

**DECISION of the SNOHOMISH  
COUNTY HEARING EXAMINER**

DATE OF DECISION: August 7, 2009

**PLAT/PROJECT NAME: PILCHUCK VETERINARY CLINIC LAMENESS EVALUATION ARENA  
AND EQUINE REPRODUCTION BARN**

APPLICANT/

LANDOWNER: Puget Sound Center for Veterinary Medicine

FILE NO.: 09 101940-000-00-LU

**TYPE OF REQUEST: Major Revision to a Conditional Use Permit (ZA 8611276) for an increase  
in total floor area and secondary access driveway to 115<sup>th</sup> Ave SE**

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

**BASIC INFORMATION**

**GENERAL LOCATION:** 11308 92<sup>nd</sup> Street SE, Snohomish, Washington

Located in Section 18, Township 28 North, Range 6 East, W.M.,  
Snohomish County, Washington.

**ACREAGE:** 18.89 acres

**ZONING:** A-10 (Agriculture-10)

**COMPREHENSIVE PLAN DESIGNATION:** Riverway Commercial Farmland

**School District:** Snohomish School District No. 201 **Fire District:** Fire District 4

**Water Source:** City of Snohomish

**Sewer Service:** On-site septic

**PDS STAFF RECOMMENDATION:** Approve with precondition and conditions

## **INTRODUCTION**

The applicant filed the Master Application on October 2, 2008. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. Exhibit F1 (Affidavit of Mailing); Exhibit F2 (Affidavit of Notification by Publication); Exhibit F3 (Posting Verification). A site visit by the Examiner on August 3, 2009, verified that the posting was on-site and properly posted as required by code.

A Determination of Nonsignificance (DNS) was made by PDS on June 6, 2009. Exhibit E2. The DNS was not appealed.

The Examiner held an open record hearing on August 5, 2009. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

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

## **FINDINGS OF FACT**

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

### **A. Background**

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

2. Summary of Proposal:

The applicant is requesting approval of a major revision of the existing conditional use permit (CUP) (ZA 9304075 - Exhibit A.3) for the Pilchuck Veterinary Clinic for recent construction of a lameness evaluation arena and proposed 3,120 square foot (SF) addition and recent construction of a secondary access driveway to 115<sup>th</sup> Avenue SE. Both the existing lameness evaluation arena and access driveway were constructed prior to review and approval by PDS. The major revision also includes an increase in overall clinic floor area above the total floor area for the existing and future clinic buildings (estimated at 30,090 SF) described under the existing condition use permit.

The Pilchuck Veterinary Clinic (Puget Sound Center for Veterinary Medicine), primarily a large animal practice, was established at the present location in the early 1970s. The veterinary hospital has become the primary referral hospital for large animal surgery in western Washington.

The veterinary clinic facility currently contains the main veterinary clinic building (approximately 10,190 SF), alternative medicine office (12,250 SF), equine barn (5,196 SF), MRI treatment facility (3,825 SF), open-sided lameness evaluation arena (6,300 SF), four isolation sheds totaling 1,550 SF, and an open kennel area (1,200 SF) (Exhibit B.1). There are currently 86 on-site paved parking spaces for the veterinary clinic.

PDS had planned to process a minor revision to the existing original CUP for the additional clinic floor area for the alternative medicine office in addition to that identified above in the existing CUP. However, the new driveway to 115<sup>th</sup> Avenue SE and construction of the lameness evaluation arena required a major revision to the CUP, instead of a minor revision. Construction of the driveway and required improvements to 115<sup>th</sup> Avenue SE have been reviewed and approved by the Department of Public Works (DPW). The permit applications for the existing lameness evaluation arena and proposed addition cannot be issued until the major revision to the CUP is approved.

Shoreline Conditional Use and Substantial Development Permits for the veterinary clinic expansion completed in 2008 were approved by the Washington State Department of Ecology (DOE) on March 30, 2007.

3. Site Description

The site consists of two parcels. The largest parcel (454,653 SF) is essentially rectangular in shape and contains all the buildings and parking areas for the veterinary clinic. The north property line of this parcel is adjacent to the 92<sup>nd</sup> Avenue SE right-of-way. The second parcel is a large L-shaped parcel (366,035 SF) that contains the secondary access driveway to 115<sup>th</sup> Street SE. The east property line of this parcel is adjacent to 115<sup>th</sup> Avenue SE. Primary vehicular access to the site is provided via 92<sup>nd</sup> Street SE.

The site is located within the 100-year flood plain of the Pilchuck River and is designated as Rural Environment in the Snohomish County Shoreline Master Program.

4. Adjacent Zoning/Uses.

The table below describes zoning of the subject property and surrounding properties at the time the applications was submitted and found to be complete by Snohomish County.

Subject Parcel	Veterinary clinic	A-10
North of Subject Parcel (across 92 <sup>nd</sup> St SE)	Residences and businesses	A-10 & RB
East of Subject Parcel	Residence, nursery, greenhouses and pasture	A-10
West of Subject Parcel	Auto sales, mobile homes and small amusement center	A-10
South of Subject Parcel	Ball fields & pasture	A-10

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

5. The City of Snohomish provides public water service to the veterinary clinic. The city has commented that they need to inspect the on-site water reservoir and fire pump installation and ensure that proper cross connection protection is provided and that proper water metering occurs (Exhibit H.1). No other issues of concern have been raised by citizens or agencies.

The City has requested a condition of approval that the applicant provide water system cross connection protection and water metering, which the Hearing Examiner will include as a condition of approval. Exhibit J1.

**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).

PDS Traffic has reviewed the proposal for compliance with Title 13 and Chapter 30.66B of Snohomish County Code, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures (Exhibit G.2). The subject property is located within Transportation Service Area (TSA) C, outside the Urban Growth Area (UGA).

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

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

The impact fee for this proposal is based on the new average daily trips (ADT) generated by 6.00 ADT. This rate comes from testimony from the Pilchuck Veterinary Hospital owner regarding staffing and anticipated use of the addition. The addition will add two new employees, a doctor and an assistant, and is planned to serve five horses per week, equivalent to 1 per day. The facility anticipates serving five horses per week, based on historical use of similar services provided in the area.

The use of data in the Institute of Transportation Engineers' (ITE) *Trip Generation, 8th Edition* (2008) would not be appropriate since the facility is designed for reproductive services for horses, as opposed to a standard veterinary hospital that is designed for general veterinary services for cats and dogs. Therefore, the trip generation for the proposed addition is based on the anticipated staffing and use of the addition.

The July 23, 2009 Traffic Impact Analysis prepared by Gibson Traffic Consultants (Exhibit C1) provided traffic information on the trip generation as follows:

*The trip generation from the addition is anticipated to be 6 average daily trips (ADT) with 2 AM peak-hour trips (2 inbound/0 outbound) and 2 PM peak-hour trips (0 inbound/2 outbound). The daily trips are comprised of 4 daily trips, 2 inbound and 2 outbound, from the employees and 2 daily trips, 1 inbound and 1 outbound, from the horse owners. The peak-hour trips are anticipated to be a combination of employee and horse owner trips. It is likely that 1 inbound and 1 outbound trip will occur outside the AM and PM peak-hours due to an employee arriving early or leaving late and the horse owners can arrive and leave throughout the day. It is also probable that one of the employees will actually be an employee currently on the site or replacing and existing employee on the site. The trip generation in this report is therefore conservatively high since it assumes two new employees with the addition.*

This method was found to be acceptable to determine the trip generation.

Based on the above, the development will generate 6.00 new ADTs and has a road system impact fee of \$852.00 based on \$142.00/ADT, the current fee rate for commercial developments outside the UGA, for TSA C. Consistent with SCC 30.66B.340, payment of this road system impact is required prior to building permit issuance and is recommended as a condition of approval.

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 LOS A representing the best operating condition, and LOS F the worst.

The County makes a concurrency determination for each development application to ensure the development will not impact a county arterial unit in arrears or cause a county arterial to go in arrears. The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and has been deemed concurrent as of July 23, 2009. The concurrency determination approval will expire six years from the date concurrency was given. Consistent with DPW Rule 4225.070, April 10, 2009 is the point in time for which the concurrency analysis is based (i.e. the concurrency vesting date).

Development generating 50 or fewer peak-hour trips in TSA with one or more arterial unit in arrears, SCC 30.66B.160 (2) (a): The subject development is located in TSA C, which as of the date of submittal had the following arterial units in arrears: unit 198. Based on peak-hour trip distributions, the subject development will NOT add three (3) or more peak-hour trips to any of the arterial units in arrears. Pursuant to SCC 30.66B.160 (2) (a); the development is determined concurrent. The development generates 2.0 am peak hour trips and 2 pm peak hour trips, which is not more than the threshold of 50 peak-hour trips in which case the development would also have to be evaluated under SCC 30.66B.035.

The Hearing Examiner will require as a precondition of approval that the applicant record developer's 30.66B SCC mitigation obligations with the County Auditor [30.66B.070 SCC].

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

The subject proposal will not impact any IRC locations identified at this time 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 IRCs and no restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under this section of Chapter 30.66B SCC.

D. Frontage Improvements [SCC 30.66B.410]

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

Rural standard frontage improvements already exist along 92<sup>nd</sup> Street SE.

E. Access and Circulation [SCC 30.66B.420; 430]

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.

It has been determined by DPW that there is no need for the applicant to make off-site improvements to 115<sup>th</sup> Avenue SE. The existing condition of 115<sup>th</sup> Avenue SE is adequate for the number of new trips proposed from the subject development (6 ADT, 2 am and 2 pm peak hour trips).

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

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

The development fronts, and takes primary access from 92<sup>nd</sup> Street SE. Secondary access is from 115<sup>th</sup> Avenue SE, a public county road classified as a non-arterial local access road. EDDS Section 3-02 B describes a rural local access road as follows: "Local access roads (rural area) are designed to convey vehicles, pedestrians and bicycles to and from higher-order roads. Local access roads do not carry through traffic. Traffic volumes of 250 ADT or less are typical."



The Road Log and Bridge Reference Index page of the County Road Atlas specifies that 115<sup>th</sup> Avenue SE has a Federal Function Class of Local Access (rural).

A traffic count was done by DPW on 115<sup>th</sup> Avenue SE south of 92<sup>nd</sup> Street SE on Tuesday August 14, 2007 and Wednesday August 15, 2007. The ADT count was 344 and 395. The study also identified an average 85<sup>th</sup> percentile speed of 26.5 mph for northbound traffic and 25 mph (rounded up) for southbound traffic. The road is a dead end, and serves several other properties with an agricultural zoning, as well as a property developed as South Snohomish Little League with playing fields.

EDDS Plate 3-060 specifies a design standard for a public rural local access road as having a design speed of 25 mph, a pavement width of 28 feet for two 9-foot travel lanes, a 7-foot paved shoulder on one side and a 3-foot paved shoulder on the other side.

115<sup>th</sup> Avenue SE originally had an 18-foot pavement width, and wide (an average of approximately 3 to 4 foot) level shoulders on both sides composed of grass. The road is straight and relatively flat, so there are no horizontal or vertical issues. In the summer of 2007 DPW required the veterinary hospital to widen the road because they were using it to access the south end of their property without the review or approval of DPW/PDS. The owner of the property was required to provide 2.5 foot gravel shoulders on both sides of the road from 92<sup>nd</sup> Street SE to the access driveway to the clinic. It was also required that 115<sup>th</sup> Avenue be widened at the intersection with 92<sup>nd</sup> Street SE to the extent possible with gravel to allow the movement of vehicles with trailers to access 115<sup>th</sup> Avenue SE. The work was inspected and approved by DPW, and DPW continued the gravel shoulder widening to the south of the clinic driveway on 115<sup>th</sup> Avenue to the ball fields. The following year, DPW resurfaced 115<sup>th</sup> Avenue SE, including the new gravel shoulders, from 92<sup>nd</sup> Street SE to the ball fields.

Sight distance was checked from the proposed access point on 115<sup>th</sup> Avenue SE, and was found to meet the minimum requirements of EDDS 3-08.

Rural standard frontage improvements already exist along 92<sup>nd</sup> Street SE, as well as the required amount of right-of-way for a major collector arterial (requires 40 feet from centerline of right-of-way and over 40 feet exists). Therefore, no additional right-of-way is required.

The developed portion of the subject property has no frontage on 115<sup>th</sup> Avenue SE; therefore, no additional right-of-way is required.

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 Washington State Department of Transportation (WSDOT). This is consistent with the County's SEPA policy SCC 30.61.230(9), through which the county designates and adopts by reference the formally designated SEPA policies of other affected agencies for the exercise of the County's SEPA authority.

Since the subject development creates less than three new directional peak hour trips, mitigation for the State is not required.

Comments dated April 28, 2009 have been received from WSDOT (Exhibit H.2) indicating that this development would not have a significant adverse traffic impact upon state highways. Therefore, WSDOT does not request traffic mitigation for state highways from the applicant, so road impact fees will not be required to WSDOT.

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.

This development is subject to SEPA and therefore would be subject to any ILA between Snohomish County and a local city with an ILA for traffic mitigation. The development property is located within the City of Monroe's area of influence for traffic mitigation. The Gibson Traffic study dated July 23, 2009 indicates that the proposed commercial development will not impact any improvements in TSA C with three or more directional development trips. Staff concludes that since the development will generate only 2 am and 2 pm peak hour trips, this is a true statement, so road impact fees to Monroe will not be required.

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

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

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

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

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

10. Drainage and grading.

A. Drainage

The stormwater drainage system for the alternative medicine office paved parking and driving areas, including the secondary driveway to 115<sup>th</sup> Avenue SE completed in 2008, was approved by PDS as part of the building permit review for the alternative medicine office. The stormwater drainage system consists of a series of infiltration trenches that collect stormwater runoff from the roof areas and a substantial portion of the paved parking and driving surfaces. Stormwater from the remaining paved area sheet flows onto surrounding grasses where it disperses into the soil. Stormwater treatment is provided by routing runoff from parking and driving surfaces through a biofiltration swale before it enters the infiltration trenches. PDS reviewed the stormwater drainage requirements for the lameness evaluation arena and proposed addition and determined that the existing system for the veterinary facility is adequate to meet applicable stormwater requirements. Exhibit C2 is the full drainage report for the project and contains the details for drainage.

B. Grading.

A grading permit will be required for the quantities of cut and fill proposed. Water quality will be controlled during construction by use of such methods as silt fences and straw bales in accordance with a Temporary Erosion and Sedimentation Control Plan (TESCP) required by Chapter 30.63A SCC. The Hearing Examiner will require as a condition that a full drainage plan will be approved before any permits are issued.

11. Critical Areas Regulations (Chapter 30.62 SCC)

A Category 3 wetland occurs along the northwest edge of the subject property and extends off-site to the west. The on-site wetland and required buffer were designated as a Native Growth Protection Area (NGPA) as part of the review and approval of the building permit for the alternative medicine office (completed in 2008) and the Shoreline Conditional Use and Substantial Development Permits approved in 2007. A Critical Areas Site Plan (CASP) that delineates the Category 3 wetland and buffer on the site was recorded in 2007 (See Exhibit B.1). Construction of the lameness evaluation arena and secondary access driveway to 115<sup>th</sup> Avenue SE did not involve work in or near on-site critical areas or buffers. Construction of the proposed addition to the arena does not involve any work in or near on-site critical areas or buffers.

12. Consistency with the GMA Comprehensive Plan.

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

The subject property is designated Riverway Commercial Farmland (RCF) on the General Policy Plan (GPP) Future Land Use map. This designation includes farmland areas generally characterized by being in a river valley, floodplain or shoreline area, having continuous prime farmland soils, and having approximately fifty percent or more of the land area in parcels of forty acres and larger. The Agriculture-10 Acre zone is the implementing zone. (LU-96)

The GMA interim plan mapped and characterized farmlands included in the 1982 Agricultural Preservation Plan, as well as other identified areas fulfilling state and local criteria for designation as agricultural lands of long-term commercial significance. Three types of agricultural land were classified and designated:

- Riverway Commercial Farmland,
- Upland Commercial Farmland, and
- Local Commercial Farmland.

Protective measures were adopted for each of the three farmland classifications together with supplemental policies for land use and zoning, adjacent land uses, innovative land use techniques, road and utility restrictions, water management, and industry enhancements. Where appropriate, future policy needs were identified along with a strategy to ensure their timely consideration. (LU-51)

The 1982 Agricultural Preservation Plan was replaced by the 1995 GMA Comprehensive Plan: GPP. The current GPP became effective on February 1, 2006, and supersedes the 1995 version of the GPP.

Under the 2006 GPP, the following Land Use goal, objectives and policy are applicable to this application:

Goal LU 7                      Conserve agriculture and agricultural land through a variety of planning techniques, regulations, and incentive and acquisition methods. (LU- 53)

Objective LU 7.A.            Classify and designate agricultural land of long-term commercial significance

Policy LU 7.A.1              The county shall classify and designate farmlands in three classes:  
  
Riverway Commercial Farmland, Upland Commercial Farmland, and Local Commercial Farmland as shown on the Future Land Use map and shown in greater detail on a set of assessor's maps which will be part of the implementation ordinances. (LU-51)

Objective LU 7.B.            Conserve designated farmland and limit the intrusion of non-agricultural uses into designated areas (LU-54).

13. Zoning.

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

14. Utilities

- A. Water. Potable water is available from the City of Snohomish. Exhibit J1. Fire flow is supplied by an on-site private water reservoir. The City of Snohomish has commented that it needs to inspect the on-site water reservoir and fire pump installation to ensure that proper cross connection protection is provided and that proper water metering occurs. Based on the City's request, the Hearing Examiner will impose as a condition of approval that the applicant provides water system cross-connection protection and water metering as required by the City of Snohomish.
- B. Sewer. Sewage disposal will continue to occur through on-site septic. Exhibit I.
- C. Electricity. Electricity is currently available, presumably through the Snohomish County PUD.
- D. Snohomish Health District (SHD) Approval- the SHD has no objections to the proposed revision of the conditional use permit. Exhibit H3.

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

PDS issued a DNS for the subject application on June 9, 2009 (Exhibit E2). PDS did not receive any comments during the comment period and the DNS was not appealed.

16. Conditional Use Permit Criteria

In considering the application, the Examiner must apply SCC 30.42C.100, which outlines the decision criteria for a CUP 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.

Exhibit A4 supplied by the applicant's representative, is relevant to various criteria for the CUP. The following information is taken from that exhibit.

**Regarding criteria (1)(a):**

- **(a) *The proposal is consistent with the comprehensive plan;***

The Pilchuck Veterinary Clinic has been in existence since 1974 and over the years has grown and updated its business model, seeking to keep up with the changing needs of its customers. Testimony at the hearing indicated it is now the premier large animal veterinary clinic in the Puget Sound region. As such, it provides an invaluable service to the agricultural community not only in Snohomish County, but all over western Washington. As has been shown over and over again in study after study, agriculture does not survive if the services that support agriculture are not maintained within the immediate agricultural community. Snohomish County should be proud to have such a significant and vital agricultural facility within its borders.

Even prior to the era of growth management, the county has always had a significant policy of agricultural preservation. There has been a renewed focus in the last comprehensive plan update due to the loss of farmland due to the forces of market decline. While this large animal veterinary clinic is not agriculture *per se*, it is every bit as necessary to the survival of agriculture as are farmers. If there is no veterinarian around to take care of sick farm animals and keep them healthy, then the industry will suffer decline.

The following text from the GPP that speaks to the consistency of the revision to this CUP with various portions of the comprehensive plan:



- *Objective LU 7.C Enhance and encourage the agricultural industry through development and adoption of supporting programs and code amendments.*

7.C.8 The County shall expand opportunities for the agricultural community to participate in economic development, code development and public policy initiatives related to agriculture and agricultural practices.

7.C.9 The County shall consider grade separations, frontage roads, or other methods to safely move vehicles and livestock when new or improved roads are proposed in designated farmland or on roads that receive substantial farm traffic

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

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

This project meets zoning code requirements for building height and setbacks, parking, landscaping and other zoning code requirements.

- i. Building height and setbacks:

The maximum building height in the A-10 zone is 45 feet. The height of the alternative medicine office, MRI building and lameness evaluation arena are as follows:

Alternative medicine office:	30 feet high
MRI building:	30 feet high
Lameness evaluation arena:	22 feet high

The minimum building setback in the A-10 zone when the subject property adjoins an Agricultural zone is 50 feet. The building setbacks for the alternative medicine office, MRI building and lameness evaluation arena are as follows:

Alternative medicine office: 50 feet  
MRI building: +60 feet  
Lameness evaluation arena: +75 feet

ii Parking:

SCC Chapter 30.26 does not contain a specific parking requirement for veterinary clinics. The site plan for the existing CUP (referenced as Exhibit 22A in the Hearing Examiner's decision) indicated a total of 32 parking spaces for existing and planned veterinary clinic buildings totaling an estimated 30,090 SF. This equaled one parking space for approximately 940 SF of gross floor area. The site plan for the major CUP revision indicates 86 on-site paved and stripped parking spaces for a total of approximately 42,430 SF. This equals a parking ratio of one parking space for approximately 494 SF of gross floor area which is significantly more than the parking provided under the existing CUP.

iii. Landscaping:

SCC 30.25.022(2) requires parking area landscaping equal to at least 10% of all parking and driving surfaces. The landscape plan (Exhibit B.2) indicates that existing and proposed parking area landscaping equals 10,256 SF, or 12 % of all paved parking and driving surfaces.

SCC 30.25.020(2) requires a 10 foot wide Type B landscape screen between any development permitted as a CUP and road frontage. The landscape plan indicates proposed Type B landscaping along 92<sup>nd</sup> Street SE where available space allows and Type B landscaping where the secondary access driveway connects to 115<sup>th</sup> Avenue SE.

SCC 30.25.020(2) requires a 20-foot wide Type A perimeter landscape buffer for any development permitted as a CUP. The landscape plan indicates proposed Type A landscaping surrounding the perimeter of the developed portion of the site where available space allows.

**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 veterinary clinic renovations will not adversely affect the existing or potential uses in the general area. The proposed building additions would be located at a height (less than 45 feet) that is below the maximum height allowed within the A-10 zone for a CUP. On-site infiltration is encouraged by Snohomish County as a LID technique. Frontage improvements are already completed along 92<sup>nd</sup> Street SE and enhance the safety of the street. The additions to the area will likely not be noticeable to the surrounding neighbors.

**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. The scale and exterior design of the recently constructed buildings (alternative medicine office and lameness evaluation arena) are compatible with the existing veterinary clinic buildings.

The CUP revision does expand the overall facility, but would not increase the number and scale of the buildings approved under the existing CUP to the extent that it would make the facility incompatible with existing or future uses on adjoining property. The current uses surrounding the veterinary clinic include residences, nursery and greenhouses, auto sales, small amusement centers, ball fields and a variety of small businesses.

The Hearing Examiner finds that the proposed major revision to the CUP in conjunction with the existing Conditional Use Permit, subject to the conditions of approval in this decision, is consistent with the comprehensive plan and complies with the applicable requirements of Title 30 SCC. Applicable conditions of approval of the existing condition use permit will continue to apply to the proposal. The Hearing Examiner finds that this proposal, subject to the conditions of approval, meets zoning code requirements for bulk regulations, parking, landscaping and other zoning code requirements.

17. Any finding of fact in this decision which should be deemed a conclusion of law, is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Examiner has original jurisdiction over CUP applications pursuant to Chapter 30.72 SCC and Chapter 2.02 SCC.
2. In considering the major revision, application of many of the decision criteria require the exercise of discretion.
3. The proposal is consistent with the GMACP; GMA-based county codes, the type and character of land use permitted on the project site, and the applicable design and development standards.
4. Adequate public services exist to serve the proposal. The Pilchuck Veterinary Clinic will provide a private water reservoir for fire flow.
5. If approved with the recommended precondition and conditions, the proposal will make adequate provisions for the public health, safety and general welfare.

6. The proposed major revision of the CUP with recommended precondition and conditions of approval will be consistent with the comprehensive plan and comply with the applicable requirements of Title 30 SCC.
7. The major revision of the CUP, with recommended conditions of approval, will not be materially detrimental to uses or properties in the immediate vicinity.
8. The major revision of the CUP, with recommended preconditions 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.
9. 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 **MAJOR REVISION TO A CONDITIONAL USE PERMIT** is hereby **CONDITIONALLY APPROVED**, subject to the following precondition and conditions:

### **PRECONDITION**

A record of developer's Chapter 30.66B SCC mitigation obligations shall have been recorded with the County Auditor. See SCC 30.66B.070.

### **CONDITIONS**

- A. All conditions of approval in the Conditional Use Permit approved under county planning file number ZA 9304075 (attached as Exhibit A) for the subject property continue to be under full force and effect.
- B. The Conditional Use Permit site and landscape plan received by PDS on July 28, 2009 (Exhibits B1 and B2) shall be the official site and landscape plans for the proposal. Any changes to the approved plans are governed by SCC 30.42C.110.
- C. Prior to initiation of any further site work:
  - i. The applicant shall label and/or sign the existing on-site fire hydrant west of the lameness evaluation arena, "Not connected to the City Water Main, Limited Capacity Water Supply" to the satisfaction of the City of Snohomish.

- ii. The applicant shall paint the top (bonnet) and nozzle caps of the existing on-site fire hydrant located near the northwest corner of the parking area facing 92<sup>nd</sup> Street SE red to indicate a flow rate of less than 500 gallons per minute available to the satisfaction of the City of Snohomish.

D. Prior to the issuance of any development/construction permits:

- i. All site development work shall comply with the requirements of the plans and permits approved pursuant to Condition A, above.
- ii. The applicant shall pay an impact fee to Snohomish County for traffic impacts to Transportation Service Area C in the amount of \$852.00 [30.66B.310 SCC].
- iii. A Land Use Permit Binder shall be recorded with the County Auditor on a form provided by PDS. Once recorded, a copy shall be provided to PDS for inclusion in the case file.

E. In conformance with applicable standards and timing requirements:

- i. Storm water drainage measures shall be implemented.
- ii. Interior circulation area improvements and any general site landscaping shall be implemented consistent with the official site plan and exhibits.

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 7<sup>th</sup> day of August, 2009.

*Barbara Dykes*

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, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **AUGUST 17, 2009**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

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

The grounds for seeking reconsideration are limited to the following:



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

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

### **Appeal**

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2<sup>nd</sup> Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **AUGUST 21, 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: Darryl Eastin

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

**This decision is binding but will not become effective until the above precondition(s) have been fulfilled and acknowledged by the Department of Planning and Development Services (PDS) on the original of the instant decision. Document(s) required for fulfillment of the precondition(s) must be filed in a complete, executed fashion with PDS not later than AUGUST 6, 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.

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**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)