

DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: September 24, 2009

PLAT/PROJECT NAME: ***Machias Elementary***

APPLICANT/
LANDOWNER: Snohomish School District

FILE NO.: 09-100229-000-00-LU

TYPE OF REQUEST: **Conditional Use Permit**

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

BASIC INFORMATION

GENERAL LOCATION: 231 147th Avenue SE, Snohomish, WA 98290

ACREAGE: 9.75 acres

ZONING: R-5

COMPREHENSIVE PLAN DESIGNATION: General Policy Plan Designation-
Rural Residential (1DU/5 Acres Basic)

School District: Snohomish School District No. 201

Fire District: Lake Stevens Fire District No. 4

Water Source: Snohomish County PUD

Sewer Service: Onsite septic/drainfield

PDS STAFF RECOMMENDATION: Approve with precondition and conditions

INTRODUCTION

The applicant filed an application for a conditional use permit on January 14, 2009. The application was determined by PDS to be complete as of the date of submittal for regulatory purposes on February 11, 2009. (Exhibit H)

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). Posting was spot checked by the Hearing Examiner on a site visit as authorized by code on Wednesday, September 9, 2009.

Due to the unfortunate downsizing of PDS earlier this year, workloads on individual planners have increased tremendously. Therefore, the normal 120-day timelines have been very difficult to meet, and permit backlogs have resulted. This particular application was at day 215 of the 120-day timeline on the date of the hearing.

School districts in particular have very limited windows of opportunity to accomplish renovations and capital projects. Construction must be concentrated during the summer months when the children are out of school, and when a school is being rebuilt from scratch, the entire population of a school must be moved to another location. This results on hardships to the entire community. It is therefore important that PDS do its best to accommodate the District despite the backlog. It did so by issuing a demolition permit and early grading permit to allow earthwork to begin prior to the hearing on the conditional use permit application. Although this certainly is not the ideal way to proceed given these circumstances, the Examiner agrees that in this situation it made sense to allow the District to go ahead with its grading work. The Examiner cautions, however, that this action should not set a precedent for the future, and that the best course of action still is to wait to proceed with any work until the conditional use permit is heard. The Examiner notes that the work authorized by the Phase 1 grading permit issued by the department on July 2nd included this restrictive condition:

Any work that would require the approval of a major revision to the existing conditional use permit is NOT authorized. Permittee assumes any and all risk regarding future approvals.

Exhibit J. This earthwork began on approximately July 6th. A demolition permit was issued on July 2nd to demolish the old school; the building has since been razed.

A Determination of Nonsignificance was made by the District on January 14, 2009. (Exhibit E2)

The Examiner held an open record hearing on September 15, 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 Snohomish School District is requesting a conditional use permit to allow for the construction of a new replacement Machias Elementary School. The original Machias Elementary School opened in 1970, and a conditional use permit was not required by county regulations at that time.

The new school building will be 86,087 square feet. The site is planned to accommodate a future classroom addition of 5,000 square feet, and future portables of 4,000 square feet. The site will be reconfigured to better accommodate school needs, such as separate bus and automobile parking areas and reconfigured play areas. The school will accommodate up to 700 students. The proposed building will initially accommodate 600 students. Space on the site will be allocated and reserved for future portables and a future addition.

The existing parking lot and asphalt play areas will be removed. A new parent drop-off loop with visitor parking and a separate school bus drive loop with staff parking will be installed. At the elementary school, visitor parking and drop-off is provided in the front of the building for about 23 cars parked and about 10 to queue. A separate staff parking lot and bus area will be provided to the south and east portion of the site that has about 59 parking stalls and loading for 12 full buses. Geothermal wells will be drilled below the new parking lot areas. Grass playfields will be constructed over a new septic drainfield.

New buildings include administrative offices, kindergarten classrooms, grades 1-6 classrooms clustered in groups of 4, gymnasium, commons/cafeteria with stage, kitchen, special education programs, and library. Structural elements are anticipated to consist of wood framing with bearing and shear walls. As many of the existing glu-laminated beams from the existing school will be salvaged and reused as possible. The curving portion will be constructed of curved wood glu-laminated beam/columns. The exterior materials of the curving portion will be clad in concrete roof shingles. The exterior of the remainder of the building will be a pre-finished corrugated metal siding with some areas of shingles.

Sustainable building practices will be incorporated wherever feasible, including daylighting, geothermal heat pumps, water-conserving plumbing fixtures, and reuse of salvaged building materials.

3. Site Description

The site is relatively flat, sloping from a high point of approximately 180 feet above sea level at the northeast corner, to about 135 feet above sea level at the property line along 64th Street SE. Existing trees are found at the north and northeast property lines.

4. Adjacent Zoning/Uses

The adjacent zoning is R-5. All adjoining uses are residential.

B. Public Comment/Issues of Concern

Neither agency nor technical reviews have identified any concerns for the conditional use permit.

No written comments were received from the public regarding the conditional use permit.

At the public hearing, two people testified. Concerns were identified regarding the early grading and demolition of the school prior to the hearing and site distance issues.

C. Compliance with Performance Standards

5. Parks Mitigation

The proposal is not subject to Chapter 30.66A SCC since the proposal will not have any documented impacts upon the capacity of the county parks system.

6. 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. A development's road system impact fee will be equal to the development's new average daily traffic (ADT), based on the

latest edition of the ITE Trip Generation report published by the Institute of Transportation Engineers, times the per trip amount for the specific transportation service area identified in SCC 30.66B.330.

The development will generate 364.47 new average daily trips (ADT) and has a road system impact fee of \$125,013.21 based on \$343.00/ADT, the current fee rate for commercial developments outside the urban growth area, for TSA B. Consistent with SCC 30.66B.340, payment of this road system impact fee is required prior to building permit issuance and may be paid proportionately with each building permit. (Exhibit H)

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

ITE Land Use Category: Elementary School

ITE Land Use Code: 520

Applicable Measurement Unit (ITE Independent Variable): square footage.

Number of applicable measurement units for this development: 25,153 sq ft

Trip Generation Calculations:

Trip Generation Based on Average Rates

New average daily trips = $14.49 \text{ ADT} / 1000 \text{ SQ FT} \times 25,153 \text{ SQ FT} = 364.47$

New AM peak-hour trips = $4.69 \text{ AM PHTs} / 1000 \text{ sq ft} \times 25,153 \text{ sq ft} = 118$

New PM peak-hour trips = (Local Data) = 7

B. Concurrency [SCC 30.66B.120]

"Level-of-service" means a qualitative measure describing operational conditions within a traffic stream, and the perception thereof by road users. Level-of-service (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 level-of-service A representing the best operating condition and level-of-service 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 has been deemed concurrent as of

September 8, 2008. The concurrency determination approval will expire on September 8, 2015, six years from the date concurrency was given. Consistent with DPW rule 4225.070, **July 22, 2009** is the point in time for which the concurrency analysis is based (i.e. the concurrency vesting date).

Development generating more than 50 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 B, which, as of the date of submittal, had the following arterial unit in arrears, 238 (20th St SESR 2 WB Trestle to SR 9). Based on peak-hour trip distributions, the subject development will NOT add three (3) or more directional peak-hour trips to this arterial unit or any critical arterial units as shown on the critical arterial unit list. The development generates 118 a.m. peak-hour trips and 7 p.m. peak-hour trips which is MORE than the threshold of 50 peak-hour trips, and thus, the development has also been evaluated under SCC 30.66B.035. Pursuant to SCC 30.66B.035(1), The development is deemed concurrent under SCC 30.66B.160(2)(a).

C. Extent of Improvements. (Exhibit H)

In determining the extent of improvements required, the director of public works will consider, with other relevant factors, the following:

- (a) Extent of the development proposed;
 - The applicant is proposing to add 25,153 sq ft to a 44, 847 sq ft elementary school.
- (b) Priority of improvements to involved county roads in the county's six-year transportation improvement plan;
 - There are no County scheduled improvements to 147th Ave SE.
- (c) Condition of existing transportation facilities in comparison to adopted standards;
 - 147th Ave SE is lacking a paved shoulder. This will be a recommended condition of approval. There is an existing paved shoulder to the north of the subject development.
- (d) Existing and projected land uses and development densities;
 - There is limited future development of surrounding parcels.
- (e) Current and projected levels of service on the affected road system;
 - 147th Ave SE meets current level of service standards in County Code for that road.

(f) Availability of public transit;

- The authority to create, eliminate or modify a transit route or transit stop lies with the transit agency within whose service area the development is located in or nearby to. The two county transit agencies that serve the residents of Snohomish County are Community Transit and Everett Transit. Sound Transit currently has routes that provide express bus service to King County from hubs such as Everett Station, the Ash Way Park & Ride. Everett Transit's boundaries are all within their city limits and Sound Transit's routes are in incorporated areas of the UGA. Community Transit is the only transit agency that has routes and stops in both the urban area and the rural area. The county has no authority to require any transit authority to service a subject property or development. The only authority the County does have is to approve the location of a transit stop along a county right-of-way if the transit authority chooses to install one. According to a National Personal Transportation Survey, conducted by the American Planning Association, the average person is willing to walk about 1,500 feet to a transit stop.

Currently there are no public transit routes or stops that service the subject development nor are there any routes or stops within 1,500 feet of the subject development. The closest stop is located in downtown Lake Stevens at the intersection of 16th St SE/127th Ave SE about two miles from the school.

(g) Any traffic study submitted;

- The traffic study by Davis Evans and Associates, dated January 2009, was received by Snohomish County on January 14, 2009. A revised study dated July 2009, was recently submitted.

(h) Availability of a specific improvement program;

- There are no County improvement programs for 147th Ave SE.

(i) The number of dwelling units currently using the road system that must be improved and projected to use the road system after full occupancy of the development;

- There is approximately 2500 ADT and less than 3000 ADT at full build out of the area.

(j) The needs of low-income persons for decent, affordable, low-cost housing;

- NA, The subject development is not a residential development.
- (k) Transportation system or demand management measures proposed by the developer;
- Refer to Section I below for information and analysis on any Transportation Demand Management measures associated with this development.
- (l) The need for pedestrian and bicycle facilities;
- There are no proposed bikes routes on 147th Ave SE.
- (m) Continuity with existing and proposed improvements;
- Refer to Sections D, E, F, G, J, K and L for information and analysis on these two areas.
- (n) Development standards of adjacent cities;
- Refer to Section L for comments and requirements associated with other Cities that have an Inter Local Agreement (ILA) with Snohomish County that this development is subject to. It should be noted that Snohomish County cannot impose another jurisdictions requirements without the benefit of an ILA, which is an agreement that is voluntarily entered into by the jurisdiction.
- (o) The need for safety improvements for school children;
- Off-site pedestrian facilities for students are required for short subdivisions and subdivisions only, RCW 58.17.110.
- (p) The types, sizes and performance of vehicles generated by the development, including but not limited to large trucks;
- The proposed development is for an elementary school. The majority of the types and sizes of vehicles associated with this type of development are passenger cars and busses. Other less prevalent types are larger commercial vehicles such as fire trucks, utility trucks and delivery trucks that provide goods and/or services to the school.

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. The required improvement shall be constructed in accordance with the EDDS, including correction of horizontal and vertical alignments, if applicable.

DPW Rule 4222.020(1) requires full rural frontage improvements along the subject parcel's frontage on 147th Ave SE which consist of:

- Asphalt concrete pavement consisting of 11 feet width from roadway/right-of-way centerline with a 7 foot paved shoulder.
- The east side of the shoulder will be required to have curbing to control parking. Illumination will be required, if not already present, on the subject parcel's frontage for this curbing.

147th Ave SE on which the development's frontage improvements are required, is not in the impact fee cost basis (Appendix D of the Transportation Needs Report), therefore credits towards the applicant's impact fee for any frontage improvements that can be used in the ultimate build-out of the road are not applicable.

Construction of frontage improvements is required prior to any occupancy unless bonding of improvements is allowed by PDS, in which case construction is required prior to any occupancy of the development.

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

All developments are required to provide for access and transportation circulation in accordance with the comprehensive plan and SCC 30.66B.420, design and construct such access in accordance with the EDDS, and improve existing roads that provide access to the development in order to comply with adopted design standards, in accordance with SCC 30.66B.430.

There are no new roads associated with the subject development. Access will be provided via two new commercial driveways off of 147th Ave SE. Three driveways currently exist. Sight distance at the southerly access to the school does not meet intersection or stopping sight distance looking to the right (north). The applicant will address this issue by raising a portion of 147th Ave SE. The deficiency stems from the vertical alignment of the roadway. It will be a condition of approval that sight distance at the southerly access be addressed to the satisfaction of the County.

The pick-up and drop-off of students by parents will take place in an area separate from the busses and the designer has shown that adequate area has been provided such that queuing on the public road will not occur. Currently parents and possibly staff are parking perpendicular to 147th Ave SE in public right-of-way. This type of parking will not be permitted. The required frontage improvements will include curbing to control parking.

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.

In section D above, the road serving this development 147th Ave SE, is designated as a Non Arterial and requires a right-of-way width of 30 feet on each side of the right-of-way centerline. Currently, 20 feet of right-of-way exists on the development's side of the right-of-way. Therefore, the development is required to deed 10 feet of additional right-of-way. This is not adequately shown on the site plan. This was indicated in the Traffic May 6, 2009, memo. What is shown in this area is a 10 foot buffer. This area needs to be right-of-way. The buffer will need to be moved 10 feet to the east. It will be a condition of approval that 10 feet of right-of-way is deeded prior to building permit issuance.

147th Ave SE is not in the impact fee cost basis (Appendix D of the Transportation Needs Report); therefore credit towards the applicant's impact fee for the deeded right-of-way is not applicable.

G. Inadequate Road Condition

Regardless of the existing level of service, 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 A with three or more of its p.m. 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.

H. 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 Interlocal Agreement (ILA) with the Washington State Department of Transportation (WSDOT)/County effective December 21, 1997, and as amended.

A revised offer to pay WSDOT traffic mitigation was submitted for this review for the amount of **\$2,358.24** based on the proportionate share method; the number of trips generated by the development that would travel through any WSDOT project on the Exhibit C list. The revised July 2009 traffic study by David Evans and Associates indicated that the WSDOT projects impacted by 3 or more trips from the proposed development are as follows:

DOT-08: impacted by 27 ADT at \$68.00 per ADT =	\$1,836.00
DOT-09: impacted by 27 ADT at \$9.54 per ADT =	\$257.58
DOT-10: impacted by 6 ADT at \$42.41 per ADT =	\$254.46
DOT-24: impacted by 6 ADT at \$1.70 per ADT =	<u>\$10.20</u>
Total:	\$2,358.24

Revised comments dated July 28, 2009 were received from WSDOT accepting that amount. Payment of that amount will be a condition of approval for this development.

I. 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 interlocal agreements (ILA) between the County and the other jurisdictions.

This development is subject to SEPA and therefore is subject to the Interlocal Agreement (ILA) between Snohomish County and the City of Monroe.

For impacts on the City of Monroe's street system, and pursuant to the ILA and SCC 30.66B.055(4), a revised written proposal from the applicant proposing measures to mitigate impacts on city streets is required and has been received. This offer for \$246.26 is based on the number of PM PHTs of the adjacent street traffic. Comment from the City of Monroe dated July 29, 2009, on the ILA forms indicate acceptance of this offer. It will be a condition of approval that this offer is paid.

J. 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.

All new developments in the urban area shall provide TDM measures. Since the development is located outside of the Urban Growth Area, this section of the code does not apply.

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

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

8. Drainage and grading

A. Drainage

Runoff flow control and water quality will be provided for the development in accordance with the *1992 Stormwater Management Manual for the Puget Sound* issued by the Washington State Department of Ecology, and as amended by Snohomish County. The design of the stormwater management system utilized the Santa Barbara Urban Hydrograph methodology. Water quality treatment will be provided for the development in accordance with the *2005 Stormwater Management Manual for Western Washington*.

Drainage improvements will include new rain gardens and an infiltration bed for stormwater infiltration and water quality treatment. Developed peak runoff rates up to the 100-year event will be infiltrated. Infiltration will be accomplished via the rain gardens, which include a vertical pit at the bottom that extends through a silt layer to more permeable outwash soils where a perforated pipe will be installed for distribution of runoff. Details regarding the stormwater system are found in the Targeted Drainage Plan. (Exhibit C2)

The department has reviewed the targeted drainage plan and has recommended approval of the conditional use permit. A full drainage plan must be approved before the Phase 2 grading permit is issued.

B. Grading

A limited scope "Phase 1" grading permit was requested by the District in advance of the "Phase 2" final grading permit currently pending in the

department. The recent reduction in staff at PDS resulted in permit review backlogs that caught a number of permit applicants unaware. In this case the department's timelines were clearly going to result in a hearing date and permit issuance such that construction would be delayed well beyond the prime summer and early fall construction season.

Construction, particularly earthwork and demolition, at existing school sites is significantly safer when it is done during the summer when students are on summer break. Due to these timelines the school district requested a limited scope "Phase 1" grading permit to begin earthwork on the site. The work authorized by the Phase 1 grading permit issued by the department on July 9th included this restrictive condition:

"This permit does not authorize any work that would require the approval of a major revision to the existing conditional use permit. Permittee assumes any and all risk regarding future approvals."

This earthwork began on approximately July 6th. They plan to finish by October 1st. While this timeline certainly is not ideal from a public notice standpoint, the grading and demolition permits were legal permits. Certainly, there are a number of reasons which make it a better choice to have done the earthwork this summer.

9. Critical Areas Regulations (Chapter 30.62 SCC)

A Floodway Fringe Area exists offsite, with the closest portion being approximately 30 feet north of the northwest property corner. No portion of the school property is within any type of Flood Hazard Area. No other critical areas exist on the property. The project complies with the Critical Areas Regulations.

10. 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 Urban Growth Areas and adopted area-wide rezones within the Urban Growth Areas of the county respectively.

The subject property is designated Rural Residential-5 (RR-5: 1 dwelling unit per 5 or more acres). This designation is described in the GPP as follows:

This designation includes lands that were designated Rural on pre-GMA subarea comprehensive plans and zoned Rural 5. As the result of a joint planning effort between the county and the Tulalip Tribes, the RR-5 designation also applies to certain lands

on the Tulalip Reservation that were previously designated Rural Residential. The implementing zone in this designation will continue to be the R-5 zone.

11. Zoning

This project meets zoning code requirements for lot size, setbacks, required parking stalls, landscaping, bulk regulations and other zoning code requirements.

12. Utilities

- A. Water: Water is available from the Snohomish County PUD. (Exhibit G4)
- B. Sewer: Sewage disposal will be provided by a new onsite septic system and drainfield. The District is required to install a Large On-site Sewage System (LOSS), the design of which is regulated by the State Department of Health (DOH) pursuant to Chapter 242-272B of the Washington Administrative Code. The Snohomish Health District will not recommend approval of any building permits prior to approval of the LOSS design by DOH. (Exhibit G3)
- C. Electricity: The Snohomish County PUD submitted a letter stating that electricity is available. (Exhibit G4)
- D. Fire Code: Both Fire District #4 and the Fire Marshall have reviewed the project for compliance and neither has an objection to the approval of the conditional use permit. (Exhibit H at 14; Exhibit G7)

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

The District issued a Determination of Nonsignificance (DNS) for the subject application on January 14, 2009. (Exhibit E2) The DNS was not appealed.

14. Conditional Use Permit Criteria

In considering the application, the Examiner must apply SCC 30.42C.100, which outlines the decision criteria for a conditional use permit as follows:

- 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.

Regarding criteria (1) (a): *The proposal is consistent with the comprehensive plan.*

The proposal is for modernization of an elementary school. There are no specific policies in the comprehensive plan that address this subject, but the objective of the conditional use permit is certainly not inconsistent with the comprehensive plan.

The comprehensive plan generally supports the modernization of public infrastructure to support residential population growth and better public services, even in the rural areas. The modernization of Machias Elementary School will enable the District to provide better service to the citizens of Snohomish County.

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

- *(b) The proposal complies with the applicable requirements of Title 30 SCC:*

The proposal complies with the applicable requirements such as setbacks and height restrictions.

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 proposed elementary school renovations themselves will not adversely affect the existing or potential uses in the general area.

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. Machias Elementary School is an established school in the neighborhood and was originally built prior to the requirement for a CUP approval process.

The district's consultants have performed an extensive outreach program with the neighborhood. The outreach efforts, and neighborhood comments, are chronicled on a webpage that can be reached via a link from the Snohomish School District's webpage for the Machias Elementary School. The direct URL for this webpage is <http://machias-riverview.blogspot.com/>. There have been no comments left on this webpage that suggest that proposed new school building

will be incompatible with the surrounding property. No written comments were received by Planning and Development Services regarding the proposal.

Although there have been no objections raised to the proposed building and site design, PDS staff has raised a concern regarding the potential for headlight glare from vehicles on the school site to negatively impact nearby neighbors. The proposed Staff Parking Lot is adjacent to several existing single family residences. Vehicles parking in stalls 24 through 38 in the Staff Parking Lot have the potential to shine headlights directly onto this residence. Additionally, parking lot light standards are proposed near stalls numbers 26, 30, 35, and 44. A condition of approval is included that will prevent this issue from becoming a problem.

The Hearing Examiner finds that the proposed Conditional Use Permit, with the following conditions of approval, is consistent with the comprehensive plan and complies with the applicable requirements of this title. The proposed activities will have negligible detrimental impacts to adjacent properties, and will result in a site and buildings that are aesthetically more pleasing.

The proposed activities will be compatible with the existing and intended character, appearance, and quality of surrounding properties. The structure will be larger than found on adjacent properties, but the building will be partially screened by the landscape requirements. The decision criteria of SCC 30.42.100(1) have been met.

As conditioned, the criteria for approval have been met.

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 Conditional Use Permit application 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 following conditions, the proposal will make adequate provisions for the public health, safety and general welfare.

5. The CUP with the precondition and conditions of approval will be consistent with the comprehensive plan and comply with the applicable requirements of Title 30 SCC.
6. The CUP, with the precondition and conditions of approval, will not be materially detrimental to uses or properties in the immediate vicinity.
7. The CUP, with precondition and 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.

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** is hereby **CONDITIONALLY APPROVED**, subject to the following precondition and conditions:

PRECONDITION

A record of developer obligations and Certificate of Concurrency shall have been recorded with the County Auditor against the real property on which the development is proposed.

CONDITIONS

- A. Exhibit B1 shall be the approved site plans. Changes to the approved site plans are governed by 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:
 1. A Land Use Permit Binder shall have been completed, signed, and recorded with the county Auditor's Office.

2. A final grading permit, to include a storm water pollution prevention plan (SWPPP), issued pursuant to the SCC Chapter 30.63.B shall have been obtained for any on-site grading
3. A full drainage plan shall have been submitted and approved pursuant to the SCC Chapter 30.63.A.
4. The applicant shall pay an impact fee to Snohomish County for traffic impacts to Transportation Service Area B in the amount of \$125,013.21. This payment may be made proportionately with each building permit. Credit for certain expenditures may be allowed against said payments to the extent authorized by County code.
5. The applicant shall make a payment to Snohomish County for the WSDOT in the amount of \$2,064.38 for mitigation of traffic impacts to State highways:
 - DOT #07 \$54.22
 - DOT #08 \$1,927.00
 - DOT #09 \$38.16

This payment may be made proportionately with each building permit.

6. The amount of \$246.26 shall be paid to the City of Monroe for traffic impacts to projects within the City. Proof of payment of the above amount shall be provided to the County. This payment may be made proportionately with each building permit.
7. 10-foot shall have been deeded as right-of-way along the property frontage, for a total of 30 feet from the centerline of the right-of-way.

C. Prior to the first approval for occupancy or final inspection:

1. A solid board fence with a minimum height of 42" shall be installed along the south property line adjacent to Parking Stalls Numbers 24 through 38 in the Staff Parking Lot, and extending to the southeast property corner, to minimize vehicular headlight glare leaving the property.
2. All parking lot lighting shall be installed and directed in a fashion to minimize lighting and/or glare on adjacent and nearby properties.
3. Rural frontage improvements shall be constructed along the parcel's frontage on 147th Ave SE in accordance with the Engineering Design and Development Standards (EDDS) and to the satisfaction of the County Road Engineer.

4. Sight distance for the southerly access onto the County Road shall be corrected to the satisfaction of the County.

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 24th day of September, 2009.



Barbara Dykes, 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, 2nd 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 5, 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, 2nd 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 8, 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.

Staff Distribution:

Department of Planning and Development Services: Tom Barnett

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 SEPTEMBER 24, 2010.

- 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)