

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

DATE OF DECISION: November 17, 2006

APPLICANT/
LANDOWNER: Craig B. Pierce

FILE NO.: 06 127184 LU

TYPE OF REQUEST: REZONE from Residential-9600 (R-9600) to Residential-7200 (R-7200).

DECISION (SUMMARY): APPROVED

BASIC INFORMATION

GENERAL LOCATION: The property is located at 21 216th Street SW, Bothell, WA

ACREAGE: 0.58 acres

NUMBER OF LOTS: 21

ZONING: CURRENT: R-9600
PROPOSED: R-7200

COMPREHENSIVE PLAN DESIGNATION:
General Policy Plan Designation: Urban Low Density Residential

UTILITIES:
Water: Alderwood Water and Wastewater District
Sewage: Alderwood Water and Wastewater District

SCHOOL DISTRICT: Northshore

FIRE DISTRICT: No. 1

SELECTED AGENCY RECOMMENDATIONS:

Department of:
Planning and Development Services: Approve
Public Works: No objection

INTRODUCTION

The applicant filed the Master Application on July 20, 2006. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on November 1, 2006.

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 8, 2006. (Exhibit 9) No appeal was filed.

The Examiner held an open record hearing on October 31, 2006, the 74th 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 October 31, 2006 at 10:00 a.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 Examiner viewed the site the next day.

The hearing concluded at 10:05 a.m.

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

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

1. Craig B. Pierce (Applicant) proposes a rezone of a .58 acre site at 21 216th Street SW from R-9600 to R-7200. He also proposes to short plat the parcel into three single-family lots with areas from 7,275 square feet to 9065 square feet. The application for a short plat will be considered administratively by PDS.
2. The three lots will have direct access to 216th Street SW, which is within the Bothell city limits. R-9600 zoning is found to the north and east of the site, and R-7200 is found to the west.
3. One neighbor expressed concern regarding stormwater runoff from the site. Any conditions to address this concern will be imposed as part of any short plat approval.
4. The site is served by water and sewer. One residence with several outbuildings now is on the site.
5. The subject property is designated Urban Low Density Residential (ULDR: 4-6 du/ac) on the GPP Future Land Use Map and is located in an Urban Growth Area (UGA). R-7200 is one of the implementing zones for this land use designation.

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

CONCLUSIONS:

1. A request for a site-specific rezone is a Type 2 application which is decided by the Hearing Examiner. Chapter 30.72 SCC. The Hearing Examiner conducts a public hearing after notice is published, posted and mailed in accordance with SCC 30.70.045. The Hearing Examiner's decision on an application for a site specific rezone is final, subject to appeal to the County Council.
2. 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.
3. PDS staff concludes that the proposal is consistent with the GMACP; GMA-based county codes, the type and character of land use permitted on the project site, the permitted density and applicable design and development standards; that adequate public services exist to serve the proposal; and, if approved, the proposal would make adequate provisions for the public health, safety and general welfare. The Examiner concurs. The application should be approved.
4. 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-9600 to R-7200 on a .58 acre site at 21 216th Street SW is hereby APPROVED.

Decision issued this 17th day of November, 2006.

Gordon F. Crandall, Hearing Examiner Pro-Tem

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

This 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 Examiner's action on reconsideration would be subject to appeal to the Council.) 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, 2802 Wetmore Avenue, 2nd Floor, 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 Examiner exceeded his jurisdiction;
- (b) the Examiner failed to follow the applicable procedure in reaching his decision;
- (c) the Examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of Snohomish County Code, or other county or state law or regulation;
- (d) the Examiner's findings, conclusions and/or conditions are not supported by the record;
- (e) newly discovered evidence alleged to be material to the Examiner's decision which could not reasonably have been produced at the Examiner's hearing; and/or
- (f) changes to the application proposed by the applicant 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. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 5th Floor, County Administration 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 and PROVIDED FURTHER that the filing fee shall be refunded in any case where an appeal is dismissed in whole without hearing under SCC 30.72.075.

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 are limited to the following:

- (a) the Examiner exceeded his jurisdiction;
- (b) the Examiner failed to follow the applicable procedure in reaching his decision;
- (c) the Examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of Snohomish County Code, or other county or state law or regulation; and/or
- (d) the Examiner's findings, conclusions and/or conditions are not supported by the record.

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 this case.

Staff Distribution:

Department of Planning and Development Services: David Radabaugh

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.
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