



Snohomish County
Office of Hearings Administration
3000 Rockefeller Ave., M/S 405
Everett, WA 98201
(425) 388-3538
Hearing.Examiner@snoco.org
www.snoco.org
Peter Camp
Hearing Examiner

DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

1 I. SUMMARY

DATE OF DECISION: April 25, 2023

PROJECT NAME: Cathcart Crossing Park and Ride

PERMIT HOLDER: Snohomish County
c/o Dept. of Public Works
3000 Rockefeller Ave.
Everett, Washington 98201

LOCATION: 8830 148th St. SE
Snohomish, Washington

PROPERTY OWNER: Snohomish County
3000 Rockefeller Ave.
Everett, Washington 98201

FILE NO.: 21-113268 CUP

REQUEST: Conditional use permit to construct and operate a park and ride facility

DECISION SUMMARY: Conditional use permit to construct and operate a park and ride facility is approved with conditions

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III. SITE SUMMARY

LOCATION:	8830 148 th St. SE Snohomish, Washington
TAX PARCEL NOS.:	004038-000-141-01 004038-000-150-00 004038-000-141-02
ACREAGE:	16.54 acres (approx.)
COMPREHENSIVE PLAN DESIGNATION:	Rural Residential (1 DU/5 acres basic) Rural Urban Transition Area
ZONING:	R-5
UTILITIES:	
Water:	Cross Valley Water District
Sewer:	Not in a sewer district
Electricity:	Snohomish County PUD No. 1
SCHOOL DISTRICT:	Snohomish School District No. 201
FIRE DISTRICT:	Snohomish Regional Fire & Rescue, a regional fire authority
PDS STAFF RECOMMENDATION:	Approve the proposed park and ride with conditions

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

4 IV. FINDINGS OF FACT

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

6 Pacific Ridge – DRH, LLC, applied to Snohomish County Planning and Development Services
7 department (PDS) on August 16, 2021 for a conditional use permit to be held by Snohomish County for
8 a park and ride transportation facility consisting of 154 parking stalls and four bus platforms.

9 ***B. SEPA***

10 PDS issued a threshold SEPA determination of no significant impact on September 14, 2022.¹ Phyllis
11 Hopkins, Janet Miller, David Green, Jesse Donovan, Nicole Donovan, Wendy Jeffs, Ronald Jeffs, and

¹ Ex. E.1.

1 Conservation and Preservation Society appealed.² The Hearing Examiner dismissed the SEPA appeal
2 on December 20, 2022.³

3 **C. Open Record Hearing**

4 An open record hearing began on January 4, 2023. The Hearing Examiner remanded the application to
5 PDS on January 5, 2023 for further review and processing.⁴ The open record hearing recommenced on
6 April 4, 2023.

7 **D. The Record**

8 The Hearing Examiner considered exhibits A.1 through A.4, C.1, C.3, C.4, C.6 through I.1, L.1 through
9 N.5, O.4 through O.6b, R.3 through R.8.o. The Hearing Examiner considered substantive exhibits
10 offered by SEPA appellants as public comments on the conditional use permit application. The Hearing
11 Examiner did not consider other documents in the SEPA appeal, e.g., pleadings. The Hearing
12 Examiner also considered the testimony of the witnesses. Recordings of the hearing are available in
13 the Office of Hearings Administration.

14 **E. Public Notice**

15 PDS notified the public of the open record hearing, threshold determination, and concurrency and traffic
16 impact fee notifications.⁵

17 **F. Background Information**

18 **1. Proposal**

19 Snohomish County requests a conditional use permit for the construction and operation of a park and
20 ride transportation facility containing 154 parking stalls, walking trail, bus platforms, etc. The county
21 expects to contract with Community Transit⁶ for operation and maintenance of the park and ride facility.

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

23 The site is zoned R-5 and is undeveloped. State Route 9 is the eastern border of the site. The proposal
24 will create a new public road (148th St. NE) for the northern border, across which will lie the Cathcart
25 Crossing townhouse development that is zoned Planned Community Business. Properties to the south
26 and west are zoned R-5 and developed with residences. The site contains wetlands and a stream.

27 **3. Concerns**

28 Public concerns included allegations the underlying transactions were not approved by County Council,
29 that the project was not coordinated with the Washington State Department of Transportation

² Ex. O.1.

³ Ex. S.7.

⁴ Ex. K.1.

⁵ Exhibits F.1 through F.3, L.8, and L9.

⁶ Community Transit is a public benefit transportation area municipal corporation. Chap. 36.57A RCW.

1 (WSDOT), that traffic impacts are looked at only on a project basis without considering the cumulative
2 impact of other projects in the area, risk to water wells, consistency with the community and rural
3 character, and future maintenance of stormwater facilities.

4 With respect to claims that the underlying transactions were not approved by County Council,⁷ the
5 transactions were approved by Council. See, e.g., Council Motion 18-054.⁸

6 Regarding concerns whether the project has been or will be coordinated with WSDOT, such
7 coordination has occurred and will continue.⁹

8 Traffic expected to be generated by other projects in the area, including the recently approved adjacent
9 project of Cathcart Crossing, were considered by Public Works in its evaluation of traffic impacts.¹⁰

10 Impacts to local wells are unlikely because stormwater will be discharged to its historic flow path after
11 receiving enhanced water quality treatment and flowing through an oil/water separating catch basin.
12 Further, the site does not overlap with any wellhead protection area. The western part of the site will
13 remain undeveloped and stormwater will not be detained or treated in the wetlands on the site.

14 The park and ride will be consistent with the area. First, it is in the rural urban transition area and
15 adjacent to an urban growth area. Second, the area immediately to the west consists of suburban
16 housing; the project is not located in a rustic, pastoral area. It is bounded by a state highway on the
17 east and a busy county arterial on the north.

18 Marshland Drainage District expressed concern regarding future maintenance of stormwater facilities
19 and asked that a stormwater facility maintenance easement be required to ensure the county could
20 maintain the facilities with its own forces should the operator fail to do so. Such an easement may be
21 appropriate for subdivisions, but the project is owned by the county, who ultimately remains responsible
22 for maintenance of stormwater facilities. An easement to allow the county to enter its own property and
23 maintain its own property is unnecessary.

24 ***G. Conditional Use Permit (Chapter 30.42C SCC)***

25 An application for a conditional use permit must meet the following criteria: ¹¹

- 26 a. The proposal must be consistent with the county's comprehensive plan;
- 27 b. The proposal must comply with the applicable requirements of title 30 SCC;
- 28 c. The proposal will not be materially detrimental to the uses or property in the immediate vicinity;
29 and

⁷ Testimony of Gray and Gustafson; see testimony of Wetzel.

⁸ Ex. L.6, PDF p. 52 *et seq.*

⁹ Compare testimony of Barnes with testimony of Moody.

¹⁰ Ex. L.11, 18-19.

¹¹ SCC 30.42C.100(1) (2012).

d. The proposal is compatible with, and incorporates specific features, conditions, or revisions that ensures it responds to, the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.

1. Consistency with Comprehensive Plan (SCC 30.42C.100(1)(a))

The comprehensive plan designates the area as Rural Residential (one dwelling/five acres basic), is in the Rural/Urban Transition Area,¹² and is zoned Rural 5-acre. It is close to the intersection of two principal arterials, Cathcart Way and SR 9, and within one mile of commercial, industrial, institutional land use designations, such as Urban Industrial, Urban Village, and Public/Institutional Use.¹³ The site is on a transit emphasis corridor for which Community Transit plans bus rapid transit. Community Transit’s Long Range Transit Plan adopted in 2011 refers to this location as a “super stop” for two bus rapid transit lines.¹⁴ The transportation element of the county’s comprehensive plan identifies this location as the eastern terminus of a “core” transit emphasis corridor.¹⁵ Park and ride capacity supports increased public transportation, which will reduce the use of fossil fuels that contribute to climate change and reduce or minimize traffic congestion. The proposal is consistent with the comprehensive plan.

2. Compliance with Title 30 SCC (SCC 30.42C.100(1)(b))

a. General Zoning Standards (Chapters 30.22 through 30.26 SCC)

i. Conditional Use Allowed in Zone (Chap. 30.22 SCC)

The proposed project is a park-and-ride lot,¹⁶ which is a permitted use with conditions in the R-5 zone. SCC 30.22.110 (2021).

ii. Landscaping (SCC 30.25.025)

County code requires landscaping of the parking lot¹⁷ and of the stormwater flow control treatment facility.¹⁸ The proposed landscaping plan¹⁹ demonstrates compliance with both provisions of county code.

¹² Rural urban transition areas are “intended to set aside a potential supply of land for employment and residential land uses for possible future inclusion in a UGA [urban growth area].” Comprehensive Plan, Land Use, Urban Growth Area. The Hearing Examiner takes official notice of the comprehensive plan. H. Ex. R. of Proc. 5.6(i) (2021).

¹³ Ex. L.13.

¹⁴ 164th St. Corridor and Paine Field to Cathcart Corridor. “Construction of a park & ride lot/transit center and ‘super stop’ at Cathcart and SR 9 will benefit this corridor.” Ex. D.7, p. 20.

¹⁵ Snohomish County Comprehensive Plan, Transportation Element, p. 44, table 11 (2018).

¹⁶ A “park-and-ride lot” is a designated parking facility specifically intended for use by public transportation and ridesharing patrons. SCC 30.91P.0050 (2011).

¹⁷ SCC 30.25.022 (2017).

¹⁸ SCC 30.25.023 (2016).

¹⁹ Ex. L.3.

1 **b. Fire Code (Chapter 30.53A SCC)**

2 The Fire Marshal's Office reviewed the proposal. Approval will be conditioned on compliance with the
3 Fire Marshal's recommendations and conditions, e.g., fire hydrants, address identification of bus stops,
4 and fire apparatus access.

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

6 Eight wetlands²⁰ and a type F stream with salmonids (Garden Creek) lie on the site. Wetlands B, C, G,
7 I, and K are category III wetlands. Wetlands H, J, and L are category IV wetlands. Off-site wetlands A,
8 K-CSII, and L-CSII are category III wetlands, while offsite wetland I-CSIII is a category II wetland.
9 Mitigation measures such as directing lights away from critical areas, landscape plantings to screen
10 light and noise, and a split-rail fence to discourage intrusion by humans and pets, allow the buffer
11 widths to be reduced. SCC 30.62A.340(4)(c)(i)(A). Buffer impacts from creation of the pedestrian trail,
12 utility lines, access road, grading will be mitigated by enhancement of existing and creation of additional
13 buffer at the ratios required by county code. SCC 30.62A.320. Buffer creation will preserve existing
14 forested conditions adjacent to wetlands K, G, and I, connect wetland G and I buffers, and provide
15 additional buffer between the park and ride and wetland K. Wetlands H and J will be filled because they
16 are small category IV non-riparian wetlands less than 10,000 sq. ft. SCC 30.62A.510(3)(g). These
17 impacts will be mitigated by the purchase of mitigation bank credits at a 0.85:1 ratio. SCC 30.62A.550.
18 Approval of the adjacent Cathcart Crossing project²¹ required mitigation of impacts caused by
19 construction of 148th St. SE. Approval will be conditioned on implementation of those mitigation
20 measures if they are not completed as part of that project.

21 **d. Drainage and Grading (Chapters 30.63A, 30.63B, and 30.63C SCC)**

22 Full infiltration of stormwater is not feasible at the site because stormwater does not easily infiltrate the
23 fine-grained soils on the site, as demonstrated by perched groundwater seepage observed in
24 subsurface exploration of the site. Bedrock lies at a shallow depth, which limits the depth and location
25 of potential infiltration facilities. An open detention pond will therefore provide flow control. A media filter
26 vault will provide enhanced water quality treatment. An oil/water separating catch basin immediately
27 upstream of the pond will provide pollution source control.

28 Grading quantities are expected to be approximately 76,764 cubic yards of cut and 409 cubic yards of
29 fill.

	Description	How Fulfilled?
1	Stormwater Site Plan	The drainage report and preliminary civil drawings satisfy this requirement. ²²
2	Stormwater Pollution Prevention Plan (SWPPP)	A satisfactory SWPPP was provided.

²⁰ Identified in the proposal as wetlands B, C, and G through L.

²¹ Cathcart Crossing, PDS file nos. 21-107654 BSP/SPA, 21-107481 LDA.

²² Exhibits L.2 and L.4.

3	Water pollution source control for new development or redevelopment	An oil/water separator catch basin ²³ will be provided as permanent pollution source control best management practice.
4	Preservation of natural drainage systems	Natural drainage systems should be preserved to the extent feasible. The downstream analysis did not identify with sufficient detail the existing eastern off-site drainage conveyance system, path, or conveyance capacity to the point of reconvergence with the natural flow path. ²⁴ Therefore the impacts from 2.75 acres of additional runoff are unknown. Approval will be conditioned on revision of the drainage plans accordingly.
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	Enhanced water quality treatment and an oil/water separating catch basin will be provided.
7	Flow control requirements for new development or redevelopment	Flow control will be provided by a detention pond.
8	Detention or treatment in wetlands or wetland buffers	Stormwater will be detained in an open pond, not in wetlands or buffers.
9	Inspection, operation, and maintenance requirements	The drainage report provided sufficient operation and maintenance information. ²⁵

1 **e. Impact Mitigation Fees (Chaps. 30.66A, 30.66B, and 30.66C SCC)**

2 The project is not defined as development under SCC 30.91D.200 (2005) and is therefore not subject
3 to parks and recreation impact mitigation fees otherwise required by chapter 30.66A SCC. School
4 impact mitigation fees will not be assessed because the project is not a development as defined by
5 SCC 30.91D.220 (2005).

6 **f. Transportation (Title 13 SCC, EDDS §3-02, and SCC 30.66B.420)**

7 i. Area Transportation

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

9 County ordinances prescribe the measures and tests with which a development must comply. This
10 project meets those measures and tests. The project must be approved if it does not affect a county

²³ Ex. L.2, sheet C.4.05.

²⁴ Downstream map 2, point F.

²⁵ Ex. L.4, §9.

1 arterial unit in arrears or cause a county arterial to go into arrears, i.e., fall below the minimum level of
2 service established by ordinance.²⁶ Transportation Service Area (TSA) D had no arterial units in arrears
3 as of the date of submittal. The development will likely generate more than 50 peak-hour trips.²⁷ The
4 development will likely add three or more directional peak-hour trips to arterial unit 367 (Cathcart Way).
5 After including projects in the pipeline and the Cathcart Crossing project, Public Works determined that
6 the future level of service of arterial unit 367 (Cathcart Way) will not likely fall below the minimum level
7 of service allowed by code.

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

9 Irrespective of the existing level of service, a development which adds at least three evening peak hour
10 trips to a place in the road system that has an Inadequate Road Condition (IRC) must eliminate the IRC
11 to be approved. The development will not affect any IRCs in TSA D with three or more evening peak
12 hour trips, nor will it create an IRC. Therefore, it is expected that mitigation will not be required with
13 respect to IRC and no restrictions to issuance of building permits, certificates of occupancy, or final
14 inspection will be imposed under SCC 30.66B.210.

15 *c. Impact Fees*

16 *i. County*

17 Proposed developments usually must mitigate its impact upon the future capacity of the county's road
18 system by paying a road system impact fee.²⁸ The road system impact fee is calculated by multiplying
19 the net average daily trips (ADT)²⁹ **created** by the development by the amount per trip for TSA D
20 identified in SCC 30.66B.330. A mitigation fee will not be required because the development will not
21 create new trips, but will receive vehicles that were already on the surrounding roads.

22 *ii. Other Jurisdictions*

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

24 When a development's road system includes a state highway, mitigation requirements will be
25 established using the county's SEPA authority consistent with the terms of the interlocal agreement
26 between the county and the WSDOT. This is consistent with the county's SEPA policy³⁰ through which
27 the county designates and adopts by reference the formally designated SEPA policies of other affected
28 agencies for the exercise of the county's SEPA authority.

29 No state highway mitigation payment will be required because the development will likely reduce future
30 traffic, rather than increase it.

²⁶ SCC 30.66B.120(1) (2003). Public Works deemed the proposed development concurrent as of July 5, 2022.

²⁷ 154 parking stalls x 0.42 AM peak-hour trips/stall = 64.68 net new morning peak-hour trips. 154 parking stalls x 0.43 PM peak-hour trips/stall = 66.22 net new evening peak-hour trips.

²⁸ SCC 30.66B.310 (2003).

²⁹ Public Works accepted the ADT calculation using sample data from five similar sites.

³⁰ SCC 30.61.230(9) (2012).

1 *b. Cities (SCC 30.66B.710)*

2 The county has a reciprocal traffic mitigation interlocal agreement with the city of Mill Creek. The
3 proposed project will not sufficiently affect the road network of the city to require a mitigation payment
4 because the development will not generate new or additional trips.

5 ii. Project Site

6 *a. Access*

7 The development site will access the public road network on 148th St. SE. 148th St. SE will be opened
8 and constructed as part of the Cathcart Crossing development.³¹

9 *b. Right of Way*

10 The site fronts on the unopened right of way for 148th St. SE and State Route 9, which is within
11 Washington State Department of Transportation's jurisdiction.

12 State Route 9 is the eastern border of the site. WSDOT will determine what improvements, if any, are
13 needed. WSDOT will limit access of 148th St. SE to SR 9 to right in/right out only, with a "pork chop"
14 island to implement the restriction. A corridor improvement plan widening SR 9 was recently funded.
15 This proposal includes widening the shoulder on the southbound side of SR 9 to create an acceleration
16 lane from vehicles turning south on SR 9 from 148th St. SE. Approval will be conditioned on satisfaction
17 of WSDOT requirements for access and improvements.

18 *c. Internal Road System*

19 No new public roads will be created within the development. Private roads and fire lanes will provide
20 internal vehicular circulation.

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

22 Full urban frontage improvements are usually required where the project abuts a public road.³² Curb,
23 gutter, planter strip, and sidewalk will be installed on the site's frontage as part of the opening and
24 construction of 148th St. SE. This work will not be credited against the county's road impact mitigation
25 fee because 148th St. SE is not in the impact fee's cost basis.

26 ADA ramps at the intersections of all the roads of the development must comply with minimum ADA
27 standard requirements for grades and landings as detailed in the current EDDS §4-05 D and WSDOT
28 Standard Plans F-40 series. A detail of each ADA ramp will be required in the construction plans.

29 A horizontal clear/control zone is required along the parcel's frontage.³³ Existing or proposed fixed
30 object obstructions must be removed or relocated from this buffer for motorist safety, including utility
31 poles. The clear zone will be established as part of the construction of 148th St. SE.

³¹ PDS file nos. 21-107654 BSP/SPA, 21-107481 LDA. If 148th St. SE is not opened and constructed as part of the Cathcart Crossing development, it must be opened and constructed before this conditional use permit can be operational.

³² Snohomish County Department of Public Works Rule 4222.020(1).

³³ EDDS §§4-15, 8-03; WSDOT Utility Manual.

1 e. *Bicycle*

2 Although the site does not border a bicycle route shown on the county-wide bicycle facility system map,
3 a shared use path to the park and ride will be created by the construction of 148th St. SE.

4 f. *Signing and Striping*

5 Approval will be conditioned on payment for signing and striping installed or applied by county forces.

6 **3. Not Materially Detrimental to Nearby Uses or Property**

7 The facility is not physically detrimental to uses or property in the immediate facility, nor is the proposed
8 use materially detrimental. Light fixtures will have features directing light away from the critical areas
9 and preventing or minimizing light pollution and glare on adjacent property. A park and ride facility will
10 provide access to public transportation for commuters where none exists now. Critical areas will be
11 permanently protected by recording of a critical areas site plan.

12 **4. Compatibility with Site and Surrounding Property**

13 The proposed facility is visually compatible with the site and surrounding property. It will have few, if
14 any, above ground structures. Lighting will be designed to minimize light pollution and glare reach
15 adjacent properties. Critical areas will be protected by delineation and fencing of buffers and recording
16 of a critical areas site plan. Stormwater will be managed as required by the drainage manual, including
17 treatment and discharge at its historic location at a rate and volume mimicking undeveloped, forested
18 conditions.

19 **V. CONCLUSIONS**

20 1. The Hearing Examiner has authority to approve conditional use permits. SCC 30.42C.020
21 (2003); SCC 30.42C.100 (2012); SCC 30.70.025 (2021); SCC 30.72.025 (2012).

22 2. The proposal is consistent with the county's comprehensive plan, complies or can comply with
23 the applicable requirements of title 30 SCC, will not be materially detrimental to the uses or property in
24 the immediate vicinity, and is compatible with, and incorporates specific features, conditions, or
25 revisions that ensures it responds to, the existing or intended character, appearance, quality of
26 development, and physical characteristics of the site and surrounding property.³⁴

27 3. The Hearing Examiner concludes that Snohomish County met its burden of showing the criteria
28 established by county code have been met. The proposal is consistent with the comprehensive plan,
29 county codes, the type and character of land use permitted on the project site, and applicable design
30 and development standards, subject to the conditions described below.

31 4. The Hearing Examiner concludes that adequate public services exist to serve the proposed
32 project.

33 5. The proposed project will make adequate provisions for public health, safety, and general
34 welfare with conditions as described below.

³⁴ SCC 30.42C.100(1) (2012).

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

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

5 **VI. DECISION**

6 Based on the foregoing findings of fact and conclusions of law, the Hearing Examiner hereby approves
7 the conditional use permit, subject to the following conditions:

8 **VII. CONDITIONS**

9 ***A. Operating Conditions***

- 10 1. All approved landscaping shall be maintained after installation. Dead or significantly damaged
11 plants and other landscaping material shall be replaced within three months of the death or
12 damage. PDS may authorize delay in replacement of up to 180 days when plant death or damage
13 occurs outside the normal planting season.
- 14 2. The facility may only be used as a park and ride transportation facility if it is operated and
15 maintained either by the county or other entities pursuant to one or more operation and
16 maintenance agreements as provided in condition 32.
- 17 3. All lighting shall prevent glare and light pollution on adjacent properties by being shielded, directed
18 downward, have full-cutoff features, and be arranged to direct or reflect light away from critical
19 areas and adjacent properties, including dwellings and public rights of way.
- 20 4. Minor and major revisions to the administrative site plan shall be subject to SCC 30.70.210 or
21 30.70.220.
- 22 5. Nothing in this approval excuses the county, an owner, lessee, agent, successor or assigns from
23 compliance with any other federal, state, or local statutes, ordinances, or regulations applicable to
24 this project.

25 ***B. Development Conditions***

26 **1. General**

- 27 6. Exhibit L.1 received by PDS on February 22, 2023, shall be the official site plan. No changes to
28 the scope or configuration are permitted without prior PDS approval. Any discrepancies between
29 the approved site plan and title 30 SCC shall be resolved in favor of title 30 SCC.
- 30 7. Exhibit L.3 received by PDS on February 22, 2023, shall be the approved preliminary landscaping
31 plan. Any discrepancies between the approved site plan and title 30 SCC shall be resolved in favor
32 of title 30 SCC.
- 33 8. All development shall comply with SCC 30.62A.320(1)(c)(ii), limiting total new effective impervious
34 surfaces to 10 percent within 300-feet of any streams, lakes, or wetlands containing salmonids.

1 9. Approval of the Cathcart Crossing project³⁵ imposed conditions to mitigate the impact caused by
2 construction of 148th St. SE. If, and to the extent, those conditions are not fulfilled or implemented,
3 they shall be fulfilled or implemented as part of this project.

4 **2. Prior to Commencement of Any Work**

5 10. No on-site construction activity other than surveying and marking is authorized unless and until the
6 required plan approvals have been obtained.

7 11. The boundary of all Critical Area Protection Areas (CAPAs) and the limits of the proposed site
8 disturbance outside of the CAPA must be temporarily marked as required by chapter 30.62A SCC.

9 12. Required permits shall be obtained, including a land disturbing activity permit required by chapters
10 30.63A and 30.63B SCC.

11 13. Contractors or subcontractors shall obtain right of way use permits for work in county and state road
12 rights of way.

13 14. The application for a land disturbing activity permit shall include:

14 a. A proposed final landscaping plan generally consistent with the approved preliminary
15 landscaping plan. The final landscaping plan shall include specifications for design and locations
16 for CAPA signs and split rail fencing. The split rail fence shall be designed in accordance with
17 SCC 30.62A.320(1)(f)(ii).

18 b. A final mitigation plan based on the approved mitigation plan contained in the *Wetland Buffer*
19 *and Mitigation Plan* written by Soundview Consultants, LLC, revised January 20, 2023. The
20 mitigation plan shall be included as a plan sheet(s) in the land disturbing activity plan set.

21 c. The landscape plan review fee. SCC 30.86.145(1).

22 d. A redesigned drainage plan demonstrating that natural drainage patterns will be preserved as
23 required by SCC 30.63A.520. The revisions shall include detailed identification of the existing
24 eastern off-site drainage conveyance system, path, or conveyance capacity to the point of
25 reconvergence with the natural flow path.

26 **Prior to issuance of the land disturbing activity permit:**

27 15. PDS shall have received “proof of purchase” of wetland mitigation bank credits from the Snohomish
28 Basin Mitigation Bank for the fill of wetlands H and J.

29 16. The following must be recorded with the County Auditor prior to issuance of a land disturbing
30 activity permit:

31 a. A Critical Areas Site Plan (SCC 30.62.160) that designates critical areas and their buffers as
32 Critical Area Protection Areas (CAPAs). A copy of the recorded plan and the Auditor’s recording
33 file shall be provided to PDS. The plan must contain the following restrictive language:

34 Except as provided herein All CRITICAL AREA PROTECTION AREAS shall be left
35 permanently undisturbed in a substantially natural state. No clearing, grading, filling,

³⁵ Cathcart Crossing, PDS file nos. 21-107654 BSP/SPA, 21-107481 LDA.

1 building construction or placement, or road construction of any kind shall occur
2 except: non-ground disturbing interior or exterior building improvements; routine
3 landscape, maintenance of established, ornamental landscaping; non-ground
4 disturbing normal maintenance or repair; felling or topping of hazardous based on
5 review by a qualified arborist; removal of noxious weeds conducted in accordance
6 with chapter 16-750 WAC; maintenance or replacement that does not expand the
7 affected area of septic tanks and drainfields, wells, or individual utility service
8 connections; data collection by non-mechanical means; and non-mechanical survey
9 and monument placement.

10 b. An executed land use permit binder.

11 17. The following shall have been paid prior to issuance of a land disturbing activity permit:

12 a. A landscape site inspection fee consistent with SCC 30.86.145(3).

13 b. The amount required by the county for installation of signs and striping. SCC 13.10.180.

14 **3. Prior to Final Inspection of the Land Disturbing Activity Permit**

15 18. PDS shall have been provided with a final certificate of water availability that verifies all hydrants
16 have been installed, are charged and operational, and the minimum required fire flow can be met.
17 The hydrants shall be equipped with a four-inch Storz steamer port and the tops of the hydrants
18 shall be painted blue to reflect the level of service. Blue street reflectors shall have been installed
19 on the hydrant side of the center line to assist arriving emergency vehicles in locating the hydrants.

20 19. All CAPA boundaries shall have been permanently marked on the site prior to final inspection by
21 the county, with both CAPA signs and adjacent markers which can be magnetically located (e.g.,
22 rebar, pipe, or 20 penny nails). Other permanent methods and materials if they are approved by the
23 county before installation. Where a CAPA boundary crosses another boundary (e.g., lot, tract, plat,
24 or road), a rebar marker with surveyors' cap and license number must be placed at the line
25 crossing.

26 20. CAPA signs shall have been placed no greater than 100 feet apart around the perimeter of the
27 CAPA. Minimum placement shall include one Type 1 sign per wetland, and at least one Type 1 sign
28 shall be placed in any lot that borders the CAPA, unless otherwise approved by the county biologist.
29 The design and proposed locations for the CAPA signs shall be submitted to PDS for review and
30 approval prior to installation.

31 21. The final mitigation plan shall have been implemented to the satisfaction of the county.

32 22. Split-rail fencing shall have been satisfactorily installed around the boundary of CAPA.

33 23. Mitigation as proposed by the Cathcart Crossing development³⁶ for the buffer reductions and
34 permanent buffer impacts for offsite Wetland A, onsite Wetlands B and C, and a portion of Garden
35 Creek shall have been satisfactorily implemented and completed.

³⁶ PDS file nos. 21-107654 BSP/SPA and 21-107481 LDA.

1 **4. Prior to Earlier of Operation as Park and Ride Facility or Issuance of Building Permits**

2 24. The construction of new public roads 87th Avenue SE and 148th Street SE required for the
3 adjacent Cathcart Crossing development³⁷ or equivalent access, shall have been completed to the
4 satisfaction of the county and accepted.

5 **5. Prior to Operation as Park and Ride Facility**

6 25. All required landscaping shall have been installed, and a qualified landscape designer shall certify
7 to PDS that the installation complies with county code and the approved plans.

8 26. 148th St. SE must be opened and constructed, including full urban frontage improvements along the
9 parcel adjoining 148th Street SE, to the satisfaction of the county.

10 27. Rural standard improvements shall have been constructed along the parcel's frontage on SR 9 to
11 the satisfaction of the State.

12 28. Improvements within the State's right-of-way on SR 9 shall have been permitted and constructed to
13 the satisfaction of the WSDOT (e.g., acceleration lane, shoulder improvements, and access
14 restriction).

15 29. The new public road intersection of 148th Street SE on State Route 9 shall have been restricted to
16 a right-in and right-out only access point and constructed to the satisfaction of WSDOT.

17 30. Illumination shall have been installed along the shared use path on 148th Street SE and internal to
18 the park and ride.

19 31. Bus stops shall have received address identification.

20 32. The county and Community Transit (or other suitable operator) shall have entered into an operation
21 and maintenance agreement. The agreement may assign responsibility for such things as:
22 stormwater facility maintenance; pavement maintenance; striping; sweeping; snow and ice removal;
23 bus shelters, bicycle racks, and portable restroom facility (porta-potty) maintenance; signage; graffiti
24 and vandalism; collection and disposal of litter and trash; lighting and security; electric vehicle (EV)
25 charging stations; utilities; and landscape maintenance. The county may enter into agreements with
26 different parties for different operation and maintenance responsibilities. By way of example only,
27 the county could contract with Community Transit regarding transit operations and support of transit
28 operators and with another entity for stormwater facility maintenance (or conduct such maintenance
29 with its own forces).

30 33. A portable restroom facility (porta-potty) for use by bus drivers shall have been installed.

31 34. Security camera devices on the illumination poles within the park and ride lot shall have been
32 installed and be operational.

33 35. A minimum of two areas shall be designated for electric vehicle (EV) charging and charging
34 facilities installed and operational.

35 ***C. Termination and Expiration***

36 36. This conditional use permit shall expire:

³⁷ *Id.*

1 a. Five years from the date of this approval if the proposed use has not commenced (SCC
2 30.70.140); or

3 b. Two years after the site ceases to be used for as a park and ride transportation facility.

4 37. This conditional use permit shall terminate if:

5 a. Conditions of this permit are violated and not promptly corrected;

6 b. Conditions of this permit are repeatedly violated, even if promptly corrected;

7 c. Any license or permit required by state or other law or regulation for operation of the facility
8 expires or is terminated; or

9 d. Applicable federal, state, or local laws or regulations are violated and not promptly corrected.

Decision issued this 25th day of April, 2023.

Peter B. Camp

Peter B. Camp
Hearing Examiner

1 **VIII. EXPLANATION OF RECONSIDERATION AND APPEAL**
2 **PROCEDURES**

3 Any party of record petition the Hearing Examiner to reconsider the decision and appeal the decision to
4 the County Council. The following paragraphs summarize the reconsideration and appeal processes.
5 For more information about reconsideration and appeal procedures, please see chapter 30.72 SCC and
6 the respective Hearing Examiner and Council Rules of Procedure.

7 ***Reconsideration***

8 Any party of record may request reconsideration by the Hearing Examiner. A petition for
9 reconsideration must be filed in writing with the Office of Hearings Administration, 2nd Floor, Robert J.
10 Drewel Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S No. 405, 3000
11 Rockefeller Avenue, Everett WA 98201) by hand delivery, US mail, or email³⁸ on or before May 5,
12 2023. There is no fee for filing a petition for reconsideration. The petitioner for reconsideration shall mail
13 or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of
14 filing. SCC 30.72.065.

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

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

- 21 (a) The Hearing Examiner exceeded their jurisdiction;
- 22 (b) The Hearing Examiner failed to follow the applicable procedure in reaching their decision;
- 23 (c) The Hearing Examiner committed an error of law;
- 24 (d) The Hearing Examiner’s findings, conclusions, or conditions are not supported by the record;
- 25 (e) New evidence is discovered which could not reasonably have been produced at the hearing and
26 which is material to the decision; or
- 27 (f) The applicant proposed changes to the application in response to deficiencies identified in the
28 decision.

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

³⁸ Hearing.Examiner@snoco.org.
Cathcart Crossing Park and Ride

1 **Appeal**

2 An appeal to the County Council may be filed by any aggrieved party of record on or before May 9,
3 2023. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed
4 until the reconsideration petition has been decided by the Hearing Examiner. An aggrieved party need
5 not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition
6 for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council
7 shall be limited to those issues raised in the petition for reconsideration.

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

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

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

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

- 28 (a) The decision exceeded the Hearing Examiner's jurisdiction;
- 29 (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- 30 (c) The Hearing Examiner committed an error of law; or
- 31 (d) The Hearing Examiner's findings, conclusions, or conditions are not supported by substantial
32 evidence in the record. SCC 30.72.080

33 Appeals will be processed and considered by the County Council pursuant to the provisions of chapter
34 30.72 SCC. Please include the county file number in any correspondence regarding the case.

1 Staff Distribution:

2 Department of Planning and Development Services: Stacey Abbott

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

Organization	Name	Address	City	State	Zip	Email
POR & AGENCY REGISTER APPLICANT	21-113268-CUP	Cathcart Crossing Park & Ride	Rescheduled Hearing: April 4, 9:00 a.m.			
PACIFIC RIDGE-DRH, LLC	JOHN MIRANTE	17921 BOTHELL-EVERETT HWY, SUITE 100	BOTHELL	WA	98012	JVMirante@drhorton.com
CONTACT PERSON						
CORE DESIGN, INC.	LINDSEY SOLORIO	12100 NE 195TH STREET, SUITE 300	BOTHELL	WA	98011	LBS@coredesigninc.com
	Matt DeCaro, Soundview Consultants					matt@soundviewconsultants.com
OWNER						
SNO CO PROPERTY MGMT		3000 ROCKEFELLER AVE #404	EVERETT	WA	98201	
GOVERNMENT/TRIBES						
CITY OF MILL CREEK	JUSTIN HORN	15728 MAIN STREET	MILL CREEK	WA	98012	justinh@cityofmillcreek.com
CITY OF MILL CREEK	SYBIL TETTEH	15728 MAIN STREET	MILL CREEK	WA	98012	sybilt@cityofmillcreek.com
CROSS VALLEY WATER DISTRICT	MIKE JOHNSON	8802 180TH ST SE	SNOHOMISH	WA	98296	cvwd@crossvalleywater.net
SNO CO DEPT OF PUBLIC WORKS	DOUG MCCORMICK	3000 ROCKEFELLER AVE #607	EVERETT	WA	98201	DMcCormick@co.snohomish.wa.us
SNO CO DEPT OF PUBLIC WORKS	MOHAMMAD UDDIN	3000 ROCKEFELLER AVE #607	EVERETT	WA	98201	mohammad.uddin@snoco.org
SNO CO PDS	STACEY ABBOTT	3000 ROCKEFELLER AVE #604	EVERETT	WA	98201	stacey.abbott@snoco.org
SNO CO PDS	LORI BURKE	3000 ROCKEFELLER AVE #604	EVERETT	WA	98201	Lori.Burke@snoco.org
SNO CO PDS	PAUL DRAGOO	3000 ROCKEFLEER AVE #604	EVERETT	WA	98201	Paul.Dragoo@snoco.org
SNO CO PDS	EMILY SWAIM	3000 ROCKEFELLER AVE #604	EVERETT	WA	98201	Emily.Swaim@co.snohomish.wa.us
SNO CO PDS	DAVID IRWIN	3000 ROCKEFELLER AVE #604	EVERETT	WA	98201	david.irwin@snoco.org
	Caleb Duhnke					caleb.duhnke@snoco.org
SNO CO PDS	Michael Dobesh					michael.dobesh@snoco.org
	Randy Blair, Public Works					randy.blair@snoco.org
	Brook Chesterfield, Public Works					brook.chesterfield@snoco.org
SNO CO PUD NO 1	M WICKLUND FOR M FLURY					MLWicklund@snoPUD.com
TULALIP TRIBES-ENVIRON PROTECTION ECOLOGIST	TODD GRAY	6406 MARINE DRIVE	TULALIP	WA	98271	toddgray@tulaliptribes-nsn.gov
TULALIP TRIBES-HIBULB CULTURAL CENTER	GENE ENICK	6419 23RD AVENUE N.E.	TULALIP	WA	98271	genick@tulaliptribes-nsn.gov
WS DOE	DOUG GRESHAM	PO BOX 330316	SHORELINE	WA	98133-9716	doug.gresham@ecy.wa.gov
PARTIES OF RECORD						
	JONATHAN EDMONDS					jedmonds@KPMG.com
	NAN LOMBARDO					nanlombardo@gmail.com
	JANET MILLER	7904 152ND ST SE	SNOHOMISH	WA	98296	janetleemiller@aol.com
	HEATHER COOK	14829 83RD AVE SE	SNOHOMISH	WA	98296	statcook2@comcast.net
	LESLIE RINGSTAD					leslie.ringstad@gmail.com
	JENNICA HALBERT	8118 156TH ST SE	SNOHOMISH	WA	98296	jlv416@gmail.com
	Bill Lider					bill@liderengineering.com
	Ross Tilghman					ross@tilghmangroup.com
	James Mattila					waterite@myuw.net
	Carter & Mary Lou Burns					cbandml@yahoo.com
	Guadalupe Barajas					gebarajas@seattleschools.org
	Rigarda Goetz					rigarda13@gmail.com
	Joe Rogers					jtrogers88@msn.com

US MAIL/INTEROFFICE MAIL

	Irene Billa					ibilla@yahoo.com	
	John Woodard					johnwoodard@gmail.com	
	Mark Bigelow					ewsfinclerk@gmail.com	
	Launa Blaine					launab@gmail.com	
	Kira Edmonds					jonandkira@gmail.com	
	Kim Cutuli					kcutuli@comcast.net	
	Kelly Johnson					rkwj08@gmail.com	
	M. Joan Bjornson	8531 152nd St SE	Snohomish	WA	98296		US MAIL
	Alexander Axeleev	14712 64th Ave. SE	Snohomish	WA	98296		US MAIL
	Amy Demoulin	14123 59th AVE SE	Everett	WA	98208		US MAIL
	Jamie Vanturennot	6126 152nd PL SE	SNOHOMISH	WA	98296		US MAIL
	Lisa Jackson	14007 69th DR SE UNIT P4	SNOHOMISH	WA	98296		US MAIL
	DEBBIE WETZEL					debbieleewetzel@gmail.com	
MARSHLAND FLOOD CONTROL DIST.	GARY W. BRANDSTETTER	PO BOX 85	SNOHOMISH	WA	98291	marshlandfloodcontrol@gmail.com	
	RYAN BARNES, PE					ryan@rpbengineering.com	
CONSERVATION AND PRESERVATION SOCIETY					98296	conservationpreservationsoc@gmail.com	
	NICOLE AND JESSE DONOVAN	8919 152ND Street SE	SNOHOMISH		98296	nmmdonovan@gmail.com	
	LINDA GRAY	22629 78th Ave SE	Woodinville	WA	98072	lgn899a@gmail.com	
	DAVID GREEN	8818 152ND STREET SE	SNOHOMISH	WA	98296	greenpostemail@gmail.com	
	MICKIE GUNDERSEN	1126 LAWTON ROAD	LYNNWOOD	WA	98036	hilltop.locust@frontier.com	
	WENDY AND RON JEFFS	8911 152ND ST SE	SNOHOMISH		98296	rjeffs5@msn.com	
	CHRISTIE WILLMS	14811 83RD AVE SE	SNOHOMISH	WA	98296	cwillms55@hotmail.com	
JOHNS MONROE MITSUNAGA KOLOUSKOV DUANA KOLOUSKOVA		11201 SE 8TH STREET # 120	BELLEVUE	WA	98004	kolouskova@jmmklaw.com	
JOHNS MONROE MITSUNAGA KOLOUSKOV BENITA LAMP		11201 SE 8TH STREET # 120	BELLEVUE	WA	98004	lamp@jmmklaw.com	
JOHNS MONROE MITSUNAGA KOLOUSKOV MARY JOY DINGLER		11201 SE 8TH STREET # 120	BELLEVUE	WA	98004	dingler@jmmklaw.com	
	Phyllis Hopkins					Phyllishopkins13@gmail.com	
	Nicole & Jesse Donovan					nmmdonovan@gmail.com	
	Wendy & Ron Jeffs					rjeffs5@msn.com	
	David Green					greenpostemail@gmail.com	
	Jessica Kraft-Klehm, PDS					Jessica.Kraft-Klehm@co.snohomish.wa.us	
	Christina Richmond, PDS					Christina.Richmond@co.snohomish.wa.us	
	Richard Aramburu, Esq.					rick@aramburulaw.com	
Snohomish Herald	Michael Whitney					michael@snoho.com	