



Modified per attached Council Motion 12-052

Hearing Examiner's Office

Email: Hearing.Examiner@co.snohomish.wa.us

**FINAL DECISION of the
SNOHOMISH COUNTY HEARING EXAMINER
AFTER RECONSIDERATION**

Millie Judge
Hearing Examiner

M/S 405
3000 Rockefeller Ave.
Everett, WA 98201

(425) 388-3538
FAX (425) 388-3201

DECISION DATE: December 9, 2011

PROJECT NAME: ***CEDAR PARK CHRISTIAN SCHOOL
Mill Creek Campus***

APPLICANT/
LANDOWNER: Ben Waggoner
Cedar Park Church
16300 112th Avenue NE
Bothell, WA 98211

FILE NO.: 09-108959 LU

TYPE OF REQUEST: MAJOR REVISION - CONDITIONAL USE PERMIT (CUP)

DECISION (SUMMARY): **The request for a Major Revision to a CUP is Granted, subject to Precondition and Conditions**

GENERAL LOCATION: 17000 6th Avenue West, Lynnwood, Washington

ZONING: Residential 7,200 (R-7200)

COMPREHENSIVE PLAN: Designated as Urban Low Density Residential (ULDR)

PDS STAFF RECOMMENDATION: Approve the CUP amendment, subject to the recommended preconditions and conditions

Based on a preponderance of the evidence of record, the following Findings of Fact, Conclusions of Law and Decision are entered:

I. FINDINGS OF FACT

A. BACKGROUND INFORMATION

1. The Record. The official record for this proceeding consists of the Exhibits entered into evidence (Exhibits A.1 through K.1), as well as the testimony of witnesses received at the open record hearing. At the close of the public hearing, the record was left open until October 12, 2011 at 4:00 p.m. to allow PDS and the Applicant to provide supplemental arguments to the Examiner regarding the need for traffic calming devices in the

neighborhood of the proposed school expansion. Those items were received on October 12, 2011 and are marked as Exhibits J.1 and J.2, and added to the record. The entire record was admitted into evidence and considered by the Examiner in reaching the decision herein.

NOTE: For a complete record, an electronic recording of the hearing in this case is available in the Office of the Hearing Examiner.

2. Parties of Record. The Parties of Record are set forth in the Parties of Record Register and include interested parties who testified at the Open Record Hearing.
3. Public Hearing. The Hearing Examiner held an Open Record Hearing on October 5, 2011. Witnesses were sworn, testimony was presented, and exhibits were entered into the record at the hearing. Notice of the application and public hearing were made according to the provisions of SCC 30.70.050(5). (Exhibits F.1, F.2, F.3) Ed Caine, Mark Brown and Jim Bloodgood appeared and testified on behalf of Snohomish County Planning and Development Services Department (PDS). Mark Villwock, consultant, appeared at the public hearing on behalf of the Applicant. Mark Hanson, an interested citizen, also appeared and testified at the public hearing.
4. Application Request. Cedar Park Church is the owner of certain real property known as tax parcel 00508900002000, located at 17000 6th Avenue W, in Lynnwood, Washington (hereinafter, the "subject property"). The Applicant requests approval of a major revision to an existing CUP for expansion of a private school and daycare facilities in two phases to include a new gym and additional classrooms and facilities, and new church with Sunday services. The project consists of the following:

Phase 1:

- Continue operating a private Christian school (pre-Kindergarten through High School) for up to 230 students and 25 staff (same enrollment as originally approved under existing CUP), with daycare offered before and after school hours.
- Demolish the existing chapel (2,063 square feet) and daycare building (2,699 square feet); retain remainder of existing buildings.
- Construct a new gymnasium building (19,285 square feet in size and 30 feet tall) including locker rooms, commons and kitchen areas.
- Conduct church services in new gymnasium on Sundays, accommodating up to 400 people.
- Expand parking area from 62 to 116 parking stalls.
- Remove existing entrance at 6th Avenue W and install a new entrance on 170th Street SW.
- Install new storm drainage system, utilities and frontage improvements.
- Install additional landscaping along the site perimeter and within the parking area.

Phase 2:

- Provide expanded school enrollment for up to 400 students and 40 staff.
- Construct an addition to the new building constructed in Phase 1, consisting of new classrooms, library and an administrative office (32,869 square feet of new space).
- Provide 28 additional parking stalls (for a total of 144 stalls).
- Construct a new segment of public road, connecting 172nd Street SW with 6th Avenue W.

5. Site description. The subject property is a 6.29-acre site, located approximately a half-mile south of Martha Lake and 164th Street SW, and approximately one quarter mile northeast of Martha Lake Elementary School. The property is developed with classroom buildings, a chapel, a covered play area, associated storage buildings and a landscaped parking lot. The site slopes down toward the east. There are no critical areas on the property. Vegetation on the truncated triangular shaped parcel consists primarily of grass, with mature evergreen trees located along the west and north property lines and near the storage buildings. A portion of 170th Street SW, a cul-de-sac road within the adjacent plat of Manor Hideaway abuts the north side of the site. The southwest corner of the site abuts 172nd Street SW, currently a dead end road serving the residential plat of Echelbarger Properties Alderwood Mall Estates, built in the early 1990's. 6 Avenue W abuts the northeast and southeast sides of the site (the road currently dead-ends within the newly developed plat of Debra Ann Lane, which also known as, "Creekside").
6. Adjacent uses. Neighboring uses in the vicinity are single-family residential. The primary zoning surrounding the property in all directions is R-9,600 and R-7,200. There is one PRD-9,600 located to the north of the subject property.
7. State Environmental Policy Act Compliance. A SEPA Checklist was submitted by the Applicant on July 8, 2011. (Exhibit E.2) A threshold Determination of Nonsignificance (DNS) was issued on August 11, 2011. (Exhibit E.2) Notice of the decision was made according to the County's regulations. (Exhibits F.1, F.2, and F.3) No appeal of the SEPA determination was filed. Accordingly, the Examiner finds that compliance with the substantive and procedural requirements of SEPA have been met.
8. Issues of Concern.
 - A. Public Agency Review. There are no unresolved agency issues of concern.
 - B. Citizens. Comments were received from a number of citizens (See, Exhibits H.1-H.11). All but three of them objected to the proposed road connection between 6th Avenue W and 172nd Street SW, which is a County requirement for Phase 2 of the project.¹ Citizens living in the neighborhood commented that school bus service is no longer being provided to nearby Martha Lake Elementary School, which is resulting in substantially more traffic, both vehicular and pedestrian, using the local streets to travel to the school. They raised concerns that the expansion of the Cedar Park Christian School will make the existing traffic situation even worse. The traffic impacts of the proposed project are addressed herein.

B. APPLICABLE REGULATIONS

9. Approval Criteria. The Applicant requests a major revision to its existing CUP (File No. ZA-8705232). The original Applicant, Christian Life Family Ministries, was issued a CUP on March 30, 1988 by Hearing Examiner John Galt. (See, File No. ZA 8705232; Exhibit A.3).

¹The need for the road connection was also the primary issue of concern to neighborhood citizens for the plat application proposed for the subject property, Mill Creek Campus (File No. 07-110911 SD). (See, Exhibits A.4 A.5) The subdivision was approved on appeal to the County Council after initial denial by the Hearing Examiner.

A minor revision to the CUP was granted by PDS on March 17, 2000, to allow the Cedar Park Christian Life School to construct a covered playground and chapel. The current proposal constitutes a "major revision" to the CUP to allow further expansion of the school and church facilities to accommodate more students, faculty and church members through two phases of development. According to SCC 30.42C.100, the subject expansion is considered to be a major revision to the existing CUP, because the expansion represents an increase of over 10% of the school's square footage. Major revisions are processed in the same manner as a new application, using a Type 2 process requiring Hearing Examiner approval. All of the conditions established by the Hearing Examiner in the original decision (Exhibit A.2) are superseded by this decision.

10. Conditional Use Permit. CUPs are governed by SCC 30.42C.100. This section provides that the Hearing Examiner may approve, or approve with conditions, a CUP 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.

11. Consistency with the Comprehensive Plan (SCC 30.42C.100(1)) The expansion of the school is consistent with Comprehensive Plans goals to provide a wide range of services and infrastructure to support expanded population growth within Urban Growth Areas (UGA). The state Growth Management Act (GMA) requires that the county's development regulations be consistent with its Comprehensive Plan. The plans submitted for the project have been deemed to be in compliance with County GMA development regulations relating to fire safety, traffic, drainage, and zoning. The Applicant has adequately demonstrated that the proposed application is consistent with the County's Comprehensive Plan.

12. Compliance with Chapter 30.42C.100(2) The proposal has been found to comply with the applicable provisions of Title 30 SCC, as described below.

12.1 Zoning Regulations. The proposal is consistent with the uses allowed in the zone. Schools, churches and daycare centers are allowed as conditional uses in the R-7,200 zone (SCC 30.22.100). Day care centers are only permitted in connection with and secondary to a school facility or place of worship in the R-7,200 zone. The Applicant has submitted a CUP application and the daycare will be secondary to the school use. Additionally, the proposal meets the required building setbacks, height and lot coverage requirements found in the Zoning regulations:

(A). According to SCC 30.23.110(17), school buildings must be at least 35 feet from all external property lines and either 75 feet from the centerlines of all street rights-of-way or 45 feet from the edges of all such right-of way, whichever is greater. SCC 30.23.110(5), dictates that churches be located at least 25 feet from any other lot in a residential zone. The new school building (with gymnasium used for a church on Sundays) will be approximately 70 feet from the nearest external property line and 135 feet from the edge of the nearest right of way.

(B). According to Table 30.23.030(2) SCC (the Bulk Matrix), the maximum height limit in the R-7,200 zone is 30 feet. SCC 30.23.050(2)(d) allows schools to be exempt from the maximum height standards as long as the use was approved as part of a CUP, a maximum building height of 45 feet is not exceeded and any portion of the building exceeding the underlying zoning maximum height standard is set back at least 50 feet from all of the site's perimeter lot lines. The proposed new two story building will be approximately 30 feet tall. (Exhibit B.1)

(C). Proposed lot coverage will be approximately 18%, which does not exceed 35% maximum allowed as required by the Bulk Matrix.

(D). Landscaping requirements are set forth in Chapter 30.25, SCC. The Applicant is proposing to install a 20 foot wide Type A landscape buffer per Table SCC 30.25.020(1) along the southeast property line, the property line which is adjacent to the newly proposed building. (When the existing buildings were constructed a perimeter buffer was not required.) A 10-foot, Type B landscape buffer will also be installed along the public road frontages per SCC 30.25.020(4) and the expanded parking lot will be landscaped in accordance with SCC 30.25.022.

(E). Table 30.26.030(1) SCC establishes the number of parking stalls required for various land uses, some of which are to be determined by PDS on a case by case basis. PDS requested that the Applicant prepare a parking analysis to address the amount of parking required. The parking study that was submitted is contained within the Traffic Analysis Amendment. (Exhibit C.2) Parking demand was estimated using the *ITE Parking Generation Manual*, 3rd Edition. The study concludes that for Phase 1 the weekday parking demand for the school facility would be approximately 60 stalls and that 64 stalls would be required for church services on Sundays. The project will provide 129 parking stalls for Phase 1. In Phase 2, the parking demand is estimated at 100 stalls. The project will provide 144 stalls in Phase 2. PDS conducted an independent review and also determined that the amount of proposed parking will be adequate for the project.

PDS included a recommended condition to ensure that the features on the site and landscape plans are installed according to the approved plans prior to final occupancy of the building, consistent with the Zoning regulations.

12.2 Development Regulations. Finally, the Applicant must demonstrate that they have met all other applicable development regulations applicable to the proposed use. Each applicable regulation is reviewed below.

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

PDS Traffic has reviewed the proposal for compliance with Title 13 and Chapter 30.66B SCC, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures. The subject property is located within Transportation Service Area (TSA) "D."

1. Road System Impacts [SCC 30.66B.310] A development shall mitigate its impact upon the future capacity of the Snohomish County 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 or acceptable specific trip generation information provided by the Applicant or their Traffic Engineer.

The existing CUP has approved 230 students at the site (ZA-8705232). Phase 1 of this proposal will add 11 ADT, 1 AM PHT and 4 PM PHTs through church activities. Phase 2 will introduce 170 new students, which will result in 401 ADT, 131 AM PHTs and 28 PM PHTs. These figures include 5% TDM credit. The Applicant's impact fee is \$93,501.00 (\$2,497.00 Phase 1 and \$91,004.00 Phase 2). The commercial rate for TSA "D" is \$227.00/ADT. (See Exhibit C.2 for trip generation details). These figures include 5% credit for onsite TDM measures. A proposed condition is included to require the mitigation payments.

2. Concurrency [SCC 30.66B.120] The County makes a concurrency determination for each development application to ensure the development will not impact a county arterial unit in arrears or cause a county arterial to go 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 April 1, 2010. The concurrency determination approval will expire on April 1, 2016, six years from the date concurrency was given. The subject development is located in TSA D which, as of the date of submittal, had the following arterial unit in arrears: Unit 202. Based on peak-hour trip distributions, the subject development will add three (3) or more directional peak-hour trips to the following arterial units in arrears and critical arterial unit in arrears, 202 and 304. However, the subject development remains concurrent pursuant to SCC 30.66B.167. (Exhibits C.1 and C.2) The subject development generates 132 A.M. peak-hour trips and 32 P.M. peak-hour trips which is more than the threshold of 50 peak-hour trips, and thus, the development was also evaluated under SCC 30.66B.035, SCC 30.66B.130(4) and SCC 30.66B.160. (Exhibit J)

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

4. Frontage Improvement Requirements [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. DPW Rule 4222.020(1) requires full urban frontage improvements along the subject parcel's frontage on 170th Street SW. The existing roadway is 24 feet wide curb to curb, which meets road standards for the proposed use. No additional road widening or curbing is required. A planter strip (five feet in width) is needed on the south side of 170th Street SW, along with a cement concrete sidewalk (five feet in width). DPW granted the Applicant an EDDS deviation to decrease the width of the sidewalk from seven to five feet. (Exhibit I)

The Applicant will be connecting 172nd Street SW to 6 Avenue W. The developments within which 172nd Street SW and 6 Avenue W were constructed were required to build the roads with the expectation that they would be connected in the future to improve circulation and

relieve overall congestion of the County road system. An approval to an EDDS deviation has been granted to construct five foot sidewalks with this connection (Exhibit I). The road establishment process will be required and will be a recommended condition of approval. The Applicant has requested that this connection be delayed until Phase 2. This request has been granted by DPW, since that is when the school and church will increase to 400 student and church members. The streets on which the development's frontage improvements are required include 170th Street SW, 172nd Street SW and 6 Avenue W. None of these roads are 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 are not applicable.

There is a temporary turnaround easement at the current terminus of 172nd Street SW. In order to make the road connection with 6 Avenue W and construct the required frontage improvements, the asphalt behind the curb shall be removed, the area restored, and the concrete sidewalk shall be constructed in the area where concrete sidewalks are absent. Construction of these road improvements is required prior to any occupancy of the development.

5. Access and Transportation Circulation [SCC 30.66B.420] All developments are required to provide for access and transportation circulation in accordance with the comprehensive plan and this chapter applicable to the particular development, to design and construct such access in accordance with the EDDS, and to improve existing roads that provide access to the development in order to comply with adopted design standards, in accordance with SCC 30.66B.430. (See, SCC 30.66B.420) Access to state highways and city streets must be in accordance with the applicable state or city standards and requirements. Additionally, all developments that propose to take access via an existing public or private road which, for the vehicle trips projected to use the road after full occupancy of the development, is not designed and constructed in accordance with the EDDS, will be required to improve such road to bring it into compliance with the EDDS when the director of public works determines it necessary to provide for safety and the operational efficiency of the road. The extent of improvements will be established by the director of public works in accordance with SCC 30.66B.430.

The two main access roads to the school are 6 Avenue W and 172nd Street SW, which are classified as "non-arterial residential roads." The connection of 172nd Street SW to 6 Avenue W will be a "public urban road" serving less than 2000 ADT. The posted speed for the road is 25 mph. The proposed development will take access from an existing public road, 170th Street SW, at the north side of the subject parcel east of 6th Avenue W. Sight distance was evaluated at the proposed access point and was found to meet the minimum requirements of EDDS 3-08. The new number of Average Daily Trips (ADT) generated by the proposed development is 412 ADT. The current number of ADT on 170th Street SW is approximately 110 ADT.

There are no internal roads associated with the subject development. One access point is proposed to the site, which is on 170th Street SW. A connection is required to be made between 6th Avenue W and 172nd Street SW by the subject development. The Applicant proposes to construct the connection during Phase 2 of the development, which is acceptable to the Department of Public Works (DPW) and PDS. Connection of the two roads will be through the road establishment process. The road connection will result in the need for new signage and striping delineation at the intersection of 170th Street SW and 6th Avenue W. The cost for the installation of these items by County forces is \$598.00. PDS recommended conditions to require the road establishment and to require payment for the

road signage and striping. The County's analysis supporting the "extent of the required improvements" is set forth in the record in the Staff Recommendation at page 7-8, as required by SCC 30.66B.430. (See, Exhibit J) Additional evidence supporting the staff analysis is found in Exhibits C.1, C.2 and C.3, as well as the plan set found in Exhibits B.4 and B.5. The Hearing Examiner has reviewed the analysis and finds that there is substantial evidence in the record to support the required road and transportation improvements recommended by PDS and DPW.

6. Right-of-Way Requirements [SCC 30.66B.510, and .520] A development shall be required to dedicate, establish or deed right-of-way to the County for road purposes as a precondition 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 roads serving this development, 170th Street SW, 172nd Street SW and 6th Avenue W, are designated as non-arterials. 172nd Street SW and 6th Avenue W will be extended to make a through connection. 172nd Street SW was recorded with 60 feet of right-of-way and 6th Avenue W was recorded with 51 feet of right-of-way. The proposed plat shows 51 feet of right-of-way for this connection, which will be deeded via the road establishment process. (Exhibit B.5, Sheet 4) A deviation was approved to allow a five-foot sidewalk; therefore PDS has determined that a 51-foot wide right-of-way is sufficient for the required road section. (Exhibit I)

In addition, 170th Street SW currently has 34.5 feet of right-of-way. Additional right-of-way is needed to accommodate the required frontage improvements. The site plan shows eight (8) feet to be deeded. Nine (9) feet is needed to accommodate the required frontage improvements. PDS recommended that the Examiner impose a condition of approval to require dedication of the additional right-of-way.

7. Impacts to State Highways [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 Washington State Department of Transportation (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. Pursuant to SCC 30.66B.055 a written proposal from the Applicant proposing measures to mitigate impacts on state highways is required and has been received. The Applicant has offered to meet their obligation to the State by offering to pay \$14,382.00 (\$396.00 for Phase 1 and \$14,436.00 for Phase 2, \$36.00/ADT x 412 ADT). The State has responded to this offer in an e-mail dated January 24, 2010 (Exhibit G.3), accepting this offer. That response was for a large amount, but since the size of the development has been reduced the Applicant's obligation to the State is reduced. A recommended condition is included to require the mitigation payment.

8. Impacts to City Streets and Roads in Another County [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 a Reciprocal Traffic Mitigation Interlocal Agreement (ILA) between the County and the other jurisdiction(s). This development is subject to SEPA and therefore is subject to the Interlocal Agreement (ILA) between Snohomish County and the City of Mill Creek. The Applicant's traffic study indicates that mitigation in the amount of \$37,825.00 (\$4,585.00 Phase 1 and \$33,240.00 for Phase 2) is owed to the City. An acceptable written offer from the Applicant and a letter from the City dated July 20, 2011,

accepting this offer has been received. A recommended condition is included to require the mitigation payments.

9. Transportation Demand Management (TDM) [SCC 30.66B.630] All new developments in the urban area shall provide TDM measures. Sufficient TDM measures shall be provided to indicate the potential for removing a minimum of five (5) percent of the development's P.M. peak hour trips from the road system. This requirement shall be met by the provisions of onsite design requirements under SCC 30.66B.640, as applicable, except where the development proposes construction or purchase of specific offsite TDM measures or voluntary payment in lieu of site design, in accordance with SCC 30.66B.620 and SCC 30.66B.625. A TDM plan was submitted with the initial application. This TDM plan has been revised to show the needed pedestrian facilities. A 5% credit has been applied to the impact fee and the Applicant's obligation to the State shown in this memo.

(B). Drainage and Grading - Ground Disturbing Activity (Chapters 30.63A, 30.63B, and 30.63C SCC) Water and sewer service is to be provided by the Alderwood Water and Wastewater District. Grading quantities anticipated are 10,000 cubic yards cut and 10,000 cubic yards fill. In accordance with Chapter 30.66B SCC, mitigation for traffic impacts to the County, State and City of Mill Creek road systems will be required. PDS has found the drainage plan (Exhibit B.5) and supplementary drainage report (Exhibit C.6) submitted with the land use application to be in conformance with the regulatory provisions of Chapter 30.63A SCC.

The existing commercial site drains to the northeast corner of the site. According to the Soil Survey of Snohomish County Area Washington, site soils are Alderwood-Urban land complex, 2 to 8 percent. This is a type "C" soil prevalent in most parts of Snohomish County. Water erosion hazard is considered slight. A seasonal perched water table is typically at a depth of 18 to 36 inches from January to March. Approximately 11 acres of upstream drainage enters the property from the west. Rainwater runoff from the site is to be collected and transported via catch basins and pipes to an underground detention vault located at the northeast corner of the site. The vault will provide storm water detention of up to a 100 year storm event (based upon Santa Barbara Urban Hydrograph runoff modeling). Water from the detention vault will be released at a controlled rate into a stormfilter catch basin to help clean the water before being discharged into the existing storm system within 6th Avenue W.

The drainage report for this project (Exhibit C.6) prepared by LDC Engineering references the downstream analysis performed by Insight Engineering for the Mill Creek Campus subdivision application (see Exhibit C.5). The downstream analysis was field verified LDC staff. Water from the existing system travels across the street and then runs eastward down the south side of 170th Place SW until it intercepts Martha Creek. (Martha Creek flows to the south and west for approximately two miles, eventually flowing into Swamp Creek.) The drainage report notes that there are no reported drainage problems within a ¼ mile "downstream" of the proposed development, but that the Snohomish County Drainage Needs Report for Swamp Creek lists certain sections of Martha Creek as flood prone. The areas of flooding are located greater than ¼ mile from the project and the Applicant asserts that the proposed Plat will not exacerbate these problems due to the proposed drainage design.

Prior to site development, a full drainage plan must be approved pursuant to Chapter 30.63A SCC. Additionally, a Land Disturbing Activity (LDA) permit, including submittal of a

Storm Water Pollution Prevention Plan (SWPPP), consistent with regulatory provisions of Title 30.63B SCC must be obtained for any grading outside of the county right-of-way. PDS included recommended conditions necessary to implement the drainage and grading requirements.

(C). Critical Areas Regulations (Chapters 30.62, 30.62A, 30.62 B, and 32.62C SCC) There are no streams or wetlands on the subject or adjacent properties.

(D) International Fire Code (Chapter 30.53A SCC) Fire apparatus access as depicted has been found to meet the minimum requirements of SCC 30.53A.150. During the construction plan review stage, detailed plans will be reviewed by the Fire Marshall's Office to determine the appropriate placement of any new fire hydrants and any required signage or pavement striping denoting fire lanes to ensure access by emergency vehicles is not impeded. PDS inspection staff will ensure that prior to the start of combustible construction, fire hydrants are installed and operational and that approved addresses are placed on the building as required.

In addition, a fire sprinkler system will be required to be installed in the new building. The project can comply with the requirements outlined in the comments received from Snohomish County Fire District 1. (Exhibit G.8)

(E). Utilities As indicated in correspondence received from the Alderwood Water and Wastewater District, water and sewer will be available to serve this development. (Exhibit G.6) Electrical service is available from the Snohomish County PUD No. 1. (Exhibit G.5) The Snohomish Health District indicates it has no objections to approval of the CUP major revision. (Exhibit G.4)

(F). School Impact Mitigation (Chapter 30.66C SCC) This proposal does not meet the definition of "development" as per SCC 30.91D.220 and, therefore, is not subject to school mitigation fees in accordance with SCC 30.66C.010(2).

(G). Park and Recreation Impact Mitigation (Chapter 30.66A SCC) 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).

(H). Land Use Permit Binder (SCC 30.42C.200) The Applicant is required to file a Land Use Permit Binder (LUPB) prior to the initiation of any site work. While there is an existing LUPB on file for the current facility, PDS has included a recommended condition of approval to ensure that an updated Land Use Permit Binder is recorded.

12.3 Compliance with SEPA. (Ch. 30.61 SCC) PDS issued a Determination of Nonsignificance (DNS) for the subject application on August 11, 2011. (Exhibit E.2) The DNS was not appealed. Accordingly, the procedural requirements of SEPA have been met.

Based on the foregoing facts set forth in Paragraph 12, the Hearing Examiner finds that the proposal complies with the County's zoning and development regulations.

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

The Hearing Examiner has considered the proposed application in light of the Findings of Fact Nos. 1 through 12, herein, and the evidence in the record, and finds that the County's regulations and conditions of approval ensure that the proposed school and church

expansion will not be materially detrimental to uses or properties in the immediate vicinity. The physical changes to the site will be of a size and bulk that is consistent with area schools and the height of residences in the area. The changes in student population and the attendant traffic associated with drop-off and pick-up have been appropriately planned for and mitigated through the construction of new parking and driveway areas where parents can wait for students on school grounds, avoiding impacts to the surrounding streets. Additional traffic and pedestrian features have been included in the project design which will improve access, circulation and pedestrian safety in the surrounding area. Although there will be an increase in the number of students and church attendees utilizing the site as a result of the proposed development, the Applicant's design and required mitigation will minimize impacts to surrounding uses or properties.

Additionally, the Hearing Examiner has placed a limitation on the length of the duration of the conditional use permit that will allow for further review and consideration of the operation of the site under the proposed amendment in 50 years.

As such, the Hearing Examiner finds that the proposal will not be materially detrimental to uses or properties in the immediate vicinity.

14. 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 Hearing Examiner has considered the proposed application in light of the Findings of Fact Nos. 1 through 12 and finds that the County's regulations, performance standards, and conditions of approval ensure that the proposed school and church expansion responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.

The subject property is located within the UGA, in an existing, developed neighborhood consisting of single-family residences. There are other schools in the surrounding area. The new building will be located in the middle of the site and will be the same height as those structures allowed for surrounding residential development. A 20-foot wide landscape buffer will be installed on the southeast property line, adjacent to the nearest homes. Installation of ornamental landscaping provided throughout the expanded parking lot and along the road frontages will enhance the project's curb appeal. According to 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 that the sports fields will not be lighted.) Since PDS does not review lighting permits, a condition was recommended to ensure that any parking lot lighting installed in the future will be shielded to comply with the County's regulations.

Based on the foregoing Findings of Fact, the Hearing Examiner finds that the proposal meets the requirements of the County's CUP regulations.

15. Any Finding of Fact which should be deemed a Conclusion of Law in this Decision is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Examiner has original jurisdiction over the CUP application pursuant to Chapter 2.02 SCC and SCC 30.72.020.
2. In issuing a CUP, the Hearing Examiner has broad discretion to impose conditions of approval. The hearing examiner may:
 - (a) Increase requirements in the standards, criteria, or policies established by [Title 30 SCC];
 - (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 CUP, reduce the requirements specified by [Title 30 SCC] as pertaining to any use nor otherwise reduce the requirements of [Title 30 SCC] 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.
3. Based upon the entire record and the Findings of Fact herein, the Examiner concludes that the application has met all of the required approval criteria for an amendment to a CUP, subject to the proposed preconditions and conditions of approval.
4. The Hearing Examiner concludes that the proposed use is “conditional” rather than “permitted” under the County’s zoning regulations. As such, it is necessary and appropriate to ensure that the operation of the expanded school and church in the residential neighborhood within which it resides remains compatible with those other permitted uses and does not become detrimental to the public health, safety and welfare. To ensure that the conditional use meets those objectives, the Hearing Examiner should impose an expiration date on the conditional use permit granted here, with a provision allowing renewal of the permit, and specifying the review process and public hearing that should be used to ensure appropriate public participation. The Hearing Examiner concludes that a 50-year permit should be granted with an opportunity for renewal after review and a public process.

5. The proposal is consistent with the GMACP; GMA-based county codes, the type and character of land use permitted on the project site, the permitted density and applicable design and development standards.
6. The proposal complies with applicable requirements of Title 30 SCC.
7. The proposal will not be materially detrimental to uses or property in the immediate vicinity.
8. 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.
9. Adequate public services exist to serve the proposal.
10. If approved with the recommended preconditions and conditions, the proposal will make adequate provisions for the public health, safety and general welfare.
11. The Examiner concludes that the major revision to the CUP should be granted.
12. Any Conclusion of Law in this Decision which should be deemed a Finding of Fact is hereby adopted as such.

DECISION AND ORDER

1. The Conditional Use Permit issued under Permit No. ZA8705232 is hereby rescinded, except as provided below in Condition H.
2. A new **CONDITIONAL USE PERMIT** is **GRANTED** to the Applicant for the operation of a school, daycare, and church on the subject property as described in the application, subject to the following **PRECONDITIONS AND CONDITIONS**:

PRECONDITIONS

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

CONDITIONS

- A. The site plan received by PDS on July 8, 2011 (Exhibit B.1) 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 CUPs.
- B. 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:

- i. According to SCC 30.41A.310, the owner shall file with PDS a notarized written statement requesting withdrawal of the Preliminary Plat of Mill Creek Campus (File No. 07-100911 SD), and acknowledging the effects of such withdrawal.
- ii. The Applicant shall pay an impact fee to Snohomish County for traffic impacts to Transportation Service Area D for a total amount of \$93,501.00 (\$2,497.00 Phase 1 and \$91,004.00 Phase 2). The payment may be made separately for each phase of development. Credit for certain expenditures may be allowed against said payments to the extent authorized by County Code.
- iii. The Applicant shall make a payment to Snohomish County for the WSDOT in the total amount of \$14,382.00 (\$396.00 for Phase 1 and \$14,436.00 for Phase 2 for mitigation of traffic impacts to State highways. The payment may be made separately for each phase of development.
- iv. A total of \$37,825.00 (\$4,585.00 Phase 1 and \$33,240.00 for Phase 2 shall be paid to the City of Mill Creek for traffic impacts to projects within the City. Proof of payment of the above amount shall be provided to the County. The payment may be made separately for each phase of development.
- v. Nine (9) feet shall have been deeded as right-of-way from the western edge of the site access to the intersection of 170th Street SW and 6th Avenue W along the property frontage on 170th Street SW, along with an appropriate radius with the existing right of way on 6th Avenue W.
- vi. The construction plans for the road establishment of the new east-west road that connects 6th Avenue W and 172nd Street NW shall have been approved by the County.
- vii. The amount of \$598.00 shall be paid for the installation of traffic signs and striping for the intersection of 6th Avenue W and 170th Street SW.
- viii. Per SCC 30.43A.130, a Land Use Permit Binder, on a form provided by PDS, shall be executed by the Applicant and recorded with the County Auditor.
- ix. A final landscape plan shall have been submitted to and approved by PDS. The plan shall be in general conformance with the landscape plan contained within Exhibit B.5.

D. Prior to the issuance of certificate of occupancy for Phase 1:

- i. Urban frontage improvements shall be constructed along the parcel's frontage on 170th Street SW and 6th Avenue W to the satisfaction of the County.
- ii. The features on the approved TDM plan (Exhibit B.4) shall be installed.
- iii. Site improvements and landscaping depicted on the approved plans (Exhibits B.1 and B.5) shall be inspected and approved.

- E. After the issuance of certificate of occupancy for Phase 1:
 - i. The maximum number of church attendees that shall be on-site during church services or gatherings shall be limited to 400 persons.

- F. Prior to any certificate of occupancy or final inspection of Phase 2:
 - i. The road establishment and construction of the connection between 172nd Street SW and 6th Avenue W shall have been completed and accepted by the County.
 - ii. The temporary turnaround easement at the current terminus of 172nd Street SW shall be removed and the area restored and a concrete sidewalk constructed in the area where concrete sidewalks are absent to the satisfaction of the County.

- G. After final inspection and approval of Phase 2:
 - i. The maximum number of students that shall be on-site during regular school and/or daycare hours is limited to 400 students.

- H. This CUP shall expire after five (5) years if construction of the proposed Phase 1 improvements are not commenced within that time. The term "commenced" means to have obtained the necessary permits for construction of Phase 1 improvements and to be actively engaged in the activities authorized by those permits. In the event of such expiration, the current CUP (Permit No. ZA-870523) shall remain in full force.

- I. Notwithstanding Condition H, above, this permit shall expire on November 1, 2061. However, the permittee may seek an extension of the permit by notifying PDS, or its successor agency, if any, no later than twelve (12) months prior to the expiration date of such an extension request in accordance with SCC 30.42C.110.

In seeking an extension, the permittee shall indicate whether any changed conditions require modification of any Condition of the permit. PDS shall review the request and the ongoing operations on the site relative to the permittee's conformance with the terms and conditions of this Decision, and whether any changed conditions require additional review, potential mitigation, and/or change to the Conditions set forth in this Decision. As part of this process, PDS shall provide notice to the public and public agencies in accordance with SCC 30.70.050(5), regarding the extension request and any request by the permittee for a modification of any Condition, and provide a reasonable opportunity for the public and public agencies to comment on same, including but not limited to requesting modification to the Conditions and/or new Conditions due to changed circumstances and conditions. PDS shall make a recommendation as to the extension request to the Hearing Examiner, who shall hold a public hearing and issue a decision on whether the Conditional Use Permit should be extended. The Hearing Examiners decision shall be guided by the requirements of SCC 30.42C.100 and .110 (as hereafter amended)."

Nothing in this permit shall excuse the Applicant, owner, lessee, agent, successor or assigns from full compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project. In particular, no clearing, grading, filling, construction or other physical alteration of the site may be undertaken prior to the issuance of the necessary permits for such activities.

Decision on Reconsideration issued this 9th day of December, 2011.


Millie M. Judge, Hearing Examiner

EXPLANATION OF APPEAL PROCEDURES

The decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. The following paragraphs summarize the appeal process. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

Appeal

An appeal to the County Council may be filed by any aggrieved party of record **within 14 days from the date of this decision**. 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 at the Public Assistance Counter of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: 3000 Rockefeller Avenue M/S 604, Everett, WA 98201) **on or before DECEMBER 23, 2011.**, and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00) for each appeal filed; PROVIDED, that the fee shall not be charged to a department of the County. The filing fee shall be refunded in any case where an appeal is summarily dismissed in whole without hearing under SCC 30.72.075.

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

The grounds for filing an appeal 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.

The Land Use Permit Binder, which must be executed and recorded as required by SCC 30.42C.200, will be provided by PDS. The Binder should **not** be recorded until all reconsideration and/or appeal proceedings have been concluded and the permit has become effective.

Staff Distribution:

Department of Planning and Development Services: Monica McLaughlin / Ed Caine

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.

PRECONDITION NOTICE

This decision is binding but will not become effective until the above precondition(s) have been fulfilled and acknowledged by the Department of Planning and Development Services (PDS) on the original of the instant decision. Document(s) required for fulfillment of the precondition(s) must be filed in a complete, executed fashion with PDS not later than December 9, 2012.

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 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)

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.

PARTY OF RECORD REGISTER
09-108959-LU CEDAR PARK
CHRISTIAN SCHOOL
HG: 10-5-2011
09-108959-L7

CEDAR PARK
BEN WAGGONER
16300 112TH AVE NE
BOTHELL WA 98011

LDC INC
MARK VILLWOCK
14201 NE 200TH ST #100
WOODINVILLE WA 98072

SNO CO PUD NO 1
DEAN SAKSENA
PO BOX 1107
EVERETT WA 98206-1107

SNO CO PLANNING & DEV/LAND USE
WHEELER / MCLAUGHLIN
3000 ROCKEFELLER AVE # 604
EVERETT WA 98201

DEPT OF PUBLIC WORKS
COUNTY ENGINEER
3000 ROCKEFELLER AVE # 607
EVERETT WA 98201

WA STATE DEPT OF
TRANSPORTATION
STEVE BENENATI
PO BOX 330310
SEATTLE WA 97133-9710

ERIC BENSON
NO ADDRESS GIVEN

RUNE & MARI BJORNEREM
909 172ND ST SW
LYNNWOOD WA 98037

TONYA CLARK
18122 12TH AVE W
LYNNWOOD WA 98037

DANIEL & KAMA GORMAN
18421 LARCH WAY
LYNNWOOD WA 98037

ROBERT & MELISSA GREGG
926 172ND ST SW
LYNNWOOD WA 98037

MARK T. HANSON
803 172ND ST SW
LYNNWOOD WA 98037

EDMONDS SCHOOL DISTRICT
BRIAN HARDING
20420 68TH AVE W
LYNNWOOD WA 98036-7400

CHARLES JHONG
NO ADDRESS GIVEN

DAVID LEONARD
17205 - 7TH AVE W
BOTHELL WA 98012

MICHAEL ROSS
720 168TH PL SW, Unit #101
LYNNWOOD WA 98037

ALDERWOOD WATER &
WASTEWATER DISTRICT
DAN SCHEIL
3626 156TH ST SW
LYNNWOOD WA 98087-5021

SNO CO FIRE DISTRICT #1
STEVEN W SHERMAN
NO ADDRESS GIVEN

CITY OF MILL CREEK
SCOTT SMITH
15728 MAIN ST
MILL CREEK WA 98012

KY SOUMPHOLPHAKDY
NO ADDRESS GIVEN

SNOHOMISH HEALTH DISTRICT
BRUCE STRAUGHN
3020 RUCKER AVE SUITE 104
EVERETT WA 98201

LANDFORM CONSULTING
KEN WILLIAMS
1053 TERRACE PL
MUKILTEO WA 98275

EMAILS:

Eric Benson
thecoug@earthlink.net

Rune & Mari Bjornerem
bjorneremr@comcast.net

Tonya Clark
Tlc_nw@verizon.net

Daniel & Kama Gorman
Grace4kama@msn.com

Robert & Melissa Gregg
bobjr@rdgsons.com

Mark Hanson
markthanson@hotmail.com

Charles Jhong
skysteelhead@hotmail.com

David Leonard
copperdask@comcast.net

Michael Ross
mosslink@hotmail.com

Ky Soumpholphakdy
Ky4ever@yahoo.com

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

OFFICIAL NOTICE OF COUNCIL DECISION

In re the case of an Appeal from the Hearing Examiner decision in the case of Cedar Park Christian School, File No. 09-108959, requesting approval of a major revision to a conditional use permit. The subject property is located approximately one-half mile south of Martha Lake and 164th Street SW.

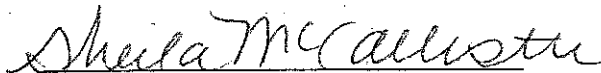
NOTICE IS HEREBY GIVEN that on February 8, 2012 a decision in this matter was entered by the Snohomish County Council: Upon a vote of three to zero, the County Council approved a motion to reverse, in part, and modify the Examiner's decision approving the major revision to the conditional use permit, in accordance with Council Motion No. 12-052, attached hereto.

FURTHER NOTICE IS GIVEN that unless otherwise provided by law any person having standing who wishes to appeal this decision must do so by filing a land use petition in Superior Court in accordance with the provisions of Chapter 36.70C RCW and Chapter 30.72.130 SCC on or before March 5, 2012.

FURTHER NOTICE IS GIVEN that any person having standing who wishes to appeal an accompanying environmental determination must do so together with appeal of the decision in accordance with the provisions of Chapter 43.21C RCW and Section 30.72.130 SCC on or before the deadline for appeal set out above.

FURTHER NOTICE IS GIVEN that affected property owners may request the Snohomish County Assessor to make a change in valuation for property tax purposes notwithstanding any program of revaluation.

DATED this 8th day of February, 2012.


Asst. Clerk of the Council

Mailed: Friday, February 10, 2012

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

MOTION NO. 12-052

MODIFYING HEARING EXAMINER FINDINGS AND CONDITIONS OF APPROVAL FOR THE
MAJOR REVISION OF A CONDITIONAL USE PERMIT
FOR CEDAR PARK CHRISTIAN SCHOOL, FILE NO. 09-108959 LU

WHEREAS, Cedar Park Church (Applicant) applied to Snohomish County for approval of a major revision to a conditional use permit for Cedar Park Christian School, located approximately one half mile south of Martha Lake and 164th Street SW; and

WHEREAS, the Snohomish County Hearing Examiner (Examiner) held a public hearing on October 5, 2011, and issued a final decision dated December 9, 2011 (Examiner's Decision), approving the major revision to the conditional use permit with preconditions and conditions; and

WHEREAS, Cedar Park Christian Schools filed an appeal on December 23, 2011, requesting that the County Council (Council) reverse in part the Examiner's Decision by striking Conclusion of Law Number 4 and Condition I; and

WHEREAS, the Council held a closed record appeal hearing on February 1, 2012, to hear oral argument and to consider the appeal; and

WHEREAS, after hearing from Appellants and other parties of record, and following due deliberation, the Council reverses in part the Examiner's Decision and modifies findings and conditions of the Examiner's Decision as described in the motion below;

NOW, THEREFORE, ON MOTION:

Section 1. The Council incorporates the foregoing recitals as findings and makes the following additional findings of fact and conclusions, pursuant to SCC 30.72.120(1):

- A. The Council adopts the following Findings of Fact from the Examiner's Decision: Nos. 1 through 12 and 14 through 15.
- B. The Council modifies and adopts the Examiner's Finding of Fact No. 13 as follows:

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

The Hearing Examiner has considered the proposed application in light of the Findings of Fact Nos. 1 through 12, herein, and the evidence in the record, and finds that the County's regulations and conditions of approval ensure that the proposed school and church expansion will not be materially detrimental to uses or properties in the immediate vicinity. The physical changes to the site will be of a size and bulk that is consistent with area schools and the height of residences in the area. The changes in student population and the attendant traffic

associated with drop-off and pick-up have been appropriately planned for and mitigated through the construction of new parking and driveway areas where parents can wait for students on school grounds, avoiding impacts to the surrounding streets. Additional traffic and pedestrian features have been included in the project design which will improve access, circulation and pedestrian safety in the surrounding area. Although there will be an increase in the number of students and church attendees utilizing the site as a result of the proposed development, the Applicant's design and required mitigation will minimize impacts to surrounding uses or properties.

~~((Additionally, the Hearing Examiner has placed a limitation on the length of the duration of the conditional use permit that will allow for further review and consideration of the operation of the site under the proposed amendment in 50 years.))~~

As such, the Hearing Examiner finds that the proposal will not be materially detrimental to uses or properties in the immediate vicinity.

C. The Council adopts the following additional finding of fact:

The second paragraph in the Hearing Examiner's Finding of Fact #13, the Hearing Examiner's Conclusion of Law #4, and the Hearing Examiner's decision to impose Condition I, setting an expiration date for the conditional use permit, are not supported by substantial evidence in the record.


D. The Council adopts the following Conclusions of Law from the Examiner's Decision: Nos. 1 through 3 and 5 through 12.

Section 2. The Council reverses the Examiner's Decision in part by striking Condition I on page 15 and affirms the Examiner's Decision to grant the conditional use permit subject to all other preconditions and conditions.

Section 3. Any language in the Examiner's decision in this matter that is contrary to the provisions of this Motion is superseded by this Motion. In all other respects, the Council affirms the Findings, Conclusions, and Decision of the Examiner.

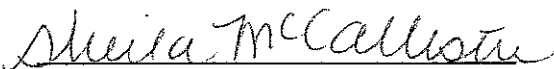
Dated this 8th day of February, 2012.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Brian Sullivan
Chair

ATTEST:



Sheila McCallister
Asst. Clerk of the Council

D-1