



Snohomish County

Office of Hearings Administration

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Peter Camp

Hearing Examiner

DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

I. SUMMARY

DATE OF DECISION: March 27, 2026

PROJECT: PBSS Rural Business Rezone & Variance
19125 State Route 9 SE
Snohomish WA 98290

APPLICANT: PBSS Investments, Inc.
15714 Country Club Dr.
Mill Creek, Washington 98012

FILE NOS.: 25-105874 REZO
25-105880 VAR

PROPERTY OWNER: PBSS Investments, Inc.
15714 Country Club Dr.
Mill Creek, Washington 98012

APPLICATION TYPE: Rezone from R-5 to Rural Business and four variances

DECISION SUMMARY: Rezone from R-5 to Rural Business and variances are denied

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III. SITE SUMMARY

LOCATION: 19125 State Route 9 SE
 Snohomish, Washington 98290

TAX PARCEL NO.: 270514-003-010-00

ACREAGE: 8.08 acres

COMPREHENSIVE PLAN DESIGNATION: Rural Residential 5 (1 dwelling unit/5 acres)

ZONING: R-5

UTILITIES:

Water: Private well

Sewer: On-site sewer system (septic)-not in a sewer district

Electricity: Snohomish County Public Utility Dist. No. 1

SCHOOL DISTRICT: Monroe School District No. 103

FIRE DISTRICT: Snohomish Regional Fire & Rescue, a regional fire authority

PDS STAFF RECOMMENDATION: Deny rezone
 Deny variance requests nos. 1, 2 (part 1), and 4
 Approve variance request no. 2 (part 2)
 Variance request no. 3 is not applicable

2 Based on a preponderance of the evidence, the Hearing Examiner finds the following facts and
 3 makes the following conclusions of law.

4 IV. FINDINGS OF FACT

5 A. VESTING

6 On March 28, 2025, PBSS Investments, Inc. applied to Snohomish County Planning and
 7 Development Services department (PDS) for approval of a site-specific rezone from R-5 to Rural
 8 Business and for four variances from the Rural Business zone regulations. PDS determined the

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1 application was complete and vested on April 3, 2025. PBSS submitted additional information on
2 July 21, 2025.

3 **B. OPEN RECORD HEARING**

4 An open record hearing began on February 24, 2026, and concluded on March 4, 2026. Peter
5 Durland, Esq., of Gordon Thomas Honeywell, LLP, Seattle, Washington, appeared on behalf of
6 applicant PBSS. Justin Kasting, Esq., Snohomish County Deputy Prosecuting Attorney, appeared
7 on behalf of PDS. David Toyer of Toyer Strategic Advisors, Inc., Everett, Washington, and Dustin
8 McClure and Jim Vogt of McClure and Sons, Inc., Mill Creek, Washington, testified on behalf of the
9 applicant. Melissa Place, AICP, testified on behalf of PDS. Community members Gary Davis,
10 Voronica Robinson, and Roderic Robinson, testified regarding their concerns. PBSS and PDS
11 agreed to extend the deadline for issuance of the decision to March 27, 2026.

12 **C. THE RECORD**

13 The Hearing Examiner considered Exhibits A.1 through N.13. A recording of the hearing is available
14 from the Office of Hearings Administration.

15 **D. PUBLIC NOTICE**

16 PDS notified the public of the open record hearing.¹

17 **E. BACKGROUND INFORMATION**

18 **1. Proposal**

19 PBSS seeks approval of a site-specific rezone of 2.86 acres of an 8.08-acre parcel from R-5 to
20 Rural Business and for four variances from Rural Business zoning regulations. The site (“Property”)
21 fronts on State Route 9 and is the object of a current Code Enforcement action. PBSS believes the
22 proposed rezone and variances will assist in resolution of the code enforcement action.²

¹ Exhibits G.1 through G.4.

² This background information is provided for context only. When making this decision, the Hearing Examiner did not consider whether the requested rezone and variances would resolve the code enforcement action in whole or in part. The requested rezone and variances stand or fall on their individual merits when evaluated against county code requirements and without regard to the pending enforcement case.

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1 **2. Site Description and Surrounding Uses**

2 The Property is zoned R-5 and owned by PBSS. PBSS purchased the Property in 1993.³ No one
3 resides on the Property, nor is there a dwelling on the Property.

4 State Route 9 bounds the property to the west. Surrounding properties are zoned R-5 and
5 developed with single-family residences. Although PDS did not observe any critical areas during a
6 2023 site visit, PDS did not observe the entire Property, and it is possible critical areas exist on the
7 Property.

8 The surrounding area is designated as Rural Residential in the comprehensive plan. The parcels
9 surrounding the intersection of Maltby Road (SR 524) and State Route 9 approximately 1.22 miles
10 to the south are zoned Rural Business and developed with businesses such as a service station.

11 **3. Use of the Property**

12 PBSS allows a related entity, McClure and Sons, Inc., (MSI)⁴ to use the Property to store, repair,
13 and maintain construction equipment and materials. MSI is a construction contractor performing
14 work throughout Washington, Oregon, and occasionally other states. Its headquarters are in Mill
15 Creek, Washington. In addition to its operations on the Property, MSI has an office and equipment
16 yard in Oregon to serve the Oregon market.⁵

17 MSI is a licensed construction contractor in Washington, Oregon, Idaho, Alaska, and California
18 and has performed construction contracts in those states.⁶ It provides services in barge and ship
19 retrofitting, marine construction, ferry terminals, and marina construction⁷ and performs
20 construction work for government agencies in Washington and Oregon, such as replacing sewers,
21 building sewer lift stations, and sidewalks.⁸ Its annual volume of work is approximately \$40
22 million⁹ and it has a bonding capacity of \$130 million.¹⁰ MSI performed construction contracts

³ Ex. A.3, PDF pp. 5-6.

⁴ Ex. A.3, PDF p. 7.

⁵ Testimony of McClure, Toyer, and Vogt.

⁶ Ex. H.9, PDF p. 3.

⁷ Ex. H.9, PDF p. 3. The Property is miles from Puget Sound and there are no marinas, ships, or ferry terminals in the immediate rural area of the Property.

⁸ Testimony of McClure.

⁹ Testimony of McClure.

¹⁰ Testimony of Vogt.

1 outside of Washington and Oregon as recently as five to six years ago.¹¹ MSI employs
2 approximately 75 people, of which three to six work on the Property.

3 In 2022, MSI expanded its operations on the Property, clearing brush among trees and applying
4 gravel or hog fuel¹² to almost two-thirds of an acre and occupied or used an additional 2.56 acres
5 to the east.¹³ It fuels equipment and machines on the Property¹⁴ from a 1,000-gallon tank.¹⁵ It has
6 200-class excavators (20-ton), D5 bulldozers, mini-excavators, and multiple forklifts. It usually has
7 20 to 25 construction machines of significant or noticeable size on the Property at any time and
8 numerous smaller machines.¹⁶ MSI transports machines and equipment between the Property to
9 job sites. MSI does not rent construction equipment and machines.¹⁷

10 **4. Comments and Concerns**

11 Prior to 2022, MSI's operations were not noticeable or visible to adjacent property owners.¹⁸
12 Neighbors noticed a change in operations in 2022. MSI cleared trees, burned debris, and pushed
13 unburned debris to the ravine in the south and to the north on to the Robinson's property.¹⁹ Instead
14 of operations occurring only on the west side of the Property near State Route 9, the property was
15 "completely filled up" with construction equipment to the property line.²⁰ Neighbors are no longer
16 able to stable or keep horses on their property because of the noise from MSI's operations.²¹ A
17 neighbor to the north lost three-quarters of their chicken flock due to the noise. Backup alarms on

¹¹ Testimony of McClure.

¹² Mr. Davis and Ms. Robinson saw gravel trucks dumping gravel on the Property. Testimony of Davis and V. Robinson.

¹³ Ex. A.2, PDF p.1.

¹⁴ Testimony of Toyer.

¹⁵ PBSS's counsel answered the Hearing Examiner's question regarding the size of the tank after conferring with his client.

¹⁶ Testimony of Vogt.

¹⁷ Testimony of Vogt.

¹⁸ Testimony of Davis; testimony of Voronica and Roderic Robinson.

¹⁹ Testimony of Davis; testimony of Voronica and Roderic Robinson.

²⁰ Testimony of Davis.

²¹ Testimony of Davis and V. Robinson.

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1 vehicles are noticeable on adjacent properties.²² The typical rural night-time symphony of frogs
2 and owls stopped.²³

3 Considering the evidence, the Hearing Examiner credits the testimony of the neighbors and finds
4 that MSI's operations on the Property changed in 2022 and disturbed and disrupted the rural
5 character of the neighborhood since then.

6 **F. SEPA ENVIRONMENTAL REVIEW (CHAPTER 30.61 SCC)**

7 PDS did not determine whether a threshold determination under the Washington State
8 Environmental Policy Act was necessary because PDS recommended denial of the rezone and
9 most of the variances.

10 **G. SITE SPECIFIC REZONE STANDARDS (CHAPTER 30.42A SCC)**

11 The Hearing Examiner may approve a rezone when four criteria are met:

- 12 1. The proposal is consistent with the comprehensive plan;
- 13 2. The proposal bears a substantial relationship to the public health, safety, and
14 welfare;
- 15 3. The proposal is justified based on a change of circumstance since the site was
16 previously zoned; and
- 17 4. Where applicable, minimum zoning criteria found in chapters 30.31A through
18 30.31F SCC are met.

19 SCC 30.42A.100 (2020). The proposed rezone does not satisfy these criteria.

20 **1. Consistency with Comprehensive Plan**

21 ***a. The Proposed Rezone is an Implementing Use for the Zone***

22 The comprehensive plan allows Rural Business zoning among in areas designated for Rural
23 Residential use. The future land use map of the comprehensive plan designates the area of the

²² Testimony of V. Robinson.

²³ Testimony of V. Robinson.

1 Property for Rural Residential (1 DU/5 Acres Basic) use. The proposed zoning, Rural Business, is an
2 authorized implementing use for the zone.²⁴

3 **b. The Proposed Rezone is Inconsistent with Land Use Policies**

4 Whether the requested zone is an implementing use for the identified comprehensive plan land
5 use zone is not dispositive. The requested zone must also be consistent with the policies
6 underlying the land use designation.

7 A comprehensive plan goal is the “protect[ion] and enhance[ment] of the character, quality, and
8 identity of rural areas.” Comprehensive Plan Goal LU 6 (2024). Rezoning to allow a commercial
9 operation that disturbs the neighborhood by preventing stabling and pasturing of horses, driving
10 out rural evening sounds, and making it difficult to maintain a flock of chickens neither protects
11 nor enhances the character, quality, and rural identity of the area.

12 MSI is not the type of rural business contemplated by either the comprehensive plan or its
13 implementation in county code. The Rural Business zone is intended for “limited commercial uses
14 . . . that provide opportunities for retail sales and services to the surrounding rural population.”
15 Comprehensive Plan Land Use Element, LU Policy 6.E.1, p. LU-42 (2024²⁵). Rural Business zoning
16 and development standards allow “community facilities for the surrounding rural population and
17 facilitate small facilitate small-scale retail and service uses at appropriate locations within rural
18 residential areas and minimize impacts to residential areas, resource lands, and critical areas.”
19 *Id.*, LU Policy 6.E.2.

20 These comprehensive plan policies are implemented by title 30 SCC.

21 The intent and function of the Rural Business zone is to permit the location of **small-**
22 **scale commercial retail businesses and personal services which serve a**
23 **limited service area and rural population** outside established UGAs. This zone is
24 to be implemented as a "floating zone" and will be located where consistent with
25 specific locational criteria. The Rural Business **zone permits small-**
26 **scale retail sales and services located along county roads on small parcels that**
27 **serve the immediate rural residential population**, and for a new rural business,

²⁴ SCC 30.31F.020(2) (2013).

²⁵ PDS asserts that the comprehensive plan as updated in 2024 is the controlling version of the plan, while PBSS asserts that the comprehensive plan as updated in 2015 is the controlling version. PDS represented that any differences between the two were immaterial for these purposes and PBSS has not identified any significant differences. Therefore, the Hearing Examiner cites to the comprehensive plan as updated in 2024.

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1 are located two and one-half miles from an existing rural business, rural freeway
 2 service zone, or commercial designation in the rural area. Rural businesses, which
 3 serve the immediate rural population, may be located at crossroads of county
 4 roads, state routes, and major arterials.

5 SCC 30.21.025(2)(d) (Amend. Ord. 24-065, adopted Dec. 4, 2024, eff. date December 22,
 6 2024)(emphasis added).²⁶

Comprehensive Plan Goals and Policy	County Code Rural Business Implementation	PBSS/MSI
Community facilities for the surrounding rural population and facilitate small-scale retail and service uses	Small-scale commercial retail businesses and personal services	\$40 million industrial construction contractor storing, maintaining, and repairing approximately two dozen large construction equipment, such as 20-ton excavators and D5 bulldozers.
	Serves a limited service area	The Property serves Washington state, including King, Snohomish, and other counties. ²⁷ Licensed to perform construction contracting and performed construction contracts in Washington, Oregon, Idaho, Alaska, and California. ²⁸ MSI provides services in barge and ship retrofitting, marine construction, ferry terminals, and marina construction—

²⁶ The citation is to the version in effect on the vesting date.

²⁷ Testimony of McClure and Vogt. Ex. M.3. Ex. H.9 (listing projects in University Place, Seattle, Bremerton, Bonney Lake, Poulsbo, Kirkland, Poulsbo, and Winlock, Washington, and in Ketchikan, Alaska).

²⁸ Ex. H.9, PDF p. 3.

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		none of which are in a service area near the Property. ²⁹
	Serves immediate rural population	Does not primarily serve the rural population immediately surrounding the Property. For example, it builds sewer lift stations that do not serve any rural community because sewers are forbidden in rural areas. Projects in Medford and McMinnville, Oregon, and Sumner and La Center, Washington, are not in the immediate rural area of the Property. ³⁰
Minimize impacts to residential areas		Noise prevents pasturing and stabling horses, light and visual pollution by large construction equipment, frequent backup alarms, disturbance of chicken flocks, and disappearance of typical rural night sounds such as frogs and owls.

- 1 MSI is not a small-scale commercial retail or personal service business serving a limited are of the
- 2 immediate population with minimal impact on adjacent residential areas. The intended use is
- 3 inconsistent with the comprehensive plan’s intent and county code’s implementation of the
- 4 comprehensive plan intention for Rural Business.

²⁹ Ex. H.9, PDF p. 3.

³⁰ Ex. H.9.

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1 **c. Other Relevant Factors**

2 Finally, if any other relevant factors outside of the comprehensive plan policies are apparent from
3 the application documents or otherwise known to PDS, they must be identified and specified
4 whether any of these other factors relate to the rezone decision or should be considered at the
5 project level with the specific development proposal being made.³¹ As noted above, the current
6 and intended use of the Property is storage, maintenance, and operation of two dozen large
7 construction equipment machines fueled by a 1,000 gallon tank. The planned use is relevant to
8 the proposed rezone and is material in these circumstances. As noted above, the rezone to
9 legalize the current use would not be consistent with the comprehensive plan goals and policies,
10 nor county code's implementation of those goals and policies.

11 The Hearing Examiner concludes the proposed rezone is inconsistent with the county's
12 comprehensive plan.

13 **2. Relationship to Public Health, Safety, and Welfare**

14 The proposed rezone does not bear a substantial relationship to the health, safety, and welfare of
15 the public. Neighbors testified persuasively and provided credible evidence of substantial noise
16 and disruption caused by MSI's activities, which noise and disruption are inconsistent with rural
17 character. The Examiner concludes the proposed rezone does not bear a substantial relationship
18 to the health, safety, and welfare of the public.

19 **3. Change in Circumstances**

20 PBSS initially argued that it did not need to demonstrate that changed circumstances justified the
21 requested rezone.³² The Hearing Examiner disagrees for two reasons. First, the Washington State
22 Supreme Court requires it:

23 Thus, Phoenix's claim also fails under the more general rules we apply to rezone
24 applications: '(1) there is no presumption of validity favoring the action of rezoning;
25 (2) **the proponents of the rezone have the burden of proof in demonstrating that**
26 **conditions have changed since the original zoning;** and (3) the rezone must bear a
27 substantial relationship to the public health, safety, morals, or welfare.'

³¹ Snohomish County Council Motion 07-447 (August 8, 2007).

³² *E.g.*, Ex. A.3, PDF p. 16. ("[I]t appears unnecessary that the Applicant . . . demonstrate changed circumstances.")

1 *Phoenix Dev., Inc. v. City of Woodinville*, 171 Wn. 2d 820, 834, 256 P.3d 1150, 1156-57 (2011)
2 (emphasis added), citing *Citizens for Mount Vernon v. City of Mount Vernon*, 133 Wn.2d 861, 874–
3 75, 947 P.2d 1208 (1997).

4 Second, county code requires it. Snohomish County code requirements must be satisfied even if
5 *Phoenix Development* did not require proof of changed circumstances.

6 PBSS argued that the county’s alleged change from characterizing MSI’s operations as a legal
7 nonconforming use to an illegal use is a change in circumstances justifying the rezone.³³ This
8 argument is unpersuasive for several reasons. First, an alleged change in the county’s
9 enforcement stance is not the type of circumstance that justifies a rezone. It is not a change in the
10 nature of the neighborhood nor a change in legislatively adopted land use controls. The county’s
11 enforcement decision that the use is not permitted under zoning regulations does not justify a
12 rezone to bring the use of the Property into compliance with county code.

13 PBSS belatedly argued that the presence of businesses conducted on other R-5 parcels in the
14 area demonstrated changed circumstances justifying a rezone. However, alleged violations³⁴ of
15 the zoning regulations on other parcels are not a change in circumstances justifying a site-specific
16 rezone. “[T]he fact that everyone else is doing it’ is not a particularly compelling justification . . .”
17 *Griner v. King*, 104 F.4th 1, 10 (8th Cir. 2024), *cert. denied sub nom. King for Cong. v. Griner*, 145 S.
18 Ct. 1124, 220 L. Ed. 2d 421 (2025) (citation omitted) (copyright).³⁵

19 The Hearing Examiner concludes that PBSS did not demonstrate changed circumstances that
20 justify rezoning part of the parcel.

³³ Testimony of Toyer. The county disagrees that it formally determined that PBSS’s use of the property was a legal nonconforming use. It is unnecessary to decide in these proceedings whether the use of the Property is a legal nonconforming use and if so, the extent of the legal nonconforming use.

³⁴ *N.B.* PBSS did not disprove possible exculpatory facts such whether those uses are legal non-conforming uses.

³⁵ See also *United States v. Sittenfeld*, 669 F. Supp. 3d 672, 689 (S.D. Ohio 2023), *aff’d*, 128 F.4th 752 (6th Cir. 2025), petition for *cert. pending*, (“Just because someone—or even everyone—else is breaking the law would not mean that Sittenfeld could too.”) (campaign finance); *Koch v. Jerry W. Bailey Trucking, Inc.*, 482 F. Supp. 3d 784, 789 (N.D. Ind. 2020) (“But everyone else is doing it!” This, effectively, is the excuse that Defendants advance for not paying their employee truck drivers to perform DOT inspections, among other tasks. This rationale has not worked on a mother in recorded history and, as it turns out, is no more effective when explaining away wage and hour violations.”); *In re Catfish Antitrust Litig.*, 908 F. Supp. 400, 417 (N.D. Miss. 1995) (“[S]imply because ‘everyone else is doing it’ is not an absolute defense and does not mean that Hormel can avoid the legal consequences of its actions.”) (antitrust); *American Insurance Association v. Kentucky Bar Association*, 917 S.W.2d 568, 571 (Ky. 1996) (“Moreover, we are unswayed by Complainants’ reliance on the practices of other jurisdictions and what amounts to an ‘everyone else is doing it, why can’t we’ argument.”) (review of legal ethics opinion).

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1 **4. Minimum Zoning Criteria (Chapters 30.31A through 30.31F SCC)**

2 The minimum zoning criteria of chap. 30.31F applies to this application. The proposed creation of
3 a new Rural Business zone does not satisfy all applicable criteria of chap. 30.31F SCC.³⁶

4 SCC 30.31F.020(2) establishes criteria for the location of Rural Business zones. A minimum of 600
5 residential dwelling units must be located within a two-and-a-half-mile radius of the Property.
6 SCC 30.31F.020(2)(a). PBSS’s proposal satisfies this criterion.

7 The Property must be along a county road or state highway with at least 100 feet of frontage. SCC
8 30.31F.020(2). PBSS’s proposal satisfies this criterion.

9 The Property must be located no closer than two and one-half miles from an existing Rural
10 Business zone. SCC 30.31F.020(c). The Property is 1.22 miles from the existing Rural Business
11 zone at the intersection of State Routes 524 and 9. PBSS claims exemption from .020(c), relying on
12 a previous Hearing Examiner decision that was appealed, reversed by County Council, and
13 remanded to the Hearing Examiner. *In Re Three B’s Construction*, (Snohomish County Hearing
14 Examiner, no. ZA 99 101988, October 22, 1999).³⁷ The Hearing Examiner in that case initially
15 denied a request to rezone four acres of a 13-acre site near Stanwood from R-5 to Rural Business.
16 On appeal, County Council reversed and remanded for entry of approval of the rezone, which the
17 Hearing Examiner did. County Council concluded that the predecessor to the location exceptions
18 applied to all existing uses, “whether or not they were legal nonconforming uses a[t] the time of
19 application for a rezone to Rural Business.”³⁸ PDS disagrees that the prior decision is binding
20 precedent in this case. It is unnecessary for the Hearing Examiner to resolve this dispute because
21 the rezone application fails for other reasons.

22 The total area zoned Rural Business at the site may not be larger than five acres of net usable area.
23 SCC 30.31F.020(2)(d). PBSS proposes split-zoning the 8.08-acre parcel and the portion to be
24 rezoned to Rural Business is less than three acres. PBSS’s proposal satisfies this criterion.

25 The Property must be located outside an urban growth boundary. SCC 30.31F.020(2)(e). PBSS’s
26 proposal satisfies this criterion.

³⁶ SCC 30.42A.100(4) (2020); SCC 30.31F.020 (Amend. Ord. 13-042 (adopted July 10, 2013, eff. date July 22, 2013);
SCC 30.31F.100 (2017); SCC 30.31F.110 (2018).

³⁷ Ex. D.2.

³⁸ Ex. D.2, PDF pp. 16-17 (conclusion 1).

1 The Property must contain a rural residential designation on the Future Land Use Map and not be
2 designated as forest land or farmland. SCC 30.31F.020(2)(f). PBSS's proposal satisfies this
3 criterion.

4 The size and configuration of the Property must be able to accommodate applicable setbacks,
5 buffers, and critical area protection. SCC 30.31F.020(2)(g). PBSS's proposal cannot satisfy this
6 criterion without variances. PBSS did not carry its burden of proof demonstrating special
7 circumstances applying to the Property or its intended use such as size, shape, topography,
8 location, or surroundings that do not apply to other properties or classes of use in the same
9 vicinity or zone. SCC 30.43B.100(1) (2003). PBSS did not carry its burden of demonstrating the
10 need for a variance to preserve and enjoy a substantial property right or use possessed by other
11 properties in the same vicinity and zone but which because of special circumstances is denied to
12 the Property. *Id.* at (2). PBSS did not identify the substantial property right or use possessed by
13 other properties in the R-5 zone denied to it because of special circumstances, except to argue
14 that other properties zoned R-5 in the vicinity had allegedly illegal businesses on them. Alleged
15 illegal use by others is not a substantial property right enjoyed by the other property owners. Note,
16 too, that PBSS's request for multiple variances vitiates the requirements of the Rural Business
17 zoning designation. The need for multiple variances to exempt the proposed use from the zone's
18 requirements is some evidence that Rural Business is not an appropriate zoning designation.

19 PBSS failed to satisfy the requirements for the variances, and consequently failed to satisfy SCC
20 30.31F.020(2)(g).

21 PBSS must have submitted site information that clearly demonstrated that an adequate building
22 and development area is located on the Property outside of identified critical areas and buffers.
23 PBSS did so and satisfied this criterion.³⁹

24 **H. VARIANCES**

25 PBSS also applied for four variances from the Rural Business requirements of county code, SCC
26 30.31F.110. Denial of the rezone to Rural Business moots the applications for variances from the
27 requirements of SCC 30.31F.110. The requested variances are therefore denied.

³⁹ Ex. C.2. This preliminary conclusion is only for determining compliance with SCC 30.31F.020(2)(g) and does not replace critical areas evaluation required for future development.

1 **V. CONCLUSIONS**

2 1. The Hearing Examiner has authority to approve site-specific rezones and variances.⁴⁰

3 2. The Hearing Examiner concludes that PBSS did not meet its burden of meeting county
4 code’s criteria for approval of the site-specific rezone. The proposal is not consistent with the
5 comprehensive plan, county codes, and the type and character of land use permitted on the
6 Property. The proposal does not bear a substantial relationship with the public’s health, safety,
7 and general welfare. The applicant did not prove by a preponderance of evidence that changed
8 circumstances justified the rezone. The proposal does not satisfy all minimum zoning criteria of
9 chap. 30.31F SCC because variances are needed to meet those criteria and the criteria for all the
10 variances are not wholly satisfied. Without approval of the rezone request, variances are not
11 needed and are denied as moot.

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

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

16 **VI. DECISION**

17 Based on the foregoing findings of fact and conclusions of law, the Hearing Examiner denies the
18 rezone of a portion of Property from R-5 to Rural Business and denies the proposed variances from
19 the Rural Business zone as moot.

Decision issued this 27th day of March, 2026.

Camp, Peter
Digitally signed
by Camp, Peter
Date: 2026.03.27
10:49:56 -07'00'

Peter B. Camp
Snohomish County Hearing Examiner

⁴⁰ SCC 30.70.025 table (2024); SCC 30.72.025 (2012).

1 **VII. RECONSIDERATION AND APPEAL PROCEDURES**

2 The following paragraphs summarize the reconsideration and appeal processes. For more
3 information about reconsideration and appeal procedures, please see chapter 30.72 SCC and the
4 respective Hearing Examiner and Council Rules of Procedure.

5 **RECONSIDERATION**

6 **Who May Petition and Deadline**

7 Any party of record may request reconsideration by the Hearing Examiner by filing a petition for
8 reconsideration no later than **April 6, 2026**.

9 **Filing**

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

- 12 (a) the paper original is delivered in person, by messenger, or by courier to the Office of Hearings
13 Administration, 1st Floor, Administration West Building, 3000 Rockefeller Avenue, Everett,
14 Washington, before or at 4 p.m. on the day of the deadline;
- 15 (b) the paper original mailed to the Office of Hearings Administration, M/S No. 405, 3000
16 Rockefeller Avenue, Everett WA 98201 is postmarked by the United States Postal Service on or
17 before the day of the deadline, though the postal service may deliver such postmarked original
18 after the day of the deadline (note that USPS postmarks mail when processed at a regional
19 USPS facility, which may be a day or more later than the date placed in the collection box); or
- 20 (c) the emailed petition to Hearing.Examiner@snoco.org is timestamped as sent on or before
21 midnight of the deadline day.

22 There is no fee for filing a petition for reconsideration. The petitioner for reconsideration shall mail
23 or otherwise provide a copy of the petition for reconsideration to all parties of record (including the
24 applicant) on the date of filing. SCC 30.72.065. The petitioner for reconsideration shall file with the
25 Office of Hearings Administration a declaration of service under penalty of perjury describing the
26 documents served, the parties or persons served, and the method of service. A sample form is
27 available from the Clerk upon request.

1 **Contents**

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

- 3 (a) Contain the petitioner’s name, petitioner’s mailing address, petitioner’s daytime telephone
4 number, and the signature of the petitioner or of the petitioner’s attorney, if any;
- 5 (b) Identify the specific findings, conclusions, actions, and conditions for which
6 reconsideration is requested;
- 7 (c) State the relief requested; and,
- 8 (d) If applicable, identify the specific nature of any newly discovered evidence and changes
9 proposed by the applicant.

10 The grounds for seeking reconsideration are limited to the following:

- 11 (a) The Hearing Examiner exceeded his jurisdiction;
- 12 (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- 13 (c) The Hearing Examiner committed an error of law;
- 14 (d) The Hearing Examiner’s findings, conclusions, or conditions are not supported by the
15 record;
- 16 (e) The petitioner discovered new evidence which could not reasonably have been produced
17 at the hearing and which is material to the decision; or
- 18 (f) The applicant proposed changes to the application in response to deficiencies identified in
19 the decision.

20 Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant
21 to the provisions of SCC 30.72.065. Please include the county file number in any correspondence
22 regarding this case.

23 **APPEAL**

24 An appeal to the County Council may be filed by any aggrieved party of record **on or before April**
25 **10, 2026**. If the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be
26 filed until the reconsideration petition has been decided by the Hearing Examiner. An aggrieved
27 party may file an appeal directly to the County Council without first filing a petition for
28 reconsideration. If a petition for reconsideration is filed, issues subsequently raised by that party

1 on appeal to the County Council shall be limited to those issues raised in the petition for
2 reconsideration.

3 Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the
4 Department of Planning and Development Services, 2nd Floor, Administration West Building, 3000
5 Rockefeller Avenue, Everett, Washington (Mailing address: M/S 604, 3000 Rockefeller Avenue,
6 Everett, WA 98201), and shall be accompanied by a filing fee in the amount of five hundred dollars
7 (\$500.00) for each appeal filed. A county department does not need to pay the filing fee. The filing
8 fee shall be refunded in any case where an appeal is summarily dismissed in whole without
9 hearing under SCC 30.72.075.

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

- 12 1. Scan the original manually signed (handwritten) copy of the appeal document;
- 13 2. Send your appeal as an email attachment to epermittech@snoco.org. Please include your
14 phone number where you can be reliably reached.
- 15 3. Staff will call you to collect your credit card information and process your payment.
- 16 4. Mail the original to Snohomish County PDS, 3000 Rockefeller M/S 604, Everett, WA 98201.

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

24 The grounds for filing an appeal shall be limited to the following:

- 25 (a) The decision exceeded the Hearing Examiner's jurisdiction;
- 26 (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- 27 (c) The Hearing Examiner committed an error of law; or
- 28 (d) The Hearing Examiner's findings, conclusions, or conditions are not supported by
29 substantial evidence in the record.

PBSS Rural Business Rezone & Variance

25-105874 REZO

25-105880 VAR

Decision Denying Rezone and Variances

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1 SCC 30.72.080(2). Appeals will be processed and considered by the County Council pursuant to
2 the provisions of chapter 30.72 SCC. Please include the county file number in any
3 correspondence regarding the case.

4 Staff Distribution:

5 Department of Planning and Development Services: Melissa Place, AICP

6 The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may
7 request a change in valuation for property tax purposes notwithstanding any program of
8 revaluation." A copy of this decision is being provided to the Snohomish County Assessor as
9 required by RCW 36.70B.130.