

# REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: September 28, 2006

PLAT/PROJECT NAME: *Bear Creek Fire Station*

APPLICANT/  
LANDOWNER: Jake Smith, Lewis Architects

FILE NO.: 06 102427 LU

TYPE OF REQUEST: A Major Revision to a Conditional Use Permit for construction of a 4,500 square foot replacement fire station and a landscape modification to reduce the perimeter landscape buffer along the access easement

DECISION (SUMMARY): Requests approved subject to conditions

## BASIC INFORMATION

GENERAL LOCATION: The property is located at 22225 45<sup>th</sup> Avenue SE, Bothell, WA

ACREAGE: 1.11 acres

ZONING: Rural-5 Acre

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation: Rural Residential (1 du/5 Acre – Basic) (Rural/Urban transition overlay)

UTILITIES:

Water: Cross Valley Water District  
Sewage: Septic/drainfield

SCHOOL DISTRICT: Monroe

FIRE DISTRICT: No. 7

SELECTED AGENCY RECOMMENDATIONS:

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

## **INTRODUCTION**

The applicant filed the Master Application on July 10, 2006. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on September 13, 2006 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 13, 14 and 15!)

A SEPA determination was made on June 23, 2006. (Exhibit 12) No appeal was filed.

The Examiner held an open record hearing on September 21, 2006, the 45<sup>th</sup> day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

## **PUBLIC HEARING**

The public hearing commenced on September 21, 2006 at 3:00 pm.

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. A SEPA determination was made on June 23, 2006. (Exhibit 12) No appeal was filed.
2. Mr. Ross Jamieson, Lewis Architects, appeared on behalf of the applicant and stated that the original station was built 25 years ago and that they had no objection to the recommended conditions of PDS.
3. Mr. Scott Whitcutt, PDS, was present as was Gary Meek of the Fire District.
4. No one appeared in opposition to the request.

The hearing concluded at 3:10 p.m.

**NOTE:** The above information reflects the information submitted to the Examiner summarizing the statements that were made at the hearing. However, for a full and complete record, verbatim audio tapes of the 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 Policy Act (SEPA) evaluation with its recommendation and conditions. This report is hereby adopted by the Examiner as if set forth in full herein.

3. One letter of concern was received requesting that the fire district retain as many trees as possible and in particular, two large trees in the backyard behind the current station. The letter also requested a greenbelt between the residence and the new expanded station to help baffle noise.
4. The request is for a Major Revision to an existing Conditional Use Permit (CUP) for the current fire station facility. The old station will be demolished so the district can build a new 4,500 square foot station. The request also includes a landscape buffer to reduce the prescriptive perimeter landscape buffer along the boundaries of an existing access easement.
5. The existing fire station site is bordered on the north, east and west with R-5 zoning consisting of many smaller lots.
6. The request is not subject to parks mitigation requirements, nor school impact mitigation fees.
7. 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 3-5, Exhibit 25)
8. There are no critical areas subject to the provisions of Chapter 30.62 SCC.
9. The subject property is designated Rural Residential (1 DU/5 Acre Basic) with a Rural/Urban Transition Overlay on the GPP Future Land Use map. The property is located outside (though on the boundary) of an Urban Growth Area (UGA). Maintaining emergency service capabilities is a necessary need within rural and urban areas. Providing such service facilities in rural and residential zones is allowed under approval of a CUP. PDS finds the requested CUP modification to be consistent with the General Policy Plan's Rural Residential designation of the property.
10. The request will provide that what is now a volunteer station will be re-built and provide for regular firefighter use.
11. The request is for a conditional use permit and has been analyzed by PDS staff on pages 6 and 7 of the PDS staff recommendation, Exhibit 25. The Examiner has reviewed this analysis and after hearing, concurs that the request meets the conditional use requirements.
12. 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.
13. 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).
14. Exhibit 10 is an aerial photograph which very clearly shows the property itself and the surrounding area and its compatibility in this 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.
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 allow for the building of a new fire station in the same location where a fire station has been for many years. This will allow for expanded fulltime firefighter use for the benefit and protection of the area.
5. The applicant should review the comments regarding the retention of trees, if possible, and any possible buffer area. This is not a mandatory requirement, however.
6. The request for a Major Revision to a Conditional Use Permit and a landscape modification should be approved subject to compliance by the applicant with the following Precondition and Conditions:

## **CONDITIONS**

- A. The CUP Site Plan, elevations, and conceptual landscape plan received by PDS on July 10, 2006 (Exhibits 4, 5, and 6) shall constitute the CUP official site plan. Any revisions to the CUP and/or development plan exhibits shall be in accordance with SCC 30.42C.110.
- B. Prior to initiation of any further site work; and/or prior to issuance of any development/construction permits by the county:
  - i. A Land Use Permit Binder shall be filed for the subject Decision. The recipient of any conditional use permit shall file a land use permit binder on a form provided by the department (Planning and Development Services) with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The binder shall serve both as acknowledgement of and agreement to abide by the terms and conditions of the conditional use permit and as a notice to prospective purchasers of the existence of the permit. (SCC 30.42C.200)
  - ii. The applicant shall submit a formal request for an access deviation to EDDS or request a minor revision to the CUP that restricts ingress and egress to the existing point of access.
  - iii. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
- C. In conformity with applicable standards and timing requirements:

- i. Storm water drainage measures shall be implemented.
- ii. Parking area improvements and the site landscape plan (Exhibit 6) shall be implemented.

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.

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

### **DECISION:**

The requests for a Major Modification to a Conditional Use Permit and a Landscape Modification for a 4500 square foot fire station are hereby APPROVED, SUBJECT TO COMPLIANCE by the applicant, with the CONDITIONS set forth in Conclusion 6, above.

Decision issued this 28th day of September, 2006.

\_\_\_\_\_  
Robert J. Backstein, Hearing Examiner

## **EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES**

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

### **Reconsideration**

Any Party of Record may request reconsideration by the Examiner. A Petition for Reconsideration must be filed in writing with the Office of the Hearing Examiner, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **October 9, 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 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, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **October 12, 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 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 this case.

Staff Distribution:

Department of Planning and Development Services: Scott Whitcutt/Norm Stone

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.