BEFORE THE HEARING EXAMINER
FOR THE CITY OF SNOHOMISH

In the Matter of the Application of	)	No. 17-13-CUP
	)	
Joshua Scott, Craft, LLC	)	**DECISION ON REQUEST FOR MODIFICATION OF DECISION**
	)	
	)	
For Approval of a Conditional Use Permit	)	

BACKGROUND

In December 2013, Chris Koh of CD Trust (Owner), applied for a conditional use permit (CUP) to allow conversion of existing vacant buildings into a 25-bed "senior assisted living facility"[1] at 402 Avenue E and 410 Avenue E, Snohomish, Washington. An open record hearing was held on the application on February 26, 2014. During the hearing, Mr. Rich Softye submitted a list of questions regarding the CUP application (Exhibit 45). The Hearing Examiner admitted Exhibit 45 and kept the record open until March 7, 2014 to allow the Applicant and the City an opportunity to respond to the questions. The Hearing Examiner also requested a legal opinion from the Snohomish City Attorney to help determine whether a proposed condition of approval restricting occupancy in the housing facility to those 62 years of age or older would violate state or federal law. After receiving the Applicant's and City's responses to Exhibit 45, and the City Attorney legal opinion, the Hearing Examiner issued a decision conditionally approving the CUP application on March 20, 2014.

Following conditional approval of the CUP application, the Applicant requested partial reconsideration of the Hearing Examiner's decision.[2] Specifically, the Applicant requested that the Hearing Examiner reopen the record or hold a hearing to address and clarify Finding 24 and Conditions 1 and 5 of the decision.

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[1] *Applicant's letter requesting CUP, Exhibit 1; see also Applicant's SEPA Checklist describing the proposal as one for an "assisted senior living facility." Exhibit 29.*

[2] Mr. Morgan Davis, a party of record, also filed a request for reconsideration asking that the Hearing Examiner reconsider the decision to exclude a letter from Mr. Davis, dated February 28, 2014, from the hearing record. This request was denied because the letter was submitted after the hearing date. However, Mr. Davis's letter was admitted as Exhibit 52 during the reconsideration hearing and is considered in the current decision.

Finding 24 states:

> 24. Each resident of an ALF [Assisted Living Facility] may own and drive his or her own vehicle. Every vehicle requires a parking space. Mr. Scott stated that the Applicant believes it is prudent to restrict the facility to no more vehicles than can be parked on site because on-street parking is not always available. In order to accommodate parking needs with the proposed thirteen on-site parking spaces, the number of residents must be limited. Thirteen parking spaces would allow for nine resident parking spaces, two visitor parking spaces, and two staff parking spaces.

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.
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> 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 also requested an opportunity to address the City's comments on Exhibit 45 (admitted as Exhibit 50) and the City Attorney's legal opinion about age-restrictions on residents in the proposed facility (Exhibit 51).[3]

On April 4, 2014, the Hearing Examiner granted the Applicant's reconsideration request to allow the Applicant an opportunity to reply to the City's response to Exhibit 45, and to allow the City, the Applicant and parties of record an opportunity to respond to Exhibits 49-51 at an open record hearing. The Hearing Examiner limited the scope of the reopened hearing, explicitly stating that the hearing would address only the following two issues:

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

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[3] The Applicant also requested 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.

This limitation of issues was consistent with the Applicant Request for Reconsideration. No objection to the scope of the hearing was made by the Applicant.

SUMMARY OF PROCEDURES

Hearing Date:
The Hearing Examiner reopened the hearing on April 30, 2014. At the hearing, the Applicant submitted a proposed Revised Condition 1 (admitted as Exhibit 54). By oral ruling, the Hearing Examiner stated the reopened hearing record would remain open until May 7, 2014, to allow parties of record to submit comments on the Applicant's proposed Revised Conditions 1 and 5 by noon May 6, and for the Applicant to respond by May 7th.

Testimony:
The following individuals presented testimony under oath at the open record hearing:
Owen Dennison, City Planning Director
Chris Koh, Applicant
James Brown, Architect, Applicant Representative
Morgan Davis
Hank Eskridge
Rich Softye
Carroll Brown
Bruce Ferguson
Mitch Cornelison
Gretchen Bender

Mr. Patrick Mullaney, Attorney, represented the Applicant.

Exhibits:
The following documents were admitted into the record at the April 30, 2014 hearing:
52. Letter from Morgan Davis to Hearing Examiner, dated February 28, 2014
53. Letter from Diana Carver to Owen Dennison, received April 30, 2014
54. Applicant Proposed Conditions 17-13 CUP, undated
55. Letter from James Brown to Chris Koh, dated April 30, 2014
56. Memo from William Popp, Jr. to Chris Koh, dated April 30, 2014
57. Examples of parking requirements in other jurisdictions for similar proposed residential uses, undated
58. Hank Eskridge, written testimony provided at April 30, 2014 hearing, with seven pages of attachments
59. Rich Softye, written testimony provided at April 30, 2014 hearing
60. Carroll Brown, written testimony provided at April 30, 2014 hearing

These additional documents were admitted into the record before the May 6 deadline:

61. Response from Carroll Brown to April 30, 2014, Applicant Proposed Conditions, dated May 5, 2014
62. Letter from Morgan Davis to Hearing Examiner, dated May 1, 2014, with attachment
63. Letter from Applicant Attorney Patrick Mullaney to Hearing Examiner, Response to Citizen Letters, dated May 7, 2014[4]

The Hearing Examiner enters the following Findings and Conclusions based upon the parties' pleadings and testimony and exhibits admitted at the open record hearing and before the May 7 close of the record:

FINDINGS

1. The Applicant timely requested reconsideration of the Hearing Examiner's original decision. The Applicant requested that "the Examiner reopen the record, or set a date for a short hearing, to address and clarify Finding of Fact #24 and Decision Conditions #1 and #5." The Applicant also requested an opportunity to address the City's comments to Exhibit 45 (admitted as Exhibit 50) and the City Attorney's legal opinion about age-restrictions on residents in the proposed facility (Exhibit 51) because the City submitted these materials on the last day the record was open and the Applicant did not have adequate time to respond to these issues. *Request for Reconsideration, Craft, LLC, dated March 31, 2014.*

2. The Hearing Examiner granted the Applicant's reconsideration request and reopened the hearing on April 30, 2014 to allow the Applicant (and all parties of record) to respond to the City's comments to Exhibit 45 and the City Attorney's legal opinion about age-restrictions on residents. The Examiner also limited the reopened hearing to evidence and testimony supporting modification of Conditions 1 and 5, as requested by the Applicant. *Response to Requests for Reconsideration, dated April 4, 2014.*

Revised Condition 1

3. At the April 30, 2014 hearing, the Applicant proposed a Revised Condition 1, which reads as follows:

> The proposed use is Independent Serviced Senior Housing with 25 Units. Services provided would include provision of full meal service, housekeeping, and additional basic services such as activities, laundry, and transportation. The project may, but is not required to, be licensed by the Washington State Department of Social and Health Services ("DSHS"). If independently operated (i.e. not DSHS licensed), occupancy would be restricted to individuals 62 years of age or older. If licensed,

[4] Two additional documents—a letter from Rich Softye and an email from Mitch Cornelison—were received after the May 6, noon deadline. These documents have not been considered in this decision.

the facility would comply with Ch. 18.20 RCW and WAC 388-78A.[5] The proposed use is not, and cannot be used as, a rooming house or unsupervised group home. ...

Parking for the existing on-site 13 spaces shall be allocated as follows: 7 spaces available for project residents; 2 spaces for visitor/guest parking; and 4 spaces for staff parking. One of the 4 staff parking spaces shall be allocated to a van or other group transportation that serves project residents. The operator of the facility will notify prospective residents of the limitation on parking and will not permit more than seven residents to park vehicles on-site, unless additional off-street covenanted or fee parking is obtained that is acceptable to the City. The operator shall provide stickers or other identification decals that clearly identify vehicles with allocated parking spaces. The operator will provide the City with an annual report, in a form acceptable to the City, that includes the number of residents with registered vehicles and which residents have been allocated parking.

Exhibit 54.[6]

4. The Applicant argued that the restriction limiting the number of beds in the facility to nine and the additional condition[7] requiring that the facility be licensed by DSHS would severely restrict the operability/marketability of the property. The Applicant contended that, if the facility were allowed to be unlicensed, it could be restricted to residents over age 62, which would alleviate concerns over parking and allow for a greater number of residents.[8] The Applicant further argued that the revised condition on parking would adequately address citizen concerns over this issue. The Applicant did not specifically address Exhibit 50 (the City's response to Exhibit 45) as requested on reconsideration. Moreover, apart from the financial viability of the project, the Applicant did not specifically address Exhibit 51 (the

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[5] Ch. 18.20 RCW generally governs the operation and licensing of assisted living facilities. Title 388-78A WAC provides DSHS's specific regulations applicable to these facilities.

[6] The Applicant's Revised Condition 1 also reiterated that the Hearing Examiner should maintain jurisdiction over this matter for one year after the facility is granted a certificate of occupancy to address any unforeseen parking or operation impacts. *Exhibit 54.* This "proposed condition" is substantially similar to Condition 15 in the original decision.

[7] Condition 2 of the Hearing Examiner decision requires that the facility "be operated in a manner consistent with the definition of Assisted Living Facility [in] RCW 18.20.020(2), and the facility shall be operated under a license from the State of Washington in compliance with WAC 388.78A." The Applicant did not request reconsideration of this condition.

[8] In a May 7, 2014 response to citizen concerns over this proposed, alternative condition, the Applicant argued "there are far less invasive ways of accomplishing the City's interest in limiting off-site parking impacts than imposing a State licensing requirement." *Exhibit 63.*

City Attorney's legal opinion concerning facility age restrictions) as requested on reconsideration. In response to citizen letters submitted after the reopened hearing, the Applicant argued that proposed conditions could satisfy the City's concerns over parking without limiting the facility to nine beds and stressed that a 2008 CUP decision (CUP #19-08) involving this site allowed for a 25-bed assisted living facility. *Exhibit 63; Argument of Mullaney.*

5. James Brown, Wattenbarger Architects, testified that Conditions 1 and 2 render the project unviable as an assisted living facility for the elderly. Mr. Brown explained that it is too expensive to go through the DSHS licensure process for an "assisted living facility" unless you hit "a critical mass" of residents, approximately 60 in his experience. Mr. Brown testified that, if the condition was changed to allow for an "Independent Serviced Senior Housing" facility, the project would still be possible. He explained that this type of facility would provide basic services, such as communal meals and laundry service, but would not provide healthcare or personal care. Mr. Brown also testified that, in other jurisdictions he was familiar with (Seattle, Bellevue, and Honolulu), the ratio of parking spaces to residents in similar facilities was from .25 to .5 spaces, and that a 25-bed facility with seven resident parking spaces would be comparable to these other jurisdictions.[9] *Exhibits 55 to 57; Testimony of Mr. Brown.*

6. Applicant Chris Koh testified that there are no assisted living facilities in Snohomish County with fewer than 25 beds and that, after speaking with a number of experts, he concluded a 9-unit facility would not be economically feasible. While acknowledging that the original proposal called for an "assisted living facility," Mr. Koh requested that the Hearing Examiner adopt Revised Condition 1 allowing for a 25-bed "Independent Serviced Senior Housing" facility as he would prefer developing an unlicensed facility at this point. *Testimony of Chris Koh.*

7. City Planning Director Owen Dennison testified that this project was originally proposed as a "senior assisted living facility" per the Applicant's own materials and, without further clarification from the Applicant, the City assumed the proposal involved a facility for (a) seniors that (b) required assisted living. Mr. Dennison could not recall any objection from the Applicant at the initial public hearing to Condition 2, requiring that the facility be licensed by DSHS.[10] Mr. Dennison testified that, based on the Applicant's Revised

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[9] The Hearing Examiner also admitted a report from Senior Transportation Engineer William Popp Jr., William Popp Associates, which states that, in two suburban study sites of very large "congregate care facilities" (one with 204 dwelling unit and another with 186 dwelling units) the parking ratio of residents, staff, and visitors averaged .44 vehicles per dwelling unit. *Exhibit 56.*

[10] The record reflects that Project Architect Joshua Scott, representing the Applicant, agreed to Condition 2 at the initial open public hearing. *Testimony of Joshua Scott.*

Condition 1, the City remains unclear on who the residents of the proposed facility would be and, further, requested guidance on what assistance would be provided to residents in the proposed facility under Revised Condition 1. Mr. Dennison also testified that the City was unsure whether the Applicant's proposed parking solution in Revised Condition 1 would solve the parking concerns associated with the project. *Testimony of Owen Dennison.*

8. A number of interested parties testified at the reopened hearing about their concerns with modifying the CUP decision. Testimony included the following statements:

a. Morgan Davis testified that the parking problems associated with the project are the primary issue. A letter from Mr. Davis, admitted as Exhibit 52, stressed that DSHS does not allow age restrictions on assisted living facilities and, accordingly, any assumption that residents would not have vehicles is erroneous. In a letter sent after the reopened hearing, Mr. Davis also expressed his concern about the Applicant's proposal to change the facility from an assisted living facility to an unregulated, independent living facility for seniors. The letter also disagreed with the Applicant's testimony that no viable project could occur with a 9-unit facility. Mr. Davis suggested that the Applicant partner with a non-profit organization to use the facility as a shelter for women affected by domestic violence as such a project would fulfill a critical need in the community and be economically feasible. *Exhibit 52; Exhibit 62; Testimony of Mr. Davis.*

b. Hank Eskridge testified that, if this proposal is classified as an "adult family home" pursuant to RCW 70.128.010, only six residents should be allowed. Mr. Eskridge felt that even nine residents would create parking issues and that the proposal violates the spirit of the City's Comprehensive Plan. *Exhibit 58; Testimony of Mr. Eskridge.*

c. Rich Softye testified that he is "still a bit confused as to what the applicant is applying for" based on the notice of public hearing and the Applicant's remarks. *Exhibit 59; Testimony of Rich Softye.*

d. Carroll Brown expressed concern that the Applicant's Revised Condition 1 changes the proposal from an assisted living facility to something else and that, if such a change were granted, a new round of public notice and approval should be triggered. Mr. Brown reiterated these concerns in a letter submitted after the reopened hearing. *Exhibit 60; Exhibit 61; Testimony of Mr. Brown.*

e. Bruce Ferguson[11] expressed concern that Revised Condition 1 was an attempt to renegotiate the project proposal and that a 25-unit facility is inappropriate for the proposed site. *Testimony of Mr. Ferguson.*

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[11] Although Mr. Ferguson was not a party of record to the appeal, the Applicant had no objection to him presenting testimony at the reopened hearing.

f. Mitch Cornelison testified that he believes a 9-unit facility is appropriate because the proposal encompasses two lots. Mr. Cornelison stressed his view that, throughout the entire application process, all the parties have been discussing an "assisted living facility" and any discussion of an alternative type of facility (as proposed by Revised Condition 1) is inappropriate at this stage of the process. *Testimony of Mr. Cornelison.*

g. Gretchen Bender expressed concern that the Applicant originally applied for a CUP for an assisted living facility but is now requesting modification to allow for an indedpendent living facility. *Testimony of Ms. Bender.*

Revised Condition 5

9. The Applicant argued that having live-in staff at the facility should not be an issue so long as live-in staff does not impact parking. The Applicant argued that this was a matter of common sense. *Argument of Mr. Mullaney.*

10. Mr. Brown testified that it is common for someone to live on-site in assisted living facilities but, with larger facilities, live-in staff is atypical. *Testimony of Mr. Brown.*

11. Mr. Cornelison and Ms. Bender both testified that live-in staff would be acceptable so long as the number of residents living in the facility was reduced correspondingly. *Testimony of Mr.Cornelison; Testimony of Ms. Bender.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide requests for reconsideration under SMC 14.95.110.

Criteria for Review

SMC 14.95.110 governs reconsideration of the Hearing Examiner's original decision. It states that:

> Prior to six days after the date of the Hearing Examiner's decision, a party of record may request reconsideration. The request shall set forth alleged errors of fact, law, or procedure, or issues omitted from the Hearing Examiner's decision. Any request for reconsideration shall stay further issuance of City permits but shall not stay the time frame for appeal of the Hearing Examiner' s decision. Within seven days after receiving the request, the Hearing Examiner shall either:
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> A. Correct or amend the decision without an additional public hearing; or
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> B. Set the matter for additional public hearing, in which case notice shall be published anew, including to all parties of record; or

C. Confirm the original decision. (Ord. 2082, 2005)

Conclusions Based on Findings

1. **There is insufficient evidence to support a modification of the original decision due to errors of fact.** SMC 14.95.110 requires a party seeking reconsideration and modification of the Hearing Examiner's original decision to set forth alleged errors of fact in the decision. Here, the Applicant's reconsideration request did not allege any errors of fact in the Examiner's original decision.[12] The Applicant did submit testimony concerning vehicle-to-resident ratios in other facilities and jurisdictions at the reopened hearing. However, the testimony on vehicle-to-resident ratios involved two highly urban environments (Seattle and Honolulu) and one much larger jurisdiction (Bellevue). Testimony on these ratios failed to touch upon applicable zoning regulations in these jurisdictions. Without knowing whether these parking ratios involved comparable zoning to Snohomish's "Single Family Residential" (SFR) designation, this evidence does not support modification of the Examiner's original decision. In addition, the Applicant submitted a brief report describing parking demand estimates for "congregate care facilities." But the facilities described in the report are approximately eight times larger than the proposed facility (204 dwelling units and 186 dwelling units) and, as with the evidence from other jurisdictions, the report fails to articulate whether these facilities involve comparable zoning to Snohomish's SFR designation. Accordingly, this additional evidence does not support modification of the Hearing Examiner's original decision. Finally, the only evidence submitted by the Applicant concerning modification of Condition 5 was the testimony of James Brown. Mr. Brown testified, however, that live-in staff is atypical in larger assisted living facilities (like the 25-bed facility proposed by the Applicant). This evidence directly contradicts the Applicant's proposed modification of Condition 5. There is insufficient evidence to support modification of the Examiner's original decision due to errors of fact. *Findings 1 - 5, 10.*

2. **There is insufficient evidence to support a modification of the original decision due to errors of law.** The Applicant's Request for Reconsideration did not allege that the original decision involved legal error. Additionally, the Applicant's arguments and testimony focused almost exclusively on the economic viability of the project with the current imposed conditions. But economic viability of land use is not a criterion for CUP consideration under the City code (SMC 14.65.020.B) nor is it grounds for reconsideration and modification of a previous CUP determination. The Applicant's response to citizen letters received after the reopened hearing does argue that the "Washington substantive due process doctrine requires that conditions imposed upon land development be tied to a specific impact of the development and not be unduly burdensome." *Exhibit 63.* While a correct recitation of the law, the Applicant's only support for his contention that the Hearing

[12] As previously noted, the Request for Reconsideration did reference a typographical error in Condition 5. That error shall be corrected.

Examiner's initial decision impermissibly limits the number of residents in the proposed facility are the parking ratios discussed above and the fact that a 2008 decision previously granted a CUP for a 25-bed assisted living facility for seniors. As previously discussed, the evidence on parking ratios is too speculative to provide support for the Applicant's argument. And, while a previous decision did permit a CUP for a 25-bed facility on this site, that request was specifically for an assisted living facility for "elderly" and "frail elderly" residents needing assistance with "meals, bathing, personal grooming, transportation and miscellaneous care services." *Exhibit 48.* Although not discussed in the previous CUP decision, such a facility would have certainly required DSHS licensing under RCW 18.20.020(2) and WAC 388.78A-2030. The Applicant's current request on reconsideration is for a non-licensed facility for residents over age 62 requiring no domiciliary care and with no assumption of general responsibility for the safety and well-being of the residents. *Exhibit 55.* The proposals differ significantly, but were reviewed using the criteria in the city code for consideration of a conditional use permit. There was no error of law in the use of these criteria to review the current proposal. There is not sufficient evidence to support modification of the Hearing Examiner's original decision due to errors of law. *Findings 1- 11.*

3. **There is insufficient evidence to support a modification of the original decision due to procedural error.** The Applicant's Request for Reconsideration argued that the Applicant should be allowed an opportunity to address the City's comments to Exhibit 45 (admitted as Exhibit 50) and the City Attorney's legal opinion about age-restrictions on residents in the proposed facility (Exhibit 51) because the City submitted these materials on the last day the record was open and the Applicant did not have adequate time to respond to these issues. The Hearing Examiner granted this request. The Applicant, however, did not specifically address the City's comments to Exhibit 45 or the City Attorney's legal opinion at the reopened hearing. The Applicant did not argue that any other procedural errors occurred throughout the Hearing process. Therefore, insufficient evidence supports modification of the Hearing Examiner's original decision due to procedural error. *Findings 1 and 2.*

4. **No specific issues were omitted from the Hearing Examiner's original decision.** The Applicant's Request for Reconsideration did not allege that any specific issues were omitted from the Hearing Examiner's original decision and, at the reopened hearing, the Applicant presented no evidence, argument, or testimony contending that the original decision failed to address any specific issues. *Findings 1 - 11.*

Discussion

SMC 14.95.110 governs reconsideration of the Hearing Examiner's original decision. Here, the Applicant did not adequately support any of the grounds for modifying the Examiner's original

decision listed in SMC 14.95.110 (errors of fact, law, or procedure, or omitted issues). Instead, the Applicant appears to seek reconsideration to amend his original proposal due to concerns about the economic viability of the project as conditioned. The reconsideration phase of a CUP proposal is not the time to propose revised conditions, unless there was a clear error of fact, law or procedure. There was none here. Although the Applicant argues that he never applied to the City for a DSHS-licensed facility, the City proposed this condition without objection from the Applicant in the earliest stage of the CUP process. The Applicant's own application —submitted in December 2013—described the proposed facility as a "senior assisted living facility" and sought approval of a 25-bed facility with "a maximum of 24 full time employees, 12 of [whom] could be at work at any one time." *Exhibit 1*. Contrary to the Applicant's later arguments, the only reasonable conclusion to draw from these materials is that the proposed facility would house non-mobile residents requiring intensive levels of care, i.e., the type of facility requiring a DSHS license. As the proposal moved through the notice and hearing stages, the Applicant failed to clarify any confusion or express a desire to have the facility permitted as an unlicensed home for residents age 62 years or older who do not require domiciliary care (or their own vehicles). In fact, the record reflects that Project Architect Joshua Scott, representing the Applicant, agreed to a licensure requirement (Condition 2) at the initial open public hearing. *Testimony of Joshua Scott*. It appears that, after the Hearing Examiner issued the original decision, the Applicant then discovered that licensing and operating a 9-bed (or even a 25-bed) facility would not be economically feasible. The Applicant did not explain why this basic due diligence was not conducted earlier in the application process and why these newly discovered economic concerns warrant modification of the Hearing Examiner's decision.

At the reopened hearing, the City and a number of parties of record expressed concern over the Applicant's effort to significantly change the nature of the proposed project from a licensed senior assisted living facility to an unlicensed "Independent Serviced Senior Housing" facility. The Hearing Examiner shares these concerns, especially since the Applicant did not object to a licensure condition at any time during the original hearing process or request reconsideration of Condition 2 prior to the reopened hearing. In fact, the Applicant requested a CUP for a 25-bed senior assisted living facility. The City and Snohomish residents expressed a number of concerns over such a facility, especially related to parking requirements. After considering the testimony of the Applicant, the City's representatives, and a number of concerned citizens, the Hearing Examiner determined that a licensed, 9-bed assisted living facility would be appropriate at the proposed site. The Applicant has not presented sufficient evidence in support of reconsideration; there is not sufficient evidence to conclude that there was an error of fact, an error of law, an error of procedure or an omitted issue that would support modification of the

Hearing Examiner's original decision. There was no error of fact, law, procedure or any issues omitted. The request for modification of the original decision must be denied.

Decision

The Applicant's request to modify the Hearing Examiner's March 20, 2014 decision to allow for 25 beds in an unlicensed "Independent Serviced Senior Housing" facility with potential for live-in staff is **DENIED**.[13]

Decided this 16th day of May 2014.

THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center

[13] Although the Applicant's modification request is denied, the original decision will be corrected to eliminate the word "City" in Condition 5 and to correct any references to Carroll Brown as "Mr. Brown."