



**DECISION of the
SNOHOMISH COUNTY HEARING EXAMINER**

Gordon Sivley
Hearing Examiner

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

(425) 388-3538
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DECISION DATE: July 19, 2013

PROJECT NAME: **Bambini Montessori Day Care Center**

APPLICANT: Seungcheol Shin
14727 42nd Ave West
Lynnwood, WA 98087

FILE NO.: 12-101964 LU

TYPE OF REQUEST: CONDITIONAL USE PERMIT (CUP)

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

GENERAL LOCATION: 14727 42nd Avenue West, Lynnwood

ZONING: MR

COMPREHENSIVE PLAN: Urban High Density Residential (UHDR)

PDS RECOMMENDATION: Approve, subject to the recommended conditions

A. BACKGROUND INFORMATION

1. The Record. The official record for this proceeding consists of the Exhibits entered into evidence (Exhibits A.1 through J), as well as the testimony of witnesses received at the open record hearing. The entire record was admitted into evidence and considered by the Examiner in reaching the decision herein.

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

2. Parties of Record. The Parties of Record are set forth in the Parties of Record Register and include interested parties who testified at the Open Record Hearing.

3. Public Hearing. The Hearing Examiner held an Open Record Hearing on July 10, 2013. Witnesses were sworn, testimony was presented, and exhibits were entered into the record at the hearing. Notices of the application and public hearing were issued according to the provisions of SCC 30.70.050(5). (Exhibits F.1, F.2, and F.3)

David Levitan appeared and testified on behalf of Snohomish County Department of Planning and Development Services (PDS). Appearing and providing testimony for the Applicant were Ben Kim and Seungcheol Shin.

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

B. FINDINGS OF FACT

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

1. Application Request. The Applicant requests approval of a CUP for a 25-child day care center within the MR zone. The proposal includes seven parking spaces (five new), stormwater and sidewalk improvements, and new perimeter landscaping around the parking and outside play areas. Access to the site will be from 42nd Avenue West. Water and sewer will be provided by Alderwood Water and Wastewater District.
2. Site Description. The site is comprised of one parcel that totals 0.27 acres in size, and is located at the northeast corner of 148th Street SW and 42nd Avenue West in unincorporated Lynnwood. There is one existing single-family residence on the site, which is currently operating as a 12-child day care, as licensed by the State of Washington and permitted by RCW 36.70.757. Site soils are classified as Alderwood Urban Land Complex according to the USDA Soil Conservation Service and the site slopes gently to the west. There are no critical areas on or within 300 feet of the site.
3. Adjacent uses. Adjacent and surrounding uses are a mix of low and medium density residential. Adjacent properties are zoned MR and LDMR, with properties further to the north and west zoned PRD-7200 and R-8400.
4. Project Chronology. The subject application was submitted to PDS on March 9, 2012, and was determined to be complete, as of the date of submittal. On April 27, 2012, PDS provided the Applicant with a list of items that needed to be addressed in order for the County to continue its review of the proposal. A resubmittal of the application was received on April 17, 2013, which was determined to be sufficient for further review. As of the hearing date, 128 days of the 120-day review period had elapsed. On May 1, 2012, the Applicant submitted a letter waiving the 120-day clock. (Exhibit A.4)
5. State Environmental Policy Act Compliance. The proposal is categorically exempt from SEPA as minor new construction, in accordance with SCC 30.61.035 and WAC 197-11-800.
6. Issues of Concern.
 - A. Public Agency Review. No significant issues of concern were raised by reviewing agencies.
 - B. Citizens. The County received two comment letters from the public in response to the Notice of Application for the CUP application. The first comment letter (Exhibit I.1) noted that there was an existing day care operating on the property, and requested that the day care employees be required to park on the subject property, as it was their belief that

several employees (as well as construction crews) were parking along 147th Street SW (northwest of the subject property), resulting in only one lane of passable traffic on their cul-de-sac. The second comment letter (Exhibit I.2) raised similar concerns regarding the existence of the current day care and parking issues along 147th Street SW, as well as increased traffic and vehicles backing out from the subject property onto 42nd Avenue W.

Tom Osberg, who live across 148th Street SW from the project site, testified that he was concerned that an expansion to 25 children was excessive considering the existing traffic congestion problems occasioned by parents dropping off and picking up their children from the current 12 – child facility as well as school bus stop traffic and traffic associated with parents bringing their children to the bus stops.

7. Applicable Regulations.

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

- The proposal is consistent with the comprehensive plan;
- The proposal complies with applicable requirements of [Title 30 SCC];
- The proposal will not be materially detrimental to uses or property in the immediate vicinity; and
- The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.

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

The proposed day care center is consistent with comprehensive plan goals to provide a wide range of services and infrastructure to support expanded population growth within Urban Growth Areas (UGA). The state Growth Management Act (GMA) requires that the county's development regulations be consistent with its comprehensive plan. Land Use Policy LU 2.E states that the County shall provide for reasonable flexibility in land use regulation and planning mixing of uses where appropriate, while Land Use Goal LU 4.A.2(a) directs the County to support family households and children by encouraging opportunities for day care, preschool, and school care services within close proximity of residential developments. LU Goal 4.A.2(c) states that new developments shall reduce the visual impacts of parking lots, which this proposal does. The proposal is a conditionally permitted use within the MR zone, while the plans submitted for the project have been deemed to be in compliance with county GMA development regulations relating to fire safety, traffic, drainage, and zoning. Overall, the proposed use and location is consistent with numerous goals and policies of the comprehensive plan.

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

1. Zoning Regulations.

Uses Allowed In Zones. The land use category of "day care center", as defined in SCC 30.91D.040, is allowed as a conditional use in the MR zone (SCC 30.22.100). The Applicant is currently licensed by the State of Washington to operate a 12-child daycare on the project site (as allowed by RCW 36.70.757), and has been in operation for approximately three years. (Exhibit G.1) The Applicant now requests the expansion of operations to allow a day care center serving up to 25 children, which requires a CUP in the MR zone.

2. Parking. SCC 30.26.030(1) requires day care centers to provide one parking space per employee, plus an off street load and unload area equivalent to one space for each 10 children. The proposal is required to provide six parking spaces, including one accessible space. The subject proposal provides seven parking spaces (including one accessible parking space), and includes a load and unload area that can accommodate a minimum of three parents.

Citizen comments (both the correspondence submitted prior to the hearing, Exhibits I.1 and I.2, and the testimony provided by Mr. Osberg at the hearing) raised concerns primarily about parking for the day care. In response to the comments regarding parking and traffic impacts, the Applicant has expanded and reconfigured its parking area. (Exhibit B.1) This has resulted in more parking for employees and parents picking up their children, and has been designed so that vehicles no longer need to back out onto 42nd Avenue W. The Applicant has also indicated that an employee carpool program will be implementing to reduce the need for employee parking.

3. Landscaping. All parcels surrounding the site are zoned MR. In general, SCC Table 30.25.020(1) requires that conditional uses provide a 20 foot Type A landscape buffer along property lines with adjacent properties that are zoned MR, and a 10 foot Type B landscape buffer along public roads (148th Street SW and 42nd Avenue W). However, SCC 30.25.012 notes that the landscaping requirements in Chapter 30.25 do not apply to development permits that result in changes in occupancy where the use would generate a need for five or less additional parking spaces over the number of existing spaces. To accommodate the proposed expansion of the existing 12-child day care to a 25-child day care center, the proposed use would result in five new parking spaces (for a total of seven spaces), and as such is exempt from the requirements of Chapter 30.25 SCC.

However, in an effort to address neighborhood concerns regarding the potential visual impacts related to the additional parking spaces, the Applicant has provided additional landscaping surrounding the parking area, as indicated on the landscape plan. (Exhibit B.3) The proposed day care center use includes an outdoor play area in the back yard of the property. Under the requirements of SCC 30.22.130(2)(b), outdoor play areas for day care centers must be fenced or otherwise controlled (the area is currently fenced), and noise buffering provided to protect adjoining residences. The Applicant has also provided landscaping along the southern, eastern, and northern property lines, which when combined with the existing fence, meets this requirement.

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

1. Traffic Mitigation and Road Design Standards. (Title 13 SCC & Chapter 30.66B SCC). The Traffic Review Section of PDS has reviewed the proposal for compliance with Title 13 and Chapter 30.66B SCC, Snohomish County Engineering Design and Development Standards (EDDS), and the appropriate policies and procedures. The subject property is located within Transportation Service Area (TSA) "D." (Exhibit H.6)

(a) Road System Impacts. (SCC 30.66B.310). The proposed facility will generate a total of 24.33 ADT (which includes a credit for the on-site TDM measures proposed as well as a 75 percent pass-by credit). Under the calculations made by PDS, the Applicant will be required to pay \$5522.26 for traffic impact mitigation on County roads in TSA "D".

(b) Concurrency. (SCC 30.66B.120). The County makes a concurrency determination for each development application to ensure the development will not impact a County arterial unit in arrears or cause a County arterial to go in arrears. The subject development has been evaluated for concurrency and has been deemed concurrent as of April 26, 2012. The expiration date of the concurrency determination is six years from that date.

(c) Inadequate Road Condition. (IRC) (SCC 30.66B.210). Regardless of the existing level of service, any development which adds three or more p.m. peak-hour trips to a location in the road system determined to have an existing IRC at the time of imposition of mitigation requirements, or development whose traffic will cause an IRC at the time of full occupancy of the development, must eliminate the IRC. The subject proposal will not impact any IRC locations identified at this time within TSA 'D' with three or more of its p.m. peak hour trips, nor will it create any. Therefore, mitigation will not be required with respect to inadequate road conditions and no restrictions to building permit issuance or certificate of occupancy/final inspection will be imposed under this section of Chapter 30.66B SCC.

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

Urban standard frontage improvements are required on 42nd Avenue West, consisting of 11 feet minimum of pavement from the right-of-way centerline (or up to 18 feet if possible to connect with the existing curb and sidewalk return), vertical curb, 5-foot planter and five-foot sidewalk. EDDS 4-05 (B) requires a sidewalk width of five feet for areas with a residential zoning, which is the case for this development.

148th Street SW has been improved between SR 99 and west of the intersection with 52nd Avenue West by the County with three lanes (west bound and east bound travel lanes and a center turn lane), bicycle lanes, and on both sides; vertical curb and five-foot wide concrete sidewalks. Therefore, no further improvements are needed to 148th Street SW by this development.

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

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

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

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

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

The development has frontage on 148th Street SW (a collector arterial road) and on 42nd Avenue West (a non-arterial road), but the existing access is on 42nd Avenue, and that is not proposed to change with this application. A drop curb commercial driveway per EDDS Plate 2-025 is required at the access point. 42nd Avenue West is designated as a non-arterial road; therefore 25 ft. minimum/40 ft. maximum is required by EDDS 2-03 (C) for a two-way commercial driveway on a non-arterial road. The plans show a width of 28 feet for the access point, which is acceptable. The minimum corner clearance spacing required by EDDS 2-060 between a commercial driveway and another road on a non-arterial road is 50 feet. The space between the inside edge of the driveway and 148th Street SW is approximately 50 feet, which meets the minimum requirement.

Sight distance at the existing driveway on 42nd Avenue West meets the minimum requirements of EDDS 3-08.

(f) Right-of-Way Requirements. (SCC 30.66B.510 and .520). A development is required to dedicate, establish or deed right-of-way to the County for road purposes as a precondition of approval of the development, when to do so is reasonably necessary as a direct result of a proposed development, for improvement, use or maintenance of the road system serving the development.

42nd Avenue West is designated as a non-arterial road on the County's Arterial Circulation Map. This requires a right-of-way width of 30 feet on each side of the right-of-way centerline. 30 feet already exists on both sides of the right-of-way centerline. Therefore, no additional right-of-way is needed.

148th Street SW is designated as a collector arterial road on the County's Arterial Circulation Map. This requires a right-of-way width of 35 feet on each side of the right-of-way centerline. A minimum of 35 feet already exists on the north side of the right-of-way centerline. Therefore, no additional right-of-way is needed.

The Examiner has reviewed the analysis and finds that there is substantial evidence in the record to support the required road and transportation improvements recommended by PDS and the Department of Public Works (DPW).

(g) Impacts to State Highways. (SCC 30.66B.710). When a development's road system includes a state highway, mitigation requirements will be established using

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

Comments dated March 21, 2012 (Exhibit H.2) have been received from WSDOT indicating the project will not have a significant adverse traffic impact upon state highways. WSDOT does not request any traffic mitigation from the Applicant. Therefore, no traffic mitigation will be required for impacts to state roads for this project.

(h) Impacts to City Streets and Roads in Another County. (SCC 30.66B.720). Mitigation requirements for impacts on streets inside cities and roads in other counties are to be established consistent with the terms of any Reciprocal Traffic Mitigation ILA between the County and the other jurisdictions. There are no local jurisdictions near the proposal that have ILAs with the County for traffic mitigation; therefore, the provisions of this section of code do not apply to this project.

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

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

A TDM plan has been approved for this project. The development will construct a five-foot wide sidewalk along the property frontage with 42nd Avenue W in order to meet the requirements of SCC 30.66B.410. The Applicant has obtained TDM credit, so a pedestrian facility that meets the EDDS and that joins the front building entrances directly with frontage improvements, and joins the front building entrances with all other on-site front buildings entrances, is required inside the development. This has been shown on the project plans.

(j) Other Issues or Items:

1. Drainage, Clearing and Grading – (Land Disturbing Activity). (Chapters 30.63A and 30.63B SCC). The proposed project has been reviewed by the Engineering Section within PDS for compliance with Chapters 30.63A SCC (drainage) and 30.63B SCC (land disturbing activity (LDA)/grading). A full drainage review will be conducted for the LDA permit which covers the construction of the proposed parking area, driveway apron and sidewalk improvements, including stormwater treatment. The Applicant is proposing less than 5,000 square feet of new impervious surfacing, less than 100 cubic yards of grading, and less than 0.75 acres of vegetation clearing for replanting into landscaping.

PDS's Engineering Section has determined that the project meets the requirements of SCC 30.63A and SCC 30.63B and the Drainage Manual, subject to conditions which will be imposed during full drainage plan review for the LDA permit.

3. Critical Areas Regulations. (Chapters 30.62A, 30.62B, and 32.62C SCC). There are no wetlands or other critical areas as defined by Snohomish County Critical Areas Regulations (CAR) identified on or within 300 feet of the subject property.

4. International Fire Code. (Chapter 30.53A SCC) The application was reviewed by the County's Fire Marshal Office. (see Exhibit H.6) The project was determined to be in compliance with Chapter 30.53A SCC (for the CUP only), subject to the following:

(a) A tenant improvement permit will be required for the change of use from a residence to a daycare facility. A more detailed review will be conducted when the tenant improvement permit is obtained.

(b) An onsite fire hydrant or another form of fire protection may be required.

5. Utilities. As indicated in correspondence received from the Alderwood Water and Wastewater District (Exhibit H.4), water and sewer will be available to serve this development. The Snohomish Health District has indicated that it has no objections to approval of the CUP (see Exhibit H.3). Snohomish County Public Utility District (PUD) did not respond to the County's request for review. However, the subject property is currently operating as a day care, and is located in a densely populated urban area that is already served by PUD.

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

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

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

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

Adherence to County development regulations and special conditions of approval attached to the CUP will ensure that the development will not be detrimental to the immediate vicinity.

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

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

The proposed day care center will operate in an existing residence that currently houses a licensed and permitted 12-child day care center. As part of her proposal to operate a 25-child day care center, the Applicant has proposed five additional parking spaces, as well as perimeter and parking area landscaping that goes beyond what is required by Snohomish County Code, in an effort to address any concerns regarding potential parking/traffic, noise and visual impacts that could be created by the expansion of the use. The outside play area is currently fenced, as required by SCC 30.22.130(2)(b), and will be supplemented by the aforementioned perimeter landscaping. The proposal is subject to a traffic impact fee of \$5,522.26 to mitigate for the expanded use's impacts on County roads, and will be required to install frontage improvements to the County satisfaction.

Accordingly, the Examiner finds that, with the revisions now proposed and under the conditions recommended by PDS, the proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.

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

C. CONCLUSIONS OF LAW

1. The Examiner has original jurisdiction over the CUP application pursuant to Chapter 2.02 SCC and SCC 30.72.020.
2. The Examiner concludes that the application is consistent with the requirements of SCC 30.42C.100.
3. The proposal is consistent with the GMACP; GMA-based County regulations, the type and character of land use permitted on the project site, the permitted density and applicable design and development standards.
4. Based on the totality of the facts in the record, the Examiner concludes that the proposal meets Zoning Code requirements parking, perimeter landscape buffers, parking area landscaping and other zoning code regulations and requirements, subject to the recommended conditions of approval.
5. Adequate public and/or private services exist to serve the proposal.
6. Conditioned as set forth below, the proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing or intended character, appearance, quality of development, and physical characteristics of the site and surrounding property.
7. Based upon the entire record and the Findings of Fact herein, the Examiner concludes that the proposal meets all of the requirements of the County's CUP regulations, provides for the public health, safety and welfare and should be approved, subject to the conditions set forth herein.
8. In issuing a CUP, the Examiner has broad discretion to impose conditions of approval. The Examiner may:

- (a) Increase requirements in the standards, criteria, or policies established by Title 30 SCC;
- (b) Stipulate the exact location as a means of minimizing hazards to life, limb, property damage, erosion, landslides, or traffic;
- (c) Require structural features or equipment essential to serve the same purpose set forth in 30.42C.100 (2)(b);
- (d) Impose conditions similar to those set forth in items 30.42C.100(2)(b) and 30.42C.100(2)(c) as may be deemed necessary to establish parity with uses permitted in the same zone in their freedom from nuisance generating features in matters of noise, odors, air pollution, wastes, vibration, traffic, physical hazards, and similar matters. The Hearing Examiner may not in connection with action on a CUP, reduce the requirements specified by Title 30 SCC as pertaining to any use nor otherwise reduce the requirements of Title 30 SCC in matters for which a variance is the remedy provided;
- (e) Assure that the degree of compatibility with the purpose of this title shall be maintained with respect to the particular use on the particular site and in consideration of other existing and potential uses, within the general area in which the use is proposed to be located;
- (f) Recognize and compensate for variations and degree of technological processes and equipment as related to the factors of noise, smoke, dust, fumes, vibration, odors, and hazard or public need;
- (g) Require the posting of construction and maintenance bonds or other security sufficient to secure to the county the estimated cost of construction and/or installation and maintenance of required improvements; and
- (h) Impose any requirement that will protect the public health, safety, and welfare.

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

D. DECISION AND ORDER

A CONDITIONAL USE PERMIT is APPROVED for operation of a Day Care Center serving up to 25 children on the subject property as described in the application, subject to the following **CONDITIONS:**

CONDITIONS

- A. The site plan (Exhibit B.1) received by PDS on April 17, 2013, shall constitute the official site plan. Any discrepancy between the content of the official site development plan and the performance standards of Title 30 SCC shall be resolved in favor of Title 30. SCC 30.42C.110 governs revisions to conditional use permits.
- B. The landscape plan (Exhibit B.3) received by PDS on April 17, 2013, shall constitute the approved preliminary landscape plan.
- C. A record of developer's 30.66B SCC mitigation obligations shall be recorded with the County Auditor. SCC 30.66B.070.

- D. Prior to any development activity (e.g. clearing, grading or filling) on the site and/or prior to issuance of any building permits by the County:
 - (1) The Applicant shall pay an impact fee to Snohomish County for traffic impacts to Transportation Service Area "D" totaling \$5,522,26 in accordance with the provisions of SCC 30.66B.340.
 - (2) As required by SCC 30.42C.200, a Land Use Permit Binder, on a form provided by PDS, shall be executed by the Applicant and recorded with the County Auditor.
- E. Prior to the issuance of certificate of occupancy/final inspections;
 - (1) Urban standard frontage improvements shall be constructed along the property frontage on 42nd Avenue West to the satisfaction of the County.
 - (2) Site improvements and landscaping depicted on the approved plans shall be installed, inspected and approved.
- F. This conditional use permit approval shall expire five years from the date of approval if construction of the proposed site improvements has not commenced within the five year period.
- G. Nothing in this permit/approval shall excuse the Applicant, owner, lessee, agent, successor or assigns from full compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project. In particular, no clearing, grading, filling, construction or other physical alteration of the site may be undertaken prior to the issuance of the necessary.

Decision issued this 19th day of July, 2013.



 Gordon Sivley, Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

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

Reconsideration

Any party of record may request reconsideration by the Examiner **within 10 calendar days** from the date of this decision. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, Robert J. Drewel Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S No. 405, 3000 Rockefeller Avenue, Everett WA 98201) **on or**

before JULY 29, 2013. There is no fee for filing a petition for reconsideration. "The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing." [SCC 30.72.065]

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

The grounds for seeking reconsideration are limited to the following:

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

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

Appeal

An appeal to the County Council may be filed by any aggrieved party of record **within 14 days from the date of this decision.** Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration.

Appeals shall be addressed to the Snohomish County Council but shall be filed in writing at the Public Assistance Counter of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: 3000 Rockefeller Avenue M/S 604, Everett, WA 98201) **on or before AUGUST 2, 2013,** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00) for each appeal filed; PROVIDED, that the fee shall not be charged to a department of the County. The filing fee shall be refunded in any case where an appeal is summarily dismissed in whole without hearing under SCC 30.72.075.

An appeal must contain the following items in order to be complete: a detailed statement of the grounds for appeal; a detailed statement of the facts upon which the appeal is based, including citations to specific Hearing Examiner findings, conclusions, exhibits or oral testimony; written arguments in support of the appeal; the name, mailing address and daytime telephone number of

each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any; the name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and the required filing fee.

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

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

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

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

Staff Distribution:

Department of Planning and Development Services: David Levitan

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

PARTY OF RECORDS REGISTER
12-101964-LU Seungcheol Shin CU
HEARING: JULY 10, 2013
TIME: 2:00 pm

APPLICANT
SEUNGCHEOL SHIN
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LYNNWOOD WA 98087

SNO CO PLANNING & DEV/LAND USE
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SNO CO DEPT OF PUBLIC WORKS
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MUKILTEO SCHOOL DISTRICT
JOSETTE BAINES
NO ADDRESS GIVEN

ANGELA HOSKINS
NO ADDRESS GIVEN

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