

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit) CUP2009-0001
Application for)
)
Waldorf Association of Whatcom County) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
) AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The Applicant is requesting a Zoning Conditional Use Permit to utilize an existing residence located at 825 Austin Street as a preschool facility, with secondary use as school storage, potential office space and a future day care facility. The existing garage and hot tub will be removed in order to accommodate the limits of impervious area within the Lake Whatcom watershed.

Decision: The requested Zoning Conditional Use Permit is approved, subject to conditions.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted and evidence presented at the public hearing.

I.

Applicant: Waldorf Association of Whatcom County, Inc.

Applicant's Representative: Chad Schulhauser, P.E. – Millennium Engineering

Property Address: 825 Austin Street
Bellingham, WA 98229

Legal Description: NE ¼ of Section 34, Township 38, Range 3E, W.M.

Assessor's Parcel Number: 380334 558391

Zone: Urban Residential-3 Units/Acre UR(3)

Subarea: Lake Whatcom

Comprehensive Plan: Urban Growth Area (Short-Term Planning Area)

SEPA Review: EXEMPT

Shoreline Designation: N/A

Fire District: No. 2

School District: No. 501

Water District: Lake Whatcom Water and Sewer

Sewage Disposal: Lake Whatcom Water and Sewer

Neighboring Uses: North: Waldorf School
South: Residential
East: Residential
West: Residential

AUTHORIZING ORDINANCES:

Whatcom County Comprehensive Land Use Plan
Whatcom County Code Chapter 15, Building Code
State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11
Whatcom County Code Chapter 16.16, Critical Areas
Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance
Whatcom County Code Title 24, Health Regulations

Legal Notices: Posted – July 29, 2009
Mailed – July 23, 2009
Published – February 13 and July 30, 2009

Hearing Date: August 19, 2009

Parties of Record:

Waldorf Association of Whatcom County
941 Austin Street
Bellingham, WA 98229

Chad Schulhauser
Millennium Engineering
PO Box 137
Lynden, WA 98264

Joe and Kathy Greshock
4630 Ann Court
Bellingham, WA 98229

Austin and Krista McHugh
4610 Ann Court
Bellingham, WA 98229

Jim Hoogestraat
Pemberton & Hoogestraat
120 Prospect Street, Suite One
Bellingham, WA 98225

Herb and Mona Porter
4601 Ann Court
Bellingham, WA 98229

Charles Maxwell and Ursula Schulenburg
4621 Ann Court
Bellingham, WA 98229

Brenda Wilson
Planning and Development Services

Sanja Barisic
Division of Engineering

Exhibits:

- 1 Land Use Application
 - 1-1 Supplemental Application
 - 1-2 Letter, dated February 3, 2009 from Millennium Engineering Group
 - 1-3 Agent Authorization
 - 1-4 Letter of Determination of Completeness, dated February 11, 2009
 - 1-5 Form Technical Committee Staff Memorandum, dated February 13, 2009
 - 1-6 Form Notice of Application Letter, dated February 13, 2009
 - 1-7 PDS Instructions for Obtaining Names/Addresses
 - 1-8 Property Owners within 300-feet – list and labels

- 1-9 PDS Instructions for Providing Adequate Site Plan
- 1-10 Lot of Record Confirmation
- 1-11 Assessor's Records
- 1-12 Real Estate Contract
- 1-13 Public Water Notification
- 1-14 Preliminary Traffic Info
- 1-15 Preliminary Stormwater Proposal
- 1-16 Covenant to Bind Properties
- 1-17 Customer Receipt

- 2 Vicinity and Plat Maps

- 3 Aerial Map

- 4 SEPA Checklist

- 5 Legal Notice, dated February 13, 2009

- 6 Certificate of Mailing, dated July 23, 2009

- 7 Certificate of Posting, dated July 29, 2009

- 8 Legal Notice, dated July 30, 2009

- 9 Email dated August 10, 2009 from Brenda Wilson confirming neighbor notification

- 10 Lease between The Firs and Waldorf Association

- 11 Site Plan

- 12 Staff Report, dated August 14, 2009

- 13 Agency Comments

- 14 Comment Letters

- 15 Two site photos showing access

II.

The Land Use Services Division of Whatcom County Planning and Development Services recommended approval of the requested Zoning Conditional Use Permit, subject to conditions. The Findings of Fact and Conclusions of Law of the Division are set forth in a Staff Report, Exhibit #12, dated August 14, 2009, a copy of which is attached hereto and incorporated herein by this reference.

The Applicant indicated there were no factual inaccuracies in the Staff Report. The Applicant indicated no objection to the Conditions of Approval requested by Staff.

Planning Staff reviewed the application for consistency with the Zoning Conditional Use Criteria and concluded that, subject to the ten conditions set forth in the Staff Report, adverse impacts would be mitigated to a level which would support approval of the requested permit.

III.

The proposed use would transform an existing single-family residence adjacent to the existing Waldorf School, which was historically the Geneva Elementary School, to a preschool care facility. Two classes of six to eight children each are proposed at this time. Current plans would end the preschool day at 12:30 p.m. Currently the preschool is expected to operate only three days per week. Occasional afternoon and evening events attended by parents, the children, and the staff can be expected. Evening events in this facility will be required to end by 6:30 p.m.

A careful review of the file indicates that there could be four or five adults and up to sixteen children in the facility during its limited hours of operation.

IV.

The proposal did result in a number of citizen comments both in writing and at the public hearing. The bulk of the citizen concerns came from residents on Ann Court, a private community in the immediate vicinity of the existing Waldorf School and the proposed preschool facility. The main concerns raised by neighboring property owners were traffic, parking, noise, and trespass. They pointed out that Ann Court was a private road and that groups of children, perhaps poorly supervised, used Ann Court to access undeveloped property at the end of Ann Court, owned by the City of Bellingham. Apparently students from the Waldorf School have taken on a public service in regard to this property and are acting as stewards of the property.

The parking problems on Ann Court are mostly associated with evening events at the existing Waldorf School. Planning Staff has proposed conditions to mitigate the neighbors' concerns and minimize the impact on neighbors. The Applicant will be required to post signs at the entry to Ann Court, off of Austin Street, informing Waldorf School patrons that they are not to use Ann Court for parking. In addition, Engineering has required elimination of the driveway access to the proposed preschool building from Austin Street. The Applicants will be required to construct a drop-off point in this area and to eliminate vehicular access.

Obviously, most of the concerns raised were about existing conditions related to the use of the old Geneva School as a Waldorf School. The limited use of this house for a part-time preschool does not appear, after being subjected to the Conditions of Approval recommended by Staff and required by the Hearing Examiner, to sufficiently worsen current conditions.

In addition to 'no parking' signage at the entrance to Ann Court, Planning Department Staff has required, and the Applicant has obtained, a shared parking agreement with The Firs. An educational program by the Waldorf School, informing the parents of the availability of parking at The Firs and the ban on parking on Ann Court, potentially, could improve the existing situation. In any case, the new facility will be accessed from a vacated right-of-way between the existing Waldorf School and the facility, and through the drop-off on Austin Street. Little additional parking impacts on the residents on Ann Court should result.

V.

The proposal is to use an existing building. After transition of the building to the preschool facility, the impervious surface on site should be reduced slightly. There will be no reason for parents bringing children to this facility, as there is for the existing Waldorf School, to use Ann Court for drop-off and/or pick-up.

The amount of extra traffic associated with the transformation of this home to a part-time preschool should be minimal.

VI.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following

CONCLUSIONS OF LAW

I.

The proposed operation of a preschool in an existing single-family residence on property adjacent to the existing Waldorf Primary School can be approved if it is consistent with the Zoning Conditional Use Criteria of WCC 20.84.220 (1 through 8). Subject to the Conditions of Approval attached to the granting of this permit, the proposal is consistent with the Conditional Use Criteria. A Zoning Conditional Use Permit should be granted, subject to conditions.

II.

Schools are allowed as a Zoning Conditional Use in this zoning classification. The Waldorf School which is adjacent to the site which is the subject of this application has been used as a public or private school for many years. It is reasonable to consider it part of the character of the surrounding community.

III.

The proposed preschool will not result in significant off-site impacts. The facility will be used part-time for a limited number of preschool students. The use of the facility will have no more impacts than any daycare or preschool facility would have. There is an appropriate drop-off place on

Austin Street and a vacated roadway access between the preschool facility and the Waldorf School. Any school facility is going to have traffic impacts. If that was enough to deny a Zoning Conditional Use Permit, school facilities could not be conditionally approved anywhere.

IV.

The Hearing Examiner concludes that, subject to the Conditions of Approval attached hereto, there will not be significant unmitigated impacts and that the Zoning Conditional Use Permit should be granted.

V.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following

DECISION

A Zoning Conditional Use Permit, CUP2009-0001, is hereby granted to the Waldorf Association of Whatcom County for the proposed use of an existing residence as a preschool facility, associated with the adjacent Waldorf School, to be located on Assessor's Parcel No.380334 558391, 825 Austin Street, Bellingham, Washington, subject to the following conditions:

1. The proposed use and its location on the site shall not be modified or amended in any way without further approval of the Hearing Examiner.
2. The Applicant shall comply with the conditions of Division of Engineering, outlined in the memorandum, dated March 24, 2009; unless modified by the Division of Engineering or appealed to the appropriate agency.
3. The Applicant shall comply with the conditions of the Whatcom County Plans Examiner, outlined in the memorandum, dated February 27, 2009; unless modified by the Plans Examiner or appealed to the appropriate agency.
4. The Applicant shall comply with the conditions of the Whatcom County Health Department, outlined in the memorandum dated March 3, 2009; unless modified by the Health Department or appealed to the appropriate agency.
5. The Applicant shall comply with the conditions of the Whatcom County Fire Marshal's Office, as outlined in the memorandum, dated February 26, 2009; unless modified by the Fire Marshal's Office or appealed to the appropriate agency.
6. The Applicant shall obtain and complete the requirements for a commercial building permit for the tenant improvements to the existing single-family residence.

7. The hours of operation will be limited to 7:00 AM to 6:30 PM Monday-Saturday for all preschool operations and special events.
8. The Applicant shall obtain a demolition permit for the removal of the hot tub and garage.
9. The Applicant shall record the Parking Agreement with the Firs prior to the operation of the school. The Applicant shall place signs on the entrance to Ann Court off of Austin Street which will inform the users of the Waldorf facilities that Ann Court is not to be used for parking associated with Waldorf School activities and that it is private property. The school shall undertake a reasonable education program designed to notify parents on the restriction of parking on Ann Court and the concerns about the Ann Court residents in regard to the impact of the Waldorf facilities on their neighborhood.
10. A teacher or employee of the school shall accompany the students for activities occurring off campus in the neighborhood. The teacher or employee shall be responsible for minimizing the noise and other impacts on the neighboring community resulting from off-campus student activity in the area. In general, the Waldorf School is to undertake both student and parent education to minimize and mitigate impacts from the school on the neighboring community.
11. Landscaping is required for all Zoning Conditional Uses. After the site changes, including the removal of the existing hot tub and garage, the Applicant shall submit to the Planning Department a proposed landscaping plan which would be consistent with the current Code. This plan may require the planting of street trees. Some or even most of the landscaping could possibly be met by the retention and care of existing vegetation on site. The Applicant shall install the landscaping required after approval by the Planning Department.
12. The Applicant shall complete construction or, if no construction is contemplated as a part of this permit, shall demonstrate compliance with all of the conditions of this permit within 24 (twenty-four) months of the date of the issuance of this decision. Failure to complete construction or demonstrate compliance shall result in the expiration of this permit. Substantial progress toward completion may satisfy the terms of this condition if approved by Whatcom County Planning & Development Services and the Hearing Examiner. The Applicant or permit holder may apply for an extension for a term of up to one year upon a showing that substantial progress has been made toward completion or compliance. An extension shall be granted if the Hearing Examiner finds that the applicant or permit holder will suffer a substantial hardship if the extension is denied. The Hearing Examiner may grant an extension for any other good cause shown, in his discretion, but extraordinary circumstances must be shown to obtain an extension of more than one year. The Hearing Examiner shall obtain the comments of Whatcom County Planning & Development Services before granting any extension.

NOTICE

This approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for its revocation. Complaints regarding a violation of the conditions of this permit should be filed with Whatcom County Planning and Development Services. The Hearing Examiner may not take any action to revoke this approval without further public hearing.

Violations of this title shall constitute Class I civil infractions pursuant to RCW 7.80.120. The maximum penalty and the default amount for such violations shall be consistent with Chapter 7.80.RCW.

NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF THE WHATCOM COUNTY HEARING EXAMINER

This action of the Hearing Examiner is final. The following review procedure is available from this decision and may be taken by the applicant, any party of record, or any County department.

Appeal to County Council. Within ten business days of the date of the decision a written notice of appeal may be filed with, and all required filing fees paid to, the Whatcom County Council, Courthouse - 1st Floor, 311 Grand Avenue, Bellingham, WA 98225. The appeal notice must state either:

- 1) The specific error of law which is alleged, or
- 2) How the decision is clearly erroneous on the entire record.

More detailed information about appeal procedures is contained in the Official Zoning Ordinance at Section 20.92.600-.830. A copy of this document is available for review at the County Council Office.

After an appeal has been filed and the Council office has received the hearing record and transcript of the public hearing, the parties will be notified of the time and date to file written arguments.

DATED this 2nd day of September 2009.

Michael Bobbink, Hearing Examiner

August 14, 2009

WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES

STAFF REPORT

The application of the Waldorf Assoc. of Whatcom County for a Zoning Conditional Use Permit	CUP2009-00001 FINDINGS, CONCLUSIONS, <u>AND RECOMMENDATIONS</u>
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I. SUMMARY OF APPLICATION AND RECOMMENDATIONS

Application: The applicant is requesting a zoning conditional use permit to utilize an existing residence located at 825 Austin Street as a preschool facility, with secondary use as school storage, potential office space and a future day care facility. The existing garage and hot tub will be removed in order to accommodate the limits of impervious area within the Lake Whatcom watershed.

Recommendation: Staff recommends approval of the request, subject to the attached conditions.

II. PRELIMINARY INFORMATION

Applicant: Waldorf Association of Whatcom County, Inc.

Applicant's Representative: Chad Schulhauser, P.E. – Millennium Engineering

Property Address: 825 Austin St.
Bellingham, WA. 98229

Legal Description: NE ¼ of Section 34, Township 38, Range 3E., W.M.

Assessor's Parcel Number: 380334558391

Zone: Urban Residential-3 Units/Acre UR(3)

Subarea: Lake Whatcom

Comprehensive Plan: Urban Growth Area (Short-Term Planning Area)

SEPA Review: EXEMPT

Shoreline Designation: N/A

Fire District: #2

School District: #501

Water District: Lake Whatcom Water and Sewer

Sewage Disposal: Lake Whatcom Water and Sewer

Neighboring uses: North: Waldorf School
 South: Residential
 East: Residential
 West: Residential

AUTHORIZING ORDINANCES:

1. Whatcom County Comprehensive Land Use Plan.
2. Whatcom County Code Chapter 15, Building Code
3. State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11
4. Whatcom County Code Chapter 16.16, Critical Areas
5. Whatcom County Code Title 20, Official Whatcom County Zoning Ordinance
6. Whatcom County Code Title 24, Health Regulations

III. FINDINGS

In order for the Conditional Use permit to be approved, the proposal must satisfy the criteria of WCC 20.84.220 (1 through 8). In summary, these criteria state that the proposal must: be harmonious and in accordance with the general and specific goals and policies of Whatcom County's Comprehensive Plan and zoning regulations, be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area, will not be hazardous or disturbing to existing or future neighboring uses, be serviced adequately by essential public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services, not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community, not involve uses, activities, processes, materials, equipment and property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors, have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets, and not result in destruction, loss or damage of any natural, scenic or historic feature of major importance.

Applicable Codes and Policies:

Public Schools are allowed as a conditional use in the Urban Residential-3 Zone

District under WCC20.20.152.

WCC20.84.220(1) through (8) sets forth the criteria that must be satisfied in order for the request for a conditional use permit be granted.

If applicable, conditions are established in order to ensure the criteria are satisfied and potential impacts are mitigated. These conditions are set forth in the Conditions of Approval Section of this report.

The Whatcom County Comprehensive Plan does not specifically address additions and improvements to existing school facilities.

Zoning Review:

Conditional Use Criteria (WCC 20.84.220):

Before approving an application for a conditional use permit, the hearing examiner shall ensure that any specific standards of the use districts defining the conditional use are fulfilled, and shall find adequate evidence showing that the proposed conditional use at the proposed location:

(1) Will be harmonious and in accordance with the general and specific objectives of Whatcom County's Comprehensive Plan and zoning regulations.

Discussion:

The proposed conversion of an existing single family residence to a preschool facility, school storage, potential office space and a future day care facility are all improvements to an existing structure and are adjacent to the existing parcel to the north currently owned, occupied and operated by the Waldorf School. In addition, a covenant to bind the parcel currently being used for the school with the subject parcel will be signed and recorded with the Whatcom County Auditor's Office. The conditions set forth in the "Conditions of Approval" section of this report provide compliance, harmony and accordance with the parking, limits of impervious area in the Lake Whatcom watershed and set forth in the Whatcom County Zoning Code. A shared parking agreement with "The Firs Conference Center" will be signed and recorded as a "Condition of Approval" section of this report. Also, the requirements stated in the memo from Engineering Services dated March 24, 2009 provide mitigation of traffic impacts due to the elimination of the access point on Austin Street.

Conditions are established to mitigate potential impacts and provide compatibility with existing, surrounding land uses in order to provide harmony and accordance with the general and specific objectives and requirements of zoning regulations.

Whatcom County's Comprehensive Plan does not address improvements to existing private school facilities. WCC20.20.152 allows schools as a conditional use in the Urban Residential-3 Zone District.

(2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area?

Discussion:

The proposed conversion of the existing single family residence to the additional school facility will be operated and maintained in such a way to maintain harmony with the existing character of the general vicinity. The owners will provide regular maintenance in order to maintain the essential character of the area. The proposal consists of an interior remodel and the exterior of the house will remain essentially the same.

(3) Will not be hazardous or disturbing to existing or future neighboring uses?

Discussion:

The proposed use is not hazardous and is an addition to the existing use. The proposed improvements will result in an increase in the activities already occurring in the vicinity but will not be disturbing to existing neighboring uses. A shared parking agreement has been signed and notarized between The Firs and The Waldorf Association of Whatcom County in accordance with WCC20.71.602(1) and (3) in order to provide off street parking and mitigate the potential impact in the area.

WCC 20.71.602 (1) and (3) Parking requirements:

Parking shall conform to the requirements of WCC [20.80.500](#) through [20.80.590](#) unless otherwise specified in this section. Minimum parking requirements may be reduced through any of the following methods:

(1) A shared parking agreement has been filed with the county auditor establishing a shared parking lot for land uses with noncompeting hours of operation, or for multitenant retail and commercial facilities; provided, the parking lot is not located further than 700 feet from any of the uses it is intended to serve.

(a) The minimum required parking in shared facilities shall be based on the land use with the highest parking demand.

(b) Mixed use developments with similar operating hours may be required to submit a parking demand study to determine if parking can be combined.

(3) The zoning administrator determines that a reduced requirement will reduce overall impervious surfaces while maintaining consistency with this title.

In addition, regarding the traffic impact, The Waldorf School is planning for 6-8 students in each of the two classes and many of the preschoolers are siblings of students enrolled in upper grades thereby creating a minimal amount of additional traffic. Also, the driveway (drop off space) at 825 Austin St. will be eliminated and physically blocked per requirement number two in the memo from Sanja Barisic,

Engineering Services dated March 24, 2009. The school will also place "No Waldorf Parking" signs at the entry to Ann Court and provide parking assistance to direct traffic away from Ann Court during school events. Also, there is no vehicular or pedestrian access from the site to Ann Court.

(4) Will be serviced adequately by necessary public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services?

Discussion:

The site is serviced adequately by necessary public facilities. Engineering Services has required in a memo dated March 24, 2009 that the existing driveway on Fremont St. be improved and paved. Police protection is provided by the Whatcom County Sheriff's Office. Fire protection is provided by Fire District #2. Refuse disposal is provided by the private sector. Potable water and sanitary sewer are provided by the Lake Whatcom Water & Sewer District. In addition, certified As-Built drawings for the drainage system installed on the site is required for review by Engineering Services.

(5) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community?

Discussion:

The proposed improvements will not create excessive additional requirements at public cost. The proposed project is an improvement to a private school facility and will be a benefit to the economic welfare of the community as a result of private sector investment.

(6) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors?

Discussion:

The activities associated with the preschool and office space will involve normal long term uses however will not be detrimental to persons, property, or the general welfare due to the conditions placed on the operation and use of the property which will serve to mitigate potential impact. Building lights will produce light at night however they will not create a safety hazard and will be placed to avoid the glare produced by such lights. No fumes or odors are anticipated as a result of this proposal. Traffic, noise and glare impacts will be mitigated by the imposition of conditions on the use of the land and operation of the facility.

(7) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets?

Discussion:

The Engineering Services Section of the Whatcom County Public Works Department has required a Revocable Encroachment Permit for a paved apron on Fremont St. Also, Engineering Services has required the existing access on Austin St. to be eliminated and physically blocked.

The requirements that must be met in order for the access permit to be issued address the design criteria that must be satisfied in order to mitigate interference with traffic on surrounding public streets. In addition, the parking agreement and continual efforts of the owners of the subject property as well as the conditions imposed on the operation all serve to mitigate interference with traffic on surrounding public streets.

(8) Will not result in the destruction, loss or damage of any natural, scenic or historic feature of major importance?

Discussion:

The proposed project will not result in the destruction, loss or damage of natural, scenic or historic feature of major importance.

IV. PUBLIC NOTICE AND COMMENT

Requirements for public notice are contained in WCC 2.33.

Notice of Application: The Notice of Application for this proposal was published on February 13, 2009. Notice was also mailed to property owners within 300 feet of the site.

- Public Input: During the public comment period for the Notice of Application, the County received several written comments. These comments and staff response are summarized as follows:
- Traffic: Engineering Services has required the access on Austin St. to be eliminated and physically blocked and the existing driveway on Fremont St. be improved and paved. This will mitigate the impact of traffic within the Ann Court vicinity. In addition, the increase in traffic due to the increase in students is minimal. The preschool is planning for only 6-8 students for each of the two classes and at the most two teachers. The preschool will release students at 12:15 PM, which will not add to PM peak trips between 4 PM and 6 PM. In addition, the preschool is proposed to operate only three days per week in the immediate and near future.

- Noise: The hours of operation will be limited to 7:00 AM – 6:30 PM Monday – Saturday; thereby eliminating evening events that generate noise in the evening hours.
- Property Damage: A teacher or employee of the school will be required to accompany students and monitor behavior for all activities occurring off campus.
- Parking: The result of the requirements from Engineering Services and the condition of a Parking Agreement with The Firs will all serve to improve the existing parking issue and mitigate the impact of the preschool.

Notice of Public Hearing: The Notice of Public Hearing for this project was posted on the site. The notice was included in a one-time newspaper publication.

V. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The proposal is exempt for SEPA pursuant to WAC 197-11 (Categorical Exemptions)

VI. AGENCY COMMENTS

Traffic, Drainage, and other Engineering Comments

Sanja Barisic of Whatcom County Public Works Department, Engineering Services provided comment on March 24, 2009. See attached memo for entry into the Hearing Examiner File as an exhibit and condition of approval.

Safety and Fire Comments

Police and fire protection for the site is provided by the Whatcom County Sheriff's Office and Fire District #2. No comments or concerns regarding this proposal were received from either agency.

Bill Hewett, Fire Inspector of the Whatcom County Fire Marshal's Office provided comment on February 26, 2009. See attached memo for entry into the Hearing Examiner File as an exhibit and condition of approval.

Health Department Comments

Charles Sullivan, Environmental Health Specialist for the Whatcom County Health Department provided comment on March 3, 2009. See attached memo for entry into the Hearing Examiner File as an exhibit and condition of approval.

Building Services Comments

Larry Kwiatkowski, Whatcom County Plans Examiner provided comment on February

27, 2009. See attached memo for entry into the hearing Examiner File as an exhibit and condition of approval.

VII. RECOMMENDATION

Planning and Development Services recommends approval of the Zoning Conditional Use Permit application subject to the following conditions:

VII. CONDITIONS OF APPROVAL

- 1) The use and location on the site shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.
- 2) The applicant shall comply with the attached conditions of the Division of Engineering's memo dated March 24, 2009; unless modified by the Division of Engineering or appealed to the appropriate agency.
- 3) The applicant shall comply with the conditions of the attached Whatcom County Plans Examiner's memo dated February 27, 2009; unless modified by the Plans Examiner or appealed to the appropriate agency.
- 4) The applicant shall comply with the attached conditions of the Whatcom County Health Department memo dated March 3, 2009; unless modified by the Health Department or appealed to the appropriate agency.
- 5) The applicant shall comply with the attached conditions of the Whatcom County Fire Marshal's Office memo dated February 26, 2009; unless modified by the Fire Marshal's Office or appealed to the appropriate agency.
- 6) The applicant shall obtain and complete the requirements for a commercial building permit for the tenant improvement to the existing single family residence.
- 7) The hours of operation will be limited to 7:00 AM to 6:30 PM Monday-Saturday for all preschool operations and special events.
- 8) The applicant shall obtain a demolition permit for the removal of the hot tub and garage.
- 9) The applicant shall record the Parking Agreement with the Firs prior to the the operation of the school.
- 10) A teacher or employee of the school shall accompany the students for activities occurring off campus in the neighborhood.

Report prepared in coordination with the Technical Review Committee by:
Brenda Wilson
Senior Planner

