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**June 22, 2020**

**RE: SKAGIT COUNTY STABILIZATION CAMPUS - FILE # 2019-362 – FINAL CITY COMMENTS TO ADDRESS ISSUES RAISED AT PUBLIC HEARING**

Two issues were raised at the public hearing to which the city would like to reply.

1. The Applicant requested that the city’s revised condition #5 (as shown in the staff letter dated June 18, 2020 and included below) be eliminated because it is unnecessary. City staff believes the condition is still very necessary to avoid any confusion about what type of uses are allowed in the future once a CUP is issued. The amended text of Condition #5 is intended to clarify that once a CUP is approved, the city cannot issue permits for uses that are listed as the Permitted Uses in the municipal code for the parcel’s underlying zoning. Any future development on the land shall conform to the CUP approval or the CUP shall be amended to allow future uses. Staff does not see any reason why Condition 5 should be eliminated if at worst it is redundant. The condition does not limit future uses of the property; it only makes it clear that no uses outside the scope of the approval may be allowed on site without modifying the CUP. It is prudent for all parties that must interpret the CUP in the future have a complete and clear understanding of the approved use. The following language is still recommended as a condition to the CUP:

Per 17.56.010 “All aspects of the application, including site plans and design of signs and other improvements, are considered binding.” After approval of a CUP is issued for a property, that property is required to conform to the scope of development and specific conditions included in the CUP approval unless the CUP is modified or expires per the time limitations in Chapter 17.56 SWMC. Conditional uses and uses allowed per the underlying zoning may not combined without modifying the CUP. Any future changes in use or new construction on the property shall be within the scope of the approved CUP.

2. The second issue raised during the hearing has to do with how long the applicant shall have to complete Phase 2 of the project. SWMC 17.56.050 addresses approval time limitation: “Conditional use permits shall become void if substantial progress toward construction of improvements is not made within two years or if the use has not commenced within five years, which periods may be extended by the hearing examiner for good cause.”

Presuming that substantial progress toward construction of improvements at the proposed facility is made within two years, the question remains as to how long the applicant shall have to complete the entire facility. Per SWMC 17.56.050, “if the use has not commenced within five years” the CUP shall become void. The application is for two phases. A strict interpretation of that code reference would dictate that phase 2 shall be commenced within five years or the CUP will need to be revisited.

The applicant has argued that once Phase 1 is complete, the applicant shall not be encumbered with a time frame in which to complete Phase 2. The city does not agree with the applicant’s interpretation. The city recognizes that it is unlikely that both phases can be completed in five years, however, the city does not interpret SWMC 17.56.050 to allow an unlimited time frame to complete the second phase of a conditionally approved use if the first phase meets the five year timeframe. If the use of Phase 1 commences in five years,

that does not mean that the use of Phase 2 shall be allowed to be constructed in any time in the future without a timeframe for completion.

In an effort to be a good partner with the county on the regional health issues that the project is attempting to aid, the city is interested in working with the applicant to clarify this phasing timeframes for this proposed two-phase project. The city also recognizes the complexity of the project and project funding sources. Therefore, the city would not object to a Hearing Examiner condition that specifies the timeframe for the commencement of use of Phase 1 as five years from date of approval and further specifies that the commencement of use of Phase 2 shall be within five years after the date of commencement of use of Phase 1. To determine the date of commencement of use of Phase 1, staff recommends using the approval date of the Certificate of Occupancy for building associated with Phase 1. The city seeks to be a good partner with the applicant and at the same time must be able to address future potential changes in conditions in the city. In order to properly serve the best interest of the citizens of the city, it is not prudent for the city to allow an unlimited amount of time for any project to be completed.

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