CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 10, 2014

<table>
<tr><td>AGENDA ITEM: Final Plat Approval for Rock Creek North, Division 2, Phase 2</td><td colspan="2">AGENDA SECTION:
New Business</td></tr>
<tr><td>PREPARED BY:
Cheryl Dungan, Senior Planner</td><td colspan="2">APPROVED BY:</td></tr>
<tr><td rowspan="2">ATTACHMENTS:
1. Hearing Examiner's Decision dated 02/05/2007
2. Site Plan
3. Vicinity Map
4. Final Plat Checklist</td><td colspan="2"></td></tr>
<tr><td>MAYOR</td><td>CAO</td></tr>
<tr><td>BUDGET CODE:</td><td colspan="2">AMOUNT:</td></tr>
</table>

DESCRIPTION:

On May 25th, 2006, the Snohomish County Hearing Examiner approved the preliminary plat of Rock Creek North Division 2, creating 143 lots on approximately 33 acres. The applicant is constructing the project in multiple phases. Phase 2 which consists of 15 lots, has been constructed.

The plat is generally located on the east side of 83rd Ave NE and south of 84th St NE.

The applicant has met all conditions of final plat approval.

RECOMMENDED ACTION: City staff recommends the City Council approve and authorize the Mayor to sign the Final Plat of Rock Creek North Division 2, Phase 2.
COUNCIL ACTION:

BEFORE THE

SNOHOMISH COUNTY HEARING EXAMINER

DECISION of the DEPUTY HEARING EXAMINER

In the Matter of the Application of	)	
	)	**FILE NO. 05 118415**
HARBOUR HOMES, INC.	)	
	)	
Preliminary plat for a 143-lot subdivision utilizing lot size averaging and a rezone from R-9,600 to R-7,200	)	

DATE OF DECISION: May 25, 2006

PLAT/PROJECT NAME: *Rock Creek North, Division II*

DECISION (SUMMARY): The requests for a preliminary plat for a 143-lot subdivision utilizing lot size averaging provisions and for a rezone from Residential-9,600 to Residential-7,200 are hereby **CONDITIONALLY APPROVED.**

BASIC INFORMATION

GENERAL LOCATION: This project is located at 7515 83rd Avenue NE, Marysville, Washington.

ACREAGE: 33 acres

NUMBER OF LOTS: 143

AVERAGE LOT SIZE: 4,930 square feet

MINIMUM LOT SIZE: 3,341 square feet

DENSITY: 4.33 du/ac (gross)
8.80 du/ac (net)

ZONING: CURRENT: R-9,600
PROPOSED: R-7,200

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation:	Urban Low Density Residential (4-6 du/ac)
Subarea Plan:	Marysville
Subarea Plan Designation:	Rural (1 du/2.3 ac)

UTILITIES:

Water/Sewer: City of Marysville

SCHOOL DISTRICT: Marysville No. 25

FIRE DISTRICT: No. 22

SELECTED AGENCY RECOMMENDATIONS:

Department of:

Planning and Development Services (PDS):	Approval subject to conditions
Public Works (DPW):	Approval subject to conditions

INTRODUCTION

The applicant filed the Master Application on August 8, 2005. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 21, 22 and 23)

A SEPA determination was made on April 17, 2006. (Exhibit 20) No appeal was filed.

The Examiner held an open record hearing on May 10, 2006, the 109th day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

PUBLIC HEARING

The public hearing commenced on May 10, 2006 at 10:04 a.m.

1. The Examiner announced that he had read the PDS staff report, reviewed the file and viewed the area and therefore was generally apprised of the particular request involved.

2. The applicant, Harbour Homes, Inc., was represented by James Barnett of D.R. Strong. Snohomish County was represented by Darryl Eastin of the Department of Planning and Development Services.

3. Citizen Dean Fink, a concerned vicinity resident, testified and questioned the County's and applicant's witnesses at the hearing. By the conclusion of the hearing, it appeared that his issues on concern had been addressed to his satisfaction.

The hearing concluded at 10:23 a.m.

NOTE: For a complete record, an electronic recording of this hearing is available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS OF FACT

Based on all the evidence of record, the following findings of fact are entered.

1. The master list of exhibits and witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file as if set forth in full herein.

2. The PDS staff report has correctly analyzed the nature of the application, the issues of concern, the application's consistency with adopted codes and policies and land use regulations, and the State Environmental Policy Act (SEPA). That staff report is hereby adopted by the Examiner as if set forth in full herein.

3. The request is for a rezone of 33 acres from R-9,600 to R-7,200 in order to construct a 143-lot subdivision using lot size averaging. Average weekday vehicle trips are 1,255, of which 98 are a.m. peak hour trips and 132 are p.m. peak hour trips.

4. The project would comply with park mitigation requirements under Chapter 30.66A SCC (Title 26A SCC) by the payment of $48.82 for each new single-family home.

5. The DPW reviewed the request with regard to traffic mitigation and road design standards. This review covered Title 13 SCC and Chapter 30.66B SCC (Title 26B SCC) as to road system capacity, concurrency, inadequate road conditions, frontage improvements, access and circulation, and dedication/deeding of right-of-way, state highway impacts, impacts on other streets and roads, and Transportation Demand Management. As a result of this review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions.

6. School mitigation requirements under Chapter 30.66C SCC (Title 26C SCC) have been reviewed and set forth in the conditions.

7. The site contains four Category 3 wetlands of various sizes. Three of the wetlands extend off-site to the north, east and south. The site also contains a Type 5 stream along the northern boundary of the largest wetland. Approximately 4,356 square feet (SF) of the largest wetland will be filled and the Type 5 stream will be impacted to construct the new 87th Avenue NE. A portion of the buffer around the smallest wetland will be impacted to construct a new cul-de-sac and create a developable area for lots 51 and 64.

8. The PDS Engineering Division has reviewed the concept of the proposed grading and drainage and recommends approval of the project subject to conditions, which would be imposed during full detailed drainage plan review pursuant to Chapter 30.63A SCC (Title 24 SCC).

9. The Snohomish County Health District has no objection to this proposal provided that public water and sewer are furnished. Public water and sewer service and electrical power will be available for this development.

10. The property is designated Urban Low Density Residential (ULDR 4-6 du/ac) on the General Policy Plan (GPP) Future Land Use Map (FLUM) and is located within an Urban Growth Area (UGA). Land in this category may be developed at a density of 4-6 du/ac and one of the implementing zones is the R-7,200 zone which is the case here.

11. The proposed use (single-family detached development) is essentially compatible with existing single-family detached developments on larger lots. Because the property is within a UGA, policies were adopted to promote urban densities of development. A comparison with the present lower density character of much of the area is inappropriate since the present density of development in much of the surrounding area is inconsistent with both the adopted comprehensive plans and the present zoning.

12. The request complies with the Snohomish County Subdivision Code, Chapter 30.41A SCC (Title 19 SCC) as well as the State Subdivision Code, RCW 58.17. The proposed plat complies with the established criteria therein and makes the appropriate provisions for public, health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and other planning features including safe walking conditions for students.

13. Chapter 30.42A covers rezoning requests and applies to site-specific rezone proposals that conform to the Comprehensive Plan. The decision criteria under SCC 30.42A.100 provides as follows:

> The hearing examiner may approve a rezone only when all the following criteria are met:
>
> (1) the proposal is consistent with the comprehensive plan;
> (2) the proposal bears a substantial relationship to the public health, safety, and welfare; and
> (3) where applicable, minimum zoning criteria found in Chapters 30.31A through 30.31F SCC are met.
>
> It is the finding of the Examiner that the request meets these requirements generally and should be approved.

14. The proposal has been evaluated by PDS for compliance with the lot size averaging provisions of SCC 30.41A.240 and SCC 30.23.210. This proposal is consistent with these provisions.

15. The request is consistent with Section 30.70.100 SCC (Section 32.50.100 SCC), which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP, and GMA-based county codes.

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

CONCLUSIONS OF LAW

Based on the findings of fact entered above, the following conclusions of law are entered.

1. The Examiner having fully reviewed the PDS staff report, hereby adopts said staff report as properly setting forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their effect upon the request. It is therefore hereby adopted by the Examiner as a conclusion as if set forth in full herein, in order to avoid needless repetition. There are no changes to the recommendations of the staff report.

2. The Department of Public Works recommends that the request be approved as to traffic use subject to conditions specified below herein.

3. The request is consistent with the (1) GMACP, GMA-based County codes, (2) the type and character of land use permitted on the site, (3) the permitted density, and(4) the applicable design and development standards.

4. The request is for a rezone and therefore must comply with Chapter 30.42A. This is a site specific rezone that conforms to the Comprehensive Plan. Because no evidence was submitted of non-compliance with the requirements of Chapter 30.42A, the application is presumed to meet those requirements.

5. The request should be approved subject to compliance by the applicant with the following conditions:

CONDITIONS

A. The preliminary plat received by the Department of Planning and Development Services on April 28, 2006 (Exhibit 25A) shall be the official site plan and approved plat configuration. Changes to the approved plat are governed by SCC 30.41A.330.

B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:

i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.

ii. The plattor shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by Chapter 30.62 SCC, or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the county.

iii. A final mitigation plan based on the Critical Areas Report and Conceptual Mitigation Plan for Rock Creek North Division II prepared by The Jay Group, Inc. dated August 8, 2005 as submitted late on August 10, 2005 (Exhibit 8) shall be submitted for review and approval during the construction review phase of this project.

C. The following additional restrictions and/or items shall be indicated on the face of the final plat:

i. "The lots within this subdivision will be subject to school impact mitigation fees for the Marysville School District No. 25 to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for the six (6) existing parcels. Lots 1 through 6 shall receive credit."

ii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:

$1,798.60 per lot for mitigation of impacts on county roads paid to the County,

$28.28 per lot for mitigation of impacts on state highways paid to the County, (WSDOT ID #34 – SR 9 at 108th Street NE)

$1,949.37 per lot for mitigation of impacts on city streets for the City of Marysville paid to the City. Proof of payment shall be provided.

$202.34 per lot ($28,935.29 total) for mitigation of impacts on city streets for the City of Arlington paid to the City. Proof of payment shall be provided.

These payments are due prior to or at the time of building permit issuance for each single-family residence. Notice of these mitigation payments shall be contained in any deeds involving this subdivision of the lot(s) therein. Once building permits have been issued all mitigation payments shall be deemed paid by PDS.

iii. All Critical Areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made);

> "All NATIVE GROWTH PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur, except removal of hazardous trees. The activities as set forth in UDC 30.91N 010 are allowed when approved by the County."

iv. The existing ingress/egress easement providing access to parcel #30052500201900 shall be extinguished upon recording of the final plat and access relocated to 87th Avenue NE as stipulated in AFN #2414830.

v. New 87th Avenue NE road including curb, gutter, sidewalk and planter shall be constructed to the property boundaries of parcel #30052500201900.

vi. New 85th Avenue NE road including curb, gutter, sidewalk and planter shall be constructed to the south boundary of the subject property.

vii. The developer shall pay the County $48.82 per new dwelling unit as mitigation for parks and recreation impacts in accordance with Chapter 30.66A SCC; provided, however, the developer may elect to postpone payment of the mitigation requirement until issuance of a building permit for that lot. The election to postpone payment shall be noted by a covenant placed on the face of the recorded plat and included in the deed for each affected lot within the subdivision.

D. Prior to recording of the final plat:

i. Features on the approved TDM plan shall be constructed/installed.

ii. Urban frontage improvements shall be constructed along the parcel's frontage on 83rd Ave NE to the specifications of the City of Marysville.

iii. Native Growth Protection Area boundaries (NGPA) shall have been permanently marked on the site prior to final inspection by the county, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The plattor may use other permanent methods and materials provided they are first approved by the county. Where an NGPA boundary crosses another boundary (e.g.: lot, tract, plat, road, etc.), a rebar marker with surveyors' cap and license number must be placed at the line crossing.

NGPA signs shall have been placed no greater than 100 feet apart around the perimeter of the NGPA. 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 NGPA, unless otherwise approved by the county biologist. The design and proposed locations for the NGPA signs shall be submitted to the Land Use Division for review and approval prior to installation.

iv. The final wetland mitigation plan shall be completely implemented.

E. In conformity with applicable standards and timing requirements:

i. The Detention Pond Landscape Plan received April 28, 2006 (Exhibits 24A & 24B) shall be implemented. All required detention facility landscaping shall be installed in accordance with the approved landscape plan.

F. All development activity shall conform to the requirements of Chapter 30.63A SCC.

Nothing in this permit/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.

Preliminary plats which are approved by the county are valid for five (5) years from the date of approval and must be recorded within that time period unless an extension has been properly requested and granted pursuant to SCC 30.41A.300.

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

DECISION

Based on the findings of fact and conclusions of law entered above, the decision of the Hearing Examiner on the application is as follows:

The requests for a preliminary plat for a 143-lot subdivision utilizing lot size averaging provisions and for a rezone from Residential-9,600 to Residential-7,200 are hereby **CONDITIONALLY APPROVED**, subject to the conditions set forth in Conclusion No. 5 above.

Decision issued this 25th day of May 2006.

Ed Good, Deputy Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

The decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more parties of record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

Reconsideration

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **JUNE 5, 2006**. There is no fee for filing a petition for reconsideration. **"The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing." [SCC 30.72.065]**

A petition for reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner's attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

(a) The Hearing Examiner exceeded the Hearing Examiner's jurisdiction;

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

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

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

(e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or

(f) The applicant proposed changes to the application in response to deficiencies identified in the decision.

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

Appeal

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with

the Department of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **JUNE 8, 2006** and shall be accompanied by a filing fee in the amount of five hundred dollars ($500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

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

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

(a) The decision exceeded the Hearing Examiner's jurisdiction;

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

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

(d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by substantial evidence in the record. [SCC 30.72.080]

Appeals will be processed and considered by the County Council pursuant to the provisions of Chapter 30.72 SCC. Please include the County file number in any correspondence regarding the case.

Staff Distribution:

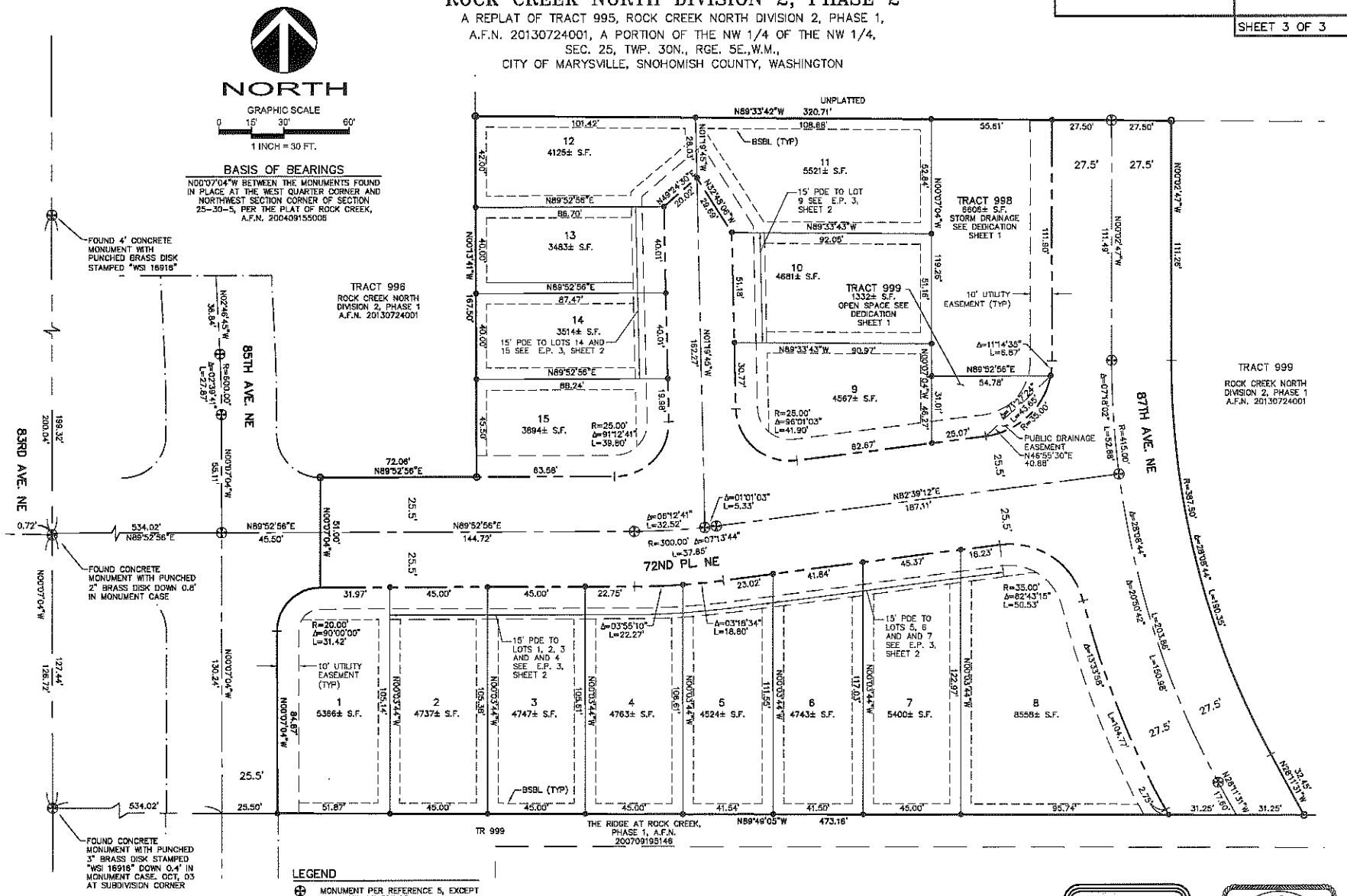
Department of Planning and Development Services: Darryl Eastin
Department of Public Works: Mark Brown

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.

RECORDING NO.	VOL/PG
	SHEET 3 OF 3

ROCK CREEK NORTH DIVISION 2, PHASE 2

A REPLAT OF TRACT 995, ROCK CREEK NORTH DIVISION 2, PHASE 1, A.F.N. 20130724001, A PORTION OF THE NW 1/4 OF THE NW 1/4, SEC. 25, TWP. 30N., RGE. 5E.,W.M., CITY OF MARYSVILLE, SNOHOMISH COUNTY, WASHINGTON



LEGEND

- ⊕ MONUMENT PER REFERENCE 5, EXCEPT AS NOTED OTHERWISE.
- ⊕ SET STANDARD CITY OF MARYSVILLE MONUMENT WITH BRASS DISK STAMPED "DRS 37555" IN MONUMENT CASE.
- ○ FOUND CORNER MONUMENT AS AS NOTED.
- • SET 5/8" X 24" REBAR WITH PLASTIC CAP STAMPED "DRS 37555"

BSBL	BUILDING SETBACK LINE
PDE	PRIVATE STORM DRAINAGE EASEMENT
E.P.	EASEMENT PROVISIONS

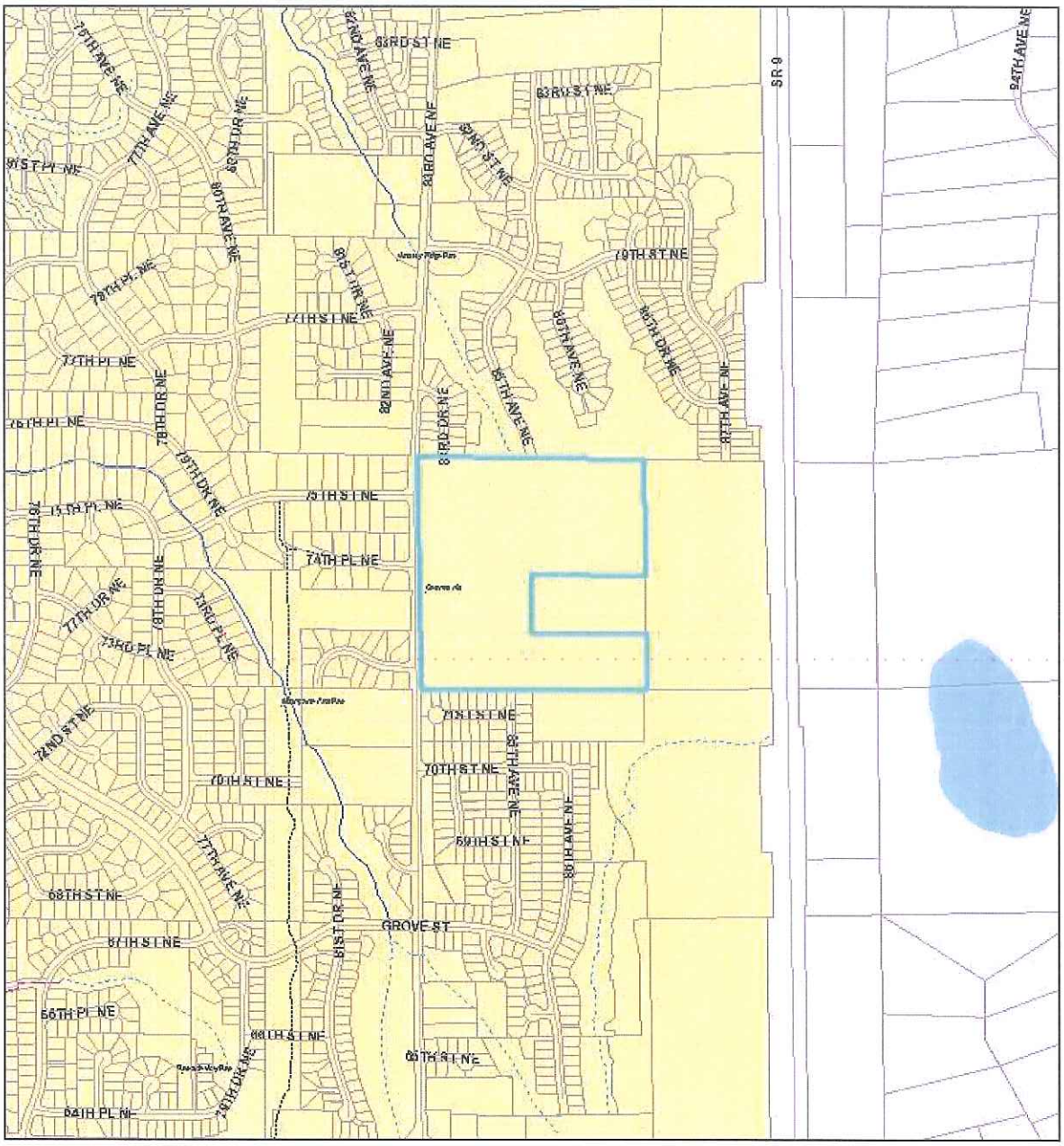
D.R. STRONG
CONSULTING ENGINEERS
ENGINEERS PLANNERS SURVEYORS
620 7TH AVENUE KIRKLAND, WA 98033
O 425.827.3063 F 425.827.2423
www.drstrong.com

STEPHEN J. SCHRIEL — STATE OF WASHINGTON — 37555 — REGISTERED PROFESSIONAL LAND SURVEYOR

ZA 05-118415

A.F.N. _____

JOB NO. 11034



January 24, 2014

1:14,217

0 0.1 0.2 0.4 mi

0 0.175 0.35 0.7 km

Parcels	Stream	EVERETT
Places	Tributary	LAKE STEVENS
Railroad	Intermittent stream	MARYSVILLE
Streets	Swale	
Trails	Intermittent stream, not regulsted	
Arlington airport	Piped Stream	
Water bodies	ARLINGTON	

COMMUNITY DEVELOPMENT DEPARTMENT
80 Columbia Avenue, Marysville, WA 98270
(360) 363-8100, (360) 651-5099 FAX

FINAL PLAT CHECK LIST

Plat Name:	Rock Creek North Div 2, Phase 2	PA # ~~ZAH~~	05-118415

Item	Department	Initials	Date
1. Plat Map- Checked & Approved	Land Dev.	[illegible]	1/14/14
	Planning	CAD	1-24-14
2. Letter of Segregation to Assessor	Planning	CAD	1-24-24
3. Water System/Sewer System			
Letter of Acceptance	Const. Insp.	SAS	1/9
Asbuilts – Including Digital Files	Const. Insp.	SAC	1/9
Bill(s) of Sale	Const. Insp.	SAS	1/9
Maintenance and Warranty Funding	Const. Insp.	SAC	1/9
4. Road/Storm Sewer			
Letter of Acceptance	Const. Insp.	SAS	1/9
Asbuilts – Including Digital Files	Const. Insp.	SAS	1/9
Bill(s) of Sale	Const. Insp.	SAS	1/9
Maintenance and Warranty Funding	Const. Insp.	SAS	1/9
5. Performance Bond – Submitted/Approved			
(If Required - Road and Storm Drain Only)	Const. Insp.	N/A	SAS
6. Inspection Fees - Calculated and Paid	Const. Insp.	SA	1/9
7. Final Plat Fee - Calculated and Paid	Planning	CAD	12-19-13
8. TIP Fees:_____	Planning	CAD	01-24-14