

**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF REDMOND**

In the Matter of the Application of	)	NO. L100204
	)	
	)	
<b>Emerald Heights</b>	)	<b>Emerald Heights</b>
	)	<b>Development Guide Amendment</b>
	)	
For approval of a	)	FINDINGS, CONCLUSIONS,
Development Guide Amendment	)	AND RECOMMENDATION
_____	)	

**SUMMARY OF RECOMMENDATION**

The Redmond Hearing Examiner recommends that the request for approval of a development guide amendment (DGA) changing the zoning of the 38-acre Emerald Heights property, located at 10901 - 176th Circle NE, from R-4 to R-6 **SHOULD BE GRANTED**.

**SUMMARY OF RECORD**

**Request**

Emerald Heights (Applicant) requested approval of a DGA that would change the zoning for the existing 38-acre continuing care retirement community from R-4 to R-6 in order to allow for increased density within the existing project to meet market demand. The site is addressed as 10901 - 176th Circle NE in Redmond, Washington.

**Hearing Date**

The Redmond Hearing Examiner conducted an open record hearing on the request on May 2, 2011.

**Testimony**

At the open record hearing, the following individuals presented testimony under oath:

- Thara Johnson, Associate Planner
- Lisa Hardy, Emerald Heights CEO
- Julie Lawton, Applicant Representative, Lawton PMG
- Mike Miller, Applicant Architect, Rice Fergus & Miller
- John Plovie, Board of Directors Member
- Larry Pinnt, Resident/ Board of Directors Member
- Don Williams, Resident Council Chair
- Dick Swope, Resident
- Jay Bergevin, Board of Directors Member
- Al Chambard, Resident
- Don Taves, Resident

Bill Franz, Resident  
Linda Hussey, Board of Directors, Chair  
Marilyn Farrell, Resident  
Barbara Knopf, Board of Directors Member  
Russ Smedley, Resident  
Catherine Moody, Resident  
Tom Rodriguez, Emerald Heights Employee  
Robert Lauer, Resident  
Ellen Taves, Resident  
Barbara Mudge, Resident  
Judy Hjorth, Resident  
John Wright, Resident/ Board of Directors Member  
Mary Blanchard, Resident  
Bunny Williams, Resident  
Everil Loyd, Resident  
Martin Snodgrass, Neighboring Property Owner  
Marsha Heer, Resident

Attorney Molly Lawrence, Gordon Derr LLP, represented Emerald Heights.

**Exhibits**

At the open record hearing the following exhibits were admitted in the record:

EXHIBIT 1 Technical Committee Report to Hearing Examiner, with the following attachments:

1. Vicinity Map
2. Zoning Map
3. General Application Form
4. Community Development Guide Amendment Application Form
5. SEPA Application Form
6. Notice of Application and Affidavit of Publishing
7. Notice of Application Public Comment Letters
8. SEPA DNS and Environmental Checklist
9. SEPA DNS Comment Letters
10. Notice of Public Hearing and Affidavits of Posting
11. Rezone Application Packet

EXHIBIT 2 Staff PowerPoint presentation from the May 2nd hearing

EXHIBIT 3 Public Comment letters:

1. Barbara Mudge, May 1, 2011
2. Larry Turnbull, April 11 2011
3. Dale Blanchard, April 28, 2011
4. Don Kindred, April 28, 2011

5. Russ Smedley, April 26, 2011
6. Andrea Williams, April 26, 2011
7. Richard Niemer, April 26, 2011
8. Robert Lauer, April 21, 2011
9. Don Williams, April 21, 2011, with attached Resident Council Statement, dated April 14, 2011
10. Jane Walls, April 18, 2011
11. Patrick and Shirley Doyle, April 18, 2011
12. Judy Hjorth, April 16, 2011
13. Dick and Joyce Swope, April 14, 2011
14. Larry Pinnt, April 14, 2011
15. Larry Turnbull, April 11, 2011
16. Dolores and Martin Snodgrass, May 2, 2011
17. Don Taves comments(undated) with attached petition opposing zoning change
18. Ellen Taves comments, April 24, 2011<sup>1</sup>
19. Bill Franz, May 2, 2011, with two attachments:
  - a. Emerald Heights Residents' Assoc. Minutes, 11/9/10
  - b. Results of Survey re: Fitness Center and Additional Apartments

- EXHIBIT 4 Additional Applicant submittals consisting of:
- a. Notice of Services, General Conditions for Residence, March 2011
  - b. Residence Agreement, Traditional Plan
  - c. Residence Agreement, 100% Refundable Plan
  - d. Residence Agreement, 50% Refundable Plan
  - e. Assisted Living Addendum to Residence Agreement
  - f. Emerald Heights/Resident Relations, two-page summary with attached table detailing communications starting in September 2008
  - g. "Next Steps" PowerPoint Slide from Residents Association Meeting 9/9/08
  - h. Residents' Association Meeting Minutes excerpt 1/5/10
  - i. Residents' Association Meeting Minutes excerpt 2/9/10
  - j. Resident Advisory Master Plan Task Force meeting notes, 4/27/10
  - k. PowerPoint Slide from Residents Association Meeting 5/11/10
  - l. Correspondence to Residents, dated June 28, 2010
  - m. Emerald Heights (newsletter) "Renovation and Master Plan Update" dated July 12, 2010
  - n. Emerald Heights Project Advisory & Communications Team Meeting Notes 8/24/10
  - o. Correspondence to Residents, dated November 16, 2010
  - p. PowerPoint Slide from Residents Association Meeting 2/11/11
  - q. Emerald Heights (newsletter) dated March 2011

EXHIBIT 5 Judy Hjorth Comment

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<sup>1</sup> The email from Ms. Taves, dated April 24, 2011, was inadvertently omitted from the public comments submitted by Staff at hearing. The email was forwarded to the Examiner after adjournment with a request by Ms. Taves to have it included. Staff seconded the request to have the item included, as its omission had been an oversight. The emailed comment, consistent with Ms. Taves' testimony at hearing, is admitted.

Upon consideration of the testimony and exhibits submitted, the Hearing Examiner enters the following findings and conclusions in support of the decision and recommendation:

### FINDINGS

1. The Applicant requested approval of a DGA that would change the zoning for the existing 38-acre continuing care retirement community (CCRC) from R-4 to R-6 in order to allow for increased density within the existing project. The site is addressed as 10901 - 176th Circle NE in Redmond, Washington.<sup>2</sup> *Exhibit 1, page 1; Exhibit 1, Attachment 3, Application; Johnson Testimony.*
2. The DGA application was deemed complete on June 7, 2010. Notice of application was posted, published, and mailed to property owners within 500 feet on June 23, 2010. The City received two comments on the notice of application expressing general questions about the proposal. *Exhibit 1, pages 3- 4; Exhibit 1, Attachments 6 and 7.*
3. The City of Redmond was designated lead agency for review of the impacts of the proposed rezone pursuant to the State Environmental Policy Act (SEPA). The City reviewed the proposed DGA for compliance with SEPA requirements and issued a determination of non-significance (DNS) on October 13, 2010. During the SEPA comment period, the City received comments from neighboring property owners and letters opposing the proposal from Emerald Heights residents. In addition, residents submitted a petition expressing concerns about parking, sewer system capacity, and the potential presence of a spring under the site. In response to resident comments on the DNS, the Applicant conducted additional public meetings with the public generally and specifically with residents. No appeals of the DNS were filed. *Exhibit 1, pages 2, 4; Lawrence Comments; Exhibit 1, Attachments 5, 8, and 9; Exhibit 4, Attachments l, m, n, o, p, and q.*
4. In 1992, the subject property was developed with Emerald Heights, a CCRC owned and operated by Eastside Retirement Association. Existing site improvements include 401 dwellings, consisting of various independent living units and, in the existing Corwin Center, assisted living rooms and skilled nursing care rooms. Amenities also include a fitness center, auditorium, and other group facilities. Open areas of the site are vegetated with a combination of landscaping and retained mature trees. A Class III stream and steep slopes with grades greater than 40% occupy the western portion of the site. The stream, slopes, and buffer for each required pursuant to the City's critical areas ordinance are set aside in a native growth protect easement (NGPE). The existing retirement residential units are served by adequate public facilities and services including water, sewer, and stormwater. Private utilities, including phone, cable, and electricity, also serve the site. In addition to available public transportation to the site, the facility provides resident transportation services. The Emerald Heights community is well screened from adjoining land uses by landscaped buffers on all four sides of the property. Building heights and setbacks were chosen to ensure compatibility with neighboring

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<sup>2</sup> The subject property is known as Tax Assessor Parcel 3626059003. *Exhibit 1, Attachment 3.*

properties. The screening is so effective that it is possible to drive by Emerald Heights and not know it is there. *Exhibit 1, pages 3, 5, 6; Exhibit 4a; Chambard Testimony.*

5. The subject property is located in the Education Hill Neighborhood. It is surrounded by single-family residential development within R-1, R-5, and R-6 zoning designations. Redmond High School is adjacent to the south. Many Redmond High School students enjoy employment opportunities at Emerald Heights. *Exhibit 1, page 3; Exhibit 1, Attachments 1 and 2; Site Visit; Chambard Testimony.*
6. The subject property has a low-moderate residential zoning designation, which designation encompasses the R-4, R-5, and R-6 zones. The purpose of the low-moderate residential zones is to provide for primarily single-family residential neighborhoods on lands suitable for residential development with allowed densities of four, five, or six dwellings per gross acre. Both the R-4 and R-6 designations provide for stable and attractive suburban residential neighborhoods with a full range of public services and facilities. Some complementary nonresidential uses are allowed. *Exhibit 1, page 1; Exhibit 1, Attachment 2; Redmond Community Development Guide (RCDG) 20C.30.15-050).*
7. Presently, 28% of existing units are assisted living or skilled nursing care units, with 13% of units solely for skilled care nursing. Occupancy in the independent living units has run between 93 to 95 percent in recent years. However, both assisted living and skilled nursing care units have been occupied at 100 percent. Provision of on-campus healthcare services for residents is an expectation of contract fulfillment. As the current resident population lives longer, the need for additional assisted living and skilled nursing rooms to serve existing residents will increase. With the present zoning, only nine additional skilled nursing beds can be added to the Corwin Center. When the demand for assisted and skilled nursing facilities among present residents exceeds the existing capacity, residents are placed off-campus in other facilities. *Exhibit 1, pages 3, 9; RCDG 20C.30.85-030(3)(b); Exhibits 4.a, 4.f; Hardy Testimony.*
8. With its R-4 zoning designation, the subject property can contain a maximum of 456 residential units. If R-6 zoning were applied to the property, up to 684 residential units could be approved subject to compliance with zoning standards. Presently, there are 185 people on the Emerald Heights wait list. *Exhibit 1, page 3; Hardy Testimony; RCDG 20C.30.85-030(3)(b).*
9. No development is proposed under the instant DGA application; review of any future development proposals would be required pursuant to the zoning code in effect at the time of development application, typically through the site plan entitlement process. *Exhibit 1, page 10; Johnson Testimony.*
10. In order to facilitate review of the DGA criteria, the Applicant submitted conceptual plans demonstrating improvements that could be proposed if the density increase is approved. According to the conceptual plans submitted, two phases of construction are proposed, which would result in a final total of 608 dwelling units. Conceptual Phase I

consists of 84 new independent living units, 16 assisted living units, and 22 skilled nursing care units, as well as construction of a new wellness (fitness) center, a new auditorium, renovation of the existing buildings serving those purposes, and associated parking. Phase I construction is projected to last five years. Conceptual Phase II would consist of 46 additional independent living units, 14 assisted living units, and 25 skilled nursing care units, with associated parking over a fifteen year timeline. Much of the new development in both conceptual phases would be placed over existing impervious surfaces, such as parking structures. This design technique was selected to minimize interruption to existing vegetation and the creation of new impervious surfaces with associated stormwater runoff. *Exhibit 1, page 3; Miller Testimony.*

11. If the conceptual plan were developed as proposed, 31% of units would be assisted living and/or skilled nursing care units, with 17% solely for skilled nursing care. *Exhibit 1, page 9.*
12. Pursuant to RCDG 20C.70.20-030, development proposals in the Education Hill neighborhood that exceed the standard density allowed in the underlying zone are required to undergo sewer system capacity analysis by the City's Technical Committee. Prior to issuance of the DNS, the City required the Applicant to submit sewer capacity analysis and modeling based on the proposed density which was evaluated by a third party consultant. The City of Redmond's Capital Facilities Division confirmed that the downstream sewer system has adequate capacity to receive additional flows anticipated from the future density proposed by this rezone; however, two downstream manholes were identified as having a history of maintenance problems. Any future development proposal would undergo project-specific sewer capacity analysis prior to approval. Upgrades to the water and sewer systems would be required as part of the phased development. *Exhibit 1, pages 5, 10, 12; Johnson Testimony.*
13. Pursuant to the affordable housing standards in RCDG 20D.30, all new senior housing projects proposed in the City are required to provide a minimum of 25% of new units that satisfy the City's standards for affordable housing. In the present situation, the Applicant has sought financing through the Washington State Finance Commission, which requires affordable housing as well. Any future development proposals would be reviewed for compliance with the required number of affordable units. *Exhibit 1, page5; Johnson Testimony.*
14. As depicted in the submitted conceptual plans, no development would be proposed in the NGPE area in the western portion of the property. All vegetation in the NGPE would be retained as is. Any future development proposals would be reviewed for compliance with the City's tree retention requirements and for compliance with the critical areas ordinance regarding stream and steep slope setbacks and protection. *Exhibit 1, page 5; Johnson Testimony.*
15. Planning Staff identified the following as the Comprehensive Plan policies applicable to the proposal:

### Framework Policies

**FW-9** Ensure that the land use pattern accommodates carefully planned levels of development, fits with existing uses, safeguards the environment, reduces sprawl, promotes efficient use of land and provision of services and facilities, encourages an appropriate mix of housing and jobs, and helps maintain Redmond's sense of community and character.

**FW-13** Create opportunities for the market to provide a diversity of housing types, sizes, densities and prices in Redmond to serve all economic segments and household types, including those with special needs related to age, health, or disability.

**FW-19** Make each neighborhood a better place to live or work by preserving and fostering each neighborhood's unique character, while providing for compatible growth in residences and other land uses, such as businesses, services, or parks.

### Land Use Policies

**LU-3:** Allow new development only where adequate public facilities and services can be provided.

**LU-8:** Maintain development regulations to promote compatibility between uses; retain desired neighborhood character; ensure adequate light, air, and open space; protect environmental quality; and manage potential impacts on public facilities and services. Through these regulations address features including but not limited to:

- Impervious surface area and lot coverage.
- Building height, bulk, placement, and separation.
- Development intensity.
- Pedestrian access.
- Landscaping.

**LU-27:** Designate allowed residential densities and housing types to provide for a housing stock that includes a range of choices to meet all economic segments and household types, including those with special needs related to age, health, or disability.

### Housing Policies

**HO-21:** Work with agencies, private developers and non-profit organizations to locate housing in Redmond intended to serve Redmond's special needs populations, particularly those with challenges related to age, health, or disability.

**HO-35:** Require a portion of units added as part of any rezone that increases residential capacity to be affordable to low- and moderate-income households.

Neighborhood Plan

**N-EH-14:** Encourage a mix of housing types, styles and a range of choices while maintaining the overall single-family character of established neighborhoods in Education Hill.

**N-EH-15:** Promote a variety of housing choices that are accessible to persons of all income levels.

Staff submitted the position that as proposed, the development guide amendment would effectuate the goals and policies of the City's Comprehensive Plan. *Exhibit 1, pages 5-8; Johnson Testimony.*

16. Retirement residence uses require one parking space per independent residential unit, two spaces per duplex, and approximately 1.25 parking spaces per each staff member. Based on these requirements, the existing 503 parking spaces exceed the 363 spaces required by code. During special events when additional parking supply is required, Emerald Heights provides shuttle service to off-site parking at locations that have included Redmond High School and area churches. Parking associated with any future expansion would be reviewed through the site plan entitlement process. *Exhibit 1, pages 12-13; Johnston Testimony; Miller Testimony.*
17. The existing Emerald Heights community has one main access off of 176<sup>th</sup> Avenue NE, which is manned 24-hours a day by a security guard. A second emergency-only gated access driveway is located on NE 111<sup>th</sup> Street. According to the conceptual plans submitted, the existing access on 176<sup>th</sup> Avenue NE would be retained as the primary access for visitor and delivery registration, as well as resident access. The emergency-only driveway on NE 111<sup>th</sup> Street would be relocated southeast and improved to provide a secondary access for residents and employees. *Exhibit 1, page 13; Miller Testimony.*
18. According to the ITE Trip Generation Manual, multi-family residential projects generally generate 2.81 vehicle trips per occupied unit. Based on industry standard calculations, a proposed expansion of 207 residential units would generate about 610 additional vehicle trips per day with 62 trips during the weekday PM peak hour. This projection includes trips by residents, staff, visitors, and any off-site traffic that the on-site amenities would draw if the conceptual plans are built as proposed. According to City Staff, this level of traffic increase would not adversely affect transportation facilities in the vicinity. Any future development would be reviewed for traffic impacts at the time of proposal. *Exhibit 1, page 13; Johnston Testimony.*
19. The Emerald Heights Rezone would increase senior housing in a variety of housing types in the Education Hill Neighborhood, in response to market demand. Any future development would be required to provide at least 25% of the units as affordable to households earning less than 80% of King County median income. The proposed DGA would not alter the uses on-site, but would increase allowed density of residential development. *Exhibit 1, pages 6-8.*

20. In the Technical Committee Report, Staff initially recommended several conditions of DGA permit approval relating to future site development. At hearing, Staff rescinded the recommended conditions of permit approval noting that they would be more appropriately applied during site plan entitlement review. *Exhibit 1, pages 14-15; Johnson Testimony.*
21. Notice of public hearing for the rezone was posted, mailed, and published consistent with the requirements of the applicable code provisions. *Exhibit 1, pages 3-4; Exhibit 1, Attachment 10.*
22. A large number of residents, board members, and others - including one neighboring land owner and one employee - provided comment at the public hearing on the instant DGA application. Resident opinion at hearing was both in favor and in opposition to the proposed rezone.
  - A. In favor: Testimony in favor of the rezone noted that the current proposal has been developed in a process that has been underway at least seven years. Members of the Emerald Heights Board of Directors testified that the rezone is consistent with their fiduciary duty to current residents and the Board's obligation to address future demand. Much testimony noted that the aging of the baby boomer population will drive up demand for CCRC units and that Emerald Heights should expand to serve a greater percentage of that population. Those in favor expressed the opinion that the rezone is needed for the facility remain competitive in the market and to provide expected services to current residents. Other testimony in favor noted that the current facilities are now 20 years old and in need of renovation and expansion. Some in favor testified about the recently added "living room" which many residents thought was not a necessary amenity, but all now enjoy it. Based on that experience and the generally high quality of life enjoyed on-site, some in favor stated that they are content to defer to the judgment of the administration about other improvements. Residents, an employee, and a neighbor of Emerald Heights all testified that the CCRC does a lot of good in the community through volunteer and donation projects and that its expansion will allow it to do more good for the greater community. The ten member Resident Council voted eight in favor and two opposed to the DGA. *Plovie Testimony; Pinnt Testimony; Don Williams Testimony; Swope Testimony; Bergevin Testimony; Chambard Testimony; Hussey Testimony; Smedley Testimony; Rodriguez Testimony; Lauer Testimony; Hjorth Testimony; Wright Testimony; Blanchard Testimony; Bunny Williams Testimony; Loyd Testimony; Snodgrass Testimony; Exhibit 3, Attachments 3, 4, 5, 6, 8, 10, 11, 12, 13, 14, and 16; See Exhibit 3.9, Resident Council Statement, dated April 14, 2011.*
  - B. Opposed: Testimony in opposition to the rezone expressed concerns about the responsiveness of the administration to the desires of current residents and stated that there has been a lack of transparency in the decision making process. Several residents opposed the rezone because they believe the proposed expansions would result in increased monthly service fees (paid by each resident in addition to an initial buy-in sum). Residents expressed a concern that the currently unoccupied

independent living units (and occupancy rates alleged to exist at other CCRCs) demonstrate that there is no guarantee that the new independent living units would be fully occupied, leaving current residents to cover those costs. Opposition included argument against the facility undertaking loans for expansions and improvements that some residents feel are not necessary because existing facilities are adequate. Specific concerns about the size, orientation, location, and costs of the proposed fitness center and auditorium were offered. A number of people opposed the expansion because they do not want to see the open spaces on-site developed. Many who testified took exception to the City's statement that current on-site parking exceeds the minimum required by code, asserting that there is not enough parking. Those opposed noted that the Applicant can open another facility elsewhere to accomplish the goals of increasing retirement living opportunities. Some expressed concerns about increased on-site traffic, vehicle emissions, and changes to the existing layout including the cottages, the rose garden, and other landscaping features. Some opposed to the rezone testified to a concern that Emerald Heights is unique and special because it has so much open space and that increased density will destroy this uniqueness. A petition was submitted with the signatures of residents who oppose the proposed expansion. *Don Taves Testimony; Franz Testimony; Farrell Testimony; Knopf Testimony; Moody Testimony; Ellen Taves Testimony; Mudge Testimony; Heer Testimony; Exhibit 3, Attachments 1, 7, 17, 18, and 19; See Petition at Exhibit 3.17; See Exhibit 3.19, Emerald Heights Residents' Association Meeting Minutes, 11/9/10, and Results of Survey re: Fitness Center and Additional Apartments.* No non-residents opposed the rezone.

23. In response to public comment, the Applicant noted that the record reflects extensive communication between the administration and the residents of Emerald Heights over a period of years. *Lawrence Comments; Exhibit 4f - 4q.*
24. Residents of Emerald Heights possess a lifetime right of use of the facilities. Contracts establishing residency specifically do not grant a lease, title, or any other interest in the real estate, personal property, buildings or improvements. Residents' rights are "primarily for services with a contractual right of residency". *Exhibits 4.b, 4.c, 4.d; Lawrence Comments.*
25. The Technical Committee, which is comprised of staff from the Planning, Public Works, and Fire Departments, reviewed the application for compliance with City codes, the Redmond Comprehensive Plan, and SEPA, and recommended approval. *Exhibit 1, pages 1, 14; Johnson Testimony.*

## CONCLUSIONS

### Jurisdiction

The Hearing Examiner is authorized to conduct open record hearings and issue recommendations to City Council on Type IV permits, including development guide amendment applications, pursuant to RCDG 20F.30.15-040 and -060 and 20F.30.45-015.

### **Criteria for Review**

Pursuant to RCDG 20F.40.70-050, the City Council shall take the following factors into account when considering a development guide amendment:

1. The amendment complies with the Comprehensive Plan Land Use Map, policies, and provisions.
2. The amendment bears a substantial relation to the public health and safety.
3. The amendment is warranted because of changed circumstances, a mistake, or because of a need for additional property in the proposed zoning district.
4. The subject property is suitable for development in general conformance with zoning standards under the proposed zoning district.
5. The amendment will not be materially detrimental to uses or property in the immediate vicinity of the subject property.
6. Adequate public facilities and services are likely to be available to serve the development allowed by the proposed zoning.
7. The probable adverse environmental impacts of the types of development allowed by the proposed zone can be mitigated taking into account all applicable regulations or the unmitigated impacts are acceptable.
8. The amendment complies with all other applicable criteria and standards in the Redmond Community Development Guide.

### **Other Applicable Provisions**

Pursuant to RCDG 20C.30.85-030(3)(b), retirement residences located in the R-4 through R-6 zones that provide some component of assisted living or skilled nursing care may be allowed an increase in density by up to three times the number of units permitted by the underlying zone, provided each of the following conditions exists:

- i. A minimum of 10 percent of the units are licensed for assisted living or skilled nursing care programs; however, no more than 25 percent of the units may be licensed for skilled nursing care.
- ii. There is adequate water and sewer capacity to serve the proposed development, together with the water and sewer capacity existing to accommodate the planned growth for the service area(s) in which the property is located.
- iii. Traffic generated by the retirement residence is not significantly greater than traffic generated in the surrounding residential neighborhoods. In addition, the applicant shall provide to the City a transportation management plan (TMP). The TMP shall address the following: traffic control, parking management (including the

mitigation of overflow parking into the adjoining residential neighborhood), and traffic movement to the arterial street system. In addition to on-site parking requirements, parking in excess of the maximum may be permitted on existing off-site satellite parking lots, subject to City approval of a joint use agreement. Off-site parking in a residential zone shall be limited to lots shared with existing institutional uses, such as schools.

- iv. The project shall comply with all development standards for the zone in which the development is located, including height, setbacks, open space, lot coverage, and impervious surface requirements.
- v. Landscape Requirements. Setback areas located adjacent to the side, street side, and rear property lines shall be landscaped to sufficiently screen the development from surrounding residential uses. Similar landscaping shall also be provided within the front setback areas when needed to screen parking. Where possible, existing mature vegetation shall be retained. The Design Review Board may allow reduced landscaping requirements for projects that exhibit exceptional site and architectural design qualities that reflect nearby neighborhood character. Such projects shall be well integrated with the surrounding neighborhood, including linkages to surrounding uses through pedestrian and vehicular connections. Alternative linkages may be proposed by those facilities where an enclosed facility is mandated by licensing requirements for the type of care offered at the Retirement Residence (such as Alzheimer's or other dementia care facilities).
- vi. Retirement residence facilities developed under these provisions shall not be entitled to any other senior housing density bonuses, including those described in Section 20D.30.10 (Affordable Housing) or Section 20D.30.15 (Affordable Senior Housing Bonus) of the Redmond Community Development Guide.
- vii. Availability. A minimum of 25 percent of the new units increased above the underlying zone as a result of this section shall be set-aside for households earning less than 80 percent of the King County Median Income, adjusted for household size.
- viii. For existing developments that are expanding under these provisions, the set-aside units may be located either in the existing or new units, but shall be in addition to any set-aside units already provided in the existing facility.
- ix. The operator of the facility shall provide an annual report to the City providing information documenting compliance with the set-aside requirement. Facilities financed under Washington State Housing Finance Commission (WSHFC) programs may submit a copy of the annual report to WSHFC to satisfy this requirement.
- x. Set-aside units required by these regulations shall be administered according to the same requirements

### **Conclusions Based on Findings**

1. The existing CCRC has been present on-site for nearly 20 years with no adverse impacts to surrounding development. If the rezone were approved, increased density would be confined to the subject property. Resulting expansion of on-site amenities would increase the types and variety of housing in the Education Hill neighborhood without impacting surrounding development. The rezone would not result in development incompatible with that existing or permitted on surrounding properties. If expansion occurred, affordable senior housing targets could be ensured through site plan entitlement review. If approved, the amendment would comply with the Comprehensive Plan Land Use Map, policies, and provisions. *Findings 4, 5, 6, 7, 8, 9, and 15.*
2. Because it would allow for an increase in the number of affordable senior housing units in Redmond developed in compliance with City standards, the rezone would benefit the public health, safety, and welfare. *Findings 7, 8, 19, and 22A.*
3. Approval of the rezone would address an identified market demand for senior housing, specifically increasing assisted living and skilled nursing unit availability for current residents. The amendment is warranted because of changed circumstances. *Findings 7, 8, and 19.*
4. Because the R-4 and R-6 zones allow substantially similar uses at somewhat differing densities, any development proposed subsequent to approval of the rezone would be consistent with existing site development, which has co-existed peaceably since 1992 with surrounding uses. Any future development of the site would undergo site plan entitlement review to determine conformance with R-6 zoning standards. *Findings 4, 5, 6, 7, 8, and 9.*
5. The rezone would allow on-site expansion of the existing CCRC. No change in land use is proposed. If any future development is proposed, impacts to surrounding properties would be reviewed through site plan entitlement processes. No neighbors of the subject property opposed the requested rezone, and the record contains no evidence of adverse impacts from the existing facility to the community at large. *Findings 4, 7, 8, 9, 10, 11, and 22A.*
6. The municipal water and sewer utilities have capacity to serve the increased density that could occur on-site if the rezone is approved. The preliminary traffic impact analysis shows that the potential increase in daily vehicle traffic could be accommodated by the current transportation system without adversely affecting area intersections. Any future development on-site would undergo site plan entitlement review to identify and be required to mitigate the impacts of the specific proposal. The record contains no evidence indicating there is any inadequacy in public services and facilities to handle development that could result from the rezone. *Findings 10, 11, 12, 16, 17, and 18.*
7. The rezone was reviewed pursuant to the State Environmental Policy Act and a DNS was issued. No appeals were filed and the DNS is final. Future development proposals that

trigger environmental review would be independently reviewed for adverse environmental impacts. *Findings 3, 9, 10, and 25.*

8. Specifically relating to retirement residence requirements: future expansions on-site would be required to set aside at least 25 percent of new units as affordable senior housing. The developer would be required to upgrade sewer and water systems to meet the needs of any proposed expansion. Future development would be reviewed prior to approval for compliance with transportation, parking, and landscaping standards. The application materials indicate that the Applicant would seek financing through Washington State Housing Finance Commission programs. The proposed rezone would comply with all applicable criteria in the Redmond Community Development Guide, and any future development proposals would be reviewed for compliance. *Findings 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19.*
  
9. The open record public hearing in this matter was a model of public participation. Many individuals expended significant effort to share their views in favor of and in opposition to an increase in on-site density. Testimony from both positions was offered articulately and collegially, demonstrating a high level of engagement and strong community feeling. Residents' rights as stakeholders in the facility arise under legal theories of contract, an arena in which neither the Hearing Examiner nor the City Council has jurisdictional authority. These rights cannot be considered in deciding the instant application for rezone. Testimony in opposition did not demonstrate any failure of the application to comply with the criteria for DGA approval. Because the application satisfies the criteria for approval, it must be approved. *Findings 22, 23, and 24.*

### **RECOMMENDATION**

Based on the preceding findings and conclusions, the Redmond Hearing Examiner recommends that the DGA changing the zoning of the 38-acre Emerald Heights property located at 10901 - 176th Circle NE from R-4 to R-6 **SHOULD BE GRANTED.**

**RECOMMENDED** May 16, 2011.

By:



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Sharon A. Rice  
City of Redmond Hearing Examiner