

DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: September 24, 2009

PLAT/PROJECT NAME: *Riverview Elementary*

APPLICANT/
LANDOWNER: Snohomish School District

FILE NO.: 09-100227-000-00-LU

TYPE OF REQUEST: **Conditional Use Permit**

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

BASIC INFORMATION

GENERAL LOCATION: 7322 64th Street SE, Snohomish, WA 98290

ACREAGE: 9.6 acres

ZONING: R-5

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

School District: Snohomish School District No. 201

Fire District: Fire District No. 4

Water Source: Cross Valley **Sewer Service:** Onsite septic/drainfield

PDS STAFF RECOMMENDATION: Approve with precondition and conditions

INTRODUCTION

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

PDS gave proper public notice of the open record hearing as required by the county code. Exhibit F1 (Affidavit of Mailing); Exhibit F2 (Affidavit of Notification by Publication); Exhibit F3 (Posting Verification). Posting was spot checked by the Hearing Examiner on a site visit as authorized by code on Wednesday, September 9, 2009.

Due to the unfortunate downsizing of PDS earlier this year, workloads on individual planners have increased tremendously. Therefore, the normal 120-day timelines have been very difficult to meet, and permit backlogs have resulted. This particular application was at day 216 of the 120-day timeline on the date of the hearing.

School districts in particular have very limited windows of opportunity to accomplish renovations and capital projects. Construction must be concentrated during the summer months when the children are out of school, and when a school is being rebuilt from scratch, the entire population of a school must be moved to another location. This results on hardships to the entire community. It is therefore important that PDS do its best to accommodate the District despite the backlog. It did so by issuing a demolition permit and early grading permit to allow earthwork to begin prior to the hearing on the conditional use permit application. Although this certainly is not the ideal way to proceed, given these circumstances, the Examiner agrees that in this situation it made sense to allow the District to go ahead with its grading work. The Examiner cautions, however, that this action should not set a precedent for the future, and that the best course of action still is to wait to proceed with any work until the conditional use permit is heard. The Examiner notes that the work authorized by the Phase 1 grading permit issued by the department on July 27th included this restrictive condition:

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

Exhibit J. This earthwork began on approximately July 28th. A demolition permit was issued on July 2nd to demolish the old school; the building has since been razed.

A Determination of Nonsignificance was made by the District on March 20, 2009. (Exhibit E2)

The Examiner held an open record hearing on September 15, 2009. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

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

FINDINGS OF FACT

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

A. Background

1. The master list of exhibits and witnesses which is a part of this file and which exhibits were considered by the Examiner is hereby made a part of this file as if set forth in full herein.

2. Summary of Proposal

The Snohomish School District is requesting a conditional use permit to allow for the construction of a new replacement Riverview Elementary School. The original Riverview Elementary School opened in 1966, and a conditional use permit was not required by county regulations at that time.

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

The existing parking lot and asphalt play areas will be removed. A new parent drop-off loop with visitor parking and a separate school bus drive loop with staff parking will be installed. At the elementary school, visitor parking and drop-off is provided in the front of the building for about 23 cars parked and about 10 to queue. A separate staff parking lot and bus area will be provided to the south and east portion of the site. The total number of parking spaces will be approximately 86. Geothermal wells will be drilled below the new parking lot areas. Grass playfields will be constructed over a new septic drainfield.

New buildings include administrative offices, kindergarten classrooms, grades 1-6 classrooms clustered in groups of 4, gymnasium, commons/cafeteria with stage, kitchen, special education programs, and library. Buildings will be steel framed with masonry bearing walls at the gymnasium and commons, concrete 1st floor slab, composite steel deck/concrete 2nds floor slab, and steel roof deck. Exterior materials are expected to include masonry and painted cementitious siding.

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

3. Site Description

The site is relatively flat, sloping from a high point of approximately 320 feet above sea level at the south property line, to about 300 feet above sea level at

the property line along 64th Street SE. Existing trees are found at the south and southeast property lines. A wetland is located along the east property line.

4. Adjacent Zoning/Uses

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

B. Public Comment/Issues of Concern

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

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

At the public hearing, one person testified. No concerns affecting this decision were identified.

C. Compliance with Performance Standards

6. Parks Mitigation

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

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

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

A development must mitigate its impact upon the future capacity of the road system by paying a road system impact fee reasonably related to the impacts of the development on arterial roads located in the same transportation service area as the development, at the rate identified in SCC 30.66B.330 for the type and location of the proposed development. A development's road system impact fee will be equal to the development's new average daily traffic (ADT), based on the latest edition of the ITE Trip Generation report published by the Institute of Transportation Engineers, times the per trip amount for the specific transportation service area identified in SCC 30.66B.330.

The David Evans and Associates traffic study for the project dated January 2009 used the 7th Edition of the ITE Trip Generation report for trip generation. The application was submitted on January 14, 2009; and PDS Transportation set a submittal date of February 1st, 2009 and later for developments to vest to the 8th

Edition. The trip generation numbers were based on Land Use Code 520, Elementary School, using the per 1,000 square feet gross floor area option.

Based on the above, the development will generate 315.42 new average daily trips (ADT) and has a road system impact fee of **\$44,789.64** based on \$142.00/ADT, the current fee rate for commercial developments outside the urban growth area, for TSA C. Consistent with SCC 30.66B.340, payment of this road system impact is required prior to building permit issuance.

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

ITE Land Use Category: **Elementary School**
 ITE Land Use Code: **520**
 Applicable Measurement Unit (ITE Independent Variable): **per 1,000 square feet gross floor area**
 Number of applicable measurement units for this development: **21.768 (thousand SF)**

Trip Generation Calculations:

	Calculations
ADT	70,000 SF new building – 48,232 SF credit for existing building = 21,768 new SF x 14.49 ADT/1,000 SF = 315.42 ADT
AM PHT	21,768 new SF x 4.69 AM PHT/1,000 SF = 102.09 AM PHT
PM PHT	21,768 new SF x 3.13 PM PHT of generator/1,000 SF = 68.13 PM PHT

The traffic study contained calculations for both PM peak hour of the generator (the elementary school) and PM peak hour of adjacent street traffic. The 7th Edition of the ITE Trip Generation report does not include trip generation numbers for PM peak hour of adjacent street traffic, so the applicant’s traffic engineer used the PM peak hour of generator numbers in combination with an estimate that 25% of the school staff would leave the site after 4:00 PM (since school is dismissed within the 3:00 PM hour), so that assumption would add 6 additional PM peak hours to the adjacent street traffic during the one hour between 4 and 6 PM peak hour commute time period. A letter was provided from the Riverview Elementary School principal attesting to the fact that at least 75% of the school staff leaves the site prior to 4:00 PM. This method was found by PDS to be acceptable to determine the PM trip generation.

B. Concurrency [SCC 30.66B.120]

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

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

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and has been deemed concurrent as of August 27, 2009. The concurrency determination approval will expire on August 27, 2015, six years from the date concurrency was given. Consistent with DPW rule 4225.070, **July 22, 2009** is the point in time for which the concurrency analysis is based (i.e. the concurrency vesting date).

Development generating more than 50 peak-hour trips in TSA with one or more arterial unit in arrears, SCC 30.66B.160 (2) (a): The subject development is located in TSA C, which, as of the date of submittal, had the following arterial units in arrears units 198 (Marsh Road from Lowell Larimer Road to SR 9) and 353 (Airport Road from SR 9 to 99th Avenue SE). Based on peak-hour trip distributions, the subject development will NOT add three (3) or more directional peak-hour trips to any of the arterial units in arrears. The development generates 102.09 AM peak hour trips and 6 PM peak hour trips, which is MORE than the threshold of 50 peak-hour trips, and thus, the development has also been evaluated under SCC 30.66B.035. Pursuant to SCC 30.66B.035(1), the applicant has evaluated the future level-of-service on the road system consistent with the specific traffic study requirements imposed by the County and has found that there ARE one or more arterial units in arrears in TSA C. Based on forecast level-of-service conditions the development will NOT impact any of them with three or more peak-hour trips, therefore the development is deemed concurrent under SCC30.66B.160 (2) (a).

The trip distribution in the traffic study for AM peak hour trips showed 7 AM peak hour trips traveling west on 2nd Street in Snohomish (identified as local trips) east of SR 9 and west of Avenue D. We requested the applicant's traffic engineer to provide information on where those trips originated in order to determine if three or more of those trips traveled through any of the arterial units designated as critical or in arrears that are located south or east of that location. A letter was

provided by the traffic engineer for the development indicating that those 7 AM trips represent seven staff members from Riverview Elementary School that live within the City of Snohomish. The Snohomish School District provided zip code numbers for the staff for the trip distribution, and those 7 AM trips originate within the local neighborhoods and residential areas of the City, and travel to the school via 2nd Street, which is inside the city limits of Snohomish. Those trips would not travel on the county identified arterials on the commute between home and the school. This information was acceptable to PDS Transportation to verify that based on peak-hour trip distributions, the subject development will NOT add three or more directional peak-hour trips to any of the arterial units in arrears or critical arterial units.

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 inadequate road condition (IRC) at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC.

The subject development proposal will not impact any IRC locations identified within TSA C with three or more of its PM 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 BY PDS under this section of Chapter 30.66B SCC.

D. Frontage Improvements [SCC 30.66B.410]

All developments will be required to make frontage improvements along the parcel's frontage on any opened, constructed, and maintained public road. The required improvement shall be constructed in accordance with the EDDS, including correction of horizontal and vertical alignments, if applicable.

Under SCC 30.66B.410, the Department of Public Works Director is to determine the standard to which the frontage improvements will be performed. DPW Rule 4222.020(1) requires full rural standard frontage improvements along the subject property frontage on **64th Street SE**, which consists of:

- Asphalt concrete pavement, 18 feet wide from right-of-way centerline

EDDS deviation request: The following improvement measures have been modified through the EDDS deviation process as of the date of this memorandum.

The subject deviation asked to eliminate the section of frontage improvements along the east (approximately) 265 feet of 64th Street SE in order to avoid impacts to the wetland. The applicant proposes to construct frontage improvements, which includes a separated 5-foot wide walkway, between the west property line and the wetland buffer enhancement area (approximately 400 feet) on 64th Street SE.

The request was approved with the condition that the proposed separated walkway is located within the right-of-way. It was determined that the deviation achieves the intended result of the standard design because the applicant will provide a pedestrian facility along the developed portion of the property, where all the official access to the school will take place. The section to be eliminated is undeveloped, and will remain undeveloped due to the location of the wetland and steep slopes. There is an existing (approximately) 3-foot wide walkway on the school frontage in that east area, and a 5-foot wide walkway along the opposite side of 64th Street SE separated from the travel lanes of the road by a 10-inch white stripe. In addition, documentation was provided from the school that students are not permitted to walk or ride bicycles to school, and that has been codified in the Student and Parent Handbook. All students are to be bussed or dropped off by an adult. The improvements proposed to the school include safe bus and parent drop-off loops with long vehicular storage queues. Therefore, it was determined that the deviation will not adversely affect traffic safety and operations, maintenance, or aesthetic appearance. (Exhibit G1)

64th Street SE is not in the impact fee cost basis (Appendix D of the Transportation Needs Report); therefore the cost of frontage improvements is not eligible for credit toward the project's impact fee.

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

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

Access into the school is provided by two commercial driveways off of 64th Street SE. Both existing driveways will be relocated 30 to 60 feet west of where they are presently located. The driveways must meet EDDS for commercial driveways on a non-arterial road.

EDDS 2-02 allows one 2-way access point or two 1-way access points per 500 feet of property frontage. There is approximately 640 feet of frontage on 64th Street SE, so two access points are acceptable. The required minimum width of a two-way commercial driveway on a non-arterial road is 25 feet (per EDDS 2-03 C), which is what the plans show for both proposed driveways. The minimum separation required by EDDS 2-04 on a non-arterial road with a posted speed of 25 mph is 35 feet, and the spacing provided between the two driveways is 215 feet. There are no other commercial driveways, public or private roads in the vicinity.

The County Traffic Engineer determined that a speed study was needed for the section of 64th Street SE fronting the school because the posted speed of 25 mph dates from when 64th Street SE was a gravel road. The DPW Traffic Operations performed the 48-hour speed study on Tuesday March 24 and Wednesday March 25, 2009 (not during spring break) to determine the average speed that 85% of the vehicles are traveling past the school along 64th Street SE. The result of the study was 33 mph, which is the operating speed of that section of 64th Street SE.

EDDS Table 3-6 requires a minimum stopping sight distance of 230 feet for an operating speed of 33 mph and a minimum intersection sight distance of 368 feet per EDDS Table 3-9. It does not appear that the minimum sight distance requirement can be met from the west driveway for vehicles approaching from the west due to a vertical crest curve in the road. A sight distance analysis stamped by a professional engineer or professional land surveyor was required showing how the minimum requirements of EDDS for sight distance at the intersection would be met.

A sight distance analysis was submitted that showed the required minimum stopping sight distance can be met from the both access points. It also showed

that intersection sight distance can be met from the west driveway looking west with the provision of a sight distance easement from the neighbor adjacent to the west because the line of sight crosses outside of the available right-of-way through the offsite property. In addition, some grading will be needed along the line of sight to achieve intersection sight distance, the specific location and depth for which was identified on the sight distance analysis plan, and must be shown in the construction plans. A letter was provided by the applicant indicating that the sight distance easement is expected to be signed and recorded before occupancy of the school building, and that the Snohomish School District attorney is currently negotiating with the adjacent property owner's legal counsel to finalize the specific terms and conditions for granting the easement.

The Examiner will impose a condition of approval that the sight distance easement is recorded and the grading completed to achieve intersection sight distance prior to occupancy of the building. The applicant should note that DPW has a sight distance easement form that must be used. The document will be submitted to DPW for review and will be recorded by them when approved. This information and the sight distance easement form were conveyed to the Project Manager for the project, Konnie Surmann of Heery International, Inc.

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

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

64th Street SE is designated as a non-arterial road on the County's Arterial Circulation Map. This requires a right-of-way width of 30 feet on each side of the right-of-way centerline. Currently, 30 feet of right-of-way exists on the development's side of the right-of-way. Therefore, no additional right-of-way is required along the property frontage with 64th Street SE. This is adequately shown on the plans.

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

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

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

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

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

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

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

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

The county has an ILA with the City of Monroe and this development is within the influence area that requires traffic mitigation be considered for the City. A revised amount to pay Monroe traffic mitigation was submitted for this review for the amount of \$211.08 based on the PM peak hour trip distribution, only 2% of the project traffic would impact the City of Monroe roads. So at \$1,759 per PM peak hour trip x 6 peak hour trips x 2%, the traffic mitigation payment to Monroe would be **\$211.08**. A copy of the offer was returned by Monroe indicating agreement with the offered amount; the form was signed by the City's Senior Engineer on July 29, 2009. Payment of that amount will be a condition of approval for this project.

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

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

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

J. Pedestrian Facilities

Paved shoulder walkways (approximately 3 feet wide on the south side and 5 feet wide on the north side) have been constructed along the entire length of 64th Street SE between Foster Slough Road and 83rd Avenue SE as part of a DPW improvement project, a length of approximately 0.83 of a mile. The applicant will provide an additional pedestrian facility along the developed portion of the property, approximately 400 feet out of a total frontage of 660 feet, which includes a separated 5-foot wide walkway, where all the official access to the school will take place. The section to be eliminated by a deviation request is undeveloped, and will remain undeveloped due to the location of the wetland and steep slopes. The existing (approximately) 3-foot wide walkway on the school frontage in that east area, and a 5-foot wide walkway along the opposite side of 64th Street SE separated from the travel lanes of the road by a 10-inch white stripe.

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

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

9. Drainage and grading

A. Drainage

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

There are four existing drainage basins on the property. The sub-basins vary in size from approximately 0.43 to 4.84 acres. The sub-basins are described in the Targeted Drainage Plan (Exhibit C2), and labeled as the Northeast Basin, the Southeast Basin, the Southwest Basin, and the Northwest Basin. As required by the DOE stormwater manual and county code, the developed peak runoff rates for the 2, 10, and 100-year events must be no more than 50% of the existing 2-year event and 100% of the existing 10 and 100-year events for the 2, 10, and 100 year return, 24-hour duration developed storm events, respectively.

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

B. Grading

A limited scope "Phase 1" grading permit was requested by the District in advance of the "Phase 2" final grading permit currently pending in the department. The recent reduction in staff at PDS resulted in permit review backlogs that caught a number of permit applicants unaware. In this case the department's timelines were clearly going to result in a hearing date and permit issuance such that construction would be delayed well beyond the prime summer and early fall construction season.

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

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

This earthwork began on approximately July 28th. They plan to finish by October 1st.

10. Critical Areas Regulations (Chapter 30.62 SCC)

Two Category III wetlands exist along the eastern edge of the project site. Buffer widths for a Category III wetland vary based on habitat function score, use of mitigation measures, and adjoining land use. Based on a habitat score of 11 points for Wetland A (the northernmost wetland) and 19 points for Wetland B, and high intensity land use, the typical buffer width would be 80 feet without mitigation.

The proposed redevelopment will not require in-water work or wetland fill, but will require incursion into the buffer of the two on-site wetlands. The district proposes to reduce the buffer width by 20 feet along the western edge of both wetlands and install approximately 762 linear feet of trail within the remaining wetland buffer. The 25% reduction in buffer width will result in a loss of 0.31 acre of buffer that is currently degraded and in use by the school for recreational activities.

The proposed trail network would be constructed of pervious materials, but will result in the additional loss of 0.09 acres of buffer within the remaining reduced buffer. The purpose of the trails is to allow school children the opportunity to view and study wetlands, wildlife habitat, wildlife, and related topics.

An additional 0.03 acre of impact is proposed from stormwater dispersal spreaders to dissipate stormwater outlet to the wetland buffer. Including the 25% buffer reduction, the trail network and the stormwater spreaders, the total area of buffer impact is about 0.43 acre.

These buffer impacts will be mitigated for by enhancing 1.03 acres of degraded buffer that is currently composed of mowed grass, and enhancing 0.29 acre of wetland. In summary, a total of 0.43 acre of buffer impact will be mitigated for by enhancing a total of 1.32 acres of buffer and wetland, resulting in a 3:1 mitigation ratio. The mitigation plan includes features such as snags with bird boxes, downed logs, and a wide array of native plant species. Additional details regarding the proposed mitigation plan is found in the *Riverside Elementary School Redevelopment Project Critical Areas Report*. (Exhibit C3)

11. Consistency with the GMA Comprehensive Plan

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

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

This designation includes lands that were designated Rural on pre-GMA subarea comprehensive plans and zoned Rural 5. As the result of a joint planning effort between the county and the Tulalip Tribes, the RR-5 designation also applies to certain lands on the Tulalip Reservation that were previously designated Rural Residential. The implementing zone in this designation will continue to be the R-5 zone.

12. Zoning.

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

13. Utilities

- A. Water. Water is available from the Cross Valley Water District. (Exhibit H5)
- B. Sewer. Sewage disposal will be provided by a new onsite septic system and drainfield. The District is required to install a Large On-site Sewage System (LOSS), the design of which is regulated by the State Department of Health

(DOH) pursuant to Chapter 242-272B of the Washington Administrative Code. The Snohomish Health District will not recommend approval of any building permits prior to approval of the LOSS design by DOH. (Exhibit H8)

C. Electricity. The Snohomish County PUD submitted a letter stating that electricity is available. (Exhibit H3)

D. Fire Code: The Fire Marshall has reviewed the project for compliance and has no objection to the approval of the conditional use and short plat for this project. (Exhibit J at 13) Fire District #4 provided a letter stating the following:

In consideration of this project please accept the following comments:

1. Building address to be prominently posted so that it is visible on a contrasting background from 64th Street.
2. Fire hydrants shall be posted around the perimeter of the building in accordance with Snohomish County Code.
3. Steamer ports on all hydrants shall be equipped with four-inch (4") Storz type fittings.
4. The fire department connection (FDC) for the automatic sprinkler system will be installed at or near the frontage of the property, near a vehicular access and within fifty feet (50') of a fire hydrant.
5. The building shall be equipped with a key lock – Knox brand. The specific location for the installation will be coordinated with the Fire District.

(Exhibit H7)

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

The District issued a Determination of Nonsignificance (DNS) for the subject application on March 20, 2009 (Exhibit E2). The DNS was not appealed.

15. Conditional Use Permit Criteria

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

1. The hearing examiner may approve, approve with conditions, or deny a conditional use permit only when all the following criteria are met:
 - (a) The proposal is consistent with the comprehensive plan;

- (b) The proposal complies with applicable requirements of this title;
- (c) The proposal will not be materially detrimental to uses or property in the immediate vicinity; and
- (d) The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.

2. As a condition of approval, the hearing examiner may:

- (a) Increase requirements in the standards, criteria, or policies established by this title;
- (b) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides, or traffic;
- (c) Require structural features or equipment essential to serve the same purpose set forth in 30.42C.100 (2) (b);
- (d) Impose conditions similar to those set forth in items 30.42C.100 (2)(b) and 30.42C.100 (2)(c) as may be deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters. The hearing examiner may not in connection with action on a conditional use permit, reduce the requirements specified by this title as pertaining to any use nor otherwise reduce the requirements of this title in matters for which a variance is the remedy provided;
- (e) Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;
- (f) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need;

- (g) Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements; and
- (h) Impose any requirement that will protect the public health, safety, and welfare.

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

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

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

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

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

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

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

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

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

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

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

The proposal will not be materially detrimental to uses or property in the immediate vicinity and would be compatible with the character, appearance, quality of development and physical characteristics of the site and surrounding area. Riverview Elementary School is an established school in the neighborhood and was originally built prior to the requirement for a CUP approval process.

The District's consultants have performed an extensive outreach program with the neighborhood. The outreach efforts, and neighborhood comments, are chronicled on a webpage that can be reached via a link from the Snohomish School District's webpage for the Riverview Elementary School. The direct URL for this webpage is <http://machias-riverview.blogspot.com/>. There have been no comments left on this webpage that suggest that proposed new school building will be incompatible with the surrounding property. Only one written comment was received by Planning and Development Services regarding the proposal, regarding the proposed location of the drainfield (Exhibit I.1); this comment did not suggest that the proposed new school building would be incompatible.

Although there have been no objections raised to the proposed building and site design, PDS staff has indicated the potential for headlight glare from vehicles on the school site to negatively impact nearby neighbors exists. The proposed staff parking lot is adjacent to an existing single family residence. Vehicles parking in stalls 47 through 55 in the Staff Parking Lot have the potential to shine headlights directly onto this residence. Additionally, a parking lot light standard is included in this same vicinity. A similar potential for headlight glare exists in stalls 1 through 15 in the proposed Visitor's Parking Lot along 64th Street. A condition of approval is included that will prevent this issue from becoming a problem.

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

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

As conditioned, the project meets the criteria for approval.

CONCLUSIONS OF LAW

1. The Examiner has original jurisdiction over CUP applications pursuant to Chapter 30.72 SCC and Chapter 2.02 SCC.
2. In considering the Conditional Use Permit application many of the decision criteria require the exercise of discretion.
3. The proposal is consistent with the GMACP; GMA-based county codes, the type and character of land use permitted on the project site, and the applicable design and development standards.
4. If approved with the following conditions, the proposal will make adequate provisions for the public health, safety and general welfare.
5. The CUP with the precondition and conditions of approval will be consistent with the comprehensive plan and comply with the applicable requirements of Title 30 SCC.
6. The CUP, with the precondition and conditions of approval, will not be materially detrimental to uses or properties in the immediate vicinity.
7. The CUP, with precondition and conditions of approval, will respond to as well as maintain compatibility with surrounding uses and incorporate specific features, conditions, or revisions that ensure it responds appropriately to the character, appearance, quality of development, and physical characteristics of the site and surrounding properties.
8. Any conclusion in this decision, which should be deemed a finding of fact, is hereby adopted as such.

DECISION

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

The request for a **CONDITIONAL USE PERMIT** is hereby **CONDITIONALLY APPROVED**, subject to the following precondition and conditions:

PRECONDITION

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

CONDITIONS

- A. Exhibit B1 shall be the approved site plans. Changes to the approved site plans are governed by SCC 30.42C.110.

- B. Prior to initiation of any further site work and/or prior to issuance of any development/construction permits by the county:
 - 1. A Land Use Permit Binder shall have been completed, signed, and recorded with the county Auditor’s Office.
 - 2. A final grading permit, to include a storm water pollution prevention plan (SWPPP), issued pursuant to the SCC Chapter 30.63.B shall have been obtained for any on-site grading
 - 3. A full drainage plan shall have been submitted and approved pursuant to the SCC Chapter 30.63.A.
 - 4. The applicant shall have paid an impact fee to Snohomish County for traffic impacts to Transportation Service Area “E” totaling \$44,789.64.
 - 5. The sum of \$211.08 shall have been paid to the City of Monroe for mitigation of impacts on City streets. Proof of payment is needed.
 - 6. The sum of \$2,358.24 shall have been paid to Snohomish County for traffic impacts to WSDOT highways, as follows:
 - a. DOT-08: impacted by 27 ADT at \$68.00 per ADT = \$1,836.00
[PDS Tran Code 5409]
 - b. DOT-09: impacted by 27 ADT at \$9.54 per ADT = \$257.58
[PDS Tran Code 5431]
 - c. DOT-10: impacted by 6 ADT at \$42.41 per ADT = \$254.46
[PDS Tran Code 5432]
 - d. DOT-24: impacted by 6 ADT at \$1.70 per ADT = \$10.20
[PDS Tran Code 5448]
 - e. Total: \$2,358.24
 - 7. The grading work needed to achieve intersection sight distance from the west driveway, and the sight distance easement area shall be shown on the construction plans per the approved sight distance analysis received by PDS on September 1, 2009.

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

1. A solid board fence with a minimum height of 42" shall be installed along the property line adjacent to Parking Stalls Numbers 47 through 55 in the Staff Parking Lot, to minimize vehicular headlight glare leaving the property.
2. A solid board fence with a minimum height of 42" shall be installed between the property lines and adjacent to Parking Stalls Numbers 1 through 15 in the Visitor's Parking Lot, to minimize vehicular headlight glare leaving the property.
3. All parking lot lighting shall be installed and directed in a fashion to minimize lighting and/or glare on adjacent and nearby properties.
4. Rural standard frontage improvements shall be constructed along the property frontage with 64th Street SE in accordance with the Engineering Design and Development Standards (EDDS) and to the satisfaction of the County Road Engineer.
5. The sight distance easement for intersection sight distance from the west driveway shall have been recorded by DPW, and the grading shall have been completed by the applicant to achieve the minimum intersection sight distance to the satisfaction of the County.

Nothing in this approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.

Decision issued this 24th day of September, 2009.



Barbara Dykes, Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

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

Reconsideration

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **OCTOBER 5, 2009**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

A petition for reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner’s attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

- (a) The Hearing Examiner exceeded the Hearing Examiner’s jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner’s decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner’s findings, conclusions and/or conditions are not supported by the record;
- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The applicant proposed changes to the application in response to deficiencies identified in the decision.

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the County file number in any correspondence regarding this case.

Appeal

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue,

Everett, WA 98201) on or before **OCTOBER 8, 2009** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

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

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

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

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

Staff Distribution:

Department of Planning and Development Services: Tom Barnett

<p>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.</p>

This decision is binding but will not become effective until the above precondition(s) have been fulfilled and acknowledged by the Department of Planning and Development Services (PDS) on the original of the instant decision. Document(s) required for fulfillment of the precondition(s) must be filed in a complete, executed fashion with PDS not later than SEPTEMBER 24, 2010.

1. "Fulfillment" as used herein means recordation with the County Auditor, approval/acceptance by the County Council and/or Hearing Examiner, and/or such other final action as is appropriate to the particular precondition(s).
2. One and only one six month period will be allowed for resubmittal of any required document(s) which is (are) returned to the applicant for correction.
3. This conditional approval will automatically be null and void if all required precondition(s) have not been fulfilled as set forth above; PROVIDED, that:
 - A. The Examiner may grant a one-time extension of the submittal deadline for not more than twelve (12) months for just cause shown if and only if a written request for such extension is received by the Examiner prior to the expiration of the original time period; and
 - B. The submittal deadline will be extended automatically an amount equal to the number of days involved in any appeal proceedings.

ACKNOWLEDGMENT OF FULFILLMENT OF PRECONDITIONS

The above imposed precondition(s) having been fulfilled by the applicant and/or the successors in interest, the Department of Planning and Development Services hereby states that the instant Decision is effective as of _____, _____.

Certified by:

(Name)

(Title)
