

WHATCOM COUNTY HEARING EXAMINER

re: The application of Meridian School District for a Zoning Conditional Use Permit

CUP2021-00005

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The Applicant, Tony Freeland, on behalf of Meridian School District seeks a zoning conditional use permit for the expansion of the existing Irene Reither Elementary School campus to allow three modular classrooms and one modular office for additional learning space and office space for school staff. Sidewalks and ramps will be installed to access the portables, addressed as 954 E. Hemmi Road, Everson, WA.

Decision: The requested Conditional Use Permit is granted, subject to the conditions of approval.

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted and evidence presented at the public hearing.

FINDINGS OF FACT

I.

Applicant: Meridian School District
214 West Laurel Road
Bellingham, WA 98226

Authorized Agent: Tony Freeland
Freeland & Associates, Inc.
220 West Champion Street, Suite 200
Bellingham, WA 98225

Site Address: 954 E. Hemmi Road
Everson, WA 98247

Legal Description: TR IN SW SW DAF-BEG AT SW SEC COR-TH N ALG WLY SEC LI 639.12 FT-TH E 30 FT TO EY R/W LI OF HANNEGAN RD-TPOB-TH N ALG SD R/W LI 390.82 FT TO S LI OF TRACT 2 ACRES IN SQ FORM IN NW COR OF SW SW-TH N 88 DEG 44'09" E ALG SD E ACRE TRACT 279.43 FT-TH N 00 DEG

Assessor's Parcel Number (s): 390316-074095

Zoning: Rural (R5A) (portion of property located in R10A)

Comprehensive Plan: Rural

Total Acreage: 18.51 acres

Roads: Hannegan Road and Hemmi Road

Water Supply: Public – Hemmi Water Association

Sewage Disposal: Large On-Site Sewage System

Fire Protection: Whatcom County Fire District # 21

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Meridian School District (505)

Topography: Relatively flat

Adjacent Land Uses:

North:	Residential
East:	Agriculture
South:	Residential
West:	Residential

Authorizing Codes, Policies, Plans, And Programs:

- State Environmental Policy Act (SEPA). Washington Administrative Code Chapter 197-11
- Revised Code of Washington Chapter [RCW] 36.70B, Local Project Review
- Whatcom County Comprehensive Land Use Plan
- Whatcom County Code (WCC) 2.11, Hearing Examiner
- WCC 12.08, Development Standards
- WCC 14, Use of Natural Resources
- WCC 15, Building Code/Fire Code
- WCC 16.08, Whatcom County Environmental Policy Administration
- WCC 16.16, Critical Areas
- WCC Title 20, Official Whatcom County Zoning Ordinance

- WCC Title 22, Land Use and Development Procedures
- WCC Title 24, Health Regulations
- Business Rules of the Whatcom County Hearing Examiner (BRWCHE)

Legal Notices: Mailed – Notice of Public Hearing, August 5, 2021
Posting – Notice of Public Hearing, August 11, 2021
Online Publication of Agenda and Zoom links – August 9, 2021

Hearing Date: August 25, 2021

Parties of Record:

Robby Eckroth – Planner II – Current Planning
Whatcom County PDS

Tony Freeland – Freeland & Associates, Inc.
220 W. Champion St, Suite 200
Bellingham, WA 98225

Jay Yeager – Meridian School District
214 W. Laurel Rd.
Bellingham, WA 98226

Hearing Examiner Exhibit List:

01. Application
02. Agent authorization and fee responsibility
03. Receipts
04. Land Disturbance Application Information
05. Preliminary Traffic & Concurrency Information
06. Preliminary Stormwater Proposal
07. Revocable encroachment permit application
08. Water Availability Form
09. Neighbor list and map
10. Determination of completeness
11. Legal notice
12. Notice of Application
13. Vicinity map
14. Notice of Additional Requirements with staff-memos
15. Notice of Additional Requirements – response letter

16. Revised plans
17. Stormwater Site Plan
18. Operations & Maintenance Manual
19. School facility plan application
20. WA Dept. of Health Approval for Large On Site Sewage System
21. SEPA Determination of Non-Significance and Distribution-Packet
22. Combined staff memos
23. Staff Report
24. Legal Notice - Payment Conf
25. Certificate of Mailing
26. Certificate of Posting

II.

The Applicant is seeking a Conditional Use Permit for the property located at 954 E. Hemmi Road to install three (3) 1,792 square foot modular classrooms and one (1) 1,008 square foot modular office to the Irene Reither Elementary School campus in order to provide additional learning space for students and to provide more office space to school staff. The site is 18.51 acres and the applicant is proposing adding a total of 6,384 square feet of building footprint area. Sidewalks and ramps will be installed to access the portables.

III.

The Whatcom County Technical Review Committee has recommended approval of the requested Conditional Use Permit. The Applicant has indicated there are no factual inaccuracies in Staffs findings and no objection to the Conditions of Approval requested by Staff.

IV.

WCC 2.11.220 allows the Hearing Examiner to issue subpoenas and compel attendance of witnesses— but in this case no party requested the Hearing Examiner to compel a witness to appear in person and be cross examined. There was no public comment at the Hearing.

V.

BRWCHE §2.4 grants parties the right to object to evidence and to cross-examine. In the case at hand, with full knowledge of the evidence being admitted, no objection was made to any of the 26 exhibits that were admitted into the record. Admitted Exhibit 1-26 are deemed

to be credible in regard to the facts represented therein.

VI.

The Findings of Fact of Whatcom County Planning and Development Services, as set forth in the Staff Report (exhibit 23), dated August 13, 2021, a copy of which is attached hereto, are adopted and incorporated herein by this reference.

VII.

All providers of water, sewage disposal, schools, and fire protection serving the development have issued a letter that adequate capacity exists, or arrangements have been made to provide adequate services for the existing development.

VIII.

No county facilities will be reduced below applicable levels of service as a result of the existing development.

IX.

Any Conclusion of Law below which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following

CONCLUSIONS OF LAW

I.

The proposed Application for the Conditional Use Permit can be approved if consistent with the Conditional Use Criteria of WCC 22.05.026(3) (a through i). Subject to the Conditions of Approval attached to the granting of this Permit Decision, the proposal is consistent with the Conditional Use Criteria, as found by the Technical Review Committee in the attached Staff Report. A Conditional Use Permit should be granted, subject to the Conditions of Approval recommended by the Technical Review Committee.

II.

Any Conclusion of Law deemed to be a Conclusion of Fact is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

DECISION

A Conditional Use Permit is hereby granted to Meridian School District to allow for expansion of the existing campus to allow three modular classrooms and one modular office. Assessor's Parcel No. 390316-074095 addressed as 954 E. Hemmi Road, Everson,

Washington, subject to the following conditions:

Planning Division

1. *The use and location on the site as approved by this use permit, as shown on the revised site plan dated July 30, 2021 shall not be amended or changed in any way except to comply with regulations without review from Staff and further approval of the Hearing Examiner.*
2. *The Applicant shall obtain a Land Disturbance Permit for any proposed site development work (unless associated with a building permit application) as required by Whatcom County regulations.*
3. *Pursuant to WCC 20.80.620, no development shall exceed the maximum environmental noise level established by WAC 173-60.*
4. *The Applicant shall complete construction or, if no construction is contemplated as a part of this permit, shall demonstrate compliance with all of the conditions of this permit within 24 (twenty-four) months of the date of the issuance of this decision pursuant to WCC 22.05.140(1). Failure to complete construction or demonstrate compliance shall result in the expiration of this permit. The decision maker may extend this period up to one year from the date of original expiration upon written request by the applicant.*

Building Services Division

5. *A commercial building permit is required for the portables. They will be reviewed under the current adopted edition of the International Building Code (IBC) and must comply with all other applicable codes and ordinances adopted by Whatcom County.*

Whatcom County Health Department

6. *School plan review approval by WCHD, in accordance with Primary and Secondary School Regulations Chapter 246-366 WAC, must be completed prior to building permit application. Contact Laurette Rasmussen at the WCHD for a school plan review packet and information at 360-778-6041.*

Whatcom County Public Works – Engineering

7. *All development shall comply with the Whatcom County Development Standards (WCDS).*

NOTICE

This Approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for its revocation.

Complaints regarding a violation of the conditions of this permit should be filed with

Whatcom County Planning and Development Services. The Hearing Examiner may not take any action to revoke this approval without further public hearing. Violations of this title shall constitute Class I civil infractions pursuant to RCW 7.80.120. The maximum penalty and the default amount for such violations shall be consistent with Chapter 7.80.RCW.

NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF
THE WHATCOM COUNTY HEARING EXAMINER

This action of the Hearing Examiner is final.

The Applicant, any party of record, or any County Department may appeal any final decision of the hearing examiner to Superior Court or other body as specified by WCC 22.05.020. The appellant shall file a written notice of appeal within 21 calendar days of the final decision of the hearing examiner, as provided in RCW 36.70C.040; or for shoreline permit applications and revisions which are subject to appeal to the State Shoreline Hearings Board within 21 days pursuant to 23.60.150(E), RCW 90.58.180, and WAC 461-08.

More detailed information about appeal procedures is contained in the Whatcom County Code Title 22.05 and Title 23.60 and which is available at <http://www.codepublishing.com/WA/WhatcomCounty>.

DATED this 26th day of August 2021.



Rajeev D. Majumdar, Hearing Examiner *Pro-Tem*



WHATCOM COUNTY PLANNING AND DEVELOPMENT SERVICES
STAFF REPORT

Date: August 13, 2021
Hearing Date: August 25, 2021

The application of Meridian School District for a Zoning Conditional Use Permit	CUP2021-00005 FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS
--	--

I. SUMMARY OF APPLICATION AND RECOMMENDATIONS

Summary: The Meridian School District is requesting approval of a zoning conditional use permit (CUP) for an expansion to the existing Irene Reither Elementary School campus to allow three (3) modular classrooms and one (1) modular office in order to provide additional learning space for students and to provide more office space to school staff. Sidewalks and ramps will be installed to access the portables.

Recommendation: The Technical Review Committee recommends that the Whatcom County Hearing Examiner approve the Applicant's request, subject to the requested conditions located in Section IX of this report.

II. PRELIMINARY INFORMATION

A. BACKGROUND INFORMATION

Applicant/Owner: Meridian School District
214 West Laurel Road
Bellingham, WA 98226

Authorized Agent: Tony Freeland
Freeland & Associates, Inc.
220 West Champion Street, Suite 200
Bellingham, WA 98225

Site Location/Address: 954 E Hemmi Road, Everson, WA 98247

Legal Description: TR IN SW SW DAF-BEG AT SW SEC COR-TH N ALG WLY SEC LI 639.12 FT-TH E 30 FT TO EY R/W LI OF HANNEGAN RD-TPOB-TH N ALG SD R/W LI 390.82 FT TO S LI OF TRACT 2 ACRES IN SQ FORM IN NW COR OF SW SW-TH N 88 DEG 44'09" E ALG SD E ACRE TRACT 279.43 FT-TH N 00 DEG

Assessor's Parcel Number(s): 390316-074095

Zoning: Rural (R5A) (portion of property located in R10A)

Comprehensive Plan: Rural

Subarea: N/A

Total Acreage: 18.51 acres

Roads: Hannegan Road and E Hemmi Road

Water Supply: Public – Hemmi Water Association

Sewage Disposal: Large On-Site Sewage System

Fire Protection: Whatcom County Fire District No. 21

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Meridian School District (505)

Topography: Relatively flat

Site: The existing 18.51 acre site is substantially developed with a school, playground, associated bus drop off areas, and parking areas, with entrances on E Hemmi Road and Hannegan Road.

Adjacent Land Uses:

North:	Residential
East:	Agriculture
South:	Residential
West:	Residential

Application Date: May 25, 2021

Determination of Completeness: June 14, 2021

NOAR Date: June 01, 2021

NOAR Response Date: July 30, 2021

B. AUTHORIZING CODES, POLICIES, PLANS, AND PROGRAMS:

1. Revised Code of Washington (RCW) Chapter 36.70
2. Whatcom County Comprehensive Plan
3. Whatcom County Code Chapter 12.08, Development Standards
4. Whatcom County Code Title 15, Building Code/Fire Code
5. State Environmental Policy Act (SEPA); Washington Administrative Code Chapter 197-11, Whatcom County Environmental Policy Administration Chapter 16.08
6. Whatcom County Code, Chapter 16.16, Critical Areas
7. Whatcom County Code, Title 20, Official Whatcom County Zoning Ordinance
8. Whatcom County Code, Title 22, Land Use and Development Procedures
9. Whatcom County Code, Title 24, Health Regulations

III. APPLICATION PROPOSAL

The applicant, Tony Freeland, on behalf of Meridian School District, has applied to install three (3) 1,792 square foot modular classrooms and one (1) 1,008 square foot modular office to the Irene Reither Elementary School campus in order to provide additional learning space for students and to provide more office space to school staff. The applicant is proposing adding a total of 6,384 square feet of building footprint area. Sidewalks and ramps will be installed to access the portables.

IV. SITE DESCRIPTION

The subject property is located at 954 East Hemmi Road in Everson, WA, which located is in Section 16, Township 39, Range 3 East W.M., Whatcom County, WA.

The property is currently developed with a two story elementary school, playgrounds, gymnasium, and associated infrastructure and parking areas. The current site was recently rebuilt which was permitted under Conditional Use Permit #CUP2011-00008. At present there are 95,093 square feet of existing building covering the site. The site is accessed from East Hemmi Road and Hannegan Road

The surrounding uses are single-family residential and agriculture. The surrounding properties range from approximately one (1) acre to 35 acres.

V. PUBLIC NOTICE AND COMMENT

Requirements for public notice are contained in Chapter WCC 22.05.080.

Notice of Application: The Notice of Application for this proposal was published on June 14, 2021 in the Bellingham Herald and on the County website. A notice of application was sent to owners of property within 1,000 feet on June 14, 2021. The site was posted on June 01, 2021.

Public Comment: The fourteen (14) day public comment period ended on June 28, 2021. During this period, staff received no public comments.

VI. STATE ENVIRONMENTAL POLICY ACT (SEPA)

The State Environmental Policy Act (SEPA) requires applicants to disclose potential impacts to the environment unless the proposal is categorically exempt from SEPA threshold review. The total building square footage on the site exceeds the categorical exemption threshold of 12,000 square feet for schools in WAC 197-11-800(1)(d) and WCC 16.08.070(A)(3) and thus SEPA review is required.

The Whatcom County SEPA Official reviewed the completed SEPA checklist submitted by the applicant, and made a determination that with compliance with applicable codes and requested conditions, no significant adverse impacts to the environment would be likely to occur as a result of approving the proposed zoning conditional use.

A Determination of Non-significance (DNS) was issued on August 06, 2021 after utilizing the Optional DNS process (WAC 197-11-355). The appeal period for this Optional DNS ended on August 16, 2021. No appeals to this determination were filed.

VII. CONSISTENCY WITH REGULATIONS, FINDINGS OF FACT

A. WCC Chapter 12.08 – Roads and Bridges

WCC Chapter 12.08 adopts and gives authorization for development standards for development within Whatcom County. Whatcom County shall establish uniform, comprehensive and distinct requirements which shall be applied to all developments. These requirements shall be established as “Whatcom County development standards” and shall exist to provide clear development guidelines for all construction activity within the county. These standards shall establish administrative and technical requirements for the implementation of land use regulations and shall provide the basis by which developments are evaluated to ensure compliance with county regulations.

The Whatcom County Public Works Department Division of Engineering reviewed the proposal and requested more information and a Notice of Additional Requirements was issued on June 01, 2021.

The applicant submitted the necessary information and the Engineering Division reviewed the revised application materials and issued a memo dated August 04, 2021 with the following discussion and conditions of approval:

The proposed project includes the construction of three modular classrooms and one modular office with sidewalks and ramps to provide access. The project site is located outside of the NPDES II Permit Area, the Lake Whatcom Watershed Overlay District and the Stormwater Special Districts. The submitted Preliminary Stormwater Proposal form indicates that there will be 7,329 sf of new impervious surface as a result of this project. The submitted Preliminary Traffic & Concurrency Information form indicates that there will no additional trips generated by this project.

Public Works Engineering Services (PWES) has reviewed the application for conformance with WCC 20.80.630, WCC 20.78 and the Whatcom County Development Standards (WCDS). PWES recommends approval based on the findings, comments and conditions above that are derived from the documents that have been submitted for review. Any changes to the proposed CUP may modify these findings and/or conditions of recommendation.

The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Title 12.08.

B. WCC Title 15 – Buildings & Construction

Building Code: WCC Title 15 adopts and amends the applicable building and fire codes. The Building Official is authorized to promulgate such rules, policies and/or procedures as deemed necessary for the efficient operation of the permit process as administered by the department of building safety, designated in IBC Section 103.1, and hereby referred to as the building services division of the Whatcom County Planning and Development Services Department.

Building Services reviewed the proposal and requested more information and a Notice of Additional Requirements was issued on June 01, 2021. The applicant submitted the necessary information and Building Services reviewed the revised application materials and issued a memo dated August 04, 2021 with the following discussion and conditions of approval:

Project Review Discussion

3 Classroom Portables and 1 Office Portable total aggregate square footage of pods 6384sf

Plans and Studies Submitted and Reviewed

These conditions are based on review of the following documents that were submitted by the applicant:

- Whatcom County *Conditional Use Application*;
- Project narrative;
- Preliminary Site Plan

Discussion of Applicable Codes

The application was submitted and is subject to review under Title 15 (ORD 2010-041).

Building Services has reviewed the application and recommends approval with conditions.

Fire Code: The Whatcom County Fire Marshal submitted a memo dated August 3, 2021 recommending approval of the project.

The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Title 15.

C. WCC Title 16 – Whatcom County Critical Areas Ordinance

WCC Chapter 16.16 of the Whatcom County Code contains standards, guidelines, criteria and requirements intended to identify, analyze, preserve and mitigate potential impacts to the County’s critical areas and to enhance and restore degraded resources such as wetlands, riparian stream corridors or habitat, where possible.

Whatcom County Planning & Development Services Department Natural Resources Division Critical Areas wetlands staff reviewed the proposal and submitted a memo with the following discussion on August 09, 2021:

The following critical areas are mapped on or adjacent to the parcel(s) of application:

- Type F stream and associated 100 foot critical areas buffer
- Coho Salmon
- Dolly Varden/Bull Trout
- Cutthroat Salmon
- Winter Steelhead runs
- Freshwater emergent wetlands and associated buffers
- Little Brown Bat occurrence locations

Revised site plan drawings were routed to staff on 7/30/2021. The proposed work is outside of regulated critical areas and their buffers.

As such, as proposed, the project should meet no net loss of existing ecological functions and values.

Staff recommends approval of this proposal without critical areas conditions.

The Technical Review Committee has determined that, as conditioned, the proposed expansion of a non-conforming use meets the requirements of WCC Chapter 16.16.

D. WCC Title 20 – Official Whatcom County Zoning Ordinance

Chapter 20.36 – Rural (R5A) District

WCC 20.36.010 Purpose.

The purpose of the Rural District is to maintain the low density rural residential character of the areas designated as rural and rural neighborhood on the Comprehensive Plan map and implement the Comprehensive Plan policies that define the rural character in Whatcom County in accordance with RCW 36.70A.070(5). In addition, it is the intent of this district to allow a variety of low intensity uses that are compatible and complementary with the conservation of agricultural, forestry and related uses.

WCC 20.36.350 Building setbacks.

Building setbacks shall be administered pursuant to WCC 20.80.200 (Setback Requirements).

WCC 20.80.210 Minimum setbacks.

(1) All structures, including accessory structures, shall be placed on their lots in compliance with the requirements of the setback table (subsection (5)(b) of this section), except as may otherwise be provided in this title.

(b) Setbacks Table.

WCC 20.80.200 Setback Requirements

Rural (R)						
Road Type					Other	
Commercial, Industrial, I-5, State Hwys, Principal & Minor Arterials	Collector Arterials or Major Collectors	Minor Collectors	Local Access Streets	Minor Access Streets	Side Yard	Rear Yard
45'	45'	35'	25'	50'	5'	5'

Finding: Pursuant to WCC 20.80.255, review of setbacks will be administered at the time of building permit application. It appears that the proposed development will meet setbacks to the existing lot lines. The applicant must demonstrate that all proposed development conforms to the zoning setbacks pursuant to WCC 20.36.350.

WCC 20.36.400 Height limitations.

Maximum height shall be limited to 35 feet. Height of structures shall also conform, where applicable, to the general requirements of WCC 20.80.675.

Finding: Review of compliance with the height limit will occur at the time of building permit application submittal.

WCC 20.36.450 Lot coverage.

Except as follows, no structure or combination of structures shall occupy or cover more than 5,000 square feet or 20 percent, whichever is greater, of the total lot area, not to exceed 25,000 square feet. Public community facilities that serve a predominantly rural area shall occupy or cover no more than 35 percent of a lot, with no limitation on structure (or combination of structures) size. Buildings used for livestock or agricultural products shall be exempt from this lot coverage requirement.

Finding: *The existing buildings are approximately 95,093 square feet (2.18 acres). With this proposal, the building footprint area will increase to 101,477 square feet (2.33 acres). The parcel is approximately 18.51 acres. Therefore lot coverage is approximately 12.58% and therefore conforming to the lot coverage requirements of the Rural zoning district. Lot coverage will be reviewed again at the time of building permit.*

As conditioned, the Technical Review Committee finds the proposal meets the requirements of WCC 20.36.350-450.

WCC 20.36.653 Landscaping.

Refer to WCC [20.80.300](#) for landscaping requirements.

Finding: *Landscaping was reviewed through Conditional Use Permit #CUP2011-00008 and through building permit #COM2012-00033 for the main elementary school building. The landscaping was installed as conditioned. The addition of new portables should not necessitate additional landscaping.*

WCC 20.36.654 Parking requirements.

Parking shall conform to the requirements of WCC 20.80.500. However, recreation vehicles, and boat parking and storage shall be limited to side and rear yards. For clustered lots created pursuant to WCC 20.36.300, recreational vehicles, and boat parking and storage shall be located in an identifiable area and screened so that the vehicles or boats shall not be visible by adjoining properties.

WCC 20.80.500 - Off-street parking and loading requirements.

WCC 20.80.505 General requirements.

(1) No building or structure shall be erected, substantially altered, or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this title.

WCC 20.80.580 Parking space requirements.

(22) Elementary school: 1 for each teacher and 1 for every 8 seats in auditoriums or assembly halls.

Finding: *Parking was reviewed through Conditional Use Permit #CUP2011-00008 and through building permit #COM2012-00033 for the main elementary school building. The applicant is proposing to add portables in order to add additional learning space and will not be hiring additional teachers as a result of the requested addition of portables.*

WCC 20.36.450 Use of natural resources.

All discretionary project permits for land on or within one-half mile of the area designated as Agriculture, Rural, Commercial Forestry or Rural Forestry or within 300 feet of an area designated as Mineral Resource Lands in the Whatcom County Comprehensive Plan, or upon which farm operations are being conducted, shall be subject to the right to farm, right to practice forestry and mineral land disclosure policies contained in WCC Title 14, Use of Natural Resources.

WCC 20.80.210 – Concurrency

WCC Section 20.80.212 states that no conditional use permit shall be approved without a written finding that:

1. All providers of water, sewage disposal, schools, and fire protection serving the development have issued a letter that adequate capacity exists or arrangements have been made to provide adequate services for the existing development.
2. No county facilities will be reduced below applicable levels of service as a result of the existing development.

Water & Sewer

The applicant has provided a WCHD approved Water Availability Form from the Hemmi Road Water Association. The applicant has provided a letter from the Washington State Department of Health stating the existing Large On-site Sewage Systems (LOSS) has capacity for the portables.

The Technical Review Committee finds that no county water or sewer facilities will be reduced below applicable levels of service as a result of this proposal.

Schools

As the project is for an addition to an existing school, the Technical Review Committee finds that no county school facilities will be reduced below applicable levels of service as a result of the development.

Fire Protection

Fire District 21 already serves the existing school. The proposal is to add additional portables to an existing facility.

The Technical Review Committee has determined that, as discussed above, the project meets the requirements of WCC Chapter 20.80.212.

As conditioned, the Technical Review Committee finds that no county facilities will be reduced below applicable levels of service as a result of the proposal.

WCC 22.05.026 - Conditional Use Permit Criteria

WCC 22.05.026(3) (a) through (i) Criteria.

Before approving an application, the hearing examiner or zoning administrator shall ensure that any specific standards of the use district defining the use are fulfilled, and shall find adequate evidence showing that the proposed use at the proposed location:

(a) Will be harmonious and in accordance with the general and specific objectives of Whatcom County's Comprehensive Plan, zoning regulations, and any other applicable regulations.

Discussion: The existing Irene Reither Elementary School was legally rebuilt after a Hearing Examiner approval in 2011 of a Conditional Use Permit. Public Schools approved by the State Superintendent of Public Instruction are allowed in the Rural Zoning District with a Conditional Use Permit approval. Thus, the proposal will not change the essential character of the area.

(b) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area.

Discussion: As mentioned in Criteria (a), the existing Irene Reither Elementary School was legally rebuilt after a 2011 Conditional Use Permit approval and expansion of the elementary school will not change the essential character of the same area. There is existing landscaping in place to mitigate visual and noise impacts to surrounding uses.

(c) If located in a rural area (as designated in the Comprehensive Plan), will be consistent with rural land use policies as designated in the rural lands element of the Comprehensive Plan.

Discussion: As mentioned above, the Rural zoning district allows public schools with conditional use permit approval. Additionally, the following Whatcom County Comprehensive Plan policies support the proposed conditional use permit in Rural Areas:

Policy 2EE-2: Coordinate and plan public facilities, services, roads, and utilities to ensure that rural areas have appropriate and adequate rural levels of service necessary to maintain a rural lifestyle. Coordinate with rural service providers to ensure efficient and effective service to rural areas.

Policy 4K-4: The capital facilities plan for the Meridian School District, adopted by the district on June 24, 2015, is adopted into the comprehensive plan by reference.

(d) Will not be hazardous or disturbing to existing or future neighboring uses.

Discussion: As discussed, the elementary is existing and has co-existed with the surrounding residential and agricultural uses since it was established. Expansion will not be hazardous or disturbing to existing or future neighboring uses.

(e) Will be serviced adequately by necessary public facilities such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.

Discussion: The Irene Reither Elementary School is currently adequately serviced with public water and public sewer, safe access, emergency services, and fire protection as reviewed and approved through the permit process. No new impact is proposed or anticipated.

(f) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

Discussion: The elementary school is existing and expansion will not create additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community.

(g) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reasons of excessive production of traffic, noise, smoke, fumes, glare or odors.

Discussion: Subject to the recommended conditions, the proposed expansion will not be detrimental to any person's property, or the general welfare by reasons of excessive traffic, noise, smoke, fumes, glare, or odors other than that which exists.

(h) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public streets.

Discussion: Whatcom County Public Works Engineering Services reviewed the proposal and determined that the proposed addition will not be detrimental to the existing access points and will not add additional traffic to the surrounding public streets.

(i) Will not result in the destruction, loss or damage of any natural, scenic or historic feature of major importance.

Discussion: The proposal was routed to the Whatcom County natural resources division for review of potential impacts to critical areas. It was determined that that no critical areas impacts are likely to occur as a result of the proposed conditional use. No buildings or historic features are proposed to be demolished.

Finding: *The Technical Review Committee finds that the proposal, as conditioned, will be consistent with applicable zoning regulations except the use restrictions, and will conform to criteria in WCC 22.05.026 (a) to (i).*

E. Health Code (Title 24)

The purpose of Title 24 is to provide minimum standards to safeguard public health and welfare by regulating and controlling the activities considered in this title and any related work.

On August 02, 2021 the representative from Environmental Health submitted the following comments:

The Whatcom County Health Department (WCHD) has reviewed the proposed project referenced above in accordance with WCC 24.05 On-Site Sewage Regulations and WCC 24.11 Drinking Water. The applicant is proposing new portables.

Water Supply

The applicant has provided a WCHD approved Water Availability Form from the Hemmi Road Water Association.

Sewage Disposal

The applicant has provided a letter from the Washington State Department of Health stating the existing Large On-site Sewage Systems (LOSS) has capacity for the portables.

School Facility Plan Review

School plan review approval by WCHD, in accordance with Primary and Secondary School Regulations Chapter 246-366 WAC, must be completed prior to building permit application. Contact Laurette Rasmussen at the WCHD for a school plan review packet and information at 360-778-6041.

The Technical Review Committee has determined that, as conditioned, the project meets the requirements of WCC Title 24.

F. Whatcom County Comprehensive Plan

Zoning regulations of a specific use district are meant to implement the goals and policies of the County's Comprehensive Plan. Conditional uses are those uses that may be approved within a zoning district if it is determined that the specific use requested is consistent with the general and specific objectives of the Whatcom County Comprehensive Plan and complies with WCC [22.05.026\(3\)](#) (a) to (i).

Finding: *As mentioned above, Public Schools are allowed in the Rural zoning district with a conditional use permit approval. Additionally, the Technical Review Committee finds that the application for conditional use permit to expand the Irene Reither Elementary School is consistent with the following Whatcom Comprehensive Plan Policies:*

Policy 2EE-2: Coordinate and plan public facilities, services, roads, and utilities to ensure that rural areas have appropriate and adequate rural levels of service necessary to maintain a rural lifestyle. Coordinate with rural service providers to ensure efficient and effective service to rural areas.

Policy 4K-4: The capital facilities plan for the Meridian School District, adopted by the district on June 24, 2015, is adopted into the comprehensive plan by reference.

VIII. RECOMMENDATION

The Technical Review Committee recommends that the Whatcom County Hearing Examiner approve the Meridian School District's request for a zoning conditional use permit to authorize the expansion of the Irene Reither Elementary School to add portable classrooms and a portable office to accommodate more learning and work space.

IX. CONDITIONS OF APPROVAL

Planning Division

1. The use and location on the site as approved by this use permit, as shown on the revised site plan dated July 30, 2021 shall not be amended or changed in any way except to comply with regulations without review from Staff and further approval of the Hearing Examiner.
2. The Applicant shall obtain a Land Disturbance Permit for any proposed site development work (unless associated with a building permit application) as required by Whatcom County regulations.
3. Pursuant to WCC 20.80.620, no development shall exceed the maximum environmental noise level established by WAC 173-60.

4. The Applicant shall complete construction or, if no construction is contemplated as a part of this permit, shall demonstrate compliance with all of the conditions of this permit within 24 (twenty-four) months of the date of the issuance of this decision pursuant to WCC 22.05.140(1). Failure to complete construction or demonstrate compliance shall result in the expiration of this permit. The decision maker may extend this period up to one year from the date of original expiration upon written request by the applicant.

Building Services Division

5. A commercial building permit is required for the portables. They will be reviewed under the current adopted edition of the International Building Code (IBC) and must comply with all other applicable codes and ordinances adopted by Whatcom County.

Whatcom County Health Department

6. School plan review approval by WCHD, in accordance with Primary and Secondary School Regulations Chapter 246-366 WAC, must be completed prior to building permit application. Contact Laurette Rasmussen at the WCHD for a school plan review packet and information at 360-778-6041.

Whatcom County Public Works – Engineering

7. All development shall comply with the Whatcom County Development Standards (WCDS).

Report prepared for the Technical Review Committee by:



Robby Eckroth, Planner II – Current Planning