

**SUMNER SCHOOL DISTRICT – NEIGHBORHOOD GROUP
EARLY LEARNING CENTER AND ATHLETIC FIELD UPGRADE PROJECT
CONDITIONAL USE PERMIT SETTLEMENT
DATED AS OF MAY 18, 2017**

The Sumner Neighborhood Group (“NG”) shall not challenge, oppose, or otherwise object to, in any manner, by written, electronic, or oral communication, any and all applications, permits, approvals, and authorizations, including but not limited to a conditional use permit, special height exception, State Environmental Policy Act determination, building permit, site development permit, mechanical permit, electrical permit, plumbing permit, fire sprinkler permit, landscape plan approval, demolition permit, and NPDES permit, and as all may be amended to incorporate the terms and conditions of this Settlement Agreement (collectively, “CUP”) and as may be required by the City of Sumner and such other governmental entities with jurisdiction over and relating to Sumner School District’s (“School District”) Early Learning Center and Sumner Middle School Athletic Field Upgrade Project located on the Sumner Middle School site, 1508 Willow Avenue, Sumner, Washington (collectively, at times referred to herein as the “ELC and/or Field Upgrade”) in consideration of the School District’s agreement to the following terms and conditions relating to said CUP.

1. Exterior Lighting.

1.1 No field lighting or infrastructure for field lighting shall be permitted or constructed on the Sumner Middle School site.

1.2 The exterior lighting for the ELC, inclusive of parking lots, the bus loop, access pathways, and exterior building lighting, shall be permissible as described in the School District’s CUP Lighting Report with Site Analysis Plan, dated as of December 12, 2016, and as also illustratively shown on the Site Plan, dated November 16, 2016, in conjunction with the CUP, subject to the terms of this Settlement Agreement and any requirements of the City of Sumner.

1.3 Steve Sjolund, Executive Director of Educational Support Services, or his successor, shall be the point of contact for any questions, comments, or issues, if any, relating to exterior lighting for the ELC following approval of the CUP. Mr. Sjolund’s contact information is: steve.sjolund@sumnersd.org or 253-891-6058.

1.4 The School District shall adopt and condition the CUP on that certain Exterior Lighting Operating Procedures relating to the ELC as attached hereto on **Exhibit A**. The School District acknowledges that the parking lot for Sumner Middle School which adjoins the ELC, although not part of the CUP Application, operates under the same exterior lighting operating procedures with respect to the ELC’s main parking lot as set forth on **Exhibit A**.

2. **Field Use.**

2.1 A synthetic turf upgrade to the Sumner Middle School football field shall be permitted subject to the requirements of the City of Sumner.

2.2 The School District shall adopt and condition the CUP on that certain Facilities Use Operating Procedures for the Sumner Middle School site attached hereto as **Exhibit B**. Except as set forth under **Exhibit B**, the NG acknowledges and agrees that the Facilities Use Operating Procedures does not limit or prohibit Early Learning Center or the Sumner Middle School events.

2.3 The School District shall not install any permanent public address system on the fields of the Sumner Middle School site. Provided, however, nothing herein shall prohibit the use of bullhorns, megaphones, or other portable loudspeakers, including such loudspeakers powered by a portable amplifier, for the purposes of providing communication relating to activities on the school fields with the intent of allowing use of amplified sound devices in a manner consistent with prior uses of amplified sound at the Sumner Middle School site.

3. **ELC Building.**

3.1 The School District shall be permitted to construct, in accordance with all required City of Sumner approvals and permits, the ELC building in accordance with the Special Height Exception submitted as part of the CUP Application, dated January 6, 2017. The School District agrees that the scale of the building shall be in general conformance with the elevation drawing attached hereto as **Exhibit C**.

3.2 The School District shall be permitted, subject to any requirements of the City of Sumner, to install a Chiller and Generator, in the approximate westerly location, shown on the Site Plan submitted with and as generally described under the CUP Application, dated January 6, 2017.

3.3 The School District shall conduct, which shall be a condition of the CUP, a post-occupancy noise level evaluation during the spring or summer months following occupancy of the ELC when the Chiller is in operation. Copies of such noise level evaluation shall be submitted to the City of Sumner and to Stephen Burnham, the NG's legal counsel.

4. **Sumner Middle School Portables.**

4.1 The existing seven (7) portables located at Sumner Middle School may remain on the Sumner Middle School site, at the sole discretion of the School District. Following approval of the CUP and occupancy of the ELC, two (2) of the seven portables shall be prohibited for use by the School District for expanding student capacity (classroom

space) at the Early Learning Center, Sumner Middle School, or Maple Lawn Elementary School.

4.2 The remaining five (5) portables located at Sumner Middle School may be used for any school-related purpose consistent with the approvals previously granted by the City of Sumner for said portables or as may be permitted by and in accordance with the requirements of the City of Sumner.

5. **Rasmussen Stormwater Complaint.**

5.1 The NG has notified the School District that Mr. Rasmussen, whose residence abuts the westerly property line of the Sumner Middle School site, has water seepage in his basement. However, Mr. Rasmussen is not a member of the NG. The School District has agreed to investigate the claimed issue and will make contact with Mr. Rasmussen. The NG accepts the School District's efforts to investigate the matter and approval of a CUP is not contingent upon nor conditioned upon any resolution of Mr. Rasmussen's claimed issue.

6. **Crestwood Elementary School: Future 6th Grade Students.**

6.1 The School District has notified the parents of 5th grade students attending Crestwood Elementary School, that for the 2017-18 school year, these future 6th grade students will not be allowed to attend Sumner Middle School and will be re-assigned to either Lakeridge Middle School or Mt. View Middle School, at the parent's discretion.

6.2 Following the 2017-18 school year, 5th grade students attending Crestwood Elementary School (future 6th grade students) will be subject to a School Boundary Adjustment as may be adopted by the Board of Directors of Sumner School District as described under Section 7 below.

7. **School Boundary Adjustments.**

7.1 The School District has acknowledged that in the near future the Board of Directors of the School District will consider, through a public process, boundary adjustments to the Sumner Middle School and Maple Lawn Elementary School boundaries (also known as catchment or service areas) which may result in reducing the future student populations at Sumner Middle School and Maple Lawn Elementary School from areas outside of the valley floor.

7.2 The NG acknowledges that School District makes no representation that such school service or catchment area boundaries will be approved by the Board of Directors of the School District.

8. **Access to the Sumner Middle School Campus.**

8.1 The School District shall prepare, as a condition of the CUP, an emergency evacuation plan for the ELC to be submitted to the City of Sumner as a condition of obtaining a certificate of occupancy of the ELC.

8.2 The School District shall install a gate with a locking mechanism at the westerly property line of the existing Sumner Avenue access to the Sumner Middle School site in order to prohibit general public access from Sumner Avenue except for such emergency access as may be necessary.

8.3 The School District acknowledges that David and Marta Nuttall (“Nuttalls”), the owners of certain real property located at 209 Sumner Avenue, Sumner, Washington (the “Nuttalls Property”), have claimed some historical access on and limited use within the School District’s driveway access from Sumner Avenue. The School District agrees to make contact with the Nuttalls regarding access across said driveway and shall work with the Nuttalls on a mutually agreeable access agreement which shall be subject to the approval of the Board of Directors of the School District.

8.4 The NG accepts the School District’s efforts to make contact and work with the Nuttalls regarding access across the School District’s driveway on Sumner Avenue. The NG agrees that approval of the CUP is not contingent upon nor conditioned upon any resolution of the access issue between the School District and the Nuttalls.

8.5 The School District shall amend its ELC and Athletic Field Upgrade CUP Application to include the construction of a new driveway access at the westerly terminus of Gault Street in the location as generally shown on the “New Gault Access” Illustrative Map attached hereto as **Exhibit D**. The New Gault Access shall not be a public right-of-way but shall conform to such appropriate requirements of the City of Sumner for a private driveway.

8.6 The NG and the School District agree that the New Gault Access:

8.6.1 Shall be used, during the school year, for ingress by busses to the Early Learning Center and the Sumner Middle School; provided, however, egress of such busses:

8.6.1(a) from Sumner Middle School may be by way of Willow Avenue and/or the New Gault Access subject to evaluation and at the sole discretion of the School District; and

8.6.1(b) from the Early Learning Center will be by way of the New Gault Access.

8.6.2 May be used, during the school year, for ingress and egress by teachers of the Early Learning Center and Sumner Middle School, as may be convenient to and consistent with the direction of travel of said teacher; provided, such teacher arrivals are no later than 7:00 a.m.;

8.6.3 May be used, during the school year, for general public access for ingress and egress after school hours and on the weekends and during non-school days, for ingress and egress to the Sumner Middle School and Early Learning Center facilities and the Sumner Middle School fields. The School District shall recommend and encourage public ingress and egress of the New Gault Access for usage of said facilities and fields after school hours and on the weekends during the school year and during non-school days; and

8.6.4 Shall not be used during the school day by parents arriving or departing Sumner Middle School or the Early Learning Center.

9. **Parking on Neighborhood Streets.**

9.1 The NG and the School District agree that other approaches to managing parking in the area of the Sumner Middle School campus, including but not limited to establishing parking zones, parking permits, and any other approaches within the jurisdiction of the City of Sumner shall be directed to the City of Sumner.

10. **Complete Accord and Settlement.** EFFECTIVE AS OF THE DATE OF THE LAST SIGNATURE BELOW, the Undersigned Neighborhood Group, individually, and on behalf of such applicable community property interests, do hereby:

10.1 Acknowledge and agree that that this Settlement Agreement constitutes the final and complete expression of the agreement between the Undersigned NG and Sumner School District relating to the ELC and Athletic Field Upgrade Project. Any and all other components or elements of the ELC and Athletic Field Upgrade Project, to the extent not revised by this Settlement, shall not be challenged or contested and shall be permissible under the CUP. All prior oral, written or electronic communications and documentation between the parties are hereby superseded and waived by this Settlement.

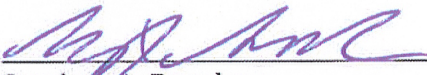
10.2 Acknowledge and agree that the Undersigned NG have been represented by legal counsel and have had ample and adequate opportunity to review the terms and conditions of the Settlement with legal counsel and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Settlement, and the same shall be given a reasonable interpretation in accordance with the plain meaning of its terms and the intent of the parties.

10.3 Forever waive and release any and all administrative, legal, or equitable rights, demands, claims, or actions, whether known or unknown, relating to or arising from Sumner School District's application, approval, and authorization for a Conditional Use


Permit and associated applications, permits, approvals and authorizations regarding that certain land use development known as the Early Learning Center and Sumner Middle School Athletic Field Upgrade Project, as revised herein by the terms and conditions under this Settlement.

In Witness Whereof the parties have executed this Conditional Use Permit Settlement on the date and year set forth below the parties respective signatures.

NEIGHBORHOOD GROUP

By: 
Stephen A. Burnham
Authorized to Execute as Counsel on
behalf of the following individuals and
martial communities
Date: June 9, 2017

SUMNER SCHOOL DISTRICT NO. 320

By: 
Laurie Dent
Its: Superintendent
Date: 6/15/17

**SUMNER SCHOOL DISTRICT - NEIGHBORHOOD GROUP EARLY LEARNING CENTER
AND ATHLETIC FIELD UPGRADE PROJECT
CONDITIONAL USE PERMIT SETTLEMENT DATED AS OF MAY 18, 2017**

LIST OF EXHIBITS

EXHIBIT A	EARLY LEARNING CENTER EXTERIOR LIGHTING PROCEDURES
EXHIBIT B	SUMNER MIDDLE SCHOOL FACILITIES USE (Interior and Exterior) OPERATING PROCEDURES
EXHIBIT C	EARLY LEARNING CENTER ILLUSTRATIVE BUILDING SCALE RENDERING
EXHIBIT D	NEW GAULT ACCESS ILLUSTRATIVE MAP

**EXHIBIT A TO
SUMNER SCHOOL DISTRICT – NEIGHBORHOOD GROUP
EARLY LEARNING CENTER
CONDITIONAL USE PERMIT SETTLEMENT**

ELC EXTERIOR LIGHTING PROCEDURES

1. Early Learning Center Main Parking Lot and adjoining Sumner Middle School Parking Lot, ELC Exterior Pathway Lighting and ELC Exterior Building Lighting (except Southerly Exterior Mounted Lighting).
 - 1.1 All exterior lights are expected to be off during daylight hours.
 - 1.2 In the morning, exterior lights shall turn on no earlier than 15 minutes before the first employee arrives.
 - 1.3 In the evening, exterior lights shall turn off no later than 15 minutes after the building is secured for the evening (typically 11:15 pm -11:30 pm).
 - 1.4 On weekends, exterior lighting shall be allowed for School District authorized facility events. Otherwise exterior lights shall remain off.
 - 1.5 All exterior lights shall be equipped with motion sensors in order to dim to approximately 50% intensity when no motion is detected.

2. ELC Parking Lot Located on Sumner Avenue.
 - 2.1 All parking lot lights are expected to be off during daylight hours.
 - 2.2 In the morning, all parking lot lights shall turn on no earlier than 15 minutes before the first employee arrives.
 - 2.3 In the evening, parking lot lights shall be off by 6:00 p.m. except parking lot lighting shall be allowed for evening School District authorized facility events until 30 minutes after the event is concluded.
 - 2.4 On weekends, parking lot lights shall remain off except for evening School District authorized facility events which shall remain on until 30 minutes after the event is concluded. Otherwise, exterior parking lot lights shall remain off.
 - 2.5 All exterior lights shall be equipped with motion sensors in order to dim to approximately 50% intensity when no motion is detected.

3. Bus Loop and Southerly Exterior Building Mounted Lighting.

- 3.1 All exterior lights are expected to be off during daylight hours.
- 3.2 In the morning, exterior lighting shall turn on no earlier than 15 minutes before the first employee arrives.
- 3.3 In the evening, exterior lighting shall remain off except exterior lighting shall be allowed in the evening for School District authorized events.
- 3.4 On weekends, exterior lighting shall remain off except exterior lighting shall be allowed for School District authorized events.
- 3.5 All exterior lights shall be equipped with motion sensors in order to dim to approximately 50% intensity when no motion is detected.

**EXHIBIT B TO
SUMNER SCHOOL DISTRICT – NEIGHBORHOOD GROUP
EARLY LEARNING CENTER AND ATHLETIC FIELD UPGRADE PROJECT
CONDITIONAL USE PERMIT SETTLEMENT**

**SUMNER MIDDLE SCHOOL FACILITIES USE (Interior and Exterior)
OPERATING PROCEDURES**

The following conditions shall apply to use of the Sumner Middle School interior and exterior facilities collectively:

1. There shall be not more than 3 Small User Groups (groups of 150 participants or less) scheduled in a day; provided, however, such 3 Small User Groups shall total not more than 150 participants (collectively) in a day.
2. When a Church is a User, there shall be no other User Group scheduled during the time period for a Church User.
3. For Large User Groups (groups of 150 or more participants), there shall be only 1 User Group scheduled in a day except for a Sumner Middle School school-related use of not more than 150 participants shall be allowed in the same day a Large User Group is scheduled.
4. When scheduling User Groups consecutively, there shall be not less than 30 minutes between User Group reservations to avoid overlap; provided, however, 2 or 3 Small User Groups may be scheduled concurrently. However, any such concurrent scheduling of a Small User Group shall total not more than 150 participants (collectively) in a day.
5. The term “User Group” shall mean a User Group scheduled during one reservation period.

EXHIBIT C

EXHIBIT C



SETTLEMENT DISCUSSIONS

EXHIBIT D

EXHIBIT D

