

**DECISION OF THE SNOHOMISH COUNTY
HEARING EXAMINER PRO TEMPORE**

DATE OF DECISION: September 19, 2008
PROJECT NAME: **NANCY MILLS SHORT PLAT**
APPLICANT/OWNER: Nancy Mills
FILE NO: 07-100552-000-00-LU
TYPE OF REQUEST: **REZONE**
DECISION: **APPROVE** Rezone

BASIC INFORMATION

PROJECT LOCATION: 22727 84th Avenue West, Edmonds, on the northwest corner of the intersection of 84th Avenue W. and 228th St. SW, in Sec 30, T27N, R4E, W.M.
ACREAGE: .34
NUMBER OF LOTS: 2
LOT AREAS: 6,940 and 6,954 square feet
CURRENT ZONING: R-8,400
PROPOSED ZONING: R-7,200
DENSITY: 5.56 du/ac – gross; 6.25 du/ac – net
COMPREHENSIVE PLAN
 General Policy Plan: Urban Medium Density Residential
SCHOOL DISTRICT: Everett School District No. 15
UTILITIES
 Water: Olympic View Water District
 Sewer: City of Edmonds
FIRE DISTRICT: #1

PDS
RECOMMENDATION: Approve with conditions

INTRODUCTION

The applicant filed the Master Application on May 1, 2007. The application was determined to be complete for regulatory purposes as of the date of submittal. A resubmittal was made on May 15, 2008.

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

A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on July 9, 2008. No appeal was filed.

The Examiner held an open record hearing of August 28, 2008. Witnesses were sworn, testimony was presented, and exhibits were entered. The decision here is based on the record made.

PUBLIC HEARING

The public hearing commenced on August 28, 2008, at 3:03 p.m.

1. The applicant was represented by Steve Edwards of Cascade Surveying.
2. PDS was represented by Roxanne Pilkenton, Planner.
3. There was no public testimony.

The hearing concluded at 3:15 p.m.

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

FINDINGS OF FACT

1. The master list of exhibits is in the record in this file. All exhibits were considered by the Examiner and are hereby incorporated by reference, as if set forth in full herein.
2. The PDS Staff Report has correctly analyzed the nature of the application and the application's consistency with adopted codes, policies and land use regulations. The Staff Report is hereby adopted by the Examiner as if set forth in full herein.

3. There have been no public comments indicating concern over the subject rezone and concurrent short plat.
4. The flat .34 acre site is currently developed with two single family residences. There are no critical areas on site or within 100 feet of the site boundaries.
5. The applicant is requesting a rezone from R-8,400 to R-7,200 with a concurrent 2-lot short plat. The existing residences on proposed lots 1 and 2 are to remain. The short plat is an administrative decision the approval of which is contingent on approval of the subject rezone.
6. Water and sewer will be provided by the Olympia View Water District. Sewer service will be provided by the City of Edmonds.
7. All properties adjacent to this site are zoned R-8,400 and contain existing residential uses.
8. Access to Lot 1 is via an existing 20-foot driveway off of 84th Avenue West. Access to Lot 2 is via an existing 17-foot driveway off of 228th Street. The Staff has found this access arrangement acceptable.
9. PDS has determined the appropriate impact fees to be paid and conditions specifying the proper amounts are to be set forth in the plat approval. Concurrency standards are met.
10. The applicant shall construct 18 feet of paved asphalt roadway, curb and gutter and a five foot sidewalk along the development's frontage on 228th Street SW and 84th Avenue West, per a deviation request approved by the County Traffic Engineer on July 30, 2007.
11. Staff has concluded that the short plat is in compliance with emergency access and fire hydrant requirements. The location of the fire hydrant has been approved as shown on the preliminary short plat.
12. A 15-foot dedication of right-of-way along 84th Avenue West will be required. Due to the location of the existing structures on the site that are to remain, the applicant requested that no additional right-of-way be dedicated along 228th Street SW. Council approval for this request was given on April 16, 2008.
13. School bus stops on 84th Avenue W will provide transportation to children attending elementary and middle schools High school students will walk to school at 7500 212th Street SW. Adequate pedestrian facilities exist along most walking routes. No offsite pedestrian facilities will be required.
14. The subject property is located within an Urban Growth Area (UGA), and is designated by the Comprehensive Plan as Urban Medium Density Residential (UMDR: 6-12 du/ac). The proposed R-7,200 zoning is an implementing zone for this designation. The proposed 2-lot short plat resulting in a net density of 6.25 dwelling units per acre implements and is consistent with the Plan's UMDR designation.

15. The Staff Report (pp. 9-13) contains a thorough review of Comprehensive Plan goals and policies that will be carried out by the subject development. The Examiner concurs in this discussion.
16. The R-7,200 zone will allow another legal lot to be created so that each of the existing residences will have its own separate lot status. The style and design of these residences is consistent with adjoining residences. There are several LDMR projects to the north, east and west, providing a mix of housing types. The requested rezone will not affect the character of the neighborhood. The rezone implements the infill policy of HO 1.D.3. by helping to meet area minimum density needs.
17. The Examiner concurs with Staff that the rezone is consistent with the Comprehensive Plan. Moreover, the Examiner finds that the proposal bears a substantial relationship to the public health, safety, and welfare.
18. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

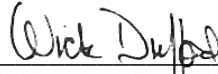
1. The Examiner has jurisdiction over this proceeding.
2. The requirements of SEPA have been met.
3. Under SCC 30.42A.100, the Hearing Examiner may approve a rezone only when all of the following criteria are met:
 - a) The proposal is consistent with the comprehensive plan.
 - b) The proposal bears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

DECISION

The request for approval of a Rezone from R-8,400 to R-7,200 is **GRANTED**.

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

Decision issued this 19th day of September, 2008



Wick Dufford, Hearing Examiner Pro Tempore

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

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

Reconsideration

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 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 **SEPTEMBER 29, 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 **OCTOBER 3, 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: Dorothy Crossman

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.