

June 7, 2018

Sumner School District  
1202 Wood Avenue  
Sumner, WA 98390

**RE: PLN-2018-0015  
CONDITIONAL USE PERMIT, SEPA, HEIGHT  
EXCEPTION, CIVIL AND BUILDING PERMITS**

Dear Applicant:

Transmitted herewith is the Report and Decision of the City of Sumner Hearing Examiner relating to the above-entitled matter.

Very truly yours,

**STEPHEN K. CAUSSEUX, JR.**  
Hearing Examiner

SKC/jjp  
cc: Parties of Record

**OFFICE OF THE HEARING EXAMINER**

**CITY OF SUMNER**

**REPORT AND DECISION**

**PROJECT NUMBER:** PLN-2018-0015  
**CONDITIONAL USE PERMIT, SEPA, HEIGHT  
EXCEPTION, CIVIL AND BUILDING PERMITS**

**APPLICANT:** Sumner School District  
1202 Wood Avenue  
Sumner, WA 98390

**REPRESENTATIVE:** BLRB Architects  
Attn: Doug DuCharme  
1250 Pacific Avenue, Suite 700  
Tacoma, WA 98402

**PLANNER:** Scott Waller, Assistant Planner

**SUMMARY OF REQUEST:**

Conditional use permit to authorize a remodel and expansion of Sumner High School. Height exceptions to 46' 7" and 38' 10" are included as part of the modernization of the high school building. The project also includes converting a former medical building located at 1518 Main Street into the Elhi Hill program. Site changes include school bus queuing and routing at Mason and Washington Street, removal of existing swimming pool, addition of two tennis courts, demolition of multiple residential structures on Wood Avenue, Mason and Meeker Streets, temporary use of eight additional portable classrooms in the north parking lot, increase of onsite parking from 464 to 688 stalls, perimeter landscaping around new parking areas, and a ten foot landscaped buffer with a solid wood fence around the expanding parking Elhi Hill parking lot. The sites are located at 1707 Main Street, 1111 Wood Avenue and 1101 Wood Avenue, Sumner, (Parcel(s) #0420244205, 4445000020 and 4445000010); 1518 Main Street, 914 Meeker Avenue, and 908 Meeker Avenue (Parcel(s) #2350000060, 2350000100 and 2350000110), all within the City of Sumner.

**SUMMARY OF DECISION:** Request granted, subject to conditions.

## **PUBLIC HEARING:**

After reviewing Community Development Department Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on May 8, 2018, at 9:00 a.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "A" - Community Development Department Staff Report**
- EXHIBIT "B" - Aerial Map Rendering**
- EXHIBIT "C" - Construction Phase Plan**
- EXHIBIT "D" - CUP Letter**
- EXHIBIT "E" - SEPA Checklist**
- EXHIBIT "F" - Environmental Investigation**
- EXHIBIT "G" - Exterior Renderings**
- EXHIBIT "H" - Floor Plans**
- EXHIBIT "I" - Height Exception Letter**
- EXHIBIT "J" - Height Exception Elevations**
- EXHIBIT "K" - Landscape**
- EXHIBIT "L" - Lighting**
- EXHIBIT "M" - Transportation Technical Report with Appendix**
- EXHIBIT "N" - Noise Study**
- EXHIBIT "O" - Parking**
- EXHIBIT "P" - Photometrics**
- EXHIBIT "Q" - Site Plan**
- EXHIBIT "R" - Notice of Application and Hearing**
- EXHIBIT "S" - SEPA MDNS**
- EXHIBIT "T" - Public Comments a-f**
- EXHIBIT "U" - Email from John Galle dated May 3, 2018**
- EXHIBIT "V" - Student and Family Information Guide**
- EXHIBIT "W" - Elhi Hill Student Handbook**
- EXHIBIT "X" - Sumner Spartan 2017-2018 Student Handbook**
- EXHIBIT "Y" - Steve Sjolund Comments**
- EXHIBIT "Z" - Selected Exterior Renderings from Exhibit G**
- EXHIBIT "AA" - Email from Mary Urback dated May 15, 2018**
- EXHIBIT "BB" - Action to Proceed with Proposal dated May 15, 2018**

The Minutes of the Public Hearing set forth below are not the official record and are provided for the convenience of the parties. The official record is the recording of the hearing that can be transcribed for purposes of appeal.

SCOTT WALLER appeared, presented the Community Development Department Staff Report, and testified that the project includes demolition of seven, single-family residential dwellings that the applicant has acquired. The project will expand existing parking lots and place temporary portables in the north parking lot during construction. The Elhi Hill School needs the new building that is included within the project. The improvements will allow a more functional environment, but provide for only a 33 student increase. The Elhi Hill School will now be closer to the main student body. The District proposes a six foot tall fence around the parking lots adjoining residences that will provide privacy. The District also proposes cut-off lighting fixtures. The project will meet or exceed all zoning code requirements and will create limited traffic impacts. The project will also re-route buses and will increase the amount of off-street parking. The building proposed for Elhi Hill is in the CBD and is improved with a medical office building. A six foot tall fence and hedge will provide buffering. Many goals and policies of the Comprehensive Plan support the project and locating the school within a residential zone makes sense. The applicant also requests two height exceptions that will in turn allow removal of the portable classrooms. Alternatives to the present plan would result in a spreading out of the campus. The height exception is located near the center of the school parcel and is screened by other buildings. He has received five comments from concerned neighbors that concern traffic and parking. However, the new campus will reduce on-street parking. The applicant and City have also agreed to install traffic calming devices as needed. The Elhi Hill facility supports students who are there to graduate. He introduced Exhibit U, a letter from the former police chief.

MARY URBACK, attorney at law, appeared on behalf of the District and submitted a detailed report and noted that all 12 conditions proposed by staff are acceptable. The District served as lead agency for SEPA review and issued a threshold MDNS that will become final on May 12.

STEVE SJOLUND, Sumner School District, appeared and testified that the school was constructed originally in 1911 on Main Street and moved to its present location in 1954. The improvements are part of the 2016 bond measure that passed on a 66 percent vote. The school was last upgraded in 1992. Improvements will move students outside of the classroom and will create a commons area and social hub. The performing arts areas will be upgraded and modernized. The project will also unite the non-standard Elhi Hill School with the main campus. Elhi Hill supports students challenged in life, and uses non-traditional programs to allow success. The Elhi Hill School began in the early 1990s as three separate school district programs, but has been in its present location since 2012. The previous location was in the Union Bank building. The program has been successful in that location and the City has received no complaints. Students spend part of the day at Bates Voc-Tech learning skills. Concerning Condition 9, as its Code of Conduct the District provides a master handbook, and the high school has its own handbook that is extensive and detailed. Over the first four days new students are walked through their expectations to include the use of the parking lots. The Elhi Hill facility will also be aware of the parking lot requirements. However, 85 percent of those students rely on transportation from the

District and families. He then noted several conditions and referred to several exhibits in the record.

DOUG DuCHARME, architect, appeared and testified that he has worked on the project for the past two years. The project will provide better safety and security for the school, and they propose no staff increases. They hope to start construction in the summer of 2018 and complete it in the fall of 2020. They will demolish and rebuild some of the structures and renovate other buildings throughout the remaining area. Buses will now exit onto Washington Street, and such will ease congestion. Buses presently run from south to north to Mason Street. Exhibit J shows the height exception and that parts of the building will exceed the 30 foot limit. However, the setbacks for those portions measure 225 to 230 feet from the nearest street and over 300 feet from the front of the nearest residential property. They propose 224 additional parking spaces, which number is closer to the zoning code requirements. They will have 688 spaces for the entire campus. Screening is provided in accordance with City standards. The Elhi Hill building will have a ten foot wide landscaping area plus fence. They will also have a construction management plan that meets all City requirements. They want a limited view into the site. Upon questioning by MS. URBACK, MR. DuCHARME testified that parking will be available on Mason during non-bus loading hours. He referred to the construction management plan. The contractor will implement the plan.

TOM MITCHELL appeared and testified that he favors the proposed improvements to the school, but objects to the demolition of houses for parking and relocation of the Elhi Hill School. Elhi Hill is not presently in a residential area. It has only one home nearby and that home is across the street. Students in Elhi Hill were expelled from public school or couldn't handle the environment. Why move these types of children to a retired, residential neighborhood? They are not on the same campus. He is concerned that the District is moving residents away, and he is not sure that the handbook will preclude problems. Property values will be substantially reduced when a residence is replaced with a parking lot. Who compensates them for their losses? His house is now bordered by two others, but will now be bordered by a parking lot. He will be affected by noise, exhaust, lights, and screeching tires. He does not understand why we are removing houses when we have a housing shortage. Trees do make a difference.

GRACE BERGO appeared and testified that she is the last house not taken and will border a parking lot on the front and Elhi Hill on the side. She can't sell her house due to the traffic and activity across the street. She has the issues of traffic and noise. She expects the crime rate to increase with the alternative school. She lives in a nice, quiet area now, but construction and dust will affect them during the summer. The school district has already bought houses. Her big question is property values.

TRISTAN CANTY appeared and testified that the District did purchase a home to the east for above market value. He is also concerned about property values. A City employee told him that Elhi Hill generates a lot of trouble. Students don't read the handbook and therefore it doesn't help.

DAVE TEITZEL appeared on behalf of his mother whose home borders Mason. His questions included the addresses of the properties acquired on the south side of Mason. Does the District have funding to purchase homes on the south side? What is the expiration date of a conditional use permit and can it be extended?

AMANDA RORVIK appeared and testified that she bought a house on a quiet street, but now will have a parking lot next door. She is unsure what will happen when the school is not open. Who will police the parking lot and ensure safety? Her children play in the rear yard. What will they see and smell? A lot of people come and go from the parking lot. The traffic will increase on Meeker and the air quality will be affected. Gas exhaust from cars ten feet from her yard will impact their family. Impacts will also include lighting and noise. Also, what about construction? How will the District keep people safe? How will the construction affect health? Her biggest concern is safety.

MR. DuCHARME reappeared and testified that in the Elhi Hill parking lot they will install two, cut-off lighting fixtures. These lights will diminish automatically to 50 percent. They are turned off 15 minutes before cars arrive and after 11:00 p.m. They have submitted an illumination plan. No light spillage will affect adjacent parcels. They propose 18 foot tall standards with bulbs directed downward and cut-off. One will be located on the north side and one on the south side and both shielded.

MS. URBACK directed the Examiner to page 15 of the MDNS.

MR. DuCHARME then continued, testifying that concerning the Mason Street properties, the current CUP only addresses properties that the District owns. The properties on Mason Street are for staging areas, and if they want to add such parcels to the campus, they must apply for a new CUP. In 2016 the school board authorized negotiations with residents that wanted to sell along Mason Street. They will have conversations with other owners, but funds will determine the timing. He referred to Exhibit D regarding Elhi Hill.

MR. WALLER reappeared and testified that six to seven homes surround the present Elhi Hill facility. He referred to Exhibit U from the former police chief that the City has no record of Elhi Hill students creating problems or neighbor concerns. The District has done a good job screening the lights. Exhibit L shows the location of the lighting. The City has no plans to change the zoning of any parcels. The construction management plan must satisfy best management practices. The expiration date for a CUP is that the applicant has 18 months to begin the project and can continue it to completion and it will not expire. The applicant can also extend the permit.

MR. CANTY reappeared and testified that his concerns are property values.

ERIK MENDENHALL appeared and testified that according to real estate data, property values are increasing for homes adjacent to the present Elhi Hill.

MS. BERGO reappeared and questioned whether her home would be affected by the parking lot and Elhi Hill. What about property values? They were not considered.

PENNY JONES appeared and testified that she is disappointed the school is locating in a residential area and especially that the parking lot will extend into such areas. Only now are they notified of the project. They should have had the right to speak years ago. Owners have improved and remodeled their homes and now this project happens.

MR. MITCHELL reappeared and testified that the parking lot and demolition of the house next door are the problems. Elhi Hill previously was in a bank building. The parking lot abutting his rear yard will hurt. The light on the south end of the parking lot will be on his back porch. He will have no access to the parking lot. They are tearing down the house next door and replacing it with at-risk kids.

MS. URBACK reappeared and testified that the zoning is Low Density Residential and that schools are allowed subject to approval of a CUP. They have carefully reviewed the impacts to the neighboring community. The project is consistent with the Growth Management Act and the Comprehensive Plan. They are siting the school in an urban residential area that is preferred by the UGA.

No one spoke further in this matter and so the Examiner took the request under advisement and the hearing was concluded at 10:22 a.m.

**NOTE:** A complete record of this hearing is available in the office of the City of Sumner Community Development Department.

### **FINDINGS, CONCLUSIONS, AND DECISION:**

#### **FINDINGS:**

1. The Hearing Examiner has admitted documentary evidence into the record, viewed the property, heard testimony, and taken this matter under advisement.
2. The Sumner School District served as Lead Agency for review of the project pursuant to the State Environmental Policy Act (SEPA). The District responsible official issued a threshold Mitigated Determination of Nonsignificance (MDNS) on April 26, 2018. No appeals were filed. The responsible official issued an Addendum to the MDNS on May 15, 2018.
3. The proposed conditional use permit is classified as a Type V decision in accordance with Sumner Municipal Code (SMC) 18.56.030(H).
  - a. Notice of Application  
The Notice of Application was posted on site, posted at Sumner City Hall, mailed to all property owners within 500 feet, posted on Sumner's website

and published in the official city newspaper, the Courier Harold on April 4, 2018 in accordance with SMC 18.56.075 and 18.56.110(B).

- b. Notice of Public Hearing  
The Notice of Public Hearing was posted on site, posted at Sumner City Hall, mailed to property owners within 500 feet, posted on Sumner's website and published in the official city newspaper, the Courier Herald on April 4, 2018 in accordance with SMC 18.56.075 and 18.56.110(B).
4. The applicant, Sumner School District (District), owns and operates Sumner High School (SHS) located in the downtown area of the City of Sumner, north of Main Street, west of Valley Avenue East, west of Wood Avenue, and south of Washington Street. The applicant or its predecessor initially constructed a school on the existing campus in 1911. The school was moved to its present location in 1954. In 2016 voters passed a bond measure by 66 percent approval vote to modernize and expand SHS.
5. The District proposes numerous improvements to the existing campus as well as expansion thereof. The proposed project includes the following:
  - A. Creation of a commons and library area that will provide a core to allow for team building, program activities, and a socialization hub.
  - B. Technological improvements throughout the school.
  - C. Upsizing and designing science classrooms.
  - D. Improvements in classroom space, technology, and performance facilities for the District's arts programs.
  - E. Relocation of the Elhi Hill education program (EH) into the former Multi-Care building located at the southwest corner of the intersection of Main Street and Meeker Avenue across from the main campus, and providing a parking lot to serve EH students and faculty.
  - F. Expansion of the number of parking spaces from 464 to 688 in six separate parking lots, thus reducing the amount of on-street parking.
  - G. Creating a new bus route wherein school buses will enter the site from Wood Avenue, travel east on Mason Street, and then travel north along the west side of the north parking lot to Washington Street where they will exit the site.
  - H. Demolition of three single-family residential homes on the south side of Mason Street for utilization as a construction staging area. The District also acquired two, single-family residential dwellings that abut the west side of Meeker Avenue south of the Multi-Care facility. These homes will likewise be

demolished and converted to a parking lot.

- I. Construction of a three story academic wing adjacent to Sunset Stadium, construction of two additional tennis courts to the east of the existing courts, and adding first and second floor additions to existing structures.
  - J. Demolition of residential structures abutting the east side of Wood Avenue and conversion to a parking lot.
- 6. The District proposes to install eight additional portable classrooms in the north parking lot to accommodate students during construction. Upon completion of the project the District will remove all portable classrooms and restore the entire area for parking. Despite all of the improvements, the District anticipates student population to increase by 33 students to a total population of 1,830 students. Such includes the approximately 70 students at EH.
  - 7. The SHS facilities are located within the Low Density Residential 12,000 (LDR-12), Low Density Residential 6,000 (LDR-6), Medium Density Residential (MDR) and Central Business District (CBD) of the Sumner Municipal Code (SMC). The City of Sumner Comprehensive Plan designates the SHS parcels as Public/Private Utilities and Facilities, Low Density Residential 3, Medium Density Residential, and Central Business District.
  - 8. Abutting uses and zones include MDR to the north wherein parcels are improved with single-family homes, multi-family homes, and the Faith Covenant Church. Parcels to the east are located in the General Commercial (GC) and LDR-6 classifications. Improvements include restaurants, personal services, retail, and both single-family and multi-family development. Parcels to the south are located in the LDR-6 classification and improved with single-family homes. Some parcels to the south of Main Street are located in the CBD classification and improved with a bank, funeral home, restaurant, and bike shop. Parcels to the west are located within the MDR, CBD, and LDR-6 classification. Improvements include single and multi-family homes and businesses.
  - 9. As set forth on pages 6-9 of the Staff Report the Comprehensive Plan contains numerous policy statements supporting local schools to include the following:

#### Values-Education

Our public school system is at the center of our community. It is a source of pride and provides identity for our City, education to our young people, resources for our citizens, and a future for all. We strive for our own broad educational system open to everyone.

The proposed improvements and expansion satisfy Comprehensive Plan policies.

10. As previously found the SHS parcels are located in the LDR-12, LDR-6, MDR, and CBD zone classifications. Sections 18.12.040(K), 18.14.040(Q), and 18.16.020(47) SMC authorize Public Education Institutions and Schools subject to approval of a conditional use permit (CUP). The applicant has therefore properly applied for a CUP to allow portions of the project in the above, applicable, zone classifications. In addition the applicant has requested a height exception to extend the two story library and three story academic wing higher than the 30 foot limit of the LDR zone classifications. Pursuant to SMC 18.12.080(L), the applicant has applied for a height exception as part of its CUP application. The height exception authorizes buildings to a maximum height of 50 feet. Portions of the new roof structure will extend to a maximum height of 46 feet, seven inches above grade as compared with portions of the existing building that extend to 56 feet, ten inches.
  
11. Residents south of Main Street whose parcels abut and are in close proximity to the new EH location raised concerns regarding the impacts of students in the EH school. Concerns include the safety of small children and the demolition of two houses to the south of the proposed school and conversion of the parcels into a parking lot. Impacts of the parking lot will include unauthorized use, noise, exhaust fumes from idling vehicles, screeching tires, and loud talking. Such will affect residents' property values and will create a use inconsistent with abutting and adjacent homes. Residents expressed their concerns in testimony at the hearing and in writing. In response, the District issued an addendum to the SEPA MDNS that provides the following additional mitigation:
  - A. Construction of a solid board fence, eight feet in height, along the common boundaries of residential properties to the south and west as part of the new Elhi Hill parking lot. The District will provide enhanced screening in the nature of landscaping along said property lines and will consult with abutting residential property owners regarding the fencing. The addendum also notes that the existing parking lot for the multi-care building is bounded by a thick hedge of cypress cedars that provides a very effective, obscuring buffer and will be retained.
  
  - B. The District will light the EH parking lot with only one light pole located directly south of the existing building, but relocated approximately ten feet to the east.
  
  - C. The above additional mitigation is implemented by revised mitigating Measure 5 that reads:

A solid board fence not to exceed eight (8) feet, shall be installed around the southerly and westerly boundaries of the new Elhi Hill parking lot and a dense mix of landscaping consisting of maples, hogan cedars, shrubs and grasses shall

be planted to provide additional screening to the adjacent residential parcels. Prior to installation of the solid board fencing, the District shall communicate with the abutting residential property owners to discuss said solid board fencing.

12. Residents expressed concerns regarding the adverse impacts to their public health and safety caused by EH students attending school adjacent to single-family homes with young children. In its decision entitled The Department of Corrections v. City of Kennewick, 86 Wn. App. 5211 (1997), our Washington State Court of Appeals addressed a similar issue wherein the State Department of Corrections (DOC) sought a conditional use permit to construct a work release facility within urban boundaries. The court framed one issue as follows:

Is public perception that the work release facility creates a risk of crime to persons who live near the facility or who visit businesses in the area a legitimate basis for denying DOC a conditional use permit?  
86 Wn. App. 521 @ 531

The issue in the present case is whether public perception of the dangers associated with locating EH within a residential neighborhood a legitimate basis for denying the conditional use permit. In addressing the issue our Court of Appeals wrote:

The few Washington cases that have considered the relevance of community fears to zoning decisions have required that the fears be substantiated before the zoning authority may use them as a basis for its decision...The court distinguished between “well-founded fears and those based on inaccurate stereotypes and popular prejudices”. The later category does not justify zoning restrictions...

We hold there is a distinction between nuisance cases and zoning cases that prevents the decisionmaker from considering neighbors general fears in deciding whether to grant an owners application for a conditional use permit. 86 Wn. App. 521 @ 532, 533

The only evidence presented by residents opposed to EH were generalized concerns. Residents presented no specific incidents. Furthermore, an email from the previous Sumner police chief establishes that for the last three years the department received no calls from neighbors regarding student activity or problems with the EH school.

13. In Sunderland Family Treatment Services v. City of Pasco, 127 Wn. 2d 782 (1995), our Washington State Supreme Court evaluated the denial of a special use permit for a group home crisis residential center for abused and neglected teenagers in a single-family residential zoning district. The Court ruled that the City’s finding that

the housing of high risk juveniles will create more objectionable noise, concerns for security, and other nuisance activity to the neighborhood was based on unsubstantiated fears rather than substantial evidence. The Court ruled as follows:

The proposed use involved teenagers living away from their families while the existing use involved elderly people and young families...The children were "troubled". While this word may suggest a public safety factor, it falls short of constituting an actual threat on which a decision might be validly based.

In fact, the City's denial appears to rest upon neighborhood opposition... While the opposition of the community may be given substantial weight, it cannot alone justify a local land use decision... Therefore, we hold the City's action in denying the permit was not based on competent and substantial evidence...127 Wn. 2d 782 @797

In the present case denial of the location of the EH school as proposed by the District for public health and safety reasons would amount to a denial based upon "inaccurate stereo types and popular prejudices" as opposed to "well-founded fears".

14. Residents also assert that location of EH school will adversely affect their property values, especially considering improvements residents have recently made. In Anderson's American Law of Zoning, 4<sup>th</sup> Edition, Section 21.14, the author writes:

A special [conditional use] permit may not be denied on the ground of its tendency to depreciate adjacent lands when, in fact, no depreciation will result or where the depreciation will not be substantial.

Our Washington Supreme Court agrees with Anderson and requires that objective evidence such as real estate expert opinions substantiate allegations of property depreciation, and "well-founded fears justify such reduction". In Sunderland, supra, one of the City's findings used as a basis to deny the special use permit was that:

The proposed use will impair the value of adjacent properties by diminishing their desirability as single-family residential units due to concerns for the safety of elderly homeowners and young families or their children.

The Court addressed said finding as follows:

Sunderland and the City agree this finding is based upon fears of neighborhood residents rather than more objective evidence, such as

real estate expert opinion. In the past, this court has acknowledged that neighbors' fears may reduce property values...However, there is an important distinction between well-founded fears and those based on inaccurate stereo types and popular prejudices...Courts have long held the latter cannot justify zoning restrictions.

In this case, there is no evidence the home would have any effect on the safety of the elderly or children in the area. Any reduction in property values would be based on unsubstantiated fears with regard to teenagers from troubled families. This is not competent nor substantial evidence to support the City's finding. 127 Wn. 2d 782 @ 794, 795

Likewise, in the present case, residents presented no evidence from real estate experts to substantiate reductions in property values. Even though neighbors may fear the impacts of the EH school, such fears are not well-founded and may not be used to support a finding that the school would be detrimental or injurious to property or improvements in the neighborhood.

15. Prior to obtaining a conditional use permit the applicant must show that the request satisfies the criteria set forth in SMC 18.48.050. Findings on each criterion are hereby made as follows:
  - A. The SHS school expansion and remodel to include the EH campus will not materially, detrimentally impact the public welfare nor will it injure property or improvements in the vicinity. The District, through its use of consultants, architects, and the submittal of studies and reports, has shown that the project will mitigate all impacts that would materially, detrimentally impact the public welfare or injure properties or improvements in the vicinity. Mitigation includes the additional buffering and screening provided for the EH parking lot, full, cut-off, light fixtures equipped with motion sensors, minimal traffic impacts due to an increase of 33 additional students, and a substantial decrease in demand for on-street parking. Residents raised additional objections to include traffic, disturbances during construction, character of the neighborhood, and compounding a housing shortage by demolition of residential dwellings. While residents opinions are important, quasi-judicial land use decisions are not decided by popular vote, but by whether or not a proposed land use application meets the criteria adopted by the legislative body and whether impacts of the particular use can be mitigated. Mitigation of impacts does not mean that the development cannot cause some impact. If development were prohibited from creating any impact, then no development could occur. In addressing impacts of development our Washington State Court of Appeals in Maranatha Mining Inc., v. Pierce County, et. al., 59 Wn. App. 795 (1990), held as follows:

The law does not require that all adverse impacts be eliminated; if it did, no change in land use would ever be possible...The only opposing evidence was generalized complaints from displeased citizens. Community displeasure cannot be the basis of a permit denial...

We cannot escape the conclusion, in view of the evidence in support of Marantha's application, that the Council based its decision on community displeasure and not on reasons backed by policies and standards as the law requires...It is improper to deny the permit to an applicant who throughout the application process, has demonstrated a willingness to mitigate any and every legitimate problem. 59 Wn. App. 795 @ 804, 805

As in Marantha, the District has shown that it will mitigate to the maximum extent all legitimate impacts to its neighbors.

- B. The remodeled and expanded SHS will meet or exceed the performance standards required in the zoning districts it will occupy. The proposal complies with all criteria set forth in SCM 18.16.080 that address exterior mechanical devices, landscaping, outdoor storage, parking of vehicles, and other factors as set forth on pages 11 and 12 of the Staff Report. However, the District has requested a building height exception for the three story academic wing and library that are addressed hereinafter.
  - C. The proposed development is compatible generally with surrounding land uses in terms of traffic, pedestrian circulation, building, and site design. The applicant submitted a Traffic Impact Analysis that anticipates limited impacts due to the increase of 33 students. The applicant proposes to maintain existing driveways at Mason Street and Wood Avenue, but will change vehicular access and circulation along Main Street for visitor parking, bus queuing, and a driveway into the EH parking lot from Meeker Avenue. The change in bus queuing and routing will alleviate some congestion on Main Street during peak hours.
  - D. As previously found, the proposed remodel/expansion is consistent with the goals and policies of the Comprehensive Plan.
  - E. The District has taken all measures to minimize possible adverse impacts that the proposed use may have on the area as set forth above.
16. The District requests a special height exception pursuant to SMC 18.12.080(L). Both structures proposed for height exemptions are located in the LDR-12 zone classification that limits heights of structures to a maximum of 30 feet. The District proposes to construct the three story academic wing to a maximum height of 46

feet, seven inches and the library to a height of 38 feet, ten inches. Such would extend the academic wing 16 feet, seven inches above the maximum 30 foot height limit and the library eight feet, ten inches over said limit. Prior to obtaining a height exception the applicant must show that the request satisfies the criterion set forth in SMC 18.12.080(L). Findings on each criteria are hereby made as follows:

- A. The requested deviation is necessary for the successful, physical function of the proposed use. The exception will allow construction of a three story, academic wing that will provide an effective flow of students, less congestion in the halls, and removal of eight portable classrooms currently in the north parking lot. Furthermore, a three story structure provides a more compact campus and a location for common gathering spaces.
  - B. The District considered reasonable alternatives with their architects to include building designs and heights. However, such alternatives would have resulted in a sprawled campus, reduced athletic fields, and reduced open space. Such reductions would have detrimentally impacted the community. A sprawled campus would create difficulty for student movement, inefficient emergency access, and reduction in setbacks from neighboring residential properties.
  - C. Granting the deviation will not materially, detrimentally impact the public welfare nor will it injure property or improvements in the vicinity and zone. The two buildings proposed for the height exemption are screened by existing structures and will not interfere with or impact existing views. The unscreened side of the classroom building faces the football field and commercially zoned parcels. The library is situated in the center of the current high school building and screened in all directions by existing and proposed buildings. Despite significant comments and concerns regarding the EH school location, no letters or testimony expressed opposition to the height deviation request.
  - D. The proposed special exception is consistent with the Comprehensive Plan as set forth above.
17. Condition 9 requires the District to provide a “code of conduct” for students that will set forth rules and etiquette for parking lots and vehicle use. The District introduced the following exhibits:
- A. Sumner Spartan 2017-2018 Student Handbook entitled “The Spartan Way”. Page 37 addresses “Parking Lot/Bus Expectations” (Exhibit X).
  - B. Student Handbook Elhi Hill High School Program that sets forth “Behavior Expectations and Violations” as well as a “Discipline Summary” (Exhibit W).

- C. Student and Family Information Guide that includes a Chapter on “Behavior and Discipline Information” (Exhibit V). Said guide contains sections on student driving and conditions governing the use of a school parking lot.

These documents satisfy Condition 9.

### **CONCLUSIONS:**

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the request for a conditional use permit satisfies all criteria set forth in SMC 18.48.050. The applicant has also shown that the request for a special height exception satisfies all criteria set forth in SMC 18.12.080(L). Therefore, both applications should be approved subject to the following conditions:
  1. The sight obscuring fence along the eastern side of the expanded parking lot on Wood Ave and Mason Street shall be a minimum of six feet in height and attractively constructed of wood.
  2. Type C landscaping as referenced in the Sumner Design and Development Guidelines shall be used in all new parking lot perimeter landscaping where not in conflict with existing landscaping.
  3. Fencing used between construction staging areas and residential properties shall be sight obscuring.
  4. The landscape strip between the Elhi Hill building and parking lot shall only include grasses and low shrubs in order to maintain a clear line of sight from the School into the parking lot.
  5. The landscape buffer between the Elhi Hill parking lot and residential properties shall consist of primarily dense evergreen landscaping.
  6. Sound absorbing materials shall be used along the interior of the 14 foot north wall of the chiller enclosure as stated in section 4.1.2 of the noise study provided by Ramboll.
  7. The emergency generator shall be located in a sound attenuating enclosure as stated in section 4.1.3 the noise study provided by Ramboll.
  8. The District shall submit an application for a ROW vacation for the north/south connection between Mason and Washington Street prior to issuance of a certificate of occupancy.

9. Upon completion of this project no new portables may be installed on the High School or Elhi Hill campuses with the exception of the existing portable located to the southeast of the stadium.
10. The District shall circulate the post occupancy noise study evaluating the chiller and emergency generator to the City and any other interested parties.
11. The project shall abide by all conditions from the MDNS issued by the School District on April 26<sup>th</sup>, 2018, as well as the Addendum dated May 15, 2018.
12. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
13. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

**DECISION:**

The request for a conditional use permit and special height exception for the Sumner High School remodel and expansion project is hereby granted, subject to the conditions contained in the conclusions above.

**ORDERED** this 7th day of June, 2018.

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**STEPHEN K. CAUSSEUX, JR.**  
Hearing Examiner

**TRANSMITTED** this 7th day of June, 2018, to the following:

**APPLICANT:** Sumner School District  
1202 Wood Avenue  
Sumner, WA 98390

**REPRESENTATIVE:** BLRB Architects  
Attn: Doug DuCharme  
1250 Pacific Avenue, Suite 700  
Tacoma, WA 98402

**OTHERS:**

Charlotte Teitzel  
1240 Mason Street  
Sumner, WA 98390

Dave Teitzel  
610 Daley Street  
Edmonds, WA 98020

Grace Bergo  
903 Meeker Avenue  
Sumner, WA 98390

Steve Sjolund  
1202 Wood Avenue  
Sumner, WA 98390

Tom Mitchell  
907 Meade Avenue  
Sumner, WA 98390

Penny Jones  
1516 Maple Street  
Sumner, WA 98390

Martha Humpreys  
1313 McMillin Avenue  
Sumner, WA 98390

Tristan Canty and Amanda Rorvik  
1517 Maple Street  
Sumner, WA 98390

Tom Mitchell  
327 Columbia Point Drive  
Richland, WA 99352

Janet Northrop  
1507 Washington Street  
Sumner, WA 98390

Sam and Janis Suznevich  
812 Meeker Avenue  
Sumner, WA 98390

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Mary Urback [murback@urbackpllc.com](mailto:murback@urbackpllc.com)  
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CITY OF SUMNER

## **RECONSIDERATION AND APPEAL NOTICE**

Reconsideration and Appeal Rights are set forth in Chapter 18.56 of the Sumner Municipal Code.