



**BEFORE THE HEARING EXAMINER  
FOR THE CITY OF SNOHOMISH**

In the Matter of the Application of	)	No. 16-17-CUP/SDP
	)	
<b>Gordon Cole</b>	)	Weaver Road
	)	Senior Housing CUP
	)	
For Approval of a Conditional Use Permit	)	FINDINGS, CONCLUSIONS,
<u>And Site Development Plan</u>	)	AND DECISION

**SUMMARY OF DECISION**

The request for a conditional use permit and site development plan to construct a 100-unit senior housing development on a 4.53-acre portion of the 17.29-acre Snohomish Business Park commercial development, is **APPROVED**. Conditions are necessary to ensure compliance with the Comprehensive Plan, City code requirements, and to mitigate specific project impacts.

**SUMMARY OF RECORD**

Hearing Date:

The Hearing Examiner held an open record hearing on the request on May 31, 2018.

Testimony:

The following individuals presented testimony under oath at the open record hearing:

- Brooke Eidem, City Associate Planner
- Gordon Cole, Applicant Representative
- Karen Guzak
- Lya Badgley

Exhibits:

The following exhibits were admitted into the record:

1. Staff Report to Hearing Examiner, with attached applicable Comprehensive Plan policies
2. Conditional Use Application, received November 6, 2017; Land Use Application, received November 6, 2017; Site Development Plan application, received February 9, 2018, with legal description
3. Project narrative and Existing Commercial Use on Lot 9 Snohomish Business Park, received November 6, 2017
4. ALTA Commitment, issued by Old Republic National Title Insurance Company, effective date October 19, 2017
5. Affidavit of Adjacent Property Owners List, dated November 6, 2017, with map
6. Site plans, received February 9, 2018
  - a. Site Plan – Conditional Use (Sheet 1-1)
  - b. Elevations – Conditional Use (Sheet 1-2)

*Findings, Conclusions, and Decision  
City of Snohomish Hearing Examiner  
Weaver Road Senior Housing CUP/SDP No. 16-17-CUP/SDP*

7. Preliminary SDP Project Plans, received April 17, 2018
  - a. Conceptual Site Plan (Sheet C1 of C4)
  - b. Existing Conditions Map (Sheet C2 of C4)
  - c. Grading Plan (Sheet C3 of C4)
  - d. Utility Plan (Sheet C4 of C4)
8. Geotechnical Engineering Study, Sondergaard Geoscience, PLLC, dated August 11, 2017
9. Stormwater Site Plan Report, Land Technologies, Inc., dated February 2018
10. Traffic Impact Analysis, Gibson Traffic Consultants, Inc., dated January 2018
11. Critical Areas Study and Mitigation Plan, Wetland Resources, Inc., dated February 8, 2018
12. Memorandum from Michael Muscari, PWS, ESA, to Brooke Eidem, dated December 8, 2017
13. Email from Michael Muscari to Brooke Eidem, dated December 22, 2017, with email string
14. Memorandum from Michael Muscari, PWS, ESA to Brooke Eidem, dated February 28, 2018
15. Notice of Incomplete Application, dated November 30, 2017
16. Determination of Complete Application, dated February 16, 2018
17. Notice of application material
  - a. Notice of Application, undated
  - b. Certification of Public Notice, Declaration of Posting Notice of Application, dated February 26, 2018
  - c. Certification of Public Notice, Declaration of Mailing Notice of Application to Adjacent Properties and Parties of Record and Posting Notice, dated February 23, 2018
  - d. Mailing labels
  - e. Affidavit of Publication, *Everett Daily Herald*, dated February 26, with ad copy
18. SEPA material
  - a. Determination of Nonsignificance, dated March 16, 2018
  - b. State Environmental Policy Act (SEPA) Checklist
  - c. Certification of Public Notice, Declaration of Posting Determination of Nonsignificance, dated March 14, 2018
  - d. Certification of Public Notice, Declaration of Mailing Determination of Nonsignificance to Adjacent Properties and Agencies of Jurisdiction and Posting Notice, dated March 16, 2018
  - e. Mailing labels and distribution, mailing labels, and Everett Herald affidavit of publication
  - f. Email from Katie Hoole to agencies of jurisdiction, dated March 16, 2018
  - g. Affidavit of Publication, *Everett Daily Herald*, dated March 16, 2018, with ad copy
19. Letter from Katie Hoole to Gordon Cole, Correction Letter, dated April 11, 2018
20. Letter from Gordon Cole to Brooke Eidem, dated April 17, 2018
21. Design Review Analysis, dated May 3, 2017
22. Email from Victoria Wilbanks John to Brooke Eidem, dated March 20, 2018, with email string

*Findings, Conclusions, and Decision*  
 City of Snohomish Hearing Examiner  
 Weaver Road Senior Housing CUP/SDP No. 16-17-CUP/SDP

23. Email from Yoshihiro Monzaki to Brooke Eidem, dated February 26, 2018, with email string; Email from Lorrie Peterson to Brooke Eidem, dated May 10, 2018
24. Email from Sue Davis to Brooke Eidem, dated February 21, 2018
25. Letter from Jason Zyskowski, Snohomish County PUD No. 1, to Glen Pickus, dated March 22, 2018
26. Email from Glen Pickus to Brooke Eidem, dated April 24, 2018, with email string
27. Memorandum from Sharon Pettit, Building/Fire Official, to Project File, dated May 3, 2018
28. Memorandum from Andrew Sics, Project Engineer & Tim Cross, Sr. Engineering Tech., to Brooke Eidem, dated April 4, 2018
29. Notice of hearing material
  - a. Notice of Public Hearing, undated, with map
  - b. Certification of Public Notice, Declaration of Mailing Notice of Public Hearing to Adjacent Properties and Parties of Record and Posting Notice, dated May 10, 2018
  - c. Email from Katie Hoole to Katie Hoole, dated May 10, 2018
  - d. Labels
  - e. Affidavit of Publication, *Everett Daily Herald*, dated May 10, 2018, with ad copy
30. Determination of Concurrency, dated May 24, 2018

The Hearing Examiner enters the following findings and conclusions based upon the testimony and exhibits admitted at the open record hearing:

## **FINDINGS**

### Application and Notice

1. Gordon Cole (Applicant)<sup>1</sup> requests a conditional use permit (CUP) and site development plan (SDP) to construct a 100-unit senior housing development. The proposed use would be located on a 4.53-acre portion of the 17.29-acre Snohomish Business Park commercial development on Weaver Road.<sup>2</sup> *Exhibit 1, Staff Report, page 1; Exhibit 2; Exhibit 3; Exhibit 6; Exhibit 7.*
2. The City of Snohomish (City) determined that the CUP application was complete on February 16, 2018. On February 23, 2018, the City provided notice of the application by mailing notice to the Applicant and all property owners within 300 feet of the property, by posting on the site, in City Hall and on the City website. The City published notice on February 26, 2018, in *The Everett Herald*. On May 10, 2018, the City provided notice of the open record hearing by mailing notice to the Applicant and all property owners within 300 feet of the property, by posting in City Hall and on the City website, and publishing

---

<sup>1</sup> The applications list Gordon Cole as the Applicant and Snohomish Business Park, LLC as the property owner. *Exhibit 2.*

<sup>2</sup> The undeveloped property is identified by tax parcel number 00538903200001. An adjacent portion of the Seattle Business Park is identified by tax parcel number 00530901900001. A legal description is included with the applications. *Exhibit 1, Staff Report, page 1; Exhibit 2; Exhibit 6.b.*

notice in *The Everett Herald*. *Exhibit 1, Staff Report, page 4; Exhibit 16; Exhibit 17; Exhibit 29.*

3. The City received comments from three members of the public prior to the hearing. Email comments dated March 20, 2018, from Victoria Wilbanks John, concern the need for a traffic signal light at Weaver Road/Bickford Avenue. The City responded that a traffic signal light is within the transportation improvement plan and could be installed in the next few years. Lorrie Peterson also provided email comments, dated February 23 and 26, and May 10, 2018, expressing concern about the need to widen a bridge on Bickford Avenue over Highway 9. The City referred Ms. Peterson to WSDOT's SR 9 Corridor Planning Study, which includes information about what would be a state highway project. Lastly, Suzanne Davis provided an email comment, dated February 21, 2018, expressing concern about potential noise impacts to senior housing residents from surrounding commercial land use. The City responded that more than 250 feet would separate the proposed building from the nearest commercial use. *Exhibit 1, Staff Report, page 4; Exhibit 22; Exhibit 23; Exhibit 24.*

#### State Environmental Policy Act

4. The City acted as lead agency and analyzed the environmental impacts of the proposal, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C Revised Code of Washington (RCW). The City reviewed the Applicant's environmental checklist and other information on file and determined that the proposal would not have a probable significant adverse impact on the environment. The Applicant's Environmental Checklist identified hawks, songbirds, crows, and field mice as having been observed or known to be on or near the site. No threatened or endangered species are known to be on or near the site. The City issued a Determination of Nonsignificance (DNS) on March 26, 2018, with a comment and appeal deadline of April 2, 2018. No appeals were filed. *Exhibit 1, Staff Report, page 4; Exhibit 18.*

#### Comprehensive Plan, Zoning, and Surrounding Property

5. The property is designated Business Park by the City Comprehensive Plan. The Business Park designation is primarily located along Bickford Avenue, with a total area of 259 acres within the city and another 11 acres within the unincorporated UGA. This designation is intended to accommodate light industrial and warehousing uses as well as large-scale commercial uses. Residential uses are permitted subject to certain limitations. *Exhibit 1, Staff Report, page 3; City Comprehensive Plan, page 1-5 (2016).*
6. The City identified Comprehensive Plan goals and policies as relevant to the proposed use. Land Use goals include preserving and enhancing the quality of character of and connections between the City's residential and mixed-use neighborhoods (Goal LU3). Land Use policies include utilizing innovative zoning and continuing to improve and apply design standards (Policies LU 2.1 and 2.5) and designating adequate mixed-use areas, including business park areas with limited multi-family uses on large sites (Policies CO 6.1, 6.4, and 6.6). Housing goals include ensuring that adequate residential capacity is maintained to accommodate the City's 2035 population target (Goal HO4). Housing

policies include increasing opportunities and capacity for affordable housing, fair and equal access, reasonable accommodations, and to ensure that new development enhances and is compatible with its surrounding neighborhood (Policies HO 1.4, 1.6, 1.10, 3.3). Environmental Protection goals include preserving and protecting significant critical areas (Goal EP 1). Environmental Protection policies include mitigation measures, preservation of buffers, no net loss, habitat corridors, and low impact development (Policies EP 1.4, 1.5., 1.6, 1.9, 3.1). Park policies include requiring all new residential development to provide park impact fees or appropriate parkland. (Policy 1.5). Transportation goals include meeting concurrency requirements including ensuring that funding is identified to implement improvements to increase capacity within six years of development (Goal TR 24). Utilities policies include requirements for undergrounding utilities (Policy UT 1.9). *Exhibit 1, Staff Report, pages 3 and 6, and Attachment A.*

7. The property is zoned Business Park. The purpose of this designation is to provide areas suitable for a mix of light manufacturing and commercial uses while discouraging strip commercial development. The purpose is also to broaden the array of developable areas to include those with environmental constraints. Development is to occur under strict aesthetic and environmental controls. Multi-family residential use is permitted in conjunction with commercial use on the same site. *SMC 14.205.055.* Under the zoning code, Business Parks are to have access to at least one major arterial. *SMC 14.205.055.A.* The City determined that this standard refers to a sufficiently wide street, rather than a roadway designation, such that no additional road access would be required. *Exhibit 1, Staff Report, pages 7 and 9.*

Access to the adjacent arterial and other streets would be provided in accordance with City traffic plans and would be constructed under Public Works Design and Construction Standards. Criteria for approval of the site development plan include the prevention of strip commercial development and the protection of environmentally critical areas. A minimum of five acres would normally be required for a Business Park development. The City determined that the 4.53-acre parcel should be considered part of the overall 17.29-acre business park.

Townhouse and apartment styles of residential use are permitted in conjunction with commercial use on the same site. *SMC 14.205.055.A - .D.* The City determined that, although “in conjunction with,” is not defined in the SMC, the proposed development site is contiguous to, and under common ownership with, the overall 17.29-acre Snohomish Business Park site. The Applicant intends to record a restrictive covenant prior to the City’s issuance of any site development permits which states that the senior housing project is in conjunction with the adjacent Snohomish Business Park.

The proposed structure would be set back 25 feet from the front property line, 110 feet from the east (adjacent BP zone), and 380 feet from the west (adjacent SF zone). The proposed building would 59 feet high. Property to the south is designated and zoned Business Park, with commercial Snohomish Business Park uses. Property to the east is also designated and zoned Business Park, with multi-family residences. Property to the

north is designated and zoned Single Family and Business Park (across Weaver Road), with single-family subdivision and multi-family development uses. Property to the west is vacant and is designated and zoned Single Family. *Exhibit 1, Staff Report, pages 2, 6 through 8, 14, and 15; Exhibit 6; Exhibit 7.*

8. Multi-family uses are allowed in the Business Park designation zone with certain criteria. *SMC 14.207.130.* The gross square footage of multi-family housing must not exceed the gross square footage of commercial use. The City compared the proposed residential square footage, of 70,000 square feet, with the 282,887 square feet of commercial use on the adjacent business park parcel. Multiple family density may not exceed 18 units per acre. *SMC 14.210.330, Table 1.* The City determined that the overall 17.29-acre site would support up to a total of 311 units and that the proposed 100-unit development would result in a density of 5.8 units per acre. *Exhibit 1, Staff Report, page 8.*

#### Subject Property and Proposed Use

9. The irregularly shaped 4.53-acre site contains forested areas, a pasture, a portion of Cemetery Creek, and wetlands. City Planner Brooke Eidem testified that the non-wetland portions of the site were previously graded. The site is part of an existing Snohomish Business Park commercial development located adjacent to the south. The Applicant would construct a 100-unit, multi-family residential structure for seniors, with parking for 123 vehicles west of the proposed structure. *Exhibit 7.b; Exhibit 8; Exhibit 11; Testimony of Ms. Eidem.*

#### Critical Areas

10. A portion of a large wetland complex is located on the south and west portions of the project site along Cemetery Creek. Wetland Resources, Inc. (WRI), prepared a Critical Areas Study (CAS - 2017) for the Snohomish Business Park, dated September 8, 2017. The CAS - 2017 study identified two Category III wetlands: Wetland A, requiring a 50-foot buffer, and Wetland B, containing less than 1,000 square feet and requiring no buffer, as well as Cemetery Creek, a perennial stream, requiring a 100-foot buffer. Cemetery Creek originates off-site to the north and enters the property in the westernmost corner via a culvert beneath Weaver Road. It flows in a southwesterly direction for a short distance and then exits the property in a southeasterly direction. At the request of the City, Environmental Science Associates (ESA) reviewed this study and walked the property on November 28, 2017. In a Memorandum from Michael Muscari, PWS, to the City, dated December 8, 2017, ESA confirmed that WRI boundary flagging of Wetlands A and B was accurate and that Wetland B is bisected by Cemetery Creek, a Type F fish stream. ESA determined that Wetland A should be considered a Category II wetland, with a moderately high habitat score requiring a 150-foot buffer. ESA determined that Wetland B, although rated Category III, immediately abuts Cemetery Creek and is not isolated, and requires a 100-foot buffer. WRI reviewed its wetland ratings in December 2018 and prepared a Critical Areas Study and Mitigation Plan (CAS-2018), dated February 8, 2018.<sup>3</sup> WRI's

---

<sup>3</sup> Elsewhere, this CAS – 2018 is referred to as a revised CAS. *Exhibit 11; Exhibit 14.*

review determined that one Category II wetland, on the southern and southeastern portion of the property, and one Type F stream were present on the property, requiring 100-foot buffers.<sup>4</sup> ESA reviewed the CAS-2018 report and agreed that one combined wetland (Wetland A) is located on the property, requiring a 100-foot buffer. *Exhibit 1, Staff Report, pages 2 and 6; Exhibits 11 through 14.*

11. The CAS-2018 study and mitigation plan analyzed mitigation sequencing, including avoiding the impact. The CAS-2018 study determined that, although buffer alterations are proposed, none of the on-site aquatic resources would be impacted. Wetland buffer alterations would occur to accommodate bioretention cell construction and a roadway/parking-lot. Buffer reduction up to 25 percent is allowed if restoration and enhancement occurs within the remaining buffer. Buffer averaging up to 50 percent is allowed if an equal area of buffer is added. The Applicant is proposing a combination of buffer reduction and buffer averaging. *SMC 14.260.040.G.* The City allows the outer 50 percent of wetland buffers for stormwater management facilities. *SMC 14.260.040.H.* The buffer area being reduced (5,869 square feet) is composed of a pasture area. The Applicant would enhance approximately 41,868 square feet of buffer with native trees and shrubs. The CAS-2018 study determined that the total buffer area would be increased and that averaging would not diminish the functions or values of the wetlands. The new buffer area would be planted with native trees and shrubs, and nowhere would the buffers be reduced below 50 percent of the standard buffer widths. Approximately 2,390 square feet of buffer would be reduced, with approximately 8,029 square feet of buffer added to the existing buffer as compensation.

Stream buffers may be reduced up to 40 percent if restoration and enhancement occurs in the remaining buffer. The stream buffer width would be reduced in the northwest corner of the proposed parking lot. The buffer would be waived where the stream is culverted. *SMC 14.55.020.A.* The CAS-2018 includes a monitoring plan, as well as maintenance requirements and a contingency plan. The Applicant proposes to record a Native Growth Protection Area easement over the critical areas and buffers, with the outer edge of the buffer marked with signage approved by the City. The Applicant would also put up fencing that discourages access to critical areas, but allows periodic access for maintenance of the stormwater facilities. *Exhibit 1, Staff Report, pages 10 and 15; Exhibit 11; Exhibit 14.*

#### Stormwater

12. Slopes vary across the site, with the steepest slopes of up to 39 percent in the northern portion of the site. Sondergaard Geoscience, PPLC, prepared a Geotechnical Engineering Study (GES) for the Applicant, dated August 11, 2017. The GES identified the soil as Vashon till sediments; classified by the USDA Soil Survey of Snohomish County as Tokul gravely loam material. No slope, seismic, or erosion hazards were identified. The GES recommended mitigation of off-site sediment transport, including recommendations for site

---

<sup>4</sup> The CAS-2018 identifies Wetland A and B on the property, but only describes Wetland A. Ms. Eidem testified that the two wetlands are connected. *Exhibit 11; Testimony of Ms. Eidem.*

preparation, foundation support, slab-on-grade floor support and drainage considerations. *Exhibit 7.a; Exhibit 8.*

13. The project site is located within the Snohomish River watershed, Water Resource Inventory Area (WRIA) 7, which drains into Puget Sound. Land Technologies, Inc., prepared a Stormwater Site Plan Report (SSPR), dated February 2018. There is no upstream tributary. The site drains to Cemetery Creek, which has a concrete dam downstream of the site and which meanders through neighborhoods and fields forming wetland areas before flowing into the Snohomish River. The proposed project would create 1.67 acres (72,702 square feet) of new impervious area and would comply with the 2012 Department of Ecology Stormwater Management Manual for Western Washington. The Applicant proposes to use on-site infiltration, with bioretention facilities and soil dispersion trenches. Stormwater from roofs and paved areas would be collected and piped through an on-site conveyance system to the infiltration facilities. A proposed dispersion trench, in the southeast corner of the building foot, would be relocated to avoid encroachment into the inner 50 feet of the wetland buffer area. Site grading for the project would include 10,931 cubic yards of cut and 1,536 cubic yards of fill. The Applicant intends to prepare a construction stormwater pollution prevention plan (SWPPP) prior to grading. *Exhibit 1, Staff Report, pages 5 and 15; Exhibit 7.c and .d; Exhibit 9; Exhibit 28.*

#### Access, Traffic, and Parking

14. Three vehicle access points off Weaver Road are proposed, with one limited to service entrance and emergency access. The Applicant would construct frontage improvements to Weaver Road, as well as pedestrian access to the site from a new public sidewalk. Gibson Traffic Consultants, Inc., prepared a Traffic Impact Analysis (TIA) for the Applicant, dated January 2018. The proposed project is anticipated to generate 370 new average daily trips with 20 new AM peak-hour trips and 26 new PM peak-hour trips. The TIA identified the unsignalized intersections of Bickford Avenue, at Weaver Road and at 19<sup>th</sup> Place/Bickford Cut-Off, as having a Level of Service (LOS) F.<sup>5</sup> The Engineering Department concurs that the adjacent Bickford and Weaver Road intersection is at a failing Level of Service and that a traffic signal is needed at this intersection. Improvements to these intersections are included in the City's 2018-2023 Transportation Improvement Plan. The Applicant would pay traffic mitigation fees of \$1,603 per new PM peak-hour trips to accommodate concurrency requirements. The City determined that, with payment of traffic impact fees, concurrency requirements of SMC 14.20.090 and 14.295.100 would be met. The City issued a Determination of Concurrency, dated May 24, 2018. Chapter 14.235 SMC allows a reduced parking standard of 1.2 off-street parking spaces per unit for senior housing developments in excess of five units. A minimum of 80 percent of the units must be occupied by a senior citizen at least 62 years of age. *SMC 14.235.050*. The Applicant would provide parking for 123 vehicles. The Applicant would record the approved site plan with a restrictive covenant stating that, if at any time fewer than 80 percent of the

---

<sup>5</sup> Traffic congestion is generally measured in terms of level of service (LOS) under the current *Highway Capacity Manual*. Intersections are rated between LOS A and LOS F, with LOS A being free flow and LOS F being forced flow or over-capacity conditions. *Exhibit 10.*

units are occupied by senior citizens, additional parking stalls must be installed. Community Transit Routes 109 and 271 provide transit service adjacent to the project site. *Exhibit 1, Staff Report, pages 3, 5, 6, 10, 14, and 15; Exhibit 7.c; Exhibit 10; Exhibit 26; Exhibit 18; Exhibit 30.*

#### Landscaping

15. The Applicant would install a Type III eight-foot-wide landscape buffer, on the west side of the site, to screen the development from future single-family uses. Type III screening consists of conifers (and no greater than 80 percent deciduous trees), spaced at a maximum of 20 feet on center (or 35 feet on center for deciduous trees). Shrubs and ground cover are also required to provide at least 75 percent coverage. *SMC 14.240.040*. The SMC requires that not less than 20 percent of the site be landscaped or remain as open space. The development site would include areas of undisturbed vegetation, formal landscaping, and buffer enhancement, totaling 63 percent open space. Parking lots for more than 20 cars must provide a minimum of one contiguous 100 square foot landscaped island within the parking area for each 10 spaces. As currently proposed, only five of the proposed 20 individual landscape islands would meet this minimum size requirement. At least five percent of the site must be in formal developed landscaping (no less than 2,000 square feet) and must be oriented toward the main entrance and public right-of-way. The Applicant would provide 17,076 square feet of formal landscape areas, or eight percent of the development site. Of that, 4,803 square feet would be oriented toward the eastern entrance and 8,589 square feet would be oriented toward the western entrance. The Applicant would provide a planter strip with street trees planted at approximately 50 feet on center. The Applicant would submit a detailed landscape plan for City review and approval prior to issuance of a site/civil construction permit. The landscape plan must demonstrate compliance with landscape standards, including requirements related to landscape islands. In addition, the landscape island in the west parking lot would be removed from the buffer addition areas in the mitigation plan. *Exhibit 1, Staff Report, pages 10, 14, and 15; Exhibit 7.*

#### Design Review

16. Design standards applicable to this site are contained in the adopted Design Standards and Guidelines (2004). The proposed building would undergo a separate design review analysis during building permit review. The City determined that, with conditions related to site lighting and parking-lot landscaping, the site layout and design would be consistent with applicable design standards. *SMC 14.230.040. Exhibit 1, Staff Report, page 5; Exhibit 6; Exhibit 7; Exhibit 21.*

#### Utilities and Services

17. The City's Engineering Department reviewed the proposal and determined that the proposal appears to meet water service minimum requirements, but that flow testing would be required. The Engineering Department also determined that the proposal meets minimum sewer flow requirements, minimum requirements of the 2012 Department of Ecology Western Washington Stormwater Manual, the City's Engineering Development Standards for access improvements, and minimum frontage improvement requirements. *Exhibit 1, Staff Report, page 5; Exhibit 28.*

*Findings, Conclusions, and Decision*  
*City of Snohomish Hearing Examiner*  
*Weaver Road Senior Housing CUP/SDP No. 16-17-CUP/SDP*

18. Building/Fire Official Sharon Pettit reviewed the application for compliance with the 2015 International Building, Fire, Mechanical, and 2015 Uniform Plumbing Codes, as well as the Washington State Energy code. The Building/Fire Official requested two conditions to require compliance with the Chapter 19.04 SMC Building Codes and to provide a fire-flow analysis. The Snohomish Public Utility District (PUD) No. 1 reviewed the application and determined that the PUD has sufficient electrical capacity to serve the proposed development, although existing PUD facilities may require upgrading. The Washington Department of Fish and Wildlife (WDFW) provided a comment that a proposed sewer line over a culverted section of Cemetery Creek beneath Weaver Road would require a Hydraulic Permit Approval. *Exhibit 1, Staff Report, page 5; Exhibit 25; Exhibit 26; Exhibit 27.*
19. The Applicant would pay park impact mitigation fees prior to issuance of a building permit, currently set at \$3,600 per multi-family dwelling unit. The Applicant may request a fee exemption, under SMC 14.300.050, or exercise an in-kind mitigation option. *SMC 14.300.080. Exhibit 1, Staff Report, page 15.*

#### Site Development Plan

20. The City Planning Director is responsible for approving Type 3 permit site development plans (SDPs). Here, the SDP review has been consolidated with the CUP before the Hearing Examiner. The criteria for site development plans are the same as for a CUP. *SMC 14.55.020.A; SMC 14.65.020.A; Exhibit 1, Staff Report, page 13.*

#### Testimony

21. Ms. Eidem testified in general about the application and the CUP criteria. Gordon Cole, Applicant and Property Manager for the owner, testified that the facility would provide independent-living units and that no meal service or assisted living nursing care would be provided. Karen Guzak testified in favor of the CUP stating that there is a shopping area within a quarter mile, and Providence Health Center is also nearby. Lya Badgley testified in favor of a wider wetland buffer and requested better traffic control. She recognized that a traffic signal light would be installed in the future, but urged completing this as soon as possible. Ms. Eidem testified that design work on the traffic signal light is underway. *Testimony of Ms. Eidem; Ms. Guzak; Ms. Badgley; and Mr. Cole.*

#### City Staff Recommendation

22. City staff determined that, with conditions, the proposal complies with the City's Comprehensive Plan goals and policies and applicable development regulations, and recommends approval of the CUP. *Exhibit 1, Staff Report, pages 12 through 15.* The Applicant agreed with the City recommendation, including the proposed conditions of approval. *Testimony of Mr. Cole.*

### **CONCLUSIONS**

#### Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide requests for Type 4 conditional use permits. *Snohomish Municipal Code (SMC) 2.33.080; 14.20.020.D; 14.20.100.C.* The City

*Findings, Conclusions, and Decision  
City of Snohomish Hearing Examiner  
Weaver Road Senior Housing CUP/SDP No. 16-17-CUP/SDP*

determined the Type 3 Site Development Permit decision, normally made by the City Planning Director, should be consolidated with the hearing on the CUP. *Exhibit 1, Staff Report, page 13.*

#### Criteria for Review

##### *Conditional Use Permit*

The criteria for deciding conditional use permits shall be as follows:

1. Adequate streets, sidewalks, transit stops, open spaces, parks, schools, water, sewer, and stormwater facilities shall be available to the proposed development.
2. The design and appearance of the structure shall be compatible with surrounding developments that are in conformance with the land use designation.
3. The development shall be consistent with the Comprehensive Plan.
4. The development shall mitigate any significant adverse environmental impacts.
5. Concurrency requirements (SMC 14.20.090) shall be complied with.
6. The development shall be consistent with the health, safety, and general welfare.

*SMC 14.55.020.A.*

In granting a conditional use permit, to protect the health, safety and general, the City may:

1. Require a site plan showing exact location and dimensions of existing and proposed structures or equipment.

*SMC 14.55.020.B.*

##### *Site Development Plan*

The criteria for approval of a site development plan shall be as follows:

1. Adequate streets, sidewalks, transit stops, open spaces, parks, schools, water, sewer, and stormwater facilities shall be available to the proposed development.
2. The design and appearance of the structure shall be compatible with applicable design standards and guidelines.
3. The development shall be consistent with the Comprehensive Plan.
4. The development shall mitigate any significant adverse environmental impacts.
5. Concurrency requirements (SMC 14.20.090) shall be complied with.
6. The development shall be consistent with the health, safety, and general welfare.

*SMC 14.65.020.A.*

In approving a site development plan, to protect the health, safety and general welfare, the City may:

1. Require a site plan showing exact location and dimensions of existing and proposed structures or equipment.
2. Require dedication to the public of land for street rights-of-way or other public purposes, to the extent necessary to implement the City's Transportation Plan or mitigate environmental impacts, provided the dedication does not constitute an unconstitutional taking of private property.
3. Require improvements designed to mitigate the proposal's environmental impacts.

*Findings, Conclusions, and Decision*

*City of Snohomish Hearing Examiner*

*Weaver Road Senior Housing CUP/SDP No. 16-17-CUP/SDP*

4. Otherwise impose conditions as may be consistent with the purpose of this title or the purpose of the land use designation.

*SMC 14.65.020.C.*

The criteria for review adopted by the City Council are designed to implement the requirement of chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

### Conclusions Based on Findings

#### *Conditional Use Permit*

1. **With conditions, the proposed use would be adequately served by streets, sidewalks, transit stops, open spaces, parks, schools, water, sewer, and stormwater facilities.**

The water/sewer utilities serving the site are adequate for the proposed use. Sidewalks would be constructed along the property frontage. A transit stop is available within a quarter mile of the site. The Applicant would pay traffic impact fees, and a traffic signal light is planned for the intersection of Weaver Road and Bickford Avenue. The Applicant would provide open space, pay a park mitigation fee, and provide stormwater facilities to meet Washington Department of Ecology standards.

Conditions are necessary to ensure that the Applicant pays impact fees; obtains Hydraulic Project Approval or an exemption for the sewer main construction in Weaver Road; protects the existing wetlands and buffers with a Native Growth Protection Area easement; and complies with the project plans as well as recommendations of the professional studies relating to geotechnical considerations, stormwater drainage, and protection of critical areas. *Findings 1 – 22.*

2. **The design and appearance of the proposal would be compatible with surrounding developments.** The design and appearance of the structure would be reviewed for consistency with City design standards during building permit review. The Applicant provided conceptual elevations and architectural character drawings. *Findings 1, 16, and 22.*

3. **With conditions, the proposed use would be consistent with the Comprehensive Plan.** The subject property is designated and zoned Business Park. The Comprehensive Plan allows limited multi-family uses on large sites with access to at least one minor arterial in order to meet transportation needs. Site design includes ample landscaping and open space, preservation of existing environmental features, and protection of existing residential neighborhoods (Policies CO 6.1, 6.4, and 6.6). Conditions are necessary to ensure that the Applicant pays impact fees; obtains Hydraulic Project Approval or an exemption for the sewer main construction in Weaver Road; protects the existing wetlands and buffers with a Native Growth Protection Area easement; and complies with the project plans as well as recommendations of the professional studies relating to

*Findings, Conclusions, and Decision*  
*City of Snohomish Hearing Examiner*  
*Weaver Road Senior Housing CUP/SDP No. 16-17-CUP/SDP*

geotechnical considerations, stormwater drainage, and protection of critical areas.  
*Findings 1, 6, and 22.*

4. **Conditions would mitigate any significant adverse environmental impacts were identified.** The City issued a SEPA DNS, which was not appealed. The City determined that any significant adverse impacts could be mitigated through existing City regulations.  
*Findings 1 and 4.*
5. **With a condition, the proposed use would comply with concurrency requirements.** The City reviewed the proposal and determined that the proposed use would not further reduce the level of service standards for traffic at adjacent roadways or intersections beyond the LOS F currently experienced at the intersection of Weaver Road and Bickford Avenue. The City's 6-Year Transportation Improvement Plan includes a project to install a traffic signal at this intersection within the next six years. A condition is necessary to ensure that the Applicant pays traffic mitigation fees. *Findings 1, 14, and 22.*
6. **With conditions, the proposal would be consistent with the health, safety, and general welfare.** The City provided reasonable notice for public comment and testimony at the open record hearing. The City's Building/Fire Official reviewed the proposal and determined that a fire-flow test is necessary, as well as compliance with the City's Chapter 19.04 SMC building codes. Conditions are necessary, as listed in Conclusion 1, to ensure that the Applicant complies with all applicable local, state, and federal laws.  
*Findings 1-22*

#### *Site Development Plan*

7. The criteria for site development plan review are identical to the review of a CUP. *See Conclusions 1 through 6 above.*

### **DECISION**

Based on the preceding findings and conclusions, the request for a conditional use permit and site development plan to construct a 100-unit senior housing development on a 4.53-acre portion of the 17.29-acre Snohomish Business Park commercial development on Weaver Road is **APPROVED**, with the following conditions:<sup>6</sup>

1. A third party fire-flow test shall be performed prior to issuance of construction permits for the site.
2. The Applicant shall obtain Hydraulic Project Approval (HPA) or an appropriate exemption from WDFW prior to construction of the sewer main in Weaver Road.
3. A detailed landscape plan shall be submitted for City review and approval prior to issuance of a site/civil construction permit. The landscape plan shall demonstrate

---

<sup>6</sup> This decision includes conditions required to reduce project impacts as well as conditions required to meet City code standards.

- compliance with all applicable landscape standards, including requirements related to landscape islands in the west parking lot, and an additional tree in the east parking lot.
4. Prior to issuance of any permits for site development, the Applicant shall record a restrictive covenant, including the approved site plan and as approved by the City, acknowledging the use of the lesser parking standard for senior housing under SMC 14.235.050 and the association of the senior housing project being done in conjunction with the adjacent Snohomish Business Park development.
  5. A Native Growth Protection Area easement shall be declared over the critical areas and buffers present on the development site, with the outer edge of the buffer marked with signage approved by the City and fencing in a manner that allows periodic access and maintenance of the stormwater facilities.
  6. The buffer planting areas in the mitigation plan shall be extended to include any areas that are cleared during grading for stormwater cells.
  7. The landscape island in the west parking lot shall be removed from the buffer addition areas in the mitigation plan.
  8. Native shrubs shall be planted in the wetland area extending into the mowed pasture.
  9. The dispersion trench for the stormwater bioretention facility located at the southeast corner of the building footprint shall be relocated to avoid encroachment into the inner 50 feet of the wetland buffer area.
  10. Traffic impact mitigation fees shall be remitted prior to issuance of a building permit for the generation of 26 P.M. peak-hour trips. The rate charged shall be the rate in place at the time of building permit issuance. The current rate is \$1,603 per P.M. peak-hour trip for a total of \$41,678.00. However, the total fee may change if the rate changes before a building permit is issued.
  11. Park impact mitigation fees shall be remitted prior to issuance of a building permit for the development of 100 new multi-family dwelling units. The rate charged shall be the rate in place at the time of building permit issuance. The current rate is \$3,600 per multi-family dwelling unit for a total fee of \$360,000.00. However, the total fee may change if the rate changes before a building permit is issued. The Applicant may seek an exemption from the fee pursuant to SMC 14.300.050, or exercise the in-kind mitigation option allowed pursuant to SMC 14.300.080.
  12. Proposed parking-lot lighting shall be submitted for review prior to issuance of a site/civil permit.
  13. All work shall comply with the project narrative, plans, and recommendations of the professional studies and reports relating to geotechnical, stormwater drainage, critical

areas, etc., as approved by the City.

14. The Applicant shall have two years to show substantial progress and five years to complete construction under this CUP. *SMC 14.20.120.*

Decided this 14<sup>th</sup> day of June 2018.



---

THEODORE PAUL HUNTER  
Hearing Examiner  
Sound Law Center