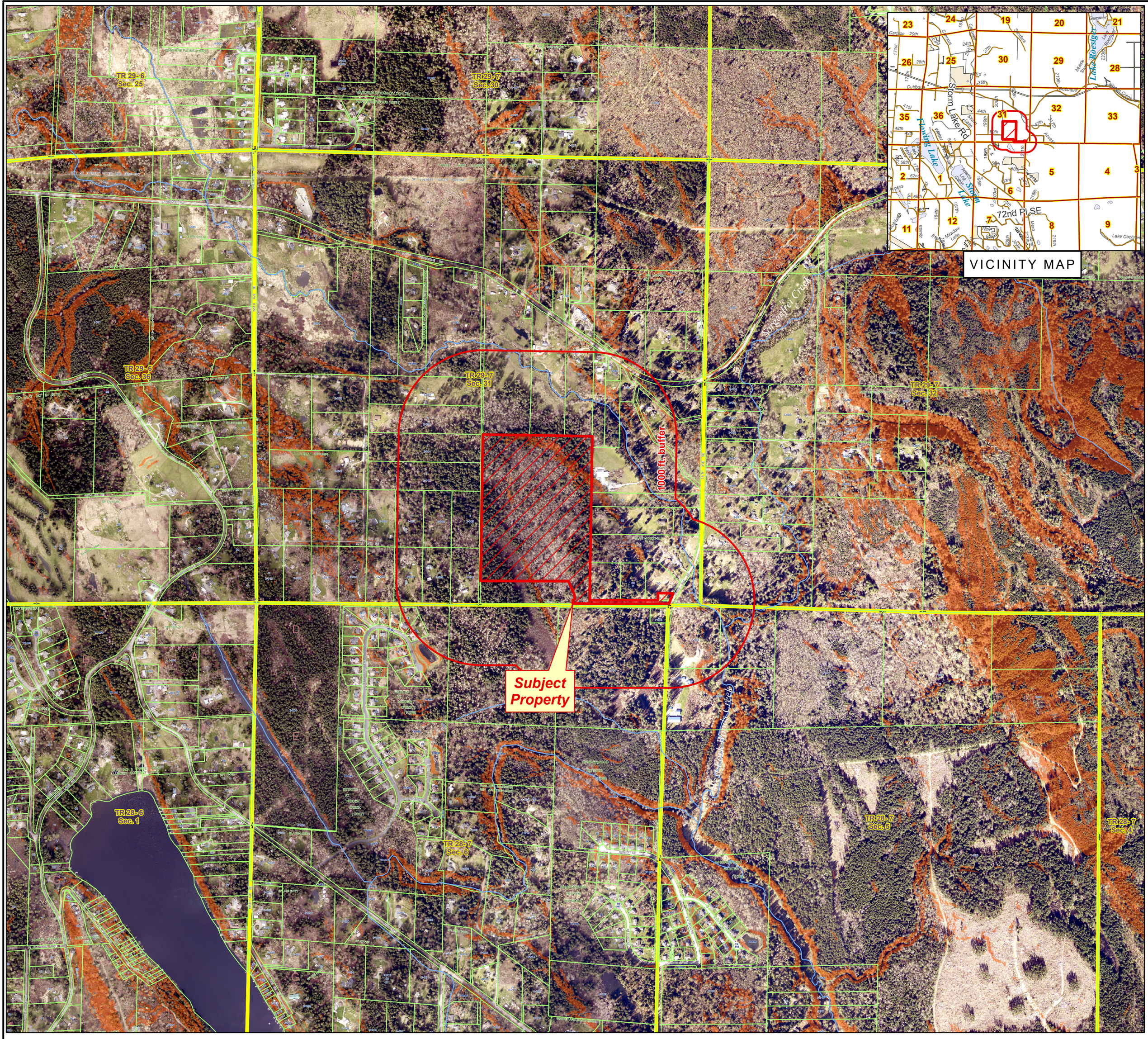
0 200 400 600 800 1,000 Feet

Snohomish County

Stillwater RCS
PFN 25-101010

Snohomish County Planning and Development Services
Permitting Division
ZONING

Exhibit D.1
PFN: 25-101010 PSD



All maps, data, and information set forth herein ("Data"), are for illustrative purposes only and are not to be considered an official citation to, or representation of, the Snohomish County Code. Amendments and updates to the Data, together with other applicable County Code provisions, may apply which 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 this Data assume all responsibility for 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
'https://snohomishcountywa.gov'
485.388.3311

Snohomish County

0 200400600 Feet

Date Printed: 1/28/2026

W:\plng\carto\permit\Land_Use_Permits\Archive\2026\PermitMaps_StillwaterRCS_25_101010_v20260128.aprx

Subject Property
City Boundary
Assessor Parcel
Water Course
5ft Contour
Public Survey Section
>33% CAR Slope
UGA Boundary

N

SNOHOMISH COUNTY COUNCIL

EXHIBIT # D.2

FILE 25-101010 PSD

Snohomish County Planning & Development Services
Permitting Division

Aerial Photography & Vicinity Map

Stillwater RCS

PFN 25-101010

Exhibit D.2
PFN: 25-101010 PSD

Date of aerial photography: 2024

25 101010 PSD

LAND RESOLUTIONS
LAND USE CONSULTANTS
Design · Planning · Management
3605 Colby Ave – Everett, WA 98201
(Office) 425-258-4438 (Fax) 425-258-1616

Project Narrative
January 6, 2025

On behalf of our client, Stillwater Preserve LLC, we would like to submit the following project narrative.

Project Information
Project Name: Stillwater Preserve RB RCS
Site Address: Unaddressed
Parcel Number: 00597500001200 & a portion of 00597500001407
West 1/2 of the SE ¼ of S31, T29N, R7E, WM, Snohomish County, WA
Zoning: R-5
Comprehensive Plan Designation: Rural Residential
Area: 53.69 acres or 2,338,538 sf
Topography: The site is moderately to heavily forested and gently slopes southerly with steeper slopes to the west and east.

Basic Project Information
Stillwater Preserve RB is being proposed as a 14-lot rural cluster subdivision using Snohomish County Development Standards. This project will be developed in one phase. There are no existing buildings on-site. Once built-out the site will have fourteen (14) single-family homes. No duplexes are proposed. The current owner of this property is Stillwater Preserve LLC. The project site is located West of 211th Avenue SE, South of Dubuque Road and East of 199th Avenue SE, in Snohomish, Washington. Access to the lots will be taken via 211th Avenue SE by the extension of 52nd Street SE onto private road 206th Drive SE.

There are no unique elements, such as reduced setbacks or limitations on height. In addition, there are no special circumstances or known exemptions that may impact the permit process. The Applicant is not requesting concurrent review of permits such as a rezone or variance. Following receipt of first review comments, the Applicant, however, intends to submit construction plans for concurrent review.

Project Contact
Ry McDuffy ~ Land Resolutions (425) 258-4438 *ry@orcalandsurveying.com*

Surrounding Land Use
The properties that surround the project are single-family residences on acreage and undeveloped land zoned R-5 and have a comprehensive plan designation of Rural Residential. A rezone is not being requested nor is the property within a Rural/Urban Transition Area.

Critical Areas
There are 4 critical areas on or near this subdivision. A Category II Wetland is on the Southwest portion of the site and a Category III Wetland is on the Northwest portion of the site. There is another Category III Wetland off-site near the northwest corner of the site. There is also a Category IV located off-site on the south side of the access road. A Critical Area Determination Report has been prepared by Wetland Resources and is included with this application.

Density
RCS calculations per SCC 30.41C.090(2)(d) are as follows:
Total Project Area = 2,300,807 divided by 200,000 = 11.50 units
Required Open Space (45% of gross area) = 1,305,363 SF or 23.77 acres
Required Open Space provided = 1,546,416 SF or 35.50 acres, 67.21% of project
11.50 units multiplied by 1.35 (density bonus) = 15.52 units
Maximum density allowed = 16 units/lots.
14 lots are proposed with this application.

Water Source
Water shall be provided by individual and/or shared wells. The site is within Water Resource Inventory Area (WRIA) 7 and the proposal will comply with the water usage limits established in the in-stream flow rule (WAC 173-505-090).

Sewage Disposal
The lots will have individual on-site septic systems designed by Brent Hackney Designs.

Streets
Access to the lots will be taken via 211th Avenue SE by the extension of 52nd Street SE and then northerly where it becomes 206th Drive SE and terminates with a 50' radius cul-de-sac. 52nd Street SE is currently unopened right-of-way. A Boundary Line Adjustment (PFN 25114172BLA) has been recorded to incorporate 52nd Street SE to be included in the project boundary. Once improved the easement area will be dedicated to Snohomish County. Pedestrian facilities will be designed and constructed in accordance with EDDS to ensure safe walkway conditions. 52nd Street SE will be public roads and 206th Drive SE will be private. 46,032 SF of public right-of-way will be constructed and dedicated.

Off-Site Walkway
An off-site walkway for pedestrian access from the project site access at 52nd Street SE is being provided along 211th Avenue SE to Dubuque Road by a separate LDA permit.

Open Space
The required open space will be provided per SCC 30.41C.090 via a single Restricted Open Space Tract, Tract 999. The onsite wetlands and their buffers located on Tract 999 will be protected by a CAPA/E designation.

Timber
During plat construction, approximately 80,000 board feet of timber will be harvested from the site. A forest practice permit (FPA) will be submitted during construction plan review.

Landscaping
The site is moderately to heavily forested with alder, maple, cedar, cottonwood, fir and hemlock throughout the site. The majority of the shrub species consist of blackberry, huckleberry, salal, salmonberry, sword fern, and vine maple. Existing vegetation in the required perimeter buffer will be retained, as well as all vegetation in the Restricted Open Space to aid in meeting landscaping requirements, except for trees that conflict with the installation of dispersion trenches. All lots will be visually screened from surrounding parcels by a perimeter sight obscuring buffer pursuant to Snohomish County Code for Rural Cluster Subdivisions.

Drainage
In its developed condition, drainage mitigation for the project will include a combination of full dispersion, infiltration, detention, and collection and tightline techniques. Additional drainage for 52nd Street SE to be collected in the off-site stormwater easement at the northwest corner of 52nd Street SE and 211th Avenue SE. For more information see Drainage Report and Civil Plans included with this application prepared by Omega Engineering.

Fire Protection
The project is located in Fire District 16.

Utilities
Electricity - Snohomish County PUD, Refuse service - Waste Management, Telephone/cable/internet - Ziply Fiber Internet - Wave Broadband and Dish Network. Power, telephone and cable lines to be located in the 10' utility easement adjacent to the public road.

Recreation
Local schools serving the area provide recreational facilities and activities after school hours and on weekends. The closest designated recreational opportunities are Flowing Lake Park and Lake Roesiger Park.

List of Documents/Reports Included with this Submittal:
Rural Cluster Subdivision Checklist, Master Permit Application, Project Narrative, Preliminary RCS Site Plan Map & Landscape Plan, Open Space Management Plan, Preliminary Land Disturbance Activity Plans, Drainage Report, Drainfield & Soil Log Infiltration Information, Traffic Pre-Submittal Conference Review Form, Title Report with Supporting Documents, Public Notice Payment Agreement, Traffic Impact Analysis, City of Monroe Mitigation Offer, WSDOT Mitigation Offer, Geotechnical Report, Wetland Report, Well Log (1), SEPA Environmental Checklist, Signing Authority, Plat Name Reservation, and Preliminary Covenants, Conditions & Restrictions.

Narrative description on how the proposal is consistent with SCC 30.41C.010 – Purpose:

(1) To preserve areas of land which are suitable for agriculture, forestry, open space or, when applied in the rural urban transition area, possible future development; *67.21% of our site has been allocated for restricted open space, preserving open space in perpetuity.*

(2) To preserve rural open space with the purpose of assuring continued viable undeveloped natural vegetated corridors for wildlife habitat, protection of watersheds, and preservation of wetlands and rural character; *67.21% of our site has been allocated for restricted open space, preserving open space in perpetuity. Additionally, a forested 50' sight obscuring buffer and 60' forested buffer abutting unopened rights-of-way surrounds the perimeter of the site with natural vegetation containing dense tree cover, providing interconnected open space for wildlife habitat and preserving the rural character of the site.*

(3) To produce a development pattern in rural areas consistent with rural character in accordance with rural land use policies and manifesting variety in design rather than uniformity of appearance in siting of clusters, placement of buildings, use of open space, more efficient use of the most buildable portion of sites, and retention of the environmentally sensitive and scenic portions of sites as permanent open space; *Stillwater Preserve RB has been designed as a rural subdivision in accordance with rural land use policies. As a cluster of fourteen (14) lots with each lot adjacent to a designated restricted open space tract, we present a variation in typical design.*

(4) To permit flexibility that will encourage a more creative approach in the development of land in rural areas and will result in a more efficient, aesthetic, and environmentally sound use of land, while harmonizing with adjoining development and preserving the county's attractive rural character; *Stillwater Preserve RB has been designed as a rural subdivision in accordance with rural land use policies. The clusters of one acre lots adjacent to restricted open space will maintain the rural feel while the existing dense trees in the open space covering 67.21% of our site will act as a natural vegetated buffer, shielding the higher density from adjacent non-platted lots.*

(5) To encourage the development of cluster housing which provides greater compatibility with surrounding development and land uses in rural areas by providing larger buffer areas; *Stillwater Preserve RB has been designed as a rural subdivision in accordance with rural land use policies. The clusters of one acre lots adjacent to restricted open space will maintain the rural feel while the existing dense mature evergreen trees in the open space covering nearly 67% of our site will act as a natural vegetated buffer, 22% more than required by code.*

(6) To encourage the retention of more permanently undisturbed open space with its natural vegetative cover which protects continued groundwater recharge and reduces potential water pollution, flooding, erosion and other drainage-related problems often associated with rural development; *Stillwater Preserve RB has been designed as a rural subdivision in accordance with rural land use policies. The clusters of one acre lots adjacent to restricted open space will maintain the rural feel while the existing dense trees in the open space covering nearly 67% of our site will act as a natural vegetated buffer, 22% more than required by code.*

(7) To minimize adverse impacts on the county's productive agricultural, forestry, mineral and other important resource lands; *This project is not located on or adjacent to resource lands, therefore impacts are minimal.*

(8) To minimize adverse impacts on the county's environmentally sensitive areas such as wetlands, fish and wildlife habitat conservation areas, areas of unique vegetation or wildlife species, steep slopes, geologically hazardous areas, and other critical areas; *A thoughtfully prepared Critical Area Determination Report has been prepared with this application, insuring impacts to environmentally sensitive areas are minimal.*

(9) To minimize the risk of danger to human life and property by restricting rural development on geologically unstable lands and in flood prone areas; *There are no unstable lands or flood hazard areas on site.*

(10) To minimize the cost of installing essential public and private capital facilities necessary for a rural infrastructure; *No public or private capital facilities will be required for this project.*

(11) To support the provision of more affordable housing in rural areas; *By providing fourteen (14) new one acre lots, we are providing additional new housing stock to the area, contributing to affordable housing.*

(12) To provide reasonable opportunity for rural property owners to derive economic use of land characterized by features which substantially limit its development potential; *Wetland features on this site limit the development potential, however, utilization of the rural cluster subdivision code allows economic use of the site outside of these areas.*

(13) To protect rural natural features and landscape by minimizing tree, vegetation, and soil removal; *Approximately 35.50 acres of the site will remain in its natural vegetated state.*

(14) To provide a subdivision or short subdivision alternative for use in the rural/urban transition areas that will maintain and enhance rural character while preserving large tracts for future development upon inclusion into a UGA; and *This site lies outside of the R/UTA.*

(15) To require and promote the use of low impact development (LID) best management practices (BMPs) as directed by the Drainage Manual. *LID BMPs per the Drainage Manual were followed with this application as required. See Drainage Report and Civil Plans prepared by Omega Engineering for further detail.*

Narrative description on how the proposal is consistent with SCC 30.41C.050 – Site Planning Principles:

All rural subdivisions and short subdivisions must comply with the following site planning principles to the greatest extent feasible:

(1) The post-development view of the site from the roads should be as similar to the pre-development view as is practical. *The view of the site from 211th Avenue SE will remain unchanged. The existing off-site easement from 211th Avenue SE to the site will be improved. Additionally, the forested sight obscuring buffer surrounding the site will shield the development from roads, ensuring the post development view will be similar to the pre-developed view.*

(2) Avoid placing lots on ridgelines and other prominent topographic features to blend new development into the existing rural landscape. *Development is proposed to take place at the center of the site surrounded by dense forest and critical areas, therefore our proposal blends well into the existing rural landscape.*

(3) Landscaping, using both retention of existing vegetation and new plantings, shall soften and minimize the view of new development and preserve scenic views. *The proposed sight obscuring buffer surrounds the perimeter of the site with natural vegetation containing evergreens and shrubs, preserving the rural character of the site and scenic views.*

(4) Retain 50 percent of the overall tree canopy on the predevelopment site whenever feasible. *The site is heavily forested and only the center will be developed, resulting in over 67% of the overall tree canopy being retained.*

(5) Incorporate existing landscape features and structures into the site design to maintain rural character and the familiar landscape. *Most of the tree canopy on-site which will be retained maintaining the rural character and the familiar landscape.*

(6) Configure the clusters and lots to maintain the natural features of the site and minimize topographic alteration and clearing of existing vegetation. *There is one cluster proposed within this project, centrally located between natural terrain barriers such as dense vegetation, wetlands and buffers. Each lot is adjacent to open space maintaining the natural features of the site and minimizing topographic alteration and clearing of existing vegetation as demonstrated by the SWPPP, sheet 2 of Civil Plans prepared by Omega Engineering.*

(7) Avoid uniformity of cluster siting and building sites to provide visual diversity and maintain the dominance of natural features and open space in the rural area. *The innovative design of Stillwater Preserve RB providing a CAPA and ROS space tract adjacent to each lot for undisturbed natural vegetation and recreational purposes maintains the dominance of natural features and open space within the local area.*

(8) Provide connectivity between open space tracts and natural habitat and wildlife corridors with adjacent properties whenever practical. *The proposed sight obscuring buffer surrounds the perimeter of the site with natural vegetation containing dense tree cover, providing interconnected open space for wildlife habitat.*

(9) Phase land disturbing activity site plans in accordance with any construction phasing. *The project is not proposed to be phased.*

(10) Avoid placement of impervious surfaces in areas appropriate for low impact development best management practices due to the capacity and ability of such areas to be used for infiltration and flow dispersal. *LID practices were implemented for this project, see Drainage Report and Civil Plans prepared by Omega Engineering for additional information.*

Thank you in advance for reviewing this project with us. We look forward to working with you to complete this application. If you have any questions or comments concerning this application or project, feel free to contact me at (425) 258-4438 office, or via email: ry@orcalandsurveying.com.

Sincerely,

Ry McDuffy

2021-023

SNOHOMISH COUNTY COUNCIL
EXHIBIT # M.5
FILE 25-101010 PSD

Exhibit M.5
25-101010 PSD
Snohomish County
Hearing Examiner
FILED 3/3/2026

BEFORE THE HEARING EXAMINER
IN AND FOR THE COUNTY OF SNOHOMISH

In Re Stillwater Preserve RB Stillwater Preserve LLC, Applicant.	No. 25-101010 PSD RESPONSE OF APPLICANT STILLWATER PRESERVE LLC

I. INTRODUCTION

On February 10, 2026, the Hearing Examiner ordered orally that the record remain open concerning: (1) a conflict in Snohomish County Code concerning building green certification and (2) a condition, "Condition 31," requiring offsite improvements of more than 2,700 feet of school bus walking path (the "offsite improvements") and called for submittals from PDS and the Applicant. On February 17, 2026, the Hearing Examiner entered a written order confirming his requests and extended the time for response. PDS's deadline was February 23, 2026 and a timely response was filed. This is Applicant Stillwater's response.

II. BUILDING CREEN CERTIFICATION

The Applicant joins in the response of PDS to this issue. The Applicant confirms that it has enrolled the proposed lots, by letter. A completed checklist has not been submitted because it is specific to the building plan for each lot, and those do not exist at this time. As stated by PDS, there is "no additional or necessary information" that would be derived from this process that is beneficial at this preliminary stage.

The Applicant concurs that the more recent Ordinance should control, and therefore the amendment which does not require a completed checklist presently is applicable. The absence

Stillwater Preserve LLC
2805 Colby Avenue, Ste 304
Everett, WA 98201

of a checklist does not render the application incomplete, and this absence is not a proper basis for denying preliminary plat approval.[1]

III. THE CONDITION FOR A SCHOOL BUS WALK PATH IS UNAUTHOIRZED AND, IF IMPOSED, WOULD BE UNLAWFUL

A. The contents of PDS's February 23, 2026 Response.

PDS claims statutory authority for the bus walk path condition (sometimes referred to as the "offsite improvements") under RCW 58.17.110 as enacted in 1989. PDS then acknowledges that in 1990, RCW 58.17.110 was amended by SHHB 2929 to apply to students who "only walk to and from school." But PDS provides no analysis of the post-SHHB 2929 language and its effect. PDS then skips to County Code SCC 30.41A.010(i) which addresses, *inter alia*, "streets, alley" and also "other planning features that assure safe walking conditions for students who walk to and from school," provides no analysis regarding the present language in RCW 58.17.110, and assumes County Code is fine and determinative. County Code is *not* fine, it conflicts with the statute and is unlawful.

PDS's Response then jumps to Hearing Examiner Decision, ZA 890734 (Meadowdale Park) that predates the effective date of SHHB 2929 that added "only" to RCW 58.17.110. This Decision is discussed further below, but this decision is not precedent because it arises under an earlier and different version of RCW 58.17.110. In effect, this Decision establishes nothing today. PDS's Response then notes that then the County Council sustained the Hearing Examiner decision. PDS erroneously relies on Meadowdale Park. PDS then cites later Hearing Examiner

[1] If the application was not deemed complete until this filing, it would have no impact on vesting. PDS has confirmed no change in applicable development standards.

decisions but does not discuss them. Generally, these decisions do not support PDS's position. Interestingly, PDS does not include in its cites Machias Meadows, File No. 08-108371 SD, where the Hearing Examiner did not require the construction of a half mile of offsite walkway to a bus stop.

PDS asserts or recommends Findings and then asserts its interpretation and conclusion. As to PDS's Findings, the Applicant strongly objects to the third bullet finding reading: "The statutory requirement to provide safe walking conditions applies even where no student walks directly to the school building." This is an erroneous legal conclusion lurking in the disguise of a factual finding and to so find would be error.

PDS's Interpretation/Conclusion reads as follows:

> Planning and Development Services reviews and interprets requests received by the School Districts (bus stop location), evaluate site-specific development conditions and impose reasonably necessary conditions to protect public safety and welfare consistent with RCW 58.17.110 and established Hearing Examiner precedent.

As a result, PDS's Traffic Engineer recommends a Condition 31 reading as follows:

> 31. Pedestrian facilities shall have been constructed to the satisfaction of the County from the subject development on 52nd St. SE to Dubuque Road or other location that has been accepted by the Snohomish School district and Snohomish County.

The Interpretation/Conclusion is wrong as is the recommended condition. The record here establishes a lack of authority and will establish the absence of reasonable necessity, i.e., nexus and proportionality, resulting from the proposed development to support Condition 31. A correct interpretation of all applicable law will demonstrate that RCW 58.17.110 and court and Hearing Examiner precedent do not support the imposition of Condition 31.

Stillwater Preserve LLC
2805 Colby Avenue, Ste 304
Everett, WA 98201

IV. FACTUAL BACKGROUND

Stillwater Preserve is a proposed upscale, gated small rural cluster subdivision of 14 one-acre lots. It is located south of the east-west County Road known as Dubuque Road. 211th Avenue SE is the connecting street that intersects Dubuque Road. 211th Ave SE runs north and south. Stillwater Preserve is located south of Dubuque Road, with access via 211th Ave SE. Stillwater Preserve will construct a new street running east-west from 211th Ave SE to be named and numbered 52nd Street SE. 52nd Street SE will dead end at the entry to Stillwater Preserve. 211th Ave SE is a dead-end road with a posted speed limit of 25 miles per hour.

The lots within Stillwater Preserve will be served by a private road. The private road within Stillwater Preserve will include a walking path. The Applicant also will build a walking path along 52nd Street SE. The present dispute relates to Condition 31, i.e., the offsite improvements (walking path) along the approximate 2,700-foot run of 211th Ave SE to Dubuque Road only.

A. What is in the existing record concerning the existing housing and improvement and the demanded offsite improvements.

According to the Applicant's Traffic Impact Analysis (attached as **Exhibit A**), 25 existing houses adjoin or take access from 211th Ave SE. Four additional houses are either under construction or permitted. No walking path was required as these various houses were constructed. There is no evidence that all or any of these houses are senior citizen restricted, or without children. Stillwater Preserve will only add 14 houses. The traffic study also shows the following estimated trip generation trip generation from Stillwater Preserve:

Table 2: Trip Generation Summary – Study Rates

14 Units Single-Family Detached Housing Study Data	ADTs			AM Peak-Hour Trips			PM Peak-Hour Trips		
	In	Out	Total	In	Out	Total	In	Out	Total
Generation Rate	5.88 trips per unit			0.60 trips per unit			0.80 trips per unit		
Splits	47%	53%	100%	20%	80%	100%	55%	45%	100%
Trips	38.69	43.63	82.32	1.68	6.72	8.40	6.16	5.04	11.20

These trip generation estimates are then compared to counted numbers for the existing houses adjoining and using 211th Ave SE later in Appendix A Section "2. Trip Generation Study Rates."

Whether on a lot count or trip generation count, Stillwater Preserve is estimated to be less than a one-third contributor to the lots, population, and trips served by 211th Ave SE.[2] 211th Ave SE consists of a 21-foot-wide paved road that has a bridge that crosses over the West Fork Woods Creek. The bridge is 22 feet, 7 inches wide. The bridge is incapable, due to its narrow width and the nature of its existing wooden construction, from carrying a walking path, i.e., the demanded offsite improvements.[3]

B. Offered additional evidence concerning the offsite improvements.

Stillwater Preserve wishes to submit additional evidence into the record consisting of onsite review of current student use of 211th Ave SE as a walking path to Dubuque Road. *See*, **Exhibit B** and **Exhibit F**. Applicant submits that this evidence shows modest, if any, present student pedestrian use of 211th Ave SE and the bus stop at the intersection of Dubuque Road and 211th Ave SE. As to the Stillwater Preserve, it can be expected that most student residents will

[2] Four new houses are either being built on 52nd Street SE/211th Ave SE or are permitted, making Stillwater Preserve clearly less than a one-third contributor.
[3] A requested deviation determination was submitted to PDS/Engineer and the determination issued indicated that widening of the bridge was not a requirement. *See*, **Exhibit C**.

be driven by parents or guardians. This is consistent with Federal guidance from the Federal Safe Routes to School Program. *See*, **Exhibit D**. Today, fewer than 15% of school trips are made by walking. Over half of all school children arrive to school in private automobiles. This general data—15%—is higher than the existing and expected pattern of usage on 211th Ave SE, especially as to this upscale and gated proposed plat. *See,* **Exhibit B** and **Exhibit F.**

Stillwater Preserve wishes also to submit evidence of the cost of the unproportionate and extraordinary burden of building the Condition 31 path. The cost will be more than $300,000. *See*, **Exhibit E**.

V. LEGAL AUTHORITIES

A. The County has no authority to order the offsite improvements required by Condition 31.

There is a usual line up of suspects when considering local authority to act: (1) State law, (2) local code, and (3) case law authority. The usual suspects create no authority to impose on Stillwater Preserve the obligation to build the offsite improvements set out in Condition 31.

1. No authority under general State Law.

The organic powers of the County are detailed in Chapter 36.01 RCW, and as to planning and development regulations, the Planning Enabling Act (Chapter 36.70 RCW) and the Growth Management Act (Chapter 36.70A). This Response will not review these chapters in detail, but suffice it to say there is no express provision in Chapters 36.01 RCW, 36.70 RCW or 36.70A RCW authorizing the imposition of offsite improvements and their indirect cost on Stillwater Preserve as the proposed Condition 31 would require. This is true as to the limited authority in the GMA and any specific provisions related to concurrency. Under SEPA, this project is exempt and therefore SEPA confers no authority.

Likewise, no court has ruled that under some shadow or penumbra of these organic Acts, a county has *carte blanche* to disregard the record and impose the construction of offsite improvements on development, an indirect charge, to build walking paths to school bus stops as required in Condition 31.

2. Authority under the present Platting Statute, Chapter 58.17 RCW.

The only present authority for pathways for school students is set out in RCW 58.17.110 which reads in salient part as follows:

> **RCW 58.17.110**
> **Approval or disapproval of subdivision and dedication—Factors to be considered—Conditions for approval—Finding—Release from damages.**
>
> (1) The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) If appropriate provisions are made for, but not limited to, 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 schoolgrounds***, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school;*** and (b) whether the public interest will be served by the subdivision and dedication.
>
> (2) A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the proposed subdivision and dedication. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed under RCW 82.02.050 through 82.02.090 may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat. No dedication, provision of public improvements, or impact fees imposed under RCW 82.02.050 through 82.02.090 shall be allowed that constitutes an unconstitutional taking of private property. The legislative body

> shall not as a condition to the approval of any subdivision require a release from damages to be procured from other property owners. […] [emphasis added]

PDS's response makes passing reference to the present RCW 58.17.110, but then skips over it to County Code. But it cannot be disregarded because it is critical.

The key words are:

> ***… and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school …***

The language addresses safe walking conditions direct to school. Relevant facts must be considered "for students who only walk to and from school." In such circumstances, sidewalks can be considered and "included[]."

The present language was added by 1990 1st Executive Session Laws, Chapter 17, Section 52. Prior to the effective date of this Session Law, the at issue language read:

> The city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine if appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and schoolgrounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure ***safe walking conditions for students who walk to and from school***, and determine whether the public interest will be served by the subdivision and dedication. If it finds that the proposed plat makes appropriate provisions for the public health, safety, and general welfare and for such open spaces, drainage ways, streets, alleys, other public ways, water supplies, sanitary wastes, parks, playgrounds, sites for schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure ***safe walking conditions for students who walk to and from school***, and that the public interest will be served by the platting of such subdivision, then it shall be approved. […] [emphasis added]

Washington Laws, 1989, Chapter 330, Section 3. The prior language left open the possibility of requiring sidewalks to a bus stop for students who walk part way to school by transiting to a bus stop and then take a bus the rest of the way to school.

Under the present language of RCW 58.17.110, there is no express or implied authority to condition approval of a plat on the construction of offsite improvement for a walkway or sidewalk for school children who ride in part to school on a school bus.

This conclusion is consistent with the statute related to Student Transportation, RCW 28A.160.160. Here, definition (5) defines the "walk area" for access to school to be "a walking distance of less than one mile."

3. No authority under County Code or EDDS.

A search of County Code has revealed no express authority consistent with the current Platting Statute that allows PDS to impose Condition 31 offsite improvements consisting of a school student walking path on County right-of-way to transit to a school bus in the approval for Stillwater Preserve.

One County Code provision does provide as follows:

> **30.41A.100 Decision criteria - general.**
> (1) The hearing examiner and the department shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. The hearing examiner shall approve a preliminary subdivision only if appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, sites for schools and school grounds, fire protection and other public facilities. The hearing examiner shall consider all other relevant facts, including the physical characteristics of the site and sidewalks and other planning features that assure safe walking conditions for students ***who walk to and from school*** to determine whether the public interest will be served by the subdivision and dedication. [emphasis added]

This section was last amended in 2005. It must have escaped the drafters that RCW 58.17.110(1) changed in 1990 as discussed under previous headings. SCC 30.41A.100 conflicts with RCW 58.17.100(1). Local development regulations, however, must not conflict with state enabling legislation such as RCW 58.17.110. *HJS Development, Inc. v. Pierce County,* 61 P3rd 1141, 148 Wn.2d 451, 481-83 (2003). As such, SCC 30.41A.100 is unlawful and cannot impose a requirement conflicting with the specific dictate of the present and applicable version of RCW 58.17.100 that does not provide for school walking paths to school bus stops.

The County does have an Engineering and Design Standard (EDDS) for the dimensions and construction of the Condition 31 path, but there is nothing more in Code or EDDS providing authority to impose Condition 31.

4. No authority under precedential Hearing Examiner Decisions.

Truth be told, the genesis of the present Condition 31, and the entirely failed basis for the present demand for Condition 31 is the hearing examiner decision of January 18, 1990 in the matter of the application of Sundquist Homes Inc. for Meadowdale Park Division 4, ZA 890734 and the County Council motion approving the said decision Motion 90-071 dated February 28, 1990. In that decision, affirmed by the Motion, offsite improvements consisting of a pathway to a school bus stop were required.

Notably and apparently forgotten since, the salient language in RCW 58.17.110 at the time of the Meadowdale decision read "for students who walk to and from school." The present RCW has the critical and controlling distinction of "only" in it as a result of 1990 1st Executive Session Laws, Chapter 17, Section 52.

Based upon a search of Snohomish County Hearing Examiner decisions, the present Hearing Examiner's last decision related to offsite improvements consisting of a pathway to a

school bus stop is Braes Park ULS 21-101637 PSD/SPA REZO. In that matter, PDS recommended that the developer (2001-WLD) install 1,350 combined feet of offsite pedestrian improvements as a pathway to a school bus stop. *Id*. pp. 18-19. Rejecting a proportionality argument relying on a 1995 case (*Luxemburg Group v. Snohomish County*, 76 Wn. App 602 (1995)) and mixing and matching the conflicting language of RCW 58.17.110(1) with SCC 30. 41A.100(1), the Hearing Examiner assumed authority to impose an offsite sidewalk improvement condition creating an indirect charge, denied any proportionality consideration, and imposed the indirect charge and sidewalk condition.

With all due respect to the Braes' and present Hearing Examiner, the Hearing Examiner simply got it wrong in Braes Park and should not now compound one wrong with another by imposing Condition 31 on Stillwater Preserve. State law establishes the authority that the County has. That County Code has chosen to disregard the explicit language of RCW 58.17.110(1) in place since 1990 enacted by 1990 1st Executive Session Laws, Chapter 17, Section 52 is not a basis to assume authority to impose a wrongful condition. Local regulation in conflict with explicit state law is unlawful as is any condition imposed based upon the conflicting local provision.

The Hearing Examiner's misplaced reliance on *Luxemburg* in Braes Park will be addressed under the next heading.

PDS's Response notes other Hearing Examiner decisions in addition to Meadowdale Park and Braes Park. None of these decisions contain any genuine analysis of the present RCW 58.17.110 even though some impose walkway conditions, as if by bad habit.[4]

B. Imposing the construction of the offsite improvements as required by Condition 31 would be unlawful under well-established case law since *Luxembourg* and statute. *Benchmark* and other case law prohibits this condition on the facts and evidence of this case.

Snohomish County, through PDS proposed Condition 31 requiring offsite improvements, is imposing an indirect charge on development. The imposition of such a condition upon a development approval is unlawful when no essential nexus exists between a legitimate interest and the condition imposed. Further, the condition imposed must be roughly proportional to the impact that the development will have on an identified public problem to survive Fifth Amendment scrutiny. *See*, *Benchmark Land Company v. City of Battle Ground*, 94 Wn.App. 537, 972 P.2d 944 (Wash.App.Div. 2 1999) (aff'd on other grounds, 146 Wn.2d. 685 (2002)). The constitutional requirement that a government agency show nexus and rough proportionality for the requirement of dedication of land for public use extends to requirements to expending funds as a condition of the development. *See*, *Id*. *Luxembourg* predates *Benchmark* and is not now controlling.

The nexus and rough proportionality requirements in *Benchmark* come from two landmark cases. From *Nollan v. California Coastal Commission*, 483 U.S. 825, 107 S.Ct. 3141

[4] PDS did not note Machias Meadows 08-108371 PD (page 11). A pathway condition was denied in that decision.

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(1987), comes the requirement that when a dedication of land (or obligation to expend funds for improvements) is required as a condition of approval, the government must show an essential nexus between a legitimate state interest and the condition imposed. *Dolan* expanded on that requirement and said that the condition must be roughly proportional to the impact that the proposed development will have on the public problem. *Dolan v. City of Tigard*, 512 U.S. 374, 114 S.Ct. 2309 (1994). Further, there must be "some sort of individualized determination that the required dedication [or obligation to expend funds for improvements] is related both in nature and extent to the impact of the proposed development." *Dolan*, 512 U.S. at 391.

In the *Benchmark* case, the developer sought to develop a 20-acre subdivision. As a condition of approval, the City of Battle Ground required half-street improvements to right-of-way that adjoined the development but would not be accessed from the development, i.e., offsite improvements and an indirect charge. Benchmark objected to the condition and filed suit. *Benchmark*, 972 P.2d. at 946-947. On remand, traffic studies were done that tended to show that the development would not have a substantial impact on the right-of-way to which the condition was applicable. The trial court ultimately found that the City had not produced "substantial evidence of an 'essential nexus' or of 'rough proportionality between possible impacts of the subdivision and the need for half-street improvements.'" *Id*. at 947.

On appeal, Division 2 held that a *Nollan/Dolan* analysis was appropriate, even though the condition did not involve dedication of land. It followed the California Supreme Court holding in *Ehrlich v. City of Culver City*, 12 Cal.4th 854, 50 Cal.Rptr.2d 242, 911 P.2d 429 (1996) and found that *Nollan* and *Dolan* apply where the City requires the developer to incur substantial costs for improvements. *Benchmark*, 972 P.2d at 950.

The same situation exists here. Condition 31, if imposed, would obligate Stillwater to make offsite improvements to build more than a half-mile of expensive walking path to a bus stop that has minimal usage and when used, the majority of kids, if not all, are either picked up or dropped off by motor vehicles but do not walk. Using the *Benchmark* analysis, such a condition is only appropriate where the County PDS can show that there existed a (1) public problem, (2) that the development in question was going to impact the problem, (3) approval of the development based on the condition solves the problem, and (4) that there is rough proportionality between the solution and the development's impact on the problem. *Benchmark*, 972 P.2d at 949-950, citing *Burton v. Clark County*, 91 Wn.App. 505, 520-523, 958 P.2d 343 (1998). Here there has been and will be no such showing to establish nexus and rough proportionality. The absence of a walking path is an existing condition but not a problem because of minimal pedestrian travel, and 25 homes, soon to be 29, are already served by 211th Ave SE. No pathway exists, nor can a pathway be built absent the construction of a new bridge, rendering the cost to build to be prohibitive. Stillwater Preserve will only add 14 new houses, less than a third of the houses, population, and trips served by 211th Ave SE.

Stillwater Preserve offers additional evidence of traffic, passenger, and student use of 211th Ave SE. Since before 1990, evidence has shown that few students actually walk long distances to a school bus stop. Indeed, most students no longer walk at all and near a majority ride to school in a private automobile. This is likely to be especially true as to student residents in the gated, upscale neighborhood that Stillwater Preserve will be. Stillwater Preserve will have little to no impact on any existing problem. Presently, the bus stop has minimal usage and when used, the majority of kids, if not all, are either picked up or dropped off by motor vehicle, but do not walk.

Like the City of Battle Ground, County PDS here attempts to impose a condition that does not pass the essential nexus and rough proportionality test and the condition must be denied and not imposed since it would be unlawful.

Such a result would not be inconsistent with Hearing Examiner practice. The Snohomish County Hearing Examiner has used nexus and proportionality analysis to limit or eliminate school bus walking path conditions. Christine Court 99 112383.

C. The Hearing Examiner has authority to rule in accordance with State Law.

The matter of dedication or a fee or charge, direct or indirect, is not a matter solely of common or constitutional law in Washington, but statutory:

> **RCW 82.02.020**
> **State preempts certain tax fields—Fees prohibited for the development of land or buildings—Voluntary payments by developers authorized—Limitations—Exceptions. (Effective until January 1, 2028.)**
> Except only as expressly provided in chapters 67.28, 81.104, and 82.14 RCW, the state preempts the field of imposing retail sales and use taxes and taxes upon parimutuel wagering authorized pursuant to RCW 67.16.060, conveyances, and cigarettes, and no county, town, or other municipal subdivision shall have the right to impose taxes of that nature. Except as provided in RCW 64.34.440 and 82.02.050 through 82.02.090, no *county*, city, town, or other municipal corporation shall impose any tax, fee, or *charge, either direct or indirect*, on the construction or reconstruction of residential buildings, commercial buildings, industrial buildings, or on any other building or building space or appurtenance thereto, *or on the development, subdivision*, classification, or reclassification *of land*. **However, this section does not preclude dedications of land or easements within the proposed development or plat which the county, city, town, or other municipal corporation can demonstrate are reasonably necessary as a direct result of the proposed development or plat to which the dedication of land or easement is to apply.** [Emphasis added.]

Cf. Isla Verde Intern. v. City of Camas, 196 P.3d 719, 147 Wn. App. 454 (Wash. App. 2008) (application of statute applies to mandatory park set side). Here we have in Condition 31 proposed mandatory offsite improvements to be built at substantial cost. The improvements will

benefit the County. The improvements are an indirect charge and must satisfy this statute as well as the requirements of *Benchmark* to be lawful.

Neither County PDS nor the Hearing Examiner may disregard state law in the single open record hearing allowed Stillwater Preserve in this type 2 application. It is axiomatic then that the proposed condition requiring offsite improvement to be built by the Applicant at substantial cost, a significant indirect charge, must be considered by the Hearing Examiner and rejected for the reasons set out in this Response.

VI. CONCLUSION

The Hearing Examiner would err to find the present application incomplete for lack of build green checklist for the reasons set forth under II above. The Hearing Examiner would err to impose Condition 31 requiring Stillwater Preserve to build over 2,700 feet of school bus route pathway. The Applicant's development would create less than one-third of the houses, population, or trips on the proposed extraordinarily expensive path, an insufficient nexus and proportionality to impose the condition. Neither the general welfare nor public safety nor state law authorizes, let alone requires, these offsite improvements.

The proposed Condition 31 is not authorized under state law or county code, and if imposed, would be an unlawful indirect charge in the absence of a showing of nexus and proportionality. There is no evidence of nexus and Condition 31, if imposed, would not be supported by proportionality.

Therefore, the Hearing Examiner should rule that the application is complete and vested and the Hearing Examiner should deny and refuse to impose Condition 31.

//

//

DATED and respectfully submitted this 3rd day of March, 2026.

By _____
Marty Robinett
Managing Member of Stillwater Preserve, LLC

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EXHIBIT A

TRAFFIC IMPACT ANALYSIS

PFN 24-115821 PS

JURISDICTION: SNOHOMISH COUNTY, WA

Prepared by:

Kimley»Horn

January 2025
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TRAFFIC IMPACT ANALYSIS

FOR

PFN 24-115821 PS

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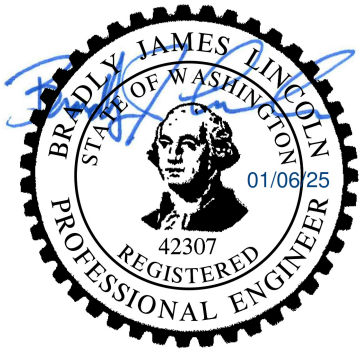

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DEVIATION STUDY ..... A

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1. DEVELOPMENT IDENTIFICATION

Kimley-Horn and Associates, Inc. (Kimley-Horn) has been retained to provide a Traffic Impact Analysis (TIA) for the development (Development) within Snohomish County (County). The Development is planned to contain a total of 14 single-family residential units south of Dubuque Road and west of 211th Avenue SE. The units are all proposed to have access via 52nd Street SE and an internal public road. The site is currently occupied with the existing Islamic Center building per the *Snohomish County Online Property Information (SCOPI)* web map. The Development is located inside County Transportation Service Area (TSA) C, outside the Urban Growth Area (UGA). A site vicinity map is included in **Figure 1**.

Kimley-Horn is a County approved professional traffic engineering consulting firm registered and licensed in the State of Washington. Brad Lincoln, responsible for this report and traffic analysis, is a licensed professional engineer (Civil) in the State of Washington and member of the Washington State section of the Institute of Transportation Engineers (ITE).

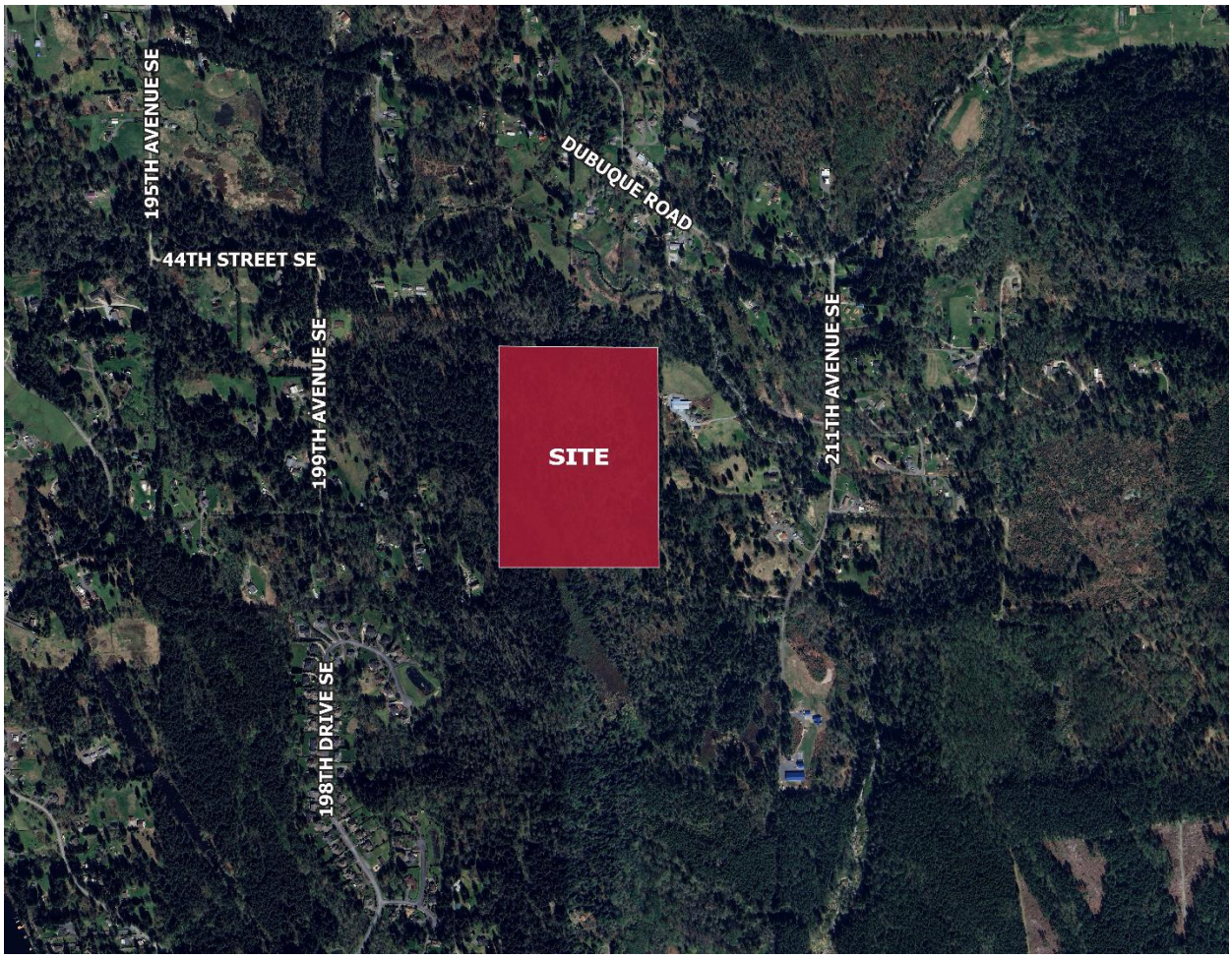

Figure 1: Site Vicinity Map

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2. METHODOLOGY

Trip generation calculations for the Development have been performed according to the methodology from County Department of Public Works (DPW) Rule 4220, *Presubmittal Conferences and Traffic Studies*. Data contained in the ITE's *Trip Generation Manual, 11th Edition (2021),* has been used for the proposed and existing uses, in accordance with DPW Rule 4220. The distribution of trips generated by the site is based on surrounding land uses.

Arterial analysis is only required for developments generating less than 50 peak-hour trips if an arterial unit in arrears is impacted with three directional peak-hour trips. The interlocal agreement between the County and the City of Monroe (City) provides for traffic mitigation fees based on area averages or actual impacts. The interlocal agreement between the County and the Washington State Department of Transportation (WSDOT) provides for mitigation fees to WSDOT for improvement/collection projects impacted within the TSA of the Development. Mitigation fees are based on the area wide mitigation fee or the fee for impacts to individual WSDOT collection projects.

3. TRIP GENERATION

Trip generation calculations for the Development are based on national statistics for single-family detached housing units contained in the ITE *Trip Generation Manual, 11th Edition (2021)*. The trip generation calculations are based on 14 new single-family residential units. The average trip generation rates for ITE Land Use Code (LUC) 210, Single-Family Detached Housing, have been used for the trip generation calculations in accordance with Snohomish County guidelines. The trip generation calculations are summarized in **Table 1**.

Table 1: Trip Generation Summary

14 Single-Family Detached Units ITE LUC 210	Average Daily Trips (ADTs)			AM Peak-Hour Trips			PM Peak-Hour Trips		
	In	Out	Total	In	Out	Total	In	Out	Total
Generation Rate	9.43 trips per unit			0.70 trips per unit			0.94 trips per unit		
Splits	50%	50%	100%	25%	75%	100%	63%	37%	100%
Trips	66.01	66.01	132.02	2.45	7.35	9.80	8.29	4.87	13.16

The Development is anticipated to generate approximately 132 new ADTs with approximately 10 new AM peak-hour trips and approximately 13 new PM peak-hour trips. It should be noted that a local trip generation study was completed along 211th Avenue SE showing lower volumes than the average ITE rates. Therefore, ITE rates shown in this report are conservatively high. The local trip generation study has been provided in **Appendix A**.

4. TRIP DISTRIBUTION

The distribution of trips generated by the Development is based on the previously approved distributions in the site vicinity and surrounding land uses.

- 35% of the trips will travel to and from the south
  - 20% along S Machias Road

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- 15% along 171st Avenue SE
- 25% of the trips will travel to and from the west along Bunk Foss Road.
- 40% of the trips are anticipated to travel to and from the north
  - 30% along S Machias Road
  - 10% along OK Mill Road.

Detailed trip distributions are included in **Figure 2** for the AM peak-hour and **Figure 3** for the PM peak-hour.

The County requires detailed development trip turning movements at key intersections impacted with three or more directional trips on any approach or departure during the AM and PM peak-hours. There are six key intersections during the AM and PM peak-hours that will be impacted by three or more directional trips generated by the Development. The key intersection locations and their corresponding intersection numbers are shown in **Figure 4**. The key intersection volumes are summarized in tabular form in **Table 2** and **Table 3** for the AM and PM peak-hours, respectively.

Table 2: AM Peak-Hour Key Intersection Volumes

Intersection		EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
#144	Creswell Road at Dubuque Road	0	3	0	0	6	1	0	0	0	0	0	0
#145	171st Avenue SE at Dubuque Road	0	2	0	0	6	0	0	0	1	0	0	0
#150	S Machias Road at Ritchey Road	1	NA	0	NA	NA	NA	0	0	NA	NA	2	2
#151	S Machias Road at Dubuque Road	NA	NA	NA	4	NA	2	NA	0	1	1	0	NA
#152	139th Avenue SE at Dubuque Road	0	2	0	0	6	0	0	0	0	0	0	0
#153	Storm Lake Road at Dubuque Road	NA	3	0	0	6	NA	0	NA	0	NA	NA	NA

Table 3: PM Peak-Hour Key Intersection Volumes

Intersection		EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
#144	Creswell Road at Dubuque Road	0	7	0	0	5	0	0	0	0	1	0	0
#145	171st Avenue SE at Dubuque Road	0	6	0	1	4	0	0	0	1	0	0	0
#150	S Machias Road at Ritchey Road	2	NA	0	NA	NA	NA	0	2	NA	NA	1	1
#151	S Machias Road at Dubuque Road	NA	NA	NA	2	NA	2	NA	0	4	2	0	NA
#152	139th Avenue SE at Dubuque Road	0	6	0	0	4	0	0	0	0	0	0	0
#153	Storm Lake Road at Dubuque Road	NA	7	0	0	5	NA	0	NA	0	NA	NA	NA

Individual development trip turning movements at the key intersections are shown in **Figure 4** for the AM and PM peak-hours.

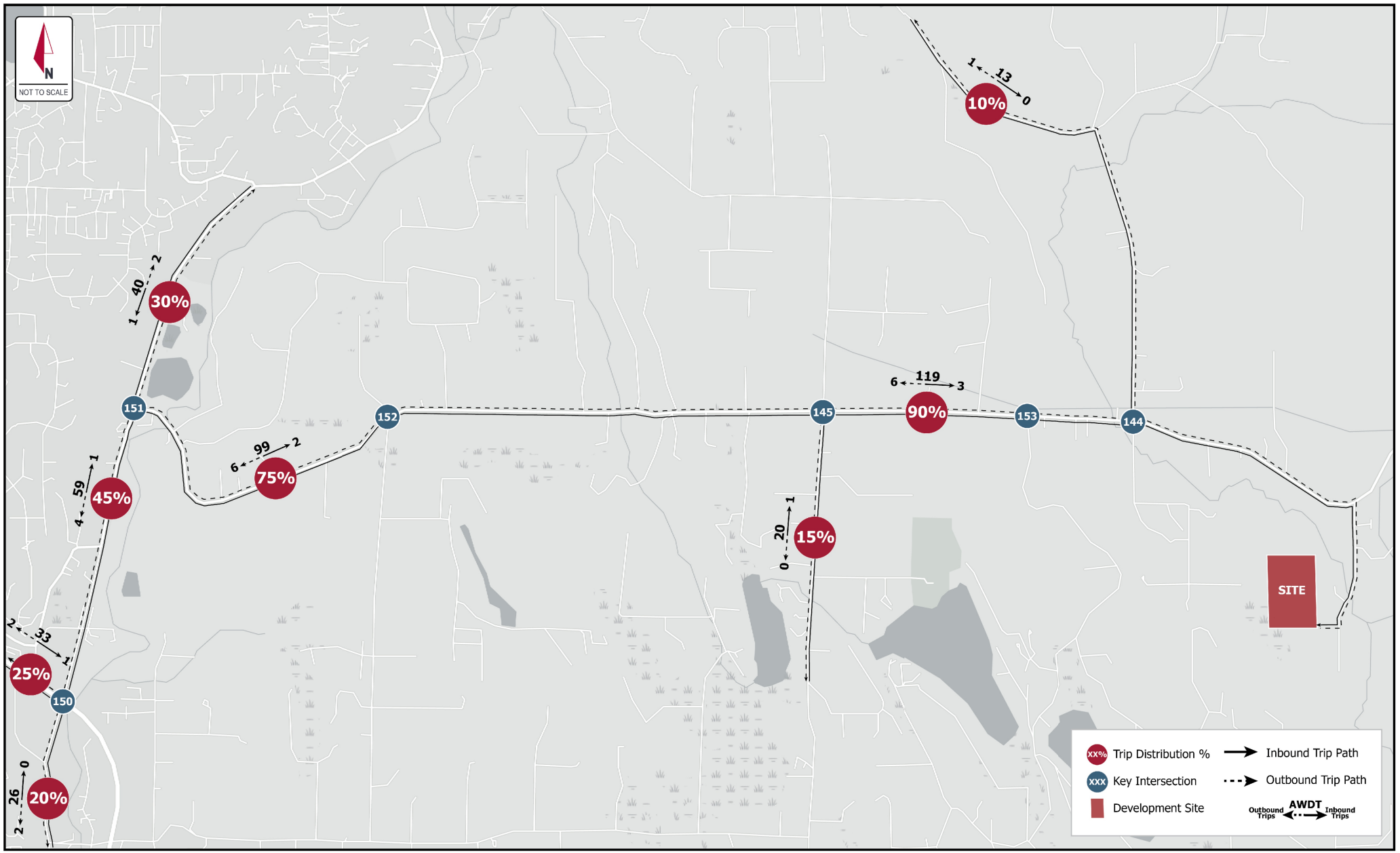

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FIGURE 2: DEVELOPMENT TRIP DISTRIBUTION - AM PEAK HOUR

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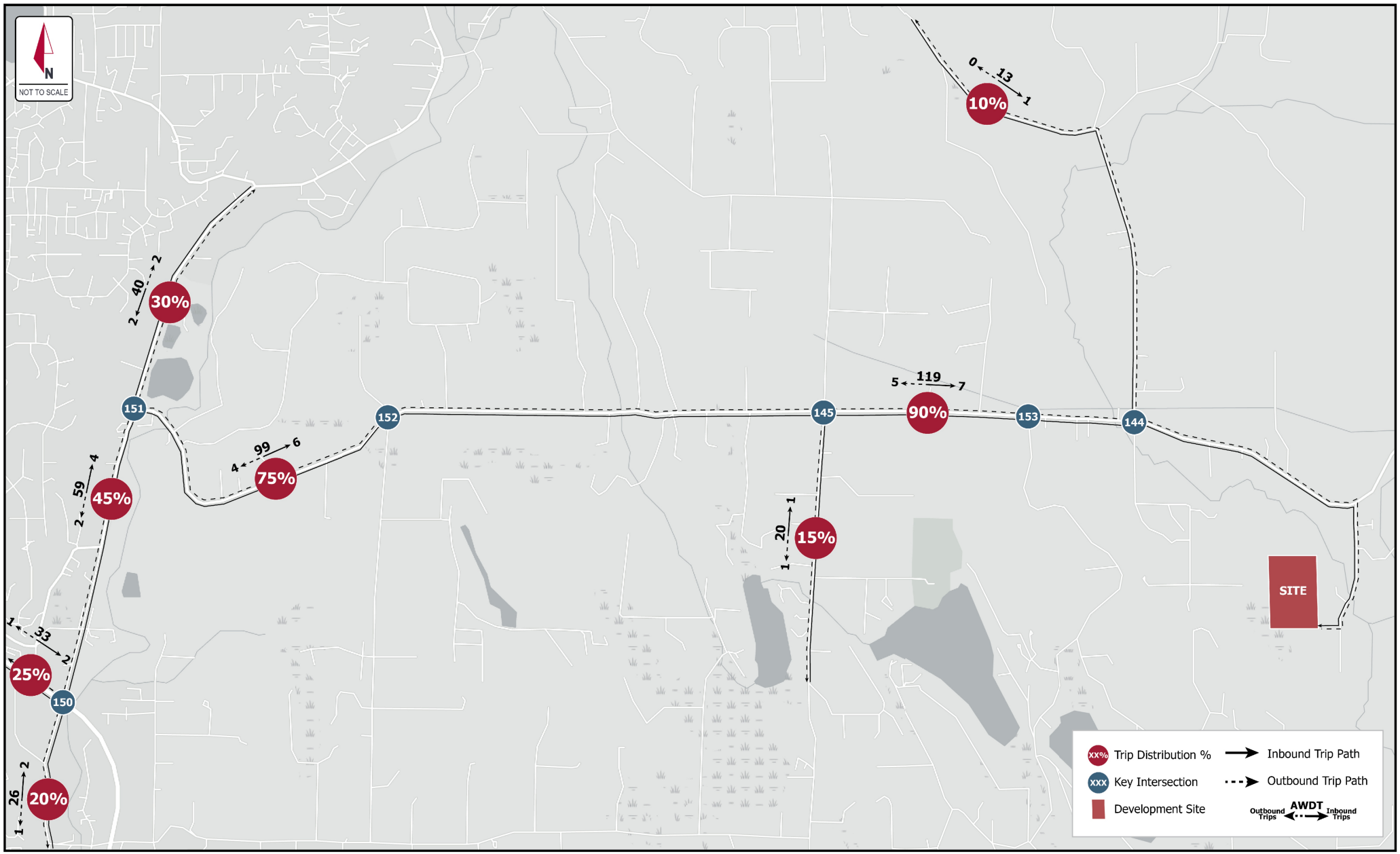

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FIGURE 3: DEVELOPMENT TRIP DISTRIBUTION - PM PEAK HOUR

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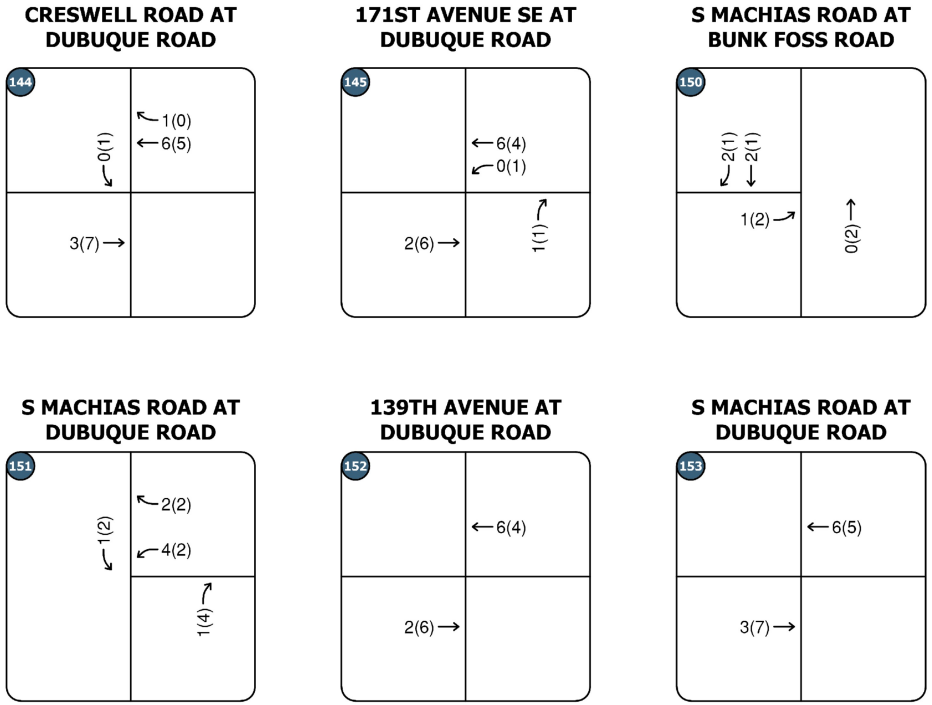

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FIGURE 4: SNOHOMISH COUNTY KEY INTERSECTION TURNING MOVEMENTS

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5. CONCURRENCY

The trips generated by the Development will not impact any County arterial units in arrears or arterial units at ultimate capacity with three or more directional peak-hour. The Development should therefore be deemed concurrent based on SCC 30.66B.160(2)(a) based on the lack of impacts to arterial units in arrears and arterial units at ultimate capacity.

6. TRAFFIC MITIGATION FEES

The Washington Growth Management Act and Revised Code of Washington 82.02.050(2) authorize local jurisdictions to establish proportionate share traffic mitigation fees in order to fund capital facilities, such as roads and intersections. SCC 30.66B applies that authority to developments in order to fund road improvements that would accommodate development.

The Development is located in Snohomish County, which assesses general traffic mitigation fees for new trips generated. The County traffic mitigation fees are assessed regardless of the impacts of a development. City and WSDOT traffic mitigation fees are based on the flat fees for specific areas or actual impacts to City streets and WSDOT improvement projects.

6.1. Snohomish County

The Development is located outside the UGA of TSA C, which has a residential traffic mitigation fee of $568 per daily trip. The Development will generate 132.02 new daily trips. The new daily trips result in a standard County traffic mitigation fee of $74,987.36, or $5,356.24 for each of the 14 new residential units.

6.2. City of Monroe

The County and the City have entered into an interlocal agreement for traffic mitigation fees. Based on Section Three 3(a)2 of the interlocal worksheets, the traffic mitigation fees of a development can be calculated based on the actual impacts of the trips generated by the development. City roadways will not be impacted by three or more directional PM peak-hour trips generated by the Development. City traffic mitigation fees should therefore not be a requirement for the Development at the time of this report.

6.3. Washington State Department of Transportation

The trips generated by the Development will not impact any collection projects on WSDOT's Exhibit C list within TSA B with three or more directional PM peak-hour trips. Therefore, WSDOT traffic mitigation fees should not be required for the Development.

7. CONCLUSIONS

The Development is planned to include a total of 14 single-family detached units. The Development is anticipated to generate 132.02 ADTs with 9.80 AM peak-hour trips and 13.16 PM peak-hour trips. These trips impact six County key intersections during the AM and PM peak-hours. The Development is not anticipated to impact any arterial units in arrears or arterial units at ultimate capacity within TSA C and should therefore be deemed concurrent based on SCC 30.66B.130(4). The traffic mitigation fees for the Development will total $74,987.36, which is equivalent to $5,356.24 for each of the 14 units that will be constructed.

APPENDIX A

DEVIATION STUDY

Kimley»Horn

MEMORANDUM

To:	Ry McDuffy
From:	Brad Lincoln PE Kimley-Horn and Associates, Inc.
Date:	August 12, 2024
Subject:	PFN 24-115821 – Trip Generation Evaluation
Project:	KH 090224018

Kimley-Horn and Associates, Inc. (Kimley-Horn) has been retained to provide a trip generation evaluation for PFN 24-115821 (Development). The Development is proposed to consist of 14 single-family residential units. This memorandum summarizes trip generation calculations published by ITE and counts collected in the field adjacent to the Development. The Development is located in Snohomish County (County) on the west side of 211th Avenue SE, south of Dubuque Road, on parcel 00597500001200 and a portion of 00597500001300. The parcels are currently listed as unoccupied and vacant per *Snohomish County Online Property Information (SCOPI)*. A site vicinity map is shown in **Figure 1.**

Figure 1: Vicinity Map

Kimley»Horn

1. TRIP GENERATION – ITE RATES

The trip generation calculations have been performed using data published by the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 11th Edition (2021)*. ITE Land Use Code (LUC) 210, Single-Family Detached Housing, is the most applicable to the proposed use. The trip generation of the 14 single-family units using the ITE data is summarized in **Table 1**.

Table 1: Trip Generation Summary – ITE Rates

14 Units Single-Family Detached Housing LUC ITE 210	Average Daily Trips (ADTs)			AM Peak-Hour Trips			PM Peak-Hour Trips		
	In	Out	Total	In	Out	Total	In	Out	Total
Generation Rate	9.43 trips per unit			0.70 trips per unit			0.94 trips per unit		
Splits	50%	50%	100%	25%	75%	100%	63%	37%	100%
Trips	66.01	66.01	132.02	2.45	7.35	9.80	8.29	4.87	13.16

The Development would be anticipated to generate approximately 132 new ADTs with approximately 10 new AM peak-hour trips and approximately 13 new PM peak-hour trips using trip generation rates published by ITE.

Kimley»Horn

2. TRIP GENERATION – STUDY RATES

The trip generation calculations have also been performed using field data collected on Wednesday, March 20, 2024. The existing 24-hour counts were collected by the independent count firm Traffic Data Gathering (TDG) along 211th Avenue SE, south of Dubuque Road, for the northbound and southbound approaches. There are 25 existing single-family residences that utilize the section of 211th Avenue SE just south of Dubuque Road. The southbound approach had a total daily volume of 69 trips, with 3 AM peak-hour trips and 11 PM peak-hour trips. The northbound approach had a total daily volume of 78 trips, with 12 AM peak-hour trips and 9 PM peak-hour trips. The total volume for the 25 residences that use 211th Avenue SE is 147 ADT trips with 15 AM peak-hour trips and 20 PM peak-hour trips. The trip generation rates from the field data are 5.88 daily trips per unit (147/25), 0.60 AM peak-hour trips per unit (15/25), and 0.80 PM peak-hour trips per unit (20/25). The existing units are all single-family detached residential units, which is the same land use as the proposed units in the Development. The trip generation of the 14 single-family units of the Development using the field data are summarized in **Table 2**.

Table 2: Trip Generation Summary – Study Rates

14 Units Single-Family Detached Housing Study Data	ADTs			AM Peak-Hour Trips			PM Peak-Hour Trips		
	In	Out	Total	In	Out	Total	In	Out	Total
Generation Rate	5.88 trips per unit			0.60 trips per unit			0.80 trips per unit		
Splits	47%	53%	100%	20%	80%	100%	55%	45%	100%
Trips	38.69	43.63	82.32	1.68	6.72	8.40	6.16	5.04	11.20

The Development is anticipated to generate approximately 82 new ADTs with approximately 8 new AM peak-hour trips and approximately 11 new PM peak-hour trips using trip generation rates calculated from field data. The trip generation calculations and count data are provided in **Appendix A**.

APPENDIX A

TRIP GENERATION AND COUNT DATA

Trip Generation - ITE Rates

Trip Generation for: Weekday
(a.k.a.): Average Weekday Daily Trips (AWDT)

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	210	9.43	50%	50%	132.02	0%	0.00	132.02	0%	0.00	0%	0.00	132.02	0.00	0.00	0.00	0.00	66.01	66.01
Total						132.02		0.00	132.02		0.00		0.00	132.02	0.00	0.00	0.00	0.00	66.01	66.01

Trip Generation - ITE Rates

Trip Generation for: Weekday, Peak Hour of Adjacent Street Traffic, One Hour between 7 and 9 AM
(a.k.a.): Weekday AM Peak Hour

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	210	0.70	25%	75%	9.80	0%	0.00	9.80	0%	0.00	0%	0.00	9.80	0.00	0.00	0.00	0.00	2.45	7.35
Total						9.80		0.00	9.80		0.00		0.00	9.80	0.00	0.00	0.00	0.00	2.45	7.35

Trip Generation - ITE Rates

Trip Generation for: Weekday, Peak Hour of Adjacent Street Traffic, One Hour between 4 and 6 PM
(a.k.a.): Weekday PM Peak Hour

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	210	0.94	63%	37%	13.16	0%	0.00	13.16	0%	0.00	0%	0.00	13.16	0.00	0.00	0.00	0.00	8.29	4.87
Total						13.16		0.00	13.16		0.00		0.00	13.16	0.00	0.00	0.00	0.00	8.29	4.87

Trip Generation - Study Rates

Trip Generation for: Weekday
(a.k.a.): Average Weekday Daily Trips (AWDT)

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	STUDY	5.88	47%	53%	82.32	0%	0.00	82.32	0%	0.00	0%	0.00	82.32	0.00	0.00	0.00	0.00	38.69	43.63
Total						82.32		0.00	82.32		0.00		0.00	82.32	0.00	0.00	0.00	0.00	38.69	43.63

Trip Generation - Study Rates

Trip Generation for: Weekday, Peak Hour of Adjacent Street Traffic, One Hour between 7 and 9 AM
(a.k.a.): Weekday AM Peak Hour

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	STUDY	0.60	20%	80%	8.40	0%	0.00	8.40	0%	0.00	0%	0.00	8.40	0.00	0.00	0.00	0.00	1.68	6.72
Total						8.40		0.00	8.40		0.00		0.00	8.40	0.00	0.00	0.00	0.00	1.68	6.72

Trip Generation - Study Rates

Trip Generation for: Weekday, Peak Hour of Adjacent Street Traffic, One Hour between 4 and 6 PM
(a.k.a.): Weekday PM Peak Hour

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	STUDY	0.80	55%	45%	11.20	0%	0.00	11.20	0%	0.00	0%	0.00	11.20	0.00	0.00	0.00	0.00	6.16	5.04
Total						11.20		0.00	11.20		0.00		0.00	11.20	0.00	0.00	0.00	0.00	6.16	5.04

TRAFFIC DATA GATHERING
LAKE STEVENS, WA (425) 334-3348
email: CarlaN@trafficdatagathering.com

Location: : 211th Ave SE n/o 47th St SE
City/County, State: : Snohomish County, WA
Counter: : G-4082

Site: Loc 01
3/20/2024
Wednesday

24 Hour Volume, per Channel

	Interval Start	SB		Interval Start		
	3:00 PM	2	10	3:00 AM	0	0
	3:15 PM	0		3:15 AM	0	
	3:30 PM	4		3:30 AM	0	
	3:45 PM	4		3:45 AM	0	
	4:00 PM	1	4	4:00 AM	1	2
	4:15 PM	2		4:15 AM	0	
	4:30 PM	1		4:30 AM	1	
	4:45 PM	0		4:45 AM	0	
	5:00 PM	2	7	5:00 AM	0	0
	5:15 PM	1		5:15 AM	0	
	5:30 PM	2		5:30 AM	0	
	5:45 PM	2		5:45 AM	0	
	6:00 PM	0	4	6:00 AM	2	3
	6:15 PM	3		6:15 AM	0	
	6:30 PM	1		6:30 AM	0	
	6:45 PM	0		6:45 AM	1	
	7:00 PM	0	1	7:00 AM	0	2
	7:15 PM	0		7:15 AM	1	
	7:30 PM	1		7:30 AM	1	
	7:45 PM	0		7:45 AM	0	
	8:00 PM	1	4	8:00 AM	0	1
	8:15 PM	3		8:15 AM	0	
	8:30 PM	0		8:30 AM	0	
	8:45 PM	0		8:45 AM	1	
	9:00 PM	0	2	9:00 AM	1	3
	9:15 PM	1		9:15 AM	1	
	9:30 PM	1		9:30 AM	1	
	9:45 PM	0		9:45 AM	0	
	10:00 PM	0	0	10:00 AM	1	5
	10:15 PM	0		10:15 AM	2	
	10:30 PM	0		10:30 AM	1	
	10:45 PM	0		10:45 AM	1	
	11:00 PM	1	3	11:00 AM	0	3
	11:15 PM	2		11:15 AM	2	
	11:30 PM	0		11:30 AM	1	
	11:45 PM	0		11:45 AM	0	
3/21/2024	12:00 AM	0	0	12:00 PM	0	1
	12:15 AM	0		12:15 PM	1	
	12:30 AM	0		12:30 PM	0	
	12:45 AM	0		12:45 PM	0	
	1:00 AM	0	0	1:00 PM	3	3
	1:15 AM	0		1:15 PM	0	
	1:30 AM	0		1:30 PM	0	
	1:45 AM	0		1:45 PM	0	
	2:00 AM	1	1	2:00 PM	4	10
	2:15 AM	0		2:15 PM	3	
	2:30 AM	0		2:30 PM	2	
	2:45 AM	0		2:45 PM	1	

24 Hour Total 69

12:00 AM - 12:00 PM	
12 Hour Count	20
Peak Hour	10:00 AM
Peak Volume	5
Factor	0.63

12:00 PM - 12:00 AM	
12 Hour Count	49
Peak Hour	3:30 PM
Peak Volume	11
Factor	0.69

TRAFFIC DATA GATHERING
LAKE STEVENS, WA (425) 334-3348
email: CarlaN@trafficdatagathering.com

Location: : 211th Ave SE n/o 47th St SE
City/County, State: : Snohomish County, WA
Counter: : G-4082

Site: Loc 01
3/20/2024
Wednesday

24 Hour Volume, per Channel

NB

Interval Start				Interval Start		
3:00 PM	0	4		3:00 AM	0	2
3:15 PM	1			3:15 AM	0	
3:30 PM	2			3:30 AM	1	
3:45 PM	1			3:45 AM	1	
4:00 PM	0	4		4:00 AM	1	2
4:15 PM	1			4:15 AM	0	
4:30 PM	0			4:30 AM	0	
4:45 PM	3			4:45 AM	1	
5:00 PM	1	5		5:00 AM	2	9
5:15 PM	1			5:15 AM	1	
5:30 PM	2			5:30 AM	3	
5:45 PM	1			5:45 AM	3	
6:00 PM	1	3		6:00 AM	2	4
6:15 PM	0			6:15 AM	1	
6:30 PM	1			6:30 AM	0	
6:45 PM	1			6:45 AM	1	
7:00 PM	0	0		7:00 AM	3	7
7:15 PM	0			7:15 AM	0	
7:30 PM	0			7:30 AM	2	
7:45 PM	0			7:45 AM	2	
8:00 PM	1	3		8:00 AM	1	5
8:15 PM	0			8:15 AM	3	
8:30 PM	2			8:30 AM	0	
8:45 PM	0			8:45 AM	1	
9:00 PM	0	0		9:00 AM	2	7
9:15 PM	0			9:15 AM	1	
9:30 PM	0			9:30 AM	1	
9:45 PM	0			9:45 AM	3	
10:00 PM	1	1		10:00 AM	0	4
10:15 PM	0			10:15 AM	1	
10:30 PM	0			10:30 AM	2	
10:45 PM	0			10:45 AM	1	
11:00 PM	0	0		11:00 AM	1	2
11:15 PM	0			11:15 AM	1	
11:30 PM	0			11:30 AM	0	
11:45 PM	0			11:45 AM	0	
3/21/2024 12:00 AM	0	0		12:00 PM	1	5
12:15 AM	0			12:15 PM	0	
12:30 AM	0			12:30 PM	2	
12:45 AM	0			12:45 PM	2	
1:00 AM	0	0		1:00 PM	1	4
1:15 AM	0			1:15 PM	2	
1:30 AM	0			1:30 PM	1	
1:45 AM	0			1:45 PM	0	
2:00 AM	0	0		2:00 PM	4	7
2:15 AM	0			2:15 PM	2	
2:30 AM	0			2:30 PM	0	
2:45 AM	0			2:45 PM	1	

24 Hour Total 78

12:00 AM - 12:00 PM	
12 Hour Count	42
Peak Hour	5:00 AM
Peak Volume	9
Factor	0.75

12:00 PM - 12:00 AM	
12 Hour Count	36
Peak Hour	4:45 PM
Peak Volume	7
Factor	0.58

EXHIBIT B

BEFORE THE HEARING EXAMINER
IN AND FOR THE COUNTY OF SNOHOMISH

In Re Stillwater Preserve RB	
Stillwater Preserve LLC, Applicant.	No. 25-101010 PSD DECLARATION OF ERIC STEVENS

The undersigned, ERIC STEVENS, declares under the penalty of perjury that the following is true and accurate:

1. I am a resident of Snohomish County, over eighteen years of age, and competent to testify.
2. I am employed by Robinett Homes, LLC.
3. My employer asked that I count the number of students picked up and dropped off at the school bus stop located at the intersection of Dubuque Road and 211th Ave. SE.
4. A true and accurate student count is attached to this Declaration as **Attachment A**.
5. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and accurate.

Dated this 2nd day of March, 2026 at Snohomish, Washington.

By _____
ERIC STEVENS

ATTACHMENT A

STUDENT COUNTS

School Bus Stop at Intersection of Dubuque Rd. and 211th Ave. SE

DATE	BUS NO.	TIME	STUDENT COUNT	TRAVEL TYPE
02/25/2026	106 (high school and middle school)	Went by to the East and back to the West between 6:25 am and 6:45 am but did not stop	0	N/A
02/25/2026	308 (elementary school)	7:45 am	1	Child driven to bus stop from 211th Ave SE
02/25/2026	106 (high school and middle school)	3:00 pm	1	Student picked up by adult in side-by-side
02/25/2026	308 (elementary school)	4:00 pm	1	Child picked up by adult in vehicle
02/26/2026	106 (high school and middle school)	6:25 am - 6:45 am	0	N/A
02/26/2026	308 (elementary school)	7:45 am	0	N/A
02/26/2026	106 (high school and middle school)	3:00 pm	1	Student picked up by adult in side-by-side
02/26/2026	308 (elementary school)	4:00 pm	1	Child picked up by adult in vehicle

EXHIBIT C

STAFF RECOMMENDATION FOR EDDS DEVIATION

PFN: 24 118579 WMD

Staff Member: Max Phan

Project Reference PFN:

Project Name: Shadowhawk

EDDS Section No.	/	Drawing No.
3-14 B		

Staff Recommendation: ☒ **APPROVE** ☐ **APPROVE W/COND.** ☐ **DENY**

FINDINGS AND ANALYSIS

Describe how the deviation achieves the intended result of the approved standard design:

The EDDS deviation request is for EDDS Section 3-14B, *Table 3-12 Pedestrian Facility Standards*, Rural Off-Site which requires pedestrian facilities for school children walking to and from a school bus stop. The applicant is proposing a separated pedestrian facility on one side of the road along 211th Ave SE from the subject site to Dubuque Road. 211th Ave SE is a low volume road with a posted speed limit of 25 mph and there is an existing bridge (Woods Creek Bridge 48150) just north of the subject site. The proposed deviation is not to have a pedestrian facility on Woods Creek Bridge 48150 and instead install additional signage and illumination. The existing bridge profile is flat and horizontally straight with clear sight lines over 300 ft to the south and over 150 ft to the north. There are 3 existing homes south of the bridge and the proposed development of 14 new homes would result in a total of 17 homes that could be occupied in the future and wanting to cross the bridge. The 17 homes would generate approximately 100 ADT.

Describe how the deviation will not adversely affect traffic safety and operations:

See EDDS Deviation Request Form

Describe how the deviation will not adversely affect maintenance and associated costs:

See EDDS Deviation Request Form

Describe how the deviation will not adversely affect aesthetic appearance:

See EDDS Deviation Request Form

Other Information:

Project Name: Shadowhawk

Project Reference PFN:

Fire Marshal Review ☐ **REQUIRED** ☒ **NOT REQUIRED**

NOTE: If the deviation will impact a Fire Lane, i.e. (temporary turnaround, intermediate turnaround, slope of road, width of pavement below 20-feet etc.) or pertains to the requirement for a 2nd access then the Snohomish County Fire Marshalls office needs to indicate their recommendation below.

Fire Marshal Recommendation: ☐ **APPROVE** ☐ **APPROVE W/COND** ☐ **DENY**

_____ Date: _____
Fire Marshal's representative

Comments or Conditions:_____

_____

_____

DECISION OF THE COUNTY TRAFFIC ENGINEER

☐ **APPROVED** ☒ **APPROVED W/COND** ☐ **DENIED**

☐ **ATTACH PRE-APPLICATION EDDS DEVIATION CONDITIONS**

Comments or Conditions:_____

Provide signing and illumination at the bridge , and do not need to provide marked crossing in the middle of 211th Ave SE, if needed Public Works will provide marked crossings there.

_____

Date: 1/9/2025

Mohammad Uddin, PE
Public Works Traffic Engineer

_____ Date: _____
PDS Engineering Representative (If drainage related)

Attach a copy of the letter of notification

cc PDS Project File
PDS Traffic Review File
PDS Fire Review File
PDS /Drainage Engineering Review File (if applicable)
DPW Project File (if applicable)

EDDS PRE-APPLICATION DEVIATION APPLICATION

(Applicable Only For The Most Current EDDS Version In Effect On or After January 2, 2019)

A. Instructions:

1. This application shall only be used for EDDS deviation requests made after the Presubmittal Conference required by SCC 30.66B.020 and before submittal of the development application.
2. This application shall be used to request a deviation from a standard in the most current version of the EDDS and that does not apply to stormwater management pursuant to the Drainage Code. Requests to deviate from stormwater management standards shall be processed as Drainage modifications or waivers in accordance with SCC 30.63A.170.
3. Submit one deviation request per application. Multiple standards that must be evaluated as a single proposal may be combined in one application.
4. Provide sufficient information to evaluate the request, including applicable EDDS section(s), standard drawings, engineering calculations or other data. Engineering calculations or analysis shall be prepared by an engineer licensed in the State of Washington.
5. An EDDS deviation request shall not be used to modify or waive a requirement of County Code, such as SCC Chapters 30.24 (Roads and Access) or 30.66B (Concurrency and Road Impact Mitigation).

B. Submittal: Submit your deviation request online at www.mybuildingpermit.com or call 425-388-3311, ext. 2790 to schedule a submittal appointment. For a submittal appointment please bring the complete application, all supporting documentation and the applicable fee.

C. Fee: $1,390.50 per request (includes a 3% technology surcharge per SCC 30.86.030).

D. Project Information:

30.66B Pre-submittal PFN: 24115821PS

Project Name: Shadow Hawk

Current EDDS Version Dated: September 2021 PDS Traffic Reviewer: _____

Applicant or Representative Name: Brad Lincoln, PE

Address: 2828 Colby Avenue, #200 City/State: Everett, WA

Zip: 98201 Email: brad.lincoln@kimley-horn.com Phone: _____

Applicant Signature: _____ Date: 206.485.4774

By signing this EDDS pre-application deviation application the applicant acknowledges and agrees that; 1) the submittal of a pre-application EDDS deviation does not vest the deviation request or the future development application in any way; 2) the decision of the County Traffic Engineer or County Engineer shall be a conditional decision and 3) if approved the conditional decision shall become permanent if within 6 months from the date of the conditional decision the formal development application is submitted and no applicable EDDS or Title 30 SCC provisions are revised so that the conditionally approved deviation would be in conflict with the revised provisions.

E. Deviation Request:

1. Identify the EDDS standard(s) proposed for deviation (include section and/or drawing numbers):

See attachment

2. Describe the deviation request, including reasons for the request and why the applicable EDDS standard cannot be met. Include site-specific details as applicable.

See attachment

F. EDDS Section 1-05 Supporting Information Criteria: Pursuant to EDDS Section 1-05, deviation requests must include supporting information showing compliance with the following criteria:

3. Describe how the deviation will still achieve the intent of the EDDS' standard:

See attachment

4. Describe how the deviation will not adversely affect road safety or operation:

See attachment

5. Describe how the deviation will provide substantially equivalent environmental protection:

See attachment

6. Describe how the deviation will not adversely affect road maintenance and associated costs:

See attachment

7. Describe how the deviation will not adversely affect aesthetic appearance of roads or property:

See attachment

E. Deviation Request:

1. Identify the EDDS standard(s) proposed for deviation (include section and/or drawing numbers):

3-14 B Pedestrian Facility Options, specifically Table 3-12 Pedestrian Facility Standards for off-site facilities in rural areas.

2. Describe the deviation request, including reasons for the request and why the applicable EDDS standard cannot be met. Include site-specific details as applicable.

The deviation request is to allow the bridge and approaches for off-site pedestrian facilities (567 Woods Creek 48150) without widening. The existing bridge is approximately 20 feet wide. The cost of an additional 7 feet of off-site pedestrian bridge facility for approximately 80 to 100 feet (including bridge and approaches/landings) is over $125,000 and disproportionate to the total traffic and pedestrian activity for 14 additional lots. The additional widening cost of the bridge would be particularly disproportionate as the applicant will be adding an off-site pedestrian walkway from north of the site for nearly 2,160 feet which will already cost over $270,000 as well as frontage improvements (see graphic for details). There would also be environmental impacts of widening the bridge by increasing the shadow across Woods Creek and additional impervious surface through adjacent wetland areas. These environmental impacts would be avoided by approving this deviation request.

Signing at the approaches to the bridge (such as MUTCD W5-2 "NARROW BRIDGE" and MUTCD W16-1P "SHARE THE ROAD") can be installed in conjunction with the proposed pedestrian improvements and illumination on the bridge if the County requires.

F. EDDS Section 1-05 Supporting Information Criteria: Pursuant to EDDS Section 1-05, deviation requests must include supporting information showing compliance with the following criteria:

3. Describe how the deviation will still achieve the intent of the EDDS' standard:

The posted speed limit along 211th Avenue SE is 25 mph. EDDS does not require new roadways with less than 90 ADT to have separate/additional pedestrian facilities. Based on the attached trip generation report the homes along 211th Avenue SE generate approximately 5.88 daily trips per occupied home. There are 3 homes south of the bridge today and the proposed development of 14 new homes would result in a total of 17 homes that could be occupied in the future and wanting to cross the bridge to leave the neighborhood. The 17 homes would generate approximately 100 ADT which is within about 10% (10 ADT) of the ADT levels where a separate pedestrian facility is not needed. Count data between 6:30 AM and 8:30 AM and 2:30 PM and 4:30 PM did not show any pedestrians on the bridge. The existing bridge and wetland barrier area that would be affected by approval of this deviation is appropriately 80-100 feet in total length. The design character of the existing bridge area are both vertically flat and horizontally straight. This allows for clear sight lines from one end to the other.

4. Describe how the deviation will not adversely affect road safety or operation:

211th Avenue SE south of 47th Street SE is a low volume road with clear sight lines. Today the traffic volumes record approximately 30 daily trips, of which only 8 occur during the AM peak-hour and 13 during the PM peak-hour (see volume diagram). There are approximate 80 daily trips north of 47th Street SE, of which only 14 occur during the AM peak-hour and 18 during the PM peak-hour. There are no recorded collisions on any part of 211th Avenue SE nor at the intersection of Dubuque Road in the last 5 years.

The development will add a separated pedestrian walkway for the entire length of the 211th Avenue SE roadway north and south of the Woods Creek bridge and associated approaches/departures, even though the existing half mile section has not had any pedestrian and vehicle collisions in the last 5 years. The only section that would remain as 20 feet width without widening would be the bridge and approach/departure areas.

The total ADT projected across the Woods Creek bridge would be approximatively 100 ADT with the existing and proposed residential units. During the highest hour of the day the units generate 0.8 trips per unit. Therefore the 17 total homes would generate approximately 14 vehicle trips in that hour with 66% southbound (inbound) and 37% northbound (outbound). This is equivalent to approximately one vehicle southbound about every 4 minutes and one northbound every 6 minutes during the highest hour of the day. This would result in an extremely small chance of two vehicles wanting to cross this 80-100 foot section during the same time in opposite directions when a pedestrian is also crossing. During the other hours of the day the potential vehicle trip interaction is even less. There were not any existing pedestrians observed crossing the bridge during the 6:30 AM to 8:30 AM and 4:30 PM to 6:30 PM periods. Only 2 pedestrians were observed at the 47th Street SE intersection with 211th Avenue SE during the same periods.

Additional signage, including MUTCD W5-2 "NARROW BRIDGE" and W16-1P "SHARE THE ROAD," can be provided on the bridge approaches and illumination on the bridge if desired by the County.

5. Describe how the deviation will provide substantially equivalent environmental protection:

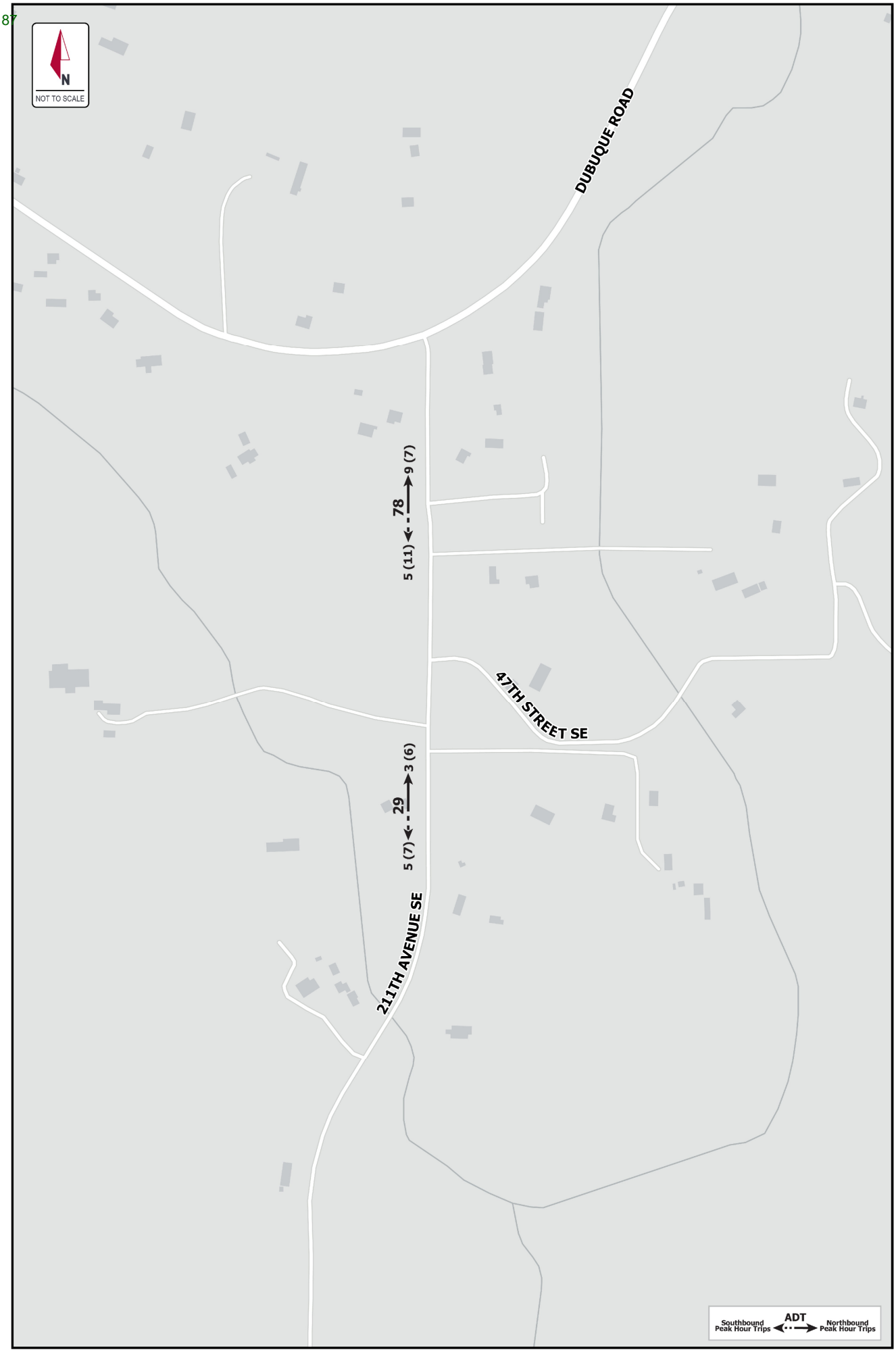
The deviation provides much greater environmental protection as it does not increase the impervious and shadow area across Woods Creek and associated wetlands.

6. Describe how the deviation will not adversely affect road maintenance and associated costs:

There may be additional painted area and signs according to EDDS or MUTCD standards; however, accepting the deviation will maintain the existing section across the bridge. This will reduce maintenance of a new attached pedestrian bridge structure from what would be required if a deviation is not approved.

7. Describe how the deviation will not adversely affect aesthetic appearance of roads or property:

The existing bridge has a rural character that would be maintained.



Kimley»Horn

FIGURE 1: EXISTING VOLUME - AM (PM) PEAK-HOUR
PFN 24-115821 DEVIATION - SNOHOMISH COUNTY, WA (090224018)

Kimley»Horn

MEMORANDUM

To: Ry McDuffy

From: Brad Lincoln PE
Kimley-Horn and Associates, Inc.

Date: August 12, 2024

Subject: PFN 24-115821 – Trip Generation Evaluation

Project: KH 090224018

Kimley-Horn and Associates, Inc. (Kimley-Horn) has been retained to provide a trip generation evaluation for PFN 24-115821 (Development). The Development is proposed to consist of 14 single-family residential units. This memorandum summarizes trip generation calculations published by ITE and counts collected in the field adjacent to the Development. The Development is located in Snohomish County (County) on the west side of 211th Avenue SE, south of Dubuque Road, on parcel 00597500001200 and a portion of 00597500001300. The parcels are currently listed as unoccupied and vacant per *Snohomish County Online Property Information (SCOPI)*. A site vicinity map is shown in **Figure 1.**

Figure 1: Vicinity Map

Kimley»Horn

1. TRIP GENERATION – ITE RATES

The trip generation calculations have been performed using data published by the Institute of Transportation Engineers (ITE) *Trip Generation Manual, 11th Edition (2021)*. ITE Land Use Code (LUC) 210, Single-Family Detached Housing, is the most applicable to the proposed use. The trip generation of the 14 single-family units using the ITE data is summarized in **Table 1**.

Table 1: Trip Generation Summary – ITE Rates

14 Units Single-Family Detached Housing LUC ITE 210	Average Daily Trips (ADTs)			AM Peak-Hour Trips			PM Peak-Hour Trips		
	In	Out	Total	In	Out	Total	In	Out	Total
Generation Rate	9.43 trips per unit			0.70 trips per unit			0.94 trips per unit		
Splits	50%	50%	100%	25%	75%	100%	63%	37%	100%
Trips	66.01	66.01	132.02	2.45	7.35	9.80	8.29	4.87	13.16

The Development would be anticipated to generate approximately 132 new ADTs with approximately 10 new AM peak-hour trips and approximately 13 new PM peak-hour trips using trip generation rates published by ITE.

Kimley»Horn

2. TRIP GENERATION – STUDY RATES

The trip generation calculations have also been performed using field data collected on Wednesday, March 20, 2024. The existing 24-hour counts were collected by the independent count firm Traffic Data Gathering (TDG) along 211th Avenue SE, south of Dubuque Road, for the northbound and southbound approaches. There are 25 existing single-family residences that utilize the section of 211th Avenue SE just south of Dubuque Road. The southbound approach had a total daily volume of 69 trips, with 3 AM peak-hour trips and 11 PM peak-hour trips. The northbound approach had a total daily volume of 78 trips, with 12 AM peak-hour trips and 9 PM peak-hour trips. The total volume for the 25 residences that use 211th Avenue SE is 147 ADT trips with 15 AM peak-hour trips and 20 PM peak-hour trips. The trip generation rates from the field data are 5.88 daily trips per unit (147/25), 0.60 AM peak-hour trips per unit (15/25), and 0.80 PM peak-hour trips per unit (20/25). The existing units are all single-family detached residential units, which is the same land use as the proposed units in the Development. The trip generation of the 14 single-family units of the Development using the field data are summarized in **Table 2**.

Table 2: Trip Generation Summary – Study Rates

14 Units Single-Family Detached Housing Study Data	ADTs			AM Peak-Hour Trips			PM Peak-Hour Trips		
	In	Out	Total	In	Out	Total	In	Out	Total
Generation Rate	5.88 trips per unit			0.60 trips per unit			0.80 trips per unit		
Splits	47%	53%	100%	20%	80%	100%	55%	45%	100%
Trips	38.69	43.63	82.32	1.68	6.72	8.40	6.16	5.04	11.20

The Development is anticipated to generate approximately 82 new ADTs with approximately 8 new AM peak-hour trips and approximately 11 new PM peak-hour trips using trip generation rates calculated from field data. The trip generation calculations and count data are provided in **Appendix A**.

APPENDIX A

TRIP GENERATION AND COUNT DATA

Trip Generation - ITE Rates

Trip Generation for: Weekday
(a.k.a.): Average Weekday Daily Trips (AWDT)

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	210	9.43	50%	50%	132.02	0%	0.00	132.02	0%	0.00	0%	0.00	132.02	0.00	0.00	0.00	0.00	66.01	66.01
Total						132.02		0.00	132.02		0.00		0.00	132.02	0.00	0.00	0.00	0.00	66.01	66.01

Trip Generation - ITE Rates

Trip Generation for: Weekday, Peak Hour of Adjacent Street Traffic, One Hour between 7 and 9 AM
(a.k.a.): Weekday AM Peak Hour

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	210	0.70	25%	75%	9.80	0%	0.00	9.80	0%	0.00	0%	0.00	9.80	0.00	0.00	0.00	0.00	2.45	7.35
Total						9.80		0.00	9.80		0.00		0.00	9.80	0.00	0.00	0.00	0.00	2.45	7.35

Trip Generation - ITE Rates

Trip Generation for: Weekday, Peak Hour of Adjacent Street Traffic, One Hour between 4 and 6 PM
(a.k.a.): Weekday PM Peak Hour

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	210	0.94	63%	37%	13.16	0%	0.00	13.16	0%	0.00	0%	0.00	13.16	0.00	0.00	0.00	0.00	8.29	4.87
Total						13.16		0.00	13.16		0.00		0.00	13.16	0.00	0.00	0.00	0.00	8.29	4.87

Trip Generation - Study Rates

Trip Generation for: Weekday
(a.k.a.): Average Weekday Daily Trips (AWDT)

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	STUDY	5.88	47%	53%	82.32	0%	0.00	82.32	0%	0.00	0%	0.00	82.32	0.00	0.00	0.00	0.00	38.69	43.63
Total						82.32		0.00	82.32		0.00		0.00	82.32	0.00	0.00	0.00	0.00	38.69	43.63

Trip Generation - Study Rates

Trip Generation for: Weekday, Peak Hour of Adjacent Street Traffic, One Hour between 7 and 9 AM
(a.k.a.): Weekday AM Peak Hour

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	STUDY	0.60	20%	80%	8.40	0%	0.00	8.40	0%	0.00	0%	0.00	8.40	0.00	0.00	0.00	0.00	1.68	6.72
Total						8.40		0.00	8.40		0.00		0.00	8.40	0.00	0.00	0.00	0.00	1.68	6.72

Trip Generation - Study Rates

Trip Generation for: Weekday, Peak Hour of Adjacent Street Traffic, One Hour between 4 and 6 PM
(a.k.a.): Weekday PM Peak Hour

									NET EXTERNAL TRIPS BY TYPE											
									IN BOTH DIRECTIONS						DIRECTIONAL ASSIGNMENTS					
			Gross Trips				Internal Crossover		TOTAL	PASS-BY		DIVERTED LINK		NEW	PASS-BY		DIVERTED LINK		NEW	
LAND USES	VARIABLE	ITE LU code	Trip Rate	% IN	% OUT	In+Out (Total)	% of Gross Trips	Trips In+Out (Total)	In+Out (Total)	% of Ext. Trips	In+Out (Total)	% of Ext. Trips	In+Out (Total)	In+Out (Total)	In	Out	In	Out	In	Out
Single-Family Detached Housing	14 units	STUDY	0.80	55%	45%	11.20	0%	0.00	11.20	0%	0.00	0%	0.00	11.20	0.00	0.00	0.00	0.00	6.16	5.04
Total						11.20		0.00	11.20		0.00		0.00	11.20	0.00	0.00	0.00	0.00	6.16	5.04

TRAFFIC DATA GATHERING
LAKE STEVENS, WA (425) 334-3348
email: CarlaN@trafficdatagathering.com

Location: : 211th Ave SE n/o 47th St SE
City/County, State: : Snohomish County, WA
Counter: : G-4082

Site: Loc 01
3/20/2024
Wednesday

24 Hour Volume, per Channel

	Interval Start	SB		Interval Start	SB	
	3:00 PM	2	10	3:00 AM	0	0
	3:15 PM	0		3:15 AM	0	
	3:30 PM	4		3:30 AM	0	
	3:45 PM	4		3:45 AM	0	
	4:00 PM	1	4	4:00 AM	1	2
	4:15 PM	2		4:15 AM	0	
	4:30 PM	1		4:30 AM	1	
	4:45 PM	0		4:45 AM	0	
	5:00 PM	2	7	5:00 AM	0	0
	5:15 PM	1		5:15 AM	0	
	5:30 PM	2		5:30 AM	0	
	5:45 PM	2		5:45 AM	0	
	6:00 PM	0	4	6:00 AM	2	3
	6:15 PM	3		6:15 AM	0	
	6:30 PM	1		6:30 AM	0	
	6:45 PM	0		6:45 AM	1	
	7:00 PM	0	1	7:00 AM	0	2
	7:15 PM	0		7:15 AM	1	
	7:30 PM	1		7:30 AM	1	
	7:45 PM	0		7:45 AM	0	
	8:00 PM	1	4	8:00 AM	0	1
	8:15 PM	3		8:15 AM	0	
	8:30 PM	0		8:30 AM	0	
	8:45 PM	0		8:45 AM	1	
	9:00 PM	0	2	9:00 AM	1	3
	9:15 PM	1		9:15 AM	1	
	9:30 PM	1		9:30 AM	1	
	9:45 PM	0		9:45 AM	0	
	10:00 PM	0	0	10:00 AM	1	5
	10:15 PM	0		10:15 AM	2	
	10:30 PM	0		10:30 AM	1	
	10:45 PM	0		10:45 AM	1	
	11:00 PM	1	3	11:00 AM	0	3
	11:15 PM	2		11:15 AM	2	
	11:30 PM	0		11:30 AM	1	
	11:45 PM	0		11:45 AM	0	
3/21/2024	12:00 AM	0	0	12:00 PM	0	1
	12:15 AM	0		12:15 PM	1	
	12:30 AM	0		12:30 PM	0	
	12:45 AM	0		12:45 PM	0	
	1:00 AM	0	0	1:00 PM	3	3
	1:15 AM	0		1:15 PM	0	
	1:30 AM	0		1:30 PM	0	
	1:45 AM	0		1:45 PM	0	
	2:00 AM	1	1	2:00 PM	4	10
	2:15 AM	0		2:15 PM	3	
	2:30 AM	0		2:30 PM	2	
	2:45 AM	0		2:45 PM	1	

24 Hour Total 69

12:00 AM - 12:00 PM	
12 Hour Count	20
Peak Hour	10:00 AM
Peak Volume	5
Factor	0.63

12:00 PM - 12:00 AM	
12 Hour Count	49
Peak Hour	3:30 PM
Peak Volume	11
Factor	0.69

TRAFFIC DATA GATHERING
LAKE STEVENS, WA (425) 334-3348
email: CarlaN@trafficdatagathering.com

Location: : 211th Ave SE n/o 47th St SE
City/County, State: : Snohomish County, WA
Counter: : G-4082

Site: Loc 01
3/20/2024
Wednesday

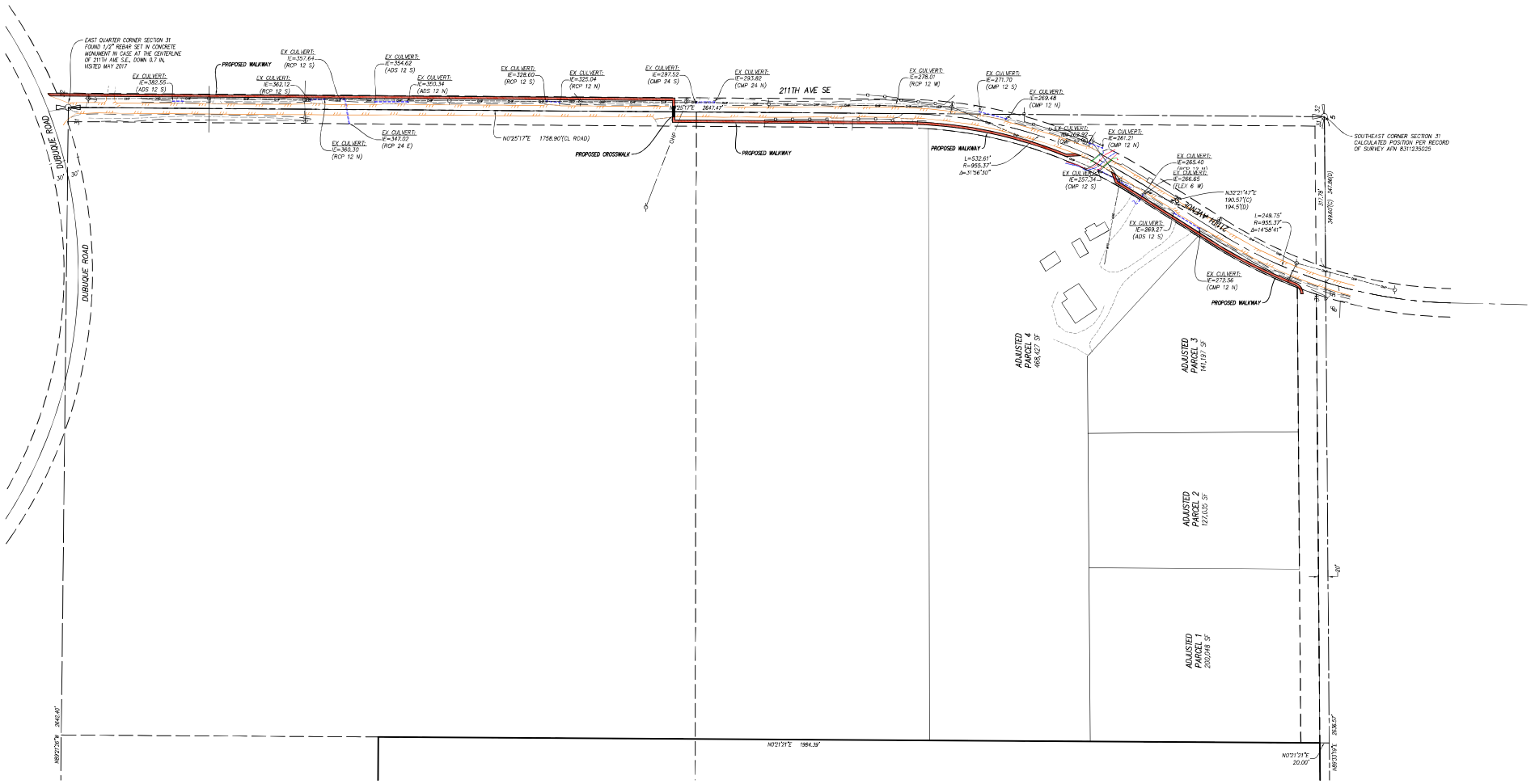
24 Hour Volume, per Channel

NB

Interval Start			Interval Start		
3:00 PM	0	4	3:00 AM	0	2
3:15 PM	1		3:15 AM	0	
3:30 PM	2		3:30 AM	1	
3:45 PM	1		3:45 AM	1	
4:00 PM	0	4	4:00 AM	1	2
4:15 PM	1		4:15 AM	0	
4:30 PM	0		4:30 AM	0	
4:45 PM	3		4:45 AM	1	
5:00 PM	1	5	5:00 AM	2	9
5:15 PM	1		5:15 AM	1	
5:30 PM	2		5:30 AM	3	
5:45 PM	1		5:45 AM	3	
6:00 PM	1	3	6:00 AM	2	4
6:15 PM	0		6:15 AM	1	
6:30 PM	1		6:30 AM	0	
6:45 PM	1		6:45 AM	1	
7:00 PM	0	0	7:00 AM	3	7
7:15 PM	0		7:15 AM	0	
7:30 PM	0		7:30 AM	2	
7:45 PM	0		7:45 AM	2	
8:00 PM	1	3	8:00 AM	1	5
8:15 PM	0		8:15 AM	3	
8:30 PM	2		8:30 AM	0	
8:45 PM	0		8:45 AM	1	
9:00 PM	0	0	9:00 AM	2	7
9:15 PM	0		9:15 AM	1	
9:30 PM	0		9:30 AM	1	
9:45 PM	0		9:45 AM	3	
10:00 PM	1	1	10:00 AM	0	4
10:15 PM	0		10:15 AM	1	
10:30 PM	0		10:30 AM	2	
10:45 PM	0		10:45 AM	1	
11:00 PM	0	0	11:00 AM	1	2
11:15 PM	0		11:15 AM	1	
11:30 PM	0		11:30 AM	0	
11:45 PM	0		11:45 AM	0	
3/21/2024 12:00 AM	0	0	12:00 PM	1	5
12:15 AM	0		12:15 PM	0	
12:30 AM	0		12:30 PM	2	
12:45 AM	0		12:45 PM	2	
1:00 AM	0	0	1:00 PM	1	4
1:15 AM	0		1:15 PM	2	
1:30 AM	0		1:30 PM	1	
1:45 AM	0		1:45 PM	0	
2:00 AM	0	0	2:00 PM	4	7
2:15 AM	0		2:15 PM	2	
2:30 AM	0		2:30 PM	0	
2:45 AM	0		2:45 PM	1	

24 Hour Total 78

12:00 AM - 12:00 PM		**12:00 PM - 12:00 AM**	
12 Hour Count	42	12 Hour Count	36
Peak Hour	5:00 AM	Peak Hour	4:45 PM
Peak Volume	9	Peak Volume	7
Factor	0.75	Factor	0.58



LEGAL DESCRIPTION

THAT PORTION OF THE SOUTH HALF OF LOT 14 AND LOT 15, THREE LAKES LUMBER COMPANY PLAT NO 4, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 7, LYING WESTERLY OF COUNTY ROAD (211TH AVENUE SE), RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

TOGETHER WITH THAT PORTION OF THE SOUTH HALF OF THE SOUTH HALF OF THE NORTH HALF OF LOTS 14 AND 15, THREE LAKES LUMBER COMPANY PLAT NO 4, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 10 OF PLATS, PAGE 7, LYING WESTERLY OF COUNTY ROAD (211TH AVENUE SE), RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

EQUIPMENT & PROCEDURES

INSTRUMENTATION: LEICA TCRM1205 TOTAL STATION AND LEICA APX 1200 GPS

METHOD OF SURVEY: FIELD TRAVERSE OF EXISTING MONUMENTATION

PRECISION: MEETS OR EXCEEDS W.A.C. 332-130-090 REQUIREMENTS

BASIS OF BEARING: EAST-WEST CENTERLINE OF SECTION 31 WAS HELD AS N89°21'26"E

REFERENCE: RECORD OF SURVEY AFN 201803195001, TOGETHER WITH RECORD OF SURVEY AFN 8311235025

DATUM: NAVD 88, AS OBTAINED BY GPS OBSERVATION.

CONVERSION: IN THIS VICINITY SUBTRACT 3.69' TO NAVD 1988 TO ACHIEVE NGVD 1929.

BENCHMARK: FOUND MONUMENT AT THE INTERSECTION OF DUBUQUE ROAD AND 211TH AVENUE SE, ELEVATION = 393.97'

TEMP. TEMPORARY BENCH MARK: MAG NAIL WITH WASHER SET IN SOUTH EDGE OF ADJACENT DRIVEWAY LOCATED NORTH OF THE SITE. ELEVATION = 348.00'

NOTES

1) THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT, AND DOES NOT PURPORT TO SHOW ALL EASEMENTS, RESTRICTIONS, RESERVATIONS AND/OR OCCUPATION WHICH MAY ENCUMBER TITLE TO OR USE THIS PROPERTY.

2) THIS SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE PARTIES WHOSE NAMES APPEAR HEREON ONLY, AND DOES NOT EXTEND TO ANY UNNAMED THIRD PARTIES WITHOUT THE EXPRESS RECERTIFICATION BY THE LAND SURVEYOR.

3) BOUNDARY LINES SHOWN AND CORNERS SET REPRESENT DEED LOCATIONS; OWNERSHIP LINES MAY VARY. NO GUARANTEE OF OWNERSHIP IS EXPRESSED OR IMPLIED.

4) SITE ADDRESS: 5012 211TH AVENUE SE, SNOHOMISH, WA 98290

5) TAX NUMBER: 00597500001405 & 00597500001402

LEGEND

- UTILITY POLE
- STREET LIGHT WITH CONDUIT
- TELEPHONE JUNCTION BOX
- CATCH BASIN: TYPE 1 WITH GRATE
- SIGN
- CONCRETE (WALKS, SLABS, CURB)
- BENCHMARK
- FOUND REBAR, AS NOTED
- FOUND MONUMENT, AS NOTED
- GRAVEL
- GUY ANCHOR
- FOUND IRON PIPE, AS NOTED
- MAILBOX
- CULVERT AS NOTED
- BOTTOM OF DITCH

GRAPHIC SCALE

100 0 100 200

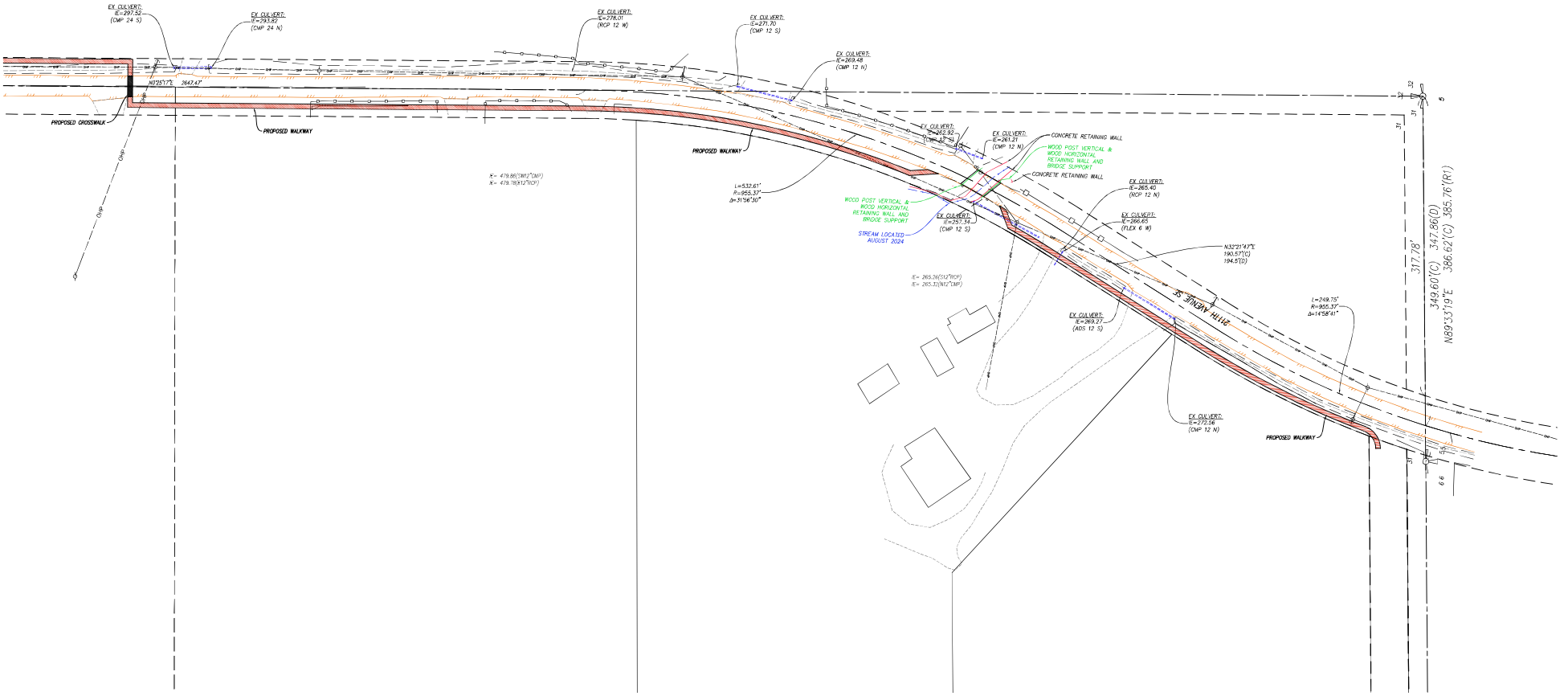
SCALE: 1" = 100'

WALKWAY DEVIATION FOR
211TH AVENUE S.E.

IN THE SE 1/4, OF THE SE 1/4, SECTION 31, T.29N., R.7E., W.M
SNOHOMISH COUNTY, WASHINGTON

ORCA Land Surveying
3805 COLBY AVENUE, EVERETT, WA 98201
425-259-3400 FAX: 425-258-1616

JOB NO. 2021-023
DATE: 12/4/2024
DWG BY: KG/JMS
F.B. ____, PG. __
SHEET 1 of 3



LEGEND

- UTILITY POLE
- STREET LIGHT WITH CONDUIT
- TELEPHONE JUNCTION BOX
- CATCH BASIN: TYPE 1 WITH GRATE
- SIGN
- CONCRETE (WALKS, SLABS, CURB)
- BENCHMARK
- FOUND REBAR, AS NOTED
- FOUND MONUMENT, AS NOTED
- GRAVEL
- GUY ANCHOR
- FOUND IRON PIPE, AS NOTED
- MAILBOX
- CULVERT AS NOTED
- BOTTOM OF DITCH

GRAPHIC SCALE

50 0 50 100

SCALE: 1" = 50'

WALKWAY DEVIATION FOR 211TH AVENUE S.E.

IN THE SE 1/4, OF THE SE 1/4, SECTION 31, T.29N., R.7E., W.M
SNOHOMISH COUNTY, WASHINGTON

ORCA Land Surveying
3805 COLBY AVENUE, EVERETT, WA 98201
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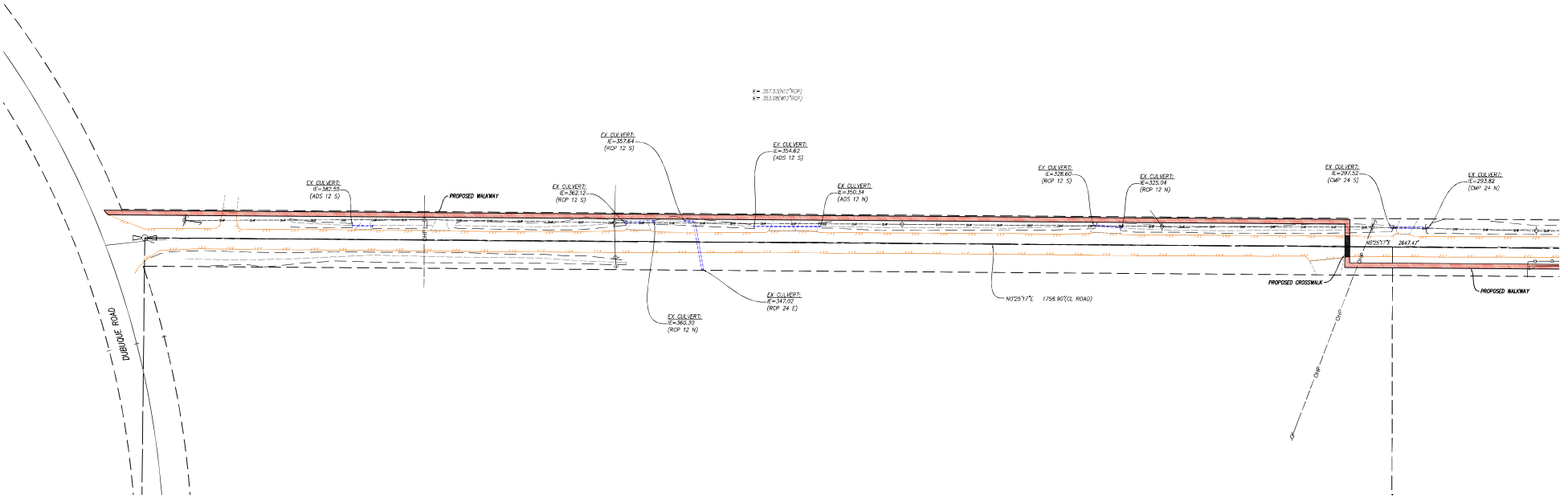
F.B. ____, PG. __
SHEET 2 of 3



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DWG BY: KG/JMS
F.B. ____, PG. __
SHEET 3 of 3

EXHIBIT D

Safe Routes to School

Safe Routes To School

The information on the Safe Routes to School (SRTS) webpages remains in effect for SRTS funds apportioned in Federal fiscal years 2005 through 2012.

The Infrastructure Investment and Jobs Act (IIJA) codified SRTS at 23 U.S.C. 208 and expanded eligibility from kindergarten through 8th grade to kindergarten through 12th grade.

Safe Routes to School projects are eligible under the Transportation Alternatives Set-Aside and the Surface Transportation Block Grant Program. For information about SRTS under these programs, see:

- Surface Transportation Block Grant Program Webpage
- Transportation Alternatives Program Guidance
  - Federal Share Flexibilities (including use of HSIP funds as credit toward non-Federal share)
  - SRTS Section of Transportation Alternatives Program Guidance
- Transportation Alternatives Webinar (June 1, 2022)
  - Webinar slides (2.2MB) Download the PDF for the speaker notes
  - Webinar recording (Passcode: 3MPNf1=5)

Photo by Paul Niehoff.

Many of us remember a time when walking and bicycling to school was a part of everyday life. In 1969, about half of all students walked or bicycled to school.[1] Today, however, the story is very different. Fewer than 15 percent of all school trips are made by walking or bicycling, one-quarter are made on a school bus, and over half of all children arrive at school in private automobiles.[2]

This decline in walking and bicycling has had an adverse effect on traffic congestion and air quality around schools, as well as pedestrian and bicycle safety. In addition, a growing body of evidence has shown that children who lead sedentary lifestyles are at risk for a variety of health problems such as obesity, diabetes, and cardiovascular disease.[3] Safety issues are a big concern for parents, who consistently cite traffic danger as a reason why their children are unable to bicycle or walk to school.[4]

Origins of the Program

The SRTS Program was established in August 2005 as part of SAFETEA-LU. Section 1404 of this legislation provided funding (for the first time) for State Departments of Transportation to create and administer SRTS programs.

The administration of section 1404 was originally assigned to FHWA's Office of Safety. At the beginning of FY 2013, FHWA's Office of Planning, Environment, and Realty assumed program oversight.

The purpose of the Federal Safe Routes to School (SRTS) Program is to address these issues head on. At its heart, the SRTS Program empowers communities to make walking and bicycling to school a safe and routine activity once again. The Program makes funding available for a wide variety of programs and projects, from building safer street crossings to establishing programs that encourage children and their parents to walk and bicycle safely to school.

This website provides an overview of the Program, as well as specific Program Guidance to the States in the administration of SRTS funds.

National Center for Safe Routes to School. A centralize resource of information on research and evaluation, tools and training, and school data.

In July 2008, the National Safe Routes to School (SRTS) Task Force released its final report titled *Safe Routes to School: A Transportation Legacy.* The report provides specific recommendations to the U.S. Department of Transportation and Congress regarding future and current efforts to make walking and bicycling safely to school a reality for American school children. Please click the following link to learn more about the Task Force Final Report .

---

[1]"Transportation Characteristics of School Children," Report No. 4, Nationwide Personal Transportation Study, Federal Highway Administration, Washington, DC, July 1972.

[2]"Data from the 2001 National Household Travel Survey conducted by Federal Highway Administration were used as the source."

[3]"Physical activity and the health of young people," U.S. Centers for Disease Control & Prevention, Fact Sheet, 2004.

[4]"Barriers to Children Walking and Biking to School," CDC, 2005.

EXHIBIT E

BEFORE THE HEARING EXAMINER
IN AND FOR THE COUNTY OF SNOHOMISH

In Re Stillwater Preserve RB	
Stillwater Preserve LLC, Applicant.	No. 25-101010 PSD DECLARATION OF SCOTT COCHRAN

The undersigned, SCOTT COCHRAN, declares under the penalty of perjury that the following is true and accurate:

1. I am a resident of Snohomish County, over eighteen years of age, and competent to testify.
2. I am employed by Currie Construction.
3. My employer was requested to prepare a bid for construction related to Stillwater Preserve.
4. My employer, Currie Construction, is a licensed and registered contractor in the State of Washington. Attached as **Attachment A** is a true copy of the Department of Labor and Industries webpage detailing the registration of Currie Construction.
5. A true resume of my construction experience is attached as **Attachment B**. I am qualified to opine as to construction costs in Snohomish County, Washington.
6. Attached as **Attachment C** is Currie Construction's bid to construct a walking path along 211th Ave SE if such a path is required. The bid reflects current costs in Snohomish County Washington and is true and accurate.
7. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and accurate.

//

Dated this 27th day of February, 2026 at MARYSVILLE, Washington.

By _____
SCOTT COCHRAN

Stillwater Preserve LLC
2805 Colby Avenue, Ste 304
Everett, WA 98201

ATTACHMENT A

Washington State Department of Labor & Industries (https://lni.wa.gov/)

Contractors

CURRIE CONST INC

Owner or tradesperson
Principals
CURRIE, TYSON A, PRESIDENT
CURRIE, DONALD N, PRESIDENT
(End: 03/19/2012)
CURRIE, MARILYNN E, VICE PRESIDENT
(End: 03/19/2012)
CURRIE, JULIE R, SECRETARY
(End: 03/19/2012)
CURRIE, CLYDE L, MEMBER
(End: 03/19/2012)

Doing business as
CURRIE CONST INC

13823 228TH ST NE
ARLINGTON, WA 98223
425-422-3612
SNOHOMISH County

WA UBI No.
602 356 672

Business type
Corporation

Registration

Verify the contractor's active registration / license / certification (depending on trade) and any past violations.

Construction Contractor

Active
Meets current requirements.

License specialties
GENERAL
License no.
CURRICI969JR
Effective — expiration
04/19/2004— 04/19/2026
L&I Contractor Registration:
1-800-647-0982 - Email: ContReg@Lni.wa.gov

Bond

Contractors Bonding & Insurance Co
Bond account no.
SJ3596
$30,000.00

Received by L&I
01/14/2026
Effective date
04/19/2026
Expiration date
Until Canceled

Ohio Cas Ins Co
Bond account no.
999446885
$30,000.00

Received by L&I
11/18/2025
Effective date
11/18/2025
Expiration date
Until Canceled

Contractors Bonding & Insurance Co $12,000.00

Bond account no.
SJ3596

Received by L&I
10/03/2011

Effective date
11/01/2011

Expiration date
04/19/2026

Insurance

Western National Assur Co $1,000,000.00

Policy no.
CPP 1358854 00

Received by L&I
11/18/2025

Effective date
11/15/2025

Expiration date
11/15/2026

Insurance history

Savings
No savings accounts during the previous 6 year period.

Lawsuits against the bond or savings
No lawsuits against the bond or savings accounts during the previous 6 year period.

L&I Tax debts
No L&I tax debts are recorded for this contractor license during the previous 6 year period, but some debts may be recorded by other agencies.

License Violations
No license violations during the previous 6 year period.

Certifications & Endorsements

OMWBE Certifications
No active certifications exist for this business.

Apprentice Training Agent
No active Washington registered apprentices exist for this business. Washington allows the use of apprentices registered with Oregon or Montana. Contact the Oregon Bureau of Labor & Industries or Montana Department of Labor & Industry to verify if this business has apprentices.

Workers' Comp

Do you know if the business has employees? If so, verify the business is up-to-date on workers' comp premiums.

This company has multiple workers' comp accounts.

Active accounts

L&I Account ID
137,127-00

Call L&I account representative for account status.

Doing business as
CURRIE CONSTRUCTION INC

Estimated workers reported
Incomplete premium report received.

Workers' Comp Account Contact
Collections Outreach (800) 301-1826 - Email: collections@lni.wa.gov

Public Works Requirements

Verify the contractor is eligible to perform work on public works projects.

Required Training– Effective July 1, 2019
Exempt from this requirement.
Completed the training on 8/17/2019

Contractor Strikes
No strikes have been issued against this contractor.

Can this contractor bid on Public Works projects?
No debarments have been issued against this contractor.

Workplace Safety & Health

Check for any past safety and health violations found on jobsites this business was responsible for.

Inspection results date
12/08/2020

Violations

Inspection no.
317961424

Location
505 Majestic View Ct
Mukilteo, WA 98275

ATTACHMENT B

To Whom It May Concern, **February 26, 2026**

I, Scotty Cochran, have been working for Currie Construction, Inc. (13823 228th St NE, Arlington WA) as the Lead Estimator/Project Manager for 5 years. See Below for my qualifications for this position:

Experience

Currie Construction – Arlington

Project Manager/Estimator: Aug 2021-Present

- Lead estimating and project management for commercial and residential projects across Snohomish and King Counties.
- Delivered multi-million-dollar civil construction projects ahead of schedule and under budget.
- Conduct on-site reviews to define scope, identify risks, and collaborate with engineers and clients to develop solutions.
- Manage subcontractor bids, evaluate scopes, and negotiate contracts to maintain cost and schedule targets.
- Train and mentor field crews, increasing productivity and efficiency across project teams.
- Serve as Head Safety Coordinator, leading safety meetings and implementing jobsite training programs.

Plats Plus Inc. – Marysville, WA

Lead Foreman/ Assistant Project Manager/ Assistant Estimator: Jun 2012 - Aug2021

- Assisted senior project manager in estimating and bidding projects.
- Developed communication skills working with inspectors, superintendents, and subcontractors.
- Operated heavy equipment while supporting project scheduling and field coordination.
- Built foundational skills in cost estimating and project scope development.

Education

Western Washington University – Bachelor of Science 2015

ATTACHMENT C

2026.02.26

Project: **Stillwater Preserve - 211th Ave SE Offsite Walkway** **Client: Marty Robinett, Robinett Brothers, LLC**

Biditem	Description	Quantity	Units	Unit Price	Bid Total
	General Conditions				
A.01	Mobilization	1.000	LS	$ 5,000.00	$ 5,000.00
A.02	Strip TopSoil Offsite and Dump Onsite, 12" Depth	1.000	LS	$ 15,000.00	$ 15,000.00
A.03	Mass Grading - Onsite Cut to OffSite Fill	1.000	LS	$ 9,000.00	$ 9,000.00
A.04	Prep Sub-Base of Road	20,920.000	SF	$ 0.50	$ 10,460.00
A.05	Base Aggregate for Offsite Road, 6" Depth	600.000	TONS	$ 43.00	$ 25,800.00
A.06	HMA Cl 1/2", 6" Depth	630.000	TONS	$ 190.00	$ 119,700.00
A.07	1' Rock Strip Along Asphalt	400.000	TONS	$ 43.00	$ 17,200.00
A.08	Tree Climbers	5.000	Days	$ 3,000.00	$ 15,000.00
A.09	Regrade Swales	1.000	LS	$ 17,000.00	$ 17,000.00
A.10	Regrade Slopes	1.000	LS	$ 25,000.00	$ 25,000.00
A.11	Grass Seed Area	1.300	ACRES	$ 1,800.00	$ 2,340.00
A.12	Flagging	25.000	DAYS	$ 1,200.00	$ 30,000.00
A.13	Sweep Road	60.000	LS	$ 165.00	$ 9,900.00
	Sub Total General Conditions				**$ 301,400.00**

	Contingency/Options				
	Items Labeled Red not in Total Bid				
B.01	Placing Straw Per Bale: Erosion Control		EA	$ 35.00	$ -
	Sub Total Contingency/Options				
	Items Labeled Red not in Total Bid				
		Project Total			**$ 301,400.00**
		Sales Tax (0.079)			**$ 23,810.60**
		Total			**$ 325,210.60**

This proposal is valid for up to 15 days or longer upon re-evaluations of costs that may or may not have changed I.E. fuel, fuel surcharges, materials made of oil byproducts such as PVC pipe, gravel sources, etc.

Pricing is based on our discussion, site visit and dry weather. Deviations from our intent may affect cost if required sequences are beyond what is anticipated. Additonal work if required will be complete on a task basis and will be mutally agreed upon prior to work commencing.

Thank you for your consideration of Currie Construction, Inc. for this project. Please call me if you have any questions at:

Tyson Currie
(425)-422-3612
Currie Construction, Inc.

Scotty Cochran
Estimator & Bidder
(425)-308-2178

EXHIBIT F

BEFORE THE HEARING EXAMINER
IN AND FOR THE COUNTY OF SNOHOMISH

In Re Stillwater Preserve RB	
Stillwater Preserve LLC, Applicant.	No. 25-101010 PSD DECLARATION OF MARK MILLER

The undersigned, MARK MILLER, declares under the penalty of perjury that the following is true and accurate:

1. I am a resident of Snohomish County, over eighteen years of age, and competent to testify.
2. I am employed by Robinett Homes, LLC.
3. My employer asked that I count the number of students picked up and dropped off at the school bus stop located at the intersection of Dubuque Road and 211th Ave. SE.
4. A true and accurate student count is attached to this Declaration as **Attachment A**.
5. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and accurate.

Dated this 2 day of March, 2026 at SNOHOMISH, Washington.

By _____
MARK MILLER

Stillwater Preserve LLC
2805 Colby Avenue, Ste 304
Everett, WA 98201

ATTACHMENT A

STUDENT COUNTS

School Bus Stop at Intersection of Dubuque Rd. and 211th Ave. SE.

DATE	BUS NO.	TIME	STUDENT COUNT	TRAVEL TYPE
02/27/2026	106 (high school and middle school)	Went by to the East and back to the West between 6:25 am and 6:45 am but did not stop	0	N/A
02/27/2026	308 (elementary school)	7:45 am	1	Child driven to bus stop from 211th Ave SE
02/27/2026 (early release Friday)	106 (high school and middle school)	12:50 pm	1	Student walked to their driveway
02/27/2026 (early release Friday)	308 (elementary school)	2:03 pm	0	N/A

M E M O R A N D U M

December 4, 2025

TO: Stacey Abbott, Senior Planner
Planning and Development Services

FROM: Rachael Carrigan, Engineer II, Transportation Development Reviewer
Planning and Development Services, Transportation Engineering Section

SUBJECT: File No. 25 101010 PSD, Stillwater Preserve RB
Final Transportation Impact, Mitigation and Concurrency Review Comments

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DOCUMENTS REVIEWED

The following materials were provided to Planning and Development Services and were included in the transportation review:

- Preliminary Plat Map, received September 9, 2025
- Preliminary Civil Plan, dated November 11, 2025
- Project Narrative, dated January 6, 2025
- Traffic Study, dated January 6, 2025
- School District comments, dated November 4, 2025
- Comment Response Letter, dated November 20, 2025
- EDDS Deviation, dated July 2, 2025
- Recorded BLA Documents, received November 25, 2025
- 24-118579 WMD Preapplication EDDS Deviation, dated January 9, 2025

General Information

The applicant is proposing to develop a 14-lot rural cluster subdivision.

The subject property is located at undetermined address, with tax parcel number: 005975-000-012-00 in Transportation Service Area (TSA) “C”, outside the urban growth area (UGA).

On site access will be provided by via a new private on off the extension of public road 52nd St SE connecting to 211th Ave SE.

The plan used for this review was received by (PDS) on September 9, 2025.

The subject development is vested to September 17, 2021, version of the EDDS.

The site is not currently developed and is vacant.

According to project narrative duplexes are not proposed.

Notice of Decision Requirements for Concurrency and Impact Fee Determination:

The following notice language should be included in the notice of decision for this development:

“Notice of Concurrency Determination and Impact Fee Determination: The development has been determined to be concurrent. This concurrency decision may be appealed pursuant to

SCC 30.66B.180. This decision applying a traffic fee under Chapter 30.66B SCC may be appealed pursuant to SCC.30.66B.370."

Concurrency [SCC 30.66B.120]

The County makes a concurrency determination for each development application to ensure the development will not impact a county arterial unit in arrears or cause a county arterial to go in arrears.

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and has been determined concurrent as of April 2, 2025. The concurrency determination approval will last for the duration of the project. Consistent with DPW rule 4225.070, January 22, 2025, is the point in time for which the concurrency analysis is based (i.e. the concurrency vesting date)

The development has been deemed concurrent on the following basis:

Development generating 50 or fewer peak-hour trips in TSA with no arterial unit in arrears and/or designated at ultimate capacity, SCC 30.66B.130(4). The subject development is located in TSA C which, as of the date of submittal of the application, had no arterial units in arrears and/or designated at ultimate capacity. The subject development generates 9.80 new A.M. peak-hour trips and 13.16 new P.M. 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.

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

Regardless of the existing level of service, any development which adds three or more P.M. peak-hour trips to a location in the road system determined to have an existing 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.

The subject development proposal will not impact any IRC locations identified within TSA C with three or more of its peak hour trips, nor will it create any. Therefore, it is anticipated that mitigation will not be required with respect to inadequate road conditions and no restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under this section of Chapter 30.66B SCC.

Road System Impact Fee [SCC 30.66B.310]

A development shall mitigate its impact upon the future capacity of the Snohomish County road system by paying a road system impact fee reasonably related to the impacts of the development on arterial roads across the Transportation Service Areas (TSAs) within the County, at the rate identified in SCC 30.66B.330 for the type and location of the proposed development. A development's road system impact fee will be equal to the development's new average daily traffic (ADT), based on the latest edition of the ITE Trip Generation report published by the Institute of Transportation Engineers, times the per trip amount for the specific transportation service area identified in SCC 30.66B.330 or acceptable specific trip generation information provided by the applicant or their Traffic Engineer.

The estimates of trip generation for the development are based on the 11th edition of the ITE Trip Generation Manual as follows:

ITE Land Use Category: Single Family Detached
ITE Land Use Code: 210
Applicable Measurement Unit (ITE Independent Variable): Dwelling Units
Number of applicable measurement units for this development: 14 DUs

AM & PM Peak Hour Trip Calculations:
Trip Generation Based on Average Rates

Type of Trip	Calculations								
Net New AM Peak-Hour Trips (AM PHT)	Total DU*		AM PHT per DU*		5% TDM Credit**		Less existing trips		Net New AM PHT
	14	X	0.70	X	N.A.	-	0	=	9.80
Net new PM Peak-Hour Trips (PM PHT)	Total DU*		PM PHT per DU*		5% TDM Credit**		Less existing trips		Net New PM PHT
	14	X	0.94	X	N.A.	-	0	=	13.16

* Dwelling Units (DU)

** See Transportation Demand Management section below for TDM percentage determination.

Road System Impact Fee Calculation

1	Number of Dwelling Units in development:	14
2	ADT per Dwelling Unit:	9.43
3	New ADT (Line 1 x Line 2):	132.02
4	TDM Credit* (Line 3 x 5%):	0
5	Gross New ADT (Line 3 – Line 4):	132.02
6	ADT Credit for Existing Trips	0
7	Net New ADT (Line 5 – Line 6):	132.02
8	TSA C mitigation rate per ADT:	$568.00
9	Total Road System Impact Fee (Line 7 x Line 8):	$74,987.36
10	Number of New Dwelling Units to be Constructed:	14
11	**Amount to be paid per New Dwelling Unit:** (Line 9 ÷ Line 10)	$5,356.24

* See Transportation Demand Management section below for TDM percentage determination.

Payment of this road system impact fee shall be made consistent with SCC 30.66B.340.

Frontage Improvements [SCC 30.66B.410]

All developments will be 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.

The proposed development does not have frontage on any opened, constructed, and maintained public road, but does have unopened right-of-way adjacent the southern and western property line. The proposed development is required to construct a public road connectivity (52nd St SE) and public road stub out from 211th Ave SE to the proposed private road access point and a public stub out to the west. The construction of 52nd St SE shall consist of rural public road requirements:

Asphalt concrete pavement consisting of 24 feet of pavement for two 12-foot travel lanes and a pedestrian facility (8-foot-wide shoulder) of each side.

The applicant's representative submitted an EDDS Deviation dated July 2, 2025. The EDDS Deviation was for a pedestrian facility on one side of the public road extension of 52nd St SE and for the proposed private road. Additionally, the EDDS Deviation was for having the road slope 2% to one side for both 52nd St SE and the proposed private road. The County Traffic Engineer conditionally approved the EDDS Deviation dated September 8, 2025, with the following conditions:

1. The ultimate right-of-way width shall be 60-feet along 52nd St SE.
2. Stormwater runoff along 52nd St SE and 206th Dr SE shall be collected to the satisfaction of the County.

The public road extension and stub out will require a conceptual plan and profile off-site in order to locate the stub in a feasible location. This is adequately shown on the civil plans and will be reviewed during the LDA permit review phase.

Construction of 52nd St SE is required prior to recording of the final plat.

Right-of-way Classification / Access and Circulation [SCC Title 13, EDDS 3-02 and 30.66B.420]

Internal Road Classification:

Per Department of Public Works, and the County Traffic Engineer, the internal road will need to be classified as a private road (206th Dr SE). Per EDDS 3-05.B design standards for private roads are the same as for public roads with corresponding traffic volumes. The proposed development will generate 132.02 ADT, therefore per EDDS Standard Drawing 3-060, the private road will need to be constructed with 24-feet of pavement and an 8-foot-wide shoulder on each side.

The applicant's representative submitted an EDDS Deviation dated July 2, 2025. The EDDS Deviation was for a pedestrian facility on one side of the public road extension of 52nd St SE and for the proposed private road. Additionally, the EDDS Deviation was for having the road slope 2% to one side for both 52nd St SE and the proposed private road. The County Traffic

Engineer conditionally approved the EDDS Deviation dated September 8, 2025, with the following conditions:

1. The ultimate right-of-way width shall be 60-feet along 52nd St SE.
2. Stormwater runoff along 52nd St SE and 206th Dr SE shall be collected to the satisfaction of the County.

External Road Classification:

Under the authority of the County Engineer and in accordance with the EDDS, 52nd St SE is classified as a non-arterial rural road. This road will be a public road serving 132.02 ADT.

The classification of the roads within and adjacent to the proposed development have been made based on professional engineering judgment under the authority of the County Engineer, the requirements in EDDS and the following information.

- The number of ADT generated by the proposed development is 132.02.
- The number of ADT currently on the existing road is 0.
- The approximate number of ADT anticipated to be contributed by development of the surrounding area is 132.02.

The total approximate ADT proposed to use 52nd St SE is 132.02

SCC 30.66B.420 Access and Circulation Requirements

All developments will be required to:

(a) Provide for access and transportation circulation in accordance with the comprehensive plan and this chapter 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 SCC 30.66B.430.

(1) Access to state highways and city streets shall be in accordance with the applicable state or city standards and requirements.

(2) 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 SCC 30.66B.430.

The proposed development will take access from the new public road extension of 52nd St SE. Sight distance was evaluated at the proposed access point and was found did meet the minimum requirements of EDDS 3-08.

The ADA ramps at the intersections of all the roads in the development must show compliance with minimum ADA standard requirements for grades and landings as detailed in the current EDDS Section 4-05 D and WSDOT Standard Plans F-40 series. A detail of each ADA ramp will be required in the construction plans. It is our understanding that the current requirements do not grant any leeway for design and construction of ADA ramps for new intersections.

A horizontal clear/control zone is required along the parcel's frontage, per EDDS 4-15, 8-03, and the WSDOT's Utility Manual. Existing or proposed fixed object obstructions shall be removed/relocated from this buffer for motorist safety, this includes but is not limited to utility poles. These improvements are required prior to recording of the final plat and will be addressed during construction plan review.

Monumentation is required at the PC/PT of the unopened right-of-way of 52nd St SE at the intersection of 211th Ave SE. The monument shall include a rebar and cap in the interim while it's unopened right-of-way. When the right-of-way becomes an opened, constructed, and maintained public road, a permit can be filed with DNR to remove the rebar and cap and install the full road monumentation in accordance with EDDS 4-130. This will be further addressed during construction plan review.

Extent of improvements [30.66B.430]

In determining the extent of improvements required, the director of public works will consider, with other relevant factors, the following:

(a) Extent of the development proposed;

The applicant is proposing to construct a 14-lot rural cluster subdivision.

(b) Priority of improvements to involved county roads in the county's six-year transportation improvement plan;

The proposed development does not front any public, open, maintained constructed County roads.

(c) Condition of existing transportation facilities in comparison to adopted standards;

There are no public, open, maintained constructed County roads in the vicinity of the proposed development. There is 20-feet of public right-of-way along the southern property line. The proposed development is required to construct a new public road from 211th Ave SE and a public road stub out to the west for future connection to 199th Ave SE.

(d) Existing and projected land uses and development densities;

The existing and future land use is residential zoned as Rural Residential (1 DU/5 Acres Basic)

(e) Current and projected level-of-service (LOS) on the affected road system;

With respect to the subject development, the LOS on the surrounding road system is expected to meet County Standards.

(f) Availability of public transit;

The authority to create, eliminate or modify a transit route or transit stop lies with the transit agency within whose service area the development is located in or nearby to. The two county transit agencies that serve the residents of Snohomish County are Community Transit and Everett Transit. Sound Transit currently has routes that provide express bus service to King County from hubs such as Everett Station, the Ash Way Park & Ride. Everett Transits boundaries are all within their city limits and Sound Transits routes are in incorporated areas of the UGA. Community Transit is the only transit agency that has routes and stops in both the urban area and the rural area. The county has no authority to require any transit authority to service a subject property or development. The only authority the County does have is to approve the location of a transit stop along a county right-of-way if the transit authority chooses to install one. According to a National Personal Transportation Survey, conducted by the American Planning Association, the average person is willing to walk about 1,500 feet to a transit stop.

Currently there are no public transit routes or stops that service the subject development nor are there any routes or stops within 1,500 feet of the subject development.

(g) Any traffic study submitted;

The traffic study by Bradly Lincoln, dated January 2025, was received by Snohomish County on January 22, 2025.

(h) Availability of a specific improvement program;

The proposed development does not front any open, public, maintained County roads.

(i) The number of dwelling units currently using the road system that must be improved and projected to use the road system after full occupancy of the development;

Approximately 10-15 dwelling units utilize 211th Ave SE, once the development is constructed approximately 24-29 dwelling units will utilize 211th Ave SE and 14 dwelling units will utilize the new public road of 52nd St SE.

(j) The needs of low-income persons for decent, affordable, low-cost housing;

The subject development is not a low income housing project. There are no low income housing measures or design features associated with this development.

(k) Transportation system or demand management measures proposed by the developer;

The proposed development is outside the UGA, therefore transportation system or demand management measures are not required.

(l) The need for pedestrian and bicycle facilities

The proposed development does not front any public, open, maintained County Roads. The proposed development is required to construct a new public road (52nd St SE) from public road 211th Ave SE that will be constructed to rural public road standards, consisting of pedestrian facilities. Neither 211th Ave SE or the new public road is on the County bicycle facility map.

(m) Continuity with existing and proposed improvements;

The proposed development will construct a new public road (52nd St SE) from public road 211th Ave SE that will be constructed to rural public road standards.

(n) Development standards of adjacent cities;

It should be noted that Snohomish County cannot impose another jurisdictions requirements without the benefit of an ILA, which is an agreement that is voluntarily entered into by the jurisdiction.

(o) The need for safety improvements for school children;

See the pedestrian facility section below for additional comments.

(p) The types, sizes and performance of vehicles generated by the development, including but not limited to large trucks;

The proposed development is for 14-lot rural cluster subdivision. The majority of the types and sizes of vehicles associated with this type of development are passenger cars and trucks. Other less prevalent types are larger commercial vehicles such as buses, fire trucks, utility trucks and delivery trucks that provide goods and/or services to the residential occupants or customers of business in the area.

Right-of-Way Requirements [SCC 30.66B.510, SCC 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.

The new public road serving this development, 52nd St SE, is designated as a rural non-arterial and requires an ultimate right-of-way width of 60 feet. Currently 20 feet of right-of-way per Three Lakes Lumber Co No 4 273949 V10/P7 exist between the southern property line and the northern property of the adjacent parcels. The proposed development is required to construct a public road (52nd St SE) from 211th Ave SE to the proposed private road access point with a public stub out to the west. Right-of-way is required to be deeded for ultimate right-of-way of 60 feet through the adjacent property to public road stub out of the proposed development. This is adequately shown on the Civil Plans.

Transportation Demand Management (TDM) [SCC 30.66B.630]

TDM is a strategy for reducing vehicular travel demand, especially by single occupant vehicles during commuter peak hours. TDM offers a means of increasing the ability of transportation facilities and services to accommodate greater travel demand without making expensive capital

improvements. The County requires TDM of developments inside the UGA and developments that impact arterial units designated as ultimate capacity.

SCC 30.66B.630 requires development inside the UGA to provide TDM measures. Since this development is outside of the UGA, TDM measures are not required.

State Highway Impacts [SCC 30.66B.710]

When a development's road system includes a state highway, mitigation requirements will be established using the terms of the interlocal agreement (ILA) between the County and the Washington State Department of Transportation (WSDOT).

Since SEPA review is not required the ILA with the WSDOT is not applicable.

Other Jurisdictions 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 a Reciprocal Traffic Mitigation ILA between the County and the other jurisdiction(s).
Since SEPA review is not required none of the ILAs with neighboring cities are applicable.

Pedestrian Facilities (SCC 30.41A.100 or 30.41B.100 and/or 30.66B.430(3)(o)):

The County is required to make findings regarding safe walking conditions for school children who may reside in the subject development. Comments from the Snohomish School District dated November 4, 2025, have been received. Those comments indicate that the students who live in the development will attend the following schools and will:

School Type	Elementary	Middle School	High School
School Name	Machias	Centennial	Snohomish
Walk to School	No	No	No
Walk to a Bus Stop	Yes	Yes	Yes
Will busses pick up children within/adjacent to this project	No	No	No
Bus Stop Locations	Dubuque Road & 211th Ave SE		

The Snohomish County School District commented “We do not travel on 211th, parents would be required to transport down 211th to the corner of 211th and Dubuque Road.”

The bus stop locations identified above my change between now and the point in time that construction for the development begins.

The applicant stated a walking path from the intersection of 52nd St SE and 211th Ave SE to Dubuque Road will be constructed under a separate LDA permit associated with adjacent parcels 005975-000-014-05 and 005875-000-014-02. The applicant of the adjacent parcels submitted a pre-application EDDS Deviation with PFN: 24-119579 requesting to deviate from the required pedestrian facility over the existing bridge (Woods Creek Bridge 48150). The EDDS Deviation was conditionally approved dated January 19, 2025, with the following condition:

1. Provide signing and illumination at the bridge, and no not need to provide marked crossing in the middle of 211th Ave SE, if needed Public Works will provide marked crossing.

At the time of this memo, the applicant has not submitted for the separate LDA permit. It will be a condition of approval for this proposed development, that the off-site walking path be constructed prior to final plat approval. If the adjacent parcel does not apply for the separate LDA permit, it will be the responsibility of this development to construct the off-site pedestrian facility from 52nd St SE to Dubuque Road for safe walking conditions for school children.

Other Issues or Items:

New signing and striping needs in the public right-of-way shall be determined and installed by County forces. This signing and striping shall be paid for by the applicant, SCC 13.10.180. The amount will be determined during the land disturbing activity review phase and is due prior to LDA approval.

Bicycle Facilities:

The County's current adopted County Wide Bicycle Facility System Map became effective on November 29, 2018. The subject development does not border on a right-of-way that has been identified on the adopted Bicycle Facility System Map.

Final Recommendations:

The PDS Transportation Section and the Department of Public Works have no objections to the approval of the subject 14-lot Rural Cluster Subdivision as shown on the preliminary plat map received by PDS on September 9, 2025, provided the following conditions are imposed:

Items to be shown on the face of the final recorded Plat:

The final plat shall show a 30-foot right-of-way deeding from the proposed access point to 211th Ave SE along 52nd St SE for a total of 60-feet of ultimate right-of-way, or as determined by DPW.

"Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residence or twice the amount shown for each duplex:

$5,356.74 per dwelling unit (to total 74,987.36) for mitigation of impacts on County roads paid to the County in accordance with the payment timing provisions of Chapter 30.66B

SCC. The impact fee shall be distributed to each Transportation Service Area in accordance with SCC 30.66B.350, as indicated in the allocation table below.

Road System Impact Fee Allocation Table		
To TSA	**Total Amount**	**Amount per dwelling unit**
TSA A	$292.45	$20.89
TSA B	$7,438.75	$531.34
TSA C	$11,952.98	$853.78
TSA D	$28,255.24	$2,018.23
TSA E	$18,304.41	$1,307.46
TSA F	$8,743.53	$624.54
	Total Owed: $74,987.36	**Total per dwelling:** $5,356.24

Payment of these fees is due prior to or at the time of building permit issuance, unless deferment is allowed pursuant to Chapter 30.66B SCC, for each single-family residence. Notice of these mitigation payments shall be contained in any deeds involving this subdivision or the lot[s] therein."

Prior to Final Plat Approval:

Rural frontage improvements shall be constructed along the parcel's frontage on 52nd St SE to the satisfaction of the County.

Pedestrian facilities shall have been constructed to the satisfaction of the County from the subject development on 52nd St SE to Dubuque Road or other location that has been accepted by the Snohomish School district and Snohomish County.

Prior to Construction Plan Approval:

The amount shall be paid for the installation of signs and striping, SCC 13.10.180 (Transaction Code 7330).

Monumentation is required at the PC/PT of the unopened right-of-way of 52nd St SE at the intersection of 211th Ave SE. The monument shall include a rebar and cap in the interim while it's unopened right-of-way. When the right-of-way becomes an opened, constructed, and maintained public road, a permit can be filed with DNR to remove the rebar and cap and install the full road monumentation in accordance with EDDS 4-130

Prior to any Certificate of Occupancy or Final Inspection:

Rural frontage improvements shall be constructed along the parcel's frontage on 52nd St SE to the satisfaction of the County.

The road establishment and construction of 52nd St SE shall have been completed and accepted by the County.

Attachments(s)

cc: Maria Palma-De Guzman, DPW
Monica Summerset, DPW

If there is going to be a new public road or deeding of right-of-way send a copy of the memo to Jeanne-Marie and Maria in an email.

SNOHOMISH COUNTY COUNCIL

EXHIBIT # N.3

FILE 25-101010 PSD

Snohomish County
Planning and
Development Services

VERIFICATION OF APPEAL RECEIVED

FILE NO(S): 25 101010 PSD

APPELLANT: Stillwater Preserve LLC

DOCUMENT: Appeal for **Stillwater Preserve RB**

I, ***Cindy Todd***, Permit Technician, Planning & Development Services, certify under penalty of perjury under the laws of the State of Washington that:

1. I received by e-mail an appeal on 4/6/26 at 3:45 pm

1. Fees were paid by credit card in the amount of $500.00 on 4/6/26 at 4:50 pm

2. Receipt # _1066965_____

Cindy Todd
Signature

SNOHOMISH COUNTY COUNCIL

EXHIBIT # N.4

FILE 25-101010 PSD

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON
NOTICE OF CLOSED RECORD APPEAL HEARING

NOTICE IS HEREBY GIVEN that the Snohomish County Council will hold a closed record appeal hearing on **Tuesday, May 26, 2026**, at the hour of 1:30 p.m. in the Henry M. Jackson Board Room, 3000 Rockefeller Avenue, 8th Floor, Robert J. Drewel Building, Everett, Washington, in conjunction with a remote meeting platform via the following Zoom link, to consider an appeal received on April 6, 2026, from a decision of the Snohomish County Hearing Examiner dated March 24, 2026, regarding the application described below:

Zoom Webinar Information:
Join online at https://zoom.us/j/94846850772
or by telephone call 1-253-215-8782 or 1-301-715-8592

PROJECT NAME & APPLICATION FILE NO: Stillwater Preserve RB 25-101010 PSD

LOCATION: South of Dubuque Road, between 200th Drive SE and 211th Ave SE, Snohomish WA 98290

TYPE OF APPLICATION: Preliminary 14-lot rural cluster subdivision

APPLICANT: Stillwater Preserve LLC

APPELLANT: Stillwater Preserve LLC, by and through Marty Robinett

NATURE OF APPEAL HEARING: Snohomish County Code Section 30.72.110 provides that the appeal will be heard at a closed record appeal hearing. **Appeal issues shall be limited to those expressly raised in the written appeal.** The appeal will be on the record with no new evidence allowed unless specifically requested by the County Council. No new appeal issues may be raised by a party of record after the close of time allowed by law for filing an appeal. Because this is not an open record hearing, members of the public who are not parties of record will not be allowed to present argument.

PRESENTATION OF ARGUMENT: Parties of record, other than the appellant, may file written arguments with the council clerk no later than 5:00 p.m. on April 28, 2026. **Arguments are limited to the issues expressed in the written appeal; no new appeal issues may be raised. The appellant** may file written rebuttal arguments with the council clerk, no later than 5:00 p.m. on May 5, 2026. **Such rebuttal is limited to the issues raised in written arguments filed by parties of record.** Arguments are encouraged to be submitted to the County Council through e-mail to contact.council@snoco.org. They may also be submitted or mailed to 3000 Rockefeller Ave., M/S 609, Everett, WA, 98201. Any party of record may present oral argument at the hearing.

AVAILABILITY OF RECORD: The record, including the written appeal statement and written arguments presented by parties of record, is available upon request at the County Council Office, at the above address. Copies of documents may also be obtained by calling the Asst. Clerk of the Council at 425-388-3901or by e-mailing contact.council@snoco.org.

WEBSITE ACCESS: Copies of the record will also be available through the council website at: https://snohomish.legistar.com/Calendar.aspx or http://www.snohomishcountywa.gov/2134/County-Hearings-Calendar.

COUNTY COUNCIL ACTION: At the conclusion of the hearing, the County Council will adopt findings and conclusions in support of its decision, which may adopt any or all of the findings and conclusions of the Hearing Examiner. The Council may affirm the Hearing Examiner's decision, may reverse the Hearing Examiner's decision, wholly or in part, or may remand the matter to the Hearing Examiner for further proceedings in accordance with the Council's findings and conclusions.

ACCOMMODATION OF DISABILITIES: Accommodations for persons with disabilities will be provided upon request. Please make arrangements at least one week prior to the hearing by calling Lisa Hickey at (425) 388-3494, (800) 562-4367 x3494, or TTY/Voice Communication 1-800-877-8339.

Dated this 14th day of April 2026.

Lisa Hickey

Asst. Clerk of the Council

PUBLISH: April 17, 2026
Send Affidavit to: Council
Send Invoice to: Planning #107010

SNOHOMISH COUNTY COUNCIL

SNOHOMISH COUNTY, WASHINGTON

AFFIDAVIT OF MAILING

PROJECT NAME FILE NO: Stillwater Preserve RB 25-101010 PSD

APPLICANT: Stillwater Preserve, LLC

DOCUMENT: Notice of Public Hearing
E-mailed and U.S. Mailed April 14, 2026

I, Lisa Hickey, Asst. Clerk of the Snohomish County Council, certify under penalty of perjury under the laws of the State of Washington that:

1. I have been authorized by the Snohomish County Council to mail notices required by the Snohomish County Code.

2. I have made a good-faith effort to mail the above described document to each person entitled thereto. The names, mail addresses and e-mail addresses of the persons to whom said document was mailed are attached hereto.

3. I E-mailed and U.S. Mailed said document on April 14, 2026.

Signed at Everett, Washington on April 14, 2026.

Lisa Hickey
Asst. Clerk of the Council

Marty Robinett	marty@robinettland.com	**email**	**Emailed and mailed Notice of Closed Record Appeal Hearing April 14, 2026 LH**
Ry McDuffy	ry@orcalandsurveying.com	**email**	
Stillwater Preserve LLC	ginger@robinettland.com	**email**	
Stacey Abbott	stacey.abbott@snoco.org	**email**	
Doug McCormick	doug.mccormick@sno.org	**email**	
RAGINA GRAY	Ragina.Gray@co.snohomish.wa.us	**email**	
Mark Flury	MLWicklund@SNOPUD.com>	**email**	
DAWN ANDERSON	dawn.anderson@wsdot.wa.gov	**email**	
Sally Abbey	sally@sallyabbeyarts.com	**email**	
Katey Walker	kateygwalker@yahoo.com	**email**	
Jean Bochan	tamarabochan@gmail.com	**email**	
Cameron Stevens and Patty Bochan	cameronstevenslandscape@gmail.com	**email**	
Andy Loch	21120 Dubuque Rd, Snohomish WA 98290	**U.S. Mail**	

SNOHOMISH COUNTY COUNCIL

EXHIBIT # N.6

FILE 25-101010 PSD

Snohomish County

County Council

Megan Dunn
Sam Low
Nat Nehring
Jared Mead
Strom Peterson

3000 Rockefeller Avenue
Everett, WA 98201-4046
(425)388-3494
FAX (425)388-3496
TTY (800)877-8339

April 14, 2026

Stillwater Preserve LLC
Marty Robinett
2825 Colby Ave, Suite 304
Everett, WA 98201

RE: Posting of Notice
Snohomish County Council Closed Record Appeal Hearing
Stillwater Preserve

Mr. Robinett,

Snohomish County Code 30.72.100(4) and 30.70.045 describe posting requirements required by the applicant. Enclosed are two copies of the notice of closed record appeal hearing for the aforementioned case and two sets of "bumper stickers". These are for posting on the large signs on the subject site.

After posting, please have the posting affidavit signed and notarized and return it to me at the Council office.

If you have any questions, please call me at (425) 388-3901. Thank you.

Sincerely,

Lisa Hickey
Asst. Clerk of the Council

Encl.

SNOHOMISH COUNTY COUNCIL

EXHIBIT # N.7

FILE 25-101010 PSD

SNOHOMISH COUNTY COUNCIL
SCANNED AND RECEIVED
DATE: 04/21/26 Time 1:15 p.m.

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

This form shall be notarized, a copy of the notice attached hereto and presented to the office of the Snohomish County Council prior to the scheduled closed record appeal date.

FILE: Stillwater Preserve
File No: 25-101010 PSD

CLOSED RECORD APPEAL HEARING DATE: May 26, 2026 @ 1:30 p.m.

I hereby certify that I, Benjamin Beranek, posted the above property in two or more conspicuous places on the subject property, in accordance with the requirements of SCC 30.72.100(4).

Posted on the 15th, day of April, 2026.

Dated this 15, day of April, 2026.

Print Name: Ben Beranek

Signed: _____

Notary Signature: _____

STATE OF WASHINGTON)

COUNTY OF SNOHOMISH)

Subscribed and sworn before me this 15th day of April, 2026.

NOTARY PUBLIC
STATE OF WASHINGTON
JACQUELINE LEIGH EVANS
License Number 20114476
My Commission Expires 06-18-2028

Notary Public in and for the State of Washington residing at Everett

SEATTLE WA 980

17 APR 2026 PM 4 L

Snohomish County Council
Lisa Hickey
3000 Rockefeller Ave. M/S #609
Everett, WA 98201

98201-406099

SNOHOMISH COUNTY COUNCIL

EXHIBIT # N.8

FILE 25-101010 PSD

Everett Daily Herald

Affidavit of Publication

State of Washington }
County of Snohomish } ss

Michael Gates being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH1029521 APPEAL HEARING as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 04/17/2026 and ending on 04/17/2026 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is $116.25.

Subscribed and sworn before me on this 22nd day of April, 2026.

RANDIE POSPICAL
Commission Expires 10-20-2027
NOTARY PUBLIC
License Number 23034934
STATE OF WASHINGTON

Notary Public in and for the State of Washington.

Snohomish County Planning & Development | 14107010
LISA HICKEY

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON
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APPLICANT: Stillwater Preserve LLC

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Dated this 14th day of April 2026.

/s/Lisa Hickey
Asst. Clerk of the Council

107G10
Published: April 17, 2026.

EDH1029521