

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF SNOHOMISH**

In the Matter of the Application of)	No. 17-13-CUP
)	
Joshua Scott, Craft, LLC)	CD Trust
)	
)	RESPONSE TO REQUESTS
<u>For Approval of a Conditional Use Permit</u>)	FOR RECONSIDERATION

TO: Mr. Chris Koh, Appellant
Via facsimile to: 206-633-2029

Mr. Duane Dvorak, City Planner
Via facsimile to: 360-568-1375

Mr. Morgan Davis
206 Ave I #3
Snohomish, WA 98290

Ms. Brooke Eidem, Permit Coordinator and Clerk to the Hearing Examiner [For File]
Fax: 360-568-1375

Parties of Record

BACKGROUND

Chris Koh of CD Trust (Owner), requested a conditional use permit (CUP) to allow conversion of existing vacant buildings into a 25-bed Senior Assisted Living Facility (ALF) at 402 Avenue E and 410 Avenue E, Snohomish, Washington. An open record hearing was held on February 26, 2014. During the hearing, a list of questions regarding the CUP application (marked as Exhibit 45) was offered by Mr. Rich Softye. The Hearing Examiner admitted Exhibit 45 and kept the record open until March 7, 2014 to allow the Applicant and the City to respond to the questions. The Hearing Examiner issued a Post-Hearing Order limiting responses to those offered by the Applicant and the City in answer to those questions listed in Exhibit 45. The Hearing Examiner issued a decision approving the CUP application on March 20, 2014.

THE REQUESTS FOR RECONSIDERATION

Two requests were received:

*Response to Requests for Reconsideration
City of Snohomish Hearing Examiner
CD Trust CUP, No. 17-13-CUP*

Mr. Davis, a party of record, filed a request asking the Hearing Examiner to admit his letter dated February 28, 2014, submitted after the hearing, into the record.

The Applicant also filed a request seeking an opportunity to respond to a City Attorney legal opinion provided in response to Exhibit 45, and an opportunity to present additional evidence regarding Conditions 1 & 5.

RESPONSE TO REQUESTS

Because the letter from Mr. Davis was dated February 28, 2014, after the hearing date, and because Mr. Davis does not represent the City or the Applicant (the only two parties allowed to respond to Exhibit 45) his letter is not included in the record. The Post-Hearing Order sought responses only from the City and Applicant. Therefore, his Request is denied.¹

As part of its response to Exhibit 45, the City submitted a 17-page letter (Exhibit 50) and a separate legal opinion from the City Attorney about age-restriction on residents at an assisted living facility (Exhibit 51). The Applicant requests an opportunity to respond to the legal opinion and an opportunity to present additional evidence regarding parking, which formed the basis for Condition 1. In addition, the Applicant requests an opportunity to present additional evidence in reply to the City's response restricting who may live on site.² Conditions 1 and 5 read as follows:

1. Occupancy of the ALF shall be limited to persons who are protected from housing discrimination under the Federal Fair Housing Act of 1988, as amended, by virtue of a disability or who are otherwise protected under the act. The number of residents (beds) of the ALF shall be limited to nine. A change in client type or increase in the number of residents shall require approval of a new conditional use permit.

5. There shall be no unlicensed rooms on the premises for occupancy by City staff or offered to non-residents of the Assisted Living Facility.

The Applicant's Request is granted. It is reasonable to allow the Applicant an opportunity to reply to the City's response to Exhibit 45. The City, the Applicant and parties of record

¹ Mr. Davis may wish to re-submit his letter during the re-opened hearing.

² The Applicant also request that the word "City" be removed from Condition 5. The insertion of this word prior to "staff" is a clear error. The word "City" shall be deleted.

will have an opportunity to respond Exhibits 50-51 in a re-opened hearing. The hearing shall be re-opened at **6:00 PM, April 30, 2014**, and limited to allow parties of record to address the following two issues:

- a. Should Condition 1 be modified to allow for more than nine residents at the facility?
- b. Should Condition 5 be modified to allow staff to reside in the facility?

So ordered this 4th day of April 2014.



THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center