

BEFORE THE
SNOHOMISH COUNTY HEARING EXAMINER
DECISION of the DEPUTY HEARING EXAMINER

In the Matter of the Application of)
) **FILE NO. 04 110464**
QUINTESSA TOWNHOMES, LLC)
)
Rezone for 2.34 acres from Residential-8,400 (R-8,400))
To Multiple Residential (MR) and Rezone .71 acres to)
Low Density Multiple Residential (LDMR) along with)
An official site plan approval of a 40 unit residential)
development)

DATE OF DECISION: September 28, 2005

PLAT/PROJECT NAME: *Quintessa Townhomes*

DECISION (SUMMARY): A rezone of 3.05 acres from R-8,400 to MR on 2.34 acres and LDMR on .71 acre and an official site plan approval of 40 residential condominiums are **CONDITIONALLY APPROVED with preconditions.**

BASIC INFORMATION

GENERAL LOCATION: This project is located at 4118 148th Street SW, Lynnwood.

ACREAGE: 3.05 (total)

NUMBER OF UNITS: 40

ZONING: CURRENT: R-8,400
PROPOSED: 2.34 acres to MR
.71 acres to LDMR

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Medium Density Residential (6-12 du/ac) for the .71 acres
Urban High Density Residential (12-24 du/ac) for the 2.34 acres
Subarea Plan: Paine Field
Subarea Plan Designation: Urban (4-6 du/ac) for the .71 acres
Multiple Residential (9-24 du/ac) for the 2.34 acres

UTILITIES:

Water/Sewer: Alderwood Water and Wastewater

SCHOOL DISTRICT: Edmonds No. 15

FIRE DISTRICT: No. 1

SELECTED AGENCY RECOMMENDATIONS:

Department of:

Planning and Development Services (PDS): Approval subject to preconditions and conditions

Public Works (DPW): Approval subject to preconditions and conditions

INTRODUCTION

The applicant filed the Master Application on March 16, 2004. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 15 - 18)

A SEPA determination was made on July 12, 2005. (Exhibit 14) No appeal was filed.

The Examiner held an open record hearing on September 21, 2005, the 144th 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 September 21, 2005 at 10:01 a.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore had a general idea of the particular request involved.
2. The applicant, Quintessa Townhomnes, LLC, was represented by Ted Trepanier of Trepanier Engineering. Snohomish County was represented by Erik Olson of the Department of Planning and Development Services. Dennis Masadna testified also. There were no contested issues.

The hearing concluded at 10:13 a.m.

Note: The above information summarizes the information submitted to the Examiner at the hearing. However, for a complete record, an electronic recording of this hearing is available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS OF FACT

Based on all of the evidence of record, the following findings of fact are entered.

1. The master list of exhibits and witnesses which is a part of this file and which exhibits were considered by the Examiner is hereby made a part of this file as if set forth in full herein.
2. The PDS staff report has correctly analyzed the nature of the application, the issues of concern, the application's consistency with adopted codes and policies and land use regulations, and the State Environmental Policy Act (SEPA). That report is hereby adopted by the Examiner as if set forth in full herein unless otherwise stated below.
3. The applicant, Quintessa Townhomes, LLC, proposes to rezone 3.05 acres from the current R-8,400 to the proposed Multiple Residential (MR) on 2.34 acres and Low Density Multiple Residential (LDMR) on .71 acre in order to construct pursuant to an official site plan 8 fourplexes, two triplexes and one duplex. The proposed rezones will implement the Comprehensive Plan. (See Findings 11 and 12 below.)
4. The project would comply with park mitigation requirements under Chapter 30.66A SCC (Title 26A SCC) by the payment of \$741.00 for each new multi-family residential unit.
5. The DPW reviewed the request with regard to traffic mitigation and road design standards. This review covered Title 13 SCC and Chapter 30.66B SCC (Title 26B SCC) as to road system capacity, concurrency, inadequate road conditions, frontage improvements, access and circulation, and dedication/deeding of right-of-way, state highway impacts, impacts on other streets and roads, and Transportation Demand Management. As a result of this review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions.
6. School mitigation requirements under Chapter 30.66C SCC (Title 26C SCC) have been reviewed and set forth in the conditions.
7. An isolated, 1,575 square foot Category 3 wetland in the south central portion of the site will be filled as allowed by Snohomish County Code (SCC) 32.10.575(1)(f), subject to best management practices. The wetland has low functional value, loss of which will be mitigated by the design of the stormwater treatment system to include native shrub plantings on 2,400 square feet of the area on either side of the biofiltration swale. Those plantings and the detention vault will replace the water quality treatment, stormwater detention and wildlife habitat functions of the existing wetland.
8. The PDS Engineering Division has reviewed the concept of the proposed grading and drainage and recommends approval of the project subject to conditions, which would be imposed during full detailed drainage plan review pursuant to Chapter 30.63A SCC (Title 24 SCC).
9. The Snohomish County Health District has no objection to this proposal provided that public water and sewer are furnished.
10. Public water and sewer service will be available for this development as well as electrical power.

11. The northern .71 acres is designated Urban Medium Density Residential (6-12 du/ac) on the General Policy Plan (GPP) Future Land Use Map (FLUM) and is located within an Urban Growth Area (UGA). According to the GPP, the LDMR designation covers various subarea plan designations which would allow mostly detached housing developments on larger lot sizes. One of the implementing zones is the LDMR zone, which is the zoning requested here. The southern 2.34 acres is designated Urban High Density Residential (12-24 du/acre), with which the requested rezone is consistent.
12. The Urban Medium Density Residential designation covers various sub-area plan designations which allow a combination of detached homes on small lots, townhouses, and apartments in low density, multifamily residential developments. Land in this category may be developed up to a maximum density of twelve dwelling units per acre. Implementing zones include the requested Low Density Multiple Residential zone. The requested rezone to LDMR and proposed official site plan will be consistent with the General Policy Plan designation of the property.
13. Chapter 30.42A covers rezoning requests and applies to site-specific rezone proposals that conform to the Comprehensive Plan. The decision criteria under SCC 30.42A.100 provides as follows:

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.

It is the finding of the Examiner that the request meets these requirements generally and should be approved.

14. The request is consistent with Section 30.70.100 SCC (Section 32.50.100 SCC), which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP, and GMA-based county codes.
15. Any finding of fact in this decision which should be deemed a conclusion is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Examiner having fully reviewed the PDS staff report, hereby adopts said staff report as properly setting forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their effect upon the request. It is therefore hereby adopted by the Examiner as a conclusion as if set forth in full herein, in order to avoid needless repetition. There are no changes to the recommendations of the staff report.
2. The Department of Public Works recommends that the request be approved as to traffic use subject to certain conditions.
3. The request is consistent with the (1) GMACP, GMA-based County codes, (2) the type and character of land use permitted on the site, (3) the permitted density, and(4) the applicable design and development standards.

4. The request is for a rezone and therefore must comply with Chapter 30.42A. This is a site specific rezone that conforms to the Comprehensive Plan and since no evidence was submitted contrary to the requirements of Chapter 30.42A, the evidence is presumed to meet these requirements.
5. The request should be approved subject to compliance by the applicant with the following preconditions and conditions:

PRECONDITIONS

- A. A record of developer's 30.66B SCC mitigation obligations and the Certificate of Concurrency shall have been recorded with the County Auditor. (30.66B.070 SCC)
- B. Five feet of additional right-of-way shall be dedicated to Snohomish County, parallel and adjoining to the existing right-of-way along the parcel's frontage on 148th Street Southwest. (SCC 30.66B.510, SCC 30.66B.520)
- C. The applicant shall record a concomitant agreement that describes the type of development approved and any special conditions of approval.

CONDITIONS

- A. The Official Site Plan received by the Department of Planning and Development Services on May 2, 2005 (Exhibit 12A) shall be the Official Site Plan. Revisions to the approved Official Site Plan shall be governed by SCC 30.42C.110.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the County:
 - i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
 - ii. Prior to building permit issuance for each group of units the applicant shall pay school impact mitigation fees for each multi-family residential unit for the Edmonds School District No. 15, which are to be determined by the certified amount within the Base Fee Schedule in effect at the time of building permit application. Credit shall be given for 1 existing parcel(s). Unit 1 shall receive credit."
 - iii. Prior to building permit issuance for each group of units the applicant shall pay traffic impact mitigation fees in the amounts shown below for each multi-family residential unit:
 - \$1,683.94 per unit for mitigation of impacts on county roads paid to the County,
 - \$53.92 per unit for transportation demand management paid to the County,
 - \$16.95 per unit for the late-comers agreement for the intersection of 152nd Avenue W and 148th Street W improvement.

- iv. Prior to building permit issuance for each group of units the applicant shall pay park impact mitigation fees for the Snohomish County Nakeeta Beach Park Service Area No. 307 in the amount of \$741.00 per each new multi-family residential unit.
- E. Prior to the occupancy of the first unit:
- i. Approval of the frontage improvements by the Department of Public Works constructed by the developer per the approved plans.
 - ii. All frontage landscaping along 148th Street SW and perimeter landscaping and play area on the east side of the internal access and across from units 1 through 10, extending southward from 148th Street SW to just north of units 12 and 13, shall be installed by the applicant and approved by Snohomish County.
 - iii. All perimeter fencing shall be installed
 - iv. All required detention facility landscaping shall be installed in accordance with the approved landscape plan.
- F. Prior to the occupancy of all remaining units:
- i. All perimeter and internal landscaping shall be installed as each group of units is completed.
- G. All development activity shall conform to the requirements of Chapter 30.63A SCC.

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

- 6. Any conclusion in this report and decision which should be deemed a finding of fact is hereby adopted as such.

DECISION

Based on the findings of fact and conclusions of law entered above, the decision of the Hearing Examiner on the application is as follows:

The request for rezones to MR and LDMR with Official Site Plan is hereby **CONDITIONALLY APPROVED**, subject to compliance with the **PRECONDITIONS** and **CONDITIONS** set forth in Conclusion No. 5 above.

Decision issued this 28th day of September, 2005.

Ed Good, Deputy Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

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

Reconsideration

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **OCTOBER 10, 2005**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

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

The grounds for seeking reconsideration are limited to the following:

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

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

Appeal

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with

the Department of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **OCTOBER 12, 2005** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

An appeal must contain the following items in order to be complete: a detailed statement of the grounds for appeal; a detailed statement of the facts upon which the appeal is based, including citations to specific Hearing Examiner findings, conclusions, exhibits or oral testimony; written arguments in support of the appeal; the name, mailing address and daytime telephone number of each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any; the name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and the required filing fee.

The grounds for filing an appeal shall be limited to the following:

- (a) The decision exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- (c) The Hearing Examiner committed an error of law; or
- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by substantial evidence in the record. [SCC 30.72.080]

Appeals will be processed and considered by the County Council pursuant to the provisions of Chapter 30.72 SCC. Please include the County file number in any correspondence regarding the case.

Staff Distribution:

Department of Planning and Development Services: Erik Olson
Department of Public Works: Andy Smith

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.
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This decision is binding but will not become effective until the above precondition(s) have been fulfilled and acknowledged by the Department of Planning and Development Services (PDS) on the original of the instant decision. Document(s) required for fulfillment of the precondition(s) must be filed in a complete, executed fashion with PDS not later than SEPTEMBER 28, 2006.

1. "Fulfillment" as used herein means recordation with the County Auditor, approval/acceptance by the County Council and/or Hearing Examiner, and/or such other final action as is appropriate to the particular precondition(s).
2. One and only one six month period will be allowed for resubmittal of any required document(s) which is (are) returned to the applicant for correction.
3. This conditional approval will automatically be null and void if all required precondition(s) have not been fulfilled as set forth above; PROVIDED, that:
 - A. The Examiner may grant a one-time extension of the submittal deadline for not more than twelve (12) months for just cause shown if and only if a written request for such extension is received by the Examiner prior to the expiration of the original time period; and
 - B. The submittal deadline will be extended automatically an amount equal to the number of days involved in any appeal proceedings.

ACKNOWLEDGMENT OF FULFILLMENT OF PRECONDITIONS

The above imposed precondition(s) having been fulfilled by the applicant and/or the successors in interest, the Department of Planning and Development Services hereby states that the instant Decision is effective as of

_____.

Certified by:

(Name)

(Title)
