

BEFORE THE HEARING EXAMINER  
CITY OF MONROE, WASHINGTON

In the Matter of the Application of  
Monroe School District #103,  
Site Plan Review / Sign Variance / Public  
Agency Utility Exception Application  
Property Located at 1408 West Main St.

File No(s): SITE2016-01; VR2016-01;  
CAE2016-01

FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND FINAL ORDER

**I. INTRODUCTION**

Monroe School District #103, Rebecca Baibak, and Integrus Architects (collectively herein “the Applicant”) has submitted three applications reviewed herein: a site plan review; a variance from the number of required parking spaces, and; a Public Agency or Utility Exception (PAUE). The three applications are in connection with project permits for the Monroe School District’s Park Place Middle School Modernization Project. The site plan review request addresses the demolition, rebuild and retention of various middle school buildings. The variance request seeks to reduce the number of required parking spaces. The PAUE request would allow continued encroachment into the minimum 200-foot Category 1 wetland buffer zone required by a wetland area located on adjacent property. At the request of the Applicant, the three applications have been consolidated per MMC Section 21.50.130 into a single public hearing before the City’s Hearing Examiner pursuant to Monroe Municipal Code §§ 18.82.020, 18.98.085, 21.20.050(A), 21.05.050(C)(1), 20.08.

As Hearing Examiner for the City of Monroe, I held a public hearing on April 15, 2016 at approximately 10:00 a.m. at the City of Monroe’s offices located at 806 W. Main St. in Monroe and approved the three applications, subject to conditions. Ms. Kristi Kyle, Senior Planner for the City of Monroe, appeared and provided witness testimony, together with the City’s Staff Report and Recommendation, and related exhibits (Exhibits M1-M12). Mr. John Mannix and Ms. Rebecca Baibak also appeared and provided witness testimony on behalf of the Applicant. Several other individuals were present at the public hearing but did not offer testimony. The witnesses declared by oath or affirmation the truthfulness of their testimony. I did not receive any written or oral ex parte communication on a fact in issue during the pendency of the proceedings, and made a statement to that effect on the record. The City made a recording of the hearing. The evidence offered was received and all relevant evidence was admitted into the record. I reviewed and considered the written materials and witness testimony presented as evidence at the hearing, a record of which I incorporate in the decision in this matter. The record is on file with the City.

Exhibits: The following exhibits were admitted at the open record hearing:  
Respondent/City:

1 – Case no. SITE2016-01; etc. (Monroe School District #103)

- Exhibit 1: Staff Analysis
- Exhibit 2: Vicinity Map
- Exhibit 3: Project Application & Project Narrative
- Exhibit 4: Notice of Complete Application
- Exhibit 5: Notice of Application, with related affidavits A-E
- Exhibit 6: Notice of Public Hearing, with related affidavits A-E
- Exhibit 7: Zoning Map
- Exhibit 8: Comprehensive Plan Map
- Exhibit 9: SEPA Mitigated Determination of Non-Significance (MDNS)
- Exhibit 10: Site Plan
- Exhibit 11: Applicant's Parking Variance Request
- Exhibit 12: Stream and Wetland Inventory Report Map and Wetland 33 Classification

## **II. FINDINGS OF FACT**

1. The Applicant intends to demolish, rebuild, and/or renovate and improve the existing Park Place Middle School in Monroe, owned by the Monroe Public School District. Specifically, the Applicant submitted plans to demolish the existing 109,912 square foot building and replace it with an approximately 128,000 square foot building two (2) stories in height. The existing gymnasium will remain and undergo renovations and will be incorporated into the new building. An existing structure designated "Building F" on the plans is 20,622 square feet and will remain, but will be removed from educational use.
2. The site is an approximately 20.1 acre assemblage of properties located at 1408 West Main Street in Monroe. The north half of the site contains the existing middle school buildings, asphalt driveways, parking areas, and bus drop-off area. There are three portables south of the main buildings, and a greenhouse and outbuildings along the east property boundary. The south half of the site contains a large grass field that is used primarily for athletic activities. Athletic facilities in the southern half of the site have been maintained since the early 1970s. The site itself is designated as "Institutional" on the City's Future Land Use Map, and is zoned Public Open Space (PS).
3. The site is bordered to the north by West Main Street, to the east and west by single-family homes and commercial buildings, and to the south by a large flood control berm that extends the entire length of the school property project site. Perimeter fencing is located along the east and west property boundaries. The City of Monroe Critical Areas and Buffer Map depicts a large wetland south of the site. This wetland is rated as a Category 1 wetland.
4. Comprehensive Plan Land Use Designations, Zoning Designation, and Existing Land Use of the Site and Surrounding Area, include the following:

2 – Case no. SITE2016-01; etc. (Monroe School District #103)

Area	Land Use Designation	Zoning	Existing Use
Project Site	Institutional	Public Open Space	Middle School
North of Site (Across West Main Street)	Mixed Use	Mixed Use Commercial	Grocery and Offices
South of Site	Parks	Limited Open Space	Open Space
East of Site	Mixed Use	Mixed Use Commercial	Offices
West of Site	Mixed Use	Mixed Use Commercial	Offices

5. Public Utilities and Services are provided by the following:

Water:	City of Monroe	Gas:	Puget Sound Energy
Sewer:	City of Monroe	Cable TV:	Comcast
Garbage:	Republic Services	Police:	City of Monroe
Storm Water:	City of Monroe	Fire:	Monroe Fire District No. 3
Telephone	Verizon	School:	Monroe Public Schools
Electricity	Snohomish County PUD No. 1	Hospital:	Evergreen Health

6. The Applicant submitted its Site Plan Review application, a parking variance request, and a Public Agency or Utility Exception, on January 6, 2016, requesting that all three applications be consolidated. The City of Monroe determined the applications complete on February 4, 2016. The City of Monroe published, posted, and mailed public notice of the applications on February 16, 2016. On March 29, 2016, the City of Monroe published, posted, and mailed notice of public hearing, consolidating the three applications into a single public hearing. Required notices were sent directly by the City of Monroe to nearby property owners, affected agencies, tribes, and interested persons, and public notice of the hearing was posted on the subject property, and various locations.
7. The proposed project is anticipated to be completed in three phases, and is scheduled to begin in June 2016, with the school operational during construction and with final completion in August 2018. The City Planner, City Engineer, Fire Marshall, Building Official, and Police Chief reviewed and commented on the Applicant's proposed site plan application. Their comments were included in the City's Staff Report and in the associated recommendations for project permit conditions of approval.
8. The staff report describes the site as relatively small for a middle school, as compared to other schools located in the City of Monroe and neighboring cities, and reports that there is no surplus space to provide more parking. Staff analysis concludes that the proposed design utilizes the entire available site for buildings, landscaping, circulation, parking, or athletic fields. The staff reports states that no surrounding property is available for expansion, noting that the location of the Category 1 Wetland to the south restricts development of the site.

9. The staff report finds the proposal consistent with the Land Use Element of the City of Monroe's Comprehensive Plan. Staff analysis notes that the middle school facility is consistent with the City's land use goals, providing for the growth of the City, encouraging shared use of the site as a community facility, and promoting downtown Monroe as a thriving area. Staff note that the proposal would allow for continued recreational activities at the Middle School facilities that are often available for use by the community. Staff also note that the proposal is consistent with other land use goals and objectives in the area, including promoting public facilities to modernize/update their buildings on the Main Street Corridor of the City.
10. The Applicant's request for a parking variance seeks to reduce the number of required parking spaces from 802 to 197 (a reduction of 605 parking spaces). The Monroe School District's Park Place Middle School is an existing use that has been in place for over 40 years. The school is designed for approximately 935 middle school students and is currently providing 144 parking spaces.
11. The current Park Place Middle School facility was used as the Monroe High School from 1974 – 1999. During its use as a high school, the existing 144 parking spaces accommodated both faculty and student parking. The facility is now used as a middle school with students that are not of driving age. The Applicant's proposal will add 53 parking spaces to the site.
12. Staff analysis concurs with the Applicant's reasoning that 802 parking spaces is not necessary given that middle school students are not of driving age, also noting that the City's parking requirements do not differentiate between a high school and a middle school in terms of required parking. Staff further note that the granting of a variance to reduce the number of required parking spaces to a total of 197 spaces is not incompatible with other public schools of similar type and size.
13. The staff report's analysis concludes that the parking variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity or upon the subject property, but would allow the same utilization of the site for the same land use and in a similar manner as it has been for over 40 years. Staff also note that the proposed parking variance is being processed concurrently with the Applicant's Site Plan Review application, and this will ensure that applicable Monroe Municipal Code requirements are met. Staff conclude that the permit review process will ensure that the buildings, landscaping, lighting, drainage, ball fields, and parking are located consistent with code requirements for building code, fire protection, setbacks, parking dimensions, and traffic circulation.

14. The staff report noted that the variance would allow the property site to continue as a middle school, also noting that this is the only middle school in the City of Monroe. The Applicant submitted an inventory of newer middle schools in the region to identify how much parking was provided, as a comparison to its proposal, and show that granting the variance is not inconsistent with other middle schools recently constructed.

School	District	# Students	# Parking Spaces	Spaces/Student
Meadowdale Middle	Edmonds	750	156	0.21
Northshore Jr.	Northshore	950	122	0.13
Finn Hill Middle	Lake Washington	750	77	0.10
Valley View Middle	Snohomish	800	220*	0.11
Park Place Middle (Existing Student Population)	Monroe	935	144	0.15
Park Place Middle (Future Student Population)	Monroe	850	197	0.23

\* Valley View has only 84 designated parking spaces on-site; additional parking is provided using drop-off areas.

\*\* Park Place Middle has 151 designated spaces and 46 additional spaces by using bus and drop-off areas.

#### *Public Agency or Utility Exception*

15. The Park Place Middle School site contains one Category 1 wetland located off-site, south of the middle school athletic fields. The Category 1 wetland requires a 200-foot buffer area. Part of this buffer to the wetland is located on site, and includes a portion of the existing Park Place Middle School athletic fields. Specifically, approximately half of the existing football/soccer field, track, and southern baseball field for the middle school lie within the designated wetland buffer
16. The City of Monroe’s Stream and Wetland Inventory Report dated March 2005 inventories the wetland as Wetland 33 and the Critical Areas and Buffer Map also depicts an unclassified stream within the wetland, located south of the Park Place Middle School buildings. The Applicant submitted a Critical Area Report prepared by Raedeke Associates, Inc. on November 24, 2015, *revised* March 2, 2016.
17. The Applicant is requesting a Public Agency or Utility exception (PAUE), which allows exceptions to the Critical Areas Ordinance by public agencies or utilities. The Monroe School District’s PAUE request identifies proposed improvements to the existing athletic fields that fall within the 200-foot buffer of the Category 1 wetland located to the south of the athletic fields. These improvements include replacing the existing grass fields with artificial turf, a synthetic track, and lighting. The upgraded fields would be in the same location and will not extend beyond the existing grass fields.

18. The Applicant states that the overall square footage of the school (or number of classrooms) could not be reduced without impacting its student capacity, which is necessary to accommodate future enrollment growth. The School District asserts that, due to the location of the existing buildings that are not proposed to be demolished there is no additional room on site to move the buildings. The two existing buildings will remain on the south side of the new building area of the site, and the location of these buildings denotes the southern edge of structures on the site. The location of these buildings contributes to the athletic field's critical area encroachment, which is why these fields cannot be moved further north.
19. The Applicant also reports that existing easements on the site limit placement of new buildings, and that adding a third story to the classroom wing would not move buildings further away from the wetland buffer nor create additional useable space outside of the buffer for site and athletic field development. The Applicant also indicates that paved areas have already been minimized to the extent allowed by code, with paved areas necessitated by code requirements for emergency access, site circulation, and parking, with the Applicant submitting a variance request to allow less parking than required by code.
20. The Applicant also asserts that the covered play area located between the existing gym and Building F and the southern paved play area are necessary as these areas are used by students before school, during lunch, and after school, and the areas are used as part of the physical education program and as outdoor play areas that are protected from the weather. The Applicant also states that the athletic fields are designed to meet middle school physical education and athletic standards, and are not larger, competition-sized fields like those at the Monroe High School. The Applicant asserts that reduction of the football/soccer field or track size would not be appropriate, as it would render them unusable for middle school and community sports programs. The Applicant asserts that these fields, as currently sized, are essential to the education program of the school.
21. The Applicant submitted a summary analyzing potential design scenarios providing additional information concerning why the current site layout and land use permit requests are necessary in order to complete the project.
22. Staff analysis concludes that the proposed Park Place Middle School modernization project is designed to avoid direct impacts to wetland, although there will be impacts to the wetland buffer. The staff report notes that the project incorporates a number of design features that would avoid or minimize impacts to the wetland and its buffer, including: permanent critical area signs will be installed along the outer perimeter of the undisturbed buffer (along the edge of flood control berm) per MMC;

the proposed stormwater plan would direct run-off from the track and field facilities into a collection trench designed to promote infiltration; invasive species such as Himalayan blackberry will be removed from enhancement areas. Native vegetation will be retained within the buffer area to the greatest extent, and where possible will be enhanced through planting a mixture of native trees, shrubs, and groundcover; compost and debris located along the flood control berm in the southeast portion of the property will be removed and disturbed areas will be planted with a mixture of native trees, shrubs, and groundcover. Disposal of debris and compost will be prohibited within the regulatory buffer area under the new site development; native vegetation will not be removed from creation of equipment parking and material staging areas. These areas will be located within existing paved areas adjacent to construction; temporary erosion and sediment control measures would be implemented during construction and would utilize appropriate best management practices (BMPs) designed to prevent sediment from entering surface waters during and after construction, including placement of straw wattles and silt fencing between work activities and adjacent wetlands and designated buffer areas; all hazardous material (e.g., fuel, lubricating fluids) would be stored within the designated staging area, and no fueling or servicing of construction vehicles would be permitted within the wetland or stream buffers; upon completion, any areas disturbed during construction activities shall be regraded and/or stabilized with grass or other appropriate landscaping to prevent erosion

23. The proposed Park Place Middle School modernization project would result in direct impacts to approximately 112,220 square feet of wetland buffer. The affected buffer area is currently used as the Middle School's athletic field and is regularly mowed and maintained, thus providing a low level of habitat function. In addition, the flood control berm along the southern half of the property isolates any direct hydrologic inputs from the on-site portion of the buffer boundary to the wetland.
24. The project proposes to compensate for impacts to the wetland buffer through purchase of mitigation credits available from the Skykomish Habitat Bank. Mitigation credits from the Skykomish Habitat Bank are directed at enhancing wetland and stream functions within the Snohomish River watershed, and will provide equivalent or greater biological and hydrological functions and values than the current wetland buffer. The Skykomish Habitat Bank is located within the same sub-basin as the project.
25. In addition to wetland mitigation credits for buffer impacts, the project would provide buffer enhancement in selected portions of the onsite buffer, totaling up to approximately 19,540 square feet. Selected buffer enhancement areas include a portion of the southeastern buffer that currently contains a large pile of compost material and debris (approximately 3,957 square feet) and a portion of the flood control berm

in the southwest corner of the project area (approximately 15,583 square feet) that is dominated by invasive Himalayan blackberry.

26. The onsite buffer enhancement would retain existing native vegetation as appropriate, and focus on the removal and enhancement of portions of selected enhancement areas dominated by Himalayan blackberry and other invasive species. Invasive species would be removed from the buffer enhancement areas and planted with a naturalistic mixture of native trees, shrubs, and ground cover.
27. The staff report concludes that the Applicant's compensatory mitigation proposal would increase the existing level of protection provided by the buffer for wetland functions. The enhanced wetland buffer is designed to be a low maintenance, self-sustaining community resembling native forest habitat typical of the Puget Sound lowlands. The specific objectives of the buffer enhancement plan are: remove compost and debris from the approximately 3,957 square foot area of the southeast portion of the buffer of Wetland 1 and install native plants, and; remove Himalayan blackberry and other invasive species from an approximately 15,583 square foot portion of the flood control berm in the southwest portion of the project site, and install a naturalistic mixture of native plants.
28. The staff report concludes that adequate utility capacity exists in the City's public water and sanitary sewer system to continue to serve the proposed modernization project. The Park Place Middle School buildings will be connected to the City's water and sewer system. The site plan includes a stormwater drainage plan, with stormwater runoff from the site being collected and conveyed to infiltration facilities located around the site. The report notes that runoff from the paved areas will generally sheet flow into one of seven bio-retention cells, or be conveyed to one by curb or catch basin and pipe. The roof and courtyard runoff will flow to one of several infiltration trenches. The project has 19 stormwater drainage basins and the system has been designed to match natural predeveloped drainage patterns.
29. The staff report notes that access to the development is proposed via West Main Street, and no frontage improvements along Main Street are required. Based on the Traffic Impact Study dated December 2015, the project is anticipated to reduce the number of students from 935 to 850, which would provide a credit of 13.6 PM peak-hour trips. The level of service analysis shows that all of the study intersections in the Traffic Impact Study are anticipated to operate within acceptable thresholds.
30. The Monroe Public School District acted as SEPA lead agency for the proposal and issued a Mitigated Determination of Nonsignificance (MDNS) on January 6, 2016. The City reviewed the MDNS during the comment period, concluded that the School District's Lead Agency status

on the proposal was appropriate, and had no comments. The School District's SEPA determination was not appealed.

31. Staff recommend approval of the Monroe School District's applications for Site Plan Review, Variance to reduce the number of required parking from 802 parking spaces to 197 parking spaces, and the Public Agency or Utility Exception (PAUE) to allow encroachment into a critical area buffer for property located at 1408 West Main Street in the Public Open Space (PS) zone, subject to the following conditions:
  - a. The Native Growth Protection Area (NGPA) split-rail fencing shall be identified on the landscape and civil plans consistent with the Critical Area Study.
  - b. Prior to issuance of any building permits for Phase 3 (demolition of remaining building D and Life Skills Portables, completion of athletic fields and remaining site work) the applicant shall post a performance/maintenance bond prior to issuance of a clearing and/or grading permit for the work outlined in the Wetlands Buffer Mitigation Plan per MMC 20.05.130.
  - c. Prior to commencing construction activities, the Applicant shall obtain a General Construction Stormwater NPDES Permit from the WA Department of Ecology (DOE) per MMC subsection 15.01.045.
  - d. All development activities shall be constructed in substantial conformance with the approved site plan dated January 6, 2016.
  - e. The applicant shall obtain all the necessary sign permits from the City if applicable.
32. Mr. John Mannix and Ms. Rebecca Baibak affirmed that the Applicant agrees with the staff recommendation and conditions.

### **III. CONCLUSIONS**

The evidence presented is reliable, probative and substantial evidence upon which to base a determination in this matter. Any finding of fact deemed to be a conclusion of law is adopted as such.

#### **A. Site Plan Review**

Site Plan Review is an administrative process with approval or denial determined by the City's development review committee in accordance with the standards of review enumerated in MMC section 18.82.050. Here, the Hearing Examiner is completing the Site Plan Review process in accordance with the provisions for this combined hearing. The provisions for Site Plan Review require approval of the submitted site plan unless the decision maker makes certain written findings with respect to the proposed development. With respect to the submitted Site Plan Review application, I concur with the staff analysis submitted by the City, incorporating comments by the City Planner, City Engineer, Fire Marshal, Building Official, and Police Chief, stating that the

proposal complies with these standards of review. Specifically, I reviewed the proposal, staff report and related analysis and exhibits with respect to the following standards:

- A. The provisions for vehicular access, circulation, loading and unloading, and parking, and for pedestrian circulation on the site and onto adjacent public streets and ways will create hazards, will impact site-sensitive features of the land, or impose a significant burden upon public facilities which could be avoided by modifications in the plan.
- B. The bulk, location and/or height of proposed uses will be detrimental or injurious to other private development in the neighborhood, will impose undue burdens on public facilities or will result in the loss or damage to unique natural features of the site that are important to the environmental quality of life for the citizens of Monroe, and development of the site is feasible in a manner that will avoid these detrimental and injurious results.
- C. The provisions for on-site landscaping do not provide adequate protection to neighboring properties from detrimental features of the development that could be avoided by adequate landscaping.
- D. The site plan fails to provide measures to mitigate soil and drainage problems that may occur from development.
- E. The provisions for exterior lighting are inadequate for the safety of occupants or users of the site or such provisions will damage the value and diminish the usability of adjacent properties and/or create a safety hazard (especially traffic hazard), as defined in Chapter 15.15 MMC.
- F. The site provides for common open space and landscaping, but the applicant has not set forth a reasonable plan for the private care and maintenance of that open space and landscaping, and this failure may result in a burden on the public or cause injury and detriment to the neighborhood.
- G. The proposed development will impose an undue burden upon off-site public services including sewer, water and streets, which conclusion shall be based upon a written report of the city engineer filed with the DRC, a copy of which shall be provided the applicant, and there is no provision in the capital improvements program of the city to correct the specific burden within a reasonable period after the development or major alteration shall be completed.
- H. In cases where a preliminary plan has been approved, there is a substantial change in the final site plan from the approved preliminary site plan and such substantial change will have an adverse effect on public services, adjacent properties, or will adversely affect the environmental conditions on the site itself.
- I. The proposed development does not comply with critical areas requirements per Chapter 20.05 MMC or shoreline requirements per Chapter 19.01 MMC. (Ord. 033/2008 § 6; Ord. 1203, 2000; Ord. 922, 1989)

I find that the Applicant's proposal, as reviewed, commented upon, and with the conditions proposed in the staff report, complies with each of these standards. Therefore, as conditioned, the site plan is approved.

## **B. Parking Variance**

Monroe Municipal Code (MMC) section 18.80.190 entitled "Variances and appeals" provides for variances to the Chapter's parking requirements. MMC section 18.80.190(A) and (B) state:

- "A. Powers. Recognizing that there are certain cases that may, or may not, be detrimental to aesthetic character, public health, safety and general welfare, and the effectiveness of visual communication in the city, depending upon the facts of each particular case, a limited power to issue variance

permits and to interpret any section of the titles is vested with the hearing examiner.

B. Appeals and Variances. Application for special permits and variances from the ruling of the city concerning the provisions herein contained may be made to the hearing examiner. The hearing examiner shall receive all applications requesting review of sign permit decisions, conditions, or determinations relating thereto, for a variance and special permit;...”

In addition, a variance application requires a public hearing in accordance with City of Monroe MMC section 18.98.085 and MMC section 21.20.050(A). MMC section 18.98.040 identifies the criteria for the granting of a variance and states:

“The hearing examiner shall consider all requests for variance; variance from the provision of such ordinances shall not be granted by the hearing examiner unless the hearings examiner finds that all of the following facts and conditions exist:

- A. The variance shall not constitute a grant of special privilege inconsistent with the uses of other properties in the vicinity and in the zone in which the property on behalf of which the application was filed is located; and
- B. The variance is necessary because of special circumstances relating to the size, shape, topography, location or surrounding of the subject property in order to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and
- C. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and in which the subject property is situated; and
- D. The authorization of such variance will not adversely affect the implementation of the comprehensive land use policy plan; and
- E. The granting of such variance is necessary for the preservation and enjoyment of a substantial property right of the application possessed by the owners of other properties in the same zone or vicinity.

MMC 18.86.050 requires that a junior high school such as the Monroe School District’s Park Place Middle School provide the following parking spaces: “1.5 for each staff member plus parking required for any public assembly areas as outlined above.” The school itself is anticipated to have 84 staff, resulted in a requirement for 126 parking spaces. In addition, the project will include gym and commons facilities with public assembly areas that result in a requirement for another 676 parking spaces. Thus, the MMC results in a parking requirement calculation of 802 spaces.

Applicant’s proposal is analyzed and considered in detail within the City’s Staff Report, as reported by Ms. Kyle. Applicant’s requested variance would allow it to reduce the required number of parking spaces to 197, or a reduction of 605 parking spaces. The proposal increases the actual parking on the site from the existing 144 parking spaces by 53 new spaces.

With respect to granting of a special privilege, I note that the Monroe School District’s Park Place Middle School is an existing use of this property that has been in place for over 40 years. The granting of the variance will allow the school to continue utilizing the property for the same use.

I find that similar properties in the vicinity and in the property's location have been developed with parking spaces significantly less than currently required by the code. Here, the City and Applicant point to other schools with students below driving age that have parking significantly less than that required by the MMC. Thus, the requested variance is consistent with the uses of other similar properties in the vicinity, particularly given the nature of the Applicant's proposed development, and does not grant any special privilege. Specifically, as noted by the City in its staff report, and by Applicant in its proposal, I note that the Park Place Middle School being replaced did not have parking for its middle school student population, who presumably do not have driver's licenses and therefore no need for parking. Likewise, the new Park Place Middle School will not need the parking spaces required by the MMC based on the public assembly areas the middle school will have. In other words, I find that the parking requirements for the public assembly areas are for the use of middle school students who have no need for parking.

With respect to the variance being necessary due to special circumstances related to the property, I note that the subject property is relatively small for a middle school as compared to other schools in the region. The proposed design utilizes the entire available site for buildings, landscaping, circulation, parking or athletic fields. I also note that the proposal involves modernization of existing facilities on property without surplus space available to provide substantial increase in parking required by the MMC. Thus, I find granting the variance necessary due to the relative size, location, and surrounding of the property, and note that even with the variance the new parking on the property will be significantly more than currently exists.

I reviewed and agree with staff analysis that the requested variances will not be materially detrimental to public welfare or injurious to the property or improvements in the vicinity or upon the subject property. Here, the proposed variance would allow the Monroe School District to continue utilizing the property for the same land use and in a similar manner as has been in place for over 40 years. Further, I also reviewed and agree with staff analysis that the requested variance will not adversely affect the implementation of the City's Comprehensive Land Use Policy Plan. For example, Comprehensive Plan Land Use Goal 7 states: "Provide parks and civic facilities, recreational opportunities, and areas and cultural activities on pace with need, growth and long term objectives." Land Use Policy 184 (P.184) states: "Encourage the shared use of community facilities such as parks, libraries and schools." Comprehensive Plan Land Use Goal 8 states: "Establish downtown Monroe as a thriving commercial, civic, and residential area." Land Use Policy 221 (P.221) states: "Stimulate the long-term growth of Main Street between Kelsey and 179<sup>th</sup> Avenue as an important service area, and as a mixed use extension of Downtown vitality." The proposal would allow for continued recreational opportunities at the Middle School facilities that are often available for use by the community. The proposal is consistent with the above-stated Comprehensive Plan Land Use Goals and Land Use Policies, by encouraging

modernization/updating of these public facilities along the Main Street Corridor.

Lastly, I find that the granting of the requested parking variance is necessary for the preservation and enjoyment of a substantial property right of the Applicant possessed by the landowners of other properties in the same zone or vicinity. The variance would allow the property to continue as a middle school, and would allow for use of the property as a middle school consistent with use of other properties recently developed as middle schools. Specifically, I note that the proposal provides that the new middle school will have more parking than other similar schools in the area, will be compatible with other properties in the area, will be consistent with the school's institutional land use designation, and thus provides for use rights and privileges permitted to other such school properties in this zone.

### **C. Public Agency or Utility Exception (PAUE)**

A Public Agency or Utility Exception (PAUE) is a public hearing review process per MMC 20.05.050(C)(1), requiring a public hearing before the Hearing Examiner. The Applicant has submitted a written request for an exception allowing encroachment into the minimum 200-foot Category 1 wetland buffer. Here, approximately half of the existing football/soccer field, track, and southern baseball field for the middle school lie within the designated wetland buffer. The requested exception would allow the Applicant to engage in land use and development activity within the buffer for upgrades and improvements to these athletic fields, and continued buffer encroachment. The criteria for review states:

- C. Exceptions. The proponent of the activity shall submit a written request for exception from the director that describes the proposed activity and exception that applies. Depending on the exemption requested, the director (for administrative decisions) or hearing examiner (for reasonable use exceptions) shall review the exception requested to verify that it complies with this chapter and approve or deny the exception. All decisions made by either the hearing examiner or director shall be published in the official paper. If the exception is approved, it shall be placed on file with the community development department.
  - 1. Public Agency or Utility. If the application if this chapter would prohibit a development proposal by a public agency or public utility that is essential to its ability to provide service, the agency or utility may apply for an exception pursuant to this section. After holding a public hearing pursuant to MMC 21.50.030, Hearing examiner review and recommendation, the hearing examiner may approve the exception if the hearing examiner finds that:
    - a. There is no other feasible alternative to the proposed development with less impact on the critical areas, based on the demonstration by the applicant of the following factors:
      - i. The applicant has considered all possible construction techniques based on available technology that are feasible for the proposed project and eliminated any that would result in unreasonable risk of impact to the critical area; and
      - ii. The applicant has considered all available alignments within the range of potential alignments that meet the project purpose and for which operating rights are available.

- b. The proposal minimizes and mitigates unavoidable impacts to critical areas and/or critical areas buffers. Any decision by the hearing examiner is final unless appealed.

The Applicant asserts that the overall size of the school cannot be reduced without impacting student capacity necessary to accommodate future enrollment growth. Further, the relatively small size of the property, the location of existing buildings that are not proposed to be demolished, the wetlands along the southern edge of the site, existing easements, and needs of the school to provide facilities for its students essentially precludes the Applicant from moving these athletic fields to a location that would have less impact on the critical areas. Here, the Applicant has provided information showing that it has considered all possible other construction techniques and possibilities but that there are no feasible alternatives to the proposed development. Thus, the summaries submitted by the Applicant analyzing potential design scenarios demonstrate that the current site layout with the athletic fields to remain where they currently are is necessary to complete the project.

Further, I find that the continued encroachment to the affected buffer area does not create an unreasonable risk of impact to the adjacent critical area. The proposal is designed to avoid direct impacts to the adjacent wetland/critical area, but will necessarily impact the 200-foot buffer area. The project does, however, incorporate a number of design features that would avoid or minimize these impacts, such as establishing permanent critical area signs along the perimeter of the undisturbed buffer area, enhancing the buffer area by removing an accumulation of compost and debris and removing invasive species, retaining and enhancing native vegetation within the buffer area, and upgrades to the stormwater system, among other things. Further, the proposal provides for compensatory mitigation to compensate for impacts to this affected wetland buffer through purchase of mitigation credits available through the Skykomish Habitat Bank. I find that the proposal minimizes and mitigates the unavoidable impacts to the affected buffer of the adjacent critical area. Based upon these findings, the requested exception is approved.

#### **IV. DECISION/FINAL ORDER**

The Hearing Examiner concludes that the Applicant's proposals, as conditioned in the staff report, satisfy the related criteria. Therefore, the Hearing Examiner approves the Monroe School District's applications for Site Plan Review, Variance to reduce the number of required parking from 802 parking spaces to 197 parking spaces, and the Public Agency or Utility Exception (PAUE) to allow encroachment into a critical area buffer for property located at 1408 West Main Street in the Public Open Space (PS) zone is approved, subject to the following conditions:

1. The Native Growth Protection Area (NGPA) split-rail fencing shall be identified on the landscape and civil plans consistent with the Critical Area Study.

2. Prior to issuance of any building permits for Phase 3 (demolition of remaining building D and Life Skills Portables, completion of athletic fields and remaining site work) the applicant shall post a performance/maintenance bond prior to issuance of a clearing and/or grading permit for the work outlined in the Wetlands Buffer Mitigation Plan per MMC 20.05.130.
3. Prior to commencing construction activities, the Applicant shall obtain a General Construction Stormwater NPDES Permit from the WA Department of Ecology (DOE) per MMC subsection 15.01.045.
4. All development activities shall be constructed in substantial conformance with the approved site plan dated January 6, 2016.
5. The applicant shall obtain all the necessary sign permits from the City if applicable.

Respectfully Submitted,

Dated: 4/28/2016



Carl D. Cox  
Hearing Examiner  
14725 NE 20<sup>th</sup> St. #D-5  
Bellevue, WA 98007  
Tel: (425) 242-1504  
Fax: (425) 615-7202

## NOTICES

The action of the hearing examiner in granting or denying the application for a variance may be appealed to the city council by the original applicant or an aggrieved party in accordance with MMC 21.20.030 and 21.60.020. (Ord. 022/2004; Ord. 1203, 2000) Note that MMC 21.60.020 requires that appeals to the city council include certain specific information, and must be filed with the City's director of community development within fifteen working days after the date of the recommendation or decision of the matter being appealed.

### Judicial Appeals (MMC 21.60.030)

Appeals from the final decision of the city council, planning commission, or hearing examiner, or other city board or body involving MMC Titles 15 through 20, and for which all other appeals specifically authorized have been timely exhausted, shall be made to Snohomish County superior court within twenty-one days of the date the decision or action became final, unless another time period is established by state law or local ordinance.

Notice of the appeal and any other pleadings to be filed with the court shall be served on the city as required by law.

The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. The appellant shall post with the city clerk prior to the preparation of any records an advance fee deposit in the amount specified by the city clerk. Any overage will be promptly returned to the appellant.

### Reconsiderations (MMC 21.50.080)

MMC 21.50.080 allows a party of record to a public hearing or closed record appeal, to seek reconsideration of a recommendation or a decision by the Hearing Examiner or hearing body, by filing a written request for reconsideration with the Community Development Department within ten calendar days, following issuance of the written final decision.

All motions for reconsideration requests shall state the specific errors of law, fact, or procedure. Reconsideration will be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that would change the previous decision. If a request for reconsideration is accepted, a decision or recommendation is not final until after a decision on the reconsideration request has been issued.

Appeals of shoreline permit decisions and decisions on shoreline permit revisions, letters of exemption and other approvals required by the Master Program shall be heard in accordance with Chapter 21.60 MMC and RCW 90.58.180.