

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

DATE OF DECISION: July 9, 2008

PLAT/PROJECT NAME: Rick Roderick

APPLICANT/  
LANDOWNER: Rickey Roderick  
2904 York Rd, Unit A  
Everett, WA 98204

FILE NO.: 07-112391-000-00-LU

TYPE OF REQUEST: Rezone from Residential-9600 (R 9600) to Low Density Multiple Residential (LDMR)

DECISION (SUMMARY): Approved

**BASIC INFORMATION**

GENERAL LOCATION: The property is located at 2904 York Road, Everett, 98204; in Section 27, Township 28 North, Range 4 East, W.M., Snohomish County, Washington.

Acreage: .39

NET DENSITY: 10.31 du/ac

ZONING: CURRENT: R-9600  
PROPOSED: LDMR

COMPREHENSIVE PLAN DESIGNATION:  
General Policy Plan Designation: Urban Medium Density Residential (UMDR)

School District: Mukilteo School Dist. 6

Fire District: No. 1  
Water Source: Alderwood Water and Sewer  
Sewer Service: Alderwood Water and Sewer

**SELECTED AGENCY RECOMMENDATIONS:**

Department of Planning and Development Services: Approve

**INTRODUCTION**

The applicant filed the Master Application on November 17, 2007. (Exhibit 1)

The Hearing Examiner (Examiner) Pro Tem made a site familiarization visit on April 23, 2008 in the morning prior to the public hearing.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the County code. (Exhibits 6A, Mailing, 6B, Publication and 6C, Posting)

A SEPA determination was made on April 18, 2008. (Exhibit 5B) No appeal was filed.

The Examiner held an open record hearing on June 25, 2008, the 96th 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 June 25, 2008 at 1:05 p.m.

1. The Examiner indicated that he had read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. Elbert Esparza, senior planner with PDS, appeared and testified under oath. He presented the County staff report.
3. Barry Constant, applicant's agent, appeared and testified under oath. He described the proposal. Ricky Roderick, the applicant, testified and described the neighborhood.
4. No one appeared in opposition to the request.

The hearing concluded at approximately 1:25 p.m.

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

## FINDINGS, CONCLUSIONS AND DECISION

### FINDINGS:

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, are hereby made a part of this file, as if set forth in full herein.
2. Nature of Request: Rickey Roderick is requesting a rezone, a Type 2 permit, and decision as described in SCC 30.72.020, from R-9600 to LDMR of a .39 acre site; with a concurrent administrative site plan approval (Exhibit #2A) for the development of two duplex structures (one existing), which is an Administrative Type 1 Decision and Permit as described in SCC 30.71.020.
3. Site Description: The site is occupied by an existing duplex which will remain and is generally flat with existing residential landscaping and lawns.
4. Adjacent zoning and uses: The area is dominated by the R-9600 and single family zoning districts for approximately 800 feet in all directions. Testimony in the hearing indicated that duplexes are allowed in single family zoning districts. There are currently two LDMR zoning districts to the north and one across Alexander Road to the southeast of the proposed site, but over 800 feet in distance from the proposed rezone location. The majority of uses are single family districts. Testimony presented in the hearing showed that directly across York Street from the subject parcel is 28<sup>th</sup> Place West. There are four buildings which are duplexes on that street. Gibson Road to the north also has many duplexes constructed along it. About a quarter mile to the south of the subject parcel is a mobile home park. The neighborhood lies between Mukilteo Speedway and SR 99 and is transitioning to higher density residential uses.
5. Park Mitigation: The proposal is within 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 and will be imposed as a condition of approval for the administrative site plan.
6. Traffic: PDS Traffic reviewed the proposal for compliance with Title 13 and Chapter 30.66B of Snohomish County Code, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures. The following is an extract of the comments of PDS Traffic:

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

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

The development will generate 19.14 average daily trips (ADT) and has a road system impact fee of \$5,110.38 (\$2,555.19/Unit) based on \$267/ADT, the current fee rate for residential developments outside the Urban Growth Area (UGA), for TSA D. These figures do not include credit for on-site Transportation Demand Management (TDM) measures. Consistent with SCC

30.66B.340, payment of this road system impact is required prior to building permit issuance and will be imposed as a condition of approval for the administrative site plan.

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

ITE Land Use Category (ITE Description): Single – Family Detached Housing  
 ITE Land Use Code: 210

	<i>Calculations</i>
ADT	(2 New Units) x (9.57 ADT/Unit) = 19.14
AM PHT	(2 New Units) x (0.75 AM PHT/Unit) =1.50
PM PHT	(2 New Units) x (1.01 PM PHT/Unit) = 2.02

2. Concurrency [SCC 30.66B.120]

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 by PDS and is concurrent as of November 28, 2007. The expiration date of the concurrency determination is six years from November 28, 2007. Consistent with DPW rule 4225.070 the point in time for which the concurrency analysis is based (the concurrency vesting date) is October 17, 2007.

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 D which, as of the date of submittal, had the following arterial units in arrears: Unit # 202 – Seattle Hill Road from 35<sup>th</sup> Ave SE to SR 96/132<sup>nd</sup> St SE, Unit # 204 – 35<sup>th</sup> Ave SE from 168<sup>th</sup> St SE to Seattle Hill Road, and Unit 218 –164 St SW/SE from I-5 NB On/Off Ramps to Mill Creek C/L. 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 1.50 a.m. peak-hour trips and 2.02 p.m. peak-hour trips which is not more than the threshold of 50 peak-hour trips in which case the development would also have to be evaluated under SCC 30.66B.035.

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

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

4. Frontage Improvements [SCC 30.66B.410]

As per DPW Rule 4222.020(1) full urban frontage improvements are required along the subject parcel's frontage on York Road and shall consist of:

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

York Road, on which the development's frontage improvements are required, is not in the impact fee cost basis (Appendix D of the Transportation Needs Report). Therefore, credits towards the applicant's impact fee for any frontage improvements that can be used in the ultimate build-out of the road are not applicable.

Construction of frontage improvements is required prior to occupancy or final inspection and will be imposed as a condition of approval for the administrative site plan.

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

York Road is a non-arterial with a posted speed limit of 25 mph. The existing stopping sight distance and intersection sight distance at the proposed site access intersection with York Road are adequate.

Access to the existing duplex is via a driveway off of York Road. Access to proposed duplex unit 1 is via a 12 foot driveway off of York Road at the west boundary. Access to proposed duplex unit 2 is via a 12 foot driveway off of York Road at the east boundary.

Based on the above, the proposed access is acceptable.

There is a utility pole along the development's frontage on York Road that is within the clear zone. The applicant needs to ensure all existing utility poles are out of the clear zone and removal of said poles will be imposed as a condition of approval for the administrative site plan.

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

York Road is designated as a non-arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 30 feet on each side of the right-of-way centerline. 30 feet of right-of-way presently exists on the development's side of centerline. Therefore, 0 feet of additional right-of-way is required to be deeded along the development's frontage on York Road. This is adequately shown on the site plan.

York Road 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 deeded that is more than 30 feet from centerline is not applicable.

#### 7. 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 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 will not impact traffic on state highways with three or more directional peak hour trips. Therefore, WSDOT does not request any traffic mitigation for state highways from the applicant (Exhibit #8B).

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

There are no other City jurisdictions that have an ILA with the County that will be significantly impacted by the subject development.

9. 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. TDM offers a means of increasing the ability of transportation facilities and services to accommodate greater travel demand without making expensive capital improvements. The County requires TDM of developments inside the UGA and developments that impact arterial units designated as ultimate capacity.

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

The trip reduction percentage for this development is five percent. The TDM obligation for this development is therefore equivalent to  $5\% \times 2.02 \text{ new PM PHT} \times \$1,500/\text{PHT} = \$151.50$  (\$75.75/unit)

A written offer for payment of this TDM obligation is required before the County can make a final recommendation of approval and was received on October 17, 2007.

It will be a recommended condition of approval of the administrative site plan that the amount, \$151.50 is paid.

10. Pedestrian Access.

As found above, a sidewalk will be constructed along York Road in front of the proposed project. There are no other sidewalks along York Road. According to Exhibit 8C6, the Mukilteo School District indicates students residing in the proposed new duplex will attend the following schools and use the following bus stops:

Fairmount:	York Road at 28 <sup>th</sup> Place West
Olympic View:	York Road at 28 <sup>th</sup> Place West
Mariner High:	3001 York Road

The school district's requirements for frontage improvements match those required by the DPW and described above.

7. School Impact: 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 Mukilteo School District No. 1, 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 existing duplex.
8. Critical Areas: No critical areas are located on the subject property or within 100 feet of it. Thus there is no application of the critical areas ordinance to this project.
9. Drainage and Grading: The development site is little over 1/3 acre in size. York Road improvements include street widening, curb, gutter and sidewalk for approximately 120 feet. Two new road catch basins and conveyance pipe will be added to the frontage improvements.

Grading quantities are anticipated to be approximately less than 100 cubic yards of cut and fill, primarily for driveway, 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 to be submitted prior to construction permits being issued.

The applicant has demonstrated that because the development would increase peak run-off below the threshold (0.1 cubic feet per second peak run-off rate for the 100 year, 24 hour storm event), thus, storm water detention is not required by code. Pervious pavement driveway will infiltrate much of the east driveway run-off. Yard and rooftop drainage will be collected to yard drains, which will then pass through a one cartridge water quality treatment catch basin, discharging to the storm drainage system in York Road. To avoid any negative impacts to the easterly neighbor, a drainage waiver was requested and granted to redirect drainage to York Road, away from the southeast corner of the site. Adequate capacity was demonstrated for this alternate drainage route, to the point at which it rejoins the existing drainage flow path.

10. Comprehensive Plan Compliance:
  - A. This application was complete on November 17, 2007. 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 Growth Management Act Comprehensive Plan (GMACP), added rural lands to Urban Growth Areas (UGA) and adopted area-wide rezones within the UGAs of the County respectively. The subject property is designated UMDR (6-12 du/acres) 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 UMDR designation "allows a combination of detached homes on small lots, townhouses and apartments in medium density, multi-family residential developments." Land in this category may be developed up to a maximum density of 12 dwelling units per acre. "Implementing zones include the LDMR, PRD-LDMR, Townhouse, R-7,200, PRD-7,200 and WFB zones." The requested rezone is to be consistent with the General Policy Plan's UMDR designation of the property.

The Growth Management Act, Chapter 36.70A RCW, specifically recognizes that the intent of the Act is to provide for the public health, safety and welfare. Snohomish County's GMACP provides specific policies concerning land use, housing and urban residential density. The proposed rezone implements the County's GMACP.

The following analysis is provided in compliance with the Council's decision in Motion 07-447 which reads in part:

(NEW) Conclusion 9. 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 of 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 Snohomish County Code. However, this does not limit in any way 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.

PDS staff is directed to provide additional evaluation and to issue a new staff report specifically providing an analysis of rezone criteria in SCC 30.42A.100(1) and (2): showing how the proposal is consistent with the Comprehensive Plan policies and providing an analysis of how "[T]he proposal bears a substantial relationship to the public health, safety, and welfare...."

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.

- 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.
- 1.A.3                            Snohomish County shall ensure a no net loss of housing capacity that preserves the County's ability to accommodate the 2025 growth targets, while pursuing compliance with all relevant federal, state and local laws and regulations.

*Urban Development Patterns*

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.

*Comment: The rezone will allow the property to continue the existing development patterns in the general neighborhood. The York Road Area is part of the Urban Medium Density Growth Area which is currently characterized by small urban size lots. There has not been the level of development in the last 4-5 years as has been experienced on nearby Gibson Road. While no other parcels on York Road have recently been rezoned, many other parcels in the neighborhood have experienced extensive rezones to higher density. As previously found there are four duplexes across the street from the project on 28<sup>th</sup> Place West.*

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

*Comment: As previously found, the surrounding properties in the area currently range from R-9600 to LDMR. The proposed rezone would fall within the zoning range.*

2.A.4                              Any UGA shall provide opportunities for a mix of affordable housing types (e.g. small lot detached, townhouses, duplex, triplex, 6 to 8 unit apartment and small group housing units) within medium density residential areas.

*Comment: The proposal will allow a greater mix of duplexes within the area which currently contains both single family and duplexes. Each unit in the duplex will differ in square footage, thereby creating two different housing values in one duplex structure.*

2.A.5                              Medium and high density residential development (including elderly and disabled housing) shall be encouraged to locate, where possible, within walking distance of transit access or designated transit corridors, medical facilities, urban centers, parks, and recreational amenities.

The 4 units proposed are consistent with the density provisions of Snohomish County's GMA-based zoning regulations under Subtitle 30.2.

*The examiner makes further findings which relate to the Council's decision in Motion 07-447 regarding matters not discussed in the staff report but which are described by the applicant in Exhibit 21:*

B. Adequacy of existing facilities in the area (LU-1)

**Streets and Highways.** This project abuts York Road which is designated a Residential Neighborhood Public Roadway. It connects to Airport Road and the Mukilteo Speedway via Beverly Road and to SR 99 via Alexander Road.

**Sidewalks.** As previously found, sidewalks and other frontage improvements shall be required of the applicant for this project.

**Street Lighting.** There is no street lighting in the area.

**Traffic Signals.** There are no signals at the intersections of York Road and Alexander or Beverly Park Roads. However, due to recent growth, Beverly has been widened to 4 lanes. "Right hand only" signs have been placed along Alexander Road and its intersections with Airport Road and Russell Way.

**Domestic Water.** Domestic Water is available from Alderwood Water and Wastewater District.

**Sanitary Sewers.** Sewer service is available from Alderwood Water and Wastewater District.

**Parks and Recreation.** A common recreational space is proposed for this development. It will include a park bench and residential landscaping. It will be located in the central area between the two duplex structures.

Existing public facilities in the vicinity of the project include: Kasch Park, Walter E. Hall Park, 92<sup>nd</sup> Street Park, Harbour Pointe Golf Club and Lake Serene.

**Storm Water Disposal Systems.** As described above under Grading, there will be an on-site storm water conveyance system. The storm water will be treated by a filter system to remove pollutants.

**Fire Systems.** Fire protection will be provided by District #1. There is an existing fire hydrant 220 feet to the east of the subject parcel. Each unit will be provided with NFPA 13-D fire suppression systems.

**Law Enforcement.** Snohomish County Sheriff's Department will provide police protection.

**Public Health.** No public health issues have been identified relating to this project.

**Schools.** As previously found, Mukilteo School District services the project area. School bus stops are nearby.

Public Transit. Public Transit does not serve the site, but is available 1500 feet away at the intersection of SR 99 and Russell Road. There is another bus stop 1,850 away at the intersection of York and Beverly Park Roads.

C. Housing

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

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

The Housing Element and Economic Development Element are closely related. Affordable, well-planned housing located with good accessibility to employment is an essential part of a healthy economy.

The Housing Element is related to Utilities, Capital Facilities and Transportation, as well as education and government services. All these facilities and services are necessary to support households directly, or support their ability to connect to jobs and government support programs.

GOAL HO 2 Ensure the vitality and character of existing residential neighborhoods.  
Also LU -15.

*Comment: The development is consistent with the neighborhood as it will match a majority of the adjacent zoning in the general area. The new duplex will be located behind the existing duplex and will match current construction of the single family detached units located directly to the east and west of the subject parcel*

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

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

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

D. 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). Ride-sharing 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.

Access to each proposed duplex unit will be from two 12 foot- wide driveways from York Road. As the drive aisle reaches the south portion of the site it widens out to create a “T” turnaround area near the garage entrances.

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

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

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

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

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

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

The subject rezone will include frontage improvements along York Road.

TR 1.C.10 Developments taking access from existing roadways shall be required to make offsite improvements to improve them to at least minimum standards

for vehicular access based upon such factors as the volume and other characteristics of existing and newly-generated traffic.

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

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

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

11. Zoning: This project meets zoning code requirements for lot size, including lot size averaging provisions, bulk regulations and other zoning code requirements. Adequate public services, including parks, schools, sewer/water, public transit, fire and police protection, and public power exist, or are in the planning stages, to serve the potential increase in residential density that would result from this rezone request.
12. Fire Code: Chapter 30.53A SCC was modified by the adoption of Amended Ordinance 07-087 on September 5, 2007, effective September 21, 2007. This application was received on October 17, 2007 and is therefore subject to the current version of Chapter 30.53A SCC that was put into effect September 21, 2007.

The access shown on the preliminary plat map, (Exhibit #5B) meets the minimum requirements of Chapter 30.53A and the IFC for width and slope.

The existing fire hydrant meets minimum spacing requirements per SCC 30.53A.516. The required fire flow for the fire hydrants is 1000 gpm at 20 psi for a 2 hour duration and will be verified after construction and prior to the final plat recording. In the event the required fire flow cannot be provided, a condition will be added to the plat that requires the new dwellings in the plat to be provided with NFPA 13-D fire suppression systems.

Per section 505.1 of the International Fire Code, the new dwellings shall be provided with approved address numbers placed in a position that is plainly legible and visible from the street or road fronting the property. The numbers shall contrast with their background.

13. Rezone considerations: The hearing examiner may approve a rezone only when all the following criteria are met:
  - (1) The proposal is consistent with the comprehensive plan;
  - (2) The proposal bears a substantial relationship to the public health, safety, and welfare; and
  - (3) Where applicable, minimum zoning criteria found in chapters 30.31A through 30.31F SCC are met.

14. **REQUIRED FINDINGS**

- A. The rezone proposal is consistent with the Comprehensive Plan. The Comprehensive plan designation is UMDR. This designation supports a rezone to LDMR.
  - B. The requested rezone bears a substantial relationship to the public health, safety, and welfare.  

The requested rezone conforms to the Comprehensive Plan, and through detailed review by PDS, adequate provisions have been made to ensure compliance with the County's development codes in the UDC. Therefore, the rezone implements public policy and advances the public health, safety and welfare.
  - C. The minimum zoning criteria found in Chapters 30.31A through 30.31F SCC are NOT applicable to this application.
- 15. As previously found, public water and sewer service will be available for this development as well as electrical power.
  - 16. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

**CONCLUSIONS:**

- 1. The Examiner has jurisdiction to hear this matter and render a decision thereon.
- 2. The request is consistent with the GMACP; GMA-based County codes; and the type and character of land use permitted on the site and the permitted density with the applicable design and development standards.
- 3. The request is an application for a rezone and therefore must comply with Chapter 30.42A. This is a site-specific rezone that conforms to the Comprehensive Plan.
- 4. Adequate public services exist to serve the proposal.
- 5. The proposal makes adequate provisions for the public health, safety and general welfare.
- 6. The request should be approved as submitted.
- 7. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

**DECISION:**

The request for a **REZONE** from Residential-9600 (R-9600) to Low Density Multiple Residential (LDMR) is hereby **APPROVED**.

Decision issued this 9<sup>th</sup> day of July, 2008.

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James Densley, Hearing Examiner Pro Tem

**EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES**

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

**Reconsideration**

Any Party of Record may request reconsideration by the Examiner. A Petition for Reconsideration must be filed in writing with the Office of the Hearing Examiner, 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 **JULY 21, 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 **JULY 24, 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: Elbert Esparza

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.