

**BEFORE THE LAND USE HEARING EXAMINER
FOR THE CITY OF LA CENTER, WASHINGTON**

Regarding an application by the La Center School District) **FINAL ORDER**
for CUP, site plan, and variance approval to construct a new) **File No. 2018-027 CUP**
77,725 square foot two-story middle school at 2001 NE) **(La Center**
Lockwood Creek Road in the City of La Center, Washington) **Middle School)**

A. SUMMARY

1. The applicant, La Center School District, requests Conditional Use Permit (“CUP”) and site plan approval to build and operate a new 77,725 square foot two-story middle school serving grades six through eight. The applicant also requests a variance to the 35 foot maximum building height limit to allow portions of the building up to a maximum 50 feet in height.

a. The school is proposed on a 17.32-acre parcel located at 2001 NE Lockwood Creek Road; also known as tax parcels 209118-000 and 209120-000 (the “site). The site and abutting properties to the east, south, and northwest are zoned LDR 7.5 (Low Density Residential, 7,500 square foot minimum lot size). Properties to the southwest are located in unincorporated Clark County and zoned AG-20 (Agriculture, 20-acre minimum lot size). Properties to the north, across NE Lockwood Creek Road, are also located in unincorporated Clark County and zoned R-7.5 (Single-Family Medium, 7,500 square foot minimum lot size).

b. The site is currently vacant. There are wetlands throughout the site. The applicant will mitigate for unavoidable impacts to the wetlands and buffers by enhancing the remaining on-site wetlands and/or through the purchase of credits at an off-site wetland mitigation bank.

c. The primary building is proposed to be 77,275 square feet, more or less, with a maximum height of 50 feet. The building will be comprised of two levels with the main level at 53,048 square feet and the second level at 24,227 square feet. The school will include classrooms, a main gym, fitness room, band room, drama/stage auditorium, offices, reception and security area, conference and work rooms, art room, cafeteria and kitchen, staff lounge, health station, and student support area.

d. The site is accessed from NE Lockwood Creek Road. Two new approaches will be constructed – one in the northwest corner of the site and the other in the northeast corner of the site. Both approaches are full access approaches that will accommodate two-way traffic in and out of the site. The northwest approach leads to a two-way drive aisle through the visitor parking area and the front of the school, looping back to the northwest approach. A fire lane extends from the southwest corner of the parking area, to the south and around the rear of the building, connecting with the drive aisle on the east edge of the property. The northeast approach leads to a one-way drive aisle for bus and staff parking spaces, then loops back on the east side of the site to the northeast approach. The northeast approach also leads to the two-way

drive aisle along the east edge of the property and extends to the south property line for access to future development on the adjacent south parcel.

e. Two parking areas are proposed – one in the northwest portion of the site for visitor parking and the second in the northeast portion of the site for bus and staff parking. Additional parking spaces for event parking will be placed around the perimeter of the northwest parking area.

f. The applicant will provide dumpsters for solid waste and recyclables on the east side of the southeast area of the building. The waste facilities will be screened from view by the building and an eight-foot-tall concrete wall.

g. The project proposes approximately 328,680 square feet of landscaped area including two storm water ponds and several bio-retention areas (rain gardens). Vegetative screens will be installed on the east and west edges of the site. Also proposed are a physical education field, football field, 100-meter dash strip, private asphalt running track, private gravel path, and private wood chip path all located south of the building.

h. The applicant will construct half-width improvements on the site's NW Lockwood Creek Road frontage and extend a temporary asphalt pathway between the site and the existing sidewalks west of the site.

i. The applicant will construct a sanitary sewer pump station in the southern portion of the site. The pump station will be sized to serve future development within the entire sewer drainage basin. The applicant will extend a force main between the pump station and the existing gravity flow sewer main in NE Lockwood Creek Road, at the intersection of E Spruce Avenue.

2. The City of La Center issued a Mitigated Determination of Nonsignificance ("MDNS") for the development pursuant to the State Environmental Policy Act ("SEPA"). Hearing Examiner Joe Turner (the "examiner") conducted a public hearing to receive testimony and evidence about the application. City staff and consultants recommended that the examiner approve the application and preliminary plat subject to conditions in the Staff Report, as amended by the City's January 9, 2019, "errata sheet" and at the hearing. The applicant accepted those findings and conditions, as amended, without exceptions. Two persons testified with questions and concerns about the proposed development. Disputed issues or concerns in the case include the following:

a. Whether traffic from this development will exceed the capacity of area streets or otherwise create a hazard;

b. Whether the applicant is required to extend gravity flow sewer lines to serve future development within the sewer basin; and

c. Whether exterior lighting on the site complies with Section 18.245.040 of the La Center Municipal Code ("LCMC").

3. Based on the findings provided or incorporated herein, the examiner approves the applications subject to the conditions at the end of this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. Hearing Examiner Joe Turner (the "examiner") received testimony at the public hearing about this application on January 10, 2019. That testimony and evidence, including a recording of the public hearing and the casefile maintained by the City, are included herein as exhibits, and they are filed at City Hall. The following is a summary by the examiner of selected testimony and evidence offered at the hearing.

2. La Center consulting planner Eric Eisemann and City engineer Tony Cooper appeared for the City.

a. Mr. Eisemann summarized the Staff Report to the Hearing Examiner dated January 3, 2019 (the "Staff Report") and the "Errata Sheet" dated January 9, 2019.

i. He noted that the applicant recently discovered additional wetlands on the site. The U.S. Army Corps of Engineers (the "Corps") is scheduled to review the wetlands to determine if they are jurisdictional. The applicant will submit and the City will review a revised mitigation plan to compensate for all wetland and/or buffer impacts on the site, based on the final wetland delineation.

ii. The applicant requested a variance to the maximum 35-foot building height limit allowed in the LDR 7.5 zone to allow portions of the building to be 50 feet high. The applicant designed the building to minimize the impact of the additional height, locating it near the center of the site, away from adjacent properties, with landscaping around the perimeter of the site. In addition, the site is located near the edge of the Urban Growth Area (the "UGA").

b. Mr. Cooper summarized the engineering issues.

i. He requested the examiner add a condition of approval requiring the applicant to install signage consistent with current MUTCD standards, reducing the posted speed limit from 35 to 25 mph and to construct a "school speed zone assembly" to reduce the speed limit to 20 mph during school hours. The new signage should be in place prior to occupancy of the school.

(A) The 25 mph speed limit will begin at the City limits, east of the site. The City and the applicant have no authority to reduce the speed limit outside the City limits. The speeding issues noted by surrounding residents can only be addressed through enforcement. The applicant cannot install speed tables or other traffic calming measures on NE Lockwood Creek Road. This street is an arterial street that is intended to carry high volumes of traffic as well as providing a primary emergency vehicle route.

ii. The applicant proposed to construct an offsite asphalt pedestrian path between the site and the existing sidewalk west of the site, to provide a safe walking route to the school.

iii. The applicant will construct a sanitary sewer pump station in the southern portion of the site. The pump station will be sized to serve future development within the entire sewer drainage basin. The applicant will extend a gravity flow sewer line between the school and the pump station, with a stub to the east to serve future development on the adjacent property. The applicant will extend a force main between the pump station and the existing gravity flow sewer main in NE Lockwood Creek Road, at the intersection of E Spruce Avenue. Adjacent properties cannot connect to the force main, because the line is under pressure from the pump station. Adjacent properties must extend gravity flow sewers lines to the proposed pump station.

iv. The applicant will collect stormwater runoff from the site and treat it in rain gardens proposed throughout the site. The applicant will detain the treated runoff in a stormwater ponds in the southeast and northwest corners of the site, releasing it to the on-site wetlands at less than predevelopment rates.

3. Planner Ann Marie Skinner and School District construction manager Keith Bloom testified on behalf of the applicant, La Center School District.

a. Ms. Skinner summarized the design of the proposed school. She accepted the findings and conditions in the Staff Report, as modified by the “errata sheet” and Mr. Cooper’s testimony.

i. She noted that the applicant designed the school to avoid the initially identified wetlands on the site and to locate the building away from adjacent properties. The applicant’s wetland consultant reviewed the southern parcel that makes up the site on November 20, 2017. At that time the majority of the site was covered with standing water. The consultant dug test pits throughout the site and no hydric soils were noted outside of the two wetlands identified in the southwest and northeast corners of the southern parcel. The consultant reviewed the northern triangular shaped parcel of the site on September 20, 2018, and identified three small wetlands in that area. The consultant reviewed the entire site again on December 6 and 7, 2018, at the request of the Corps. Three additional wetlands were identified on the site at that time; wetlands DS, CS, and ES. No changes to the layout of the school are proposed as a result of the new wetlands. The proposed development will impact portions of those recently identified wetlands. The applicant will revise the mitigation plan to compensate for those impacts.

ii. The applicant will retain the existing trees on the southern portion of the site to provide a buffer between the site and the adjacent property.

iii. Lighting on the site will comply with the recently adopted City ordinance, with “dark sky friendly” downward facing lights. Lighting will be limited to parking lot and security lighting. No lighting is proposed on the outdoor sports fields. Lighting will not exceed one foot-candle at the boundaries of the site. Headlights from

traffic on the site may shine onto adjacent properties. However, the majority of school generated traffic will occur between 7:00 and 8:00 am and 2:30-4:00 pm. The school will conduct occasional school conferences and other evening events.

iv. The school is projected to generate 1,125 Average Daily Trips (“ADT”): 355 trips during the am peak hour, 206 trips during the mid-day peak hour, and 97 trips during the pm peak hour. This traffic increase will be offset by a reduction in traffic from the existing middle school west of the site, which generates 762 ADT: 214 am peak hour trips, 130 mid-day peak hour trips, and 66 pm peak hour trips.

v. The applicant will provide two driveways onto NE Lockwood Creek Road. The western driveway will provide the primary access to the school. The eastern driveway will accommodate school buses and school staff. The traffic analysis concluded that left turn lanes are not warranted on NE Lockwood Creek Road at the site driveways, due to the limited number of left-turn movements.

b. Mr. Bloom testified that the School District will install gravity flow sewers between the school building and the pump station and a force main between the pump station and the existing sewer mains in NE Lockwood Creek Road. The force main cannot provide sewer service to adjacent properties.

4. Thomas Hornsbey expressed concern that traffic associated with the proposed school driveways may limit access to his property north of the site, across NE Lockwood Creek Road.

a. He argued that there is a need for additional speed enforcement on this section of NE Lockwood Creek Road. NE Lockwood Creek Road east of the site is posted at 55 mph. Westbound drivers frequently ignore the existing 35 mph speed limit that begins at the city limits and drivers are likely to ignore the proposed 25 mph limit and the 20 mph school zone limit. The applicant or the City should install speed tables or other traffic calming measures to force drivers to slow down. Speed tables can be designed with cutouts to allow emergency vehicles to pass without slowing.

b. He questioned whether the applicant will extend sanitary sewer stubs to properties north of the site. The applicant could install gravity flow sewer lines alongside the force main in order to avoid the need for additional excavation in the future.

c. He expressed concern that outdoor lights on the site will impact surrounding properties.

5. Jim Farris questioned whether the applicant coordinated with Clark County regarding the need for road improvements and reduced speed limits on NE Lockwood Creek Road.

6. The examiner closed the record at the end of the hearing and announced his intention to approve the application, subject to the findings and conditions in the Staff Report, as modified by the errata sheet and at the hearing.

C. DISCUSSION

1. City staff recommended approval of the application, based on the affirmative findings and subject to conditions of approval in the Staff Report. The applicant accepted those findings and conditions without exceptions.

2. The examiner concludes that the affirmative findings in the Staff Report show that the proposed school does or can comply with the applicable standards for a Conditional Use Permit review, provided that the applicant complies with recommended conditions of approval. The examiner adopts the affirmative findings in the Staff Report as his own, except to the extent they are inconsistent with the following findings.

3. This development will generate additional traffic on streets in the area. That increased traffic will be perceptible to area residents. However, based on the applicant's traffic analysis, it will not exceed the capacity of the streets nor create a hazard.

a. Traffic from the proposed school is unlikely to impact access to Mr. Hornsbey's property, on the north side of NE Lockwood Creek Road. The proposed driveways are offset some distance from Mr. Hornsbey's driveway and they are unlikely to impact access to his property. Additional traffic generated by this development may cause some congestion and delay during peak school traffic hours, but it will not exceed the capacity of the streets or create a hazard.

b. The additional traffic generated by this subdivision may pose an increased risk for drivers, cyclists and pedestrians in the area. Higher vehicular traffic volume creates a marginally higher risk for pedestrians and bicyclists. It may well warrant a heightened degree of attentiveness to traffic when driving, cycling or walking in the neighborhood. However, those risks are consistent with the location of the site in the urban area where City plans call for the sort of development being proposed. Reasonably prudent drivers will observe the posted speed limit and other applicable traffic regulations. Unfortunately, not all drivers are prudent. However, there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers. The speeding problems noted by neighboring residents can only be addressed through enforcement. In the examiner's experience, enforcement is often a complaint driven process. Residents should contact the City police and/or County Sheriff to request additional speed enforcement in this area.

c. The applicant cannot be required to install speed tables or other traffic calming devices to slow traffic on NE Lockwood Creek Road. Speeding is an existing issue that is largely due to existing development in the area. In addition, Mr. Cooper testified that it would be inappropriate to install traffic calming measures on this arterial street, due to potential impacts on emergency vehicles. Mr. Hornsbey argued that it is feasible to design speed bumps that can accommodate emergency traffic. However, he is not an engineer and his unsupported lay opinions are not sufficient to overcome the expert testimony of the City engineer.

4. The applicant will provide gravity flow sanitary sewer service between the school building and the sanitary sewer pump station proposed in the southeast corner of the site. The applicant will extend a sewer stub and easement to the east boundary of the site to allow for future gravity flow sewer connection to the abutting property east of the site. The applicant will not extend gravity flow sewers north of the school. The applicant will extend a force main sewer line to connect the pump station with the existing gravity flow sewer main in NE Lockwood Creek Road at E Spruce Avenue. However, because the force main is under pressure, it cannot provide sewer service directly to adjacent properties.

a. The applicant proposed to size the pump station to serve the school and future development within the sanitary sewer basin. The owners of adjacent properties can extend gravity flow sewer lines to the on-site pump station when those properties develop. The applicant is not required to install pipes or other improvements to provide such sewer service, because this development does not create the need for those improvements. The cost of such extensions should be borne by the future developers. The applicant may be willing to work with the owners of abutting properties to extend utilities to the boundaries of abutting properties, provided the adjacent property owners are willing to bear the cost of such extensions. Adjacent property owners can contact the applicant to discuss the feasibility of such coordinated development.

5. As proposed, all exterior lighting on the site will be aimed and/or hooded to reduce lighting of adjacent properties, as required by LCMC Section 18.245.040, *see* the lighting cut sheet plans. The applicant submitted a lighting plan demonstrating compliance with this section, Plan Sheet C8.01, showing light levels below 1 foot-candle at the site boundaries.

a. Headlights from vehicles maneuvering on the site may shine onto adjacent properties. However the Code does not regulate such impacts. This is one of the results of living in an urban area where City plans call for the type of development being proposed.

D. CONCLUSION

The examiner concludes that the applicant sustained the burden of proof that the proposed development does or can comply with the applicable provisions of the La Center Municipal Code and Revised Code of Washington, provided it is subject to reasonable conditions of approval warranted to assure compliance in fact with those provisions.

E. DECISION

In recognition of the findings and conclusions contained herein, and incorporating the reports of affected agencies and exhibits received in this matter, the examiner hereby approves File No. 2018-027 CUP (La Center Middle School Subdivision) in general conformance with the applicant's preliminary plat, subject to the following conditions:

A. Planning Conditions

1. The Applicant, at time of engineering approval, shall comply with all applicable City of La Center Engineering Standards for Construction and all engineering recommendations contained in the Staff Report unless modified by the Public Works Department (LCMC 12.10.040); and the Applicant shall comply with all applicable La Center land use regulations, goals and policies.
2. Archaeology. The Applicant shall coordinate with the Department of Archaeology and Historic Preservation (DAHP) regarding conformance with DAHP's SEPA comment letter dated December 19, 2018.

Additionally, in the event any archaeological or historic materials are encountered during project activity, work in the immediate area (initially allowing for a 100 feet buffer; this number may vary by circumstance) must stop and the following actions taken:

- a. Implement reasonable measures to protect the discovery site, including any appropriate stabilization or covering; and
 - b. Take reasonable steps to ensure the confidentiality of the discovery site; and,
 - c. Take reasonable steps to restrict access to the site of discovery.
 - d. The project proponent will notify the concerned Tribes and all appropriate city, county, state, and federal agencies, including the DAHP. The agencies and Tribe(s) will discuss possible measures to remove or avoid cultural material, and will reach an agreement with the project proponent regarding actions to be taken and disposition of material. If human remains are uncovered, appropriate law enforcement agencies shall be notified first, and the above steps followed. If the remains are determined to be Native, consultation with the affected Tribes will take place in order to mitigate the final disposition of said remains.
4. The conditional use and preliminary site plan approval shall expire within two years of the date of Final Order and Notice of Decision for this proposal.
 5. The application for final site plan approval (see 18.215.080) must confirm that the proposed fencing, hedging, and landscaping and solid waste, lighting, and noise impacts are consistent with Chapter 18.245 – Supplementary Development Standards.
 6. Wetlands. Prior to soil disturbance in any wetland or potential wetland buffer the Applicant shall update the wetland delineation report to reflect the total wetland area, secure concurrence from the United States Army Corps of Engineers (USACE) and the Washington Department of Ecology (ECY), and submit a mitigation plan to the City of La Center which consistent with the requirements of LCMC 18.300.100 through 18.300.120.

7. Impact Fees. Transportation impact fees (TIF) shall be assessed and paid at the time of building permit issuance.
8. Signs and reader Board. Applications for sign permits are not subject to land use review. Prior to construction of the monument sign and reader board the School District shall apply for a sign permit demonstrating compliance with LCMC 8.60, Signs. When the School District applies for a sign permit, staff recommends that the City treat the proposed school monument sign and internal reader board as if it is a sign in a UP zone, subject to LCMC 8.60.110.

B. Public Works Engineering Conditions

1. The Applicant, at time of engineering approval, shall demonstrate compliance with all applicable La Center regulations, goals and policies contained herein including the requirements and condition in Section III.F., Public Works and Engineering Analysis in the Final Staff Report.
2. As-constructed drawing(s) will be provided in '*.dwg' electronic format as well as Mylar and paper.
3. Construction Plans. Construction plans shall:
 - a. Identify staging areas for all equipment, contractors, deliveries, and supplies prior to construction plan approval.
 - b. Identify and show all utilities with trench and location details.
4. Streets:
 - a. The development shall construct the street improvements noted in section III.F. Public Works and Engineering Analysis of the Staff Report.
 - b. Minimum sight distance requirements shall be met at all site intersections and driveways. The City Public Works Department prior to final site plan approval shall approve sight distances on the internal street system.
 - c. Street lighting installed shall be installed consistent with City and Clark Public Utility standards.
5. Street trees. The Applicant shall provide street trees at a minimum of 30-foot intervals near the Lockwood Creek Road frontage. Prior to construction the Applicant shall provide the Public Works Department with a scaled plan showing the type, location, and planting method of street or front yard trees. A Street Tree bond shall be provided to the City guaranteeing the performance and maintenance of planted trees for two years. LCMC 18.130.100.
6. Grading and Erosion Control.

- a. Site development earthwork for site grading and construction of sewer, storm drain, water, and street systems should occur during the dry weather season between May 1st and October 31st with planting and seeding erosion control measures completed by October 31st.
 - b. The Applicant shall inspect and confirm any property markers before grading and add new markers as may be necessary.
 - c. Site improvements shall not proceed without an approved erosion control plan. All erosion control measures shall be designed, approved, installed and maintained consistent with Chapter 18.320 LCMC and City Engineering Standards. The Applicant is required to have a construction stormwater permit in place with a SWPPP per D.O.E. before construction begins. Where these standards differ, the more stringent shall apply. All erosion control measures shall be in place prior to removal of vegetation or any construction activity and shall be maintained during all phases of construction.
7. Geotechnical. Prior to site disturbance, the Applicant shall consult with the Public Works Department or and City Engineer to incorporate the design recommendations in Section 6.0 of the Geotechnical Site Investigation prepared by Columbia West Engineering.
 8. The Developer is responsible for all costs associated with the service installation, hydrant installations, and any other needed water improvements.
 9. Stormwater.
 - a. The design and construction of storm drainage shall be in accordance with the LCMC and applicable La Center Engineering Standards for public works.
 - b. The developer shall dispose of stormwater on-site per LCMC. The Applicant is required to treat stormwater and detain on-site meeting the City ordinance.
 10. Utilities.
 - a. The Developer shall confirm functionality of existing wastewater facilities and capacity to treat proposed loads from all phases of proposed development and make design modifications to the proposal if such is found deficient.
 - b. The Developer shall add utility stubs to allow future connection of adjoining developments to the public sanitary sewer service and water service.

C. Transportation Conditions

1. The development shall construct half-street frontage improvements to Lockwood Creek Road per City standard detail ST-12A, striping is modified to include a 12-foot travel lane and six-foot bike lane. The roadway design shall be approved by the City Public Works Director prior to final approval.

2. The development shall contribute Transportation Impact Fees toward citywide impacts. To the extent allowed by City plans and regulations, the project may be eligible for TIF credits related to the existing middle school trips transferred to the new middle school and for frontage improvements on Lockwood Creek Road as described in the La Center Capital Facilities Plan.
3. The development shall install 25 mph speed limit signs along the sections of Lockwood Creek Road within the City limits consistent with MUTCD requirements.
4. The development shall construct a school “school speed zone assembly” consistent with MUTCD requirements to reduce the speed limit along Lockwood Creek Road to 20 mph during school hours.
5. Minimum sight distance requirements shall be met at all site driveways. Sight distances shall be approved by the City Public Works Director prior to final site plan approval.

D. SEPA Mitigation Measures

1. The Applicant shall follow the SEPA recommendations made by the two commenting state agencies:

WA Department of Archaeology and Historic Preservation (DAHP) recommending:

- Additional survey work,
- Consultation with affected Tribes, and
- Compliance with federal law if federal funds will be used.

WA Department of Ecology (ECY) related to wetland fill, shorelands, hazardous and toxic wastes, grading, solid waste, water resources, and water quality.

E. CCFR Fire Conditions

1. Fire hydrants must be provided on fire access roadways so that average spacing does not exceed 500 feet and the maximum distance from any point on the street frontage to a hydrant is no more than 250 feet per IFC C102.¹ The Fire District must approve the location of all the hydrants.
2. The perimeter of all structures must be within 150 feet of an approved access road with a minimum clear width of 20 feet per IFC 503.1.1 / D102.
3. Combustible construction above ground should not occur until the required, paved access roadways and fire hydrants are in place and functional.

¹ Hydrant spacing was assessed based on structures that are non-sprinklered, type V-B Construction and no larger than 4,800 combined square feet. Additional hydrants may be required for streets providing access to structures greater than 4,800 SF per (IFC Table B105.1(2) / C102.1).

4. Any dead-end fire access roadway longer than 150 feet must be provided with an approved cul-de-sac or hammer-head turn-around in accordance the International Fire Code design criteria per IFC D103.4.
5. Fire access roadways must have signage for parking restrictions as follows: Signs for no-parking must be provided on both sides of all accessways that are less than 26 ft. wide. Signs for no-parking must be provided on one side of all accessways that are between 26 ft. and 32 ft. wide in accordance with local standards for future enforcement. Accessways that are 32 ft. or greater in width do not require parking restrictions or related signage. IFC D103.6.

DATED this 24th day of January 2019.



Joe Turner, AICP
City of La Center Hearing Examiner