

**DECISION of the SNOHOMISH
COUNTY HEARING EXAMINER PRO TEM**

DATE OF DECISION: July 18, 2008

PROJECT NAME: *Perez / 148th Street LDMR*

APPLICANT/
LANDOWNER: Builders Investment Group
12728 Bothell-Everett Hwy
Everett, WA 98208

And

Brookstone LLC
C/O Insight Engineering
3630 Colby Avenue
Everett, WA 98201

FILE NO.: 06-134653-000-00-LU

TYPE OF REQUEST: **REZONE** from Residential-7,200 (R-7,200) to Low Density Multiple Residential (LDMR).

DECISION (SUMMARY): **APPROVED**

BASIC INFORMATION

GENERAL LOCATION: The subject property is located at 2121 148th ST SW, located in Section 35, Township 28 North, Range 4 East, W.M., Snohomish County, Washington.

Acreage: 4.70 acres

Current Zoning: R-7,200

Proposed Zoning: Low Density Multiple Residential (LDMR)

Comprehensive Plan
General Policy Plan: Urban Medium Density Residential

School District: Mukilteo School District 6

Fire District: No. 1

Water / Sewer Source: Alderwood Water & Wastewater District

SELECTED AGENCY RECOMMENDATIONS:

Department of Planning and Development Services: Approve

INTRODUCTION

The applicant is proposing an LDMR (Low Density Multiple Residential) rezone of a 4.7 acre site currently zoned R-7,200. PDS has reviewed a concurrent administrative site plan and associated grading permit application for site development of 30 single family detached units.

The Hearing Examiner (Examiner) made a site familiarization visit on July 14, 2008, in the afternoon.

The Department of Planning and Development Services (PDS) and applicant gave proper public notice of the open record hearing as required by the County code. (Exhibits 41 Mailing., 42 Publication, 43 Posting)

A SEPA determination was made on October 3, 2007. (Exhibit 18) No appeal was filed.

The Examiner held an open record hearing on Tuesday, July 15, 2008, the 207th 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 July 15, 2008 at 3:05 p.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. Scott Whitcutt, Planner, PDS appeared and testified under oath. He presented the staff report and answered questions from the Examiner. The applicant for the project is now Brookstone LLC due to an assignment by the prior applicant, Builders Investment Group. Ken Williams, agent for the applicant, appeared and testified under oath. He gave a presentation on the nature of the application and answered questions from the Hearing Examiner. Ed Woods, the applicant's traffic engineer answered questions from Hearing Examiner. Upon questioning from the Examiner the applicant did not object to the running of the 120 clock.
3. The Examiner kept the record open for one day for PDS to calculate the number of days elapsed on the 120 day clock and for the applicant to submit an electronic copy of Exhibit 45.

The hearing concluded at 3:25 p.m.

NOTE: The above information reflects the information submitted to the Examiner summarizing the statements that were made at the hearing. However, for a full and complete record, verbatim audio tapes of the hearing are available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file, as if set forth in full herein.
2. Two written communications have been received from citizens.(Exhibits 24 and 25) The comments raised concerns regarding the local density transition in urban growth areas of southwest County and the adopted codes governing the prevailing transitional development. One commentator expressed concern about fire access and building density. Another commentator discussed another proposed development applied for on the same day. He also expressed concern over access to 148th Street and off street parking. He further commented on the filling of wetlands which could lead to contamination of Swamp Creek. The applicant has provided a written response to the concerns expressed in the citizen correspondence (Exhibit 25). The applicant explained that the projects, while filed by the same person, are independent of one another He also provided details of storm water detention/retention designed to control the volumes and quality of discharged water. He also stated that intermittent flooding currently experienced on 148th could be alleviated by the project's drainage facilities. He described the frontage improvements along 148th which should alleviate some of the problems along that road. Testimony given at the hearing indicated the Snohomish County Public Works had no reports of flooding on that portion of 148th Street.

PDS and the applicant did not identify any other issues of concern related to the subject applications.

3. Agency letters are Exhibits 26 – 35.
4. The applicant is proposing an LDMR (Low Density Multiple Residential) rezone of a 4.7 acre site currently zoned R-7,200. PDS has reviewed a concurrent administrative site plan and associated grading permit application for site development of 30 single family detached units.
5. The site is a rectangular property running east to west along the north side of 148th St. SW. The site has previously been developed as four single-family residential sites on the underlying 4 Lot short plat. The site has a Type 4 stream running northeast to southwest within the easterly half of the subject property and two Urban Category 3 wetland areas, one of which extends off-site to the west. The property is generally forested with a mixed overstory of red alder, Western red cedar, Western hemlock, Douglas fir, and big-leaf maple. Understory species are dominated by red elderberry, Oso-berry, salmonberry, Himalayan blackberry, dewberry, swordfern, and salal. Site topography is relatively flat with some minor undulations and lawn areas associated with the single-family residences.
6. A PRD-7,200 plat lies along the north and northwest boundaries of the site. A PRD-7,200 plat lies along the easterly boundary. Undeveloped R-7,200 property lies adjacent to the west property line. Recent LDMR zoning with older single-family homes lies across 148th St. SW to the southwest and southeast. R-7,200 zoning and site development lies across 148th St. SW to the south.
7. The project would comply with park mitigation requirements under Chapter 30.66A SCC (Title 26A SCC) by the payment of \$1,244.49 for each new single-family home. However, as this is not a development application these fees are not imposed as part of this decision.

8. Traffic Mitigation and Road Design Standards (Title 13 SCC & Chapter 30.66B SCC):

(a) Road System Capacity [SCC 30.66B.310]

The development will generate 248.82 new ADT and has a road system capacity impact fee of \$66,434.94 (\$2,212.50/SFR) based on \$267.00/ADT.

(b) Concurrency [SCC 30.66B.120]

The development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent as of June 25, 2007. The expiration date of the concurrency determination is six years from this date. Consistent with DPW rule 4225.070 the point in time for which the concurrency analysis is based (the concurrency vesting date) is May 15, 2007.

(c) Inadequate Road Condition (IRC) [SCC 30.66B.210]

The subject development proposal will not impact any IRC locations identified within TSA D with three or more of its p.m. peak hour trips, nor will it create any. Therefore, it is anticipated that mitigation will not be required with respect to inadequate road conditions and no restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under this section of Chapter 30.66B SCC.

(d) Frontage Improvements [SCC 30.66B.410]

All developments will be required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road. The required improvement shall be constructed in accordance with the EDDS, including correction of horizontal and vertical alignments, if applicable. As per DPW Rule 4222.020(1) full urban frontage improvements are required along the subject parcel's frontage on 148th Street SW and consist of:

- Asphalt concrete pavement consisting of 23 feet width from roadway centerline to the face of curb;
- Cement concrete curb and gutter;
- Planter strip with a width of 5 feet;
- Cement concrete sidewalk with a width of 5 feet.

The applicant's deviation request to allow a 5 foot wide sidewalk on 148th Street SW was approved by the County Engineer on June 25, 2007.

148th Street SW, on which the development's frontage improvements are required, is in the impact fee cost basis (Appendix D of the Transportation Needs Report), therefore credits towards the applicant's impact fee for any frontage improvements that can be used in the ultimate build-out of the road are applicable.

(e) Access and Circulation [SCC 30.66B.420]

The applicant proposes to provide access to the site by constructing a public road intersecting 148th St SW opposite the existing intersection with 22nd Ave, connecting to the existing 22nd Pl W road stub on the north project boundary. This road is proposed with 28 feet of roadway between curbs, 5 foot planter strips and 5 foot sidewalks on both sides, and a 52 foot right-of-way.

22nd PI W will be classified as a residential street with a design speed of 25 mph. Proposed horizontal curves C1 and C2 for 22nd PI W meet EDDS standards per Table 3-4.

22nd PI W is a proposed public road and will require road establishment.

All sight distance requirements are met for the proposed intersection of 22nd PI W and 148th St. SW. Proposed 22nd PI W will access 148th ST SW to the south and 146th PL SW to the north via the existing 22nd PI W stub on the north project boundary. The project therefore will have 2 access points as required for projects generating over 250 ADT (see EDDS 3-01.B (4)).

(f) Dedication of Right-of-Way [SCC 30.66B.510 and 30.66B.520]

148th St SW is designated as a collector arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 35 feet on each side of the right-of-way centerline. Currently, 30 feet of right-of-way exists on the development's side of the right-of-way. Therefore, the development is required to deed 5 feet of additional right-of-way. This is adequately shown on the site plan. 148th St SW is in the impact fee cost basis (Appendix D of the Transportation Needs Report); therefore credit towards the applicant's impact fee for the right-of-way deeded that is more than 30 feet from centerline is applicable.

(g) State Highway Impacts [SCC 30.66B.710]

In comments dated August 6, 2007 WSDOT has agreed that no traffic mitigation is required of the applicant.

(h) Other Streets and Roads [SCC 30.66B.720]

There are not any city jurisdictions that have an ILA with the County that will be impacted by new trips from the subject development.

(i) Transportation Demand Management (TDM) [SCC 30.66B.630]

The TDM obligation for this development \$1,969.50 An acceptable written offer dated May 12, 2007, has been submitted by the applicant for payment of this TDM obligation.

(j) Pedestrian Facilities [RCW 58.17.110]

The development will adequately provide impact mitigation and safe walkways within the site and along right-of-ways as noted by the School District. (Exhibit 31)

9. Pursuant to Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Mukilteo School District No. 6 at the time of building permit submittal and collected at the time of building permit issuance for the proposed units. Credit is to be given for four existing lots. Payment of school mitigation fees is required prior to building permit issuance and will be made a condition of the administrative site and construction plan approvals.

10. The application was reviewed by the PDS Engineering Section for compliance with the UDC Chapters 30.63A, 30.63B, Engineering Design and Development Standards, and the 1992 Department of Ecology Storm Water Management Manual. PDS found the application to be complete.

The site is approximately 4.7 acres of which 0.84 acres are Category 3 wetlands and associated buffers. The site is currently developed with 2 single family houses, 2 mobile homes, 3 deck, 3 sheds, a carport and gravel driveway. The majority of the site drains into the existing onsite wetlands. Soils are indicated by Soil Conservation Service maps as Alderwood gravelly sandy loam, hydrologic type "C" classification.

The proposal is to construct 30 new single family condominiums and 1500 feet of access road and utilities, along with associated street widening improvements to 148th Street S.W. Storm drainage will be collected and conveyed to the onsite detention vault, and then water quality treated via a biofiltration swale. Discharge from the water quality swale is to the onsite wetlands, thereby keeping the same location of discharge leaving the site, and protecting water quality to the standards required by code. The drainage report basin map shows street drainage will be collected and conveyed to the onsite detention and water quality treatment system. The detention vault will be sized to provide 18,747 cubic feet of storage, which includes the 130 percent safety factor as required by code.

The development proposes in excess of 5,000 square feet of improvements onsite and also in the public road, thereby requiring detention and water quality treatment for both; the applicant has shown their design will meet these requirements.

Grading quantities are anticipated to be approximately 22,000 cubic yards of cut and 7,100 cubic yards of fill, primarily for road, drainage facility and home site construction. Water quality would be controlled during construction by use of silt fences and straw bales in accordance with a Temporary Erosion and Sedimentation Control (TESCP) required by Chapter 30.63A SCC.

11. The subject site has a Type 4 stream running northeast to southwest across the easterly half of the subject property. The site has two Urban Category 3 wetland areas, one of which extends off-site to the west. Four residences were previously established on the eastern half of the site and improvements included accessible driveways and lawn areas.

The development will impact critical areas at the point of primary ingress and egress due to the northern extension of 22nd Pl W. at its intersection with 148th St. SW. Additional impacts will occur due to locating an interior drive aisle accessing 6 units in the southeastern portion of the site rather than providing a separate access at the intersection of Jefferson Way and 148th St. SW. and 22nd Pl W. Elimination of existing driveway aisles and structures historically impacting critical areas will reduce existing impacts, provide wetland creation and establish NGPA critical area and buffer areas not currently required of the site. PDS review of the site development concluded that it can meet provisions and policies of applicable code.

12. UTILITIES

Water

Water will be supplied by the Alderwood Water and Wastewater District. A Certificate of Water Availability was received. (Exhibit 30)

Sewer

Sewer will be supplied by the Alderwood Water and Wastewater District. A Certificate of Sewer Availability was received. (Exhibit 30)

Electricity

Snohomish County Public Utility District provided correspondence indicating that it can provide electrical service for the project. (Exhibit 33)

Health District

Snohomish Health District expressed no objections to the preliminary plat by letter dated October 26, 2007. (Attachment to Exhibit 45)

13. Rezone Criteria

The decision on the rezone application is subject to the criteria of SCC Chapter 30.42A.100:

- (1) The proposal is consistent with the comprehensive plan;
- (2) The proposal bears a substantial relationship to the public health, safety and welfare.
- (3) Where applicable, minimum zoning criteria found in chapters 30.31A through 30.31F, SCC are met.

Rezone Analysis

- (1) The proposal is consistent with the comprehensive plan:

Future Land Use Map

COMMENT: The designation of the subject property and surrounding properties is “Urban Medium-Density Residential”, with an allowed density range of 6 to 12 dwelling units per acre (DU/Ac). The proposed LDMR zone, with a maximum density of 12 DU/Ac, is an implementing zone for this comprehensive plan designation. The actual density proposed for the property is approximately 6 DU/Ac, which is at the lower end of the allowed density range.

Land Use Element

Goal LU 1 – Establish and maintain compact, clearly defined, well designed UGAs.

Objective 1.A – Establish UGAs with sufficient capacity to accommodate the majority of the county’s projected population and employment growth over the next 20 years.

- *Policy LU 1.A.3* requires no net loss of housing capacity to accommodate growth targets.

This area was intended, through its future land use designation, to provide additional housing at a capacity of between 6 to 12 DU/Ac in order to meet the growth projections within the UGAs. The rezone would increase the housing capacity of the property to meet growth targets.

- *Policy LU 1.A.4* requires that UGAs shall have existing or planned infrastructure capacity to adequately support urban growth over the 20-year period.

This area already has infrastructure in place to support the LDMR zone, including roads and utilities.

Goal LU 2 – Establish development patterns that use urban land more efficiently.

Objective LU 2.A – Increase residential densities within UGAs by concentrating and intensifying development in appropriate locations.

- *Policy LU 2.A.3* requires that UGAs provide for a variety of residential ranges identifying minimum & maximum allowable.

COMMENT: The southwest Snohomish County urban growth area residential land use designations are “Urban Low-Density Residential” (4 to 6 DU/Ac), “Urban Medium-Density Residential” (6 to 12 DU/Ac) or “Urban High-Density Residential” (12 to 24 DU/Ac). The implementing zones for these designations are “Residential-9,600”, “Residential-8,400”, “Residential-7,200”, “Townhouse”, “Low-Density Multi-Family” and ‘High-Density Multi-Family’. The LDMR zone, together with all of the other existing & planned zones within the UGA, will be providing for a variety of residential ranges.

- *Policy LU 2.A.4* requires opportunities for a mix of affordable housing types, such as small lot detached units, within medium density residential areas.

COMMENT: This area is designated “Urban Medium-Density Residential”, and a rezone to LDMR would allow for a mix of housing types, including the detached, air-space condominium units that are proposed.

- *Policy LU 2.A.5* provides for medium and high density residential development to locate within walking distance of transit access, urban centers, parks, and recreational amenities.

COMMENT: The subject property is within walking distance, of approximately 1-mile from the bus transit center at 164th Street SW & Ash Way, and 1-1/2 mile from the center at 4th Avenue W & 128th Street. There are also urban services, such as retail & commercial businesses and mixed-use developments, at these locations. Lake Stickney and Oak Heights Elementary Schools are both recreational amenities within walking distance.

Housing Element

Goal HO 1 – Ensure that all county residents have the opportunity to obtain safe, sanitary, and affordable housing.

Objective HO 1.B – Ensure that a broad range of housing types are available in urban and rural areas.

- *Policy HO 1.B.1* requires opportunities for affordable home ownership by promoting an increased supply of all housing types, such as small lot housing, townhouses, and condominium units.

COMMENT: The rezone will increase the supply of the proposed detached single-family housing type, a small lot housing type. This is a more cost effective type of housing, and there is demand for such housing in this area.

Objective HO 1.D – Maintain an adequate supply of appropriately zoned developable land.

- *Policy 1.D.3* promotes expeditious and efficient infill development in urban areas.

COMMENT: The rezone will result in infill immediate development of an urban area, which is an efficient use of land for housing.

Goal HO 2 – Ensure the vitality and character of existing residential neighborhoods.

Objective HO 2.A – Promote opportunities for all county residents to reside in safe and decent neighborhoods.

- *Policy HO 2.A.1* encourages the character of stable neighborhoods to be preserved through selective and innovative land use measures.

COMMENT: The neighborhood character is changing, with recent infill development taking already place in the area. The proposal would be consistent with these infill developments and the changed character of the neighborhood.

Objective HO 2.B – Encourage the use of innovative urban design techniques and development standards to foster broad community acceptance of a variety of housing types affordable to all economic segments of the population.

- *Policy HO 2.B.1* promotes a variety of housing types and densities be provided in residential neighborhoods.

COMMENT: The rezone to LDMR will help provide a different housing type and density in this neighborhood. This area already has other housing types available, including traditional single-family subdivisions, multi-family housing, and mixed-use residential housing.

- *Policy HO 2.B.4* promotes the integration of a variety of dwelling types and intensities in residential neighborhoods.

COMMENT: The rezone to LDMR will help add variety to the different dwelling types and densities already provided in this area.

Goal HO 3 – Land use policies and regulations should contribute as little as possible to the cost of housing.

Objective HO 3A – Encourage land use practices, development standards, and building permit requirements that reduce housing production costs.

- *Policy HO 3.A.3* promotes cluster housing in order to minimize land and infrastructure costs.

COMMENT: The rezone will allow clustered housing, which will minimize the amount of land needed to provide an equivalent number of houses and the cost of development per unit will be reduced, resulting in a more cost effective type of housing.

Utilities Element

Goal UT 2 – Work with provider agencies of Snohomish County and assist them in ensuring the availability of a reliable, high quality water supply for all households within the county in a manner that is consistent with the comprehensive plan and protection of the natural environment.

Objective UT.2.A – All new residential developments should be able to demonstrate the availability of a potable water supply meeting state water quality standards and of sufficient capacity to serve domestic requirements.

- *Policy UT 2.A.1* requires the availability of an adequate water supply for residential land use or construction permit approval.

COMMENT: Adequate water is available for the proposal, according to the letter of water availability issued for the subject property by the local water district.

Goal UT 3 – Work with cities and special districts to produce coordinated wastewater system plans for both incorporated and unincorporated areas within UGAs that are consistent with the land use element, UGA area plans, and city plans.

Objective UT.3.A – Utilize wastewater system plans as a basis for orderly development or expansion within UGAs in accordance with the countywide planning policies.

- *Policy UT 3.A.1* requires the availability of an adequate public wastewater collection and treatment system for residential land use or construction permit approval.

COMMENT: Adequate sewer service is available for the proposal, according to the letter of sewer availability issued for the subject property by the local sewer district.

Natural Environment Element

Goal NE 3 – Comply with the requirements of state, federal and local laws for protecting and managing critical areas, shorelines, and water.

Objective NE 3.H – Comply with the requirements of the National Pollution Discharge Elimination System (NPDES) permit issued to the county pursuant to the Clean Water Act.

- *Policy NE 3.H.1* requires new development to comply with stormwater runoff standards, including the provision of facilities that control run-off quantities, peak flow rates, and water quality treatment.

COMMENT: The development will provide drainage facilities to control runoff from the subject property for compliance with surface water, groundwater, and sediment standards. These facilities are provided according to the Snohomish County drainage code and drainage manual, which are based on the requirements of the Washington State Department of Ecology (DOE) drainage manual. DOE is the agency responsible for administering the National Pollution Discharge Elimination System (NPDES) program, pursuant to the federal Clean Water Act.

Urban Development Patterns

The area is already characterized by urban growth that has adequate existing facility & service capacities to serve the proposed development for public facilities and services.

COMMENT: Existing streets, roads & highways have sufficient capacity for the additional traffic generated by the development and traffic safety will not be affected, according to a *Traffic Impact Analysis (Exhibit #6)* prepared for the project. Traffic mitigation fees are required to be paid to the county according to *Snohomish County Code (SCC) 30.66B.310 & 30.66B.630* to provide for increased capacity on arterial roads, as planned for by the county, by improving existing roads and reducing vehicular travel demand. A traffic concurrency review has been performed by the County in accordance with *SCC 30.66B*, and the proposal has been deemed concurrent. The County has further determined that there are no existing Inadequate Road Conditions, High Accident Locations, Arterial Units in Arrears, or Level-of-Service deficiencies in the area, and that the proposal will not result in any of those conditions. The Washington State Department of Transportation (WSDOT) concurs that the proposal will not impact any state facilities, since it will not contribute 3 or more PM peak-hour trips to any WSDOT projects, according to the e-mail dated Aug 6, 2007 (*Exhibit #32*).

Pedestrian walkways will be provided as required by county code, *SCC 30.66B.410*. Road widening along the property frontage on 148th Street SW will provide concrete curb & gutter, with a 5-foot sidewalk and a 5-foot planter strip separating the sidewalk from the curbs, in accordance with *Snohomish County Engineering Design & Development Standards (EDDS), Section 3-04 and Standard Drawings 3-050 & 3-065*. Sections of concrete curb, gutter & sidewalks and widened asphalt walkways already exist opposite the property's frontage along the south side of 148th Street SW. A walkway system of concrete curb, gutter & sidewalks and widened asphalt also exists along Jefferson Way, beginning at the subject property and extending northerly & southerly from the subject property, with this project adding to the existing system. This system will provide safe walkways paths for children walking to the school bus stops, which will be located on Jefferson Way, at 145th Street SW & 147th Street SW, according to the letter from the Mukilteo School District dated May 29, 2007 (*Exhibit #31*).

Street & road lighting systems currently exist along 148th Street SW, and in the vicinity of the property along Jefferson Way and Manor Way, consistent with *EDDS Section 7-02*.

Traffic signals are located southeast of the property on Ash Way at the entrance to the existing Ash Way Park-and-Ride bus transit station and at 164th Street SW, and southwest of the property on Manor Way at 164th Street SW. The County's analysis of the proposal does not indicate that any new signals are warranted for this proposal, according to *SCC 30.66B.165* and *EDDS Section 7-03*.

Adequate domestic water & sanitary sewer systems are available for the proposal, according to the *Certificate of Water Availability & Certificate of Sewer Availability (Exhibit #30)* issued for the subject property by Alderwood Water & Wastewater District.

Open Space is provided as common area landscape buffer along the property's frontage on 148th Street SW, as wetland & buffer areas, and the areas surrounding each proposed unit are individual open spaces for resident's yards. Additional provisions for parks & recreational facilities are made by payment of park mitigation fees, as required by *SCC 30.66A.020*, for new or improved county park facilities within the area. Existing recreational facilities in the area include McCollum County Park, Martha Lake County Park, Lake Stickney Public Boat Launch, Oak Heights Elementary School, and Lake Stickney Elementary School. The county parks & recreation department has reviewed the proposal and has not indicated any objections, according to the memorandum dated May 21, 2007 (*Attachment*).

Storm drainage facilities are required for the proposal, according to *SCC Chapter 30.63A*. The system will direct & control collect runoff generated by impervious surfaces within the site to an underground detention vault that will attenuate the release of runoff discharged downstream to avoid flooding & erosion, and will provide water quality treatment to prevent pollution of downstream drainage courses. The storm drainage system is described in the *Full Drainage Report (Exhibit #7)* prepared for the project.

Fire protection is already provided by Snohomish County Fire District No. 1. The District has no objections to the proposal, subject to the provision of hydrants, paved roads, street addressing of proposed units, and marking of drive aisles as fire lanes, according to the letter dated Sep 28, 2007 (*Exhibit #28*). The proposal is also subject to the fire suppression requirements of *SCC 30.53A* and the *International Fire Code*. Police protection is already provided by the Snohomish County Sheriff's Department.

Snohomish County Health District has approved the proposal, subject to the proper abandonment of existing septic systems and the provision of public water & sewer services, according to the letter dated Oct 26, 2007.

The proposal is within the Mukilteo School District No. 6. Provisions for schools are made by payment of school mitigation fees, as required by *SCC 30.66C.100*, for new or improved school facilities within the district. Existing schools serving the proposal are Odyssey

Elementary, Voyager Middle, and Mariner High, according to the letter from the District dated May 29, 2007 (*Exhibit #31*).

There is sufficient electrical system capacity for the proposal, according to the letter from Snohomish County PUD No. 1, dated May 31, 2007 (*Exhibit #33*). Other services available for the proposal are telephone service by Verizon NW, cable television service by Comcast, natural gas by Puget Sound Energy, and refuse service by Waste Management NW.

The rezone will help to establish development patterns that use urban land more efficiently, and will concentrate and intensify development at an appropriate location.

The development is carefully sited, since critical areas will not be impacted, and transit facilities & urban services are within walking distance.

COMMENT: The critical areas on the site, including a Type 4 stream and associated Category 3 wetland, are protected according to the provisions of the critical areas regulations, *SCC 30.62*. Measures not avoid and reduce impacts include protecting the stream & wetlands with a 25-foot wide buffer and 15-foot wide building setback, and by establishing the area as a “Native Growth Protection Area” to remain un-disturbed. County requirements for road improvements result in a portion of the wetland to be filled and a portion of the stream to be re-located, impacts that cannot be avoided. Mitigation is provided by creating a new wetland area at a ratio of 2 square feet of new wetland for every 1 square foot a wetland filled, and by re-planting a portion of the wetland fill area to provide buffering. The critical areas impacts & mitigation are described in the *Critical Area Study & Wetland Mitigation Plan (Exhibit #15)* prepared for the project.

The subject property is within proximity of Interstate-5, which is a designated transit corridor, and within walking distance of the bus transit centers at 164th Street SW & Ash Way, and at 4th Avenue W & 128th Street. There are also urban services, such as retail & commercial businesses and mixed-use developments, at these locations, which both have nearby lands designated “Urban Center” for future development. Oak Heights Elementary School, Lake Stickney Elementary School and the Lake Stickney Public Boat Launch are both recreational amenities within walking distance.

The proposed rezone will lessen dependence on private automobiles and promote the use of alternative forms of transportation. The proposal is within walking or bicycling distance of urban services & facilities that will serve the proposal, which will promote those forms of transportation in place of automobiles. The proposed road widening along 148th Street SW includes extra width to accommodate a future bicycle lane. Also, the proximity of the subject property to bus transit stations will encourage commuting by buses or carpools instead of automobiles.

The rezone proposal and subsequent development is sensitively integrated into the existing community, by maintaining the current pattern of new development in the neighborhood, and meeting the land development standards of the Snohomish County Code.

COMMENT: The existing neighborhood is primarily single family residential housing, of varying density. The character of the neighborhood is now changing as infill development has already occurred, and is continuing to be approved for further infill development. Properties opposite the subject property, on the south side of 148th Street SW, are already zoned LDMR, including a recently completed development known as the “*Carman / 148th Street LDMR*”, PFN 06-134973. Other LDMR developments nearby include “*Starlite Lane*” and “*Starlite Creek*” on Manor Way, and “*Willow Tree*”, “*Harmony at Lake Stickney*”, and “*Madison Court*” on 150th Street SW. There are many other properties in the area zoned LDMR and MR that are suitable for infill development under those zones, as they are currently under-developed based on the future land use designations in the comprehensive plan.

The proposal will help provide a mix of affordable housing types, such as small lot detached units, within this area that is designated “Urban Medium-Density Residential”. Other housing types are already available in the area, including single-family subdivisions & planned residential developments under R-7,200 zoning and multi-family developments in the “urban center” areas. A rezone to “LDMR” would provide for a mix of housing types, including the detached units that are proposed. This clustered housing will minimize the amount of land needed to provide an equivalent number of houses, and the cost of development per unit will be reduced, resulting in a more cost effective and affordable type of housing.

Future annexation opportunities are not determined at this time, as the proposal is outside of any city’s Urban Growth Area Boundary. The closest cities are Everett, Lynnwood, and Mukilteo, and to date none of these cities have indicated intent to include the area in their Municipal Urban Growth Area (MUGA).

The development is well designed, as it will meet all of the applicable site planning requirements of the zoning code for the “LDMR” zone, including density, building setbacks, lot coverage, landscaping, parking, vehicular access, and fire safety.

COMMENT: The proposed density of 6.4 dwelling units per acre (DU/Ac) is within the 6 to 12 DU/Ac range allowed by the “UMDR” comprehensive plan land use designation for this area. This density will also be consistent with, and maintain, the changed character of the neighborhood and the recent LDMR & PRD rezones and developments. Also, the proposed 22nd Place W roadway, extended to intersect 148th Street SW, is aligned directly opposite the existing intersection for the “Cobblestone” subdivision, in accordance with the *EDDS*, to provide for safe traffic operation of the street system.

The building design of the proposed single family homes will be of a scale consistent with the designs of the more recent “LDMR” developments in the neighborhood, including floor area, building height, and building separation. The proposed building envelopes are 1,200 square feet, and the proposed building height is 2-stories with a maximum 35-foot height. The zoning and building codes require that 2-story homes provide a minimum separation of 10-feet, and the zoning code limits building coverage of the property to 35% of the site area. The proposed grading for the project will not significantly change the elevation of the property, which is currently at a grade close to the existing grade of adjacent properties. The grading and change in elevations will not significantly alter the visual perception of the proposed development.

No selective or innovative land use measures would be needed to preserve the character of the neighborhood, since the neighborhood character is already changing with the on-going infill developments taking place in the area, and the proposal would be consistent with these infill developments and the changed character of the neighborhood.

The proposed rezone and development will not have a negative impact on the character of the neighborhood because it will meet all applicable site planning requirements of the zoning code, which will soften or eliminate aesthetic impacts. A 10-foot Type B landscape buffer is required along the 148th Street SW and 22nd Place W street frontages and interior landscaping is required for parking areas, to provide visual relief. Required building setbacks are met, including a 20-foot setback from 148th Street SW and 22nd Place W rights-of-way, and a 5-foot side yard setback. The proposed rear yard building setback is 15-feet, which exceeds the minimum required 5-foot setback. All of the proposed units are oriented to front the internal private access roads, and will not face directly toward any adjacent properties, in order to enhance privacy for both the neighboring properties and future residents.

Adequate emergency vehicle access is provided for by the private access road design, and provision of parking facilities. The proposal provides parking spaces both within the site and along the project frontages. According to *SCC 30.26.030(1)* 2 stalls per unit are required, which are provided in the proposed 2-car garages, and proposed driveways are also available for parking. Additional off-site parking is included in the 148th Street SW widening and the new 22nd Place W roadway, which will have 8-foot wide parking lanes according to the *EDDS*. Emergency vehicle access to the proposal will be facilitated by the proposed “looped” road system, with 2 access points that eliminate the need for any cul-de-sacs. The 20-foot wide access road, with 20-foot inside radius and 40-foot outside radius meet the minimum requirements for fire access. The minimum 10-foot building separation meets the requirements of the fire code, and fire hydrants will be provided for the proposal in accordance with the fire code. Fire District No. 1 has no objections to the proposal, subject to the provision of hydrants, paved roads, street addressing of proposed units, and marking of drive aisles as fire lanes, according to the letter dated Sep 28, 2007 (*Exhibit #28*).

The proposal adequately provides for the public health, safety and welfare. There is safe pedestrian access along the roadways serving the subject property, 148th Street SW and Jefferson Way, and the sidewalks that are included in the required frontage improvements will provide safe walking conditions for children to walk to, and wait at, school bus stops. Adequate off-street parking will be provided, and signage and/or striping of the access road with a “No Parking – Fire Lane” restriction, as required by the Fire Marshal, will provide a standard fire lane for emergency vehicle access.

The proposal is consistent with the designation of the Future Land Use Map, and with General Policy Plan Goals, Objectives, and Policies for Land Use, Housing, Utilities, and Natural Environment, and is therefore consistent with the comprehensive plan.

(2) The proposal bears a substantial relationship to the public health, safety and welfare:

- The rezone will result in more housing available to meet increased housing demand in this area, and promotes infill development that represents an efficient, more cost effective use of land.
- The infill development that will result from the rezone will represent the efficient use of existing infrastructure, rather than inefficiently extending new infrastructure in a “leap-frog” pattern that creates pockets of development separated by un-developed areas.
- Existing roads can be improved and upgraded to current standards. Sewer service will be required for development subsequent to the proposal, instead of septic systems that may have health risks associated with them.
- The resulting development permits will be subject to the requirements of the Unified Development Code, SCC Title 30 for site development. The stated purpose of the provisions of UDC is to safeguard the public health, safety, and general welfare. Therefore the proposal will not affect the public health, safety and welfare with any land development impacts.

These are all significant benefits that bear a substantial relationship to the public health, safety and welfare.

- Where applicable, minimum zoning criteria found in chapters 30.31A through 30.31F, SCC are met.
- Chapters 30.31A through 30.31F, SCC apply to business, industrial park, freeway, commercial, landing field, mineral, townhouse, rural business, rural industrial, rural freeway, and rural commercial zones.

COMMENT: The proposed LDMR zone is a residential zone, not any of the cited zones, therefore this criterion is not applicable.

Based on the above analysis of the rezone criteria, the proposed rezone meets all of the applicable criteria for approval of a rezone.

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

CONCLUSIONS:

1. The Examiner has jurisdiction to hear this matter and render a decision thereon.
2. The request is consistent with the GMACP; GMA-based County codes; and the type and character of land use permitted on the site and the permitted density with the applicable design and development standards.
3. 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.

4. Adequate public services and adequate provisions for the public health, safety and general welfare exist to serve the proposal.
5. As found above, the short plat portion of the application shall be handled administratively by PDS and this decision does not address that issue.
6. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

The requests for a **REZONE** are hereby **APPROVED**.

Decision issued this 18th day of July, 2008.

James A. Densley, Hearing Examiner Pro Tem

<p align="center">EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES</p>

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 **JULY 28, 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, 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 **AUGUST 1, 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.

Staff Distribution:

Department of Planning and Development Services: Scott Whitcutt

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.