

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

DATE OF DECISION: May 29, 2008

PLAT/PROJECT NAME: **LARCH WAY SHORT PLAT**

APPLICANT/
LANDOWNER: Tri Star Homes, Inc.

FILE NO.: 07 101577 LU

TYPE OF REQUEST: **REZONE** from Residential-9600 (R-9600) to Residential-7200 (R-7200); and approval of 5 lot short plat, utilizing lot size averaging and dedication of right-of-way for extension of 8th Place W

DECISION (SUMMARY): APPROVED subject to Conditions

BASIC INFORMATION

GENERAL LOCATION: The project site is located at 17907 Larch Way, Lynnwood, WA

ACREAGE: 1.06 acres

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

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Low Density Residential

UTILITIES:

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

SCHOOL DISTRICT: Edmonds

FIRE DISTRICT: No. 1

SELECTED AGENCY RECOMMENDATIONS:

Department of:
Planning and Development Services: Approve subject to conditions

INTRODUCTION

The applicant filed the Master Application on April 11, 2007. See Exhibit 1.

The Hearing Examiner (Examiner) made a site familiarization visit on May 12, 2008, in the morning.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by SCC 30.72.030(4). See Exhibits 6A (mailing), 6B (publication) and 6C (posting).

A SEPA determination was made on April 8, 2008. See Exhibit 5B2. No appeal was filed.

The Examiner held an open record hearing on May 14, 2008, the 82nd 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 May 14, 2008 at 10:02 a.m.

1. Dorothy Crossman, Land Development Specialist, appeared on behalf of PDS and gave an overview of the rezone request and answered questions from the Examiner.
2. Wendy Downer appeared on behalf of the applicant, TriStar Homes Short Plat. Mark Flury also appeared and testified on behalf of the applicant.
3. Sharon Holt appeared and testified in opposition to the request.

The hearing concluded at 10:33 a.m.

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

FINDINGS OF FACT

1. All exhibits and witnesses included on the Master Exhibit and Witness List were considered by the Examiner and are hereby incorporated by reference, as if set forth in full herein.
2. State Environmental Policy Act Compliance. A Revised Determination of Nonsignificance (DNS) was issued April 8, 2008. Exhibit 5B2. The DNS was not appealed.

3. Nature of Request: The applicant is requesting a rezone from R-9600 to R-7200 with a concurrent 5-lot short subdivision of 1.06 acres, utilizing lot size averaging. The existing residence will continue to take access from Larch Way. A new public road extension of 8th Place West will provide access to Lots 1 through 4. Water and sewer will be provided 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.

4. Site description: The site is developed with one single-family residence that is served by on-site sewage disposal. The house will remain, and public sewer will be extended from 8th Place West. Generally, the site has a slope of 12.5% to the east. The existing vegetation is lawn and landscaping with several stands of fir trees along the north and south property lines. The soils are Alderwood Urban Land Complex.
5. Adjacent uses: Adjacent properties are zoned R-9600; however, the subject property is connected to Starlite Court, which is zoned PRD-7200, by a 23-foot panhandle which will be dedicated public road right-of-way as part of the proposed extension of 8th Place West. Approximately 350 feet north of the site, properties are zoned PRD-7200 and 7200.
6. Transportation:

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 and recommended approval.

A. 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 (TSA) 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 38.28 new average daily trips (ADT) and has a road system impact fee of \$8,804.40 (\$2,201.10/lot) based on \$230/ADT, the current fee rate for residential developments inside the urban growth area, for TSA F. These figures do not include credit for on-site TDM measures. Consistent with SCC 30.66B.340, payment of this road system impact is a condition of approval.

B. Concurrency [SCC 30.66B.120]

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent as of May 30, 2007. The expiration date of the concurrency determination is six years from this date.

The development has been deemed concurrent on the following basis: 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 3.00 a.m. peak-hour trips and 4.04 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.

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

Regardless of the existing level of service, any development which adds three or more p.m. peak-hour trips to a location in the road system determined to have an existing inadequate road condition (IRC) at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC.

The subject development proposal will not impact any IRC locations identified 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.

D. Frontage Improvements [SCC 30.66B.410]

All developments are 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 Larch Way and consist of 23 feet of pavement from roadway centerline to the face of curb (including a bicycle lane), curb and gutter, a planter strip with a width of 5 feet, and a 5-foot wide sidewalk

Larch Way, 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 frontage improvements is required prior to recording unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development. Construction of frontage improvements is a condition of approval.

E. 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.

The applicant submitted a waiver request on January 15, 2008, (Exhibit 7E) to allow the existing residence on proposed Lot 5 to continue to take access from Larch Way. The waiver has been approved with the condition that the existing circular driveway be removed and replaced with a single drop curb driveway per EDDS Chapter 2. This has been shown on the targeted drainage plan submitted March 13, 2008 (Exhibit 2C).

Access to Lots 1 through 4 will be provided by the extension of 8th Place W. The subject development does not currently front opened right-of-way on 8th Place W. Forty-six feet of unopened right-of-way exists to the south of the subject property. The western half of the right-of-way was established with the boundary line adjustment PFN 07 101427. The eastern half of the right-of-way was established with the plat of Starlite Court PFN 99 103874.

A temporary 40 foot radius turnaround was provided at the end of 8th Place W as part of the plat of Starlite Court PFN 99 103874. The targeted drainage plan includes the removal and restoration of the temporary cul-de-sac turnaround as a construction note. The removal and restoration of the temporary cul-de-sac turnaround is a condition of approval.

A 51-foot right-of-way section has been provided through the site to accommodate extension of 8th Place W. Proposed Lots 1 and 2 will take access directly from 8th Place W. A shared access easement will provide access for Lots 3 and 4 onto 8th Place W. Access for Lot 2 shall be limited to 8th Place W as only two lots may take access from a shared driveway. Construction of the extension of 8th Place W is a condition of approval.

On July 23, 2007, the County Engineer conditionally approved the EDDS deviation request (Exhibit 7B) for a reduced road section for the extension of 8th Place W to the southern property line of the subject development. The road section will consist of 24 feet of pavement with curb and gutter, a 5-foot planter, and 5-foot sidewalk on both sides. These improvements will fit within the 46-foot unopened right-of-way section. The 24-foot road section exceeds the minimum standard for emergency vehicle access. The conditions of the approval were that a road section meeting the current EDDS standard be provided with widening of 8th Place W to occur on the west or east side of the road only so that a functional parking lane is established; and that a 40-foot radius temporary cul-de-sac turnaround easement be provided.

The applicant proposed to surface the temporary turnaround outside of the required road section with grasscrete in an EDDS deviation request received March 13, 2008 (Exhibit 7C). Grasscrete is not an approved surfacing for public facilities. On March 31, 2008, the County Engineer conditionally approved the deviation request as follows: Grasscrete may only be used outside of the standard road section and public right-of-way; however, the grasscrete may abut the back of sidewalk. Installation and design specifications for the grasscrete shall be included in the construction plans. The grasscrete shall be designed for use by emergency and fire vehicles. The grasscrete turnaround shall be maintained by the adjacent property owners as a recommended condition of approval.

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

A development shall be required to dedicate, establish, or deed right-of-way to the county for road purposes as a condition of approval of the development, when to do so is reasonably necessary as a direct result of a proposed development, for improvement, use or maintenance of the road system serving the development.

Larch Way is designated as a collector arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 40 feet on each side of the right-of-way centerline. Currently, 20 feet of right-of-way exists on the development's side of the right-of-way. On November 5, 2007, the County Engineer approved the reduction of right-of-way required along the subject development's frontage on Larch Way to 35 feet (Exhibit 7A). Fifteen feet of right-of-way dedication has been adequately shown on the face of the preliminary short plat map.

Larch Way is not 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 dedicated that is more than 30 feet from centerline is not applicable.

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

When a development's road system includes a state highway, mitigation requirements will be established using the County's SEPA authority consistent with the terms of the interlocal agreement (ILA) between the County and the Washington State Department of Transportation (WSDOT). This is consistent with the County's SEPA policy SCC 30.61.230(9), through which the county designates and adopts by reference the formally designated SEPA policies of other affected agencies for the exercise of the County's SEPA authority.

This development is subject to SEPA and thus is subject to an ILA with the WSDOT/County effective December 21, 1997, and as amended. 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.

WSDOT was provided notice of application for this project and an opportunity to comment. Comments from WSDOT were received via e-mail on May 15, 2007 (Exhibit 8C). Based on the small size of the subject development it is not anticipated that the development will have any adverse impacts on state highways. Therefore, WSDOT does not require any mitigation measures from the applicant. The County has reviewed the WSDOT requested mitigation and written proposal for mitigation submitted by the applicant and has determined that mitigation measures for impacts to state highways will not be imposed on the development as a condition of approval.

H. 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 interlocal agreements between the County and the other jurisdictions.

There are city jurisdictions that have an ILA with the County that will be impacted by new trips from the subject development. The proposed development is subject to SEPA and thus is subject to interlocal agreements for impacts on city streets and is affected by the interlocal agreement (ILA) with the cities of Bothell and Mill Creek

For impacts on the City of Bothell, and 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 dated January 25, 2008 (Exhibit 8H) The applicant has offered to provide the mitigation measures for impacts on city streets as follows: \$2,093.00 as described in the written proposal. The city was provided notice of application for this project and an opportunity to comment. Comments from the city have been received as of February 20, 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.

For impacts on the City of Mill Creek, and 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 January 12, 2008. (Exhibit 8B) The City has no comment regarding the subject development. No mitigation is required as the development is under the threshold for traffic mitigation.

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

TDM is a strategy for reducing vehicular travel demand, especially by single occupant vehicles during commuter peak hours. The County requires TDM of developments inside the UGA and developments that impact arterial units designated as ultimate capacity.

Since a TDM plan was not submitted with the initial application, a cash payment is required. The trip reduction percentage for this development is five percent. The TDM obligation for this development is \$303.00 (\$75.75/lot). A written offer for payment of this TDM obligation is required before the County can make a final recommendation of approval and was received as of April 11, 2007 (Exhibit 2E).

J. Pedestrian Facilities [RCW 58.17.110]

The County is required to make findings regarding safe walking conditions for school children who may reside in the subject short subdivision. Comments from the Edmonds School District dated May 2, 2007 have been received as of May 21, 2007 (Exhibit 8D).

School children from the subject development will be bused to their respective schools. Children attending Martha Lake Elementary will be picked up at Larch Way and 181st Place SW, attending Alderwood Middle School at 17918 Larch Way, and attending Lynnwood High School at Larch Way and 178th Street SW. As conditioned by the approval of the application, the applicant shall include sidewalks within and off the development. The provision of safe off-site pedestrian facilities, where none exist, is a condition of approval.

7. Environmental Impacts of Higher Density.

A. **Grading, drainage, and critical areas.**

Drainage will be collected and conveyed to a detention vault located in Tract 999 along the southeast property corner. Water quality will be provided by Stormfilter cartridges downstream of the detention vault. Outfall shall be to a level spreader located more than 20-feet from the eastern property line which will mimic the existing, pre-developed flow patterns. Each lot will be provided with a roof downspout infiltration system. These systems will reintroduce rooftop runoff to the till/outwash interface mimicking the interflow that is currently occurring on site. These are included as an effort to mimic the current onsite drainage pattern and not as an effort to reduce the required detention volumes. The downspout infiltration systems will be constructed with an overflow which will direct excess runoff to the proposed detention vault.

A Waiver Request (Exhibit 7F) to allow the use of grasscrete in the construction of the temporary cul-de-sac turnaround outside the normal roadway pavement of 8th Place West has been approved by the County Engineer. In the final Drainage Report, the grasscrete surface shall be calculated as 50% impervious.

A Waiver Request (Exhibit 7D) to allow a portion of the level spreader to be placed in an easement on Lot 1 was conditionally approved. It is a recommended condition of approval of the short plat that the downstream area beyond the level spreader is to remain fully vegetated in both the Drainage Tract 999 and drainage easement on Lot 1.

Surface Water Management was contacted with a request to review downstream documented drainage complaints. There were no recorded complaints within ¼ mile downstream of the site. The downstream corridor appears adequate to continue to receive controlled runoff from the site. No downstream flooding is reported or impacted by this project.

PDS (Engineering) reviewed the concept offered and is recommending approval of the project, subject to conditions which would be imposed during full drainage plan review pursuant to Chapter 30.63A SCC. Grading quantities are anticipated to be approximately 360 cubic yards of cut and 360 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 Plan (TESCP) required by Chapter 30.63A SCC.

There are no critical areas on the site or within 100 feet.

B. **Parks impacts.**

The proposal is within Nakeeta Beach Park District No. 307 and is subject to Chapter 30.66A SCC, which requires payment of \$1,244.49 per each new single-family residential unit. Such payment or contribution of in-kind mitigation is acceptable mitigation for parks and recreation impacts in accordance with county policies and is a recommended condition of approval.

C. Schools.

Pursuant to Chapter 30.66C SCC, school impact mitigation fees will be determined according to the Base Fee Schedule in effect for the Edmonds School District No. 15, 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. General Policy Plan Designation. Four elements of the Snohomish County GMA Comprehensive Plan (GMACP) were adopted pursuant to Ordinance 94-125, which became effective on July 10, 1995. These elements are: the General Policy Plan (GPP); the Transportation Element; the 1995-2000 Capital Plan; and the Comprehensive Park & Recreation Plan. The General Policy Plan has been revised since its initial adoption by a number of amendments. On December 21, 2005, effective February 1, 2006, the Council adopted Amended Ordinances 05-069 through 05-079, 05-081 through 05-085, 05-090 which amended the map and text of the Snohomish County GMA Comprehensive Plan, added rural lands to Urban Growth Areas and adopted area-wide rezones within the Urban Growth Areas of the county respectively. This application was complete after the effective date of the Amended Ordinances. Therefore, the subject application has been evaluated for consistency with the version of the GMA Comprehensive Plan, which became effective on February 1, 2006, and as revised through the completeness date of the application.

The subject rezone and future development proposal is for a 5 lot short plat and rezone resulting in a density of 6.1 dwelling units per acre. Consistency with policies implementing the comprehensive plan will be discussed in the conclusions of law, below.

9. As a part of approving the development under the short subdivision code, PDS is required to make findings regarding safe walking conditions for school children who may reside in the subject development. Comments dated May 2, 2007, have been received from the Edmonds School District (Exhibit 8D) that indicate school children from the subject development will be bused to their respective schools. Children attending Martha Lake Elementary will be picked up at Larch Way and 181st Place SW, attending Alderwood Middle School at 17918 Larch Way, and attending Lynnwood High School at Larch Way and 178th Street SW. The provision of safe off-site pedestrian facilities, where none exist, is a condition of approval.

In order to meet the requirements to provide safe walking conditions for children walking to the bus stop, the applicant will be required to install off-site walkway meeting the design requirements of EDDS in any locations where none currently exist to the bus stop location from the development.

Public comments

10. Three public comments have been received by e-mail relating to concerns about a tree, relocation of playground equipment in the recreation tract, restoration of the temporary turnaround, and the storm drain connection to the drainage facility in Starlite Court. A fourth comment on the Revised Determination of Non-Significance was received by letter from the City of Lynnwood.

The e-mail dated April 30, 2007, from Katherine Amodei (Exhibit 9A) expressed concern over the fate of a large willow tree on the boundary of her property and the subject property and the potential damage to her fence if the tree is removed. She later followed up in the February 8, 2008, e-mail that the applicant had contacted her and agreed to save the tree.

A second e-mail was received August 27, 2007, from Keith Degler (Exhibit 9B). Mr. Degler owns a house next to the proposed short plat and is also the Secretary/Treasurer for the Homeowners' Association of Starlite Court. His first concern is the close proximity of playground equipment in Starlite Court's Tract 999 to the proposed extension of 8th Place West. Secondly, he asks that the existing temporary turnaround between Lots 7 and 8 of Starlite Court be landscaped to match the existing area. Third, he raises the concern that the proposed storm drain will cross property owned by the Homeowners' Association.

These issues are addressed in an e-mail from the applicant, Patrick Crosby, dated January 25, 2008, (Exhibit 10) in which he agrees to accept responsibility for the cost of moving playground equipment and to provide landscaping for the temporary turnaround area. He also explains that the drainage system of the proposed short plat has been redesigned and will not involve a need to cross other properties. PDS staff concurs with these resolutions.

A third e-mail dated August 21, 2007, was received from Barry Siler (Exhibit 9C). Mr. Siler owns Lot 10 of Starlite Court over which there is a private drainage easement to the plat's detention system. In his e-mail, Mr. Siler states he is unwilling to allow the proposed development to use this easement.

The drainage system for the proposed short plat has been redesigned to a detention vault located in Tract 999 along the southeast property corner. The outfall will be to a level spreader to mimic the existing, pre-developed flow patterns. Additionally, each lot will be provided with a roof downspout infiltration system. With this redesigned system, there will be no need to utilize Starlite Court's drainage system.

The City of Lynnwood commented on the Revised Determination of Non-Significance in a letter received April 24, 2008 (Exhibit 8A) which points out that the address listed in the Revised DNS is inconsistent with that listed on the application. Staff admits an error was made and has revised the address to 17907 Larch Way in the Corrected Notice of Open Record Hearing (Exhibit 6C) which was published April 30, 2008.

In response to the City's comment that this development should be required to support development of Lynnwood parks and that the County apply the City's development standards to this proposal, there is currently no interlocal agreement in place between the City of Lynnwood and the County that would give the County authority to impose impact fees or development standards for the City. Staff concurs that Section 12 of the environmental check list should include local neighborhood parks.

The City also commented on fire requirements that should be considered. The new public road extension exceeds the City's minimum width of 20 feet. The Snohomish County Fire Marshal's Office has determined the proposed preliminary short plat is in compliance with the access and fire hydrant specifications contained in the Fire Code SCC 30.53A.

The applicant's consultant, Wendy Downer of the West Group, has provided a response letter to the City of Lynnwood on April 30, 2008 (Exhibit 8A).

Sharon Holt, a neighbor to the proposed project, appeared and testified to express her concerns. She had questions about when sewers would be extended for the rest of the neighbors; why sidewalks were only in bits and pieces on the way to schools, what was going to be done for the lack of public play space for neighborhood children, and what was going to be done about the heavy traffic on Larch Way.

Regarding Ms. Holt's concerns the following specific findings are made. This hearing is for the specific project of the Larch Way Short Plat. Some of the concerns expressed by Ms. Holt, such as sewer extensions, are covered at the level of the Comprehensive Plan, rather than site by site review. Per County Code, the applicant is only responsible for sidewalks to the nearest school bus stop. While some students may choose to walk to school, the spotty nature of the sidewalks makes this more dangerous than riding the bus. Whether the county or a city, after annexation, choose to fill in the missing portions of the sidewalks throughout the larger neighborhood, is part of the comprehensive plan. Likewise, the creation of additional public parks is something greater than the review of this specific project. As previously found, the impacts of this project on the park system are met by payment of the mitigation fees. Some of the traffic volumes on Larch Way are being mitigated by the opening of the previously unopened 8th Place which runs parallel to Larch Way.

11. Fire Code: The project was evaluated by PDS and determined that the preliminary short plat was in compliance with the access and fire hydrant specifications contained in SCC 30.53A. The proposed road will provide a minimum of 24 feet of pavement width and a temporary turnaround with a 40-foot turning radius which will be capable of supporting a 25-ton vehicle. A fire hydrant is located near the intersection of 180th Street SW and 8th Place W (Exhibit 2B). A new fire hydrant will be provided within the short plat on 8th Place W to meet fire hydrant spacing requirements.

A request for review packet on the proposed short plat was sent to Fire District No. 1 on April 12, 2007. No comments were received.

12. Rezone (Chapter 30.42A SCC)

Decision criteria.

The hearing examiner may approve a rezone only when all 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 SCC are met.

Consistent with the Comprehensive Plan

The proposed project seeks a rezone to R-7200. The rezone will allow higher densities than would be allowed under the existing zoning of R-9600. The request is in conformance with the applicable components of the General Policy Plan elements discussed in the preceding GMA Comprehensive Plan section (above).

The Population and Employment section of the GPP requires that growth be directed primarily to the urban areas (Objective PE 1.A, page PE-4) that have existing or planned public facility and service capabilities to accommodate growth (PE Policy 1.A.2., page PE-4). The subsequent short subdivision development has obtained a concurrency determination regarding the road system and will contain conditions for access and frontage improvements. The project will be served by public water and sewer. The project will provide adequate service capabilities, and, therefore, meets the criteria of the Population and Employment section.

The Urban Development Patterns (LU-15) and Goal LU-2 (LU-16) of the Land Use section of the GPP, is intended to improve the efficiency of urban residential land utilization and to require a minimum net density of 4-6 dwelling units per acre. The existing neighborhood contains large lots that do not comply with the current standard of 4-6 dwelling units per acre as well as smaller lots that were approved through recent subdivisions and rezones. Land division is required to meet the 4-6 du/ac standard, or the land cannot be developed. LU Policies 2.A.1 and 2.A.3 (LU-16) require densities of 4-6 du/acre. The project will result in a net density of 6.1 du/acre, which satisfies the density requirement.

The Housing section of the GPP requires efficient infill development in urban growth areas (HO Policy 1.D.3., page HO-5). The rezone is a necessary component of the development, which is an infill development within an established neighborhood.

The physical attributes of lots within the neighborhood will be changed by the proposed rezone. Smaller lots and higher densities, relative to the existing conditions, will be different from the existing lot dimensions of the neighborhood. The existing zoning for the site is R-9600. The lot yield for the 1.06 acre site under existing zoning of R-9600 is 4 lots. The lot yield for the site under the rezone to R-7200 is 6 lots, or an increase of 2 potential lots. The application is for 5 lots, because 6,380 square feet of the site will be dedicated for a new public road and 2,880 square feet will be encumbered with a drainage tract. If the rezone application were not a part of the proposed development, the proposed development would not have the same lot dimensions as the existing neighborhood because the existing density is less than 4 du/acre. All infill developments, which is specifically required by HO Policy 1.D.3., will deviate from the existing lot dimensions of the neighborhood.

Objective HO 2.A (page HO-6) is intended to promote opportunities for all county residents to reside in safe and decent neighborhoods. HO Policy 2.A.1 requires that the character of stable residential neighborhoods should be preserved through selective and innovative land use measures while HO Policy 2.B.1 requires that the county shall encourage a variety of housing types and densities in residential neighborhoods (page HO-6).

The requirement under HO Policy 2.A.1. to "... preserve the character of stable residential neighborhoods through selective and innovative land use measures."(HO-6), is a requirement to preserve the residential aspect of the neighborhood, with adequate provision for essential public services and with adequate provision for the public health, safety, and welfare of the neighborhood. The proposed rezone will maintain a residential neighborhood and will not allow commercial agricultural uses, commercial development, and multifamily development on the site. In the context of the entire GPP, HO Policy 2.A.1. should not be interpreted as a provision that the proposed rezone should result in lots that mimic the adjacent predevelopment lots either in lot size or in the size of the residences that will be built on the proposed lots.

Bears a substantial relationship to the public health, safety, and welfare.

Application for the proposed rezone is concurrent with the application for a short subdivision. Review of the land development proposal has been made for compliance with the relevant codes, policies, and standards of Snohomish County. PDS determined that the project, as conditioned, will satisfy those requirements, including a concurrency determination for access routes to and from the development, an evaluation of the road and access routes to comply with the relevant EDDS standards and SCC 30.66B, evaluation of the adequacy of stormwater and drainage system, evaluation of critical areas, adherence to the short subdivision codes, compliance with the fire and emergency access requirements, and provision of adequate potable water and sewage disposal. The intent of the Snohomish County codes, policies, and standards is to insure that adequate provision has been made for the public health, safety, and welfare of the citizens. The proposed project, as it conditioned, complies with the relevant provisions.

Minimum zoning criteria found in Chapters 30.31A through 30.31F SCC are met.

The proposed site is located within a residential neighborhood. The proposed rezone is to remain a residential zone within the Urban Low Density Residential designated area. Therefore, the zones specified in SCC 30.31A-F are not applicable to the proposal.

13. Zoning (Chapter 30.2 SCC)

This project meets zoning code requirements for lot size, including lot size averaging provisions, bulk regulations and other zoning code requirements.

14. Subdivision Code(Chapter 30.41B SCC)

The proposed short subdivision also meets Chapter 30.41B SCC requirements. A complete application for the proposed short plat was received by PDS on April 11, 2007. The proposed short plat as conditioned also meets the general requirements under Section 30.41B.100 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.

15. **PLATS – SUBDIVISIONS – DEDICATIONS:** The short plat has been reviewed for 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. 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 Department of Ecology drainage standards. The short 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. The Snohomish Health District has no objections to approval of the preliminary short plat (Exhibit 8G). Electrical power is available from Snohomish County Public Utility District No. 1.

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

CONCLUSIONS OF LAW

1. The Examiner has original jurisdiction over the rezone application pursuant to SCC 30.42A.020 and 30.72.020(2).
2. Rezones are not presumed valid. The proponent of a rezone has the burden of proof of showing (1) that conditions have changed since the original zoning, or that the proposed rezone implements policies of the comprehensive plan; and (2) that the rezone bears a substantial relationship to the health, safety, morals or welfare. *Woods v. Kittitas County*, 130 Wn. App. 573, 584, 123 P.3d 883 (2005); see *Citizens of Mount Vernon v. Mount Vernon*, 133 Wn.2d 861, 875, 947 P.2d 1208 (1997). The county's regulations are a direct expression of the criteria expressed by case law.
3. In the context of the Growth Management Act, development regulations and therefore rezones must be consistent with and implement the comprehensive plan. RCW 36.70.040. But in the context of site-specific rezones, the inquiry goes beyond mere consistency with the map designation of the comprehensive plan—as the Snohomish County Council explained in Motion 07-447 *A Motion Vacating and Remanding the Hearing Examiner's Decision of the Brookstone Investments, LLC (Hearing Examiner File No. 06-135148 LU) Back to the Examiner to Supplement the Record at 3* (August 8, 2007), “The Comprehensive Plan is the most direct expression of public policy in the area of land use. In determining that a proposed rezone is consistent with the Comprehensive Plan, the proposal must be consistent with the policies as well as the map designation.” The Examiner interprets this language, as well as the law applicable to rezones, to mean that **the burden is upon the applicant to demonstrate to the Examiner that the proposed rezone meets the applicable comprehensive plan policies.**
4. This rezone request is to rezone the parcel from R-9600 to R-7200.
5. The Land Use Element of the General Policy Plan (GPP) introduces the way in which Urban Growth Areas are planned for and how densities are to be determined:

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 UGAs.

Planning for growth in this way accomplishes two GMA goals: 1) the efficient provision and utilization of public facilities and services, including public transportation; and 2) reduced conversion of undeveloped land into sprawling, low-density development.

General Policy Plan at LU-1.

This rezone application invokes consideration most directly of Goal LU 2 and its policies. The introduction to that Goal states:

To promote efficient utilization of land within unincorporated UGAs, 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 UGAs, 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 UGAs 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 UGAs, as long as they are carefully sited, well designed, and sensitively integrated into existing communities.

General Policy Plan at LU-15.

Goal LU-2 of the GPP requires that the County “[e]stablish development patterns that use urban land more efficiently”, although Objective LU 2.A qualifies that statement by requiring the County to “[i]ncrease residential densities within UGAs by concentrating and intensifying development in appropriate locations.” GPP at LU-16.

6. Goal and Objective LU-2 focus on establishing development patterns that use urban land more efficiently by concentrating and intensifying development at appropriate locations. (Objective LU-2.A). The Examiner finds the test of what is “appropriate” to rely on three general areas of inquiry, which are found in the policies of LU-2 and in HO 2A.1. They have to do with careful siting of the development to minimize impacts to environmentally sensitive areas and to urban infrastructure; to provide integration of the infill project into the neighborhood and nearby cities that may annex, and ensuring that design of the project itself does minimize impacts on the character of the residential neighborhood area. They are laid out in outline form below:

i. Is the development carefully sited?

- (a) Critical areas/shorelines.
- (i) Please describe the type and location of any critical areas on or in close proximity to the site (if any). **(Policy LU 2.A.3)**
 - (ii) Describe how impacts to critical areas will be avoided. **(Policy LU 2.A.3)**

- (iii) Please describe any shoreline environment that the proposed rezone/development is located within and how the rezone complies with goals and policies of the Snohomish County Shoreline Master Program.¹
 - (b) Is the rezone or development proposed in an area within walking distance of transit access or designated transit corridor, medical facility urban centers, parks, and recreational amenities? **(Policy LU 2.A.5)**
 - (c) How will the development made possible by the requested rezone tend to lessen dependence on private automobiles and promote the use of alternative forms of transportation? **(Page LU-15)**
- ii. **Is the rezone proposal/development sensitively integrated into the existing community? (See LU-15)**
 - (a) What is the character of the existing neighborhood? How would the requested rezone or development proposal be appropriate in the context of the existing neighborhood, keeping in mind that the GPP calls for a variety of housing types in neighborhoods? **(LU-15, Policy HO 2.B.1)**
 - (b) Does the rezone/development proposal help to provide a mix or variety of housing types, especially if the area is a medium density area? **(Policy LU 2.A.4, Policy HO 2.B.1)**
 - (c) Is the requested rezone/development close to a city that is likely to annex it in the future? If so, what comments, if any, are in the record regarding the proposed rezone/development? **(See Policy I.C.2)**
- iii. **If known at the time of submittal of the rezone, is the development well designed? (See Policy HO 2.A.1, LU-15)**
 - (a) Even if density is at a higher level are efforts made to have the character fit into the existing community? If so, what is the character of the existing community and how will the development maintain it? **(See Policy HO 2.A.1, LU-15)**
 - (b) How specifically will the building design integrate into the existing neighborhood? Are structures of a size, height, mass, and separation to be consistent with vicinity homes and the surrounding neighborhood? Describe in detail. Will the development be at the same elevation as the rest of the existing neighborhood? How will the elevation affect the perception of the development? Is there something that can be done to mitigate differences? **(Policy HO 2.A. 1, LU-15)**
 - (c) If applicable, what other selective and innovative land use measures will be used to preserve the character of the stable residential neighborhood? **(See Policy HO 2.A.1)**
 - (d) If the proposed rezone/development will have negative impacts on the character of the surrounding neighborhood, describe whether the developer plans on using features such as landscaping, fencing, setbacks, or other design features to soften or eliminate those impacts. **(LU-15)**
 - (e) Will the development be designed to provide for adequate fire and medical emergency access through the provision of adequate resident and guest parking, cul-de-sac radii, and building separation? Has the opinion of both the County Fire Marshall and any local Fire District been placed in the record? **(LU-15)** (See also discussion of public health, safety and welfare criteria, below).

¹ Since the goals and policies of the Snohomish County Shoreline Master Program (SCSMP) are considered an element of the county's GMA Comprehensive Plan, the rezone must be consistent with the SCSMP. See RCW 36.70A.480.

- (f) Is the public health, safety and welfare adequately provided for (examples are safe pedestrian access, safe place for children to wait for school bus, adequate off-street parking so that a fire truck can access development)? **(See LU-15)** (See also discussion of public health, safety and welfare criteria, below).
7. Applying this test to the Larch Way rezone project, the Examiner makes the following conclusions regarding consistency with the comprehensive plan:
- A. The area is already characterized by urban growth such that it has adequate existing public facilities and services to serve the development for the following types of facilities and services, as demonstrated below:
- i. Streets, roads and highways. The Examiner relies on Finding of Fact 6 in part to conclude that the development is adequately served by existing streets, roads and highways. There does not appear to be any major transportation issues or concurrency problems in the area. There appear to be no local circulation issues.
 - ii. Sidewalks. The developer will be providing sidewalks on 8th Place and along the frontage on Larch Way as a part of the development proposal. School children will use these sidewalks to get to the school bus stop. **(Policy HO 2.A.4)**
 - iii. Street and road lighting system. It is unknown whether there are street lights on 8th Place W.
 - iv. Traffic signals. It is unknown to the Examiner whether traffic signaling is adequate in the area.
 - v. Water systems. Water will be provided by Alderwood Water and Wastewater District and the file contains a preliminary certificate of water availability. Exhibit 8E.
 - vi. Sanitary Sewer Systems. Sewer will be provided by Alderwood Water and Wastewater District and the file contains a preliminary certificate of sewer availability. Exhibit 8E
 - vii. Park and recreational facilities. As previously found, the developer will pay park mitigation fees as a part of the development proposal. Those fees currently are identified to support community parks and special use facilities such as golf courses that are necessary to serve new development. See Snohomish County Parks Plan at page 41. This criteria, however, addresses existing park and recreational facilities the inhabitants of the development may use and whether they are sufficient at this location in the county. The Examiner can determine, based on a map located on the County Parks and Recreation Department website, that there are a number of county parks in the vicinity of the development. The Parks Plan was not altogether clear that levels of service had been adopted for every type of park, although Objective CF 7.C of the GPP states, related to parks, “[m]onitor and maintain minimum LOS standards, as defined in the Comprehensive Park and Recreation Plan and the CIP, through adequate CIP funding.”
 - viii. Storm disposal system: Stormwater disposal systems are provided by a storm water detention vault as detailed in Exhibits 3 A and 7 D-G.
 - ix. Fire and police suppression system: Fire protection is provided by Snohomish County Fire District No. 1. The Fire Marshall has made specific comments to the plan review, including requesting appropriate fire hydrants, access, and requirements for addressing of homes which are contained in the Staff Report.
 - x. Public health: Public health issues are addressed by the Snohomish Health District. See Exhibit 8G.

- xi. Education: The site is served by the Edmonds School District. Exhibit 8D.
 - xii. Other services: The Examiner is not aware of any other services that are available that should be discussed in the decision.
- B. The Examiner concludes that the rezone will accomplish GPP Goal LU-2 of helping to establish development patterns by using urban land more efficiently by intensifying and concentrating development at an appropriate location, in furtherance of Objective LU2-A. The Examiner's conclusion relies on the following analysis:
- i. The development is carefully sited.
 - (a) There are no critical areas or shorelines on the site or within close proximity to the site. **(Policy LU 2.A.3)**²
 - (b) The rezone or development is not proposed in an area that is within walking distance of transit access, but this policy applies more specifically to properties in the urban medium density residential designation. **(Policy LU 2.A.5)**
 - (c) The development made possible by the requested rezone probably will not tend to lessen dependence on private automobiles and promote the use of alternative forms of transportation, but this policy applies specifically to properties in the Urban Medium Density Residential designation. **(Policy LU 2.A.5)(Page LU-15)**
 - ii. The rezone proposal is adequately integrated into the neighborhood. (See LU-15)
 - (a) Character of the Existing Neighborhood. The neighborhood is primarily comprised of single-family homes. There is a mix of zoning in the vicinity of the site, including R-7200, PRD-7200, and R-9600. In the immediate vicinity, there are both brand new homes on small lots and older homes on larger lots. The redevelopment of this site at a higher density will encourage a more efficient use of urban land. **(LU-15, Policy HO 2.B.1)**
 - (b) Allowing for a Mix of Housing Types. The R-7200 zoning designation will allow for duplexes, mobile homes and single-family homes. **(Policy HO 2.B.1)**
 - (c) City Comments. PDS requested comments from the City of Mill Creek, but received a letter back indicating no comments. Exhibit 8B. Comments were also received from the City of Lynnwood and are described in the findings above.
 - iii. If known at the time of submittal of the rezone, is the development well designed? (See LU-15)
 - (a) Density of Surrounding Neighborhood and How the Development Will Help Maintain Existing Character. The proposed density fits well into this neighborhood, which can be fairly characterized as a transitioning neighborhood. While there are a few pockets of rural/suburban type zoning, much has already converted to higher density urban zoning. This rezone is consistent with much of the area that has already converted to more urban zoning. **(See Policy HO 2.A.1)**
 - (b) Integration of Building Design into the Existing Neighborhood. The Examiner is not aware of the building design or how the design will fit into

² Since the goals and policies of the Snohomish County Shoreline Master Program (SCSMP) are considered an element of the county's GMA Comprehensive Plan, the rezone must be consistent with the SCSMP. See RCW 36.70A.480.

the neighborhood. As stated above, the character of the neighborhood overall is changing. Most of the new homes in the neighborhood are two-story and it is assumed the homes in this development will likely be the same. **(See Policy HO 2.A.1; LU-15)**

- (c) Other Selective and Innovative Land Use Measures Used to Preserve the Character of the Existing Neighborhood. The Examiner is not aware of any “selective and innovative land use measures” that will be used to preserve the character of the stable residential neighborhood. **(See Policy HO 2.A.4)** In this case, this policy is not applicable because the Examiner would not characterize this neighborhood as a “stable residential neighborhood”.
- (d) Mitigation of Negative Impacts through Landscaping, Fencing and other Design Features. The developer will be providing a planter and sidewalks along the frontage of the project on Larch Way, which will help mitigate any negative effect of higher density. By EDDS deviations these will tie in with the existing sizes and locations of the sidewalks and planters. **(Policy HO 2.A.1)**
- (e) Adequate Fire and Medical Emergency Access. The development will be required to provide for adequate fire and medical emergency access. There are provisions for fire hydrants and emergency vehicle access including turnarounds contained within the site plan. The opinion of the Fire Marshall appears in the staff report, as stated above, and provides guidance to PDS for requirements for the plat review. **(LU-15)**
- (f) Adequate Provision for Public Health, Safety and Welfare. The Examiner concludes that the public health, safety and welfare are adequately provided for by this development. There appears to be adequate pedestrian access to Larch Way Road, a safe place for children to wait for a school bus, and adequate fire and medical emergency access has or will be provided as a condition of the development. **(See LU-15)** (See also discussion of public health, safety and welfare criteria, below).

The applicant has also provided a good analysis of comprehensive plan policies and an adequate justification for supporting the rezone as implementing the comprehensive plan. See Exhibit 5A. While this particular rezone has fairly minor impacts (the allowance of four additional building units), the Examiner will always look at the salient factors from the comprehensive plan that support the rezone. As indicated in earlier decisions, the analysis needs to focus on the type of urban infrastructure capabilities, the availability of urban services, and whether, even in this lowest urban density designation, R-7200 zoning is appropriate in this location.

- 8. The Examiner concludes that the applicant has demonstrated that the rezone will implement the comprehensive plan.
- 9. The other criteria in SCC 30. 42A.100 is whether the proposal bears a substantial relationship to the public health, safety, and welfare. See SCC 30.42A.100(2). Returning to Council Motion 07-447, the Council clarified the proper role of the Examiner in reviewing this criteria:

Although consistency with the Comprehensive Plan is a significant factor in determining whether a proposed rezone bears a substantial relationship to the public health, safety and welfare, in some cases, there may be other factors outside the Comprehensive Plan policies that may be relevant to that issue and which may be considered. If there are such factors apparent from the application documents or otherwise known to PDS, they must be identified and discussed both in the written PDS staff report and by the Examiner in his decision. The

written PDS staff report and the Examiner's decision should specify if any of these other factors are related to the rezone or should be considered at the project level with the specific development proposal being made. PDS staff is not required to anticipate opposition or to consider factors or issues outside of the Comprehensive Plan or not required by the Snohomish County Code. However, this does not limit the Hearing Examiner's ability to consider testimony at the public hearing concerning whether the proposed rezone bears a substantial relationship to the public health, safety and welfare.

Motion 07-447 at 3.

The Examiner interprets this language to mean that most of the time, analysis of whether the rezone is consistent with the Comprehensive Plan should suffice for review of a rezone proposal because in most cases, analysis of the comprehensive plan policies is analysis of whether the proposal bears a substantial relationship to the public health, safety and welfare. However, the Examiner and PDS may use this second criteria to analyze other issues of concern that may be raised outside of the scope of the Comprehensive Plan.

10. In this case, the Examiner concludes there are no issues of concern that warrant analysis under SCC 30.42B.100(2). No issues of concern were identified in the PDS staff report (See Exhibit 30). The Examiner identified no issues of concern in reviewing the file.
11. Since this request involves rezoning only, any details or conditions which would normally appear as conditions of the development in the Examiner's decision will be issued as a part of the administrative plan approval by PDS.
12. The request for a rezone was based upon the information and impacts submitted in the Determination of Nonsignificance.
13. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION

The request for a **REZONE** from Residential-9600 to Residential-7200 for this property is **APPROVED** and the **SHORT DIVISION** is **APPROVED** subject to the following Conditions:

CONDITIONS

- A. The preliminary plat received by PDS on March 13, 2008, (Exhibit 2B) shall be the approved short plat configuration. Changes to the approved plat are governed by SCC 30.41B.310.

- 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.
- 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 Edmonds School District No. 15 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 one existing parcel(s). Lot 5 shall receive credit."
 - ii. Chapter 30.66B SCC requires the new lot mitigation payments in the amounts shown below for each single-family residential building permit:

\$2,201.10 per lot for mitigation of impacts on county roads paid to the county,
 \$75.75 per lot for transportation demand management paid to the county,
 \$523.25 per lot for mitigation of impacts on the City of Bothell streets paid to the city.
 Proof of payment shall be provided.

These payments are due prior to or at the time of building permit issuance for each single family residence. Notice of these mitigation payment obligations shall be contained in any deeds involving this subdivision or the lots therein. Once building permit has been issued all mitigation payments shall be deemed paid.
 - iii. The dwelling units within this development are subject to park impact fees in the amount of \$1,244.49 per newly approved dwelling unit pursuant to Chapter 30.66A. Payment of these mitigation fees is required prior to building permit issuance; provided that the building 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.
 - iv. Access for Lot 2 is limited to 8th Place West.
 - v. The grasscrete temporary turnaround at the end of 8th Place West shall be maintained by the adjacent property owners.
 - vi. The downstream area beyond the level spreader is to remain fully vegetated in both the Drainage Tract 999 and drainage easement on Lot 1.
- D. Prior to recording of the final plat:
- i. Urban frontage improvements shall be constructed along the parcel's frontage on Larch Way to the satisfaction of the County.
 - ii. Removal and restoration of the temporary 40 foot radius turnaround provided at the end of 8th Place W as part of the plat of Starlite Court PFN 99 103874 shall be completed.

- iii. Construction of the proposed extension of 8th Place West shall be completed.
 - iv. Pedestrian facilities shall be constructed, where none exist, to the satisfaction of the County from the subject plat on Larch Way to 178th Street SW [RCW 58.17.110].
- E. In conformity with applicable standards and timing requirements:
- F. All development activity shall conform to the requirements of Chapter 30.63A SCC.

Nothing in this permit/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 short 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 29th day of May, 2008.

James A. 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 **JUNE 9, 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 **JUNE 12, 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: 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.