



**DECISION of the  
SNOHOMISH COUNTY HEARING EXAMINER**

**Gordon Sivley**  
Hearing Examiner

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

(425) 388-3538  
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DECISION DATE: July 10, 2013

PROJECT NAME: ***Filbert Road Veteran's Housing***

APPLICANT: Catholic Community Services of Western Washington  
100 23rd Avenue S  
Seattle, WA 98144

FILE NO.: 12-110942 LU

TYPE OF REQUEST: CONDITIONAL USE PERMIT (CUP)

DECISION (SUMMARY): **APPROVED, SUBJECT TO CONDITIONS**

GENERAL LOCATION: 1911 196th Street SW, Lynnwood

ZONING: R-7200

COMPREHENSIVE PLAN: Urban High Density Residential (UHDR)

PDS RECOMMENDATION: Approve, subject to the recommended conditions

**A. BACKGROUND INFORMATION**

1. The Record. The official record for this proceeding consists of the Exhibits entered into evidence (Exhibits A.1 through J), as well as the testimony of witnesses received at the open record hearing. 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 June 26, 2013. Witnesses were sworn, testimony was presented, and exhibits were entered into the record at the hearing. Notices of the application and public hearing were issued according to the provisions of SCC 30.70.050(5), (Exhibits F.1, F.2, and F.3)

Monica McLaughlin and Mark Brown appeared and testified on behalf of Snohomish County Department of Planning and Development Services (PDS). Appearing and providing testimony for the Applicant was Patrick Tippy from Catholic Housing Services.

In addition, one interested citizen appeared at the public hearing. Paul Wilson offered testimony on the proposal.

## **B. FINDINGS OF FACT**

The following Findings of Fact are supported by a preponderance of the evidence presented in the record pertaining to this matter.

1. Application Request. The Applicant requests approval of a CUP for construction of a Level II Health and Social Services Facility on a .78 acre site zoned R-7-200. The facility will provide housing and support services for veterans. Twenty living units in three buildings are proposed (2 two-story buildings and 1 one-story building), along with a one-story community building.

Associated with the project is construction of a stormwater management system incorporating a bioswale, installation of an 11 stall landscaped parking lot, landscape buffers on all sides of the project and walkway on a portion of 196<sup>th</sup> Street SW. Water and sewer service is to be provided by the Alderwood Water and Wastewater District. There are no streams or wetlands associated with the site.

2. Site Description. The property, shaped like a backwards "D", is surrounded by public road right of way on three sides. The vacant site was previously occupied by a mobile home park. There is a worn central paved access road through the site with concrete pads that were used for the mobile homes. Vegetation consists primarily of unmaintained lawn and shrubs, with some mature trees at the east side of the site and along the public road frontage. The majority of the site is flat, apart from an area at the east property line, which slopes down at a grade of approximately 30 percent.
3. Adjacent uses. The site is zoned R-7200 and is bordered on the north by the Kings Court Mobile Home Park, on the west by unopened road right of way and on the east by single-family residences also zoned R-7200. Northwest, across the entrance road is a business park on property zoned General Commercial and south, across 196<sup>th</sup> Street SW is property zoned Neighborhood Business where a barber shop is located.
4. Project Chronology. The subject application was submitted to PDS on December 17, 2012, and was determined to be complete, as of the date of submittal on January 14, 2013. The Applicant submitted revised review materials on May 8, 2013. As of the date of the hearing, 73 days of the 120 day review period had elapsed.
5. State Environmental Policy Act Compliance. PDS issued a Determination of Nonsignificance (DNS) for the original application on May 22, 2013. The DNS was not appealed. Accordingly, the Examiner finds that compliance with the substantive and procedural requirements of SEPA have been met.

6. Issues of Concern.

A. Public Agency Review. No significant issues of concern were raised by reviewing agencies.

B. Citizens. One comment was received from the owners of the mobile home park to the north (Exhibit H.1) expressing concerns about whether the proposed development would impact the water line into their park. In addition, Mr. Harris expressed concerns in his testimony about whether improvements should be made to 196<sup>th</sup> Street SW which will be utilized by traffic generated by the proposed use.

7. Applicable Regulations.

A. Approval Criteria. The proposal must meet the requirements of the CUP regulations found in SCC 30.42C.100, as well as any required mitigation imposed pursuant to SEPA. SCC 30.42C.100 provides that the Hearing Examiner may approve, or approve with conditions, a CUP only when all the following criteria are met:

- The proposal is consistent with the comprehensive plan;
- The proposal complies with applicable requirements of [Title 30 SCC];
- The proposal will not be materially detrimental to uses or property in the immediate vicinity; and
- 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.

B. Consistency with the Comprehensive Plan. (SCC 30.42C.100(1)).

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 adopted development regulations relating to fire safety, traffic, drainage, zoning and landscaping. The project will implement land use policies in the comprehensive plan relative to providing affordable housing opportunities for Snohomish County residents.

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

1. Zoning Regulations.

(a) Uses Allowed In Zones. The land use category of "Health and Social Service Facilities, Level II" is allowed as a Conditional Use in the R-7,200 zone (SCC 30.22.100).

(b) Building Setbacks. Under the requirements of SCC 30.23.110(10), "Health and Social Service Facility, Level II" buildings must be set back at least 30 feet from all external property lines. The proposal complies with this requirement (see site plan, Exhibit B.1).

(c) Building Height. According to Table 30.23.030(1) SCC, (the "Bulk Matrix"), the maximum height limit in the R-7,200 zone is 30 feet. The maximum building

height proposed is 22 feet (26 feet to top of roof) (see building elevation drawings, Exhibit B.6).

(d) Lot Coverage. The building lot coverage maximum allowed in the R-7,000 zone, as specified by SCC 30.23.030(1) is 35 percent. The building lot coverage proposed is 13 percent.

2. Parking. SCC 30.26.030(1) and SCC 30.26.035, specify that the number of required parking stalls for "Health and Social Services Facilities, Level II and III" is to be determined by PDS on a case-by-case basis and the determination shall be based upon parking requirements for comparable uses and comparative data as may be available to staff. PDS may also require the Applicant to submit a parking study which occurred in this case. The Applicant submitted a parking study within the traffic study prepared for the project. (Exhibit C.1) That study analyzed the parking demand at two similar projects, one in Everett and one in Shoreline. Utilizing the peak parking demand attributable to those projects, parking for 0.36 vehicles would be needed per unit or seven parking spaces total. The proposal includes 11 parking spaces. PDS concurred that the amount of parking provided is adequate for the proposed facility.

3. Landscaping. Landscaping requirements are outlined in Chapter 30.25 SCC. Table SCC 30.25.020(1) indicates that a 20 foot wide Type A landscape buffer is required along the property perimeter, apart from the portion of the site abutting public road frontage, where a 10 foot wide Type B buffer is required under SCC 30.25.020(4). In addition to this perimeter landscaping, parking area landscaping (SCC 30.25.022) must be installed. A 20 foot wide Type A landscape buffer is proposed along the east property line and 10 foot wide Type B buffers are proposed along the road frontages. The parking lot will be landscaped per SCC 30.25.022 (see landscape plan, Exhibit B.3). The proposed landscape plan complies with all of the landscaping requirements.

D. Other Development Regulations. The Applicant must demonstrate that the proposal meets all other applicable development regulations applicable to the proposed use. Each applicable regulation is reviewed below.

1. Traffic Mitigation and Road Design Standards. (Title 13 SCC & Chapter 30.66B SCC). The Traffic Review Section of PDS 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) "F." (Exhibit G.7)

(a) Road System Impacts. (SCC 30.66B.310). The proposed facility will generate a total of 82.37 ADT (which includes a credit for the on-site TDM measures proposed). Under the calculations made by PDS, the Applicant will be required to pay \$16,144.52 for traffic impact mitigation on County roads in TSA "F".

(b) 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 and has been deemed

concurrent as of February 20, 2013. The expiration date of the concurrency determination is six years from that date.

(c) 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 proposal will not impact any IRC locations identified at this time within TSA 'F' with three or more of its p.m. peak hour trips, nor will it create any. Therefore, mitigation will not be required with respect to inadequate road conditions and no restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under this section of Chapter 30.66B SCC.

(d) Frontage Improvement Requirements. (SCC 30.66B.410). All developments are required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road.

The site fronts SR 524 (Filbert Road) and unopened County right-of-way. The State has indicated in an e-mail dated January 8, 2013 that it accepts the monetary mitigation proposed, but does not request any frontage improvements.

(e) Access and Transportation Circulation. (SCC 30.66B.420). All developments are required to:

(i) Provide for access and transportation circulation in accordance with the comprehensive plan and this chapter applicable to the particular development,

(ii) Design and construct such access in accordance with the EDDS, and

(iii) Improve existing roads that provide access to the development in order to comply with adopted design standards, in accordance with SCC 30.66B.430.

Access to state highways and city streets must be in accordance with the applicable state or city standards and requirements.

Access to the site will be on the unopened County right of way. The unopened County right-of-way is planned to be part of the SR 524 road alignment. This access will lead to SR 524 at mile post 6.06. This has been accepted by the State. There is a proposed realignment of SR 524 that will be located in the unopened right-of-way that the Applicant proposes to use for access. This access is currently paved, at least 20 feet wide and is shared by the mobile home park to the north. No improvements will be needed to this existing access.

It appears that the realignment of SR 524 is not scheduled to occur in the foreseeable future. (Exhibit G2)

(f) Right-of-Way Requirements. (SCC 30.66B.510 and .520). A development is 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 road serving this development, SR 524 (Filbert Road), is designated as a Minor Arterial requires a right-of-way width of 40 feet on each side of the right-of-way centerline. SR 524 is under the jurisdiction of the State, which has not requested any additional right-of-way. No additional right-of-way is needed along the unopened County right-of-way.

The 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 the Department of Public Works (DPW). (See, Exhibit J)

(g) 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 terms of the Interlocal Agreement (ILA) between the County and the Washington State Department of Transportation (WSDOT). This development is subject to ILA between Snohomish County and the WSDOT that became effective on December 21, 1997, and as amended through the date of completeness for this application.

The Applicant has offered to pay \$2,965.00 (\$148.25/living unit) to the State for traffic mitigation to State highways. This offer has been accepted by the State in an e-mail dated January 8, 2013. (Exhibit G.2) This offer indicates that the site will generate 86.7 ADT and that a TDM plan has been submitted. This amount includes 5 percent TDM credit. A condition of approval will be imposed that this amount be paid.

(h) 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 are to be established consistent with the terms of any Reciprocal Traffic Mitigation ILA between the County and the other jurisdictions. This development is subject to SEPA and; therefore, subject to the ILA between Snohomish County and the City of Bothell. PDS notified Bothell regarding the proposed development. The development is located within the CO-1 mitigation subarea and will impact the City of Bothell streets with 20 percent of its trips. The City's mitigation fee for a group home is \$955.00 per bed. This yields a mitigation amount of \$3,629.00 (\$181.45/living unit) when a 5 percent reduction for onsite TDM mitigation is applied: (20% x 20 beds x \$955 x 95%). The City of Bothell has indicated in an e-mail dated January 15, 2013, that this amount is acceptable. (Exhibit G.1) A condition of approval will be imposed that this amount be paid.

(i) Other Issues or Items:

2. Bicycle Facilities. The County's current adopted County Wide Bicycle Facility System Map became effect on February 1, 2006. The subject development does border on a right-of-way that has been identified on the adopted Bicycle Facility System Map. However, PDS indicates that a bicycle path will not be required along the development's present frontage as this will be included in the future SR 524 realignment project.

3. Drainage, Clearing and Grading – (Land Disturbing Activity). (Chapters 30.63A, 30.63B, and 30.63C SCC).

The proposed project has been reviewed by the Engineering Section within PDS for compliance with Chapters 30.63A SCC (drainage) and 30.63B SCC (land disturbing activity/grading) 30.62B (geologically hazardous areas) and 30.62C (critical aquifer recharge areas). PDS has found the targeted drainage and grading plans (Exhibit B.5) and supplementary drainage report (Exhibit C.2) submitted with the application to be in conformance with the code regulations.

The 0.78 acres site was previously developed as a mobile home park. Many of the surface features associated with that mobile home park development remain. Those features include access roads and concrete pads. In addition to the parcel itself the project site area includes a portion of public right of way that will be improved (replacement of driving surfaces) for access to the north of the parcel. This area measures approximately 0.4 Acres. There are three privately owned parcels to the east of the project. Apart from the eastern boundary, the parcel is bordered on three remaining sides by publicly owned land to be used for roadways.

The existing drainage patterns on the site consist of surface flows and some drainage to existing catch basin/area drains and piped systems. The direction of surface flow from the project site is generally toward the open ditch that is located on the south side of the project next to Filbert Road. That flow continues to the east. The flow from the piped drainage system within the parcel is difficult to determine from the information provided but appears to discharge to the south and east also.

The site will be graded to provide building pads and site improvements. Parking and access will be provided on the north side of the parcel off of 196<sup>th</sup> Street SW. Stormwater run-off from pollution generating surfaces will be collected in catch basins and routed to a bio-filtration swale located on the west and south portion of the site. This facility will provide the basic treatment for runoff from the pollution generating impervious surfaces in accordance with SCC 30.63A.530. PDS determined that no detention facility is required for this project based on the increased peak flow rate for the 100 year storm event when compared to the flow rate that existed in 1998 (the date of the adoption of the County first storm water requirements). The point of connection to the storm drainage system proposed is the existing drainage ditch on the north side of Filbert Road.

(a) Drainage. (Chapter 30.63A SCC). The proposal as submitted has sufficiently addressed the Minimum Requirements 1 through 9 identified in SCC 30.63A.400 through 30.63A.605.

(b) Land Disturbing Activity. (Chapter 30.63B SCC). Total preliminary grading quantities listed are 250 cubic yards of cut and 350 cubic yards of fill. Therefore, a Land Disturbing Activity (LDA) permit will be required during the construction permit review stage for the project.

(c) Geologically Hazardous Areas. (Chapter 30.62B SCC). As noted by PDS, although the County maps indicate that the slopes in the southeast of the site meet the topographical threshold for a potential erosion hazard area, the soil type mapped for the site and the information provided in the Report of Geotechnical Engineering

Services (Exhibit C.3) demonstrate that this area is not a Geologically Hazardous Area.

(d) Critical Aquifer Recharge Area. (Chapter 30.62C SCC). The extreme southeast corner of this parcel is mapped within a Critical Aquifer Recharge Area with a designation of Medium sensitivity to groundwater contamination. The proposal appears to have made all reasonable efforts to avoid and minimize any impacts to this area of the site and no further action should be required related to this portion of the Snohomish County Code.

4. Critical Areas Regulations. (Chapters 30.62A, 30.62B, and 32.62C SCC). There are no wetlands or other critical areas as defined by Snohomish County Critical Areas Regulations identified on or within 100 feet of the subject property.

5. International Fire Code. (Chapter 30.53A SCC) The application was reviewed and approved by the County's Fire Marshal Office who recommended approval on the condition that requirements for fire hydrants and fire flow will be determined when application is made for building permits. The buildings will require fire sprinklers. PDS determined that the fire apparatus access as depicted on the plans meets the minimum requirements of SCC 30.53A.150. PDS has indicated that its inspection staff will insure that prior to the start of combustible construction, the required fire hydrants will be installed and operational and that approved addresses will be placed on the new buildings. PDS also indicated that prior to building occupancy inspection, its staff will insure that the sprinkler systems are installed and operational and that any required signage or pavement striping denoting fire lanes is installed to ensure that access by emergency vehicles is not impeded.

6. Utilities. As indicated in correspondence received from the Alderwood Water and Wastewater District (Exhibit G.4), water and sewer will be available to serve this development. Electrical service is available from the Snohomish County PUD No. 1 (see Exhibit G.5). The Snohomish Health District has indicated that it has no objections to approval of the CUP (see Exhibit G.3). While neighboring property owners, Guenter and Inge Frahm, who own the adjacent Kings Court mobile home park initially raised a concern about a possible impact to the water main serving the park, the Applicant's engineer has stated that there will be no construction on or near the existing water service line into the park and the new facility proposed will obtain water service at a separate location on the south side of the subject property. (see Exhibit I.1).

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

8. Park and Recreation Impact Mitigation (Chapter 30.66A SCC) This proposal does not meet the definition of "development" as set forth in SCC 30.91D.200 and, therefore, is not subject to parks mitigation fees in accordance with SCC 30.66A.010(3).

9. Land Use Permit Binder (SCC 30.42C.200) The Applicant will be required to file a Land Use Permit Binder (LUPB) prior to the initiation of any site work. A condition of approval has been added to ensure that a LUPB is recorded.



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

Adherence to County development regulations and special conditions of approval attached to the CUP will ensure that the development will not be detrimental to the immediate vicinity. The Applicant anticipates starting construction within the year. However, if this does not occur, a condition will be imposed that the CUP expire in five years if construction has not commenced within the five year period.

Based on the foregoing, the Examiner finds that, as currently proposed and conditioned, the proposal will not be materially detrimental to the uses or properties in the immediate vicinity.

F. 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 architectural design and scale of the proposed buildings will be fit into the neighborhood. Installation of ornamental landscaping provided throughout the parking lot and along the road frontages will enhance the project's curb appeal. The proposed building setbacks and Type A landscape buffer along the east property line will buffer the proposal from adjacent residential uses. As required by SCC 30.26.075, parking lot lighting must be arranged or shielded so as to reflect the light away from any dwelling units and the public right-of-way. A condition of approval will be imposed to insure that any parking lot lighting installed in the future be shielded to comply with County code.

Accordingly, the Examiner finds that, with the revisions now proposed and under the conditions recommended by PDS, 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.

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

### **C. 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. The Examiner concludes that the application is consistent with the requirements of SCC 30.42C.100.
3. The proposal is consistent with the GMACP; GMA-based County regulations, the type and character of land use permitted on the project site, the permitted density and applicable design and development standards.

4. Based on the totality of the facts in the record, the Examiner concludes that the proposal meets Zoning Code requirements for building height, parking, perimeter landscape buffers, parking area landscaping, building setbacks and other zoning code regulations and requirements, subject to the recommended conditions of approval.
5. Adequate public and/or private services exist to serve the proposal.
6. Conditioned as set forth below, 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.
7. Based upon the entire record and the Findings of Fact herein, the Examiner concludes that the proposal meets all of the requirements of the County's CUP regulations, provides for the public health, safety and welfare and should be approved, subject to the conditions set forth herein.
8. In issuing a CUP, the Examiner has broad discretion to impose conditions of approval. The 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.
9. Any Conclusion of Law in this Decision which should be deemed a Finding of Fact is hereby adopted as such.

## **D. DECISION AND ORDER**

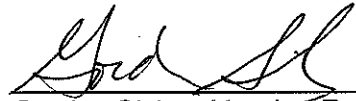
A **CONDITIONAL USE PERMIT** is **APPROVED** for the construction and operation of a Level II Health and Social Service Facility on the subject property as described in the application, subject to the following **CONDITIONS**:

### **CONDITIONS**

- A. The site plan (Exhibit B.1) received by PDS on May 8, 2013, shall constitute the official site plan. Any discrepancy between the content of the official site development plan and the performance standards of Title 30 SCC shall be resolved in favor of Title 30. SCC 30.42C.110 governs revisions to conditional use permits.
- B. The landscape plan (Exhibit B.3) received by PDS on May 8, 2013, shall constitute the approved preliminary landscape plan.
- C. In accordance with SCC 30.26.075, any parking lot lighting shall be arranged or shielded so as to reflect the light away from any dwelling units and the public right-of-way.
- D. A record of developer's 30.66B SCC mitigation obligations shall be recorded with the County Auditor. SCC 30.66B.070.
- E. Prior to any development activity (e.g. clearing, grading or filling) on the site and/or prior to issuance of any building permits by the County:
  - (1) The Applicant shall pay an impact fee to Snohomish County for traffic impacts to Transportation Service Area "F" totaling \$16,144.52 (\$807.23/living unit) in accordance with the provisions of SCC 30.66B.340. 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.
  - (2) The Applicant shall make a payment to Snohomish County for the WSDOT in the amount of \$2,965.00 (\$148.25/living unit) for mitigation of traffic impacts to State highways. This payment may be made proportionately with each building permit.
  - (3) The Applicant shall pay the amount of \$3,629.00 (\$181.45/living unit) to the City of Bothell 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.
  - (4) As required by SCC 30.42C.200, a Land Use Permit Binder, on a form provided by PDS, shall be executed by the Applicant and recorded with the County Auditor.
- F. Prior to the issuance of certificate of occupancy/final inspections;
  - (1) The features on the approved TDM plan shall be constructed/installed.
  - (2) Site improvements and landscaping depicted on the approved plans shall be installed, inspected and approved.

- (3) The fire hydrants and fire sprinkler systems shall be installed and operational.
- G. Use of the subject property shall be limited to a Level II Health and Social Service Facility as defined by SCC 30.91H.095 utilized to provide veteran's housing.
- H. This conditional use permit approval shall expire five years from the date of approval if construction of the proposed facility has not commenced within the five year period.
- I. Nothing in this permit/approval 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.

Decision issued this 10<sup>th</sup> day of July, 2013.

  
Gordon Sivley, 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 **within 10 calendar days** from the date of this decision. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2<sup>nd</sup> Floor, Robert J. Drewel Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S No. 405, 3000 Rockefeller Avenue, Everett WA 98201) **on or before JULY 22, 2013**. 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 is discovered which could not reasonably have been produced at the open record hearing and which is material to the decision; 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 **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, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: 3000 Rockefeller Avenue M/S 604, Everett, WA 98201) **on or before July 24, 2013**, 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.

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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.

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Staff Distribution:

Department of Planning and Development Services: Monica McLaughlin

The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation." A copy of this Decision is being provided to the Snohomish County Assessor as required by RCW 36.70B.130.

PARTY OF RECORDS REGISTER  
12-110942-LU FILBERT ROAD  
VETERANS HOUSING  
HEARING: JUNE 26, 2013  
TIME: 9:30 AM  
12-110942-LU

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

SNO COUNTY FACILITIES MGMT  
CHERIE HUTCHINS  
3000 ROCKEFELLER AVE M/S 404  
EVERETT WA 98201

WA ST DEPT OF TRANSPORTATION  
SCOTT RODMAN  
PO BOX 330310  
SEATTLE WA 98133-9710

SNO CO PUD NO 1  
ELISABETH A TOBIN  
PO BOX 1107  
EVERETT WA 98206-1107

CATHOLIC COMMUNITY SERVICES  
OF WESTERN WASHINGTON  
(CCSWW)  
PATRICK TIPPY  
100 23RD AVE S  
SEATTLE WA 98144

INGE & GUENTER FRAHM  
7996 NE HIDDEN COVE ROAD  
BAINBRIDGE ISLAND WA 98110

CITY OF BOTHELL  
WASIM KHAN  
9654 NE 182ND ST  
BOTHELL WA 98011

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

SNO CO FIRE DIST 1  
JOHN WESTFALL  
12425 MERIDIAN AVE  
EVERETT WA 98208

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

HILLTOP-LOCUST COMMUNITY  
GROUP  
MICKIE GUNDERSON  
1126 LAWTON RD  
LYNNWOOD WA 98036-7122

TONKIN / HOYNE ARCHITECTURE  
TIMOTHY QUINN  
204 FIRST AVE S  
SEATTLE WA 98104

SNOHOMISH HEALTH DISTRICT  
BRUCE STRAUGHN  
NO ADDRESS GIVEN

PAUL WILSON  
19610 18TH AVE W  
LYNNWOOD WA 98036