

**DECISION of the SNOHOMISH  
COUNTY HEARING EXAMINER**

DATE OF DECISION: January 14, 2010

PLAT/PROJECT NAME: ***SNOHOMISH COUNTY FIRE DISTRICT #19 - STATION 94***

APPLICANT/  
LANDOWNER: Snohomish County Fire District #19

FILE NO.: 09-103884-000-00-LU

TYPE OF REQUEST: Major Revision to a Conditional Use Permit (CUP) (ZA 01-107242 LU) to allow a 6750 square foot addition to an existing fire station

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

**BASIC INFORMATION**

GENERAL LOCATION: 2720 212<sup>th</sup> St NW, Stanwood, Washington

ACREAGE: 9.08 acres

ZONING: R-5

COMPREHENSIVE PLAN DESIGNATION: Rural Residential

School District: Arlington School District No. 16

Fire District: Fire District No. 19

Water Source: Well

Sewer Service: On-site Septic System

PDS STAFF RECOMMENDATION: Approve with Conditions

## **INTRODUCTION**

The applicant filed the request for a major revision on June 22, 2009, which was determined on July 20, 2009 to be complete as of the date of submittal. (Exhibit H)

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 Determination of Nonsignificance (DNS) was made on October 12, 2009. (Exhibit E.2) The DNS was not appealed.

The Examiner held an open record hearing on December 8, 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 here made a part of this file as if set forth in full herein.
2. Summary of Proposal:

Snohomish County Fire District 19 ("The District") is requesting a major revision to an existing CUP to construct a 6,750 square foot building addition to the existing 7,724 square foot facility.

The existing CUP was approved under file number 01-107242 for an unstaffed volunteer facility (i.e., no personnel permanently housed on site). This current proposal is to allow a building expansion of 6,750 square feet to provide crew quarters, a day room, offices, an exercise room, a kitchen/dining room, and storage. A new drive-through apparatus bay is proposed on the west side of the existing building, and an attached shop is proposed on the southwest corner of the building.

The site plan approved for the existing CUP shows a future addition of 3,200 square feet. However, the District's needs have increased since then, necessitating a larger addition. The station will also be changing from all volunteer, with no full-time staff on site, to a staffed station. These two changes resulted in the determination that a major revision is necessary pursuant to SCC 30.42C.110(2)(b).

Former Hearing Examiner John Galt originally approved a CUP on November 19, 1998, under PDS file number 98-102602. However, the preconditions were not fulfilled prior to the approval's expiration, and Deputy Hearing Examiner Peter Donahue voided the approval on August 14, 2000. The primary reasons that the preconditions were not fulfilled were related to

the problems completing a short plat that the District had proposed. The short plat was never completed, and the current request does not include a subdivision. Examiner Donohue subsequently approved the present CUP (file no. 01-107242).

3. Site Description

The subject property is a roughly rectangular parcel 9.08 acre in area, fronting the west side of Happy Valley Road and the south side of 212th Street NW. The topography of the site slopes down toward the southwest; the slopes from Happy Valley Road and the east part of 212<sup>th</sup> Street NW are relatively steep. Critical areas on site consist of a large wetland along the south side and a smaller wetland in the northwest corner. The site is developed with Fire Station Number 94.

A well for the proposed development is located in the northeast central part of the site, while another domestic well, belonging to a neighboring property owner, is located near the south property line just east of the edge of the wetland area. That well and its transmission pipe are protected by an easement.

4. Adjacent Zoning/Uses.

The vicinity of the site is developed with rural scale single-family residences generally on large parcels, intermingled among some agricultural uses and wooded tracts. Zoning for most of the area is R-5.

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

5. Noise.

The District has indicated in the past that pagers, rather than sirens, will be used whenever possible to minimize noise. The existing conditional use permit includes Condition D:

“An alarm siren may be used in those emergency situations where the normal pager call-out system would be ineffective.”

A similar condition is recommended to be required as a condition of approval of the major revision to the existing CUP. This condition regarding the limited use of sirens is necessary to document that the emergency-response nature of this facility may occasionally result in the need to do so. In the unlikely event that regular use of the siren becomes common, neighbors may file a petition with the Examiner to seek review of the condition allowing its use, pursuant to SCC 30.42C.210. PDS recommends a condition that any needed alarm system be internal to the building, except in emergency situations (as defined by the District). The Examiner will condition the project to limit the use of an alarm system inside the building only, except when the District deems it necessary to protect public health and safety.

6. Lighting.

Exterior lighting in a rural area is a potential issue of concern due to the overall darkness of the area. The large parcels in the Happy Valley area means the area is darker than many rural areas. As a result, exterior lighting can have a noticeable effect on nearby residents.

The existing CUP includes Condition E:

“Any and all exterior lighting onsite shall be shielded so as not to cast any direct glare onto adjacent and nearby private properties and public roads.”

This condition is required as a condition of approval of the major revision to the existing CUP.

Off site glare from headlights was addressed in the Decision of the Deputy Hearing Examiner for the existing CUP:

“A landscaping berm(s) and/or vegetation with a total combined height (measured from the finished grade of the adjacent parking area) of not less than 3.5 feet at time of installation shall be constructed along the entire south edge of the vehicle parking area as found necessary by the Department of Planning and Development Services to form a visual screen against headlight glare onto adjoining properties to the south and southwest.”

The proposed new parking stalls at the back of the station face existing dense evergreen vegetation to the south and southwest. The proposed new stalls at the front of the station face the steep topography leading up to Happy Valley Road. Both situations suggest that off site glare from vehicle headlights is not likely to shine on adjacent properties. Additionally, PDS has not received any complaints from neighbors since the station opened in 2004. Therefore, PDS does not recommend a condition regarding a berm or additional vegetation. In reviewing the matter, the Examiner likewise does not feel any additional landscaping or a berm is necessary.

7. Color of the Existing Water Tank.

The Decision of the Deputy Hearing Examiner included this condition regarding the finished color of the existing 25,000 gallon water tank:

“The water tank shall be painted light to medium green to blend in with surrounding vegetation.”

The District requested a minor modification to the CUP in August, 2003, to use the unfinished grey color of the concrete as the approved color for the tank. This request was approved by PDS on August 29, 2003, (Exhibit A.5) with the revised condition being:

“The water tank shall be colored a neutral shade of gray to blend in with surrounding vegetation, terrain, and structures.”

The water tank is completed, and remains a neutral shade of grey; therefore, no condition regarding the color of the tank is proposed.

8. Water Supply and On-Site Sewage Disposal System.

Approval of the building expansion by the Washington State Department of Health (DOH) is required due to the structure’s location within the well protection radius. The Snohomish Health District (SHD) is reviewing the project’s water system and the on-site sewage disposal system.

Although approvals by the DOH and the SHD have not yet been finalized, these approvals are feasible and likely. The applicant’s consultants and the two agencies have been working toward such an approval.

A similar approval-timing situation existed just prior to the public hearing for the existing CUP. The PDS staff recommendation included a condition requiring that the SHD and the DOH

approve the project prior to issuance of a building permit. However, the Decision of the Deputy Hearing Examiner included Conclusion 10:

“The conditions of approval recommended by PDS are reasonable, supported by the evidence and capable of accomplishment. They shall be imposed herein, with adjustments to language and timing as appropriate, and with the exception of the recommendations regarding SHD and DOH approval of the onsite sewage disposal system and water system, respectively. Those are administrative matters relating more directly to building permit review than to the issues of conditional use. The conditions would be redundant and are unnecessary as special conditions of the conditional use permit.”

The requirement for approval by the SHD and the DOH for a project such as this one is standard practice at PDS. Based upon this standard practice, and upon Conclusion 10 from the Decision of the Deputy Hearing Examiner, PDS included no recommended preconditions or conditions regarding approval by the SHD and/or the DOH in its staff report. The Examiner will not include any preconditions or conditions in the approval.

#### **Compliance with Performance Standards.**

NOTE: As a major revision to the original CUP application, this decision will supersede the original decision approving the CUP under file number 01-107242 LU.

#### 9. Parks Mitigation.

This proposal does not meet the definition of “development” as per SCC 30.91D.200 and consequently, is not subject to parks mitigation fees in accordance with SCC 30.66A.010 (3).

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

##### *General Information*

- The original CUP (PFN 01-107242) was approved for an unstaffed volunteer facility (i.e., no personnel permanently housed on site). This current proposal is a Major Revision to the CUP site plan to allow building expansion of 6,750 square feet to provide (in part) crew quarters, day room, offices, exercise room, kitchen/dining room, and storage. A new drive-through apparatus bay is proposed on the west side of the existing building, and an attached shop is proposed on the southwest corner of the building.
- The subject property is located at 2720 212<sup>th</sup> Street NW, in Transportation Service Area (TSA) “A”, outside the Urban Growth Area (UGA).
- The plan used for this review was received by PDS on June 22, 2009.
- There are no approved EDDS deviations associated with this project.

##### 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 station was originally constructed in 2004 as an all volunteer station, and that was approved by the CUP decision dated May 24, 2002.

The trip generation for this proposal is based on the applicant's description of the use, and based on the proposed improvements to the site, because there are no similar uses in the ITE Trip Generation handbook. Daily trips were estimated for the existing station in both its historic all volunteer operation mode and for the proposed station expansion where staff will be full-time. Trip generation is based on travel patterns of the existing fire station and staffing data provided by the station's fire chief Keith Strotz.

The historic fire station staffing level can be described as all volunteer. Staff responding to incidents could vary from 2-25 personnel. Fire station personnel would carry pagers which would provide notice that an incident has occurred. Given the fact that no information is known about an incident in advance of arrival at the fire station, all available personnel would respond to a call. The number of incidents that were responded to in 2004 was 353 calls with an average of 9 staff members responding to each call. This results in an average daily traffic volume of:

Nine (9) staff members x 2 (trip in plus trip out) x 353 calls averaged over 365 days per year = 17.4 ADT.

The incident response trips associated with the expanded fire station are expected to incrementally increase on an annual basis, but not directly as a result of the station expansion. However, the change in staffing from all volunteer to full-time will create changes in the pattern and frequency of trips, specifically in how the station responds to incidents.

The expanded station will host a total of three full-time employees during daytime operations and two during night operations. Employees will work either a 24-hour shift or a 12-hour shift. Average daily trips for the expanded fire station are based upon a summary of the incident responses for Station 94 from last year. The station responded to 534 calls in 2008. In addition to the full-time staff, the station is supplemented by volunteers who assist with the less routine incident responses. On average two volunteers will respond to approximately 80 calls over the course of the year. This is approximately 15% of the total call volume.

Based on data from the incident responses, it is estimated that there will be an average of approximately 1.5 responses to incident calls per day, for a total of three total trips (1.5 entering, 1.5 exiting). There are six trips (three incoming, three outgoing) by employees each day during the AM hour and three trips (one incoming, two outgoing) each day during the PM period. The volunteer response amounts to approximately 0.9 ADT based on the abovementioned figures. Consequently, the average daily traffic generated as a result of incident responses and employee commuting is estimated at 12.9 vehicle trips.

Other trips due to public visits, training, meetings, postal deliveries, delivery of supplies, supervisor visits, and volunteer visits do not occur on a daily basis, but are spread out during the week. These other trips average out to approximately six trips (three entering, three exiting) per day. It is assumed that these trips did not occur when the station was all volunteer; a conservative assumption.

It is therefore estimated that there will be a total of 18.9 average daily trips for the remodeled and expanded fire station (12.9 for fire station operations + 6 for miscellaneous trips). 18.9 ADT projected for the current proposal - 17.4 ADT approved for the original use = 1.50 ADT. Even though the number of calls has increased by 50% over the last 4 to 5 years, this increase has

been mitigated by the transition to full-time staffing which reduces significantly the number of unnecessary volunteer trips that historically have responded to emergency calls.

The development will generate 1.50 new average daily trips (ADT). A road system impact fee will not be required for this development.

B. Concurrency [SCC 30.66B.120]

"Level-of-service" (LOS) means a qualitative measure describing operational conditions within a traffic stream, and the perception thereof by road users. 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 development has been deemed concurrent on the following basis:

The subject development has been evaluated for concurrency under the provisions of SCC 30.66B.120 and is concurrent as of September 18, 2009. The expiration date of the concurrency determination is six years from this date. Consistent with DPW rule 4225.070 the point in time for which the concurrency analysis is based (the concurrency vesting date) is June 22, 2009.

Development generating 50 or fewer peak-hour trips in TSA with no arterial unit in arrears, SCC 30.66B.130 (4): The subject development is located in TSA A, which as of the date of submittal of the application had no arterial units in arrears. The subject development generates 0 new AM peak hour trips and 0 new 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.

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

Regardless of the existing LOS, any development which adds three or more p.m. peak-hour trips to a location in the road system determined to have an existing IRC at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC.

The subject development proposal will not impact any IRC locations identified within TSA A with three or more 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]

(1) 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.

(2) The improvement standard will be established by the director of public works in

accordance with SCC 30.66B.430 and as outlined in the department of public work's administrative rules on frontage improvements.

The subject property frontage is located along Happy Valley Road and along 212<sup>th</sup> Street NW. The need for frontage improvements was reviewed by DPW and it was determined that no frontage improvements will be required for this development in lieu of full frontage improvements. This decision was based on the provisions of DPW Rule 4222, which pertains to frontage improvements.

DPW Rule 4222.020 allows DPW to make determination on the need and degree of frontage improvements as follows:

*(1) The required frontage improvement standard will be full standard improvements unless otherwise provided by this section. All developments, except duplexes on existing tax lots, will be required to make full standard frontage improvements unless the Department of Public Works (DPW) determines that a development is not required to make full standard improvements in accordance with DPW Rule 4222.030 or 4222.040 below, as determined by DPW.*

*(2) Where DPW determines that a development is not required to make full standard frontage improvements, as stated above, a less than full standard frontage improvement will be required.*

...

*(c) Minimum frontage improvements shall consist of paved driveway aprons at each access point along the development's frontage.*

The decision to require minimum frontage improvements for the development was based on the following provisions of DPW Rule 4222:

*(1) Engineering reasons which may preclude the construction of full standard frontage improvements may include the following:*

...

*(e) The parcel abuts a road in the rural area with less than one half (1/2) of a mile of frontage, and no other full standard frontage improvements exist within one half (1/2) of a mile of the development, nor are anticipated to be constructed within one half (1/2) of a mile of the development within the next six years, and the frontage is not within one half (1/2) mile of an existing or proposed public facility such as a school, park, bus stop or walkway, or other attractor such as a neighborhood business, to which pedestrian access should be provided.*

...

*(g) There are other significant reasons as determined by Public Works which may also preclude the construction of full standard frontage improvements at the time of development.*

One such reason for the decision was based on the topography of the site along the property's frontage on Happy Valley Road, which includes steep slopes down from the road.

The development will not be generating new ADT with this proposal, and does not currently have an access on Happy Valley Road nor is there a proposal for a new access on Happy Valley Road. The situation seems to meet item (e) above, because there are no other full standard frontage improvements within one-half mile of the development, nor is there anticipated to be within the next six years, and there is no pedestrian attractor to which pedestrian access should be provided. SCC 30.66B.430 (1) specifies:

*The extent of frontage improvements, offsite road improvements, or access and transportation circulation improvements necessary to meet the requirements of this chapter and Title 13 SCC will be established by the director of public works. Item (3) of that section of code states: In determining improvements required, the director of public works will consider, with other relevant factors, the following:*

- (a) *Extent of the development proposed (no new trips are proposed); which is the most applicable of the list of 16 other factors, but the following items would apply as well:*
- (d) *Existing and projected land uses and development densities; (the zoning is R-5 of the area, and very sparsely developed)*
- (e) *Current and projected levels of service on the affected road system (Happy Valley Road is nowhere near a critical arterial unit, nor predicted to be);*  
...
- (l) *The need for pedestrian and bicycle facilities (the proposed development offers activities/exercise facilities on site, there is no reason for pedestrians or bicyclists to be generated by the development on Happy Valley Road);*
- (m) *Continuity with existing and proposed improvements (if full standard frontage improvements were required, the improvements would not match the rest of the existing road corridor);*
- (o) *The need for safety improvements for school children (the proposed development will not generate children attending school); and*
- (p) *The types, sizes and performance of vehicles generated by the development, including but not limited to large trucks (The fire station has been in operation using emergency vehicles since 2004 without any known detrimental effects to the road system, and this proposal will not generate new trips on the road system.)*

In addition, the Hearing Examiner's Decision dated May 24, 2002 for the fire station building CUP did not include a requirement for frontage improvements on either road. 212<sup>th</sup> Street NW already has a constructed pavement width of 30 feet. For all the reasons detailed above, no frontage improvements will be required by DPW/PDS.

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 to the site will be from 212<sup>th</sup> Street NW. No change in the existing access is proposed, and the existing access was approved in the original review and approval of the CUP for the fire station building. There will be no requirements related to this section of the code.

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 following text was taken from the May 24, 2002 Decision for the CUP, and following the paragraph below is an update for this review:

*Prior to the issuance of any building permit for the subject fire station development:*

*i. Fifteen feet of additional right-of-way width on the Happy Valley Road frontage shall be deeded by statutory warranty deed, along with a 35-foot radius return connecting with 212<sup>th</sup> Street NW and any additional area necessary to provide adequate sight distance at the intersection in conformity with applicable standards.*

According to the PDS staff report, the above described right-of-way was deeded to Snohomish County and no additional right-of-way is necessary. (Exhibit H at 9)

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.

This development is subject to SEPA and thus is subject to an Interlocal Agreement (ILA) with the WSDOT/County effective December 21, 1997, and as amended through the date of completeness for this application.

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

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 ILA between the County and the other jurisdictions.

There are no other city jurisdictions that have an ILA with the County that will be significantly impacted by the subject development.

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.

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

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

12. Drainage and grading.

A. Drainage.

The fire station's existing stormwater drainage system was designed and constructed with a similar expansion in mind. The applicant submitted a Targeted Drainage Report (Exhibit C.2) that demonstrates that the stormwater pond was designed to treat and detain 66,650 square feet of impervious area. Of this total, 212<sup>th</sup> Street SW is approximately 15,260 square feet. The impervious area associated with the existing improvements and the proposed expansion area is 46,978 square feet and 3,997 square feet respectively. These areas total 66,235 square feet which is less than the design area.

The site consists of a single drainage basin tributary to a small stream located south of the site. The site drains to the west, to an agricultural ditch and then southeast toward Happy Valley Road. Stormwater runoff will be collected and conveyed in pipes and catch basins (both existing and proposed) to the existing stormwater pond located on the westernmost portion of the property. Water quality treatment will be provided in the existing detention pond which was designed to accommodate the proposed expansion.

PDS (Engineering) has reviewed the concept offered and is recommending approval of the project, subject to conditions which would be imposed during full drainage plan review pursuant to Chapter 30.63A SCC. The Hearing Examiner will require as a condition that a full drainage plan be required before any permits are issued.

B. Grading.

Grading quantities are anticipated to be approximately 400 cubic yards of cut and 350 cubic yards of fill, primarily for parking lot and construction of the addition. Water quality would be controlled during construction by use of silt fences and straw bales in accordance with a Temporary Erosion and Sedimentation Control Plan (TESCP) required by Chapter 30.63A SCC.

13. Critical Areas Regulations (CAR) [Chapter 30.62 SCC]

Protection of the critical areas on site was accomplished as part of the original CUP. The buffers and wetland areas are delineated on site with Native Growth Protection Areas. A Critical Areas Site Plan was reviewed, approved, and recorded as part of the existing CUP, and building and grading permit process.

The proposed expansion will not impact any critical areas on the site.

14. 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 Rural Residential (1 DU/5 Acres Basic). This designation includes lands which were designated as Rural or Residential Estates on pre-GMA subarea comprehensive plans. The implementing zones within this designation are the Rural-5 Acre zone and other zones with a minimum lot size requirement larger than 5 acres.

The proposal is for the revision and enlargement of an existing fire station, a use which is allowed as a conditional use in the R-5 zone.

15. Zoning.

Fire stations are allowed as a conditional use in the R-5 zone. The proposal meets zoning code requirements relating to access (30.24), building setbacks, height and lot coverage (30.23), landscaping (30.25) and parking (30.26).

16. Utilities

A. Water. Approval from the Washington State Department of Health and the Snohomish Health District is pending, and will be required to be documented by PDS prior to issuance of any building permits. (See Exhibit H) Sewer. Sewage disposal will continue to occur through on-site septic. Approval by the Snohomish Health District is pending, and will be required to be documented by PDS prior to issuance of any building permits. (Exhibit H)

B. Electricity. The Snohomish County PUD (PUD) currently is supplying electricity to the fire station. The PUD was asked to comment on the project, and also was routed a copy of the Determination of Nonsignificance; no responses were received by PDS. There is no indication that the PUD will not continue to supply electricity to the site.

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

PDS issued a DNS for the subject application on October 12, 2009 (Exhibit E2). PDS did not receive any comments during the comment period and the DNS was not appealed.

18. 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.

**Consistency with the Comprehensive Plan ((1) (a)):**

The Examiner finds little direction in the General Policy Plan in direct support of the major revision to the CUP. However, as pointed out in the PDS staff report, the GPP states at page CF-22:

*Construction of new district fire stations is often funded by bonds approved by district residents, who thereby determine their acceptable level of service.”*

Fire District 19 passed Proposition 1 on August 19, 2008, authorizing the issuance of \$1.5 million in general obligation bonds to expand and renovate Station 94. The district residents thereby determined their acceptable level of service as defined by the GPP. The comprehensive plan generally encourages better levels of service for any type of public service that affects public health and safety, especially those such as fire and police. In this case, with the passage of the general obligation bonds, it is clear that the public desires and is willing to pay for better public services. The Examiner sees no obstacle presented by the comprehensive plan to approving this application.

**Consistency with the Applicable Requirements of this Title ((1) (b)):**

The Examiner finds that the application for a major revision of the CUP complies with the applicable requirements of Title 30 SCC, as demonstrated in the Findings of Fact in this decision. Further evidence is submitted below.

i. Building height and setbacks:

The maximum building height in the R-5 zone is 45 feet. The height of the highest part of the proposed addition is 23 feet 5 inches, and therefore is well within compliance.

The minimum building setback in the R-5 zone when the subject property adjoins a rural zone is five feet, and 20 feet from the edge of the right-of-way (ROW) of 212<sup>th</sup> Street NW. The proposed apparatus bay is the closest proposed structure to any property line or ROW, and is more than 60 feet at its closest point.

ii. Parking:

Section 30.26.030(1) requires three stalls per 1,000 square feet of building area for governmental buildings. The site plan for the existing CUP (referenced as Exhibit 22A - E in the Decision of the Deputy Hearing Examiner, and included in this case as Exhibit B.1c) indicated a total of 24 parking spaces for the existing station; the completed project will have 46 stalls. This represents an increase of 22 stalls.

The gross floor area of the completed addition together with the existing building will be 14,474 square feet. The ratio of parking stalls to floor area will then be three stalls per 944 square feet and therefore in compliance.

Additional pavement is available in several locations should overflow parking be necessary for infrequent events.

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 3,450 SF, or 10.3% of all paved parking and driving surfaces. The wooded areas surrounding much of the site makes the total landscaping area appear much greater.

SCC 30.25.020(4) requires a 10 foot wide Type B landscape screen between any development permitted as a CUP and road frontage. The existing property line at Happy Valley Road is more than 170 feet to the nearest pavement, and more than 300 feet to the nearest building. The vegetation in this area is grassy, and was approved as part of the existing CUP; no change to this area is proposed.

The perimeter landscaping at 212<sup>th</sup> Street NW is existing, and is in compliance with SCC 30.25.020(4).

SCC 30.25.020(1) requires no perimeter landscaping for any development permitted as a CUP in the R-5 zone. The existing wooded areas of the site will be retained, and represent a heavily landscaped area.

**The Proposal will not be Materially Detrimental to the Uses or Property in the Immediate Vicinity ((1) (c)):**

The Examiner finds that because the property is and will continue to be used as a fire station, the proposal will not be detrimental to uses or to property in the immediate vicinity. It has not received any complaints since being built, according to evidence presented at the hearing. As noted previously, the fire station was granted a CUP in 2002. The change from an unstaffed station to a staffed station is not likely to be detrimental to uses or property in the immediate vicinity because the modifications proposed will not change the number of calls for response. The only difference will be that firefighters will be at the station when a call is received – rather than coming to the station before or after a call is received and responded to, then leaving to go home, as a volunteer firefighter would do.

**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 ((1)(d)):**

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 properties. The current uses surrounding the fire station include residences, small farms, and large wooded lots.

The Hearing Examiner finds that the proposed major revision to the CUP, in conjunction with the existing CUP, subject to the conditions of approval included in this decision, is consistent with the comprehensive plan and complies with the applicable requirements of this title.

Applicable conditions of approval of the existing condition use permit will continue to apply to the proposal aside from those conditions from the existing CUP that only pertained to the original construction of the station.

### **CONCLUSIONS OF LAW**

1. The Examiner has original jurisdiction over CUP applications pursuant to Chapter 30.72 SCC, Chapter 30.42C SCC and Chapter 2.02 SCC.
2. In considering the major revision, application of many of the decision criteria require the exercise of discretion by the Hearing Examiner.
3. The Hearing Examiner concludes 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 conditions determined by the Examiner to be necessary in the Findings of Fact and outlined below in the Decision, the proposal will make adequate provisions for public health, safety and general welfare.
5. The Examiner concludes that the proposed major revision of the CUP, with the conditions of approval as outlined below, will be consistent with the comprehensive plan and comply with the applicable requirements of Title 30 SCC.
6. The Examiner concludes that the major revision of the CUP, with the conditions of approval as outlined in the Decision below, will not be materially detrimental to uses or properties in the immediate vicinity.
7. The major revision of the CUP, with conditions of approval as outlined in this Decision, 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, and vice versa.

### **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 the **CONDITIONAL USE PERMIT** is hereby **CONDITIONALLY APPROVED**, subject to the following **CONDITIONS**:

## **CONDITIONS**

- A. This CUP supersedes and replaces the CUP approved under county planning file number 01-107242.
- B. The CUP site, landscape, and floor plans received by PDS on June 22, 2009 (Exhibit B.1.a through B.3) shall be the approved site configuration. Changes to the approved site plan are governed by SCC 30.42C.110.
- C. Any necessary alarm system shall be internal to the building, except that an alarm siren may be used in those major emergency situations where the normal in-building alarm would be ineffective, as determined in the discretion of the District.
- D. Any and all exterior lighting on-site shall be shielded so as not to cast any direct glare onto adjacent and nearby private properties and public roads.
- E. Prior to initiation of any further site work and/or prior to issuance of any development/construction permits by the county:
  - i. A Land Use Permit Binder shall have been completed, signed, and recorded with the county Auditor's Office. (Form can be obtained from PDS)
  - ii. A grading permit, to include a Storm Water Pollution Prevention Plan (SWPPP), issued pursuant to Chapter 30.63B SCC shall have been obtained for any on-site grading.
  - iii. A full drainage plan shall have been submitted and approved pursuant to Chapter 30.63A SCC.
  - iv. All site development work shall comply with the requirements of the plans, landscape modification, and permits approved pursuant to Condition A, above.

Nothing in this permit 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 14th day of January, 2010.

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Barbara Dykes, Hearing Examiner

**THIS APPROVAL SUPERSEDES ALL PREVIOUS APPROVALS AND CONDITIONS GRANTED ON THIS PROPERTY, SPECIFICALLY HEARING EXAMINER DECISION 01-107242 LU.**

## 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 **JANUARY 25, 2010**. 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 **JANUARY 28, 2010** 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.

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Staff Distribution:

Department of Planning and Development Services: Tom Barnett

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