

REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: July 13, 2006

APPLICANT/
LANDOWNER: CHRISTIAN FAMILY CENTER
(Terry Rude)

FILE NO.: 05 121374

TYPE OF REQUEST: Conditional Use Permit for the development of a family worship center, consisting of three separate buildings (to be built in three phases) that include a fellowship hall, classrooms, offices and storage space for a total of 95,000 square feet

DECISION (SUMMARY): Approved subject to preconditions and conditions

BASIC INFORMATION

GENERAL LOCATION: The property is located on the northeast corner of the intersection of Rose Road and 268th Street NW, Arlington, WA

ACREAGE: 45.6 acres

ZONING: Rural-5 (R-5)

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Rural Residential-5 (1 du/5 acres)
Subarea Plan: Northwest County
Subarea Plan Designation: Rural (1 du/2.3-5 acres)

UTILITIES:

Water: On-site well
Sewage: On-site septic drainfield system

SCHOOL DISTRICT: Arlington

FIRE DISTRICT: No. 14

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 June 29, 2005 (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on June 22, 2006 in the afternoon.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 21, 22 and 23)

A SEPA determination was made on June 5, 2006. (Exhibit 20) No appeal was filed.

The Examiner held an open record hearing on June 28, 2006, the 111th day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

PUBLIC HEARING

The public hearing commenced on June 28, 2006 at 2:02 p.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. Terry Rude and Mr. James Thomas represented the applicant and indicated that they have no objection to the recommended conditions contained within the PDS staff report.
3. Mr. Darryl Eastin, PDS, appeared and had nothing further to add.
4. No one appeared in opposition to the request.

The hearing concluded at 2:10 p.m.

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. No one appeared in opposition to the request, nor were there any letters received objecting to the request or raising questions.

4. The request is for a Conditional Use Permit for the development of a family worship center consisting of three buildings with a total of 95,550 square feet (SF) to be built in three phases. The buildings include the fellowship assembly (3,000 SF), worship hall (20,000 SF), K-12 private school (classrooms) (29,400 SF), offices (6,250 SF), kitchen (400 SF), chapel (2,400 SF), youth center (5,000 SF) and accessory spaces. The proposal also includes development of 576 parking stalls and sports fields. Phase I includes construction of the fellowship assembly (320 seats), classrooms, offices, kitchen and accessory spaces for a total of 13,450 SF. Phase II includes construction of additional classrooms and accessory spaces for a total of 6,400 SF. Phase III includes construction of a worship hall (600 seats), more classrooms, additional offices, youth center, chapel and accessory spaces for a total of 75,700 SF. The property is 45.6 acres and zoned R-5. Access to the buildings will be via 268th Street NE (Stanwood-Bryant Road). Water will be provided by an on-site well and sewer will be provided by an on-site septic drainfield system.
5. The surrounding land use is a mix of single-family residences and vacant forested land. The acreage consisting of 45.6 acres is large and appears to be well suited for this type of use.
6. 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 3-7, Exhibit 39)
7. Three drainage basins are identified on the site and stormwater runoff from the project will be collected in catch basins and piped to a single detention pond located at the southeast portion of the site. The PDS Engineering Division has reviewed the concept of the proposed grading and drainage and recommends approval of the project subject to conditions, which would be imposed during full detailed drainage plan review pursuant to Chapter 30.63A SCC (Title 24 SCC).
8. The site contains nine wetlands and one Type 4 stream. PDS has reviewed the Critical Areas Study and Mitigation Plan and has determined that the project complies with the Critical Areas Regulations of Chapter 30.62 SCC.
9. The proposed site is located outside of the Snohomish County Urban Growth Boundary. The GPP Future Land Use Designation for the subject property is Rural Residential-5. The proposed use is allowed as a conditional use on the property. Therefore, the proposed worship center, is allowed under Chapter 30.2 SCC and more particularly, Section 30.42C.100 SCC which provides the standards for Conditional Use Permits. The PDS staff has correctly analyzed this use under Conditional Use Permit standards on pages 8 and 9 of the PDS staff report. (Exhibit 39)
10. The Snohomish County Health District has reviewed the application and has no objection to the proposed conditional use as long as approval is had by the Department of Health who reviewed the site. (Exhibits 29 and 34)
11. The request is consistent with Section 30.70.100 SCC (Section 32.50.100 SCC), which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP, and GMA-based county codes.
12. 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.
2. The Department of Public Works recommends that the request be approved as to traffic use subject to certain conditions.
3. The request for a Conditional Use Permit to allow a church facility with its associated recreation use will allow for development of an attractive family worship center that will serve the church members of which this facility in an area which appears to be suited well for such a facility and is close to roads and accesses to the freeway.
4. 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.
5. The request should be approved subject to compliance by the applicant with the following Preconditions and Conditions:

PRECONDITIONS

- A. The site plan received April 17, 2006 by PDS (Exhibit 8) shall be revised to indicate the following: A six-foot wide Type A landscape buffer surrounding the southeast stormwater detention pond; and Type A landscaping between the 9,604 SF Category 3 wetland adjacent to the west property line and nearby parking area to the east.
- B. Prior to approval of the conditional use permit:
 - i. A record of developer obligations shall have been recorded with the County Auditor against the real property on which the development is proposed prior to approval of the conditional use permit.
 - ii. [30 feet of property shall be deeded for right-of-way along the property frontage with Stanwood Bryant Road](#) prior to approval of the conditional use permit.

CONDITIONS

- A. The site plan received by PDS on April 17, 2006 (Exhibit 8), as revised per preconditions shall be the official site plan. Changes to the approved conditional use permits are governed by Section 30.42C.110 SCC.
- B. Prior to issuance of any building permit for Phase One:
 - i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.

- ii. The developer 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.
- iii. A final mitigation plan based on the Critical Areas Study, Conceptual Wetland Mitigation Plan & Restoration Plan for Christian Family Center prepared by Wetland Resources, Inc. dated June 24, 2005, Revision #3: May 11, 2006 (Exhibit 17) shall be submitted for review and approval during the construction review phase of this project.
- iv. The applicant shall have paid an impact fee to Snohomish County for traffic impacts to Transportation Service Area "A" in the amount of \$28,071.55. The calculation is: $(9.11 \text{ ADT per } 1,000 \text{ SF} \times 9.05 = 82.45 \text{ ADT Church}) + (14.49 \text{ ADT per } 1,000 \text{ SF} \times 4.40 = 63.76 \text{ ADT School}) = 146.21 \text{ ADT} \times \$195.00.$
- v. The applicant shall have made a payment to the County for WSDOT in the amount of \$6,050.27 for mitigation of traffic impacts to state highways. The calculation is based on phase one generating 14% of the total ADT [$146.21 \text{ phase one ADT} \setminus 1,028.55 \text{ project total ADT} = 14\%$] x $\$43,216.20 \text{ total WSDOT mitigation} = \$6,050.27.$
- vi. The applicant shall have made a payment to the City of Arlington in the amount of \$1,356.91 for mitigation of traffic impacts to city streets. The calculation is based on phase one generating 14% of the total ADT x $\$9,549.60 \text{ total Arlington mitigation} = \$1,356.91.$
- vii. The applicant shall have made a payment to the City of Stanwood in the amount of \$4,070.20 for mitigation of traffic impacts to city streets. The calculation is based on phase one generating 14% of the total ADT x $\$29,072.88 \text{ total Stanwood mitigation} = \$4,070.20.$
- viii. All Critical Areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made) with the following language on the face of the plat;

"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. The activities as set forth in UDC 30.91N.010 are allowed when approved by the County."
- ix. All Critical Areas shall be designated Native Growth Protection Areas (NGPA) (unless other agreements have been made).

C. Prior to issuance of any building permit for Phase Two:

- i. The applicant shall have paid an impact fee to Snohomish County for traffic impacts to Transportation Service Area "A" in the amount of \$17,391.36. The calculation is: $(9.11 \text{ ADT per } 1,000 \text{ SF} \times 0.40 = 3.64 \text{ ADT Church}) + (14.49 \text{ ADT per } 1,000 \text{ SF} \times 6.00 = 86.94 \text{ ADT School}) = 90.58 \text{ ADT} \times \$195.00.$
- ii. The applicant shall have made a payment to the County for WSDOT in the amount of \$3,889.46 for mitigation of traffic impacts to state highways. The calculation is based on phase two generating 9% of the total ADT [$90.58 \text{ phase two ADT} \setminus 1,028.55 \text{ project total ADT} = 9\%$] x $\$43,216.20 \text{ total WSDOT mitigation} = \$3,889.46.$

- iii. The applicant shall have made a payment to the City of Arlington in the amount of \$840.36 for mitigation of traffic impacts to city streets. The calculation is based on phase two generating 9% of the total ADT x \$9,549.60 total Arlington mitigation = \$840.36.
- iv. The applicant shall have made a payment to the City of Stanwood in the amount of \$2,616.56 for mitigation of traffic impacts to city streets. The calculation is based on phase two generating 9% of the total ADT x \$29,072.88 total Stanwood mitigation = \$2,616.56.

D. Prior to issuance of any building permit for Phase Three:

- i. The applicant shall have paid an impact fee to Snohomish County for traffic impacts to Transportation Service Area "A" in the amount of \$152,035.20. The calculation is: (9.11 ADT per 1,000 SF x 56.70 = 516.54 ADT Church) + (14.49 ADT per 1,000 SF x 19.00 = 275.31 ADT School) = 791.85 ADT x \$195.00.
- ii. The applicant shall have made a payment to the County for WSDOT in the amount of \$33,276.47 for mitigation of traffic impacts to state highways. The calculation is based on phase three generating 77% of the total ADT [791.85 phase three ADT \ 1,028.55 project total ADT = 77%] x \$43,216.20 total WSDOT mitigation = \$33,276.47.
- iii. The applicant shall have made a payment to the City of Arlington in the amount of \$7,351.31 for mitigation of traffic impacts to city streets. The calculation is based on phase three generating 77% of the total ADT x \$9,549.60 total Arlington mitigation = \$7,351.31.
- iv. The applicant shall have made a payment to the City of Stanwood in the amount of \$22,386.12 for mitigation of traffic impacts to city streets. The calculation is based on phase three generating 77% of the total ADT x \$29,072.88 total Stanwood mitigation = \$22,386.12.

E. Prior to occupancy of any building:

- i. Rural standard frontage improvements shall have been constructed on Stanwood Bryant Road and along Rose Road. Street lighting shall be installed at each driveway access on Stanwood Bryant Road.
- 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 developer 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 the Land Use Division for review and approval prior to installation.

- iii. The final wetland mitigation plan shall be completely implemented.

F. In conformity with applicable standards and timing requirements:

- i. A detailed landscape plan prepared by a qualified landscape designer implementing zoning code landscaping requirements shall be provided.

G. All development activity shall conform to the requirements of Chapter 30.63A SCC.

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

6. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

The request for a Conditional Use Permit for development of a family worship center consisting of three buildings with a total of 95,550 square feet, to be built in three phases, is hereby APPROVED, SUBJECT TO COMPLIANCE by the applicant, with the CONDITIONS set forth in Conclusion 5, above.

Decision issued this 13th day of July, 2006.

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 **July 24, 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 **July 27, 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: Paul Lichter
 Department of Public Works: Ann Goetz

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 July 13, 2007.

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

ACKNOWLEDGMENT OF FULFILLMENT OF PRECONDITIONS

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

Certified by:

(Name)

(Title)
