



**Peter Camp**  
*Hearing Examiner*

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**DECISION of the  
SNOHOMISH COUNTY HEARING EXAMINER**

**I. SUMMARY**

**DATE OF DECISION:** June 26, 2019

**PLAT/PROJECT NAME:** Puget Park Townhomes  
Puget Park Dr., approximately 200 feet east of 72<sup>nd</sup> Dr. SE, across from Willis Tucker Park eastern parking lot entrance  
Snohomish, WA

**APPLICANT:** Clearwater Investors, LLC  
3002 Colby Ave., Ste. 200  
Everett, WA 98201

**OWNERS:** Douglas H. Main  
11627 Airport Rd., Ste. A.  
Everett, WA  
MTK Land Company Inc.  
521 N. Argonne Rd.  
Spokane Valley, WA

**FILE NO.:** 18-100552 PSD/SPA

**TYPE OF REQUEST:** Approval of preliminary unit lot subdivision of 15 townhouses and administrative site plan

**DECISION SUMMARY:** Preliminary unit lot subdivision of 15 townhouses and administrative site plan are APPROVED, subject to conditions

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**Puget Park Townhomes**

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1 **III. BASIC INFORMATION**

LOCATION: Puget Park Dr.  
Approximately 200 feet east of 72<sup>nd</sup> Dr. SE, across from  
Willis Tucker Park eastern parking lot entrance  
Snohomish, Washington

ACREAGE: 1.07

GMACP DESIGNATION: Urban Commercial

ZONING: Neighborhood Business

UTILITIES:

    Water: Silver Lake Water and Sewer District

    Sewer: Silver Lake Water and Sewer District

    Electricity: Snohomish County Public Utility District No. 1

SCHOOL DISTRICT: Snohomish School District No. 201

FIRE DISTRICT: Snohomish County Fire District No. 7

PDS STAFF  
RECOMMENDATION: Approve preliminary townhouse unit lot subdivision and  
administrative site plan with conditions

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

4 **III. FINDINGS OF FACT**

5 ***A. Regulatory Review and Vesting***

6 On July 18, 2018, applicant Clearwater Investors, LLC, submitted an application for a unit lot  
7 subdivision of 15 townhouses. Snohomish County Planning and Development Services (PDS)  
8 determined the application was complete as of the date of submittal, but insufficient for further  
9 review. Clearwater submitted additional information to PDS on March 25, 2018. Clearwater waived  
10 the 120 day processing timeline.<sup>1</sup>

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<sup>1</sup> Ex. A.3.

1 **B. Open Record Hearing**

2 An open record hearing was held on June 5, 2019. Clay White and Amanda Lauck of Land  
3 Development Consultants, Inc. of Woodinville, Washington, testified in support of the application.  
4 Stacey Abbott testified on behalf of PDS. Neighbor Jerome Lambiniao testified about his concerns.

5 **C. The Record**

6 The Hearing Examiner considered exhibits A.1 through J.1 and the testimony of the witnesses at  
7 the open record hearing. The hearing log and recording of the hearing are available in the Office of  
8 Hearings Administration.

9 **D. Public Notice**

10 The Examiner finds that PDS gave public notice of the open record hearing, SEPA threshold  
11 determination, and concurrency and traffic impact fee determinations.<sup>2</sup>

12 **E. Background Information**

13 **1. Proposal**

14 Applicant Clearwater requests approval of a unit lot subdivision of 15 townhouses and an  
15 administrative site plan.<sup>3</sup>

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

17 The 1.07 acre site is undeveloped. No wetlands, streams, or other critical areas are on site.

18 The site is zoned Neighborhood Business, while the properties surrounding it are zoned either R-  
19 9,600 or PRD-9,600. Willis Tucker Park lies to the north across Puget Park Drive. Other  
20 surrounding properties are developed with single family residences.

21 **3. Public and Other Agency Comments and Concerns**

22 Community members expressed concerns regarding potential impact to critical areas. The site  
23 does not have any critical areas and stormwater leaving the site will be discharged at a rate and  
24 volume that mimics forested conditions.

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<sup>2</sup> Exhibits F.1, F.2, and F.3.

<sup>3</sup> SCC 30.23A.100(2)(a) (2017).

1 **F. Environmental Review**

2 **1. SEPA (Chapter 30.61 SCC)**

3 PDS issued a Determination of Nonsignificance on April 29, 2018,<sup>4</sup> from which no appeal was  
4 taken.

5 **2. Critical Areas Regulations (Chapters 30.62, 30.62A, 30.62 B, and 32.62C SCC)**

6 No critical areas exist on the site.

7 **3. Drainage and Grading (Chapters 30.63A, 30.63B, and 30.63C SCC)**

8 Infiltration of stormwater is not feasible due to low permeability soils. Stormwater will be collected  
9 and conveyed to an onsite detention vault and treated by a media filter. Grading quantities are  
10 expected to be approximately 2,160 cubic yards of cut and 4,605 cubic yards of fill.

	Description	How Fulfilled?
1	Stormwater Site Plan	The targeted stormwater site plan and narrative satisfy this requirement.
2	Stormwater Pollution Prevention Plan (SWPPP)	The preliminary SWPPP information meets this requirement. <sup>5</sup> A more detailed SWPPP will be submitted with construction plans.
3	Water Pollution source control for new development or redevelopment	Satisfied because residential projects typically do not have to address water pollution source control after the project is completed.
4	Preservation of natural drainage systems	The proposal mimics the existing conditions. No impact to downstream drainage is expected.
5	On-site stormwater management	On-site stormwater management will be adequate as described in the stormwater site plan and drainage narrative.
6	Runoff treatment	Stormwater from pollution generating impervious surfaces will receive appropriate water quality treatment.

<sup>4</sup> Ex. E.1.

<sup>5</sup> Ex. C.2.

7	Flow control requirements for new development or redevelopment	Flow control has been sufficiently addressed.
8	Detention or treatment in wetlands or wetland buffers	There will be no detention or treatment in wetlands or wetland buffers.
9	Inspection, operation, and maintenance requirements	Operation and maintenance information for expected Best Management Practice techniques is contained in the drainage report and any further needed information will be satisfied during construction review, permit issuance, and final plat review.

1 **G. Subdivisions (Chapter 30.41A SCC)**

2 Having considered all relevant facts, including the physical characteristics of the site and sidewalks  
3 and other planning features regarding walking conditions for students who walk to and from school  
4 and with fulfillment of the conditions imposed below, the Hearing Examiner finds the proposed  
5 subdivision will serve the public interest and it makes appropriate provision for the public health,  
6 safety, and general welfare, for open spaces, drainage ways, streets, alleys, other public ways,  
7 transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, sites for  
8 schools and school grounds, fire protection and other public facilities.<sup>6</sup> As conditioned, the  
9 proposed subdivision meets the general requirements of SCC 30.41A.100 (2006) with respect to  
10 health, safety and general welfare of the community. The proposed lots will not be subject to flood,  
11 inundation or swamp conditions. The proposed subdivision conforms to applicable zoning codes  
12 and the comprehensive plan. Provisions for adequate drainage have been made. Local utilities  
13 confirmed the availability of service to the project.

14 **H. Design (Urban Residential Design Standards (Chapter 30.23A SCC) and**  
15 **Townhouse Unit Lots (SCC 30.41A.205))**

16 **1. Urban Residential Design Standards (Chapter 30.23A.SCC)**

17 This project must comply with several overlapping ordinances, including urban residential design  
18 standards<sup>7</sup> and townhouse unit lot subdivisions.<sup>8</sup> As a whole, the proposed project meets the  
19 development standards applicable to the underlying site development plan. As conditioned, the site

<sup>6</sup> SCC 30.41A.100 (2006).

<sup>7</sup> Chap. 30.23A SCC.

<sup>8</sup> SCC 30.41A.205 (2017).



1 plan complies with urban residential design and townhouse unit lot requirements that must be met  
2 at the preliminary plat stage, including setbacks, density, lot coverage, and building heights.  
3 Approval will be conditioned upon compliance with standards for architectural design elements.<sup>9</sup>

4 **2. On-Site Recreation Space (SCC 30.23A.080)**

5 Clearwater proposes approximately 17,939 square feet of on-site recreation space, substantially  
6 more than the minimum requirement of 3,000 sq. ft. of on-site recreation space.<sup>10</sup> The proposed  
7 open space tracts exceed minimum code requirements for one location and active use.

8 **3. Landscaping (SCC 30.23A.090)**

9 The proposed landscape plan<sup>11</sup> and tree canopy calculations comply with chap. 30.25 SCC.  
10 Clearwater proposes to retain 1,268 sq. ft. and install 12,782 square feet of tree canopy, more than  
11 the required 9,328 sq. ft.<sup>12</sup>

12 **4. Expiration of Site Plan Approval (SCC 30.23A.100)**

13 If construction does not commence within five years, approval of the administrative site plan will  
14 expire.<sup>13</sup>

15 **5. Utilities (SCC 30.23A.110)**

16 Approval will be conditioned on the underground installation of all distribution and service lines for  
17 water, sewer, electrical, and communication.

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

19 **1. Area Transportation**

20 ***a. Concurrency Determination (SCC 30.66B.120)***

21 County ordinances prescribe the measures and tests which a development must meet in order to  
22 proceed, and this project meets those measures and tests, even though traffic is already  
23 congested and may become more so. The project must be approved if it does not affect a county

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<sup>9</sup> SCC 30.23A.050(3) (2017).

<sup>10</sup> SCC 30.23A.080(2) (2013) requires 200 sq. ft. per dwelling unit, but the proximity of Willis Tucker Park allows a reduction in the required recreation space of 50%. *Id.*

<sup>11</sup> Ex. B.4.

<sup>12</sup> SCC 30.25.015 (2017).

<sup>13</sup> Extensions may be granted if allowed by SCC 30.70.140 (2017).

1 arterial unit in arrears or cause a county arterial to go into arrears, i.e., fall below the minimum level  
2 of service established by ordinance.<sup>14</sup> Transportation Service Area (TSA) D had no arterial units in  
3 arrears as of the date of submittal. Further traffic analysis is not required because the proposed  
4 development will not generate fifty or more peak hour trips.<sup>15</sup> The project is concurrent with  
5 roadway capacity because it will not cause the level of service of an arterial unit<sup>16</sup> to fall below the  
6 minimum set by ordinance.

7 **b. Inadequate Road Conditions (IRC) (SCC30.66B.210)**

8 Irrespective of the existing level of service, a development which adds at least three evening peak  
9 hour trips to a place in the road system that has an Inadequate Road Condition (IRC) must  
10 eliminate the IRC in order to be approved. The development will not affect any IRCs in TSA D with  
11 three or more evening peak hour trips, nor will it create an IRC. Therefore, it is expected that  
12 mitigation will not be required with respect to IRC and no restrictions to building permit issuance or  
13 certificate of occupancy/final inspection will be imposed under this section of chapter 30.66B SCC.

14 **c. Transportation Demand Management (SCC 30.66B.630)**

15 Transportation demand management (TDM) is a strategy for reducing vehicular travel demand,  
16 especially by single occupant vehicles during commuter peak hours. TDM offers a means of  
17 increasing the ability of transportation facilities and services to accommodate greater travel  
18 demand without making expensive capital improvements. New developments like this within an  
19 urban growth area must comply with county code's TDM requirements. Clearwater must either  
20 incorporate features into its design that have the potential for removing five percent of the  
21 development's evening peak hour trips from the road system or voluntarily pay.<sup>17</sup> Clearwater did  
22 not submit a TDM plan. Approval will therefore be conditioned on payment of \$2,730.00  
23 (\$182.00/unit) by Clearwater.<sup>18</sup>

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<sup>14</sup> SCC 30.66B.120(1) (2003). The proposed development is deemed concurrent as of August 16, 2018.  
<sup>15</sup> 15 units x 0.46 AM PHT/unit = 6.90 new AM peak hour trips. 15 units x .056 PM pht/unit = 8.40 new PM peak hour trips.  
<sup>16</sup> SCC 30.66B.100 (2006). By ordinance, the county measures traffic flow along a section of an arterial, i.e., an arterial unit. County ordinances do not determine concurrency based on congestion at intersections or non-arterials.  
<sup>17</sup> SCC 30.66B.625(1) (2010).  
<sup>18</sup> 5% x 8.40 new PM peak hour trips x \$6,500 = \$2,730.00.

1 **d. Impact Fees**

2 **i. County**

3 The proposed development must mitigate its impact upon the future capacity of the Snohomish  
4 County road system by paying a road system impact fee.<sup>19</sup> The road system impact fee will be the  
5 product of the average daily trips (ADT)<sup>20</sup> created by the development multiplied by the trip amount  
6 per trip for TSA D identified in SCC 30.66B.330 (2006). Based on the average daily trips projected  
7 for the project, Clearwater must pay \$29,316.60<sup>21</sup> for impacts to the county road system.

8 **ii. Other Jurisdictions**

9 **a. State Highway Impacts (SCC 30.66B.710)**

10 When a development's road system includes a state highway, mitigation requirements will be  
11 established using the County's SEPA authority consistent with the terms of the interlocal  
12 agreement between the County and the WSDOT. This is consistent with the County's SEPA  
13 policy<sup>22</sup> through which the county designates and adopts by reference the formally designated  
14 SEPA policies of other affected agencies for the exercise of the County's SEPA authority.

15 No state highway mitigation payment will be required because no projects on Exhibit C of the  
16 interlocal agreement between WSDOT and the county will be affected by the development.

17 **b. Other Jurisdictions (SCC 30.66B.710)**

18 The proposed project will not affect the road network of any city with an interlocal agreement with  
19 the county.

20 **2. Project Site**

21 **a. Access**

22 The development site will access the county road network on Puget Park Drive. Sight distance is  
23 adequate for the access point. Vehicles will use private drive aisles within the development.

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<sup>19</sup> SCC 30.66B.310 (2003).

<sup>20</sup> ADT is calculated using the current edition of the Institute of Traffic Engineers' Trip Generation Report.

<sup>21</sup> \$1,954.44 per dwelling unit.

<sup>22</sup> SCC 30.61.230(9) (2012).

1 **b. Right of Way**

2 Puget Park Drive, the public road serving this project, is a major collector arterial access road and  
3 requires a right of way of 40 feet from the center line on the development side of the road. Forty  
4 feet of right of way exists on the development side of the center line. No additional right of way is  
5 required.

6 **c. Internal Road System**

7 No new public roads will be created within the development.<sup>23</sup> Drive aisles will be constructed,  
8 which will be designated as fire lanes. The drive aisles meet the requirements for fire apparatus  
9 roads in the Fire Code.<sup>24</sup>

10 The proposed private drive aisle shown on sheet RD-02 of the civil plans does not meet the vertical  
11 crest/sag curve standards of EDDS §§3-110 and 3-120. The minimum vertical curve length and K-  
12 value for a 20 mph design speed will be addressed during construction plan review.

13 County standards typically require a 40 foot radius cul-de-sac bulb, but Clearwater asked to  
14 deviate from this because the parcel's shape, topography, and minimum setbacks are problematic.  
15 Clearwater instead proposed a hammerhead turnaround. After review by the Fire Marshal, the  
16 Traffic Engineer approved the deviation, conditioned upon installation of NFPA 13D automatic  
17 sprinkler systems in all dwelling units.<sup>25</sup>

18 **d. Frontage Improvements (SCC 30.66B.410)**

19 Full urban frontage improvements are usually required where the project abuts a county road.<sup>26</sup>  
20 Frontage improvements were completed previously on Puget Park Drive. Approval will be  
21 conditioned, however, on Clearwater's removal of the radius return at the site access point and  
22 construction of a drop curb approach. The cost will not be credited to the traffic mitigation payment  
23 because Puget Park Drive is not included in the impact fee cost basis.<sup>27</sup>

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<sup>23</sup> Private road network elements are allowed for access to townhouse unit lots in lieu of a public road. SCC 30.24.055(1)(a) (2013).

<sup>24</sup> SCC 30.24.090(2) (2013).

<sup>25</sup> Ex. J.1.

<sup>26</sup> Snohomish County Department of Public Works Rule 4222.020(1).

<sup>27</sup> Transportation Needs Report, App. D.

1 **e. Bicycle**

2 Although Puget Park Drive is part of the bicycle system on the county's Bicycle Facility System  
3 Map, Clearwater does not need to construct a bicycle facility because one already exists.

4 **f. Signing and Striping**

5 The county will install signing and striping in the public right-of-way.<sup>28</sup> Approval will be conditioned  
6 on Clearwater paying the county for the work.

7 **J. Mitigation**

8 **1. School Impact Mitigation (Chapter 30.66C SCC)**

9 Approval of the development will be conditioned upon the payment of school impact fees.<sup>29</sup> The  
10 actual amount will be determined according to the base fee schedule in effect for the Snohomish  
11 School District at the time of building permit application and collected at the time of building permit  
12 issuance for the proposed new units. Credit will be given for one existing lot.

13 **2. Park and Recreation Impact Mitigation (Chapter 30.66A SCC)**

14 Approval of the development will be conditioned upon the payment of park and recreation facility  
15 impact fees. The impact fee will be \$1,071.45 per townhouse unit if the unit's building permit is  
16 issued within five years of the application's completeness date. After that, the amount will be  
17 determined according to the impact fee schedule in effect for Nakeeta Beach park service area no.  
18 307 at the time of building permit issuance. Clearwater must pay the fee when building permits are  
19 issued for the townhouse units.<sup>30</sup>

20 **K. Public Safety and Health**

21 **1. Fire**

22 The Fire Marshal's Office reviewed the proposal and does not object to approval if its  
23 recommended conditions are required of Clearwater. Approval will be conditioned on satisfaction of  
24 the Fire Marshal's recommendations.

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<sup>28</sup> SCC 13.10.180 (2012).

<sup>29</sup> SCC 30.66C.100 (as amended by Amended Ord. 17-085, adopted Dec. 20, 2017, eff. Jan. 13, 2018).

<sup>30</sup> SCC 30.66A.020 (2017). The project site lies in the Nakeeta Beach park service area. SCC 30.66A.040(1) (2017).

1 **2. Pedestrian Facilities and Schoolchildren (RCW 58.17.110 and 58.17.060)**

2 Buses from the school district will pick up students at the entrance of the new development.  
3 Approval will be conditioned on Clearwater constructing a student waiting area to the satisfaction of  
4 the county prior to approval of the final plat.

5 **3. Utilities**

6 Adequate provisions have been made for utilities. Sanitary sewers and domestic water will be  
7 supplied by Silver Lake Water and Sewer District.<sup>31</sup> Snohomish County PUD has the capacity to  
8 provide electrical service.

9 **IV. CONCLUSIONS**

- 10 1. The Hearing Examiner has authority to approve preliminary subdivisions and administrative  
11 site plans.<sup>32</sup>
- 12 2. The Hearing Examiner concludes that Clearwater met its burden of proof and showed the  
13 established criteria have been met. The proposal is consistent with the GMACP, GMA-  
14 based county codes, the type and character of land use permitted on the project site, the  
15 permitted density and applicable design and development standards.
- 16 3. The Hearing Examiner concludes that adequate public services exist to serve the proposed  
17 project.
- 18 4. The proposed project will make adequate provisions for the public health, safety, and  
19 general welfare with conditions as described below.
- 20 5. Any finding of fact in this decision which should be deemed a conclusion of law is hereby  
21 adopted as a conclusion of law.
- 22 6. Any conclusion of law in this decision which should be deemed a finding of fact is hereby  
23 adopted as a finding of fact.

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<sup>31</sup> Ex. G.1.

<sup>32</sup> SCC 30.23A.100(2)(a) (2017); SCC 30.41A.205 (2017); and SCC 30.72.020(5) (2015).

1 **V. DECISION**

2 Based on the foregoing findings of fact and conclusions of law, the Hearing Examiner approves the  
3 townhouse unit lot preliminary subdivision and administrative site plan, subject to the following  
4 conditions:

5 ***Conditions***

6 **A. General**

- 7 1. The preliminary plat received by PDS on May 17, 2019<sup>33</sup> shall be the approved plat  
8 configuration. Revisions to approved preliminary plats are governed by SCC 30.41A.330.
- 9 2. The administrative site plan received by PDS on May 17, 2019<sup>34</sup> shall be the approved site  
10 plan. Revisions to administrative site plans, subject to Urban Residential Design Standards, are  
11 governed by SCC 30.23A.100(5), SCC 30.70.210, and SCC 30.70.220.
- 12 3. The landscape plan received by PDS on November 27, 2018 shall constitute as the approved  
13 landscape plan.<sup>35</sup>
- 14 4. All site development work shall comply with the requirements of the plans and permits  
15 approved pursuant to condition B.
- 16 5. Any discrepancy between the performance standards of Title 30 SCC and either the preliminary  
17 plat or administrative site plan shall be resolved in favor of Title 30.
- 18 6. All dwelling units shall be provided with NFPA 13D automatic sprinklers.
- 19 7. All common areas and elements of the development included within tracts shall be held by a  
20 homeowners' association or by the owners of the individual unit lots.
- 21 8. No townhouse unit lot may be sold, transferred, or conveyed prior to recording of the final plat.
- 22 9. All water, sewer, electrical and communication distribution and service lines shall be  
23 underground, except as may be allowed by SCC 30.23A.110(1) or (2).
- 24 10. All fire lanes shall be identified and maintained during construction.
- 25 11. Retained significant trees and trees planted to meet requirements of SCC 30.25.016 and  
26 indicated in the approved landscape plan shall not be removed except when determined in  
27 writing by a certified arborist to constitute a hazard. Any replacement or significant trees

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<sup>33</sup> Ex. B.1.

<sup>34</sup> Ex. B.2.

<sup>35</sup> Ex. B.4.

1 removed without proper documentation from a certified arborist shall be subject to a fine as  
2 determined under Chapter 30.85 SCC.

3 12. Any significant trees identified in the approved landscape plan to be retained and subsequently  
4 damaged or removed during site development shall be replaced at a rate of three trees for each  
5 one damaged or removed significant tree. Failure to replace damaged or removed significant  
6 trees shall be subject to a fine as determined under chapter 30.85 SCC.

7 13. Clearwater shall comply with the recommendations of the Fire Marshal's Office.

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

11 **B. Prior to Development Activity on Site**

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

13 1. Clearwater shall obtain one or more land disturbing activity permits.

14 2. Clearwater shall submit a final landscape plan with its construction set of plans for the land  
15 disturbing activity permit(s). The final landscape plan must substantially comply with the  
16 preliminary landscape plan (Ex. B.4). Clearwater shall obtain approval of the final landscaping  
17 plan on or before issuance of the first land disturbing activity permit.

18 3. Clearwater shall propose and implement the following tree protection measures required by  
19 SCC 30.25.016(7) for all trees to be retained as part of the tree canopy requirements of SCC  
20 30.25.016:

21 a. Tree protective fencing shall be installed along the outer edge of the drip line surrounding  
22 the trees retained in order to protect the trees during any land disturbance activities, and  
23 fencing shall not be moved to facilitate grading or other construction activity within the  
24 protected area;

25 b. Tree protective fencing shall be a minimum height of three feet, visible and of durable  
26 construction (orange polyethylene laminar fencing is acceptable); and

27 c. Signs must be posted on the fence reading "Tree Protection Area."

28 4. On-site construction activity shall not occur unless and until the required plan approvals have  
29 been obtained.



1 **C. Final Plat**

2 1. The following text shall be written on the face of the final recorded plat:<sup>36</sup>

3 a. The dwelling units within this development are subject to park impact fees in the amount of  
4 \$1,071.45 per newly approved dwelling unit pursuant to Chapter 30.66A SCC. Payment of  
5 these mitigation fees is required prior to building permit issuance; provided that the building  
6 permit has been issued within five years after the application is deemed complete. After  
7 five years, park impact fees shall be based upon the rate in effect at the time of building  
8 permit issuance. These mitigation fees shall be paid in full prior to building permit issuance.

9 b. Each new dwelling unit within this subdivision is subject to school impact mitigation fees for  
10 impacts to Snohomish School District No. 201 in accordance with chap. 30.66C SCC.  
11 School impact mitigation fees shall be determined based upon the school impact mitigation  
12 fee schedule under SCC 30.66C.100 in effect at the time of building permit application.  
13 Credit shall be given for one existing lot; unit one shall receive credit. These fees shall be  
14 paid in full prior to building permit issuance.

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

17 \$29,316.60 (\$1,954.44 per unit) for mitigation of impacts on county roads paid to the  
18 county in accordance with the payment timing provisions of chap. 30.66B SCC.  
19 Credit for certain expenditures may be allowed against said payments to the extent  
20 authorized by County code.

21 \$2,730.00 (\$182.00 per unit) for transportation demand management shall be paid  
22 to the county for TSA D.

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

27 d. Approval of the design and layout of the development was granted by the review of the  
28 development, as a whole, on the parent site by the site development plan approval (17-  
29 112990 SPA).

30 e. Subsequent platting actions, additions, or modifications to the structure(s) may not create  
31 or increase any nonconformity of the parent site as a whole, and shall conform to the  
32 approved site development plan.

33 f. If a structure or portion of a structure has been damaged or destroyed, any repair,  
34 reconstruction, or replacement of the structure(s) shall conform to the approved site  
35 development plan.

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<sup>36</sup> Numbering of required text is for convenience only.

- 1 g. The individual unit lots are not separate buildable lots and additional development of the  
2 individual unit lots may be limited as a result of the application of development standards to  
3 the parent site.
- 4 h. Membership in the homeowners' association and payment of dues or other assessments  
5 for maintenance purposes shall be a requirement of lot ownership and shall remain an  
6 appurtenance to and inseparable from each lot. If the homeowners' association is  
7 dissolved, then each lot shall have an equal and undivided ownership interest in the tracts  
8 previously owned by the association as well as responsibility for maintaining the tracts.
- 9 i. Retained significant trees and trees planted to meet requirements of SCC 30.25.016 and  
10 indicated in the approved landscape plan shall not be removed except when determined in  
11 writing by a certified arborist to constitute a hazard. Any replacement or significant trees  
12 removed without proper documentation from a certified arborist shall be subject to a fine as  
13 determined under chapter 30.85 SCC.
- 14 j. All dwelling units shall be provided with a NFPA 13-D fire suppression system.
- 15 k. Any proposed residence in this subdivision shall comply with the design requirements of  
16 SCC 30.23A.050.

17 2. Prior to approval of the final plat:

- 18 a. Clearwater shall have provided Planning and Development Services a final certificate of  
19 water availability that verifies all hydrants have been installed, are charged and operational,  
20 and the minimum required fire flow can be met.
- 21 b. Clearwater shall have constructed to the satisfaction of the county:
  - 22 i. A drop curb approach at the parcel's access point with Puget Park Drive.
  - 23 ii. A pedestrian waiting area adjacent to the development's access point on Puget  
24 Park Drive.
- 25 c. Clearwater shall have paid the county for the installation of signs and striping. SCC  
26 13.10.180.
- 27 d. Site improvements, fencing, recreation facilities, open space and landscaping depicted on  
28 the approved plans shall have been installed, inspected and approved unless deferral of  
29 the improvements is allowed by PDS and a bond or guarantee of performance is submitted  
30 to PDS.
- 31 e. Clearwater shall have established a homeowners' association as a Washington corporation  
32 (profit or non-profit) for the purposes of tract ownership and maintenance. Clearwater shall  
33 provide PDS with a copy of the articles of incorporation of the homeowners' association  
34 filed with the Washington Secretary of State. The homeowners' association shall remain  
35 the owner of tracts unless tract ownership by all lots in the subdivision is authorized  
36 pursuant to a final plat alteration. The articles of incorporation must provide that if the  
37 homeowners' association is dissolved, each lot shall have an equal and undivided

1 ownership interest in the tracts previously owned by the association and shall have  
2 responsibility for maintaining the tracts.

3 f. Clearwater shall have prepared and submitted:

- 4 i. Access easements, joint use and maintenance agreements, and covenants,  
5 conditions and restrictions identifying the rights and responsibilities of property  
6 owners and the homeowners' association shall be executed for use and  
7 maintenance of common parking and vehicle access areas; on-site recreations  
8 areas; landscaping; underground utilities; common open space; exterior building  
9 facades and roofs; and other similar features, and shall be recorded with the county  
10 auditor's office (SCC 30.41A.205(9)).
- 11 ii. Covenants, deeds, and homeowners' association bylaws, and other documents  
12 guaranteeing maintenance and common fee ownership, if applicable, of open  
13 space, community facilities, private roads and drives, and all other commonly-  
14 owned and operated property. These documents shall be submitted in a form  
15 acceptable to the director and accompanied by a certificate from an attorney  
16 authorized to practice law in the state of Washington that the documents comply  
17 with the requirements of this chapter. Such documents and conveyances shall be  
18 accomplished or recorded, as applicable, with the county auditor as a condition  
19 precedent to the filing of any final plat, final short plat, or binding site plan/record of  
20 survey of the property or division thereof, except that the conveyance of land to a  
21 homeowners' association may be recorded simultaneously with the recording of the  
22 final plat. (SCC 30.42B.250)

23 **D. Prior to Issuance of Any Building Permit**

- 24 1. Building plans submitted for building permit review shall demonstrate compliance with SCC  
25 30.23.032 Urban Residential Zones Bulk Matrix requirements for setbacks, maximum building  
26 height, and maximum lot coverage, including demonstration that the maximum lot coverage of  
27 40% for the entire development site will not be exceeded in aggregate.
- 28 2. Building plans submitted for building permit review shall demonstrate compliance with the  
29 architectural design elements required by the Urban Residential Design Standards for  
30 townhouses as outlined in SCC 30.23A.050.
- 31 3. Clearwater shall have paid the fees described in condition C(1) above. Clearwater may pay  
32 such fees proportionately with each building permit.

33 **E. Prior to Approval for Occupancy or Final Inspection of Each Dwelling Unit**

- 34 1. The automatic fire sprinkler systems required by condition A(6) shall be operational.
- 35 2. All required landscaping shall be installed in accordance with the approved landscape plan and  
36 a qualified landscape designer shall certify that that the installation complies with the code and  
37 the approved plans.

- 1 3. All approved address numbers shall be in place. Each building shall be identified with an  
2 alphabetical identification being a minimum of 12 inches in height contrasting with the  
3 background. Each dwelling unit shall be identified with numerical identifications on each  
4 building reading left to right. For example, A1, A2, A3, etc.; B1, B2, B3, etc.; and so on.
- 5 4. All fire hydrants shall be equipped with a four-inch Storz steamer port.
- 6 5. The bonnet and cap of each fire hydrant shall have been painted blue to indicate a fire flow of  
7 1,500 gpm or greater.
- 8 6. Clearwater shall have installed blue street reflectors on the fire hydrant side of the center line to  
9 assist approaching emergency vehicle apparatus in locating the hydrant.
- 10 7. Clearwater shall have all fire lane signage and pavement striping installed per the approved  
11 plans and coordinated on-site with the Snohomish County Fire Marshal's Office.

12 **F. Expiration of Approvals:**

- 13 1. Preliminary subdivisions which are approved by the county are valid for five years from the date  
14 of approval and must be recorded within that time period unless an extension has been  
15 properly requested and granted pursuant to SCC 30.41A.300.
- 16 2. In accordance with SCC 30.70.140, an administrative site plan approval under chapter 30.23A  
17 SCC expires five years from the date of the approval if construction or use has not  
18 commenced. "Commence construction" is defined as the point in time when the breaking of  
19 ground for the construction of a development occurs.

20

Decision issued this 26<sup>th</sup> day of June, 2019.



Peter B. Camp  
Hearing Examiner

21 **VI. EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES**

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

1 **Reconsideration**

2 Any party of record may request reconsideration by the Examiner **July 8, 2019**.<sup>37</sup> A petition for  
3 reconsideration must be filed in writing with the Office of the Hearing Examiner, 2<sup>nd</sup> Floor, Robert J.  
4 Drewel Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S No. 405,  
5 3000 Rockefeller Avenue, Everett WA 98201). There is no fee for filing a petition for  
6 reconsideration. The petitioner for reconsideration shall mail or otherwise provide a copy of the  
7 petition for reconsideration to all parties of record on the date of filing. SCC 30.72.065.

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

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

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

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

27  
28 **Appeal**

29 An appeal to the County Council may be filed by any aggrieved party of record **on or before July**  
30 **10, 2019**. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may  
31 be filed until the reconsideration petition has been decided by the hearing examiner. An aggrieved

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<sup>37</sup> The tenth day is a non-working day. The deadline continues to the next working day.

1 party need not file a petition for reconsideration but may file an appeal directly to the County  
2 Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal  
3 to the County Council shall be limited to those issues raised in the petition for reconsideration.

4 Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the  
5 Department of Planning and Development Services, 2<sup>nd</sup> Floor, County Administration-East  
6 Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S No. 604, 3000  
7 Rockefeller Avenue, Everett, WA 98201), and shall be accompanied by a filing fee in the amount  
8 of five hundred dollars (\$500.00) for each appeal filed; PROVIDED, that the fee shall not be  
9 charged to a department of the County. The filing fee shall be refunded in any case where an  
10 appeal is summarily dismissed in whole without hearing under SCC 30.72.075.

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

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

- 19 (a) The decision exceeded the Hearing Examiner's jurisdiction;
- 20 (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- 21 (c) The Hearing Examiner committed an error of law; or
- 22 (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by  
23 substantial evidence in the record. SCC 30.72.080

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

27 Staff Distribution:

28 Department of Planning and Development Services: Ms. Stacey Abbott

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

PARTY OF RECORD REGISTER  
18-100552-PSD/SPA  
PUGET PARK TOWNHOMES  
HEARING: JUNE 5, 2019 at 11:00 AM

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