

## DECISION OF THE SNOHOMISH COUNTY HEARING EXAMINER PRO TEMPORE

DATE OF DECISION: October 7, 2008  
PROJECT NAME: **MCRONDEE LDMR**  
APPLICANT/OWNER: Land REIT (Pete Teasdale & Doug Hageman)  
FILE NO: 06-125150-000-00-LU  
TYPE OF REQUEST: REZONE  
DECISION: **APPROVE** Rezone

### **BASIC INFORMATION**

PROJECT LOCATION: 2328 Center Road, within Sec. 26, T28N, R4E. W.M.  
ACREAGE: 1.38 acres  
CURRENT ZONING: R-9,600  
PROPOSED ZONING: LDMR (Low Density Multiple Residential)  
COMPREHENSIVE PLAN  
    General Policy Plan: Urban Medium Density Residential  
SCHOOL DISTRICT: Mukilteo #6  
UTILITIES  
    Water and Sewer: Alderwood Water and Wastewater District  
FIRE DISTRICT: #1  
PDS  
RECOMMENDATION: Approve with conditions

## **INTRODUCTION**

The applicant filed the Master Application on June 14, 2006. The application was determined to be complete for regulatory purposes as of the date of submittal. Resubmittals were made on December 17, 2007 and July 10 2008.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by County Code.

A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on July 31, 2008. No appeal was filed.

The Examiner held an open record hearing on September 17, 2008. Witnesses were sworn, testimony was presented, and exhibits were entered. The decision here is based on the record made.

## **PUBLIC HEARING**

The public hearing commenced on September 17, 2008, at 9:01 a.m.

1. The applicant was represented by Doug Hageman of Land REIT.
2. PDS was represented by Roxanne Pilkenton, Planner.
3. There was no public testimony.

The hearing concluded at 9:07 a.m.

**NOTE:** For a complete record, an electronic recording of this hearing is available through the Office of the Hearing Examiner.

## **FINDINGS OF FACT**

1. The master list of exhibits is in the record in this file. All exhibits were considered by the Examiner and are hereby incorporated by reference, as if set forth in full herein.
2. The PDS Staff Report has correctly analyzed the nature of the application and the application's consistency with adopted codes, policies and land use regulations. The Staff Report is hereby adopted by the Examiner as if set forth in full herein.
3. There have been no public comments indicating concern over the subject rezone, administrative site plan approval and grading permit.
4. The property is located at 2328 Center Road in the vicinity of Paine Field.

5. The 1.38 acre site is currently developed with a single-family residence which is to remain. An existing shed will be removed. The property is relatively flat. Most of it is in lawn. An Urban Category 3 wetland is located just off-site along the western property line and within the southwestern corner of the site.
6. The applicant is requesting a rezone from R-9,600 to LDMR along with an administrative site plan approval and grading permit for a future residential development consisting of 11 single-unit detached structures. The units will provide moderate income housing. The administrative site plan approval and grading permit are contingent upon the approval of the rezone.
7. Water and sewer will be provided by the Alderwood Water and Wastewater District.
8. The properties to the west and southwest are larger lots (many undeveloped) and zoned BP. The properties to the north and south are small to medium sized lots and zoned R-9,600. The properties to the east and southeast are small lots zone R-7,200. All of the lots surrounding the subject site are either undeveloped or developed with single-family dwelling units.
9. PDS has determined the appropriate transportation impact fees to be paid and conditions specifying the proper amounts are to be set forth in the administrative approval. Concurrency standards are met. The proposal will not impact any inadequate road condition locations nor will it create any.
10. Full urban frontage improvements shall be required along the frontage on Center Road and consist of:
  - (a) An 18 foot width from roadway centerline to the face of the curb with asphalt concrete pavement;
  - (b) Cement concrete curb and gutter;
  - (c) Five (5) foot planter;
  - (d) Seven (7) foot cement concrete sidewalk.
11. A new two-way drive aisle will provide access to the 10 proposed new single-family residential units. The County Engineer approved a deviation request to allow the existing house to continue using the existing driveway providing direct access to Center Road. No public roads are proposed or required.
12. Center Road is a non-arterial, requiring 30 feet of right-of-way on each side of the centerline. Although the present right-of-way meets this requirement, an additional two feet of right-of-way on Center Road will be needed in order to accommodate the seven-foot-wide sidewalk required for multi-family development.
13. Children from the proposed development will be provided with school bus service by Mukilteo School District No. 6. The proposed frontage improvements will provide safe walking conditions for school children to the bus stops. No offsite pedestrian facilities will be required.
14. Appropriate impact fees will be required for parks and schools.

15. The 10 new dwelling units, in addition to the existing single-family residence, will create a total of 0.61 acres of impervious surface. Drainage will be collected in the center of the drive aisle and discharged to an open-topped cement concrete walled wet pond. The pond will provide both water quality treatment and stormwater detention. Drainage will be discharged to a 50-foot long level spreader, entering the wetlands at the southwest corner of the site which is the present discharge site. Engineering reviewers concluded that the plans and calculations submitted meet current code requirements for stormwater management.
16. According to the wetland boundary determination and classification conducted by Wetland Resources, Inc., the site contains a portion of a Category 3 forested wetland which has been depicted on the site plan submittal. Preservation of the wetland will be accomplished by recording it as a Native Growth Protection Area (NGPA). The existing wetland buffer is in lawn which will be maintained after project construction. Installation of a sewer line in the southwestern portion of the site will temporarily disturb 164 square feet of buffer area, but this area will be reseeded after construction with no net loss of functions and values expected to occur. The provisions over the Critical Areas Regulation will be met.
17. The Fire Marshal's Office has suggested conditions of approval which can be readily met. A Preliminary Certificate of Water Availability has been provided from the Alderwood Water and Wastewater District, indicating an ability to meet fire flow requirements.
18. The subject property is located within an Urban Growth Area (UGA), and is designated by the Comprehensive Plan as Urban Medium Density Residential Land in this category may be developed up to a maximum density of 12 dwelling units per acre. The proposed LDMR zoning is an implementing zone for this designation. The proposed project implements and is consistent with the Plan's UMDR designation.
19. The proposed rezone and proposed development plan are consistent with the "Urban Development Patterns" statement for encouraging and broadening the mix of urban housing types, promoting more efficient use of land within UGAs and reducing the consumption of rural lands. The subject neighborhood is in transition. The proposal will be compatible with the trend of development in the vicinity.
20. The Staff Report (pp. 9-13) contains a thorough review of Comprehensive Plan goals and policies that will be carried out by the subject development. The Examiner adopts this discussion.
21. The Examiner concurs with Staff that the rezone is consistent with the Comprehensive Plan.
22. PDS has determined that the proposed development will meet the bulk and setback regulations applicable to LDMR zoning. In addition, Staff review has concluded that the specific proposal will be consistent with all other applicable development regulations.

23. Accordingly the Examiner finds that the proposal bears a substantial relationship to the public health, safety, and welfare.
24. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### **CONCLUSIONS OF LAW**

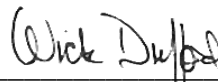
1. The Examiner has jurisdiction over this proceeding.
2. The requirements of SEPA have been met.
3. Under SCC 30.42A.100, the Hearing Examiner may approve a rezone only when all of the following criteria are met:
  - a) The proposal is consistent with the comprehensive plan.
  - b) The proposal bears a substantial relationship to the public health, safety and welfare; and
  - c) Where applicable, minimum zoning criteria found in chapters 30.31A through 30.31F are met.
4. Based on the findings, the Examiner concludes that the proposal meets the relevant criteria for approval of a rezone. Chapters 30.31A through 30.31F do not apply.
5. Adequate public services are available to serve the proposal.
6. Any finding herein which may be deemed a conclusion is hereby adopted as such.

### **DECISION**

The request for approval of a Rezone from R-9,600 to LDMR is **GRANTED**.

Nothing in this approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.

Decision issued this 7th day of October, 2008.



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Wick Dufford, Hearing Examiner Pro Tempore

## 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, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **OCTOBER 17, 2008**. 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, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **OCTOBER 21, 2008** 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.

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**Staff Distribution:**

Department of Planning and Development Services: Dorothy Crossman

<p>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.</p>
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