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CITY OF PUYALLUP

CITY OF PUYALLUP
HEARING EXAMINER
FINDINGS, CONCLUSIONS AND DECISION

APPLICANT: Cascade Christian Schools

CASE NO.: P-08-0016/P-08-0056

LOCATION: 811 21st St. SE & 903 25th St. SE

APPLICATION: Request for a Conditional Use Permit to allow an addition to an existing junior/senior high school, which would include a new 54,510 s.f. junior high school building, new signage including LED signs on the proposed junior high and existing senior high buildings, improvements to existing athletic fields, development of a 4,800 s.f. new maintenance building, and a 3,104 s.f. expansion of existing administrative building. The request also includes construction of new athletic fields, a parking lot, field lighting and associated signage.

Request for a variance to allow a reduction in the required landscape buffer on both parcels of the subject property from 30 feet to 15 feet.

SUMMARY OF RECOMMENDATION AND DECISION:

Staff Recommendation:	Approve with conditions
Hearing Examiner Decision:	Approve with conditions

PUBLIC HEARING:

After reviewing the official file, which included the Development Services Department Staff Advisory Report, and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the application was opened at 10:09 a.m., April 23, 2009, at the Council Chambers in City Hall, Puyallup, Washington, and closed for oral arguments at 11:11a.m. The hearing was held open administratively until close of business on May 21 to allow additional information to be submitted into the record by both the Applicant and the City. Participants at the public hearing and the exhibits offered and entered are listed in this report. A verbatim recording of the hearing is available in the Development Services Department.

STAFF REPRESENTATIVES:

Katie Baker, Assistant Planner
Tom Utterback, Planning Director
Kevin Yamamoto, Senior Assistant City Attorney

APPLICANT:

Matt Cyr, Land Development Planner, Abbey Road Group, representing the applicant
Gil Hulsmann, Director of Development Services, Abbey Road Group, representing the applicant.

PUBLIC COMMENTS:

No one from the general public spoke at the public hearing.

FINDINGS, CONCLUSIONS AND DECISION:

Having considered the entire record in this matter, the Hearing Examiner now makes and enters the following:

A. FINDINGS:

1. The information contained on pages 3 to 11 of the Development Services Department Revised Staff Advisory Report (Hearing Examiner Exhibit 1) is found by the Hearing Examiner to be supported by the evidence presented during the hearing and by this reference is adopted as a part of the Hearing Examiner's background information and findings, except as otherwise noted below. A copy of said report is available in the Development Services Department.

2. The applicant has requested approval of a Conditional Use Permit on two parcels of land (See Exhibit 1, Attachment C) to allow construction of an addition to an existing junior/senior high school, including a new 54,510 square foot junior high school building, new signage including LED signs on the proposed junior high school building and on the existing senior high school building, improvements to existing athletic fields, development of a 4,800 square foot maintenance building, and a 3,104 square foot expansion of an existing administrative building within the Single Family Residential RS-08 and RS-09 zones.

3. The applicant has also requested a Variance to allow a reduction in the required perimeter transitional landscape buffer on each parcel of land from 30 feet to 15 feet (See Exhibit 1, Attachments B & D).

4. At the hearing, the applicant's representative concurred with the recommendations found in the Revised Staff Advisory Report (Exhibit 1), except for four issues relative to the Conditional Use Permit. Those issues, summarized below, led to an administrative continuance to allow the applicant and the City time to submit additional information. Exhibits 6 through 11 were submitted during the administrative continuance to address the identified issues.

   a. **Request** that adoption of Staff Recommendation #6 be modified allow **the subject CUP to be valid for ten (10) years** from the date of Hearing Examiner approval.

1. **Summary of Applicant's Arguments** (See Exhibit 9):

A Conditional Use Permit (CUP) within the City of Puyallup is regulated by Puyallup Municipal Code (PMC) Chapter 20.80. This chapter gives the Hearing Examiner authority to grant such a permit. Chapter 20.80.025 specifically addresses the issue of time and no maximum time is listed for a CUP. The code simply states that, "Any conditional use permit granted by the hearing examiner shall become null and void if not exercised within the time specified in such permit..." (PMC 2080.025). With no maximum time listed within code, then it is presumed that the Hearing Examiner may grant a time period of 10 years.

A 10-year time period is entirely consistent with the original CUP for Cascade Christian, Case No. 95-65-004, which was approved for at least 10 years according to the Final Mitigated Determination of Non-Significance (MDNS) dated July 31, 1995 (Attachment a to Exhibit 6). The final MDNS issued by the City of Puyallup states part:

> *The project will be built in two phases such that the high school building, sports fields, administrative office building and maintenance building will be built first. During the first phase, classes will be offered in 7th through 12th grades combining junior and senior high functions. The junior high school building will be built during the second phase, anticipated around year 2005.*

Since this original CUP was approved in 1995 and included the junior high school building that was anticipated around year 2005, then it can be concluded that the original CUP was approved for at least 10 years. With the 1995 CUP as presience, we request a 10 year period for this CUP to be granted.

In conclusion, because of the previous precedence, the compatibility with the comprehensive plan, the similarity to a master plan, and the given economic conditions we request approval of a 10 year conditional use permit.

2. **City Staff's Response** (See Exhibit 11):

The City agrees that the original CUP staff report and SEPA MDNS for Cascade Christian Schools Junior/Senior High School noted in the project description that the Junior High building would be constructed around 2005 (ten years after CUP approval). However, it is important to consider that the ten year time frame was not included as a finding or recommendation of that CUP, and that all CUP's for Cascade Christian since that time have been conditioned with a time frame of between four and six years, commensurate with other CUP's in the City of Puyallup. Specifically, a CUP for the nearby Nelson Crane School, which requested a similar phased scope of work, was only granted a valid CUP for four years. The hearing examiner has repeatedly accepted these lesser time frames and,

given the possibility of changing circumstances over a ten-year period, staff believes that a maximum period of six years is both adequate and appropriate.

3. **The Puyallup Municipal Code** specifies times for expiration and extensions of Conditional Use Permits. That language follows:

20.80.025 Expiration.

Any conditional use permit granted by the hearing examiner shall become null and void if not exercised within the time specified in such permit or, if no time is specified, within one year of the date of approval of such permit. A conditional use permit shall be deemed exercised and remain in full force and effect when a building permit has been issued and substantial construction accomplished in reliance upon said conditional use permit. If such permit is abandoned or is discontinued for a continuous period of one year, it may not thereafter be reestablished unless authorized in accordance with the procedure prescribed herein for the establishment of a conditionally permitted use. (Ord. 2268 § 54, 1991; Ord. 2147 Exh. A, 1987).

20.80.030 Extension of time.

Upon written request by a property owner or his/her authorized representative prior to the date of conditional use permit expiration, and following a public meeting, the hearing examiner may grant an extension of time up to but not exceeding one year. Such extension of time shall be based upon a finding that there has been no material change of circumstances applicable to the property since the granting of said permit which would be injurious to the neighborhood or otherwise detrimental to the public health, safety and general welfare. (Ord. 2268 § 55, 1991; Ord. 2147 Exh. A, 1987).

b. **Request** that the Determination by the Hearing Examiner state that **Parcel B is a portion of the Cascade Christian campus and that it is the site of the future Cascade Christian elementary school and early childhood education wing.**

1. **Summary of Applicant's Arguments** (See Exhibit 9).

Parcel B is owned by Cascade Christian and will one day serve as the location for Cascade Christian's recreational fields, elementary school, and early childhood education wing. This site, now and in the future is a critical component to the overall Cascade Christian campus. The current proposal to construct athletic fields is to reduce congestion on the existing athletic fields when the junior high school building is constructed. We are concerned about future use encroachments in the immediate vicinity and therefore request that this site be specifically mentioned as part of the Cascade Christian campus.

We understand the elementary and the early childhood education development wing would require additional environmental and design review, but feel the use can be included in the decision under the findings found in Exhibit 1 (the revised staff report, dated 4/22/09).

The City's response to this request discussed vesting rights doctrine and cited *Weyerhaeuser v. Pierce County,* 95 Wash. App. 883 (Court of Appeals, 1999). As a point of clarification, we are only requesting vesting for the elementary school use, and are not asking for vesting of "other land use regulations" as discussed in the vesting rights doctrine.

We contend that we have sufficiently disclosed the elementary school / early childhood education use in our application and in accordance with Washington State vesting rights doctrine we request that the use be approved with the condition that environmental review and design review be conducted prior to building permit issuance.

2. **Summary of City Staff's Response** (See Exhibits 8 & 11):

Staff agrees that Parcel B is a portion of the Cascade Christian campus. However, Staff does not agree with the request that a determination be made regarding future uses of said property, which have not been reviewed as part of this CUP. As there are two other elementary schools in the vicinity, City staff fails to see a compelling reason to approve the use of an elementary school on a property when that use has not been fully reviewed simply to guarantee the possibility of that use at a later date (See Exhibit 11).

The applicant has the right to have an application considered under the zoning and land use laws that exist at the time a completed application is submitted. The applicant in the subject case mentions that it may develop an elementary school on the eastern portion of Parcel No. 0420351003 at some time in the future. But its CUP application only contemplates implementation of an athletic field without structures on the western portion of the parcel. Thus, for vesting purposes, the applicant has not sufficiently disclosed, much less applied for a permit to develop an elementary school. Accordingly, the CUP should not be extended so as to effectively vest the conceptual elementary school with respect to any development regulations (See Exhibit 8).

c. **Request** that the Determination of the Hearing Examiner state that **credit be given to Cascade Christian School for the 217 PM peak hour trips and 900 students mitigated and vested with the 1995 CUP,** Case No. 95-65-004, be applied toward the new trip/student count of 260 PM peak hour trips and 1250 students. At build out this will result in a net new count of 43 PM peak hour trips and 350 students. This credit will apply to the City of Puyallup's street impact fees.

1. **Summary of Applicant's Arguments** (See Exhibit 9):

Within Pierce County public, private and parochial school facilities, including but not limited to, administrative, maintenance and other buildings of a school district are exempt from paying traffic impact fees and we contend that the City of Puyallup should make the same exception. Furthermore, we request consideration of the unusual circumstances of this specific case and under RCW 82.02.060 consider the previously vested trips, so that traffic impact fees may be imposed fairly. The Applicant gave a detailed permit history of the development of the subject site and asserted that Cascade Christian has completed all of the conditions associated with the 1995 MDNS and that Phase 2 was able to proceed without future mitigation to the full build out of 217 PM peak hour trips and 900 students.

The CUP 98-65-003 condition to limit Cascade Christian School to 500 students until more traffic mitigation had been completed was in line with the 1995 SEPA mitigation requirements. It did not nullify the full build out population of the 1995 CUP, but only limited it till more traffic mitigation was completed.

In 2002 Cascade installed a traffic light at 21st St. SE and Pioneer Way in accordance with the 1995 MDNS mitigation associated with Phase 2. Cascade Christian believes it could now realize their 1995 granted build out of 900 students and 217 PM peak hour trips.

Therefore, prior to street impact fee adoption by the City, Cascade Christian had completed all of the traffic impact mitigation associated with the Cascade Christian 1995 CUP and its associated MDNS. While street impact fees are traditionally assessed and collected at building permit for a permitted use, this is not the case for a Conditional Use Permit, which requires land use and environmental approval prior to submitting a building permit application. Because of the extended process associated with conditional use permits the Applicant believes the process for assessing street impacts was vested to the 1995 CUP, which predates Puyallup's impact fee code and therefore, street impact fees do not apply based on this vesting.

Based on the traffic study prepared for the instant CUP, the project's full build out will result in 260 PM peak hour trips and 1250 students. If credit is granted for the 1995 CUP vested trip/student count, then the net new trip/student counts would be 43 PM peak hour trips and 350 students. Cascade Christian would be happy to mitigate and pay traffic impact fees for these net new trip/student counts, but requests that the vested trip/student counts of the 1995 CUP be fully recognized and exempted from further mitigation and impact fees.

The City's response (Exhibit 7) highlights an inaccuracy that has permeated the Cascade Christian's CUP process over the years. The Applicant believes the CUP was properly exercised in 1996 in accordance with PMC 20.80.025 with a phased development schedule, phased mitigation schedule, and a future student population of 900 students. Once a CUP is exercised there should be no issue with capacity unless capacity is exceeded.

The Applicant has read and understands *New Castle Investments v. City of LaCenter,* 98 Wash. App. 224 (Court of Appeals, 1999) that found transportation impact fees are not land use control ordinances and are not governed by vesting rights doctrine, But, the Applicant feels that case does not address the unique circumstances of the Cascade Christian CUP. In the *New Castle Investments* case the Court considered an application submitted before the City adopted transportation impact fees. In the Cascade Christian circumstance the City is evaluating a project where the Applicant received CUP approval, completed substantial site improvements and was issued several building permits to exercise the original CUP. The Applicant completed all traffic mitigation required in the SEPA determination issued prior to the City adopting street impact fees. For this reason, the full build out count of the 1995 CUP should be considered vested and Cascade Christian should only be assessed street impact fees for the net new trips associated with the proposed CUP on the phased schedule submitted in Exhibit 6.

2. **Summary of City Staff's Response** (See Exhibits 7, 8 & 11):

Based on approved conditional use permits 95-65-004, 98-65-003 & 08-65-002, the City's Traffic Engineering Division concluded that adequate traffic mitigation has been done to accommodate a maximum of 625 students at the senior/junior high school site. Case 08-65-002 clearly accepts this finding (See Exhibit 7).

The current CUP proposes a total enrollment of 1250 students at this site. Therefore, traffic mitigation fees and traffic calming measures will be required to handle the number of trips generated by an increase of 625 students. Based on the traffic scoping worksheet dated June 20, 2008 the expansion will generate 138 PM peak hour trips; the current traffic impact fee is $4500 per PM peak hour trip. Traffic calming measures will include the installation of permanent radar signs that display the speed of the on-coming vehicle on both directions along 21st St SE. The City Traffic Engineer has concluded that the implementation of these two traffic mitigation measures will adequately accommodate for a maximum of 1250 students (See Exhibit 7).

(1) $4500

(2) Permanent Radar Sign.

The most recent entitlement for this property was CUP 08-65-002, which took into account all traffic mitigation that had been completed until that time, and it established 625 students as the maximum enrollment capacity (See Exhibit 11).

Transportation impact fees are not land use control ordinances, and thus, they are not governed by Washington's vested rights doctrine. Even though an application may be complete for vesting purposes, the time lag between application approval and the actual impact from development may be significant. Thus, TIFs must be calculated when that actual growth occurs – at the time of building permit issuance. *New Castle Investments v. City of LaCenter, 98* Wash. App.224 (Court of Appeals, 1999) (See Exhibit 8).

3. **2000 Traffic Study** (See Exhibit 6, Attachment b):

The traffic study prepared by Heath & Associates, Inc., dated April 14, 2000, states in part:

"This letter serves to update the impact that is created by the completion of the South Core, an allowable increase to 625 students total enrollment and the construction of the administration building on the site. The current school enrollment is 451 students ....."

"The primary conclusions to this update are that the intersection of 21st Street and Pioneer is approaching warrants for signalization."

Mitigation
"Signal warrants will be reviewed at the direction of the City of Puyallup once the signal at the intersection of 13th Street and Pioneer has been installed to determine the effect on area wide traffic. It is anticipated that the signal will provide a significant enough influence that a signal might not be warranted at the intersection of 21st Street and Pioneer. If signal warrants are met in the future at the intersection of 21st and Pioneer the Cascade Christian School District will install a signal."

d. **Request** that the **storm drainage requirements applicable to Parcel A be vested** to current city regulations for the period of ten (10) years from Hearing Examiner approval.

1. **Summary of Applicant's Arguments** (See Exhibit 9):

State law holds that vesting is limited to building permits, subdivisions, and development agreements. While we do not disagree with the states interpretaion, we assert that, within our current zoning in the City of Puyallup, we could not submit a building permit without first submitting an application for a CUP, and gaining CUP approval. Therefore, the CUP process must be viewed as part, or the beginning, of the building permit process and considered in matters of vesting. This is especially true if enough detail is included in a site plan and associated

plans to conclude that the site was designed to the code adopted at the time of the CUP submittal.

In this case, information was submitted to the City to show the site was to designed and the storm system sized to account for the proposed additional impervious area under the existing storm drainage regulations. If the site is not vested to the existing storm drainage code, then the constructed site will not be adequate to serve the new improvements and will need to be increased in size. This will create an undue hardship for the school because it will require significant redesign and redevelopment of a once approved site to meet new conditions.

If vesting to the 1990 King County Storm Drainage Manual is not granted, then the development proposed in the CUP will require the storm drainage facility to be reconstructed to a larger size because future manuals will likely analyze preexisting conditions differently from the current manual.

2. **Summary of City Staff's Response** (See Exhibit10):

Vesting occurs when a developer files a fully completed application with a city. RCW 19.27.095. RCW 58.17.033. Cities can enact laws that establish the level of specificity that they will require from a developer in an application in order for the application to be complete. RCW 19.27.095. RCW 58.17.033.

In Puyallup, the completeness of an application is governed by PMC 20.11 and RCW 36.70B.070. Pursuant to Puyallup's code and the Revised Code of Washington, the City is entitled to process each application for completeness. Under these laws, if the application is incomplete, then the City may send a notice of incompleteness to the applicant. If the application is complete, but the City wants additional information or studies, then it may request additional information or studies.

If the applicant fails to complete an application by satisfying the submittal requirements of the City, then the application remains an incomplete or becomes an inactive application under PMC 20.11.006 and PMC 20.11.022.

> 20.11.022 Inactive applications
> Pursuant to PMC 20.11.006(6), there may be instances during project review where an applicant has been requested to correct plans, perform required studies, or provide additional required information. The community development director shall establish procedures, including notice to applicants of pending closure, whereby an applicant who has failed to respond to requests within a one-year time period shall have his/her application officially closed with or without a full or partial refund of application fees.

Pursuant to Washington law, and the Puyallup Municipal code, the City is entitled to determine whether or not an application is complete, and thus, vests. Accordingly, the City believes the applicant's request for a vesting determination is mistakenly directed toward the Hearing Examiner. Even if the applicant's request was properly before the Hearing Examiner, the scope of the request is overbroad. Vesting can only apply to those specific uses disclosed in the application and not to uses that may be subsequently proposed during an arbitrarily established period of time. Nor does vesting apply to a particular parcel of land. Rather vesting applies to applications, i.e., it entitles developers to have a land development application or proposal processed under the regulations that are in effect at the time a complete application is filed.

Based on the foregoing, the City requests that the Hearing Examiner deny the applicant's request that the "storm drainage requirements applicable to Parcel A be vested to current city regulations for the period of ten (10) years from Hearing Examiner approval.

B. CONCLUSIONS:

1. **Conditional Use Permit:** After reviewing the oral arguments and written materials offered by the applicant's representatives and by City staff, the Examiner has concluded the following relative to the requested Conditional Use Permit:

   a. **Request** that adoption of Staff Recommendation #6 allow the **subject CUP to be valid for ten (10) years** from the date of Hearing Examiner approval.

   The Examiner acknowledges the ten-year time frame was only noted in the project description for CUP 95-65-004, but was not discussed further in the findings, conclusions or conditions of approval. This was an oversight on the part of the Examiner, and interestingly, neither the Applicant nor City Staff noted that discrepancy or asked for clarification. Therefore, under the provisions of PMC 20.80.025 that CUP technically expired one year after the date of the Examiner's decision. That issue is moot at this point since more than ten years have passed since that decision was issued.

   Since 1995 two additional CUPs have been approved for the site. Last year, CUP 08-65-002 was approved with a six-year time frame (See Exhibit 3). As noted in Exhibit 11, time frames of six years or less are the norm in the City of Puyallup. The Examiner is concerned about the possibility of changing circumstances in the subject area, and about the precedent a ten-year approval would set for future CUP applications in the City.

Therefore, the Examiner concludes that approval of the instant CUP for a maximum of six-years, with the possibility of a one-year extension is reasonable and appropriate.

b. **Request** that the Determination by the Hearing Examiner state that **Parcel B is a portion of the Cascade Christian campus and that it is the site of the future Cascade Christian elementary school and early childhood education wing.**

The Examiner concurs that Parcel B is a portion of the Cascade Christian campus. However, the Examiner also concurs with the City's Senior Assistant City Attorney in his discussion of vesting found in Exhibit 10.

The Applicant acknowledges in Exhibit 9 that at least environmental review and design review would be required prior to building permit issuance if the Examiner were to vest the desired elementary school / early childhood education use on Parcel B. However, as noted above, the Examiner concurs with the argument of the Senior Assistant City Attorney and does not believe the applicant has sufficiently disclosed, much less applied for a permit to develop an elementary school / early education use. Accordingly, the CUP should not be extended so as to effectively vest the conceptual elementary school with respect to any development regulations.

The Applicant's concerns that future land use encroachments near the subject site could preclude the future development of an elementary school / early education use are not well founded. A parochial school is allowed as a conditional use in residential zones in the City of Puyallup, and a conditional use has been legislatively determined to be allowed within a given zone if appropriate conditions can be imposed to insure compatibility with those uses permitted as a matter of right within that zone. A conditional use thus carries a fairly heavy assumption of acceptability within the zone in which it is located. The Applicant's instant application for a CUP is the fourth in a series that have been reviewed by the City, and they have all been approved with conditions.

c. **Request** that the Determination of the Hearing Examiner state that **credit be given to Cascade Christian School for the 217 PM peak hour trips and 900 students mitigated and vested with the 1995 CUP**, Case No. 95-65-004, be applied toward the new trip/student count of 260 PM peak hour trips and 1250 students. At build out this will result in a net new count of 43 PM peak hour trips and 350 students. This credit will apply to the City of Puyallup's street impact fees.

The Examiner concurs with the Senior Assistant City Attorney that transportation impact fees are not land use control ordinances, and thus, not governed by Washington's vested rights doctrine. The Examiner does not concur with the arguments submitted by the Applicant relative to vesting because of the circumstances in this case. Therefore, the Examiner concludes the instant CUP

request cannot rely on the vested rights doctrine to reduce the amount of transportation impact fees required as a result of the proposed new development.

After reviewing the file, including the 2000 traffic study (Exhibit 6, Attachment b), the Examiner concludes that the traffic light at 21st Street and Pioneer was identified as mitigation tied to the increase of the total student population to 625. Nowhere in that study was the proposed traffic light tied to a potential student population of 900. The traffic study "anticipated that installation of a traffic signal at 13th and Pioneer would provide enough influence that a signal might not be warranted at the intersection of 21st Street and Pioneer." However, the study also stated: "If signal warrants are met in the future at the intersection of 21st and Pioneer, the Cascade Christian School will install a signal." The study did not state if the signal at 13th and Pioneer were not constructed, then Cascade Christian School would be unwilling to install the signal at 21st and Pioneer. The Examiner believes it is clear the intersection of 21st and Pioneer was already approaching warrants to require signalization with the 451 students it then had enrolled, and it was necessary to agree with the mitigation (to install the light) in order to increase the enrollment to 625. Therefore, the Examiner believes the City is correct in it's determination relative to traffic impact fees for the subject proposal.

d. **Request** that the **storm drainage requirements applicable to Parcel A be vested** to current city regulations for the period of ten (10) years from Hearing Examiner approval.

Again, the Examiner concurs with the City's Senior Assistant City Attorney regarding the instant request regarding vesting of storm drainage regulations. As noted in Exhibit 10, the Applicant has not submitted a complete application for any development permit on Parcel A. Therefore, in this case, `the Hearing Examiner has no authority to vest storm drainage requirements relative to Parcel A.

2. **Variance:** The Examiner concurs with the staff analysis found in Exhibit I and concludes the requested variance will comply with the provisions of PMC 20.85.010, if approved as conditioned below.

C. DECISION:

Based upon the foregoing findings of fact and conclusions, Conditional Use Permit (P-08-0016) and Variance (P-08-0056) are approved, subject to the following conditions:

1. All final permits shall conform to the site plan as depicted in Exhibit 1, attachment 3. Applicant shall comply with all conditions outlined in the final city DRT letter dated March 9, 2009 (Exhibit 1, Attachment I).

2. Maximum student population as permitted under this CUP shall be 625 senior high students and 625 junior high students.

3. All proposed 15 foot perimeter landscaping buffer reductions shall incorporate the same amount of vegetative quality and quantity that would be otherwise required in a 30 foot wide landscaped buffer pursuant to PMC 20.26.500. A final landscaping plan, prepared by a licensed landscape architect, shall be submitted at the time of building permit submittal.

4. Cascade Christian Schools shall limit the amount of classroom space available to evening adult education classes to 2800 square feet or 180 students on any given day, in order to account for a parking deficiency for all proposed nighttime uses on site.

5. Signs visible from the west property line (21st St SE) of parcel 0420352148 may include a monument sign near the property line and a façade sign on the existing senior high building, not to exceed a total of 40 square feet. Two LED signs are proposed which shall not be visible from the west property line or any adjacent properties. The LED sign associated with the junior high building shall be located on the north side of the building in the center modulation. The LED sign associated with the senior high building shall be located to the north of said building's entrance. Sign locations shall be in accordance with proposed sign location plan (Attachment E) dated November 20, 2008, received February 2, 2009.

6. The subject Conditional Use Permit, consisting of all phases, shall be valid for six (6) years from time of Hearing Examiner approval with an optional one time/one year administrative extension, upon written request by the applicant, prior to the expiration the original 6 year expiration date. The time extension shall be based upon a finding that there has been no material change of circumstances applicable to the property since the granting of said permit which would be injurious to the neighborhood or otherwise be detrimental to the public health, safety and general welfare.

Dated this 4th day of June 2009. This decision will become final in 15 business days subject to options for review and appeal available under PMC 2.54.150.

Ron McConnell, FAICP
Hearing Examiner

Reconsideration by the Hearing Examiner.

Any party of record feeling that a decision of the examiner is based upon erroneous procedures, errors of law or of fact, error in judgment, or has discovered new evidence which could not be reasonably available at the open record public hearing, may make a written request to the examiner, filed with the community development director, for reconsideration by the examiner within eight business days of the date the decision is rendered. The director shall forward the request for reconsideration to the examiner within three business days. The(se) request(s) shall set forth the specific errors or new information relied upon by such appellant, and the examiner, after review of the request(s) and the record, may:

(1) Affirm in writing the previous decision;
(2) Reopen the record and public hearing process;
(3) Take further action as he/she deems proper.

The filing of a request for reconsideration by the hearing examiner shall effectively stay the appeal period until the examiner takes further action. Such action shall occur within 10 business days of the date of filing a request for reconsideration. (Ord. 2475 § 1, 1996; Ord. 2278 § 1, 1991; Ord. 2268 § 1, 1991. Formerly 2.54.150).

Appeal of examiner's decision.

Any party of record feeling that the decision of the examiner contains substantial error, was materially affected by irregularities in procedure, is unsupported by substantial evidence in the record or is in conflict with the city's adopted plans, policies and ordinances may request review of any land use regulatory decision identified in PMC 2.54.070 by filing a petition for review with the Community Development Director for the purpose of appellate examiner review of the action taken by the Examiner. The burden of proof for justification of grounds for such petition for review shall be upon the petitioner.

(1) Petition for Review. Petitions for appellate examiner review of a decision by the hearing examiner shall be submitted to the office of the Community Development Director within 15 business days of the date a final decision is rendered _____, and shall include:

(a) A reference to the application and decision sought to be reviewed, including the date the decision was rendered;

(b) A statement of the alleged errors in fact or in procedure;

(c) A statement of the petitioner's standing as a party of record;

(d) A payment of fee, as established by resolution, to cover costs associated with review.

Upon receipt of a valid petition for review, the Community Development Director shall schedule the petition for review for appellate examiner action within 30 calendar days. Review documents related to the project shall be transmitted to the appellate examiner prior to this closed record

appeal hearing in accord with standard procedures. (Ord. 2475 § 1, 1996; Ord. 2317 § 1, 1992; Ord. 2278 § 1, 1991; Ord. 2268 § 1, 1991. Formerly 2.54.170).

EXHIBITS:

The following exhibits were offered and entered into the record:

1. Revised Staff Advisory Report, with attachments:
   a. Conditional Use Permit Application & Development Narrative
   b. Variance application
   c. Overall Site Plan
   d. Landscape Plan
   e. Proposed Sign Location Plan
   f. Elevations
   g. Comment Letter from Scott McKay
   h. PMC 20.80 & 20.85
   i. DRT letter dated 3/9/09
2. Letter from Giles (Gill) Hulsmann III, Abbey Road Group, dated 4/22/09
3. Hearing Examiner report on Case #08-65-002, with attached Staff Advisory report
4. Hearing Examiner report on Case #98-65-003, with attached Staff Advisory report
5. Hearing Examiner report on Case #95-65-004, with attached Staff Advisory report
6. Letter from Matt Cyr, Abbey Road Group, dated 5/7/09, with 3 attachments:
   a. 95-65-004 Final – Mitigated Determination of Non-Significance
   b. Cascade Christian Junior and Senior High School – Traffic Impact Analysis Completion of South Core and Administrative Building
   c. Cascade Christian School Student Phasing Analysis and PM Peak Hour Phasing Schedule
7. Memo from Katie Baker, Assistant Planner, dated 5/6/09
8. Memo from Kevin Yamamoto, Senior Assistant City Attorney, dated 5/6/09, with attached Westlaw Summary Report
9. Letter from Matt Cyr, Land Development Planner, Abbey Road Group, dated 5/21/09 (this letter is a revision of Exhibit 6)
10. Memo from Kevin Yamamoto, Senior Assistant City Attorney, dated 5/21/09
11. Memo from Planning Department Staff, dated 5/21/09

PARTIES OF RECORD:

Matt Cyr & Gil Hulsmann Abbey Road Group PO Box 1224 Puyallup, WA 98371	Department of Development Services City Attorney

OTHER PARTIES REQUESTING A COPY OF THE DECISION: None