

**REPORT and DECISION of the SNOHOMISH
COUNTY HEARING EXAMINER**

DATE OF DECISION: November 17, 2006

PLAT/PROJECT NAME: *SERENE WAY LDMR*

APPLICANT/
LANDOWNER: First Northwest Appraisal, Inc.

FILE NO.: 06 125281

TYPE OF REQUEST: REZONE from Residential-8400 (R-8400) to Low Density
Multiple Residential (LDMR)

DECISION (SUMMARY): APPROVED

BASIC INFORMATION

GENERAL LOCATION: The property is located at 3517 Serene Way, Lynnwood, WA

ACREAGE: .52

ZONING: CURRENT: R-8400
PROPOSED: LDMR

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Medium Density Residential (6-12 du/ac)

UTILITIES:

Water: Alderwood Water & Wastewater District
Sewage: Alderwood Water & Wastewater District

SCHOOL DISTRICT: Mukilteo

FIRE DISTRICT: No. 1

SELECTED AGENCY RECOMMENDATIONS:

Department of:
Planning and Development Services: Approve

INTRODUCTION

The applicant filed the Master Application on July 27, 2006. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 10, 11 and 12)

A SEPA determination of non-significance was made on September 19, 2006. (Exhibit 9) No appeal was filed.

The Examiner held an open record hearing on November 2, 2006, the 98th day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

PUBLIC HEARING

The public hearing commenced on November 2, 2006 at 3:00 p.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and therefore had a general idea of the particular request involved.

The hearing concluded at 3:09 p.m.

NOTE: Audio tapes of this hearing are available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

1. The First Northwest Appraisal, Inc. (Applicant) seeks approval of a rezone of property at 3517 Serene Way, Lynnwood, WA, from R-8400 to LDMR. The site is not on Lake Serene, but across the street from lakefront properties. This site is .52 acres in area and improved with a single-family residence. It is slightly sloped and has a mixture of trees, shrubs and grasses. There is no development proposal at this time.
2. Adjacent zoning is primarily R-8400 with some isolated LDMR zones nearby. Adjacent uses are primarily single-family residences.
3. Concerns expressed by nearby residents included increased density, traffic, on-street parking, water quality of Lake Serene, and adequacy of fire hydrants.
4. The comprehensive plan designates this site for Urban Medium Density Residential land uses, and LDMR is one of the implementing zones for this designation. Traffic standards will not be exceeded by the addition of the few dwellings added to this half-acre site. The applicant will be required to provide a new fire hydrant with multiple residence construction. On-street parking is not regulated by zoning, and on-site parking will be required for any construction. There are no critical areas on the site or within 100 feet of the property. The rezone application will have no impact on drainage which would affect water quality of Lake Serene. Drainage and/or grading plans will be reviewed as part of future construction or building permit application.

5. Any Conclusion of Law in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

CONCLUSIONS of LAW:

1. The PDS staff report property sets forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their effect upon the request. It is therefore hereby adopted by the Examiner as a conclusion as if set forth in full herein, in order to avoid needless repetition. There are no changes to the recommendations of the staff report.
2. The request is for a rezone and, therefore, must be consistent with the GMACP; GMA based county codes. In this regard, the request is consistent with those plans and codes. The type and character of land use permitted on the project site is consistent with the General Policy Plan (GPP) ULDR designation of the property and meets the required regulatory codes as to density, design and development standards.
3. The rezone criteria are set forth in SCC 30.42A.100:

The Hearing Examiner may approve a rezone only when all of the following criteria are met:

- (1) The proposal is consistent with the comprehensive plan;
 - (2) The proposal bears a substantial relationship to the public health, safety, and welfare; and
 - (3) Where applicable, minimum zoning criteria found in chapters 30.31A through 30.31F SCC are met.
4. The request is for a rezone and therefore must comply with Chapter 30.42A. This is a site specific rezone that conforms to the Comprehensive Plan and since no evidence was submitted contrary to the requirements of Chapter 30.42A, the evidence is presumed to meet these requirements.
 5. The request should be approved as submitted.
 6. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion of Law, is hereby adopted as such.

DECISION:

The request for a REZONE from R-7200 to LDMR is hereby APPROVED.

Decision issued this 17th day of November, 2006.

Gordon F. Crandall, Hearing Examiner Pro-Tem

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

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

Reconsideration

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **November 27, 2006**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

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

The grounds for seeking reconsideration are limited to the following:

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

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

Appeal

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **December 1, 2006** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an

appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

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

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

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

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

Staff Distribution:

Department of Planning and Development Services: Paul Lichter

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