



CO00033084

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

ORDINANCE NO. 07-137

DEFERRING COLLECTION OF FEES FOR THE TRANSFER OF DEVELOPMENT RIGHTS PROGRAM, PROVIDING FOR REPEAL, AND AMENDING SCC 30.86.135

WHEREAS, the Washington State Growth Management Act (GMA), chapter 36.70A RCW, requires counties to designate lands of long-term significance to the commercial production of agriculture and to assure the conservation of such lands for agricultural use; and

WHEREAS, farmers in Snohomish County are experiencing increasing economic and regulatory pressure and farmland is a central part of the heritage of Snohomish County; and

WHEREAS, the County's GMA Policy Plan – Goal LU 7 calls for the county to “conserve agriculture and agricultural land through a variety of planning techniques, regulations, incentive and acquisition methods” and support the use of Transfer of Development Rights and Purchase of Development Rights programs to help conserve designated farmland; and

WHEREAS, Amended Ordinance No. 04-123, adopted December 15, 2004, authorized the establishment and implementation of a voluntary and incentive-based Transfer of Development Rights (TDR) program to encourage the preservation of agricultural lands and concentration of population growth in urban areas; and

WHEREAS, a need exists to encourage farmers to participate in the voluntary TDR program; and

WHEREAS, farmers are deterred from participating in the TDR program because they must pay over \$750 prior to knowing if and to what extent their agricultural land qualifies for the program; and

WHEREAS, deferring the collection of fees for the voluntary TDR program may encourage participation by farmers;

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Findings. The county council makes the following findings:

A. The county council adopts and incorporates the foregoing recitals as findings as if set forth fully herein.

- 1 B. Chapter 30.35A of the Snohomish County Code (SCC) establishes a process  
2 for implementing the voluntary and incentive-based TDR program, including  
3 the application, review, inspection, issuance, and conveyance of TDR  
4 certificates.  
5  
6 C. Chapter 30.86 SCC establishes a schedule of fees required for the  
7 application, review, inspection, issuance, and conveyance of TDR certificates.  
8  
9 D. Farmers who participate in the voluntary TDR program are required to pay  
10 fees in the sum of \$1,400 prior to being issued any TDR certificates.  
11  
12 E. Since adoption of the TDR program, only two landowners have applied to  
13 participate in the program.  
14  
15 F. Deferring collection of TDR fees until such time as the farmer sells, conveys  
16 or otherwise transfers a TDR certificate provides an incentive by shortening  
17 the time between incurring the expense and receiving the benefit of  
18 participating in the TDR program.  
19  
20 G. Deferring the collection of TDR fees until the first sale, conveyance or transfer  
21 of a TDR certificate does not result in any direct cost to the County.  
22

23 Section 2. Conclusions. The Snohomish County Council makes the following  
24 conclusions:  
25

- 26 A. The council concludes that it is in the public interest to defer the collection of  
27 TDR fees pursuant to chapter 30.86 SCC for application and participation in  
28 the TDR program, as provided herein.  
29  
30 B. The council concludes that this ordinance implements procedural  
31 requirements, not the Growth Management Act, and therefore, this ordinance  
32 does not adopt development regulations under SCC 30.10.080. Pursuant to  
33 SCC 30.73.040(2)(b), planning commission review is not required.  
34  
35 C. The council concludes that environmental review under the State  
36 Environmental Policy Act is not required pursuant to WAC 197-11-800(19).  
37

38 Section 3. Snohomish County Code Section 30.86.135, adopted by Amended  
39 Ordinance No. 04-123 on December 15, 2004, is amended to read:

1  
2 **Table 30.86.135 TDR Fees.**  
3

Activity	Fees
Processing and review of application for TDR certificates and issuance of TDR certificate letter of intent pursuant to SCC 30.35A.050(1)(a) <sup>1</sup>	\$600
Issuance of TDR certificates pursuant to SCC 30.35A.050(1)(a) <sup>1</sup>	\$150
Review of conservation easement pursuant to SCC 30.35A.060(3) <sup>1</sup>	\$250
Review of deed of transferable development rights pursuant to SCC 30.35A.070(3). <sup>1</sup>	\$150
Site Inspection pursuant to SCC 30.35A.050(1)(b) <sup>1</sup>	\$250
<p><b>Reference Notes:</b></p> <p>(1) These fees are payable by a sending site owner pursuant to Chapter 30.35A SCC upon the first sale, conveyance, or transfer of a TDR certificate.</p>	

4  
5 Section 4. Repeal. Reference Note (1) in Snohomish County Code Section  
6 30.86.135, adopted by Ordinance No. 07-137 on December, 2007, is repealed  
7 effective December 31, 2008.

8  
9 Section 5. Severability and Savings. If any section, sentence, clause or phrase  
10 of this ordinance shall be held to be invalid or unconstitutional by the Growth  
11 Management Hearings Board (Board), or a court of competent jurisdiction, such  
12 invalidity or unconstitutionality shall not affect the validity or constitutionality of any other  
13 section, sentence, clause or phrase of this ordinance. Provided, however, that if any  
14 section, sentence, clause or phrase of this ordinance is held to be invalid by the Board  
15 or court of competent jurisdiction, then the section, sentence, clause or phrase in effect  
16 prior to the effective date of this ordinance shall be in full force and effect for that  
17 individual section, sentence, clause or phrase as if this ordinance had never been  
18 adopted.

1  
2 PASSED this 12<sup>th</sup> day of December 2007.  
3

4 SNOHOMISH COUNTY COUNCIL  
5 Snohomish County, Washington

6 *David Smith*  
7  
8 Chairperson

9  
10 ATTEST:

11 *Barbara Petersen*  
12 Clerk of the Council, ASST.  
13

14  
15  APPROVED

16  
17 ( ) EMERGENCY

18  
19 ( ) VETOED

20 DATE: 12/18/07  
21

22 *Mark Soine*  
23 County Executive  
24 **MARK SOINE**  
25 Deputy Executive

26 ATTEST:

27 *Cara E. Palmer*  
28

29  
30 Approved as to form only:

31 *James J. Brown*  
32 Deputy Prosecuting Attorney  
33

SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON

MOTION NO. 07-742  
APPEAL FROM THE DEPUTY HEARING EXAMINER'S DECISION  
IN FILE NO. 06-135148  
Brookstone Investment LLC (64<sup>th</sup> Avenue LDMR)

WHEREAS, Brookstone Investment LLC, applied to Snohomish County for approval of a rezone from Residential 8,400 to Low Density Multiple Residential for property located at 17425 64<sup>th</sup> Avenue W, Lynnwood; and

WHEREAS, the Snohomish County Deputy Hearing Examiner Pro-Tem held a public hearing on May 29, 2007 and issued a decision on June 11, 2007 denying the requested rezone; and

WHEREAS, the applicant appealed the June 11, 2007 decision of the Deputy Hearing Examiner Pro-Tem to the County Council, according to the provisions of SCC 30.72.070; and

WHEREAS, the Council held a closed record appeal hearing on August 1, 2007 to consider the appeal; and

WHEREAS, after considering the appeal based upon the record, the Council approved a motion to remand the case to the Hearing Examiner for more analysis pursuant to Council Motion No. 07-447; and

WHEREAS, the Deputy Hearing Examiner held a public hearing on remand on October 4, 2007 and issued a decision denying the requested rezone on October 31, 2007; and

WHEREAS, the applicant appealed the October 31, 2007 decision of the Deputy Hearing Examiner to the County Council, according to the provisions of SCC 30.72.070; and

WHEREAS, the Council held a closed record appeal hearing on December 12, 2007 to consider the appeal.

NOW, THEREFORE, ON MOTION:

Section 1. The Snohomish County Council makes the following findings of fact and conclusions:

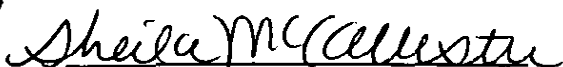
1. The Council adopts the findings and conclusions of the Deputy Hearing Examiner in the case of Brookstone Investment LLC (64<sup>th</sup> Avenue LDMR), File No. 06-135148.

Section 2. The Snohomish County Council enters its decision in the case of Brookstone Investment LLC (64<sup>th</sup> Avenue LDMR), File No. 06-135148:

The council hereby affirms the October 31, 2007 decision of the Deputy Hearing Examiner.

Dated this 12<sup>th</sup> day of December, 2007.

ATTEST:

  
Asst. Clerk of the Council

  
Chair

SNOHOMISH COUNTY COUNCIL

EXHIBIT # 89

FILE 06-135148

SNOHOMISH COUNTY COUNCIL  
SNOHOMISH COUNTY, WASHINGTON

**OFFICIAL NOTICE OF COUNCIL DECISION**

In re the case of an Appeal from the October 31, 2007 Deputy Hearing Examiner decision in the case of Brookstone Investments LLC, (64<sup>th</sup> Avenue LDMR) File No. 06-135148, requesting approval of a rezone from Residential 8,400 to Low Density Multiple Residential for property located at 17425 64<sup>th</sup> Avenue W, Lynnwood.

NOTICE IS HEREBY GIVEN that on December 12, 2007 a decision in this matter was entered by the Snohomish County Council: Upon a vote of three to two, the County Council approved a to affirm the Deputy Examiner's decision, in accordance with Council Motion No. 07-742, attached hereto.

FURTHER NOTICE IS GIVEN that unless otherwise provided by law any person having standing who wishes to appeal this decision must do so by filing a land use petition in Superior Court in accordance with the provisions of Chapter 36.70C RCW and Chapter 30.72.130 SCC on or before January 7, 2008.

FURTHER NOTICE IS GIVEN that any person having standing who wishes to appeal an accompanying environmental determination must do so together with appeal of the decision in accordance with the provisions of Chapter 43.21C RCW and Section 30.72.130 SCC on or before the deadline for appeal set out above.

FURTHER NOTICE IS GIVEN that affected property owners may request the Snohomish County Assessor to make a change in valuation for property tax purposes notwithstanding any program of revaluation.

DATED this 12<sup>th</sup> day of December, 2007.

  
Asst. Clerk of the Council

Mailed: Friday, December 14, 2007