

# DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: June 18, 2009

PLAT/PROJECT NAME: **CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS**

APPLICANT/  
LANDOWNER: Church of Jesus Christ of Latter Day Saints

FILE NO.: 07-113020-000-00-LU

TYPE OF REQUEST: Major Revision to a Conditional Use Permit (ZA 96-110616 LU) to add a 5,547 square foot classroom addition to the existing 11,287 square foot church building and add 97 new parking stalls for a parking lot for a total of 198 stalls.

DECISION (SUMMARY): **APPROVAL SUBJECT TO CONDITIONS**

## BASIC INFORMATION

GENERAL LOCATION: 14415 369<sup>th</sup> Avenue SE, Sultan (in Section 35, Township 28 North, Range 8 East, W.M., Snohomish County, Washington)

ACREAGE: 5.56 acres

ZONING: R-5

COMPREHENSIVE PLAN DESIGNATION: Rural Residential

<b>School District:</b>	Sultan School District	<b>Fire District:</b>	Fire District No. 5
<b>Water Source:</b>	Startup Water District	<b>Sewer Service:</b>	On-site Septic System

PDS STAFF RECOMMENDATION: Approve with Conditions

## INTRODUCTION

The applicant filed the Master Application on October 31, 2007, which was determined to be complete as of the date of submittal on November 28, 2007. (Exhibit H)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. Exhibit F1 (Affidavit of Mailing); Exhibit F2 (Affidavit of Notification by Publication); Exhibit F3 (Posting Verification). The Examiner noted on a site visit on May 11, 2009 that the regular required posting notices were not posted. The May 12, 2009 hearing was postponed until June 11, 2009, and the matter was re-noticed. Exhibit I1 (Affidavit of Mailing); Exhibit I2 (Affidavit of Notification by Publication); Exhibit I3 (Posting Verification). Mr. Douglas Stratton, the caretaker for the church, testified at the hearing that both signs (issued by PDS) were erected on each of the rights-of-way, and that the signs have remained up for the requisite period of posting.

A Determination of Nonsignificance was made by PDS on March 11, 2009. (Exhibit E2) The DNS was not appealed.

The Examiner held an open record hearing on June 11, 2009. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

**NOTE:** The oral transcript is hereby made a part of the record in this matter. For a full and complete record, a verbatim recording of the hearing is available in the Office of the Hearing Examiner.

## **FINDINGS OF FACT**

Based on all of the evidence of record, the following findings of fact are entered.

### **A. Background**

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. **Summary of Proposal:**

The applicant, the Church of Jesus Christ of Latter Day Saints, has filed for a Major Revision to an existing Conditional Use Permit (file number 96-110616 LU) to add 5,547 square feet to the existing 11,387 square foot church building and add 97 new parking stalls to the parking lot to total 198 stalls. The applicant wishes to expand the building in order to add new classrooms and enlarge the existing cultural center room. The seating capacity of the sanctuary will not be increased. Associated with the project is installation of additional perimeter and parking lot landscaping, as well as the replacement of two biofiltration swales to augment the existing stormwater detention/treatment system.

3. **Site Description**

The 5.56 acre site is situated between the towns of Sultan and Gold Bar, on the northeast corner of Highway 2 and 369<sup>th</sup> Avenue SE, and is zoned R-5. The irregularly shaped property is flat and is occupied by the existing church building and parking lot. Vegetation consists primarily of grass and ornamental landscaping. Some mature trees are located along the southeast property line.

4. Adjacent Zoning/Uses.

<b>Location</b>	<b>Existing Use</b>	<b>Zoning</b>
Subject property	Church	R-5
North of subject parcel	Mobile Home/pasture	R-5
South of subject parcel (across road)	Tire shop and mobile home	RB and R-5
East of subject parcel	Vacant	R-5
West of subject parcel	Single Family Residence	R-5
Southeast of subject parcel	Mobile Home	R-5

**B. Public Comment/Issues of Concern.**

5. There are no issues of concern. No citizen comments were received for the project. The Examiner noted no issues of concern during her review of the project.

**C. Compliance with Performance Standards.**

NOTE: As a major revision to the original conditional use permit application, this decision will supersede the original decision approving the conditional use permit under file number 96-110616 LU.

6. Parks Mitigation.

This proposal does not meet the definition of “development” as per SCC 30.91D.200 and consequently, is not subject to parks mitigation fees in accordance with SCC 30.66A.010(3).

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

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

A development must mitigate its impact upon the future capacity of the road system by paying a road system impact fee reasonably related to the impacts of the development on arterial roads located in the same transportation service area as the development, at the rate identified in SCC 30.66B.330 for the type and location of the proposed development.

The development will generate 50.53 new average daily trips (ADT) and has a road system impact fee of \$7,175.71 (\$1.29/square foot) based on \$142/ADT, the current fee rate for commercial developments outside the Urban Growth Area (UGA), for TSA C. Consistent with SCC 30.66B.340, payment of this road system impact is required prior to building permit issuance, and is included as a condition at the end of this decision.

The estimates of trip generation for the development are based on the 7<sup>th</sup> Edition of the Institute of ITE Trip Generation Report as follows:

ITE Land Use Category: Church

ITE Land Use Code: 560

	<i>Calculations</i>
ADT	5,547 SF x 9.11 ADT/1000 SF = 50.53 ADT
AM PHT	5,547 SF x 0.72 AM PHT/1000 SF = 4.00 AM PHT
PM PHT	5,547 SF x 0.66 PM PHT/1000 SF = 3.66 PM PHT

B. Concurrency [SCC 30.66B.120]

"Level-of-service" (LOS) means a qualitative measure describing operational conditions within a traffic stream, and the perception thereof by road users. LOS standards may be evaluated in terms such as speed and travel time, freedom to maneuver, traffic interruptions, comfort, convenience, geographic accessibility, and safety. The highway capacity manual defines six levels of service for each type of facility for which analysis procedures are available. They are given letter designations, from A to F, with LOS A representing the best operating condition, and LOS F the worst.

The County makes a concurrency determination for each development application to ensure that the development will not impact a county arterial unit in arrears.

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent as of December 18, 2007. The expiration date of the concurrency determination is six years from this date. Consistent with DPW rule 4225.070 the point in time for which the concurrency analysis is based (the concurrency vesting date) is October 31, 2007.

The development has been deemed concurrent on the following basis:

Development generating 50 or fewer peak-hour trips in TSA with one or more arterial unit in arrears, SCC 30.66B.160(2)(a). The subject development is located in TSA C which, as of the date of submittal, had the following arterial units in arrears: Unit # 198 – Marsh Rd from Lowell Larimer Rd to SR 9 and Unit # 353 – Airport Way from SR 9 to 99 Ave SE. Based on peak-hour trip distributions, the subject development did NOT add three (3) or more peak-hour trips to any of the arterial units in arrears. Pursuant to SCC 30.66B.160(2)(a) the development is determined concurrent. The development generates 4.00 AM peak-hour trips and 3.66 PM peak-hour trips which is not more than the threshold of 50 peak-hour trips (in which case the development would also have had to be evaluated under SCC 30.66B.035).

C. Inadequate Road Condition (IRC) [SCC 30.66B.210]

Regardless of the existing LOS, any development which adds three or more p.m. peak-hour trips to a location in the road system determined to have an existing inadequate road condition (IRC) at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC.

The subject development proposal will not impact any IRC locations identified within TSA C with three or more peak hour trips, nor will it create any. Therefore, it is anticipated that mitigation will not be required with respect to inadequate road conditions and no restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under this section of Chapter 30.66B SCC.

D. Frontage Improvements [SCC 30.66B.410]

All developments will be required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road.

Full frontage improvements along the subject parcel's frontage on 369<sup>th</sup> Ave SE currently exist and were constructed when the church was built. Therefore, no additional frontage improvements are required.

E. Access and Circulation [SCC 30.66B.420]

The subject development fronts 369<sup>th</sup> Ave SE and US 2. 369<sup>th</sup> Ave SE is a two-lane road with a 25-mph posted speed limit. It is not an arterial. The stopping sight distance and intersection sight distance at 369<sup>th</sup> Ave SE in the vicinity of the proposed driveway are adequate.

Access to the subject development is proposed via an existing 35-foot wide paved driveway off of 369<sup>th</sup> Ave SE. The proposed access meets the EDDS 2-025 requirements.

F. Right-of-Way Requirements [SCC 30.66B.510, SCC 30.66B.520]

A development shall be required to dedicate, establish, or deed right-of-way to the county for road purposes as a condition of approval of the development, when to do so is reasonably necessary as a direct result of a proposed development, for improvement, use or maintenance of the road system serving the development.

The county right-of-way serving the development, 369<sup>th</sup> Ave SE, is designated as a non arterial. A non arterial requires a right-of-way width of 30 feet on each side of the right-of-way centerline. Presently, 32 feet of right-of-way already exists on the development's side of the right-of-way. Therefore, no additional right-of-way is required to be deeded.

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

When a development's road system includes a state highway, mitigation requirements will be established using the County's SEPA authority consistent with the terms of the interlocal agreement between the County and the WSDOT. This is consistent with the County's SEPA policy SCC 30.61.230(9), through which the county designates and adopts by reference the formally designated SEPA policies of other affected agencies for the exercise of the County's SEPA authority.

This development is subject to SEPA and thus is subject to an Interlocal Agreement (ILA) with the Washington State Department of Transportation (WSDOT)/County effective December 21, 1997, and as amended.

Per a traffic study dated June 14, 2007 (Exhibit C1), the development will not impact any WSDOT improvement project with three or more directional PM peak hour trips and thus should not be required to pay any traffic mitigation fees to WSDOT. WSDOT concurred with the

applicant's traffic study and determined in an email sent to PDS on November 7, 2007 that this development will not impact any WSDOT collection project within TSA C. No mitigation payments are due to the state.

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

Mitigation requirements for impacts on streets inside cities and roads in other counties will be established consistent with the terms of ILAs between the County and the other jurisdictions.

There are no other city jurisdictions that have an ILA with the County that will be significantly impacted by the subject development.

I. Transportation Demand Management (TDM) [SCC 30.66B.630]

Transportation demand management (TDM) is a strategy for reducing vehicular travel demand, especially by single occupant vehicles during commuter peak hours. TDM offers a means of increasing the ability of transportation facilities and services to accommodate greater travel demand without making expensive capital improvements. The County requires TDM of developments inside the UGA and developments that impact arterial units designated as ultimate capacity.

SCC 30.66B.630 requires development inside the UGA to provide TDM measures. Since this development is outside of the UGA, TDM measures are not required.

8. Mitigation for Impacts to Schools [Chapter 30.66C SCC]

The project is not subject to fees associated with Chapter 30.66C SCC.

9. Drainage and grading

A. Drainage

PDS has found the targeted drainage plan (Exhibit B4) and supplementary drainage report (Exhibit C2) submitted with the land use application, to be in conformance with the regulatory provisions of Chapter 30.63A SCC. Rainwater runoff from the site is currently collected and transported via catch basins and pipes to an above ground two celled retention/infiltration pond located at the northwest corner of the site. To enhance water quality, the stormwater is routed through vegetated biofiltration swales, one located at the north side of the site and one located at the west side of the site, before being released into the pond. The pond was designed to accommodate future expansion of the site, and it has been determined that it has plenty of reserve capacity to accommodate the proposed improvements. The existing bioswales, however, did not have any reserve capacity to handle the additional water quality treatment requirements, and they did not meet current standards. As a result, they have been redesigned to meet the water quality needs for the expanded parking lot. Also, the maintenance road for access to the pond will be modified. Because of the flat topography in the area and the fact there is no visible drainage course or storm systems within the streets, it is assumed that most of the stormwater in the neighborhood is infiltrated in the native Type B soils.

B. Grading

A grading permit will be required for the quantities of cut (1200 cubic yards) and fill (3300 cubic yards) proposed. Water quality will be controlled during construction by use of such methods as

silt fences and straw bales in accordance with a Temporary Erosion and Sedimentation Control Plan (TESCP) required by Chapter 30.63A SCC. The Hearing Examiner will require as a condition that a full drainage plan will be required before any permits are issued.

10. Critical Areas Regulations (Chapter 30.62 SCC)

A site investigation found no wetlands or other critical areas as defined by Snohomish County Critical Areas Regulations (SCC 30.62) on or within 300 feet of the subject property.

11. Consistency with the GMA Comprehensive Plan

On December 21, 2005, effective February 1, 2006, the Council adopted Amended Ordinances 05-069 through 05-079, 05-081 through 05-085, 05-090 which amended the map and text of the Snohomish County GMA Comprehensive Plan, added rural lands to UGAs and adopted area-wide rezones within the UGAs of the county respectively.

The subject property is designated Rural Residential on the GPP Future Land Use map, and is located outside the UGA. It is not located within a mapped Growth Phasing Overlay. The implementing zones within this designation are the Rural-5 zone and other zones with a minimum lot size requirement of larger than five acres.

The proposal is for the revision and enlargement of an existing church, a use which is allowed as a conditional use in the R-5 zone.

12. Zoning

Churches are allowed as a conditional use in the R-5 zone. The proposal meets zoning code requirements relating to access (Chapter 30.24 SCC), building setbacks, height and lot coverage (Chapter 30.23 SCC), landscaping (Chapter 30.25 SCC) and parking (Chapter 30.26 SCC).

The church, including the major revision, meets all required building setbacks. SCC 30.23.110(5) requires that churches be located at least 25 feet from any other lot in a residential zone. The maximum building height allowed in the R-5 zone is 45 feet. Per SCC 30.23.050(1), church spires are not subject to the height limit requirements provided that they be located 50 feet or more from any adjoining lot line. The proposed addition will extend the existing roof line of the building which is approximately 34 feet high as measured to the peak of the roof line.

When the church was originally approved, the parking requirement for "churches" in the zoning code was based on one parking stall per every four seats in the sanctuary. SCC 30.26.030(1) currently dictates that the amount of required parking stalls for churches is to be determined by PDS on a case-by-case basis. The seating capacity of the sanctuary will not be increased. The applicant has provided a sample floor plan (Exhibit B5) and parking justification (Exhibit A5). PDS has determined that the amount of parking proposed should be more than adequate for the proposed addition.

13. Utilities

- A. Water. Water is available from Startup Water District. (Exhibit G4)
- B. Sewer. Sewage disposal will continue to occur through on-site septic. The existing system has sufficient capacity for the expansion. (Exhibit J)
- C. Snohomish Health District Approval - the SHD has no objections to the proposed revision of the conditional use permit. (Exhibit G2)

14. State Environmental Policy Act Determination (Chapter 30.61 SCC)

PDS issued a Determination of Nonsignificance (DNS) for the subject application on March 11, 2009. (Exhibit E2) PDS did not receive any comments during the comment period and the DNS was not appealed.

15. Conditional Use Permit Criteria

SCC 30.42C.100 states:

- 1. The hearing examiner may approve, approve with conditions, or deny a conditional use permit only when all the following criteria are met:
  - (a) The proposal is consistent with the comprehensive plan;
  - (b) The proposal complies with applicable requirements of this title;
  - (c) The proposal will not be materially detrimental to uses or property in the immediate vicinity; and
  - (d) The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.
- 2. As a condition of approval, the hearing examiner may:
  - (a) Increase requirements in the standards, criteria, or policies established by this title;
  - (b) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides, or traffic;
  - (c) Require structural features or equipment essential to serve the same purpose set forth in 30.42C.100 (2)(b);
  - (d) Impose conditions similar to those set forth in items 30.42C.100 (2)(b) and 30.42C.100 (2)(c) as may be deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters. The hearing examiner may not in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use nor otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;

- (e) Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;
- (f) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need;
- (g) Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements; and
- (h) Impose any requirement that will protect the public health, safety, and welfare.

It appears the code section has a mistake in its preamble at SCC 30.42C.100(1). One obviously would assume that the Examiner would only deny a CUP if the criteria were not met.

3. **Findings Regarding criteria (1)(a)**

The Examiner finds the following statements from the General Policy Plan support the major revision of the conditional use permit:

- *Cultural resources contribute materially to the aesthetics of a community, fostering a sense of place and identity for all ages.*
- *They are important components of civic pride found in stable, successful communities.*

GPP, at p. LU-73. While the GPP states that historical, archeological, and arts resources are grouped under the collective label of “cultural resources”, the Examiner believes that churches can also be described in a secular manner as a cultural resource. Churches are part of the fabric of a community and in a sense, bring the people of the community together in a way that few other institutions can. They foster a strong sense of place and identity, and it is important that they are supported and encouraged through the local planning process.

4. **Findings Regarding Criteria (1)(b) of the Conditional Use Permit Criteria**

- *(b) The proposal complies with the applicable requirements of this title:*

The Examiner finds that the application for a major revision of the CUP complies with the applicable requirements of Title 30 SCC, as demonstrated in the Findings of Fact in this decision.

5. **Findings Regarding Criteria (1)(c) of the Conditional Use Permit Criteria**

- *(c) The proposal will not be materially detrimental to uses or property in the immediate vicinity.*

The Examiner finds that the proposal will not be materially detrimental to uses or property in the immediate vicinity.

6. **Findings Regarding Criteria (1)(d) of the Conditional Use Permit Criteria**

- *(d) The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.*

The proposal will not be materially detrimental to uses or property in the immediate vicinity and will be compatible with the character, appearance, quality of development and physical characteristics of the site and surrounding area. The LDS Church is an established church in the neighborhood and was originally built through a CUP approval process. The location of the building addition on the north side of the existing building will not increase impacts to any surrounding residences. Additional landscaping is proposed adjacent to the new parking area and improved bioswales. It is the goal of the applicant to retain any existing significant trees within the perimeter of the site. Ornamental landscaping will be installed within the expanded parking lot. 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. The applicant states (see Exhibit A4) that site lighting will continue to be concentrated in the area near the building, and not out at the edges of the parking lot, where it could be a nuisance to the neighbors. Since PDS does not review lighting permits, the Examiner has included a condition to insure that any parking lot lighting installed in the future be shielded to comply with county code. The church will be utilized primarily on Sundays (see Exhibit A6 for discussion of hours of operation). There have been no comments in opposition to the proposed expansion from any of the neighbors.

SCC 30.42C.200 requires the recipient of any CUP to file a Land Use Permit Binder (LUPB) prior to the initiation of any site work. The Hearing Examiner has included a condition of approval for inclusion within the project decision to comply with this code section. (Research also revealed that a Land Use Permit Binder was never recorded for the original CUP.)

**CONCLUSIONS OF LAW**

1. The Examiner has original jurisdiction over CUP applications pursuant to Chapter 30.72 SCC and Chapter 2.02 SCC.
2. In considering the major revision, application of many of the decision criteria require the exercise of discretion.
3. The proposal is consistent with the GMACP; GMA-based county codes, the type and character of land use permitted on the project site, and the applicable design and development standards.
4. If approved with the recommended conditions, the proposal will make adequate provisions for the public health, safety and general welfare.
5. The proposed major revision of the CUP with recommended conditions of approval will be consistent with the comprehensive plan and comply with the applicable requirements of Title 30 SCC.
6. The major revision of the CUP, with recommended conditions of approval, will not be materially detrimental to uses or properties in the immediate vicinity.

7. The major revision of the CUP, with recommended conditions of approval, will respond to as well as maintain compatibility with surrounding uses and incorporate specific features, conditions, or revisions that ensure it responds appropriately to the character, appearance, quality of development, and physical characteristics of the site and surrounding properties.
8. Any conclusion in this decision, which should be deemed a finding of fact, is hereby adopted as such, and vice versa.

## **DECISION**

Based on the findings of fact and conclusions of law entered above, the decision of the Hearing Examiner on the application is as follows:

The request for a **Conditional Use Permit Major Revision** is hereby **CONDITIONALLY APPROVED**, subject to the following conditions:

### **CONDITIONS**

- A. The site plan (Exhibit B1) received by PDS on April 22, 2009, 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, any 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. A final landscape plan shall have been submitted to and approved by PDS. The plan shall be prepared in general conformance with Exhibit B3.
  - ii. The applicant shall pay an impact fee to Snohomish County for traffic impacts to Transportation Service Area "C" in the amount of \$7,175.71.
  - iii. 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.
- D. Prior to the issuance of certificate of occupancy/final inspections;
  - i. Storm water drainage measures shall be implemented.
  - ii. Site improvements, interior circulation area improvements and any general site landscaping shall be installed, inspected and approved consistent with the official site plan and exhibits.
- E. Nothing in this approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.

Decision issued this 18th day of June, 2009.



Barbara Dykes, Hearing Examiner

**THIS APPROVAL SUPERSEDES ALL PREVIOUS APPROVALS AND CONDITIONS GRANTED ON THIS PROPERTY, SPECIFICALLY HEARING EXAMINER DECISION 96-110616 LU.**

**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 **JUNE 29, 2009**. 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 **JULY 2, 2009** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

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

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

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

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

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### **Staff Distribution:**

Department of Planning and Development Services: Monica McLaughlin

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.