

REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: December 22, 2005

PLAT/PROJECT NAME: GRANITE FALLS LDS CHURCH

APPLICANT/
LANDOWNER: Ray Manning

FILE NO.: 05 118144

TYPE OF REQUEST: Conditional Use Permit for the future construction of a 16,558 square foot church facility, along with a 2-lot short plat

DECISION (SUMMARY): APPROVE subject to Precondition and Conditions

BASIC INFORMATION

GENERAL LOCATION: The property is located at 18110 100th Street NE, Granite Falls, WA

ACREAGE: Underlying lot prior to short plat – 10 acres
Boundary of conditional use permit future Lot 2 – 4.64 acres

ZONING: R-9600

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Urban Low Density Residential (4-6 du/ac)
Subarea Plan: Granite Falls
Subarea Plan Designation: Rural (1 du/2.3 acres)

UTILITIES:

Water: Snohomish County PUD No. 1
Sewage: On-site septic system

SCHOOL DISTRICT: Granite Falls

FIRE DISTRICT: No. 17

SELECTED AGENCY RECOMMENDATIONS:

Department of:
Planning and Development Services: Approve subject to conditions
Public Works: Approve subject to conditions

INTRODUCTION

The applicant filed the Master Application on April 15, 2005. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on December 5, 2005 in the morning.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 19, 20 and 21)

A SEPA determination was made on September 20, 2005. (Exhibit 18) No appeal was filed.

The Examiner held an open record hearing on December 7, 2005, the 84th 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 December 7, 2005 at 9:00 a.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. Mr. Brian Herron, an architect representing the applicant appeared, and stated that he had no objection to the recommended conditions of the PDS staff report.
3. Mr. Ray Manning spoke on behalf of the applicant.
4. Ms. Monica McLaughlin, PDS, stated that with regard to the conditions, Precondition B could be deleted. She also submitted Exhibit 35, which relates to the wording of the condition.
5. No one appeared in opposition to the request.

The hearing concluded at !

NOTE: Audio tapes of this hearing are available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

1. The master list of Exhibits and Witnesses which is a part of this file and which exhibits were considered by the Examiner, 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 Protection Act (SEPA) evaluation with its recommendation and conditions. This report is hereby adopted by the Examiner as if set forth in full herein.

3. The request is for a conditional use permit for a church facility which will include a 16,558 square foot church/meeting house, a 42-stall parking lot perimeter with plans for future expansion to 180 stalls, parking lot landscaping, road frontage improvements and a storm water system. A new septic system for the church will be installed per Snohomish Health District requirements.
4. The underlying square-shaped side is approximately 10 acres in size with the northwest corner of the site being occupied by a single-family residence and outbuildings while the remainder of the site is heavily forested. Because of a Type 4 stream, and a Category 3 wetland located in the southeast corner of the site, the conditional use permit will only encompass the east half of the current underlying lot. (4-64 acres)
5. West of the parcel is single-family residential with R-9600 zoning, and while north, across the street, is an elementary school and the site of the future high school located within the City of Granite Falls.
6. There were no issues of concern, no comment letters and no one appearing in opposition to the request.
7. The Examiner indicated that he was a member of the LDS church, and while he had no preconceived ideas, if anyone desired him not to hear the request, he would recuse himself. No one responded.
8. There are no requirements for park or school mitigation under this type of use.
9. 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. (See Pages 3-6, Exhibit 32)
10. PDS has reviewed the wetland and stream analysis report and has determined that the project complies with the county Critical Areas Regulations, Chapter 30.62 SCC.
11. The property is designated Urban Low Density Residential (ULDR 4-6 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 ULDR designation covers various subarea plan designations which would allow mostly detached housing developments on larger lot sizes. Land in this category may be developed at a density of 4-6 du/ac and one of the implementing zones is the R-9,600 zone which is the case here.
12. Churches are permitted as a conditional use in an R-9600 zone. This proposal will meet zoning code requirements relating to access and lot coverage. The building will be required to meet zoning code requirements relating to building height. The staff has analyzed in detail the zoning issue, which is found on pages 7 and 8 of the staff report. (Exhibit 32)

In this regard, the Examiner agrees with the staff that the proposed church is not inconsistent with the comprehensive plan and will comply with the county code. The church itself will not be detrimental or incompatible with adjacent properties or the surrounding neighborhood.
13. The development will preserve an existing stream and wetland, and landscape buffers will help shield the parking lot from adjoining units. The Examiner agrees with the opinion of PDS that the project meets the approval criteria for a conditional use permit under SCC 30.42C.100.

14. The aerial photograph (Exhibit 12) very clearly and effectively shows the location of the proposal and how it would fit into the surrounding area.
15. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

CONCLUSIONS:

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, except to delete precondition B.
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 GMACP; GMA-based County codes; and the type and character of land use permitted on the site and the permitted density with the applicable design and development standards.
4. The request will be an attractive addition to the area. It will provide a use which is consistent with the use of the surrounding properties and the high school, and if done according to the site plan, would have no adverse affects upon the surrounding area.
5. There was a request for one change to Precondition B, which was approved by PDS. Therefore the existing Precondition B should be deleted and the following wording as shown on Exhibit 35 should be substituted therefore.
6. The request should be approved subject to compliance by the applicant with the following Conditions:

PRECONDITION

- A. A record of developer's 30.66B SCC mitigation obligations shall have been recorded with the County Auditor [30.66B.070 SCC].

CONDITIONS

- A. The site plan (Exhibit 33) and landscape plan (Exhibit 34) received by PDS on November 21, 2005, shall constitute the official site plan. Any discrepancy between the content of the official site development plan and the performance standards of Title 30 SCC shall be resolved in favor of Title 30. SCC 30.42C.110 governs revisions to conditional use permits.
- B. Per SCC 30.26.075, parking lot lighting shall be arranged or shielded so as to reflect the light away from any dwelling units and the public right-of-way.
- C. Prior to building permit issuance and/or prior to issuance of any development/construction permits by the county:

- i. The applicant shall mark with temporary markers in the field the boundary of all Native Growth Protection Areas (NGPA) required by Chapter 30.62 SCC, or the limits of the proposed site disturbance outside of the NGPA, using methods and materials acceptable to the county.
- ii. A Critical Areas Site Plan (CASP) shall be recorded with the county auditor for critical areas and buffers that lie within a Native Growth Protection Area (NGPA). The following NGPA restrictive language shall be reflected on the CASP: "All NATIVE GROWTH PROTECTION AREAS shall be left permanently undisturbed in a substantially natural state. No clearing, grading, filling, building construction or placement, or road construction of any kind shall occur, except removal of hazardous trees."
- iii. The applicant shall pay an impact fee to Snohomish County for traffic impacts to Transportation Service Area "B" in the amount of \$43,141.21. [SCC 30.66B.310]
- iv. The sum of \$819.75 shall have been paid to Snohomish County for Transportation Demand Management within Transportation Service Area "B". [SCC 30.66B.630]
- v. The sum of \$12,338.56 shall have been paid to the City of Granite Falls for traffic impacts to City streets. Proof of payment is required. [SCC 30.66B.710]
- vi. Per SCC 30.42C.200, a land use permit binder, on a form provided by PDS, shall be executed by the applicant and recorded with the County Auditor.
- vii. Pursuant to SCC 30.29.100(2), the applicant shall enter into a legally binding agreement with the sewer purveyor with jurisdiction, in which the property owner and successors in interest agree to: annexation of the property by the future sewer purveyor, prompt connection with sanitary sewers when they become available, and participation without protest in any sewer Local Improvement District (LID) or Utility Local Improvement District (ULID), including agreement to pay any connection fees and monthly charges assessed by the sewer purveyor, LID or ULID. The applicant shall record the fully executed agreement with the County Auditor and provide a copy of the recorded document to PDS.
- viii. Pursuant to SCC 30.29.100(3), applicant shall enter into a legally binding agreement with the city most likely to annex the property, in which the property owner and successors in interest agree to annexation of the property into the city when proposed. The applicant shall record the fully executed agreement with the County Auditor and provide a copy of the recorded document to PDS.

D. Prior to the issuance of certificate of occupancy/final inspections;

- i. Frontage improvements along 100th Street NE as depicted by the approved plans shall be constructed by the developer. [SCC 30.66B.410]
- ii. Native Growth Protection Area boundaries (NGPA) shall have been permanently marked on the site prior to final inspection by the county, with both NGPA signs and adjacent markers which can be magnetically located (e.g.: rebar, pipe, 20 penny nails, etc.). The applicant may use other permanent methods and materials provided they are first approved by the county. Where an NGPA boundary crosses another boundary (e.g.: lot, tract, plat, road, etc.), a rebar marker with surveyors' cap and license number must be placed at the line crossing.

NGPA signs shall have been placed no greater than 100 feet apart around the perimeter of the NGPA. Minimum placement shall include one Type 1 sign per wetland, and at least one Type 1 sign shall be placed in any lot that borders the NGPA, unless otherwise approved by the county biologist. The design and proposed locations for the NGPA signs shall be submitted to Planning and Development Services for review and approval prior to installation.

- iii. Site improvements and landscaping depicted on the approved plans shall be installed, inspected and approved.
- E. Nothing in this permit/approval shall excuse the applicant, owner, lessee, agent, successor or assigns from full compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project. In particular, no clearing, grading, filling, construction or other physical alteration of the site may be undertaken prior to the issuance of the necessary permits for such activities.
- F. Prior to building permit issuance, or prior to final short plat approval of 05-118144 SP, whichever comes first, 48 feet of right-of-way shall be deeded to the City of Granite Falls, parallel and adjoining to the existing right-of-way along the parcel's frontage on Burn Road [SCC 30.66B.510, SCC 30.66B.520]
- 7. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

The request for a Conditional Use Permit for a 16,558 square foot church and meeting house is hereby APPROVED, SUBJECT TO COMPLIANCE by the applicant, with the CONDITIONS set forth in Conclusion 6, above.

Decision issued this 22nd day of December, 2005.

Robert J. Backstein, Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

This 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 Examiner's action on reconsideration would be subject to appeal to the Council.) 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, 2802 Wetmore Avenue, 2nd Floor, Everett, Washington,

(Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **January 3, 2006**. 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 Examiner exceeded his jurisdiction;
- (b) the Examiner failed to follow the applicable procedure in reaching his decision;
- (c) the Examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of Snohomish County Code, or other county or state law or regulation;
- (d) the Examiner’s findings, conclusions and/or conditions are not supported by the record;
- (e) newly discovered evidence alleged to be material to the Examiner’s decision which could not reasonably have been produced at the Examiner’s hearing; and/or
- (f) changes to the application proposed by the applicant 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. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 5th Floor, County Administration Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **January 5, 2006** 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 and PROVIDED FURTHER that the filing fee shall be refunded in any case where an appeal is dismissed in whole without hearing under SCC 30.72.075.

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 are limited to the following:

- (a) the Examiner exceeded his jurisdiction;
- (b) the Examiner failed to follow the applicable procedure in reaching his decision;
- (c) the Examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of Snohomish County Code, or other county or state law or regulation; and/or

(d) the Examiner's findings, conclusions and/or conditions are not supported by the record.

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

Staff Distribution:

Department of Planning and Development Services: Monica McLaughlin
Department of Public Works: Hamid Aslani

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.

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 DECEMBER 22, 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

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Certified by:

(Name)

(Title)
