Robinett Investment Company, LLC
114 Ave C, Suite 101
Snohomish, WA 98290

April 17, 2026

Snohomish County Council
c/o Snohomish County PDS
3000 Rockefeller Ave., M/S 604
Everett, WA 98201

RE: Appeal of Snohomish County Hearing Examiner Decision
Petitioner: Robinett Investment Company, LLC
Meadowood East RCS Preliminary 13-lot Development rural cluster subdivision
File No. 22-104584 PSD

Dear County Council:

Pursuant to SCC 30.72.070, Robinett Investment Company, LLC herewith appeals the Hearing Examiner's decision issued on April 7, 2026, in the above referenced matter.

I. Name, mailing address and daytime telephone number of the appellant:

Robinett Investment Company, LLC
114 Ave C, Suite 101
Snohomish, WA 98290
425-252-1166

II. The facts upon which the appeal is based, including references to specific hearing examiner findings or conclusion, and to exhibits or oral testimony in the record:

Appellant appeals Conditions A.8., C.20., C.21., C.31., D.37., D.43., D.48., D.49. and D.50.

VII. CONDITIONS

A. General

8. To the extent required by the Fire Marshal, buildings shall have automatic sprinkler systems. At the time of building permit application, Robinett Investment may provide updated fire flow information. The Fire Marshal may modify sprinkler requirements based upon the updated fire flow information. If the fire flow is less than the fire flow required by Appendix B for the size and type of structure, installation of NFPA-compliant automatic fire sprinkler systems will reduce the fire flow required by 50%.

C. Final Plat Content

20. The lots within this subdivision will be subject to school impact mitigation fees for Marysville School District No. 25. The amount of the fee per dwelling unit will be zero for building permit applications submitted on or before March 16, 2027. For building permit applications submitted on or after March 17, 2027, 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 sec 30.66C.200(2).

21. The dwelling units within this development are subject to a park and recreation facility impact fee for the Robe Canyon Point Park Service Area of the county parks system.[59] The impact fee shall be $503.84/dwelling unit for building permits submitted on or before March 16, 2027. For building permits submitted on or after March 17, 2027, 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 sec 30.66A.020(4).

31. All dwelling units shall be equipped with NFPA-compliant automatic sprinklers.

D. Final Plat Approval

37. Robinett Investment shall have established a homeowners' association as a Washington corporation (profit or non-profit) for the purposes of tract ownership and maintenance. Robinett Investment 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. Robinett Investment shall record the by-laws with the County Auditor upon their approval by the county and adoption by the homeowners' association.

43. Robinett Investment shall have provided the Fire Marshal with a final certificate of water availability verifying all hydrants have been installed, are charged and operational, and that minimum required fire flow can be met. All fire hydrants shall have a four-inch Storz steamer port and the bonnets and caps of the hydrants painted to reflect the level of fire flow service. Blue street reflectors shall have been installed on the hydrant side of the center line of roads to allow approaching emergency vehicles to locate each hydrant. Installation of reflectors may be deferred until placement of the final lift if approved by the Fire Marshal.

48. Prior to building permit issuance, Robinett Investment shall have paid the impact fees described in conditions 21 (park and recreation facility mitigation fee), 22 (road system impact mitigation fee), and 20 school district impact mitigation fee), unless allowed by county code to pay after building permit issuance.

49. If building permits are sought before approval of the final plat, Robinett Investment must comply with condition 43 (adequate fire flow fire and hydrants charged and operational) prior to building permit issuance.

50. At the time of building permit application, Robinett Investment may provide updated fire flow information. Sprinkler requirements may be modified based upon the fire flow information provided and upon review by the Fire Marshal The minimum fire flow requirements of Appendix B of the International Fire Code in effect at the time of building permit application shall be satisfied. A 50% reduction in required fire flow will be calculated with the installation of automatic sprinkler systems

III. A detailed statement of the grounds for appeal:

Conditions C.20 and D.48

By imposing Conditions C.20. and D.48, the Hearing Examiner exceeded his jurisdiction, failed to follow applicable procedures in reaching his decision and committed an error of law. The Hearing Examiner in Condition C.20. failed to give a school impact fee credit for an existing legal Lot as required for by SCC 30.66C.150 (4).

SCC 30.66C.150 and SCC 30.91L.120 provide as follows:

SCC 30.66C.150 Credit for in-kind contributions/existing lots.
(4) For any development subject to the provisions of this title that is sited on one or more legal lots created prior to May 1, 1991, a credit equal to the applicable impact fee for a single-family dwelling times the number of such pre-existing lots shall apply to the fee obligation of the development.

30.91L.120 Lot.

"*Lot*" means a tract or parcel of land created in its present configuration by subdivision, short subdivision, or large tract segregation (recorded and/or approved by the County), a segregation exempt from subdivision requirements, or transfer of ownership prior to September 12, 1972. To be considered a "lot," each tract or parcel must be of sufficient area and dimension to meet minimum zoning requirements that were in effect at the time the tract or parcel was created, and must meet the access requirements of this title. The term shall not include descriptions, divisions, parcels, easements, exceptions, or reservations created solely to describe access, road, railroad, or utility right of way purposes or drainage courses, resolve an encroachment problem, or describe survey gaps, parcels divided by non-navigable water courses, mortgage deed or other financial contract releases, and tax title parcels.

Meadowood East RCS is a subdivision of a parcel created by transfer of ownership prior to September 12, 1972. Because the parcel being subdivided was created in its present configuration by a transfer of ownership prior to September 12, 1972, the Hearing Examiner pursuant to SCC 30.66C.150(4) was required to give a school impact fee credit and erred by not doing so.

Conditions C.21 and D.48

By imposing Conditions C.21 and D.48, the Hearing Examiner exceeded the Hearing Examiner's jurisdiction, failed to follow applicable procedure, committed an error of law and drew factual conclusions not supported by substantial evidence in the record. The Hearing Examiner has erroneously imposed a park impact fee on a replacement dwelling unit. Meadowood East is a 13 lot development on a property with an existing house. Though that existing house will be demolished and a replacement residence will be built, the replacement is not a new dwelling for which a park and recreation impact fee can be assessed.

a. RCW 82.02.050 establishes the purpose for the authority to impose impact fees under RCW 82.02.060. By imposing a fee for a replacement dwelling unit the Hearing Examiner has exceeded his jurisdiction

RCW 82.02.050 and RCW 82.02.060 provide in part as follows:

RCW 82.02.050

Impact fees—Intent—Limitations.

(1) It is the intent of the legislature:

(a) To ensure that adequate facilities are available to serve **new** growth and development;

(b) To promote orderly growth and development by establishing standards by which counties, cities, and towns may require, by ordinance, that **new** growth and development pay a

proportionate share of the cost of new facilities needed to serve new growth and development; and

(c) To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or **duplicative** fees for the same impact.

The County and the Hearing Examiner only has jurisdiction to impose an impact fee for new development:

RCW 82.02.060

Impact fees—Local ordinances—Required provisions—Exemptions.

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based upon a formula or other method of calculating such impact fees. The schedule shall reflect the proportionate impact of **new housing units**, including multifamily and condominium units

There is no authority and no jurisdiction to impose a fee for a replacement housing unit.

SCC 30.66A pays lip service to this limitation for new housing units:

SCC 30.66A.010 Purpose and applicability.

(1) The purpose of this chapter is:

(a) To ensure that adequate park land and park facilities are available to serve **new growth** and development as defined in SCC 30.91D.200;

(b) To require **that new growth** and development pay its proportionate share of the costs of new park land and park facilities identified in the capital facilities plan element of the comprehensive plan that are reasonably related to the **new development**;

(c) To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary or duplicative fees for the same impact; and

But the limitation to **new** is not consistently emphasized in the balance of Chapter 30.66A related to park impact fees. Nonetheless the Hearing Examiner exceeded his jurisdiction to impose an impact fee on a replacement dwelling unit.

b. The Hearing Examiner failed to follow applicable procedure.

The Decision related to Meadowood is a "Type 2" Decision. The Hearing Examiner has no authority to impose impact fees in such a decision.

SCC 30.72.060 provides as follows:

SCC 30.72.060 Hearing examiner's decision on Type 2 application.

(1) A decision on the Type 2 application shall be issued within 15 working days of the conclusion of a hearing, and not later than 120 calendar days after a determination of completeness pursuant to SCC 30.70.110, unless the applicant agrees in writing to extend the time period or the time period has been extended under some other authority.

(2) If an appeal of a Type 1 administrative decision was heard at the open record predecision hearing, a final decision on the Type 1 appeal shall be issued concurrently with the Type 2 decision.

(3) The hearing examiner may grant, grant in part, return to the applicable department and applicant for modification, deny without prejudice, deny, or grant with such conditions or modifications as the hearing examiner finds appropriate based on the applicable decision criteria.

(4) The decision shall include findings of fact based upon the record and conclusions of law therefrom which support the decision.

(5) Reconsideration of the hearing examiner's decision may be requested only in accordance with SCC 30.72.065.

(6) The hearing examiner's decision shall include information on, and any applicable time limitations for, requesting reconsideration or for appealing the decision.

It will be observed that the Hearing Examiner is constrained to process and application consistent with the "applicable decision criteria."

As to park impact fees, SCC 30.66A 130 and 140 provide as follows:

SCC 30.66A.130 Administrative adjustment of fee amount.

(1) A developer may appeal to the director of the department of conservation and natural resources for an adjustment to the amount of or an elimination of fees imposed under this chapter by submitting a written explanation of the basis for appeal within 14 days of acceptance by the county of a building permit application. The director of the department of conservation and natural resources may adjust the fee amount, in consideration of information submitted by the developer, if one of the following circumstances exists:

(a) The park and recreation impact fee assessment was incorrectly calculated;

(b) Unusual circumstances exist that demonstrate the park and recreation impact fee is unfair as applied to the specific development;

(c) A credit for in-kind contributions by the developer, as provided for under SCC 30.66A.060, is warranted;

(d) Any other credit specified in RCW 82.02.060(1)(b) is warranted; or

(e) The impact fee assessment was improper under RCW 82.02.020 or RCW 82.02.050 et seq.

(2) Park and recreation impact fees may be paid under protest in order to obtain a development approval without delay pending resolution of the appeal. A written protest must be submitted at or prior to the time fees are paid and will relate only to the specific fees identified in the protest.

(3) Failure to file a written protest and to seek a timely appeal to the director of the department of conservation and natural resources shall preclude any appeal of the park and recreation impact fee under SCC 30.66A.140.

(4) Refunds approved under this section, or following an administrative appeal as provided in SCC 30.66A.140, shall be made to the current property owner at the time the refund is authorized, unless the current property owner releases the county from any obligation to refund the current property owner.

(5) The developer may appeal the decision of the director of the department of conservation and natural resources as provided in SCC 30.66A.140. (Added by Amended Ord. 04-016, Feb. 23, 2005, Eff date Mar. 11, 2005; Amended by Amended Ord. 16-060, Aug. 24, 2016, Eff date Sept. 12, 2016; Amended by Amended Ord. 20-081, Jan. 20, 2021, Eff date Jan. 30, 2021).

SCC 30.66A.140 Appeals.

(1) Any person aggrieved by a decision to impose impact fees, impose modifications, or waive an impact fee under this chapter may appeal the decision to the hearing examiner. Appeals of an impact fee under this chapter must be combined with the administrative appeal for the underlying development approval if there is an administrative appeal process for the underlying development approval. Appeal of the impact fee shall proceed as a Type 1 appeal pursuant to chapter 30.71 SCC if there is no administrative appeal for the permit.

(2) The impact fee may be modified or refunded only if paid under written protest in accordance with SCC 30.66A.130, upon a determination based on the criteria contained in SCC 30.66A.130. Appeals shall be limited to application of the impact fee provisions to a specific development. (Added by Amended Ord. 04-016, Feb. 23, 2005, Eff date Mar. 11, 2005).

Park impact fees are imposed not by the Hearing Examiner but by the Department of Conservation and Natural Resources. Once imposed then there is an internal right of appeal to the Director under SCC 30.66A.130. Only after a Department determination and an unsuccessful appeal to the Director can an appeal under SCC 30.66A.140 be taken to the Hearing Examiner. Here the Hearing Examiner has failed to follow applicable procedure to assume original jurisdiction to impose park impact fees where the Hearing Examiner's role is limited by SCC 30.66A.140 to appellate only.

c. The Hearing Examiner committed errors of law.

Besides the procedural errors of law discussed under the previous to headings, the Hearing Examiner committed an error related to the substantive law for a park impact fee. The applicable provisions of Chapter 82.02 RCW and of Chapter 30.66A are quoted above. Impact fees can only be imposed for new housing. Therefore, the condition requiring a fee for all 13 lots must fail, because the residence on one of the 13 lots is not a new house and development, but a "replacement" house or dwelling. It was an error of law to impose an impact fee for a replacement house or dwelling.

d. The Hearing Examiners Decision imposing Conditions C.21 and D.48 as to the 13th Lot with the replacement dwelling is not supported by substantial evidence.

One can imagine a set of circumstances where an existing dwelling when replaced and park impact fee for a new dwelling might be lawful. For example, imagine a 300 square foot dry cabin replaced by a 3,000 square foot residence with 4 bedrooms and 2 bathrooms. On a proper record with substantial evidence the replacement might fairly be deemed a "new dwelling." But there is no evidence, let alone substantial evidence in the record of a wholesale change in the replacement of an existing residence here. The absence of substantial evidence further requires reversal of Conditions C.21 and D.48.

The Hearing Examiner erred in imposing Conditions C.21 and D.48. He had no jurisdiction to rule as he did, he failed to follow appliable procedure excluding original jurisdiction, he erred at law to deem a replacement residence a new dwelling and he acted without substantial evidence.

Conditions A.8, C.31, D.43, D.49 and D.50

By imposing Conditions A.8., C.31., D.43. D.49. and D.50. the Hearing Examiner exceeded the Hearing Examiner's jurisdiction and committed an error of law. In addition, Conditions C.31 and D.50 are not supported by the record. The Fire Marshall did not recommend fire sprinklers and because of the size of the lots fire flow is not required.

At page 12 of the Revised Staff Recommendation (Exhibit P.1) it states:

"However, in additional memo received on January 31, 2025, the Fire Marshal's office removed their recommended request for each residence to have sprinklers."

SCC 30.53A.514 provides as follows:

30.53A.514 Fire protection water supply - replaced.

Section 507.1 of the IFC is deleted in its entirety and replaced as follows:

Exemptions: Except as provided in IFC section 507, the following permits and approvals are exempt from the water supply and fire hydrant requirements of this chapter:

(1) Subdivisions and short subdivisions in which all lots have a lot area of 43,560 square feet (one acre) or more in size;

(2) Building permits for structures classified by the building code as Group U occupancies (agricultural buildings, private garages; carports and sheds) that are restricted to private residential use only, provided that riding arenas or other agricultural type structures used or accessed by the public shall not be exempt;

(3) A building permit for a single family detached dwelling, duplex, or mobile home to be placed on a lot with a lot area of 43,560 square feet (one acre) or more in size; and
(4) Mobile home permits for mobile homes in established mobile home parks

All of the Meadowood East lots have a lot area of 43,560 square feet or more and as such are exempt from water supply and fire hydrant requirements.

The Hearing Examiner erred in requiring that the homes on the lots have sprinklers contrary to the recommendation of the Fire Marshal and the record before him. The Hearing Examiner further erred in requiring that the hydrants serving the lots in the plat have minimum fire flow, when the lots by county code are exempt from water supply and fire hydrant requirements. Conditions A.8., C.31. and D. 50 should be deleted, and Conditions D.43. and D.49. should be revised to delete any reference to fire flow.

Condition D.37

By imposing Condition D.37 the Hearing Examiner exceeded the Hearing Examiner's jurisdiction and committed an error of law. Condition C. 37 restricts the tracts in the subdivision to be being owned by a homeowner's association whereas SCC 30.41C.110 does not have this limitation. Furthermore, Condition D.37 requires that the bylaws be recorded when there is no such requirement in county code.

SCC 30.41C.110 provides as follows:

SCC 30.41C.110 Ownership and preservation of restricted and interim open space.

The following provisions shall apply to the ownership and preservation of restricted and interim open space as required in SCC 30.41C.090 and 30.41C.140:

(1) Open space requirements must be met with restricted or interim open space tract(s) held in separate ownership from residential lots and marked on the face of the plat with limited uses referenced.

(2) Restricted or interim open space tracts shall be owned by a single property owner, a homeowners association, a public agency or a not for profit organization.

(3) When ownership of restricted open space is by a single property owner, the property owner shall:

(a) Record a restrictive covenant against the restricted open space tract that runs with the land and restricts the use of the open space tract to those uses allowed in SCC 30.41C.090(2); and

(b) Provide an open space management plan pursuant to SCC 30.41C.120.

(4) Common ownership shall be by the property owners of the subdivision as a whole, in the form of a homeowners association.

(a) The applicant shall provide the county with a description of the association, proof of incorporation of the association, a copy of its bylaws, a copy of the conditions, covenants and restrictions regulating the use of the property and setting forth methods for maintaining the open space.

(b) Membership in the homeowners association, and dues or other assessment for maintenance purposes, shall be a requirement of lot ownership within the development.

Condition D.37. requires that the homeowners association own all of the tracts within the subdivision whereas SCC 30.41C.110(2) allows for tracts to be owned by "a single property owner, a homeowners association, a public agency or a not for profit organization." Condition D.37 also improperly requires that the by-laws be recorded with the County Auditor. While SCC 30.41C.110(4)(a) requires that the County be provided with a copy of the bylaws it says nothing about having to record them. In fact, in my 45 years being a licensed attorney, I have never recorded or let alone been asked to record bylaws. Condition D.37. should be revised to be consistent with SCC 30.41C.110(2) and SCC 30.41C.110(4)(a).

IV. The specific relief requested:

Appellant requests that Condition C.20. be revised to give a school impact fee credit, that Condition C.21. be revised to give a park impact fee credit, that Conditions A.8, C.31., and D.50 be deleted and that conditions D.43. and D.49 be revised to delete any reference to fire flow and that Condition D.37.be revised to be consistent with SCC 30.41C.110(2) and SCC 30.41C.110(4)(a).

Very truly yours,

ROBINETT INVESTMENT COMPANY, LLC

Martin H. Robinett
Its Managing Member