

CITY OF BELLINGHAM
OFFICE OF THE HEARING EXAMINER
WHATCOM COUNTY, WASHINGTON

210 Lottie St.
Bellingham, WA 98225

Phone: 360/752-1149
M - F, 8:00 a.m. - 12:00 noon
Pacific Time

**THE HEARING EXAMINER OF THE CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON**

Hearing Examiner #: HE-02-PL-047

Planning #:CUP2002-00013

Incident #:

Filing Date:08/17/2002

City Contact:Brian Smart

Hearing Date: 08/28/2002

Description: Conditional Use Permit request of St. Paul's Episcopal School re 3000 Northwest Avenue and 1509 E. Victor Street

Decision Date: 09/16/2002

Decision Summary:Approved with conditions.

This matter came before the Bellingham Hearing Examiner for hearing on the 28th day of August 2002 on the application of St. Paul's Episcopal School for a conditional use permit for an academic private school, kindergarten through 8th grade, at 3000 Northwest Avenue and 9th through 12th grade at 1509 East Victor Street in Bellingham.

Testimony was received from Brian Smart, Bellingham Planning Department; Gary Gideon, Gideon Architects, 1810 Cornwall Avenue; Ken Boyle, The Village Inn, 3020 Northwest Avenue; Peter Roberts, 1906 Madison Street; Mary Boyle, 860 Sudden Valley; and Brian Johnson, 5438 Snow Goose Lane, Blaine.

In addition to the Bellingham Municipal Code and Comprehensive Plan the following documents were considered as part of the record: See Exhibit List.

I. FINDINGS OF FACT

1. St. Paul's Episcopal School applied for a conditional use permit to operate an academic private school, grades kindergarten through 12th grade, at two (2) locations in the Columbia Neighborhood. Kindergarten through 8th grade would be housed at 3000 Northwest Avenue and 9th through 12th grade would be housed at 1509 East Victor Street.
2. 3000 Northwest Avenue is located in Area 2 of the Columbia Neighborhood. The land use designation for this area is Neighborhood Commercial, 10,000 square feet maximum building size. Special conditions include flood, shoreline and clearing.
3. 1509 East Victor Street is located in Area 1 of the Columbia Neighborhood. The land use designation for this area is Residential Single, Detached, 15,000 square feet minimum detached lot size. Special conditions include flood, shoreline and clearing.
4. The property at 3000 Northwest Avenue was the former site of Northwest Washington Medical Bureau (formerly Whatcom Medical Bureau) offices. It contains approximately 80,500 square feet in area and is located in the block bounded by East Victor Street, Northwest Avenue and Walnut Street. It is adjacent to the Northwest Shopping Center on the northern property line. Residences are located to the east, west and south.
5. The property at 1509 East Victor Street is the former site of Needham's Nursing Home. This property is approximately 89,300 square feet in area and is located in the block bounded by East Victor Street, West Oregon Street, Elizabeth Street and Walnut Street. 3000 Northwest Avenue is located to the west of this property. Residences are located to the north, northwest, south and east.
6. The property at 3000 Northwest Avenue has been vacant since about 1996. The property at 1509 East Victor Street has been vacant since about 1994.
7. Several conditional use permits and variances have been granted for the property at 1509 East Victor Street for the operation of Needham's Nursing Home and additions and alterations to structures on the site.
8. The property at 3000 Northwest Avenue contains one (1) large building, parking areas and landscaping. No exterior modifications to the building are proposed for the applicant's use. Interior remodeling would occur to provide sixteen (16) classrooms and 3,500 square feet of assembly space. A covered play area/playground would be constructed on the northeast side of the building. The covered play area would also serve as the pick-up/drop-off area for the school. Seventy-six (76) parking spaces would be provided on-site.
9. At 1509 East Victor Street, the applicant proposes to extensively remodel the main building and two (2) smaller structures at the south end of the property. Other structures on the site would be removed and replaced with playfields and parking. The existing structures on this site are in a state of disrepair. A portion of the southern end of the main building will be removed to increase the travel lane for exiting traffic and provide additional parking spaces. The building will be brought up to current life safety code requirements. The main building will house

approximately fourteen (14) classrooms and sixteen (16) labs, studios or library space. It will also provide approximately 3,500 square feet of assembly area. Eighty-one (81) parking spaces are proposed for the site. 10. The proposed school would have a maximum of three hundred twenty (320) elementary school students (grades K-8) and two hundred (200) high school students (grades 9-12). It is anticipated that the elementary school will require twenty-six (26) staff members. Thirty-five (35) staff members will be required for the high school at maximum enrollment.

11. The Bellingham Municipal Code requires one (1) parking space for each classroom and office, plus one (1) space for every four (4) students over driving age. The number of spaces proposed by the applicant exceeds the number required by the code on both sites.

12. A trip generation analysis was performed for both sites based on the ITE Trip Generation Manual, 6th Edition, for private K-12 schools. The AM peak, 7:00 to 9:00 a.m., trip generation for 3000 Northwest Avenue would be two hundred ninety-four (294) at maximum enrollment. The PM peak, 4:00 to 6:00 p.m., trip generation for that site at maximum enrollment would be sixty-four (64). For 1509 East Victor Street the AM peak trip generation would be one hundred eighty-four (184) at maximum enrollment. The PM peak trip generation for that site at maximum enrollment would be forty (40).

13. The applicant proposes to stagger start times for morning classes between 8:00 and 9:00 a.m. Afternoon class release times would be staggered between 2:00 and 3:00 p.m.

14. 3000 Northwest Avenue has four (4) existing curb cuts, one (1) on Northwest Avenue, two (2) on Walnut Street and one (1) on Victor Street. The applicant proposes that Northwest be used for the primary entrance with a drop-off lane providing stacking capacity for nine (9) vehicles, exiting onto Walnut Street or Victor Street at the south end of the property. Staff recommends closing the northerly Walnut Street access to vehicular traffic during drop-off/pick-up times to reduce the amount of traffic using Walnut Street and East Maplewood to the north of the property. Both Walnut Street and East Maplewood are minimum standard streets. Northwest Avenue and Victor Street are arterial streets. Northwest Avenue has a left-turn lane to Victor Street.

15. 1509 East Victor Street has two (2) existing curb cuts on East Victor Street. There is a current access to Elizabeth Street that would be eliminated with the proposal. Pick-up/drop-off stacking for seven (7) vehicles, and seven (7) parking spaces designated for pick-up and drop-off, are proposed for this site. An existing on-street stacking area in front of the main building can accommodate approximately (9) standard size vehicles.

16. BMC 20.16.020 S(1) provides that schools, defined as institutions of learning, whether public or private, which offer instruction in those courses of study required by the Washington Education Code or which are maintained pursuant to standards required by the State Board of Education, are conditional in the residential single and multi, neighborhood commercial, and light industrial general use types. A recent amendment to the code added neighborhood commercial and light industrial general use types to the areas in which schools may be approved as a conditional use. Subsection (c) of this section provides that a school should not become the only use within a Neighborhood Commercial subarea, or district when there are contiguous commercial subareas and that school proposals must be consistent with policies outlined within the applicable neighborhood plan.

17. 3000 Northwest Avenue is located in the southern portion of Area 2 of the Columbia Neighborhood. It represents approximately one-fourth ($\frac{1}{4}$), or less, of the land area within Area 2. Area 10 of the Birchwood Neighborhood, also designated Neighborhood Commercial, is located immediately north of Area 2. Area 10 is approximately twice the size of Area 2.

18. With removal of structures at 1509 East Victor Street, the amount of impervious surface at this site will be reduced. Rehabilitation of the site will require current stormwater management and water quality improvements.

19. Approximately 15,038 square feet of fenced play area is proposed for the 3000 Northwest Avenue site. Approximately 17,464 square feet of play area is proposed at 1509 East Victor Street.

20. Comprehensive Plan Goals CFG-5 and LUG-15 provide that new schools should be located consistent with the City's commitment to infill and compact growth.

21. Comprehensive Plan Goal LUG-28 encourages development in town centers, such as the Northwest/Birchwood commercial area, that are defined by the presence of an adequate infrastructure and where a narrower range of employment and service opportunities are available. These areas are expected to accommodate much of the medium density development in the city.

22. The applicant proposes to phase the school project over seven to eight (7 – 8) years, beginning with grades kindergarten through 6th grade and adding grade levels over the next seven to eight years.

23. St. Paul's Episcopal School has operated since 1995. It started with a kindergarten and expanded one (1) grade level per year. It requires a larger facility to expand further.

24. As proposed the St. Paul's Episcopal School, kindergarten through 12th grade, would operate a combined facility of approximately 50,000 square feet on 3.9 acres with a capacity of 520 students. This is comparable to Carl Cozier Elementary with a facility of approximately 45,000 square feet on 4 acres with a capacity of approximately 450.

25. The applicant proposes to work with the surrounding neighborhood to allow reasonable access to the school's outdoor play areas during non-school hours. The Columbia Neighborhood Plan recognizes the lack of existing park facilities in the northern part of the neighborhood. The proposed play areas and added landscaping would

increase recreational opportunities and open space for the northern part of the Columbia Neighborhood.

26. Neighbors have expressed support for the proposed school, but have concerns regarding traffic. The applicant proposes traffic mitigation measures, including a right turn lane on Victor Street and a crosswalk between the Northwest and Victor Street properties. Access to Elizabeth Street would be prohibited and access to Walnut Street would be limited.

27. Whatcom Transportation Authority bus stops are located on Northwest Avenue near the proposed school sites.

28. Both sites are served by City utilities.

29. The owners of an adjacent business have expressed concerns regarding use of the property for a school rather than for commercial purposes, and the impacts on businesses of locating a school within five hundred feet (500') of businesses licensed to serve alcohol or to conduct gambling activities.

30. Washington State regulations govern the issuance and renewal of liquor licenses and place restrictions on the issuance of licenses to establishments located in proximity to schools, churches and public institutions.

31. There are at least three (3) existing establishments that serve alcoholic beverages within five hundred feet (500') of the property line of the proposed school site. The ability of these businesses to renew, transfer or obtain liquor licenses could be impacted by the location of the proposed school at the subject site.

32. Criteria for conditional use permits are contained in BMC 20.16.010 and .020.

II. CONCLUSIONS OF LAW

1. The proposed school is allowed as a conditional use in Areas 1 and 2 of the Columbia Neighborhood, subject to the conditional use criteria.

2. The proposed school use of the subject sites is consistent with the Columbia Neighborhood Plan and the goals and policies of the Comprehensive Plan. It will provide necessary services consistent with the in-fill goals of the Plan, in a location identified in the Plan for in-fill development.

3. The proposed school is compatible with the essential character of the neighborhood, subject to the conditions set forth below. The structures are oriented towards the residential properties in the neighborhood, and away from commercial properties. Traffic will be primarily directed to arterial streets and mitigation measures will ease impacts on neighborhood streets. The addition of play areas and open space will improve the recreational opportunities for the neighborhood.

4. Public facilities and utilities adequately serve the area. Improvements to be constructed with the project will mitigate impacts.

5. The proposal will provide adequate parking and stacking space on site. Traffic mitigation measures will prevent the creation of excessive vehicular congestion on neighborhood streets.

6. The proposed use will not create a hazard to life, limb or property. It will not create influences detrimental to neighboring uses.

7. The proposal will not result in the destruction, loss or damage to any natural, scenic or historic feature of major consequence.

8. Subject to the conditions set forth below the proposed use will promote the health, safety and general welfare of the community. The school will provide necessary services to the community and re-use and restore properties that have been vacant for several years.

9. The proposed school will satisfy the purpose and intent of the Residential Single and Neighborhood Commercial use types, subject to the conditions set forth below.

10. To preserve the viability of businesses located within the Neighborhood Commercial area the school should be required to take necessary steps to prevent impacts of the school's location on the ability of these businesses to obtain licenses required by the State of Washington.

11. Subject to the conditions set forth below, the proposed school will not be detrimental to the surrounding neighborhood.

12. The proposal satisfies the conditional use criteria and a conditional use permit should be granted, subject to the conditions set forth below.

13. Any Finding of Fact that should be denominated a Conclusion of Law shall be deemed to be a Conclusion of Law. Any Conclusion of Law that should be denominated a Finding of Fact shall be deemed to be a Finding of Fact.

III. ORDER

A conditional use permit is granted to St. Paul's Episcopal School for a kindergarten through 8th grade elementary/middle school at 3000 Northwest Avenue and a 9th through 12th grade high school at 1509 East Victor Street, subject to the conditions set forth below:

1. Development of the school may be phased over a period of eight (8) years, provided construction or use on at least one (1) site shall be commenced within one (1) year. Failure of the applicant to acquire the site at 1509 East Victor shall not cause invalidation of this conditional use permit for 3000 Northwest Avenue.

2. Each site may have one (1) indirectly down-lit, or internally lighted sign. Each sign shall not exceed thirty-two square feet (32' sq.) in area and be no greater than six feet (6') in height. The message shall be limited to the name and address of the school.

3. Client contracts shall include a provision prohibiting on-street drop-offs/pick-ups and on-street student parking. Staff and students who drive vehicles to the school shall be issued parking permits to park on-site. Staggered start and release times shall be implemented to minimize AM and PM peak traffic congestion.
4. Enrollment at 3000 Northwest Avenue shall not exceed three hundred twenty (320) students. Enrollment at 1509 East Victor Street shall not exceed two hundred (200) students.
5. Walnut Street shall be improved to three-quarter ($\frac{3}{4}$) standard with curb, gutter and sidewalk abutting, for the full frontage of the property. The street standard shall be that described in the Columbia Neighborhood Plan, including a planting strip between the sidewalk and curb. The sidewalk and curb and gutter location may be modified due to existing conditions. The Planning and Public Works Directors shall approve the final design.
6. Vehicular access to and from the northern most Walnut Street curbcut at the 3000 Northwest Avenue site shall be prohibited during drop-off and pick-up times by means of a closed gate or other physical barrier. If closure of this access does not adequately prevent all but a minimal amount of school traffic from using Walnut Street and East Maplewood to enter and exit the site, one or more traffic control personnel should be employed by the school to direct traffic onto East Victor Street to Northwest Avenue.
7. Vehicular access to Elizabeth Street from 1509 East Victor Street is prohibited.
8. The Bellingham Police Department shall review the site plan for each of the properties, and public access ways between the sites. Crime Prevention Through Environmental Design recommendations shall be implemented.
9. Garbage dumpsters and recycling bins shall be provided for each facility in a location approved by the garbage/recycling hauler(s) and screened from public streets and adjacent properties.
10. Bicycle racks shall be provided at each site to accommodate a number of bicycles equal to at least ten percent (10%) of the number of students.
11. Prior to issuance of a building permit, or occupancy permit if no building permit is required, a landscaping and fencing plan shall be submitted to and approved by the Planning Director. Any new chain link fencing shall be black PVC coated. All parking areas shall be screened from the street and adjacent residential properties. Screening may consist of a wood fence or evergreen hedge, subject to approval of the Planning Director. Existing significant trees and landscaping to be retained shall be shown on the plans. The number of existing trees to be retained on the Northwest Avenue site shall be maximized, consistent with the approved site plan. Street trees shall be installed on East Victor, Walnut and Elizabeth Streets, generally as shown on the site plans (**Exhibit 1-4** or as modified and approved by the Planning Director). Any open storm water facilities shall be incorporated into the landscaping plan with landscape screening provided for any wet pond. Parking lot trees shall be provided within and around new parking areas at rates consistent with BMC Title 20 and the approved site plan.
12. The applicant shall provide a maintenance guarantee for installed trees and landscape screening prior to issuance of occupancy approval. The guarantee may consist of proof of a two-year (2) maintenance contract with a landscape maintenance firm, assignment of funds or maintenance bond in the amount of fifty percent (50%) of the value of the landscaping labor and materials or other equivalent instrument acceptable to the Planning Director.
13. Any new exterior lighting fixtures shall be submitted for review and approval by the Planning Director. Proposed fixtures shall be reviewed under a Master Lighting Plan. The plan shall include all photometric data, fixture cut sheets and shall be designed to prevent glare and spillover onto adjacent residential properties.
14. The Public Works Department shall approve the stormwater plan for 1509 East Victor Street prior to issuance of a building permit.
15. The applicant, and any subsequent transferees of this conditional use permit, shall take all steps reasonably necessary and within their control to eliminate or mitigate the impact on businesses within the adjacent Neighborhood Commercial area of placement of the school in proximity to existing locations where alcoholic beverages are served or gambling activities are conducted, and particularly the impact of the school on existing or future liquor and gambling licenses for these locations for operations similar to those currently conducted in these locations. Such steps may include, without limitation, fencing or closing off access routes (except for emergency access) to create a separation and increase the walking distance between the school and liquor establishments, and not opposing license applications. It is the intent of this condition to provide, to the extent legally permissible, that location of the school adjacent to businesses now operating under liquor or gambling licenses issued by the State of Washington should not impair the ability of those businesses, or their successors, to continue to operate and obtain necessary licenses.
16. Design and operation of the site(s) shall be consistent with materials submitted with the application, including, but not limited to the application, SEPA Checklist and **Exhibit 1-4**, except as otherwise provided herein, or as modified pursuant to these conditions.
17. The proposal shall comply with all applicable local, state and federal laws and regulations.
18. The cost of traffic control marking and signage for safe walking routes shall be the responsibility of the applicant. The Public Works Department shall approve the location and design of all such traffic control devices and may, in its discretion, require that installation be performed by the City.

ENTERED this 16th day of September 2002.

Bellingham Hearing Examiner

Dawn Sturwold

THE HEARING EXAMINER OF THE CITY OF BELLINGHAM

WHATCOM COUNTY, WASHINGTON

IN RE:	HE-07-PL-029
ST. PAUL'S EPISCOPAL SCHOOL, APPLICANT	FINDINGS OF FACT
3000 Northwest Avenue / 1509 E. Victor Street	CONCLUSIONS OF LAW
CUP2007-00006 / Conditional Use Permit	AND ORDER
Modification	Dawn Sturwold, Hearing Examiner

Hearing Date:

This matter came before the Bellingham Hearing Examiner for hearing on the 25th day of July 2007 on the application of St. Paul's Episcopal School for modification of a Conditional Use Permit issued for the operation of a private school at 3000 Northwest Avenue and 1509 E. Victor Street.

Testimony was received from Brian Smart, Planning and Community Development Department; Gary Gideon, Applicant's representative; Katie Hinton, 1516 E Victor Street; Pete Aquiningoc, 3033 Elizabeth Street; Margaret Murray and AnnMarie Jordan, 1421 E. Victor Street; Ryan Ferris, 1401 E. Victor Street; Cindy Harris, 1347 Olivia Court; Diane Dawley, 3011 Elizabeth Street; and Jim Hesselgrave, 2315 Park Street.

In addition to the Bellingham Municipal Code and Comprehensive Plan, the following documents were considered as part of the record: See Exhibit List. The records pertaining to the original Conditional Use Permit were also incorporated into the record of this proceeding.

I. FINDINGS OF FACT

1. St. Paul's Episcopal School applied for modification of a Conditional Use Permit issued for the operation of a private school at 3000 Northwest Avenue and 1509 E. Victor Street.
2. The original Conditional Use Permit was issued for the school in September 2002. The Findings of Fact, Conclusions of Law and Order issued in that proceeding, CUP2002-00013, HE-02-PL-047, are incorporated herein by reference, except as modified herein.
3. St. Paul's Episcopal School is currently in operation at 3000 Northwest Avenue.
4. Since the original issuance of the Conditional Use Permit the City's seismic codes have been changed. The building that was located at 1509 E. Victor Street was constructed of wood frame and non-reinforced masonry. Retrofitting this structure to meet current seismic codes would not be economically feasible compared to the cost to construct a new building.
5. The Applicant submitted a request to the Planning and Community Development Director for modification of the original Conditional Use Permit to demolish the old structure at 1509 E. Victor and to replace it with a new building of similar height, floor area, location and scale. Pursuant to BMC 20.16.010(I), the Director approved this modification. The structure at 1509 E. Victor Street has been demolished.

6. Applicant now requests additional modifications, including the addition of 1,700 square feet to the footprint of the E. Victor Street site and shifting the building to the east; adding a total of 8,590 square feet of floor area to the use; construction of a small storage maintenance building at the Victor Street site; altering the grades and numbers of students at the two sites with grades K – 5 at 3000 Northwest Avenue and grades 6 – and 12 at E. Victor Street-originally grades K – 8 were proposed for the Northwest site and grades 9 – 12 for the E. Victor Street site; installation of two temporary modular classrooms and toilet facilities at E. Victor Street beginning with the 2007 – 2008 school year and a third modular classroom at the beginning of the 2008 – 2009 school year; and extending completion deadlines for construction for two years to October 2012.
7. The requested modifications do not include an overall expansion in the number of students or faculty who would occupy the school, but a shift in the school population from the Northwest Avenue facility to the E. Victor Street site. This change would also shift some of the impacts of the use from the Northwest Avenue site to E. Victor Street.
8. With the requested modifications a second floor would not be added to 3000 Northwest Avenue, grades K – 5 would be assigned to that facility, and the E. Victor Street site would be enlarged to accommodate the larger number of students expected to enroll in grades 6 – 12.
9. Neighbors expressed concerns about the extended timeline for construction, the proposed shift in the numbers of students between the two buildings, traffic impacts, the lack of public process, noise and light impacts, potential crime increase, impacts of the proposed new structure, and access issues, as well as impacts to immediate neighbors resulting from portable classrooms.
10. City staff recommends approval of the requested modifications subject to conditions set forth in the Staff Report.
11. Problems have been experienced since the school opened at the Northwest site with parents using the northern Walnut Street access for pick-up and drop-off despite the prohibition on use of this access in the original Conditional Use Permit.
12. The proposed location for the portable classrooms is immediately adjacent to residences. Upon completion of the project this area will become part of the parking lot for the E. Victor Street site.
13. Floor plans for the gymnasium at the E. Victor Street site show seating for up to 228 on bleachers and 745 if the gym floor is used for assembly.
14. 5,715 square feet of the additional floor area requested in this modification is in the basement, under the gymnasium. This space is designated as undefined and storage in the floor plans.
15. A neighborhood meeting was conducted for this proposal. Notices of the application and public hearing were sent to individuals and organizations included on the mailing list prepared from Whatcom County Assessor's records.

II. CONCLUSIONS OF LAW

1. Modification of the Conditional Use Permit to allow replacement of the structures on the E. Victor Street site was approved administratively in January 2007. That modification is not at issue in this proceeding.

2. The same criteria of BMC 20.16.010 and .020 are applied to modifications of Conditional Use Permits as were applied to the original permit.
3. The proposed use continues to satisfy the Conditional Use criteria provided that the total number of students does not exceed the number originally approved and the design and construction of the new facility on E. Victor Street makes adequate provision for mitigation of increased impacts to the surrounding neighborhood.
4. The application has been processed in accordance with Municipal Code requirements, including a neighborhood meeting and public hearing.
5. Any Finding of Fact that should be denominated a Conclusion of Law shall be deemed to be a Conclusion of Law. Any Conclusion of Law that should be denominated a Finding of Fact shall be deemed to be a Finding of Fact.

III. ORDER

Modifications to the Conditional Use Permit for St. Paul's Episcopal Church at 3000 Northwest Avenue and 1509 E. Victor Street (as modified in January, 2007) are approved as follows, and subject to the following conditions:

Modifications approved:

1. Additional floor area of up to 8,590 square feet, with at least 5,700 square feet of this increase located in the basement area of the E. Victor Street site, is permitted.
2. Additional building footprint for the E. Victor Street facility of up to 1,700 square feet is allowed, together with a shift in the building footprint to the east, further from the westerly property line.
3. A small storage and maintenance building may be constructed in the southwest portion of the property.
4. Up to two temporary portable classrooms and a temporary portable toilet structure may be installed and used beginning with the 2007 – 2008 school year. An additional temporary portable classroom may be installed and used no earlier than the 2008 – 2009 school year, if needed.
5. Student populations and grade levels may be shifted from the Northwest Avenue facility to the E. Victor Street facility provided that no more than 316 students may attend the E. Victor Street site and no more than 270 students may attend the Northwest Avenue site, with a total of no more than 520 students at both sites.
6. Construction of school facilities shall be completed no later than October 1, 2012.

Additional and Modified Conditions:

1. Condition No. 1 of the September 2002 Order is modified as follows: Development of the school may be phased over a period of time up to October 1, 2012, provided construction or use on at least one site shall be commenced within one year. Once commenced construction shall proceed in an expeditious manner to minimize the impacts of construction noise and traffic on neighboring residents. A 15-month timeframe is anticipated for construction at the E. Victor Street site.

2. Condition No. 3 of the September 2002 Order is modified as follows: Client contracts shall include a provision prohibiting on-street drop-offs/pick-ups and on-street student parking. Staff and students who drive vehicles to the school shall be issued parking permits to park on-site. Staggered start and release times shall be implemented to minimize a.m. and p.m. peak traffic congestion and conflict with Bellingham Public School bus pick-up and drop-off. A traffic manager shall be employed to manage morning and afternoon pick-up and drop-off and ensure compliance with the traffic restrictions imposed in this Order and the September 2002 Order, including, but not limited to, closure of the northerly Walnut Street gate during drop-off and pick-up times.
3. Condition No. 4 of the September 2002 Order is modified as follows: Enrollment at 3000 Northwest Avenue shall not exceed 270 students. Enrollment at 1509 E. Victor Street shall not exceed 316 students. Total enrollment at both sites shall not exceed 520 students.
4. Condition No. 15 of the September 2002 Order is clarified as follows: This condition shall remain in effect but it is not intended to require the school to take any action that is prohibited by law or to close any access in a way that would violate the property rights of another person or entity.
5. All other conditions of the September 2002 Order not inconsistent with the provisions of this Order shall remain in effect.
6. Location and design of access points for the E. Victor Street site and all required street improvements shall be subject to the review and approval of the Public Works Department.
7. Prior to occupancy of the temporary portable classrooms and toilet facilities screening shall be installed between these facilities and adjacent residences. The type and design of such screening shall be selected after consultation with the immediately abutting neighbors and the Planning Department.
8. The temporary portable classrooms and toilet facilities shall be set back as far as is feasible from property lines abutting residences, outside of the construction envelope, but no less than 10 feet from the property lines. The location of the portable facilities shall be approved by the Planning Department after review of the site plan showing the construction area and accesses.
9. Construction traffic shall be directed away from the residential neighborhood, to the extent feasible.
10. Hours of construction except for those construction activities that do not produce noise, light, odors or other noxious influences noticeable to residents of the surrounding neighborhood, are limited to 7:00 a.m. to 7:00 p.m., Monday through Saturday. Exceptions to these hours may be granted by the Planning Director in the case of emergency or necessity. Notice of any scheduled exception shall be provided to adjacent residential neighbors.
11. Landscaping, screening and lighting plans submitted by the Applicant to the Planning Department shall be distributed to adjacent property owners and others who request copies, at the Applicant's expense. Neighbors shall be provided an opportunity to comment on these plans prior to approval by the Planning Department.
12. Location, construction, design and use of school facilities shall comply with all provisions of the Bellingham Municipal Code and International Building Codes.

13. The mass and bulk of the Victor Street facility shall be substantially as proposed in the materials submitted in support of this application, or less. The E. Victor Street facility shall maintain setbacks from residential areas substantially as shown on the site plans submitted with the proposal, or greater. The design of the facility should take into consideration the location of the structure within a residential neighborhood and potential impacts on the surrounding neighbors.

14. If the Planning and Community Development Department receives substantiated complaints regarding violations of the conditions of the Conditional Use Permit or adverse impacts resulting from weekend or evening school events or activities the Director shall have the authority to impose additional conditions and/or to refer the matter to the Hearing Examiner for further hearing that may result in additional conditions.

ENTERED this 7th day of August 2007.

Bellingham Hearing Examiner

Dawn Sturwold