



Snohomish County

Planning & Development Services  
Commercial/Land Use Division

**STAFF RECOMMENDATION**

**Project File Number:** 04-112029-000-00-SD  
**Tax Acct. Number:** 280603-001-004-00

**Project Name:** Panther Lake Ridge  
**Nature of Request:** 32 lot rural cluster subdivision

**Hearing Date:** November 9, 2004  
**Date of Report:** November 2, 2004

**Application Complete:** April 20, 2004  
**120-Day Status:** Day 60

**Owner/Applicant:** Cimarron West, LLC  
13823-80<sup>th</sup> Street SE  
Snohomish, WA 98290

**Contact:** Jim McDaniel  
Harmsen & Associates  
PO Box 516  
Monroe, WA 98272

**Acreage:** 107.5      **Avg. Lot Area:** 38,475 square feet      **Gross Density:** 0.30 du/ac  
**Lots:** 32      **Smallest Lot Area:** 17,786 square feet      **Net Density:** N/A

**Location:** SW corner of site is at north end of 151<sup>st</sup> Ave SE approx. ½ mile north of 3-Lakes Rd. SE property corner is ½ mile north & ¼ mile west of 163<sup>rd</sup> Ave SE & 3-Lakes Rd., in Section 3, Township 28 North, Range 6 East, W.M., Snohomish County, Washington.

**Current Zoning:** R-5

**Proposed Zoning:** N/A

**Comprehensive Plan**

**General Policy Plan:** Rural Residential-5 (RR-5)  
**Subarea Plan:** Snohomish/Lake Stevens  
**Subarea Plan Designation:** Rural 5 Acres (1 du/ 5 ac)

**School District:** Snohomish No. 210  
**Water Source:** Three Lakes Water Association

**Fire District:** No. 4  
**Sewer Service:** On-site Septic

**Exhibit Number: 87**  
**PFN: 04-112029 SD**

**STAFF RECOMMENDATION:**

**APPROVE WITH CONDITONS**

**I. NATURE OF APPLICATION**

**A. Request**

The applicant is requesting approval of the preliminary plat of Panther Lake Ridge to create 32-lots for single-family residential development on 107.5 acres. The applicant will be utilizing the Rural Cluster Subdivision provisions of Chapter 30.41C, in effect as of April 20, 2004; the date the application was determined to be complete. The average lot size is 38,475 square feet, with the smallest lot measuring 17,786 square feet in area. Based upon the 32-lots proposed, the gross density would be 0.30 du/ac.

The project will have access to the site from 163<sup>rd</sup> Avenue SE directly to the east and an interior public road system will be constructed to provide access for the individual lots. There is an existing single-family residential structure and outbuilding located on proposed Lot 32, which will remain. Several restricted open space tracts are proposed for open space and a drainage facility. The detention facility is proposed within an easement, along the east side of the plat. Three Lakes Water Association will serve the lots with water; sewage disposal would be provided by on-site septic systems for the individual lots.

**B. Project Chronology/Background**

The preliminary plat application was originally submitted to Planning and Development Services (PDS) on April 20, 2004, and was determined on May 18, 2004 to be complete as of the date of submittal for regulatory purposes, but insufficient for further review. The 120-day clock stopped at day 6. A resubmittal of the application was received on July 6, 2004, which was determined on July 28, 2004 to be insufficient for further review. The 120-day clock was stopped on day 11. A resubmittal of the application was received on August 24, 2004 and on September 21, 2004 PDS determined the project was sufficient for further review and started the 120-day clock on day 25. A SEPA Mitigated Determination of Nonsignificance was issued on September 13, 2004. A resubmittal of the application was recently received on October 5, 2004 stopping the 120-day. PDS has reviewed this resubmittal and restarted the 120-day clock on October 19, 2004. The 120-day clock restarted on day 39. As of the hearing date, 60 days of the 120-day review period will have elapsed. PDS received an appeal of the SEPA threshold determination on October 4, 2004.

**C. Site Description**

The project site is irregularly shaped and does not have frontage along a public road. Single-family residences are developed in the surrounding vicinity. The site consists of approximately 107.5 acres.

The majority of the property is undulating topography with terraces and depressions. There is a small ridge which runs in a north/west direction and is located in the eastern third of the site. This area is forested with both deciduous and coniferous trees. An open water body is located in the extreme northeastern corner of the site, which extends to the north and south of the site. A powerline easement is to the west of the ridge and runs through the middle of the site in a north/south direction. There is an existing gravel road within the poweline easement, which provides access to the powerline. This area is mainly consists of scrub/shrub vegetation. Directly west of the powerline easement is an area of lowlands which mainly consist of scrub/shrubs and a Category 1 wetland which extends north and south. Finally, to the west of this area is the existing single-family residence located in the southwest corner of the site and an existing gravel road which runs generally in a northeast direction from the existing

residence to a 60-foot ingress/egress easement to the north (AFN 8011260291). There are critical areas as defined by Snohomish County Critical Areas Regulations (Ch. 30.62) located on-site consisting of eight separate wetlands and three streams.

The average ground slopes range from 7 to approximately 35 percent. The soils for this project are mainly within the Tokul Gravelly Loam series. This type of soil is commonly moderately deep and moderately well drained soils, which are found on till plains. Hardpan is at a depth of approximately 31 inches.

#### **D. Adjacent Zoning/Uses**

The zoning in effect as of the date of a complete application was R-5. The surrounding properties are zone R-5, as well. The subject property is located outside of any Urban Growth Area. The parcels along the south property line consist of 5-acre parcels, to the east 5 and 10-acre parcels, to the north a 10-acre parcel (1-015), to the northwest 5-acre parcels, and the west an approximate 40-acre parcel.

## **II. ISSUES OF CONCERN**

As of the date of this staff report, PDS had received 63 e-mails and letters concerning the development of this proposal (Exhibits 39-70). PDS received multiple correspondences from eight individuals (Exhibits 59, 63, 65 through 70). The following issues were raised in multiple letters and will be discussed below: increased traffic on 163<sup>rd</sup> Avenue SE, wants improvements to 163<sup>rd</sup> Avenue SE, culvert in stream "C" impedes fish passage and installed without permits, bull trout in stream "C", reduced water pressure in Three Lakes Water Associations water system, increased lighting from new homes, one lot cluster (Lot 32), lack of buffer between Lot 29 and Lot 30 to create a separate cluster for Lots 30 and 31, septic areas on lots are inadequate, access for 25-lots on dead-end road, concerns that 35% of the restricted open space is not buildable which is required by code, concerns that the site was logged without a permit, concerns that 25% of the restricted open space is not accessible to all lots, the site obscuring buffer needs to be 75-feet not 50-feet, and homes are being built on a ridge.

#### Increased traffic on 163<sup>rd</sup> Ave. SE

This issue is addressed in detail under the SEPA appeal.

#### Improvements to 163<sup>rd</sup> Ave. SE

DPW standards do not require an applicant to make off-site road improvements unless improvements are necessary to access the site or to provide safe walking conditions for school children. The applicant is required to pay mitigation fees to a Transportation Service Area (TSA), which these fees will be expended by the county within the defined TSA boundary. The subject property is located on the west side of 163<sup>rd</sup> Avenue SE approximately one mile north of Three Lakes Road in Transportation Service Area (TSA) B, outside the urban growth area. The project is analyzed for traffic impacts to TSA C due to the predominance of the traffic that will impact TSA C and the impact fees associated with this project will be used within this TSA. However, neither DPW nor PDS can guarantee that these fees will go specifically to any improvement made by the County to 163<sup>rd</sup> Avenue SE.

The applicant will be required to make minimal frontage improvements to 163<sup>rd</sup> Avenue SE, with the construction of the new public road leading into the development. These improvements would be limited to the location of the new public road only at its intersection with 163<sup>rd</sup> Avenue SE.

Culvert in stream "C" impedes fish passage and installed without permit

This issue is addressed in detail under the SEPA appeal.

Bull trout in stream "C"

This issue is addressed in detail under the SEPA appeal. Also, see Section III.E below.

Reduced water pressure in Three Lakes Water Association water system

Some of the letters expressed concern over the increased number of residential units on the Three Lakes Water Association water distribution system and the impact this would have on the water pressure. Three Lakes Water Association is the provider of water in this area and has authority to grant additional water hook-ups to its systems. Snohomish County does not have any regulatory authority over Three Lakes Water Association on its ability to provide water to this area. PDS received a water availability letter on May 17, 2004 (Exhibit 78) indicating water is available to this development. This letter is acceptable as an indication that adequate water supply is available to serve this development.

Increased lighting from new homes

This issue is addressed in detail under the SEPA appeal.

One lot cluster (Lot 32)

It's PDS's opinion that Lot 32 is not a single lot cluster. SCC 30.23.220(1) (Rural cluster minimum lot area) states, "A rural cluster subdivision or short subdivision will meet the minimum lot area of the zone in which it is located if the average lot size of all lots is at least 7,200 square feet and each lot contains sufficient area to comply with Snohomish Health District's rules and regulations for on-site sewage disposal." PDS has used the R-7,200 zoning bulk matrix requirement as determining lot width, based on the above code citation. In this case, the minimum lot width would be 60-feet for the lots within the rural cluster subdivision. Lot 32 along the backsides of Lot 22 through Lot 27, is 60-feet in width and is considered a buildable area. The future owner of Lot 32 could choose to relocate the existing house, in this area as long as the house meets the minimum setbacks. Therefore, PDS considers Lot 1 through Lot 29 and Lot 32 as a single cluster.

Lack of buffer between Lot 29 and Lot 30 to create a separate cluster for Lots 30 and 31

Lot 29 is separated from Lot 30 by a 75-foot proposed vegetated buffer thus, creating a separate cluster for Lots 30 and 31. It is PDS's position that the intent of a buffer between clusters is to visually reduce the scope of the development and to separate the proposed residence from one another. The panhandles which extend from Lots 30 and 31 do not automatically cause these lots to become a part of the cluster for Lot 1 through Lot 29 and Lot 32. Although these panhandles are an extension of Lots 30 and 31, these areas cannot support a residential structure. The proposed 75-foot vegetated buffer in this case is serving its purpose by reducing the scope of the development and separating proposed residences from one another.

Septic areas on lots are inadequate

Snohomish Health District (SHD) regulates septic systems and PDS relies on their expertise for the approval of septic systems. PDS has no authority to regulate the location or the approval on the septic systems required for the individual lots. On May 17, 2004 (Exhibit 76) SHD provided comments indicating that they had reviewed the site/soil and have no objection to the approval of this preliminary plat.

Access for 25-lots on dead-end road

The applicant is proposing more than 25-lots on a dead end road, which does not meet the requirements of the Engineering Design and Development Standards (EDDS) per EDDS 3-01 (B)(4). However, a

deviation to allow more than 25 lots on a dead road was approved by the County Engineer on July 14, 2004. The stub road provides for a potential future connection to the south if the properties to the south develop. The stub road provides the potential for a secondary outlet and better circulation if a future connection is provided. DPW understands that this future connection may not occur for another 10, 20 or 30 years due to current zoning restrictions. The Department of Public Works is the authorizing agency for granting deviations.

Concerns that 35% of the restricted open space is not buildable which is required by code

SCC 30.41.210 states in part, "No more than 65% of the total restricted open space area may consist of unbuildable lands." Unbuildable lands is defined in SCC 30.91U.060 as, "steep slope areas exceeding 40%; designated floodways; and lands which is below the mean high water mark of lakes, rivers or year-round ponds and streams under the jurisdiction of Chapter 90.58 RCW." The applicant has identified 16.76 acres of the 71.7 acres of the restricted open space as unbuildable on Exhibit 22A. This only constitutes 24% of the restricted open space areas. Therefore the project meets this code requirement.

Concerns that the site was logged without a permit

It appears that the previous owner of the property performed logging on Parcel 1-003 without the proper logging permits. The Washington State Department of Natural Resources (DNR) sent a notice on September 8, 2004 notifying the applicant and PDS of this violation. However, on September 23, 2004 DNR rescinded its notice of this violation.

Concerns that 25% of the restricted open space is not accessible to all lots

SCC 30.41C.210(2)(c) states, "At least 25 percent of the restricted open space tract shall be accessible by all residents of the rural cluster subdivision or short subdivision for passive recreation." The concern is that 25% of the restricted open space tract for Tracts 995 and 996 are not accessible by all residents. PDS's position is that all residences within this subdivision will have access to restricted open space (ROS), whether it be at the rear or to the side of their lot or they will need to walk to a point where the ROS abuts a road (i.e. south of Lot 31 or east of Lot 4). In reality, the applicant did not need to provide a separate tract for Tracts 995 and 996, but in any case they did. A simple revision to the plan set would eliminate any concern. PDS supports the current design of the project as meeting this requirement.

Site obscuring buffer needs to be 75-feet not 50-feet

Table 30.41C.210(1) requires a minimum buffer of 50-feet and an average buffer of 75-feet. This section of the code does not require all buffer widths to be 75-feet. There appears to be one area that does not meet this requirement. The area in question is along the north property line of Lot 1, which is only 40-feet wide at one point then flares to 50-feet at the northeast corner of the property. However, this area does have room to allow for a 50-foot buffer and can be redesigned to meet this requirement at the time of construction plan approval. All other areas for the project meet the minimum width of 50-feet and has an average width of 75-feet.

Homes are being built on a ridge

SCC 30.41C.200(15) states in part, "Individual clusters shall not be located on ridgelines and other prominent topographical features visible to adjacent and vicinity property when other locations are available." Lots 1 through 31 are built within the eastern third of the site. There is a ridgeline which runs in a northwest direction and terminates toward the northern property line. There are wetlands to the west, north, and to the east. The ridgeline where the houses are being built is at an elevation of 540-feet and the houses to the east are at an elevation of 500-feet.

However, with wetlands surrounding the ridgeline, the existing vegetation being left within the restricted open space (sight obscuring buffer) surrounding the ridge, and the elevation difference between this

development and the houses to the east on their own ridgeline, will make it unlikely that the new homes would be visible to adjacent and vicinity property.

PDS visited the site on July 28, 2004 to make a determination on where the new homes would be "visible to adjacent and vicinity property". Based on this site visit PDS determined that the new homes would not likely be seen by adjacent and vicinity property.

Also, PDS proposes the following condition to the hearing examiner if it is determined that further buffering/screening is need to limit the visibility of the new homes to the surrounding properties:

"Residential structures and their associated drainfield/reserve areas on Lots 4 through 17 shall be located as close as is reasonably possible to the internal road system (generally replicating Exhibits 22S and 22T), and clearing in the rear of the lots shall be minimized. The objective of such measures shall be to reduce the visibility of structures above the topography and generally from neighboring and vicinity properties."

PDS has not added this condition to its recommendation, since it is PDS's position that the project meet SCC 30.41C.200(15).

### **III. PROJECT CONSISTENCY WITH ADOPTED CODES AND POLICIES**

#### **A. Parks Mitigation (Chapter 30.66A SCC)**

The proposal is within Park District No. 13 and is subject to Chapter 30.66A SCC, which requires payment of \$1,128.00 per each new single-family residential unit, to be paid either prior to plat recording or prior to building permit issuance for each unit. Such payment or contribution of in-kind mitigation is acceptable mitigation for parks and recreation impacts in accordance with county policies. A mitigation measure addressing appropriate mitigation was included within the project's threshold determination and brought forward as a recommended condition of approval.

#### **B. Traffic Mitigation and Road Design Standards (Title 13 SCC & Chapter 30.66B SCC)**

The Department of Public Works (DPW) has reviewed the proposal for compliance with Title 13 and Chapter 30.66B of Snohomish County Code, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures. DPW is recommending approval of the subject application. DPW's comments on the subject proposal are provided below:

##### **1. Road System Capacity [SCC 30.66B.310]**

The impact fee for this proposal is based on the new average daily trips (ADT) generated by 31 new SFRs, which is 9.57 ADT/SFR. This rate comes from the 7<sup>th</sup> Edition of the ITE Trip Generation Report (Land Use Code 210). The development will generate 296.67 new ADT and has a road system capacity impact fee of \$65,564.07, based on \$221.00/ADT. The impact fee for each lot is \$2,114.97. This impact fee must be paid prior to issuance of the building permit.

## **2. Concurrency [SCC 30.66B.120]**

"Level-of-service" means a qualitative measure describing operational conditions within a traffic stream, and the perception thereof by road users. Level-of-service (LOS) standards may be evaluated in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety. The highway capacity manual defines six levels of service for each type of facility for which analysis procedures are available. They are given letter designations, from A to F, with level-of-service A representing the best operating condition, and level-of-service F the worst.

Since this development will not impact any arterial unit in arrears, nor will it cause any arterial unit to fall in arrears, and does not impact any designated ultimate capacity arterial units, it is deemed concurrent. A concurrency certificate has been included with Public Works' final recommendation, which will expire six calendar years from the date the concurrency determination was made. Prior to the expiration date of the development's concurrency certificate, plat construction shall have been obtained, or a new concurrency determination will be required.

The development has been deemed concurrent on the following basis:

### *Medium-Sized Development in TSA with one or more arterial unit in arrears, SCC 30.66B.160.*

The subject development is located in TSA C which, as of the date of submittal, had the following arterial units in arrears; Unit #353(Airport Way from 99<sup>th</sup> Avenue SE to SR 9). Based on peak-hour trip distributions, the subject development did NOT add three (3) or more peak-hour trips to any of the arterial units in arrears. Pursuant to SCC 30.66B.160 (2)(a) the development is determined concurrent. The development generates 23.25 a.m. peak-hour trips and 31.31 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.

## **3. Inadequate Road Condition (IRC) [SCC 30.66B.210]**

The subject proposal will not impact any IRC locations identified at this time within TSA C with three or more of its p.m. 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.

## **4. Frontage Improvements [SCC 30.66B.410]**

Rural standard frontage improvements are required consisting of 18 feet of pavement along that portion of the new public at its intersection with 163<sup>rd</sup> Avenue SE. Construction of frontage improvements is required prior to recording of the plat unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.

## **5. Access and Circulation [SCC 30.66B.420]**

Access is proposed via a public road that will be created from 163<sup>rd</sup> Avenue SE to the boundary of the subdivision across private property. The mechanism of creating the public road can either be by road establishment or be dedicated as part of the recording of this plat. The applicant is proposing to dedicate the 60-foot access as a public road with the recording of the final plat. The underlying property owners across where the public road is shown will be required to sign the recorded plat for this development if it is to be dedicated.

There is more than 25 lots on a dead end, which is not permitted per EDDS 3-01 (B)(4). A deviation to allow more than 25 lots on a dead road was approved by the County Engineer on July 14, 2004. The temporary stub provided to the southern boundary shall be constructed to the boundary of the buffer for the development (50 feet from the boundary of the plat). Lot 32 will have legal access via a 20 foot panhandle to the internal public road in the development.

**6. Dedication of Right-of-Way [SCC 30.66B.510 and 30.66B.520]**

The subject application has no frontage on a public road, therefore no additional dedication is required.

**7. State Highway Impacts [SCC 30.66B.710]**

This development is subject to the Washington State Department of Transportation (WSDOT)/County Interlocal Agreement, which became effective on applications determined complete on or after December 21, 1997. The impact mitigation measures under the ILA, Section IV (4.1)(b), may be accomplished through (a) voluntary negotiated construction of improvements, (b) voluntary negotiated payment in lieu of construction, (c) transfer of land from the developer to the State, or (d) a voluntary payment in the amount of \$36.00 per ADT. Should the applicant choose the voluntary payment option to mitigate their impact to the state highway system, the payment is calculated at  $296.67 \text{ ADT} \times \$36.00/\text{ADT} = \$10,680.12$ .

A voluntary offer, acceptable to the State, signed the applicant indicating their chosen method of fulfilling their mitigation requirement under the ILA, is required prior to providing a final recommendation. A WSDOT offer from the applicant was received by PDS on April 20, 2004. Comments from WSDOT accepting the applicant's offer were received by PDS via e-mail on June 1, 2004.

**8. Other Streets and Roads [SCC 30.66B.720]**

Public Works will recommend mitigation measures of the development's direct traffic impact on the city, town or other county roads to the approving authority and the approving authority will impose such measures as a condition of approval of the development in conformance with the terms of the interlocal agreement referred to in SCC 30.61.230 between the county and the other agency.

Based on the data submitted by the applicant it is unlikely that other city streets or roads, within TSA C that have an inter-local agreement with Snohomish County, will be affected by this development. To mitigate impacts on roads under the jurisdiction of another agency, the document stating the mitigation requirements imposed shall be a voluntary agreement between the other jurisdiction and the developer.

There are no other jurisdictions that have an interlocal agreement with the county that will be significantly impacted by the subject development.

**9. Transportation Demand Management (TDM) [SCC 30.66B.630]**

All new developments in the urban area shall provide TDM. Sufficient TDM shall be provided to indicate the potential for removing a minimum of five percent of a development's p.m. PHT from the road system. This requirement shall be met by site design requirements provided under SCC 30.66B.630 or SCC 30.66B.630, as applicable, except where the development proposes construction or purchase of specific offsite TDM measures or voluntary payment in lieu of site design, in accordance with SCC 30.66B.645. [SCC 30.66B.650].



It has been determined that the cost of removing one peak hour trip from the road system is approximately \$1,500.00. This is based on the average cost of one stall in a park and ride lot and the average cost of one "seat" in a 15-passenger van. For a development required to provide TDM, the development's TDM obligation will equal \$1,500.00 times the required trip reduction percentage times, the development's peak hour trip generation.

This proposal lies outside of the Urban Growth Area. Therefore, the provisions of this section do not apply.

#### **10. Pedestrian Facilities [RCW 58.17.110]**

The county is required to make findings regarding safe walking conditions for school children who may reside in the subject development. Public Works requests notification of any and all comments received from the local school district regarding the location of school bus stops nearest the subject property and/or if any school children will be required to walk to school. Comments from the school district were received by PDS on May 19, 2004. The school district indicated that the school children will be picked up by school bus at the intersection of the new access road and 163<sup>rd</sup> Avenue SE.

#### **11. Department of Public Works' Recommendation:**

Public Works has recommended approval of the development subject to conditions, which have been included in this report.

#### **C. School Mitigation (Chapter 30.66C SCC)**

The Snohomish County Council amended Chapter 30.66C SCC by Amended Ordinance 97-095, adopted November 17, 1997, which became effective January 1, 1999, in accordance with Amended Ordinance 98-126, to provide for collection of school impact mitigation fees at the time of building permit issuance based upon certified amounts in effect at that time. The subject application was determined to be complete after the effective date of amended Chapter 30.66C SCC. Pursuant to Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Snohomish School District No. 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 four existing lots. PDS has included a recommended condition of approval for inclusion within the project decision to comply with the requirements of Chapter 30.66C SCC.

#### **D. Drainage and Grading (Chapters 30.63A and 30.63B SCC)**

The applicant proposes a detention facility to be located east of proposed Lot 4. The detention facility will be located within an off-site easement on parcels 1-007 and 1-010, east of the project boundary. Water runoff from the road surface will be collected in catchbasin and directed towards the detention facility via underground piping. The runoff will be discharge into the pond and water quality treatment will be in the form of dead storage. Discharge from the pond will occur at the edge of the Category I wetland east of the new lots. Point discharge will be minimized by utilizing a level spreader in the design. A 30% safety factor has been taken into account when designing this system.

PDS has reviewed the *Targeted Drainage Report for Panther Lake Ridge*, prepared by Harmsen & Associates, Inc., received April 20, 2004 (Exhibit 14) and determined that there will be sufficient capacity within the proposed facilities to accommodate the drainage. The location and design of the permanent storm drainage facility would generally match existing drainage patterns and runoff rates. Engineered drainage plans must comply with "new" Ch. 30.63A, effective September 19, 1998, and engineering staff has confirmed that the concept proposed can comply with these provisions. At construction plan stage a full drainage plan will be prepared to further address drainage issues. Water quality would be controlled during construction by use of silt fences and other approved methods in accordance with a Temporary Erosion and Sedimentation Control Plan (TESCP) required by Chapter 30.63A. Site grading is anticipated to be approximately 25,000 cubic yards of materials to be cut, 7,600 cubic yards of material stripping, and 32,600 cubic yards of fill, for the construction of road, drainage facility, and site preparation of the preliminary plat. Based upon the soil type of Tokul Gravelly loam, erosion risk is slight to moderate.

#### **E. Critical Areas Regulations (Chapter 30.62 SCC)**

The application of Panther Lake Ridge proposes to create 32 Lots on 107.5 acres through a rural cluster subdivision. Multiple critical areas exist on the subject property including the access road across an existing easement. Eight wetlands and three streams have been identified in the field and accurately depicted on the submitted site plans. A critical area study (CAS) and habitat management plan (HMP) prepared by Wetland Resources, Inc. dated October 5, 2004 have been submitted to summarize potential impacts and to propose mitigation as required per the county's critical area regulations (CAR) as outlined in SCC 30.62.

Most of the impacts for this project are associated with the development of the access road that enters the site from 163<sup>rd</sup> Ave SE. The access road is proposed to cross a presumed bull trout stream designated as Stream C and a portion of the Category 1 -- Wetland A. In addition, a detention facility is proposed within the riparian management zone (RMZ) of the Type 3 stream -- Stream C. A small amount of wetland fill (2,849 s.f.) is required to complete the access road across the stream/wetland corridor. In addition, the road construction will temporarily impact 14,473 s.f. of buffer. All of these impacts are allowed pursuant to SCC 30.62.350 with mitigation required per SCC 30.62.345. This application proposes to utilize innovative development design per SCC 30.62.370 in lieu of wetland creation to offset the direct wetland fill for construction of the road. The mitigation offered in lieu of wetland creation is proposed to be through high quality buffer addition along the western edge of Wetland A at a ratio that approaches 6:1. Restoration of all temporarily impacted buffers is required per SCC 30.62.345(1)(a) and is proposed for full restoration through the planting of native trees and shrubs. Other minor impacts have been addressed in detail in the CAS/HMP prepared by Wetland Resources, Inc. dated October 5, 2004.

The HMP identifies two streams on the site that contain or are believed to contain anadromous fish and are presumed to be bull trout habitat per the Snohomish County Salmonid Habitat Management Plan Administrative Rule of December 1, 1999. These two streams are identified as Stream B in the northwestern portion of the site and Stream C which is proposed to be crossed with the access road on the east. This project meets or exceeds the minimum requirements for the county's critical area regulations for all critical area impacts including those associated with the federally listed species -- bull trout.

An evaluation of the *Critical Area Study, Wetland Mitigation Plan and Habitat Management Plan for Panther Lake Ridge*, prepared by Wetland Resources, Inc. received August 24, 2004 and October 5, 2004 (Exhibits 28 and 36) coupled with an on-site investigation has resulted in a determination that the

application complies with Chapter 30.62 SCC (Critical Areas Regulations) subject to recommended conditions of preliminary approval. The critical areas and their buffers will be designated Native Growth Protection Areas and Native Growth Protection Areas/Easements to remain permanently in a natural state pursuant to SCC 30.62.075.

#### **F. Utilities**

Water will be provided by Three Lakes Water Association (Exhibit 78) and septic will be provided by on-site sewage disposal systems. The Snohomish County P.U.D. No. 1 indicates in correspondence dated May 11, 2004 (Exhibit 75) that it has sufficient capacity to provide electrical power to the proposed project.

#### **G. Snohomish Health District**

Snohomish Health District (SHD) has no objections to the proposal, as indicated in their correspondence of May 17, 2004 (Exhibit 76) provided that public water and on-site septic systems to be installed on individual lots.

#### **H. GMA Comprehensive Plan (General Policy Plan, GPP)**

Four elements of the Snohomish County GMA Comprehensive Plan (GMACP) were adopted pursuant to Ordinance 94-125, which became effective on July 10, 1995. These elements are: the General Policy Plan (GPP); the Transportation Element; the 1995-2000 Capital Facilities Plan; and the Comprehensive Parks & Recreation Plan. On November 27, 1996, effective December 12, 1996, the Council adopted Amended Ordinances 96-074, and 96-071 which amended the map and text of the Snohomish County GMA Comprehensive Plan, and adopted an area-wide rezone within the Urban Growth Areas of the county respectively. This application was complete on April 20, 2004 after the effective date of Amended Ordinances 96-074 and 96-071. This application has been evaluated for consistency with the version of the GMA Comprehensive Plan, which became effective on December 12, 1996, as revised through the completeness date of the application.

The subject property is designated Rural Residential-5 (RR-5: 1 d.u./ 5 ac.) on the GPP Future Land Use map, and is located outside of any Urban Growth Area (UGA). It is not located within a mapped Rural/Urban Transition Area. According to the GPP, the Rural Residential designation "Rural Residential-5 (RR-5: 1 dwelling unit per 5 or more acres) identifies all lands, which are currently designated as Rural on existing subarea comprehensive plans and have subsequently been zoned to Rural 5. As the result of a joint planning effort between the county and the Tulalip Tribes, the RR-5 designation also applies to certain lands on the Tulalip Reservation that were previously designated Rural Residential. This designation also includes some areas, which were previously designated and zoned agriculture. It also includes lands for which the existing subarea comprehensive plan indicates a higher density but which were zoned R-5 by the county subsequent to the plan adoption date. The implementing zone in this designation will continue to be the R-5 zone." PDS finds the requested rural cluster plat to be consistent with the General Policy Plan's Rural Residential designation of the property.

The property is designated Rural 5-Acres (1 du/5 acre) on the pre-GMA Snohomish/Lake Stevens Comprehensive Plan. In resolving the GPP text discussion regarding the structural relationship of the subarea plans to the GPP, previous hearing examiner decisions have held that the definitive statement in the GMACP adoption ordinance that "the existing subarea comprehensive plans are not part of the county's GMA comprehensive plan..." must be accorded primacy. Therefore, the comprehensive plan to

be utilized in the consistency determination procedure required by RCW 36.70B.030(2) and SCC 30.70.100 is the GMACP, and not the pre-GMA subarea plan.

SCC 30.70.100 requires evaluation under the GPP when adopted development regulations do not exist. The GPP and pre-GMA subarea plan policies which might reasonably be applied to the review of a proposal, such as those which relate to density, design, utilities, critical areas protection and transportation, have been superseded by adopted GMA development regulations. Applicability of specific comprehensive plan policies to a development application is also limited by the Citizens v. Mt. Vernon (133 Wn. 2d 861) decision.

The 32-lots proposed are consistent with the density provisions of the SCC 30.2 GMA-based zoning regulations.

**I. Zoning**  
(Chapter 30.2 SCC)

This project meets zoning code requirements for lot size, bulk regulations and other zoning code requirements.

The detention pond will need to be landscaped in accordance with SCC 30.25.017 and SCC 30.25.023. The applicant has proposed a Type "A" landscaping buffer since the pond will be fenced (SCC 30.25.023(3)). The applicant has provided a landscaping plan (Exhibits 22U and 22V), which meets the minimum requires for landscaping of a detention facility. PDS supports the design of the detention pond landscaping.

**J. Environmental Policy**  
(Chapter 30.61 SCC)

PDS issued a Mitigated Determination of Nonsignificance (MDNS) for the subject application on September 13, 2004 (Exhibit 31). The MDNS included a mitigation measure for parks and recreation impacts pursuant to Chapter 30.66A SCC in the amount of \$1,128.00 per new dwelling unit. PDS received an appeal of the MDNS on October 4, 2004. The following items will be discussed in Planning Development Services appeal response:

- a) Flooding impact caused by development effect on wetlands, clearing and grading, and creation of new impervious surfaces.
- b) Water quality impacts on critical areas (wetlands/wetland buffers) and nearby wells caused by i) alteration of hydrology and ii) introduction of pollutants by on-site sewage disposal (septic) systems.
- c) Impedance of fish passage at "culvert at Stream "C".
- d) Visual aesthetic impact caused by placing residential structures on high elevations of the site, in part visual buffers.
- e) Increase of traffic on dead-end road (within the development and on existing 163<sup>rd</sup> Street SE off-site).

**K. Subdivision Code**  
(Chapter 30.41A SCC)

The proposed plat also meets Chapter 30.41A SCC requirements. A complete application for the proposed plat was received by PDS on April 20, 2004. The proposed plat as conditioned also meets the

general requirements under Section 30.41A.100 with respect to health, safety and general welfare of the community as noted in Section II above (RCW 58.17) of this report. As proposed, the subject lots will not be subject to flood, inundation or swamp conditions. The lots as proposed are outside of all regulated flood hazard areas. As conditioned, the plat will meet all SCC 30.41A.210 design standards for roads.

#### **L. Rural Cluster Subdivision Standards (Chapter 30.41C SCC)**

The subject rural cluster subdivision (RCS) application has been reviewed for conformance with the RCS standards in Chapter 30.41C SCC. The applicant has provided the information required on an RCS development plan and preliminary plat, the latest versions of which were received by PDS on August 8, 2004 and October 5, 2004 (Exhibit 22A through 22V and 29), and in an open space management plan (Exhibit 23) that is to be implemented by a homeowner's association. The RCS application meets all of the criteria required for preliminary approval listed in SCC 30.41C.200. All utilities shall be located underground. The proposal meets requirements for restricted open space and bulk regulations, lot yield, and bonus residential density.

The proposal complies with the provisions of SCC 30.41C.010 by clustering the lots on the most buildable and least environmentally sensitive portion of the site while retaining approximately 71.7% (77.1 acres) of the property in restricted open space; the proposal is considered preferable to traditional lot-by-lot development through its efficient use of the most buildable portion of the site together with the retention of environmentally sensitive areas in permanent open space tracts; the use of the clustering concept provides greater compatibility with the surrounding development by providing buffers between adjoining properties; the use of the clustering concept has reduced the need for impervious surfaces resulting in the protection of groundwater and potential water pollution from erosion and other drainage related problems; the project complies with critical areas regulations, thereby minimizing the loss of the county's environmentally sensitive areas.

The application has been reviewed for compliance with the requirements of SCC 30.41C.200 as follows: Critical Areas have been identified and designated as Native Growth Protection Areas and/or Native Growth Protection Areas/Easements as required in SCC 30.41C.200(1); a sight obscuring buffer of native vegetation as required in SCC 30.41C.200(2) has been provided, in accordance with the provisions of Table 1 in SCC 30.41C.210, PW has indicated that the public roads shall be constructed to EDDS standards as required in SCC 30.41C.200(3); all utility lines are to be located underground as provided in SCC 30.41C.200(4); there are unbuildable land as defined by SCC 30.41C located on-site which are required to be included in native growth protection areas [SCC 30.41C.200(5)]; no on-going agriculture or forestry uses are proposed within the open space tracts [SCC 30.41C.200 (6), (7) and (8)]; because the future uses of adjacent lands cannot be determined it is not known if the open space tracts would be adjacent to other designated open spaces [SCC 30.41C.200(9)]; an open space management plan complying with the provisions of SCC 30.41C.210 has been provided detailing the required maintenance and management tasks for the proposed open space as required in SCC 30.41C.200(10); the proposal has two clusters, therefore minimum separation of 50-feet between clusters is being met pursuant to SCC 30.41C.200(11); at least 75% of the residential lots about a required buffer or open space tract as required in SCC 30.41C.200(12); the proposed RCS has been designed in accordance with the natural features of the site, maintains rural character, and maximizes the visibility of the open space tracts from the adjoining road [SCC 30.41C.200(13)]; and the proposal is not served by public sanitary sewer as restricted in SCC 30.41C.200 (14); the individual cluster has been located to the interior of the site as much as feasible [SCC 30.41C.200(15)]; the rural cluster is located in a rural fire district [SCC 30.41C.200(16)]; and the rural cluster has met applicable rural concurrency standards [SCC 30.41C.200(17)].

The application complies with the provisions of SCC 30.41C.230 and SCC 30.41C.240 based on the following analysis:

Basic lot yield: 4,681,444 square feet/200,000 square feet	= 23.41 lots
Bonus residential density	= 35%
Total lot yield	= 31.6 lots
Total lot yield-rounded	= 32 lots
Total lots proposed	= <u>32 lots</u>

#### **M. Plats – Subdivisions - Dedications (Chapter 58.17 RCW)**

The plat has been reviewed for conformance with criteria established by RCW 58.17.100, .110, .120, and .195. Such criteria require that the plat conform with applicable zoning ordinances and comprehensive plans, and make appropriate provisions for 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 school grounds, and other planning features including safe walking conditions for students.

The proposed plat conforms with applicable zoning codes and the comprehensive plan. There is open space provided within the plat in the form of wetland and buffer areas, restricted open space, and the single-family homes on smaller lots will be in character with the existing neighborhood. Provisions for adequate drainage have been made in the conceptual plat design which indicates that the final design can conform to Chapter 30.63A SCC and State DOE drainage standards. The plat, as conditioned, will conform to Chapters 30.66A, B and C SCC, satisfying county requirements with respect to parks and recreation, traffic, roads and walkway design standards, and school mitigation. Water is to be provided by Three Lakes Water Association. Individual septic systems will be installed for sewage disposal.

#### **IV. CONCLUSIONS**

- A. The proposal 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 exist to serve the proposal.
- C. If approved with the recommended conditions, the proposal would make adequate provisions for the public health, safety and general welfare.

#### **V. STAFF RECOMMENDATION ON BEHALF OF THE EXECUTIVE BRANCH**

**APPROVAL** of the proposed preliminary plat is recommended subject to the following **CONDITIONS**:

## CONDITIONS

- A. The preliminary plat received by PDS on October 29, 2004 (Exhibit 29) shall be the 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. The platlor 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.
  - ii. A final mitigation plan based on the Critical Area Study, Wetland Mitigation Plan, and Habitat Management Plan for Panther Lake Ridge, prepared by Wetland Resources, Inc. dated October 5, 2004 – Revision #3 (Exhibit 28) 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 Snohomish School District No. 201 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 four existing parcels. Lots 1 through 3 and Lot 32 with the existing house shall receive these credits."
  - ii. "Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:  
  
\$2,114.97 per lot for mitigation of impacts on county roads paid to the county,  
\$344.52 per lot for impacts to WSDOT roads paid to the county,  
  
The developer of this subdivision has elected to defer these payment obligations to a time preceding building permit issuance. Notice of these mitigation payment obligations shall be contained in any deeds involving this subdivision or the lots therein. Once building permit has been issued all mitigation payments shall be deemed paid."
  - iii. All Critical Areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made) with the following language on the face of the plat:  
  
"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."
- D. Prior to recording of the final plat:

- i. The developer shall pay the County \$1,128.00 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.
- ii. Rural frontage improvements shall be constructed along that portion where the new public road intersects with 163<sup>rd</sup> Avenue SE to the specifications of the DPW [SCC 30.66B.410].
- iii. Pedestrian Facilities shall be constructed to the specifications of the DPW throughout the development [EDDS].
- iv. 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 plat 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.

- vi. The final wetland mitigation plan shall be completely implemented.
- E. In conformity with applicable standards and timing requirements:
- i. The preliminary landscape plan (Exhibits 22U and 22V) 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.