

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

DATE OF DECISION: April 22, 2008

PLAT/PROJECT NAME: Warner Rezone and Short Plat

APPLICANT/
LANDOWNER: Serguei Abramenko
18415 Blue Ridge Drive
Lynnwood, WA 98037-4134

FILE NO.: 07-100768-000-00-SP

TYPE OF REQUEST: Rezone from R-9600 to R-7200

DECISION (SUMMARY): APPROVED

BASIC INFORMATION

GENERAL LOCATION: The property is located at 14130 Meadow Road, Lynnwood, Snohomish County, Washington. Tax parcel 003750-000-006-02.

Acreage: .66 acres

Current Zoning: R-9,600

Proposed Zoning: R-7,200

Comprehensive Plan
General Policy Plan: Urban Low Density Residential

School District: Mukilteo Number 6 Fire District: 01

Water Source: Alderwood Water Sewer Service: Alderwood Wastewater

INTRODUCTION

The applicant filed the Master Application on March 15, 2007. (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 16, 17, and 18)

PDS issued a Determination of Nonsignificance (DNS) for the subject application on December 11, 2007 (Exhibit 15). The DNS was not appealed or specifically commented on.

The Deputy Examiner, Ed Good, held an open record hearing on February 20, 2008, the 142nd 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 February 20, 2008 at 1:04 p.m.

1. The Deputy Examiner, Ed Good, announced that he had read the PDS staff report, reviewed the file and viewed the area and therefore was generally apprised of the particular request involved.
2. The applicant, Serguei Abramenko, was represented by Ms. Debbie Rothfus. Snohomish County was represented by Ms. Stacy Abbott, senior planner for the Department of Planning and Development Services.
3. Those present who expressed a desire to testify were administered the oath.
4. Appearing and giving testimony were Debbie Rothfus and Stacy Abbott.

The hearing concluded at 1:35 p.m.

By consent of the applicant dated March 19, 2008, Examiner Pro Tem James A. Densley listened to the record, reviewed the file and made a decision on this case.

NOTE: 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 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. Exhibit 33 was introduced and made part of the record during the public hearing.

2. Nature of Application: The applicant requests a rezone of a 0.66 acre site from R-9,600 to R-7,200 in order to short plat the subject site into 4 single family lots. The type 1 administrative short plat approval is dependant upon rezone approval. There is an existing mobile home and sheds on the site that will be removed. Public water and sewer service will be provided by Alderwood Water and Wastewater. Mitigation fees are to be paid in accordance with Chapters 30.66A, B, and C, SCC, for project impacts to community parks, nearby road system traffic and to the Mukilteo School District # 6.
3. Site Description: This .66 acre site is square shaped lying north of 142nd Street SW. A mobile home is located in the southwest corner of the site. The mobile home and existing sheds are to be removed. No wetlands or critical areas exist onsite. The remaining land cover consists of grass and landscaping. The site slopes approximately 4 percent to the east.
4. Adjacent Zoning/Uses: The site is between PFN 05-124445, an approved nine lot short plat and the recorded plat of McCormick Meadows, a 13 lot plat, both of which were previously rezoned to R-7,200. Numerous parcels on the east side of Meadow Road have also been recently rezoned to R-7,200 and are being subsequently subdivided. The parcel directly east is zoned R-9,600.
5. Matters of Concern: No matters of public concern were brought up in written form or during the public hearing.
6. Parks 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, to be paid either prior to plat recording or prior to building permit issuance for each unit. Such payment or contribution of in-kind mitigation is acceptable mitigation for parks and recreation impacts in accordance with county policies.
7. School Impact: 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. 6, 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 1 existing lot.
8. Drainage and Grading: This project will construct 4 new single family lots. Storm water runoff from the proposed SFR's, driveways and frontage improvements will be conveyed to the closed detention vault. The detention vault is located on the subject parcel and in Tract 999 of an adjacent subdivision (PFN 05-124445) which has received preliminary approval. The detention vault will be constructed and approved as part of PFN 05-124445. The two short plats shall have a shared Operations and Maintenance Agreement.

Planning and Development Services (Engineering) reviewed the concept offered by the applicant (Exhibit 12) and recommended 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 100 cubic yards of cut and 2000 cubic yards of fill, primarily for road, drainage facility, and home site construction. Water quality shall 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.

9. Critical Areas: The PDS visited the site and determined that there are no critical areas on site or off site associated with the proposed rezone or potential future development. Such determination is adopted by the Examiner as a finding.
10. GMA Compliance: 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 “covers various sub-area plan designations, which allow 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.”

The subject rezone and future development proposal is for a 4 lot short plat and rezone resulting in a density of 6 dwelling units per acre. PDS finds that the requested rezone is consistent with, and implements 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 “...already characterized by urban growth that have adequate existing public facilities and service capacities...”. Public facilities and services such as, but not limited to, roads, sidewalks, water, sewer and storm collection currently exist, or are being constructed throughout the general vicinity. 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.

LU Policies 2.A.1 Within UGAs, development regulations shall be adopted and maintained which will require that new residential subdivisions achieve a minimum net density of 4-6 dwelling units per acre in all unincorporated UGAs, except (1) in the UGAs of Darrington, Index, and Gold Bar as long as those cities do not have sanitary sewer systems and (2) in areas without sanitary sewers which the sewer purveyor with jurisdiction, or in nearest reasonable servicing proximity will certify are either an unsewered urban enclave or are not capable of being connected to public sewers via annexation within the next six years or by the improvements provided pursuant to its adopted six year capital facilities plan, (3) where regulations for development on steep slopes require reduced lot or dwelling unit yields, or (4) where a lower density is necessary because of the existence of critical areas that are large in scope, with a high rank order value, and are complex in structure and function. Lot size averaging, planned residential developments, sewerage regulations and other techniques may be used to maintain minimum density or to insure later development at minimum densities is not inhibited when sanitary sewers become available.

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.

This development will achieve 6.15 dwelling units per acre. Lot size averaging was used as well as open space. Minimum net density requirements were achieved. The parcel is located within the Southwest County UGA. This project meets these policies.

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.

5.A.9 Infrastructure improvements shall be coordinated and shall be provided, where financially feasible, to support the creation of neighborhoods, focal points, and Neighborhood and Community Commercial Centers.

This parcel is surrounded and connected to new single family development and established neighborhoods. Infrastructure such as drainage, sidewalk and road improvements exists in the local area. Urban frontage improvements, including curb, gutter and sidewalks along the parcels frontage are required as part of the short plat. The future short plat will provide a missing area of planter and sidewalk.

A mix of urban commercial/business park facilities are located approximately 1 mile to the north (128th Street SE).

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.

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

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 safewalks in new subdivisions.

Full urban frontage improvements are required along the subject parcel's frontage on Meadow Road and along 142nd Street SW. These improvements consist of Asphalt concrete pavement consisting of 18 feet width from roadway centerline to the face of curb, Cement concrete curb and gutter, Planter strip with a width of 5 feet and Cement concrete sidewalk with a width of 5 feet

Capital Facilities

This element of the plan seeks to put these principles into effect through a series of goals, objectives, policies and implementing strategies which are organized as follows:

- county facilities and services including:
 - surface water management,
 - solid waste disposal,
 - law and justice,
 - general government,
 - parks and recreation,
 - airport, and
 - land transportation (see transportation element);
- non-county providers' facilities and services including:
 - public education,
 - fire suppression,
 - sanitary sewer (see utilities element),
 - public water supply (see utilities element); and
 - essential public facilities - siting.

This chapter of the General Policy Plan provides the overall direction and detailed policy guidance for the Capital Facilities Element of the GMA comprehensive plan. The Capital Facilities Element also includes the Capital Facilities Plan and the 6-year Capital Improvement Program. The CFP contains more detailed information concerning the inventory of existing public facilities and a forecast of future needs for these facilities. The CIP presents a six-year program of public improvements that is reviewed, revised and adopted each year as part of the budget process.

CF Policy 7.1 The county shall utilize impact fees as authorized under the GMA to help fund the cost of parkland and facilities expansion and as required to serve new development.

The proposed future development will be subject to parks impact fees, to be collected at the time of building permit issuance (see "Parks Mitigation" section above).

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.

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| 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 fro 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 25), water and sewer will be available to serve the proposed development. The Snohomish County PUD #1 indicates that it has sufficient capacity to provide electrical service to the proposed development (Exhibit 24).

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 ridematching 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 lot will be directly from 142nd Street SW and accessible by emergency 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.

The subject rezone has frontage on Meadow Road and 142nd Street SW, which are 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 even though 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 Meadow Road and 142nd Street SW. Access to the development has been limited to 142nd Street SW which is the minor street. This is also 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.

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.

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.

Per TR 1.C.12, additional right-of-way dedication has been required as applicable along the frontage of subject rezone.

Meadow Road and 142nd Street SW are not identified as existing or proposed bike paths on the Countywide Bicycle Facility Map, Map 2 of the Snohomish County GMA Comprehensive Plan, which was created to identify where bicycle facilities are needed within the County in accordance with TR 4.E

The subject rezone will result in 4 lots where 3 lots would otherwise be permitted. 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, Capitol Facilities, Utilities, Transportation and Housing elements from the GPP.

Specific analysis of the proposed development plan as well as 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 site plan 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, administrative site plan proposal, and expected future development activity found 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. The Examiner adopts the above analysis and findings of PDS as it relates to GMA compliance of this rezone request.

11. Zoning: 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 35%.

The LSA calculation is as follows:

Area in Lots (23,468 square feet) + Open Space (4,868 square feet) + Dedication (682 square feet) = 29,016 square feet ÷ 4 of lots proposed = 7,254.5 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. The proposal is consistent with the lot size averaging provisions of SCC 30.23.210.

12. Sub Division Code: The proposed short plat also meets Chapter 30.41B SCC requirements. A complete application for the proposed plat was received by PDS on March 15, 2007. The proposed short plat as conditioned also meets the general requirements under Section 30.41B.200 with respect to health, safety and general welfare of the community. As proposed, the subject lots will not be subject to flood, inundation or swamp conditions. The lots as proposed are outside of all regulated flood hazard areas. As conditioned, the plat will meet all SCC 30.41B.200 design standards for roads.
13. Rezone: Under SCC 30.42A.100, the hearing examiner may approve a rezone only when all the following decision 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.

REQUIRED FINDINGS:

- A. The rezone proposal is consistent with the Comprehensive Plan. The subject property is located within an Urban Growth Area (UGA) and is designated Urban Low Density Residential (ULDR: 4-6 DU/Ac) on the GPP Future Land Use map. The GPP states that R-7,200 is an implementing zone for lands designated ULDR and that housing of various types should be directed to the UGA. Therefore, based on the finding that the subject property is designated Urban Low Density Residential (ULDR: 4-6 DU/Ac) on the GPP Future Land Use map the requested rezone is consistent with the adopted comprehensive plan.
- 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.

In the context of the Growth Management Act, development regulations, and therefore rezones, must be consistent with and implement the comprehensive plan [RCW 36.70.040]. But in the context of site-specific rezones, the inquiry goes beyond mere consistency with the map designation of the comprehensive plan.

This rezone is a request to up-zone the subject property in the Urban Low Density Residential (ULDR) designation from R-9,600 to R-7,200 to allow a total of 4 single family homes. The applicant's analysis of the proposed urban rezone contained in Exhibit 33 meets the applicant's burden of showing the support for the application.

The proposed future development plans submitted for the project have been deemed to be in compliance with county GMA development regulations relating to traffic, drainage, project density and zoning, landscaping, parks and school mitigation and critical areas protection.

The proposed rezone bears a substantial relationship to the public health, safety and welfare and the request to rezone the property from R-9600 to R-7,200 shall be approved.

14. Plats – Subdivisions – Dedications (Chapter 58.17 RCW): The plat has been reviewed for conformance with criteria established by RCW 58.17.100, .110, .120, and .195. Such criteria require that the 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. There is open space provided within the plat in the form of storm detention (closed vault) tract, the single-family homes on small lots will be in character with the existing neighborhood. Provisions for adequate drainage have been made in the conceptual plat design which indicates that the final design can conform to Chapter 30.63A SCC and State DOE drainage standards. The 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.

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

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 a summary of PDS's conclusions which are adopted by the Examiner except where specifically noted.

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

The development will generate 28.71 new ADT and has a road system capacity impact fee of \$7,665.57 (\$1,916.36/lot) based on \$267/ADT.

2. Concurrency [SCC 30.66B.120]

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 was 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:

The subject development is located in TSA D which, as of the date of submittal, had the following arterial units in arrears: 202, 204. 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 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.

3. 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.

On April 19, 2007, e-mail notification was received that the intersection of Meadow Road and 137th Street SW was recommended as an IRC. Based on the accepted trip distribution for Bella Terra PFN 05 128322 (42% northbound, 58% southbound) the subject development will not impact the recommended IRC location with three or more p.m. peak hour trips.

4. 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.

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

- Asphalt concrete pavement consisting of 18 feet width from roadway 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

Meadow Road on which the development is required to construct frontage improvements was programmed for an overlay in 2005. EDDS Chapter 8 prohibits cuts into pavement 3 years old or newer. An EDDS deviation may be required for any utility installations.

The road, Meadow 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.

As per DPW Rule 4222.020(1) full urban frontage improvements are required along the subject parcel's frontage on 142nd Street SW and consist of:

- Asphalt concrete pavement consisting of 14 feet width from roadway 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

142nd Street SW 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.

5. 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.

All lots will take access from 142nd Street SW. Lot 1 will take access via a 23 foot shared driveway easement the runs parallel to tract 999. Lot 4 will take access via a shared driveway easement parallel to the western property line. The Traffic Section of PDS generally approves of the proposed layout.

6. 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.

Meadow Road 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, 30 feet of right-of-way exists on the development's side of the right-of-way. Therefore, the development is required to dedicate 5 feet of additional right-of-way.

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

142nd Street SW is designated as a non-arterial on the County's Arterial Circulation Map. This requires a right-of-way width of 26 feet on each side of the right-of-way centerline. Currently, 26 feet of right-of-way exists on the development's side of the right-of-way. Therefore, additional right-of-way is not required.

142nd Street SW 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.

Dedication of additional right-of-way that is tangent to the ultimate right-of-way on Meadow Road and 142nd Street SW to accommodate a 35 foot radius curb return is required.

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

This development is subject to the Washington State Department of Transportation (WSDOT)/County Interlocal Agreement (ILA), which became effective on applications determined complete on or after December 21, 1997. Comments from WSDOT were received via an email dated May 30, 2007 (Exhibit 22) concurring with the traffic study submitted by the applicant. Specifically, WSDOT agrees that this development will not contribute three or more PM peak-hour trips to any WSDOT projects within TSA D. Therefore, WSDOT does not request any traffic mitigation from the applicant.

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

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.

The City of Mill Creek was provided notice of application for this project and an opportunity to comment. Comments from the city have been received as of March 29, 2007. The city has no comments regarding the subject development. Therefore mitigation measures for transportation impacts within the City of Mill Creek will not be imposed on the development 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.

9. 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 (\$56.81/ SFR). The applicant has offered in writing to pay this amount.

10. 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.

The County is required to make findings regarding safe walking conditions for school children who may reside in the subject short subdivision. Comments dated April 25, 2007, have been received from the Mukilteo School District stating that the students will catch the bus at either the intersection of Meadow Road and 142nd Street SW or 143rd Street SW. Adequate pedestrian facilities to these locations exist off site. Therefore off site improvements are not required.

CONCLUSIONS OF LAW

Based on the findings of fact entered above, the following conclusions of law are entered.

1. The Examiner has jurisdiction to hear this case and render a decision thereon.
2. The proposal is consistent with the GMACP; GMA-based county codes, the type and character of land use permitted on the project site, the permitted density and applicable design and development standards.
3. Adequate public services exist to serve the proposal.
4. The proposal will make adequate provisions for the public health, safety and general welfare.

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 proposed rezone is APPROVED.

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.

Decision issued this 22nd day of April, 2008.

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, 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 **MAY 2, 2008**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

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

The grounds for seeking reconsideration are limited to the following:

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

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

Appeal

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **MAY 6, 2008** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

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

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

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

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

Staff Distribution:

Department of Planning and Development Services: Stacey Abbott

<p>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.</p>
