

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

DATE OF DECISION: May 14, 2008  
PROJECT NAME: **MICHAEL L. MOORE SHORT PLAT**  
APPLICANT/OWNER: Michael and Maureen Moore  
FILE NO: 07-106930-000-00-LU  
TYPE OF REQUEST: **REZONE** from Residential-9600 (R-9600) to Residential-7200 (R-7200)  
DECISION: **APPROVE**

**BASIC INFORMATION**

GENERAL LOCATION: 15306 Cascadian Way; Lynwood, in Section 1, Township 27 North, Range 4 East, W.M. The project is within the Southwest County Urban Growth Area (UGA)  
ACREAGE: 1.44 acres  
CONCURRENT SUBDIVISION: 6 lots, net density – 5.12 du/ac  
CURRENT ZONING: R-9600  
PROPOSED ZONING R-7200  
COMPREHENSIVE PLAN DESIGNATION:  
General Policy Plan: Urban Low Density Residential  
UTILITIES:  
Water and Sewer: Alderwood Water & Wastewater District  
SCHOOL DISTRICT: Edmonds School District No. 15  
FIRE DISTRICT: No. 1

## **INTRODUCTION**

The applicant filed the Master Application on August 20, 2007 (Exhibit 1). The application was determined to be complete as of the date of submittal. The application was resubmitted on December 21, 2007 and determined on January 11, 2008 to be sufficient for further review. A second resubmittal was received on January 24, 2008.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by County Code (Exhibits 14, 15 and 16).

A Determination of Non-Significance (DNS) under the State Environmental Policy Act (SEPA) was issued on February 26, 2008. No appeal was filed.

The Examiner held an open record public hearing on April 30, 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 April 30, 2008 at 10:02 a.m.

1. The applicant, Michael Moore, was represented by Barry Constant, Western Engineers.
2. PDS was represented by Dorothy Crossman, Land Development Specialist.
3. There was no public testimony.

The hearing concluded at 10:16 a.m.

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

## **FINDINGS OF FACT**

### **A. General**

1. The master list of exhibits and witnesses is contained in the record in this file. All testimony and exhibits were considered by the Examiner and are hereby incorporated by reference, as if set forth in full herein.
2. Summary of Proposal. The application is for a Rezone from R-9600 to R-7200 with a concurrent 6-lot subdivision (Type 1 process) of 1.44 acres using lot size averaging. Access is proposed from an existing private road from Cascadian Way. Water and sewer will be provided by the Alderwood Water and Wastewater District. Impact fees will be provided for the impacts to parks, road system capacity, state highway impacts, transportation demand management, and schools.

3. Site Description. The subject property is rectangular in shape and consists of three parcels. With the majority of the site sloping toward the east, the drainage flows into the existing storm conveyance system for Cascadian Way. The slopes range from 2% to 12%. Two of the three existing-single family residences will remain. The third residence, closest to Cascadian Way, will be removed as well as an existing accessory building. Access is currently provided by a shared driveway along the southern boundary. This will continue to be the access. The vegetation on site includes evergreen and deciduous trees, grass and shrubs. There are no critical areas on the site or within 100 feet.
4. Adjacent Zoning/Uses: The zoning to the north is PRD 9-600 and contains single-family residences. The zoning of adjacent parcels to the south and west and on the east side of Cascadian Way is R-9600 with single-family residences. Approximately 400 feet northeast, on the east side of Cascadian Way, is PRD-9600 and R-7200 zoning. The City of Mill Creek is about 600 feet to the east of the subject site.

**B. Issues of Concern**

5. There are no particular issues of concern. An inquiry from adjacent owners about the setbacks along the northern boundary was answered with the information that setbacks will be 20 feet for Lots 1-4 and 15 feet for Lot 5.

**C. Compliance with Code and Policies**

6. **Parks Mitigation (Chapter 30.66A SCC)**

The proposal is within Nakeeta 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 is acceptable mitigation for parks and recreation impacts in accordance with county policies. The payment of park impact fees will be imposed as a condition of approval of the administrative decision of the short plat.

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

PDS Traffic has 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.

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

The impact fee for this proposal is based on the new average daily trips (ADT) generated by single family residences, which is 9.57. This rate comes from the 7th Edition of the ITE Trip Generation Report (code 210). As indicated above the number of new lots that will be created is 3. The development will generate 28.71 new ADT and has a road system capacity impact fee of \$7,665.57 (\$1,916.39/lot) based on \$267.00/ADT. The payment of these road impact fees will be imposed as a condition of approval within the administrative decision of the short plat.

B. Concurrency [SCC 30.66B.120]

"Level-of-service" means a qualitative measure describing operational conditions within a traffic stream, and the perception thereof by road users. Level-of-service (LOS) standards may be evaluated in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety. The highway capacity manual defines six levels of service for each type of facility for which analysis procedures are available. They are given letter designations, from A to F, with level-of-service A representing the best operating condition, and level-of-service F the worst.

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, 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 which, as of the date of submittal, had the following arterial units in arrears: Seattle Hill Road and 35<sup>th</sup> Avenue SE. The subject development will 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 2.25 a.m. peak-hour trips and 3.03 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]

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

D. Frontage Improvements [SCC 30.66B.410]

All developments will be required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road. The required improvement shall be constructed in accordance with the EDDS, including correction of horizontal and vertical alignments, if applicable.

The following is a condition of approval of an EDDS deviation request submitted on August 21, 2007 (Exhibit 11): Frontage improvements are to be coordinated with the County's pedestrian facilities project at the time of construction plan review, which may include extension of the existing porous concrete sidewalk. Further discussion on the EDDS deviation is included in Section 5 below.

As per DPW Rule 4222.020(1), full urban frontage improvements are required along the subject parcel's frontage on Cascadian Way consisting of:

- Asphalt concrete pavement 18 feet in width from right-of-way 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.

Construction of such improvements will be imposed as a condition of approval within the administrative decision of the short plat.

Cascadian 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.

**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.

Access to the subject development is proposed from Cascadian Way via a private road. The new private road will be located along the southern property line where a shared driveway currently exists. A 33-foot wide private road easement is proposed with a hammerhead turnaround.

Based on the ADT for the proposed private road, it would be classified as a urban private residential road under the 2004 EDDS. This requires 28 feet of pavement, curb, gutter, and a five-foot sidewalk and five-foot planter on one side. The applicant submitted a deviation request to install 24 feet of pavement, curb, gutter, and a five-foot sidewalk on the north side of the road.

EDDS 3-10 requires a 40-foot radius cul-de-sac turnaround for roads over 150 feet in length. Approval to an EDDS deviation request is required for the proposed hammerhead turnaround.

Two EDDS deviation requests to the standard road end (EDDS 3-10) and to the standard road section (EDDS Detail 3-065) were conditionally approved by the County Traffic Engineer on October 22, 2007 (Exhibit 11). The conditions were that the proposed design be approved by the Fire Marshall's Office and frontage improvements on Cascadian Way are coordinated with the County's pedestrian facilities project. Fire Marshall approval was obtained on January 2, 2008 (Exhibit 22). Coordination of frontage improvements will occur at the time of construction plan review after administrative approval of the short plat.

The County approves the use of the private roads shown on the preliminary short plat for the subject development per SCC 30.41B.200(8). The PDS Traffic Engineering Section approves of the proposed layout.

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.

Cascadian Way is designated as a collector arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 35 feet on each side of the right-of-way centerline. Currently, 35 feet of right-of-way exists on the development's side of the right-of-way. Therefore, the development is not required to dedicate any additional right-of-way. This is adequately shown on the preliminary short plat.

Cascadian 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]**

This development is subject to the Washington State Department of Transportation (WSDOT)/County Interlocal Agreement, which became effective on applications determined complete on or after December 21, 1997. The impact mitigation measures under the ILA, Section IV (4.1)(b), may be accomplished through (a) voluntary negotiated construction of improvements, (b) voluntary negotiated payment in lieu of construction, (c) transfer of land from the developer to the State, or (d) a voluntary payment in the amount of \$36.00 per ADT. Should the applicant choose the voluntary payment option to mitigate their impact to the state highway system, the payment is calculated at  $28.71 \text{ ADT} \times \$36.00/\text{ADT} = \$1033.56$ .

A copy of a voluntary offer was submitted with the application for \$1033.56. In email dated August 23, 2007 (Exhibit 24), WSDOT indicated acceptance of that amount, and enclosed a copy of an executed voluntary agreement. Payment of

that amount will be a recommended condition of approval within the administrative decision of the short plat.

H. **Other Streets and Roads [SCC 30.66B.720]**

PDS will recommend mitigation measures of the development's direct traffic impact on the city, town or other county roads to the approving authority and the approving authority will impose such measures as a condition of approval of the development in conformance with the terms of the interlocal agreement referred to in SCC 30.61.230 between the county and the other agency. An interlocal agreement has been executed between the County and the City of Mill Creek for traffic mitigation for impacts on the City's road system.

A copy of a voluntary offer to pay the city mitigation requirements signed by the applicant was not submitted with the application. The City was provided notice of application for this project and an opportunity to comment. A response from the city dated September 10, 2007, was received with no comments (Exhibit 29). . The subject development will not generate enough trips to warrant mitigation fees paid to the City of Mill Creek. The city does not require mitigation measures from the subject development. The County recommends that mitigation fees not be imposed on the short plat as a condition of approval.

There are no other jurisdictions that have an interlocal agreement with the county that will be significantly impacted by the subject development.

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

All new developments in the urban area shall provide TDM. Sufficient TDM shall be provided to indicate the potential for removing a minimum of five percent of a development's p.m. PHT from the road system. This requirement shall be met by site design requirements provided under SCC 30.66B.630 or SCC 30.66B.630, 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.645. [SCC 30.66B.650].

It has been determined that the cost of removing one peak hour trip from the road system is approximately \$1,500.00. This is based on the average cost of one stall in a park and ride lot and the average cost of one "seat" in a 15-passenger van. For a development required to provide TDM, the development's TDM obligation will equal \$1,500.00 times the required trip reduction percentage times, the development's peak hour trip generation.

The trip reduction percentage for this development is five percent. The TDM obligation for this development is therefore equivalent to 5% of the 3.03 new PM peak hour trips x \$1,500.00, which equals \$227.25. The applicant has offered in writing to pay this amount. The payment of the TDM fees will be imposed as a condition of approval within the administrative decision of the short plat.

J. **Pedestrian Facilities [RCW 58.17.110]**

The county is required to make findings regarding safe walking conditions for school children that may reside in the subject development.

Comments from the Edmonds School District dated November 26, 2007 (Exhibit 27), have been received as of December 20, 2007, stating that the students will be bused to their respective schools. Students will meet the bus at various intersections along Cascadian Way. A 10-foot shoulder exists, connecting the proposed development to the bus stop locations. Therefore, off-site pedestrian facilities will not be required.

8. **School Mitigation (Chapter 30.66C SCC)**

The Snohomish County Council amended Chapter 30.66C SCC by Amended Ordinance 97-095, adopted November 17, 1997, which became effective January 1, 1999, in accordance with Amended Ordinance 98-126, to provide for collection of school impact mitigation fees at the time of building permit issuance based upon certified amounts in effect at that time. The subject application was determined to be complete after the effective date of amended Chapter 30.66C SCC. 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 three existing lots. PDS will recommend a condition of approval of the administrative short plat for inclusion within the project decision to comply with the requirements of Chapter 30.66C SCC.

9. **Drainage and Grading (Chapters 30.63A and 30.63B SCC)**

Stormwater runoff will be collected from the yard, private road, and driveways, and conveyed by a 12-inch pipe to an underground pipe detention system located under the private road. Water quality will be provided by two separate storm filter vaults located on the north side of the private road to clean pollution-generating street runoff before entering the detention system. The underground detention pipe systems will detain the runoff from the site and then release it along its natural drainage path.

Planning and Development Services (Engineering) has 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 700 cubic yards of cut and 700 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.

10. **Critical Areas Regulations (Chapter 30.62 SCC)**

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

11. **Uniform Fire Code (SCC 30.53A)**



The project has been evaluated and PDS determined the preliminary short plat is in compliance with the access and fire hydrant specifications contained in SCC 30.53A. PDS received a written request dated October 29, 2007 (Exhibit 21), from the applicant to use a hammerhead turn-around in the private road and fire suppression systems in the proposed units. Included in the request is a proposal that the 24-foot roadway in the development be marked as a "Fire Lane – No Parking" zone with signs placed at 50-feet on center along both sides of the private road and around a new hydrant as shown on the preliminary short plat submitted January 25, 2008 (Exhibit 12A).

Snohomish County Code Section 30.53A.512 outlines the minimum fire apparatus access requirements, and Exception 1 states that when buildings are protected with an approved fire sprinkler system that the access provisions may be modified by the Fire Marshal. In a January 2, 2008, letter (Exhibit 22), the applicant's request to allow the hammerhead turn-around was approved with the condition that all of the new dwellings will be provided with NFPA 13-D fire suppression systems. It will be noted as a restriction on the recording of the final short plat that all of the new dwellings shall be provided with NFPA 13-D fire suppression systems.

There is a fire hydrant located on the opposite side of Cascadian Way from the northeastern corner of the site. A new fire hydrant is proposed to be located along the southern edge of the private road, approximately 40 feet from the edge of Cascadian Way (Exhibit 12A).

Fire District No. 1 provided comments on the proposed short plat and requested appropriate fire hydrants, signage, roadway markings, residential sprinklers with the proposed hammerhead, and addressing requirements (Exhibit 23). The fire hydrant, roadway markings, and signage have been provided and are shown on the preliminary short plat (Exhibit 12A) and on the road and drainage plans (Exhibit 12C). Addressing requirements are a component of building permit review. The residential sprinkler systems for the new dwellings will be imposed as a condition of approval within the administrative decision of the short plat and placed as a restriction on the face of the final short plat.

12. **GMA Comprehensive Plan (General Policy Plan, GPP)**

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 Plans; 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 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, "allows 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.

"Within urban residential plan designations, the county will continue to adopt zoning to ensure consistency with future land use map designation. Property owners may individually request rezones to higher urban residential densities consistent with the GPP policies and the GPP Future Land Use Map," (page LU-88, Future Land Use Map chapter of the GPP).

The subject rezone and future development proposal is for a 6 lot short plat and rezone resulting in a density of 5.12 dwelling units per acre. PDS finds that the requested rezone implements and is consistent with 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)

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

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

The subject property is located in an area that is in essence characterized by urban growth with adequate existing public facilities and service capacities. Public facilities including roads, walkways, water, sewer and storm collection currently exist or are being constructed throughout the general vicinity. Urban frontage improvements including curb, gutter, and sidewalks, will be constructed along the

subject parcel's frontage on Cascadian Way as a condition of approval of the short plat. Services and utilities including water, sewer, electrical power, telephone, and cable television are in place. Fire protection and law enforcement services are available.

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.

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

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

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.

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.

The subject property is surrounded by both new single family developments with small lots and established neighborhoods of single family residences on large lots. Approval of this rezone proposal would allow, with the creation of three new lots,

the integration of higher density and infill with minimal impact to the existing neighborhood.

As indicated by the Edmonds School District (Exhibit 27), elementary, middle school and high school students will be provided with bus service from the bus stop at Cascadian Way and 154<sup>th</sup> Place SE which aids in the reduction from dependence on automobiles. With the existing paved shoulder, safe walking conditions for school children and pedestrians are in place. Public transit is available at the intersection of 164<sup>th</sup> Street SE and East Shore Drive, approximately ¾ of a mile south of the site.

The property is located within the Southwest County UGA. This proposal meets these objectives and goals of the Land Use Element.

### **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 more dense 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.

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|-------------------|---|
| GOAL HO 1         | Ensure that all county residents have the opportunity to obtain safe, sanitary, and affordable housing.   |
| Objective HO 1.D  | Maintain an adequate supply of appropriately zoned developable land.  |
| HO Policies 1.D.1 | The county shall establish a mix of densities in residentially zoned land that is served with adequate infrastructure based on the public's housing preferences, demonstrated need for low and moderate income households, fair-share housing allocations, preservation of critical areas, and coordination with the transportation system. |
| 1.D.2             | The supply and mix of residentially zoned developable land that is served with adequate infrastructure shall be sufficient  |

to accommodate the county's fair-share housing allocation and support an efficient and competitive market for non-assisted housing.

1.D.3 The county shall encourage expeditious and efficient infill development in urban growth areas.

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

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

With the current regulations for building setbacks and height restrictions that are consistent with the existing zone of R-9600, the rezone to R-7200 of this property would allow for infill and more housing while maintaining the character of the existing neighborhood. The rezone, with the utilization of lot size averaging provisions to reduce lot sizes, allows for a mix of densities and more cost effective housing within the existing neighborhood. This proposal meets the goals and objectives for the Housing Element.

## **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.

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 for 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).

As indicated in the correspondence received from the Alderwood Water and Wastewater District (Exhibit 26), water and sewer are available to serve the proposed development resulting from this rezone. Snohomish County PUD No.1 has sufficient electric system capacity to serve the proposed development according to its letter of August 29, 2007 (Exhibit 25). The proposal meets the goals and objectives of the Utilities Element.

### **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 ride-matching 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.
- 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.
- 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.
- 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.
- TR 1.C.12 The county shall require that development make access and/or circulation provisions for arterials designated by the comprehensive plan and for needed local roadways to include, but not be limited to: (a) dedication of right-of-way, (b) reservation of right-of-way, (c) design for potential way of access, (d) recording of easements, (e) location of public or private roads, (f) design and construction of public or private roads (including stub-roads), and/or (g) improvements to existing roads.

The subject property is served by existing streets and roads. Urban frontage improvements including curb, gutters and sidewalks are proposed along the property's frontage on Cascadian Way. The existing paved shoulder along Cascadian Way currently provides safety and mobility for pedestrians, transit users, bicyclists and motorized traffic. The internal private road tract will provide a sidewalk along one side for safe pedestrian access and will provide adequate access for emergency vehicles. Public transportation is available approximately  $\frac{3}{4}$  of a mile south of the site at the intersection of 164<sup>th</sup> Street SE and East Shore Drive. This proposal meets the objectives and goals of the Transportation Element.

Based on the discussions above, PDS finds that: The proposed rezone 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.

Specific analysis of the subject rezone included impacts associated with traffic, storm drainage, parks and recreation, public schools, and zoning code provisions addressing compatibility with surrounding properties. Future approval of construction permits, and final plat consistent with such evaluation and administrative short plat approval will substantiate GMA code compliance prior to permit issuance. Such approvals will sufficiently mitigate for future impacts associated with development patterns, site design and sensitively integrating site development into the immediate community.

PDS review and analysis of the rezone and expected future development activity finds that current GMA adopted regulations, governing future site development activity, will implement such Goals, Objectives, and Policies and thus specific development activity, as reviewed and analyzed under the subject request, bears a substantial relationship to the public health, safety and welfare.

13. **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 8 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. With a gross site area of 1.44 acres, the lot yield for the site under existing zoning of R-9600 is 6 lots. The lot yield for the site under the rezone to R-7200 is 8 lots, or an increase of 2 potential lots. The application is for 6 lots, because 11,638 square feet of the site will be encumbered with a private road 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 development, 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. PDS has determined that the proposed project, as it would be 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.

14. **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.

The proposal has been evaluated for compliance with the lot size averaging (LSA) provisions of SCC 30.23.210, which provide that the minimum lot area of the applicable zone is deemed to have been met if the area in lots plus critical areas and their buffers and areas designated as open space or recreational uses, if any, divided by the number of lots proposed, is not less than the minimum lot area requirement. In no case shall the density achieved be greater than the gross site area divided by the underlying zoning. In determining the appropriate calculation, lots may not be less than 3,000 square feet in area, and any lot having an area less than the minimum zoning requirement must provide a minimum lot width of not less than 40 feet, and right-of-way (ROW) setbacks of 15 feet, except that garages must be setback 18 feet from the ROW (except alleys) and corner lots may reduce one ROW setback to no less than 10 feet. Lot coverage for this proposed subdivision is a maximum of 55% for lots under 7200 square feet.

The LSA calculation is as follows:

Area in Lots (50,999 square feet) + Critical Areas and Buffers (0 square feet) + Open Space (0 square feet) = (50,999 square feet) ÷ (6 of lots proposed) = (8,500) square feet

The minimum zoning requirement is 7,200 square feet. No lot is less than 3,000 square feet, and all lots comply with minimum lot width and setback requirements. Roadways and surface detention/retention facilities are not counted toward the LSA calculations. PDS concludes that the proposal is consistent with the lot size averaging provisions of SCC 30.23.210.

15. **Environmental Policy (Chapter 30.61 SCC)**

PDS issued a Determination of Nonsignificance (DNS) for the subject application on February 26, 2008 (Exhibit 13). The DNS was not appealed.

16. **Short Subdivision Code (Chapter 30.41B SCC)**

The proposed short plat also meets Chapter 30.41B SCC requirements. A complete application for the proposed short plat was received by PDS on August 20, 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 short plat will meet all SCC 30.41B.200 design standards for roads.

17. **Plats – Subdivisions – Dedications (Chapter 58.17 RCW)**

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 plat conforms with applicable zoning codes and the comprehensive plan. Provisions for adequate drainage have been made in the conceptual short plat design which indicates that the final design can conform to Chapter 30.63A SCC and State DOE 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. Electrical power will be provided by Snohomish County Public Utility District No. 1.

18. The Examiner concurs with the Staff analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

19. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Examiner has jurisdiction over this site-specific rezone – a Type 2 application.

2. The requirements of SEPA have been met.
3. The proposed rezone meets the applicable criteria for rezone approval. SCC 30.42A.100(a) and (b). The rezoning is consistent with the Comprehensive Plan. The proposal bears a substantial relationship to the public health, safety and welfare. The zoning criteria found in Chapters 30,31A-F SCC are not applicable.
4. Adequate public facilities exist to serve the concurrent short plat proposal.
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

### **DECISION**

The application for a rezone of the subject site from R-9600 to R-7200 is hereby 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.

Order issued this 14<sup>th</sup> day of May, 2008

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Wick Dufford, Hearing Examiner Pro Tempore

<b>EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES</b>
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The Decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more Parties of Record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

#### **Reconsideration**

Any Party of Record may request reconsideration by the Examiner. A Petition for Reconsideration must be filed in writing with the Office of the Hearing Examiner, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **May 24, 2008**. There is no fee for filing a Petition for Reconsideration. **“The petitioner for reconsideration shall mail or**

**otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

A Petition for Reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner’s attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

- (a) The Hearing Examiner exceeded the Hearing Examiner’s jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner’s decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner’s findings, conclusions and/or conditions are not supported by the record;
- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The applicant proposed changes to the application in response to deficiencies identified in the decision.

Petitions for Reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the County file number in any correspondence regarding this case.

**Appeal**

An appeal to the County Council may be filed by any aggrieved Party of Record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a Petition for Reconsideration but may file an appeal directly to the County Council. If a Petition for Reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the Petition for Reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **MAY 28, 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.