

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

DATE OF DECISION: April 17, 2008

PLAT/PROJECT NAME: Bartlett Wood Short Plat and Rezone

APPLICANT/
LANDOWNER: Tim Woolsey
2921 128th St SE
Everett, WA 98208

FILE NO.: 06-135523-000-00-LU

TYPE OF REQUEST: Short Subdivision and Rezone

DECISION (SUMMARY): Approved, subject to conditions.

BASIC INFORMATION

GENERAL LOCATION: The property is located at 20031 Bartlett Road, Bothell in Section 24,
Township 27 North, Range 4 East, W.M., Snohomish County,
Washington.

Acreage: 1.73 acres

Avg. Lot Area: 7,530 square feet

Gross Density: 5.8 du/ac

Lots: 8

Smallest Lot Area: 5,879 square feet

ZONING: CURRENT: R-9600
PROPOSED: R-7,200

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Low Density Residential

School District:: Northshore School Dist. 417

Fire District:: No. 1

Water / Sewer Service: Alderwood Water and Sewer

SELECTED AGENCY RECOMMENDATIONS:

Department of Planning and Development Services: Approve

INTRODUCTION

The applicant filed the Master Application on March 15, 2007. (Exhibit 1)

The Hearing Examiner (Examiner) Pro Tem made a site familiarization visit on April 10, 2008 in the morning prior to the public hearing.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 19, 20 and 21)

A SEPA determination was made on March 10, 2008. (Exhibit 18) No appeal was filed.

The Examiner held an open record hearing on April 10, 2008, the 116th 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 April 10, 2008, 2008 at 10:00 a.m.

1. The Examiner, indicated that he had read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. Stacy Abbott, planner from Snohomish County Department of Planning and Development Services, appeared and testified under oath. She presented the county staff report.
3. Steven M. Smith, applicant's agent, appeared and testified under oath. He described the proposal.
4. No one appeared in opposition to the request.

The hearing concluded at approximately 10:30 a.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 these hearings 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, are hereby made a part of this file, as if set forth in full herein.
2. Nature of Request: The applicant is requesting an 8 lot short plat on a 1.73 acre parcel, with a concurrent rezone from R-9600 to R-7200. Access is proposed to be by a new public road for lots 2 through 8. Lot 1 will continue to take access from Bartlett Road. Water and sewer will be supplied by Alderwood Water and Wastewater District.

The short plat proposes a new public road to be dedicated. SCC 30.41B.030(1) requires short subdivisions with dedication of right-of-way for a new public road to be processed as a Type 2 process decision by the hearing examiner.

3. Site Description: This is a 1.73 acre site lying east of Bartlett Road. It is in close vicinity to Interstate 405. An existing duplex is located on the south end of the site. The duplex is to remain. No wetlands or critical areas exist onsite. The remaining land cover consists of grass and landscaping.

A Category 3 forested wetland is approximately 50-60 feet west of the subject property.

4. Adjacent zoning: This parcel fronts Bartlett Road on the southwest. The surrounding parcels are zoned R-9,600 and contain residential uses. A parcel almost immediately across the Bartlett Road has recently been to the County Hearing Examiner for a rezone action (PFN06-129988). The requested zone was R-7,200 and was approved on the record by the Examiner. There is a pending administrative short plat on that parcel. The surrounding parcels are zoned R-9,600 and contain residential uses.
5. Park Mitigation: The proposal is within Nakeeta Beach Park District No. 307 and is subject to Chapter 30.66A SCC, which requires payment of \$1244.49 per each new single-family residential unit to be paid at building permit issuance for each unit. Such payment is acceptable mitigation for parks and recreation impacts in accordance with county policies.
6. Traffic: PDS Traffic reviewed the proposal for compliance with Title 13 and Chapter 30.66B of Snohomish County Code, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures. The following is an extract of the comments of PDS Traffic:

1. Road System Capacity [SCC 30.66B.310]

A development must mitigate its impact upon the future capacity of the road system by paying a road system impact fee reasonably related to the impacts of the development on arterial roads located in the same transportation service area as the development, at the rate identified in SCC 30.66B.330 for the type and location of the proposed development.

The development will generate 63.64 new average daily trips (ADT) and has a road system impact fee of \$14,637.32 (\$2,091.05/lot) based on \$230/ADT, the current fee rate for residential developments inside the urban growth area, for TSA F. Consistent with SCC 30.66B.340, payment of this road system impact is required prior to building permit issuance.

5% credit for ADT and peak hour trips has been given to this project because a Transportation Demand Management (TDM) plan was submitted with the application and was found acceptable by DPW.

The estimates of trip generation for the development are based on the 7th Edition of the Institute of ITE Trip Generation Report as follows:

ITE Land Use Category	Single Family Detached Housing
ITE Land Use Code	210
Unit of Measurement (ITE Independent Variable)	Dwelling Units
Number of Applicable Dwelling Units for this development	7

Trip Generation Calculations Based on Average Rates	
New average daily trips	7 New SFRs x 9.57 ADT/SFR x 0.95 = 63.64 ADT
New AM peak-hour trips	7 New SFRs x 0.75 AM PHT/SFR x 0.95 = 4.99 AM PHT
New PM peak-hour trips	7 New SFRs x 1.01 PM PHT/SFR x 0.95 = 6.72 PM PHT

2. Concurrency [SCC 30.66B.120]

Since this development will not impact any arterial unit in arrears, nor will it cause any arterial unit to fall in arrears, and does not impact any designated ultimate capacity arterial units, it is deemed concurrent. A concurrency certificate has been included with Public Works' final recommendation dated March 31, 2007, which will expire six calendar years from the date the concurrency determination was made. Prior to the expiration date of the development's concurrency certificate, plat construction shall have been obtained, or a new concurrency determination will be required.

The development has been deemed concurrent on the following basis:

Development generating 50 or fewer peak-hour trips in TSA with one or more arterial unit in arrears, SCC 30.66B.160(2)(a). The subject development is located in TSA F which, as of the date of submittal, had the following arterial units in arrears: #337. Based on peak-hour trip distributions, the subject development did NOT add three (3) or more peak-hour trips to any of the arterial units in arrears. Pursuant to SCC 30.66B.160(2)(a) the development is determined concurrent. The development generates 4.99 a.m. peak-hour trips and 6.72 p.m. peak-hour trips which is not more than the threshold of 50 peak-hour trips in which case the development would also have to be evaluated under SCC 30.66B.035.

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

The subject proposal will not impact any IRC locations identified at this time within TSA F 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.

4. 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.

Full urban frontage improvements are required along the subject parcel's frontage on Bartlett Road and consist of:

Asphalt concrete pavement consisting of 18 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 road, Bartlett Road, on which the development is required to construct frontage improvements, is not currently programmed for an overlay.

The road, Bartlett Road, on which the development's frontage improvements are required, is not 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 not applicable.

Construction of urban frontage improvements is required prior to recording.

5. Access and Circulation [SCC 30.66B.420]

All developments are required to provide for access and transportation circulation in accordance with the comprehensive plan and SCC 30.66B.420, design and construct such access in accordance with the EDDS, and improve existing roads that provide access to the development in order to comply with adopted design standards, in accordance with SCC 30.66B.430.

Lot 5 shall abut the public road a minimum of 20 feet. The plans have been revised to adequately show 20 feet as required.

A public road is proposed with a turn around cul-de-sac for access into the short subdivision from Bartlett Road. The public road classification is "Residential" and the design speed is 25 mph. Since the length of the proposed public road is greater than 150 feet and the traffic volume is less than or equal to 90 ADT and there is no connectivity potential, a sidewalk is required on one side of the road and around the cul-de-sac. A planter strip is not required.

6. Dedication of Right-of-Way [SCC 30.66B.510 and 30.66B.520]

The road serving this development, Bartlett Road, is designated as a Non Arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 30 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, no additional right-of-way is required.

7. State Highway Impacts [SCC 30.66B.710]

Pursuant to SCC 30.66B.055 a written proposal from the applicant proposing measures to mitigate impacts on state highways is required and has been received as of the date of this memorandum. The applicant's obligation to the State is as follows:

Proportionate Share Mitigation (ILA Section 5.2)

Payment of \$2,291.04 (\$327.29/lot) based on standard rate of \$36/ADT

WSDOT was provided notice of application for this project and an opportunity to comment. Comments from WSDOT accepting the applicant's offer were received on March 26, 2008. WSDOT does agree to the mitigation measures proposed by the applicant. The County has reviewed the WSDOT requested mitigation and written proposal for mitigation submitted by the applicant and has determined that the proposed mitigation measures are reasonably related to the impacts of the development and recommends that they be imposed on the development as a condition of approval.

8. Other Streets and Roads [SCC 30.66B.720]

Mitigation requirements for impacts on streets inside cities and roads in other counties will be established consistent with the terms of inter-local agreements between the County and the other jurisdictions.

The proposed development is subject to SEPA and thus is subject to interlocal agreements for impacts on city streets. The City of Bothell has an ILA with the County and will be impacted by new trips from the subject development..

For impacts on the City of Bothell pursuant to the ILA and SCC 30.66B.055(4), a written proposal from the applicant proposing measures to mitigate impacts on city streets is required and has been received as of May 3, 2007.

The applicant has offered to provide the mitigation measures for impacts on city streets. The proportionate share mitigation is described in written proposal and based on standard payment by percent for \$3,479.61 (\$497.09/lot).

The City was provided notice of application for this project and an opportunity to comment. Comment from the City was received on March 25, 2008. The City does agree to the mitigation measures proposed by the applicant. The County has reviewed the City requested mitigation and written proposal for mitigation submitted by the applicant and has determined that the proposed mitigation measures are reasonably related to the impacts of the development and recommends that they be imposed on the development as a condition of approval.

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

Transportation demand management (TDM) is a strategy for reducing vehicular travel demand, especially by single occupant vehicles during commuter peak hours. TDM offers a means of increasing the ability of transportation facilities and services to accommodate greater travel demand without making expensive capital improvements. The County requires TDM of developments inside the UGA and developments that impact arterial units designated as ultimate capacity.

All new developments in the urban area shall provide TDM measures. Sufficient TDM measures shall be provided to indicate the potential for removing a minimum of five (5) percent of the development's P.M. peak hour trips from the road system. This requirement shall be met by the provisions of site design requirements under SCC 30.66B.640, as applicable, except where the development proposes construction or purchase of specific offsite TDM measures or voluntary payment in lieu of site design, in accordance with SCC 30.66B.620 and SCC 30.66B.625.

The applicant has submitted a TDM plan to fulfill this obligation that is acceptable. Therefore, the TDM obligation fee has been waived, and a 5% reduction credit on the number of ADT generated by this project has been given in Item 1.

10. Pedestrian Facilities [RCW 58.17.110]

Comments from the Northshore School District #417 (Exhibit 25) were received on March 26, 2007. The district indicated that students will be provided with bus service to school and that the bus stops will be at the intersection of Bartlett Road and 198th PI. SW for elementary students and at the intersection of Bartlett Road and Filbert Road (SR524) for junior high and high school students. It appears that there are existing sidewalks in places between the development property and Filbert Road. In order to meet the requirements to provide safe walking conditions for children walking to the bus stop, an offsite walkway meeting the design requirements of EDDS will be required in any locations where none currently exist.

7. School Impact: School impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Northshore School District No. 417, 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 the one existing lot.
8. Critical Areas: Although no critical areas are located on the subject property, the project proposes to construct a detention pond outfall adjacent to an off-site Category 3 wetland. SCC 30.62.340 requires a critical area study (Exhibit 16) for any activity allowed under SCC 30.62.350, 30.62.370 or 30.62.400. A Critical Area Study and mitigation plan has been submitted by Altmann Oliver Associates, LLC dated December 31, 2007. Stormwater retention/detention facilities, ditches, and biofilter swells are allowed within buffers per SCC 30.62.350(1)(d)(x). A mitigation plan is also required under SCC 30.62.345(1) to address the loss of area or functional value of the buffer. The applicant proposes to restore the buffer after installation of the ditch and outfall. According to the critical area study, the buffer is dominated by weeds and grass; however, up to 166 square feet of "shrubby" buffer will be disturbed. The applicant proposes to reseed the buffer within the "mow zone" and install shrubs, willow and red-osier dogwood, in the area of the detention pond outfall. Based on the information submitted by the applicant, the proposed mitigation should restore the original functions and values of the wetland buffer.
9. Drainage and Grading: The development's runoff will be conveyed to the water quality treatment facility located on the north end of the site in Tract 999. The facility is a wet pond with vertical walls. A detention screening plan has been submitted and approved as Exhibit 13.

Planning and Development Services (Engineering) reviewed the applicant's concept and recommended approval of the project, subject to conditions which would be imposed during full drainage plan review pursuant to Chapter 30.63A SCC (exhibit 15A). Grading quantities are anticipated to be approximately 2500 cubic yards of cut and 5000 cubic yards of fill, primarily for road, drainage facility, and home site construction. Water quality shall be controlled during construction by use of silt fences and straw bales in accordance with a Temporary Erosion and Sedimentation Control Plan (TESCP) required by Chapter 30.63A SCC.

10. Comprehensive Plan Compliance: The subject property is designated Urban Low Density Residential (ULDR: 4-6 DU/Ac) on the GPP Future Land Use map, and is located within an Urban Growth Area (UGA). It is not located within a mapped Growth Phasing Overlay. According to the GPP, the Urban Low Density Residential designation "covers various sub-area plan designations, which allow mostly detached housing developments on larger lot sizes. Land in this category may be developed at a density of four to six dwelling units per acre. Implementing zones include the R-7200, PRD-7200, R-8400, PRD-8400, R-9600, PRD-9600 and WFB zones."

The subject rezone and future development proposal is for an 8 lot short plat and rezone resulting in a density of 5.8 dwelling units per acre. The requested rezone is consistent with, and implements the General Policy Plan's Urban Low Density Residential designation of the property.

In addition to the GPP's direct statement that R-7,200 is an appropriate implementing zone for lands designated ULDR, the following are the relevant Goals and Policies of the GPP that apply to this application.

Land Use

The GMA requires that urban growth areas (UGAs) be designated through the county's plan. UGAs are to include areas and densities sufficient to permit the urban growth that is projected to occur in the county over the next twenty years. Urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities to serve such development, second in areas already characterized by urban growth that will be served adequately by a combination of both existing public facilities and services that are provided by either public or private sources, and third in the remaining portions of the urban growth areas. (LU-1)

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| GOAL LU 1 | Establish and maintain compact, clearly defined, well designed UGAs. |
| Objective LU 1.A | Establish UGA's with sufficient capacity to accommodate the majority of the county's projected population and employment growth over the next 20 years. |

The subject property is located in an area that is in essence "...already characterized by urban growth that have adequate existing public facilities and service capacities...". Public facilities and services such as, but not limited to, roads, sidewalks, water, sewer and storm collection currently exist, or are being constructed throughout the general vicinity. Fire protection and law enforcement services are available.

To promote efficient utilization of land within unincorporated UGA's, the county will encourage well-designed, more pedestrian-friendly urban development patterns with a greater mix of uses and a more efficient, creative use of land. By improving land use efficiency in UGA's, several GMA objectives can be accomplished:

- reduced dependence on the automobile;
- increased support for public transportation;
- improved air quality;
- increased choice of housing types;
- improved efficiency of infrastructure provision and usage; and
- reduced consumption of rural lands.....

....To improve the efficiency of urban residential land utilization, planning within UGA's and development regulations will ensure that future residential subdivisions will achieve a minimum net density of 4 to 6 dwelling units per acre except in areas within or near critical areas that are large in scope, with a high rank order value, and are complex in structure and function. In addition, the county will provide for higher density and mixed use housing types around and within centers and along major transportation corridors; encourage infill and intensification of areas at existing residential densities; and also broaden the variety of housing types within both traditional single family and multi-family neighborhoods while respecting the vitality and character of established residential neighborhoods. A mix of housing types with a range of densities will be encouraged throughout UGA's, as long as they are carefully sited, well designed, and sensitively integrated into existing communities.

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

Objective LU 2.A Increase residential densities within UGA's by concentrating and intensifying development in appropriate locations.

LU Policies 2.A.1 Within UGAs, development regulations shall be adopted and maintained which will require that new residential subdivisions achieve a minimum net density of 4-6 dwelling units per acre in all unincorporated UGA's except (1) in the UGA's of Darrington, Index, and Gold Bar as long as those cities do not have sanitary sewer systems and (2) in areas without sanitary sewers which the sewer purveyor with jurisdiction, or in nearest reasonable servicing proximity will certify are either an unsewered urban enclave or are not capable of being connected to public sewers via annexation within the next six years or by the improvements provided pursuant to its adopted six year capital facilities plan, (3) where regulations for development on steep slopes require reduced lot or dwelling unit yields, or (4) where a lower density is necessary because of the existence of critical areas that are large in scope, with a high rank order value, and are complex in structure and function. Lot size averaging, planned residential developments, sewerage regulations and other techniques may be used to maintain minimum density or to insure later development at minimum densities is not inhibited when sanitary sewers become available.

2.A.7 Rezones and subdivisions in areas designated Other Land Uses shall only be allowed when a detailed UGA plan and, if required by the General Policy Plan, a master plan has been adopted for the area.

This development will achieve 5.38 dwelling units per acre. Lot size averaging was utilized as well as open space. Minimum net density requirements were achieved. The parcel is located within the Southwest County UGA. This project meets these policies.

GOAL LU 5 Encourage land use patterns that create connected, identifiable neighborhoods and communities in UGAs through a consolidated system of past and future neighborhood plans.

Objective LU 5.A Revitalize or create identifiable, pedestrian-oriented neighborhood areas with focal points, mixed-use centers, and employment areas that are linked with each other.

5.A.9 Infrastructure improvements shall be coordinated and shall be provided, where financially feasible, to support the creation of neighborhoods, focal points, and Neighborhood and Community Commercial Centers.

This parcel is surrounded by and connected to new single family development and established neighborhoods. Infrastructure such as drainage, sidewalk and road improvements exists in the local area. Urban frontage improvements, including curb, gutter and sidewalks along the parcels frontage are required as part of the short plat. The short plat will provide a missing area of planter and sidewalk.

A mix of urban commercial/business park facilities are located approximately 2 miles to the west (196th Street SE).

Housing

The Housing Element relates closely to many elements of the Comprehensive Plan. The Land Use Element determines the types and locations of various types and densities of residential uses. This is part of the Land Use Element's function of laying out all land uses in suitable amounts, locations and relationships to each other.

The Housing Element is also closely tied to the county's land capacity evaluation program, particularly efforts to use urban land more efficiently (RCW 36.70A.215). Residential land uses are analyzed to assure that there is sufficient land devoted to the denser housing types where low and moderate cost housing development typically takes place.

The Housing Element and Economic Development Element are closely related. Affordable, well-planned housing located with good accessibility to employment is an essential part of a healthy economy. The Housing Element is related to Utilities, Capital Facilities and Transportation, as well as education and government services. All these facilities and services are necessary to support households directly, or support their ability to connect to jobs and government support programs.

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

Objective H0 2.A Promote opportunities for all county residents to reside in safe and decent neighborhoods.

2.A.4 The county shall encourage development and maintenance of safe and secure outdoor environments, including the development of safewalks in new subdivisions.

Full urban frontage improvements are required along the subject parcel's frontage on Bartlett Road. These improvements consist of 18 feet of pavement widening from the centerline of right-of-way, 5-foot sidewalk, 5-foot planter strip and vertical curb.

Utilities

The utility systems of water supply, wastewater collection and treatment, and electric power are widely considered as essential infrastructure to support urban development, and will be treated accordingly in this plan. There are some general goals, objectives, policies, and implementation measures that apply to all three utility systems, and these are presented in this and the next section. Utility-specific issues and corresponding goals, objectives, and policies are discussed in sections to follow.

Snohomish County is not a provider of public water, wastewater or electric power infrastructure, but it is well suited to play a leadership role in overall coordination of the provider agencies. The county is also ultimately responsible for water service (water supply) if a water district fails or becomes financially insolvent. The GMA calls upon counties to be regional service providers and inter-jurisdictional infrastructure planning coordination is one such service. The county has assumed this role by managing the preparation of the Coordinated Water System Plan which involved over 25 water system operators in north and east Snohomish County and through its compilation of the countywide sewer and water system inventory.

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| GOAL UT 1 | Enhance the efficiency and quality of service from utility providers through the review of utility, land use, transportation and natural environment planning documents. |
| 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. |
| UT Policy 2.A.1 | The county shall review new residential projects requiring land use or construction permit approval for the availability of an adequate water supply. |
| UT Policy 3.A.1 | The county shall review new residential project within urban growth areas requiring land use or construction permit approval fro the availability of an adequate public wastewater and treatment system. |
| Electric Power | All electric power in Snohomish County is provided by Snohomish County Public Utility District #1...(page UT-7). |

This project will connect to public water and sewer as required. Electricity is available to the subject site.

Transportation

The transportation element has to be consistent with and supportive of the land use element of the comprehensive plan. The GMA provides detailed guidance on what the transportation element should present, including:

- land use assumptions used in estimating travel, and an inventory of transportation facilities and services;
- level of service standards and actions necessary to allow transportation facilities and services to meet the standards;
- identification of transportation system needs to meet current and future travel demand;

- a multi-year finance strategy that balances needs against available funding,
- strategies for intergovernmental coordination and transportation system impact assessment; and
- strategies for reducing travel demand.

The county provides for different types and levels of transportation services to urban areas versus rural areas. People living in low-density areas traveling to employment dispersed throughout the county tend to use the automobile over other modes of transportation. It is very difficult to serve these types of trips with traditional, fixed route, public transportation (i.e., bus or rail). Ridesharing services such as vanpools and personalized ridematching for carpools may be the most appropriate form of mass transportation for rural areas. Public transportation is most effective in moving people where population and employment are concentrated in denser neighborhoods and Activity Centers. Urban site design needs to accommodate public transportation by allowing efficient access and circulation of transit vehicles.

TR 1.C.2 Adequate access to and circulation within all developments shall be maintained for emergency service and public transportation vehicles.

Access to each proposed lot will be from the new public road via Bartlett Road and accessible by emergency vehicles.

TR 1.C.4 Local residential streets shall be designed that link neighborhoods and complementary land uses for efficient circulation and discourage high speed vehicular traffic.

TR 1.C.5 Roadway networks shall be designed with direct routing and connections to avoid concentrating the burden of traffic flow on a few roadways.

The subject rezone has frontage on Bartlett Road, which is part of the existing road network. Due to the size of the subject property and location of surrounding roads, it is not practical, feasible, or necessary to apply policies TR 1.C.4 and TR 1.C.5 although they have been considered.

TR 1.C.8 Access to a single roadway shall be limited as determined necessary to protect public safety and minimize traffic conflicts and delay.

The subject rezone has frontage on Bartlett Road. This is consistent with TR 4.D.

TR 1.C.9 Existing roadways shall be improved to meet adopted design standards in order to enhance the safety and mobility of pedestrians, transit users, bicyclists and motorized traffic as part of construction of frontage improvements by developments and by the county as funding allows within the county's capital improvement program.

TR 1.C.10 Developments taking access from existing roadways shall be required to make offsite improvements to improve them to at least minimum standards for vehicular access based upon such factors as the volume and other characteristics of existing and newly-generated traffic.

Applicable frontage improvements have been required per TR 1.C.9 and TR 1.C.10. Consistent with TR 4.E, required frontage improvements include pedestrian facilities. These facilities will be reviewed under the Snohomish County EDDS and ADA standards at the time of construction review. Based on preliminary review it appears feasible to construct compliant facilities. The surrounding road system meets minimum standards for emergency access and vehicle circulation.

The impacts of the subject development on the County road system will be negligible and all applicable mitigation has been required.

The proposed rezone and proposed future development plan is consistent with the General Policy Plan statement for encouraging and broadening the mix of urban housing types, promoting more efficient utilization of land within UGAs and reducing consumption of rural lands; the proposed development plan will implement as well as encourage the policies and objectives from Land Use, Utilities, Transportation and Housing elements from the GPP.

11. Zoning: This project meets zoning code requirements for lot size, including lot size averaging provisions, bulk regulations and other zoning code requirements. Adequate public services, including parks, schools, sewer/water, public transit, fire and police protection, and public power exist, or are in the planning stages, to serve the potential increase in residential density that would result from this rezone request.
12. Short Subdivision: The proposed short plat meets Chapter 30.41B SCC requirements. The proposed short plat as conditioned also meets the general requirements under Section 30.41B.200 with respect to health, safety and general welfare of the community. As proposed, the subject lots will not be subject to flood, inundation or swamp conditions. The lots as proposed are outside of all regulated flood hazard areas. As conditioned, the plat will meet all SCC 30.41B.200 design standards for roads.
13. Plats-Subdivisions-Dedications: The plat is in conformance with criteria established by RCW 58.17.100, .110, .120, and .195. Such criteria require that the short plat conform with applicable zoning ordinances and comprehensive plans, and make appropriate provisions for the public health, safety and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and other planning features including safe walking conditions for students.

The proposed short plat conforms with applicable zoning codes and the comprehensive plan. There is open space provided within the plat in the form of buffer areas, the single-family homes on small lots will be in character with the existing neighborhood. Provisions for adequate drainage have been made in the conceptual plat design which indicates that the final design can conform to Chapter 30.63A SCC and State DOE drainage standards. The plat, as conditioned, will conform to Chapters 30.66A, B and C SCC, satisfying county requirements with respect to parks and recreation, traffic, roads and walkway design standards, and school mitigation. Water and sewer are to be provided by Alderwood Water and Wastewater District.

As indicated in the correspondence received from the Alderwood Water and Wastewater District (Exhibit 29), water and sewer will be available to serve the proposed development. The Snohomish County PUD #1 indicates that it has sufficient capacity to provide electrical service to the proposed development (Exhibit 28).

14. Rezone considerations: The hearing examiner may approve a rezone only when all 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.

REQUIRED FINDINGS

- A. The rezone proposal is consistent with the Comprehensive Plan. The subject property is located within an Urban Growth Area (UGA) and is designated Urban Low Density Residential (ULDR: 4-6 DU/Ac) on the GPP Future Land Use map. The GPP states that R-7,200 is an implementing zone for lands designated ULDR and that housing of various types should be directed to the UGA. Therefore, based on the finding that the subject property is designated Urban Low Density Residential (ULDR: 4-6 DU/Ac) on the GPP Future Land Use map the requested rezone is consistent with the adopted comprehensive plan.
- B. The requested rezone bears a substantial relationship to the public health, safety, and welfare.
- The requested rezone conforms to the Comprehensive Plan, and through detailed review by PDS adequate provisions have been made to ensure compliance with the County's development codes in the UDC. Therefore, the rezone implements public policy and advances the public health, safety and welfare.
- C. The minimum zoning criteria found in chapters 30.31A through 30.31F SCC are NOT applicable to this application.

This rezone is a request to up-zone the subject property in the Urban Low Density Residential (ULDR) designation from R-9,600 to R-7,200 to allow a total of 8 single family homes.

15. As previously found, public water and sewer service will be available for this development as well as electrical power.
16. 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 includes an application 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 exist to serve the proposal.
5. With the conditions below, the proposal makes adequate provisions for the public health, safety and general welfare.
6. The request should be approved as submitted.
7. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

APPROVAL of the rezone is granted. APPROVAL of the proposed short plat is granted subject to the following CONDITIONS:

CONDITIONS OF APPROVAL:

- A. The preliminary plat short received by PDS on August 17, 2007 (Exhibit 14) shall be approved plat configuration.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
 - i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
 - ii. The plattor shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by Chapter 30.62 SCC, or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the county.
 - iii. A final mitigation plan based on the Revised Critical Areas Study for Bartlett Wood prepared by Altmann Oliver Associates, LLC (December 31, 2007) and the Area A Planting Plan provided on the Final Restoration Plan Site Plan Impacts & Mitigation/Planting Plan prepared by Altmann Oliver Associates, LLC (December 24, 2007) shall be submitted for review and approval during the construction review phase of this project.
- C. The following additional restrictions and/or items shall be indicated on the face of the final plat:
 - i. "The lots within this subdivision will be subject to school impact mitigation fees for the Northshore School District No. 417 to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application, and to be collected prior to building permit issuance, in accordance with the provisions of SCC 30.66C.010. Credit shall be given for 1 existing parcel. Lot 1 shall receive credit."

- ii. "SCC Chapter 30.66B requires the new lot mitigation payments in the amounts shown below for each single-family residence building permit.

\$2,091.05 per lot for mitigation of impacts on county roads paid to the County,
\$327.29 per lot for mitigation of impacts on state highways paid to the County,
\$497.09 per lot for mitigation of impacts on City streets for the City of Bothell paid to the City. Proof of payment shall be provided.

These payments are due prior to or at the time of each building permit issuance. Notice of these mitigation payments shall be contained in any deeds involving this short subdivision, short subdivision of the lots therein. Once building permits have been issued all mitigation payments shall be deemed paid by PDS."

- iii. All Critical Areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made) with the following language on the face of the plat;

"All NATIVE GROWTH PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur, except removal of hazardous trees. The activities as set forth in SCC 30.91N.010 are allowed when approved by the County."

- iv. The dwelling units within this development are subject to park impact fees in the amount of \$1,244.49 per newly approved dwelling unit for the Nakeeta Beach service area of the county park system pursuant to Chapter 30.66A. Payment of these mitigation fees is required prior to building permit issuance; provided that the building permit has been issued within five (5) years after the application is deemed complete. After five years, park impact fees shall be based upon the rate in effect at the time of building permit issuance.

D. Prior to recording of the final plat:

- i. Urban standard frontage improvements shall have been constructed along the property frontage with Bartlett Road unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development. [SCC 30.66B.410]
- ii. Construction of an offsite walkway to the specification of the County for public school students to walk to the bus stop locations at Bartlett Road and 198th Pl. SW and at Bartlett Road and Filbert Road as identified by the Northshore School District shall have been completed in any locations where none exist.
- iii. The features on the approved TDM plan (exhibit 23) shall have been constructed.
- iv. Native Growth Protection Area boundaries (NGPA) shall have been permanently marked on the site prior to final inspection by the county, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The plattor may use other permanent methods and materials provided they are first approved by the county. Where an NGPA boundary crosses another boundary (e.g.: lot, tract, plat, road, etc.), a rebar marker with surveyors' cap and license number must be placed at the line crossing.

- v. NGPA signs shall have been placed no greater than 100 feet apart around the perimeter of the NGPA. Minimum placement shall include one Type 1 sign per wetland, and at least one Type 1 sign shall be placed in any lot that borders the NGPA, unless otherwise approved by the county biologist. The design and proposed locations for the NGPA signs shall be submitted to the PDS for review and approval prior to installation.
 - vi. The final mitigation plan (buffer restoration) shall be completely implemented.
- E. In conformity with applicable standards and timing requirements:
- i. The preliminary landscape plan (Exhibit 13) shall be implemented. All required detention facility landscaping shall be installed in accordance with the approved landscape plan.
- F. All development activity shall conform to the requirements of Chapter 30.63A SCC.

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.

Preliminary plats which are approved by the county are valid for five (5) years from the date of approval and must be recorded within that time period unless an extension has been properly requested and granted pursuant to SCC 30.41A.300.

Decision issued this 17th day of April, 2008.

James Densley, 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 **APRIL 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 **MAY 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 this case.

Staff Distribution:

Department of Planning and Development Services: Stacey Abbott

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.