

**BEFORE the HEARING EXAMINER for the  
CITY of LYNNWOOD**

**DECISION**

FILE NUMBER: CUP-009736-2021

APPLICANT: Silver Creek Family Church  
5326 176<sup>th</sup> Street SW  
Lynnwood, WA 98037

TYPE OF CASE: Conditional Use Permit to remodel an existing church building and  
construct a new auditorium

STAFF RECOMMENDATION: Approve subject to conditions

EXAMINER DECISION: GRANT subject to conditions

DATE OF DECISION: November 29, 2021

**INTRODUCTION**<sup>1</sup>

Silver Creek Family Church (“SCFC”) seeks a Conditional Use Permit (“CUP”) to remodel its existing church building and construct a new 7,245 square foot (“SF”) auditorium.

SCFC filed the CUP application on February 11, 2021. (Exhibits 1; 16<sup>2</sup>) The Lynnwood Development and Business Services Department (“Planning”) deemed the application to be complete as of March 31, 2021. (Exhibit 11) Planning issued a Notice of Application on April 29, 2021. (Exhibit 12)

SCFC is located at 5326 176<sup>th</sup> Street SW. The SCFC Campus consists of four contiguous parcels. The proposed remodeling and new construction will occur on only two of those four parcels: Assessor’s Parcel Numbers 00513700000507 and 00513700000501 (referred to on the project plans as “Parcel 1” and “Parcel 2,” respectively). Parcel 3 (Assessor’s Parcel Number 00513700000502) is to the east of Parcels 1 and 2; Parcel 4 (Assessor’s Parcel Number 00513700000604) is to the west of Parcel 1. (Exhibit 4, PDF 1 & 2)

The Lynnwood Hearing Examiner (“Examiner”) viewed the subject property via Google Earth imagery dated August 14, 2020.

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<sup>1</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.  
<sup>2</sup> Exhibit citations are provided for the reader’s benefit and indicate: 1) The source of a quote or specific fact; and/or 2) The major document(s) upon which a stated fact is based. Page citations to exhibits that are available electronically in PDF use PDF page numbers, not source document page numbers (*e.g.*: “Exhibit x, PDF n”). While the Examiner considers all relevant documents in the record, typically only major documents are cited. The Examiner’s Decision is based upon all documents in the record.

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The Examiner held an open record hearing on November 18, 2021. The hearing was conducted remotely using the “Zoom” platform due to assembly restrictions attendant to the current COVID-19 pandemic. Planning gave notice of the hearing as required by the Lynnwood Municipal Code (“LMC”). (Exhibit 14)

The following exhibits were entered into the hearing record during the hearing:

- Exhibits 1 - 16: As enumerated in Exhibit 16, the Planning Staff Report
- Exhibit 17: Planning’s PowerPoint hearing presentation
- Exhibit 18: E-mail comment, Ruthann Gedeon-Gaude (aka Felice), November 11, 2021

Section 1.35.025 LMC requires that decisions on project permit applications be issued within 120 calendar days after the application is found to be complete; subsection 1.35.025(A) LMC lists four exclusions from the 120-day count, one of which is an extension mutually agreed upon by Planning and the applicant. The open record hearing was held beyond the 120<sup>th</sup> day. (Testimony) SCFC agreed to waive the timeline. (Testimony)

The action taken herein and the requirements, limitations and/or conditions imposed by this decision are, to the best of the Examiner’s knowledge or belief, only such as are lawful and within the authority of the Examiner to take pursuant to applicable law and policy.

### FINDINGS OF FACT

1. The SCFC Campus consists of four contiguous parcels totaling 4.77 acres located on the south side of 176<sup>th</sup> Street SW, roughly one-quarter mile west of Highway 99. Parcel 1, the central parcel, has about 197 feet of frontage on the south side of 176<sup>th</sup> Street SW and extends southerly about 624’. Parcel 2 is a 100’ x 135’ “notch” near the center of Parcel 1. The area of Parcel 1 is 2.53 acres, the area of Parcel 2 is 0.31 acres, for a combined area of 2.84 acres. Parcel 3 is a 67’ wide strip along the entire east side of Parcels 1 and 2. Its area is 0.95 acres. Parcel 4 is a “flag lot” which borders the northern 433’ of the west side of Parcel 1. It consists of a 30’ x 200’ “flagpole” with a 158’ x 233’ “flag” at the southern end. The area of Parcel 4 is 0.98 acres. (Exhibit 4, PDF 1 & 2)

The SCFC Campus is relatively flat. The site rises about 10 feet from its 176<sup>th</sup> Street SW frontage to a broad knoll about 180 feet from the south property line and then drops about 18 feet to the south property line. Parcel 2 and the portion of Parcel 1 to its north are essentially flat. (Exhibit 4, PDF 4)

The area to the west and south of the Campus is extensively encumbered by a large wetland and is mostly undeveloped. The Kingsbury West Mobile Court (aka “Kingsbury West”) occupies the property to the east of the Campus. The area on the north side of 176<sup>th</sup> Street SW is characterized by single-family residences. (Exhibits 4, PDF 1 & 4; 13)

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2. The SCFC Campus presently contains three primary structures: The church, a food bank, and a residence.
  - A. The church consists of two parts. The 4,362 SF, single-story church was built in 1973. In 1978 a 6,318 SF “gym” addition was attached to the west end of the church. A partial second story within the gym contains 3,786 SF of classrooms. The church is located on the north end of Parcel 1. (Exhibit 4, PDF 2; [https://www.snoco.org/proptax/\(S\(r1db0luiwh23rnuahoa45fd\)\)/ParcelInfo.aspx?parcel\\_number=00513700000507](https://www.snoco.org/proptax/(S(r1db0luiwh23rnuahoa45fd))/ParcelInfo.aspx?parcel_number=00513700000507), last visited November 24, 2021)
  - B. The 104’ x 42’ foodbank was constructed in the southwest corner of Parcel 1 in 2006. (Exhibit 4, PDF 2; [https://www.snoco.org/proptax/\(S\(r1db0luiwh23rnuahoa45fd\)\)-/ParcelInfo.aspx?parcel\\_number=00513700000507](https://www.snoco.org/proptax/(S(r1db0luiwh23rnuahoa45fd))-/ParcelInfo.aspx?parcel_number=00513700000507), last visited November 24, 2021)
  - C. The 2,620 SF residence is located on the “flag” portion of Parcel 4. (Exhibit 4, PDF 2)
  - D. Parcels 1 and 3 contain a total of 186 parking stalls, approximately 56 (30%) of which are on Parcel 3. A grassy play area occupies Parcel 2. (Exhibit 4, PDF 1 & 2)
3. SCFC desires to construct a new auditorium/sanctuary immediately south of the existing church/gym building and to perform some interior remodeling of the existing church/gym. (Exhibits 2; 4; 5)
4. An important back-story to the present proposal exists which is regrettably missing from all of the hearing record documents. On December 3, 2008, the undersigned Examiner held a pre-decision, open record hearing on 2008CUP0003, an application by SCFC for a CUP “to construct a replacement church sanctuary and classroom building.”<sup>3</sup> [2008CUP0003, p. 1]

In 2008, a church had existed “on its present site for nearly 30 years. [SCFC] propose[d] to build a new sanctuary/classroom building south of its present sanctuary, demolish its present sanctuary, and add 25 parking spaces in the area now occupied by the sanctuary.” [2008CUP0003, p. 3, Finding of Fact 1; all references to 2008 exhibits omitted to avoid confusion]

The site is predominantly flat; however, a steep embankment at the south end of the site drops down to an adjacent stormwater retention area and a gentler slope along the westernmost part of the site slopes down to a small watercourse. Most of the site that is not occupied (or proposed to be occupied) by buildings is paved or landscaped. However, a single-family house surrounded by a lawn is situated on the

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<sup>3</sup> The Examiner had forgotten about this 13-year old application until, during preparation of this Decision, he researched the zoning of the surrounding area. While looking at the official City zoning map, the Examiner discovered that it showed the SCFC Campus with a Planned Unit Development (“PUD”) overlay. Wondering why the official zoning map indicated a PUD overlay, but Planning’s Staff Report did not mention any such overlay, the Examiner researched his personal decisions data base. In so doing, he stumbled on the 2008CUP0003 Decision. That Decision is the basis for a number of quotes in this Decision which, being in the public domain, have been adopted by Official Notice.

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west side of the site and a natural growth area encumbers the extreme west portion of the site, associated with the watercourse described above (a branch of Scriber Creek).

[2008CUP0003, p. 3, Finding of Fact 2]

In 2003, the Lynnwood Church of the Nazarene (as Silver Creek then called itself) submitted a proposal for a three-phased development of the site. Phase I included a food bank building, frontage and extensive storm drainage improvements, and enlarging (to 207 stalls) and landscaping the parking area. Phase II was to include a 14,690 SF, 516 (fixed) seat, octagonal sanctuary building to be located south of and in place of the existing sanctuary. Phase III proposed a further expansion of the new sanctuary building.

The proposal was first submitted as a Conditional Use Permit (2003CUP0002), but as the proposed design required other discretionary permits (e.g., a height variance), it was resubmitted as a Planned Unit Development (PUD, 2004RZN0004). The project also required design review (2003PDR0006). Since the site is adjacent to the watercourse (described above), the proposal also required a Sensitive Area Permit (SAP, 2004SAP0004). Finally, a SEPA threshold determination (2003ERC0021) was required.

A SEPA Mitigated Determination of Nonsignificance (MDNS) was issued on June 17, 2004. The SAP was approved in 2004 and modified in 2006. Requirements of the SAP have been implemented. The Council approved the PUD in July, 2005. The Council denied Kingsbury West's PDR appeal at the same meeting it approved the PUD.

Phase I was completed in 2006 with the food bank building, parking areas, and the storm drainage improvements. The storm drainage system includes two underground storm water detention vaults along the north edge of the site. The vaults were designed on the assumption that Phases II and III would be built and were sized accordingly.

Phases II and III were never built. Section 21.30.400 LMC provide[d] that PUD approval expires three years from the date of approval unless the development has been completed or an authorized time extension has been granted. No time extension was requested. Pursuant to [former] LMC 21.30.400, the PUD approval has expired and the Church's current [2008] proposal is being processed as a CUP under RS-8 zoning requirements.

[2008CUP0003, p. 4 & 5, Finding of Fact 5; all references to 2008 exhibits omitted to avoid confusion] Project Design Review ("PDR") is no longer required for uses in single-family residential zones. [Chapter 21.42 LMC: PDR not listed as a requirement. See for comparison, LMC 21.43.105,

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*et al.*] The three-year expiration clause of former LMC 21.30.400 has since been changed to two years.

The 2008 proposal was described thusly:

The proposed building will contain approximately 17,772 SF in a one-story with mezzanine, gable-roofed structure. The building's actual maximum height will be about 35 feet; its eave height will be about 26 feet. Thus, for compliance with zoning code height limitations, the calculated building height will be about 30 feet. ( $35' + 26' = 61'$ ;  $61'/2 = 30.5'$ ) The first floor (building footprint) will cover 15,184 SF; the mezzanine level will contain about 2,558 SF. The main hall will contain 6,085 SF and is proposed as a multiple-use space; therefore, it will not have fixed seats. The building will also have about 4,500 SF of classroom space to be used for infant and child care, Sunday school classes for families attending worship services, and for other church-related activities on other days of the week.

The north and east walls of the building will be surrounded by a covered porch-like roof. The main entrance to the building (the narthex) will be in the north wall. The sanctuary will have direct entrances to the outside in its southeast and southwest corners. The building will have "parchment" colored metal wall and roof panels with masonry accents in keeping with the existing multi-purpose building.

The new building will be located about 215 feet from the north (front) property line, 80 feet from the east (side) property line, 300 feet from the south (rear) property line, and not less than 75 feet from the west (side) property line.

Additional landscaping is proposed to be installed around the new building, within the new parking area (where the sanctuary presently is), and along the northern half of the east property line.

[2008CUP0003, p. 5, Finding of Fact 7; all references to 2008 exhibits omitted to avoid confusion]

On December 15, 2008, the Examiner approved the 2008 CUP, which applied to all four parcels in the Campus, subject to six conditions. [2008CUP0003, pp. 13 & 14] The new sanctuary has never been built nor has the original church been torn down. (Exhibit 4) A CUP expires two years after issuance if it is not used, unless extended for one year. [LMC 21.24.300 & .310] No extension was requested. Therefore, the 2008 CUP expired in or around 2010.

5. SCFC comes now with a different proposal for expansion of its facilities. Instead of demolishing the existing church building and replacing it with a very large structure, SCFC desires to retain its existing buildings and add a 7,245 SF sanctuary/auditorium just south of the existing church. (Exhibit 4)

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The addition will be contained on Parcels 1 and 2, which will be legally merged prior to construction (because the new auditorium will overlap the Parcel 1/2 property line). The auditorium will exhibit a modern Northwest design and cover 7,245 SF (including a covered entry area). The new auditorium will be behind (south of) the existing 1973 church building about 180 feet from the 176<sup>th</sup> Street SW centerline, 105 feet from the east Campus boundary, 380 feet from the south Campus boundary, and 100 feet from the nearest west Campus boundary. The auditorium's "gull-wing" style roof will have a maximum height above grade of about 28 feet. Sixteen parking spaces in Parcel 1 will be reconfigured to provide six handicap stalls, two compact stalls, and eight standard stalls. (The remainder of the parking spaces on the Campus will remain as-is.) The interior remodel will add five bathrooms to the original church building and reconfigure some interior walls on the second story of the gym building. (Exhibit 4)

Landscaping along Parcel 1's frontage on 176<sup>th</sup> Street SW will be augmented with additional overstory, shrub, and groundcover plantings; new landscaping will be planted around the new sanctuary building. (Exhibit 5)

6. The SCFC Campus and properties to the west and north are zoned RS-8. (Exhibit 1, PDF 3) The Kingsbury West Mobile Court to the east is zoned MHP (Mobile Home Park). The property to the south is zoned P-1 (Public). And the property diagonally northeast across 176<sup>th</sup> Street SW is zoned RML (Multiple Residential Low Density). [LMC 21.40.100; Official notice: [https://www.lynnwoodwa.gov/files/sharedassets/public/development-and-business-services/planning-and-zoning/zoning\\_ord\\_3282\\_new\\_rezone.pdf](https://www.lynnwoodwa.gov/files/sharedassets/public/development-and-business-services/planning-and-zoning/zoning_ord_3282_new_rezone.pdf), last visited November 24, 2021 <sup>4</sup>]
7. The RS-8 zone is essentially a single-family residential zone. Like most residential zones, it allows certain non-single-family residence uses as conditional uses. "Places of worship" is one such conditional use. [LMC 21.42.100, Table 21.42.01] The basic bulk regulations for the RS-8 zone are: 25-foot minimum front setback; 5-foot minimum, 15-foot combined side setbacks; 25-foot minimum rear setback; and 35-foot maximum building height. [LMC 21.42.200, Table 21.42.02] The proposed auditorium/sanctuary greatly exceeds the minimum required setbacks and is substantially below the maximum allowed building height. (Exhibit 4)
8. The proposal is categorically exempt from the threshold determination requirements of the State Environmental Policy Act ("SEPA"). (Exhibit 1, PDF 4)
9. One resident of the Kingsbury West Mobile Court (Ruthann Gedeon-Gaude ("Gedeon-Gaude")) submitted written comments and testimony in opposition to SCFC's proposal. (Exhibits 13; 18; and testimony) Gedeon-Gaude has lived in one of the mobile homes abutting the SCFC Campus/Kingsbury West common property line for the last five years. Gedeon-Gaude does not sleep well at night and often returns to bed between 7 a.m. and 8 a.m. Morning noise disrupts her sleep

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<sup>4</sup> The web citation is the City's official zoning map, "Effective through Ordinance #3282, Effective date is 2/17/2021." That map shows the SCFC Campus still subject to a "Planned Unit Development" overlay. As noted above, the PUD overlay expired in or around 2008. The official map is in error regarding the PUD overlay of the SCFC Campus.

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time. Gedeon-Gaude objects to outside music and noise from the SCFC Campus, including noise from a musician who entertained food bank patrons. She also objects to the prospect of morning construction noise. Gedeon-Gaude also has complaints about Kingsbury West's management which are unrelated to anything that SCFC is doing on its Campus.

SCFC's representative (Steven Hudson ("Hudson")) said that most outdoor activities do not start before 10:00 a.m. He acknowledged the problem with the food bank musician; the musician was told to turn down his volume. Hudson also expects that the new, larger auditorium/sanctuary will eliminate many of the events that are currently held outside due to the small size of the current sanctuary. (Testimony)

Planning testified that Title 10 LMC contains the City's noise regulations. Subsection 10.12.300(B)(13) LMC limits construction hours to 7 a.m. to 6 pm on weekdays; LMC 10.12.300(B)(9) regulates loud music; and LMC 10.12.300(D) regulates the use of loudspeakers. The noise regulations generally require "quiet time" between 10 p.m. and 7 a.m. [LMC 10.12.500(B)(1)]

10. SCFC has not requested relaxation of any applicable development standards or requirements.
11. Planning recommends approval of the requested CUP subject to 10 conditions. (Exhibit 1, PDF 5 & 6)
12. SCFC has no objection to any of Planning's recommended conditions. (Testimony)
13. Any Conclusion of Law deemed to be a Finding of Fact is hereby adopted as such.

## LEGAL FRAMEWORK <sup>5</sup>

The Examiner is legally required to decide this case within the framework created by the following principles:

### Authority

A CUP is a Process I application which is subject to an open record hearing before the Examiner. The Examiner makes a final decision on the application which is subject to the right of reconsideration and appeal to Superior Court. [LMC 1.35.100, .168, and .175 and 21.24.050]

### Review Criteria

The review criteria for CUPs are set forth at LMC 21.24.100 and .150:

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<sup>5</sup> Any statement in this section deemed to be either a Finding of Fact or a Conclusion of Law is hereby adopted as such.

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... In considering any conditional use permit, the hearing examiner shall prescribe any conditions that he/she deems to be necessary to or desirable for the public interest, and where appropriate may stipulate that the permit is temporary and establish an expiration date. However, no conditional use permit shall be granted unless it is found:

A. That the use for which such a permit is sought will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and

B. Will be in harmony with the general purpose of [the zoning code].

The hearing examiner may allow relaxation of the development standards of this title if he/she finds that alternative amenities, improvements, proposed location of uses or structures, or other features incorporated into the proposal are in harmony with the general purpose of this title and would provide equal or better protection to the public interest than would the standards proposed to be relaxed.

[LMC 21.24.100]

In determining findings, the hearing examiner shall take into account the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such buildings or upon such land, traffic conditions in the vicinity, compliance with any special conditional use criteria for that specific use set forth in [Chapter 21.24 LMC] and all factors relevant to the public interest.

[LMC 21.24.150]

A “consistency determination” is also required for every project application. A consistency determination follows four steps set forth at LMC 1.35.070. Consistency criteria are:

1. Type of land use permitted at the site, including uses that may be allowed under certain circumstances if decision criteria are met;
2. Density of residential development (if applicable); and,
3. Availability and adequacy of public facilities (for those facilities identified in the comprehensive plan, if the plan or the city’s development regulations provide for funding of these facilities).

[LMC 1.35.070(A)]

Vested Rights



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“Vesting” serves to “fix” the regulations against which a development application is judged. [*Potala Village Kirkland, LLC v. City of Kirkland*, 183 Wn. App. 191 (2014), *review denied*, 182 Wn.2d 1004, 342 P.3d (2015)]

In 2014 the State Supreme Court flatly declared: “While it originated at common law, the vested rights doctrine is now statutory.” [*Town of Woodway v. Snohomish County*, 180 Wn.2d 165, 173, 322 P.3d 1219 (2014)] The *Potala* court rejected a contention that the filing of a complete shoreline substantial development permit application vested development rights because no statutory provision established vested rights for shoreline permits. [*Supra*, at 196-206]

CUPs are not the subject of any state vesting statute. If Lynnwood had a local vesting ordinance applicable to land use applications, the Examiner would be obliged to follow it as enacted. [*Erickson & Associates v. McLerran*, 123 Wn.2d 864, 872 P.2d 1090 (1994); *Abbey Rd. Grp., LLC v. City of Bonney Lake*, 167 Wn.2d 242, 250, 218 P.3d 180 (2009)] But the City has no such local ordinance. Thus, the Examiner must follow the most current case law.

Under the most current case law, there is no vesting for CUP applications because there is no statutory provision providing vesting for such applications.

Standard of Review

The standard of review is preponderance of the evidence. The applicant has the burden of proof. [LMC 1.35.155]

Scope of Consideration

The Examiner has considered: all of the evidence and testimony; applicable adopted laws, ordinances, plans, and policies; and the pleadings, positions, and arguments of the parties of record.

**CONCLUSIONS OF LAW**

1. To be legally defensible, permit conditions must relate directly to impacts which would be caused or exacerbated by the development for which the permit is being sought. The application before the City in this case is to build a new sanctuary building. The present application does not include any changes whatsoever to the food bank building or the portion of the site in its vicinity. Issues associated with the food bank are, therefore, beyond the scope of this proceeding. [Modified from 2008CUP0003, Conclusion of Law 1]
2. Gedeon-Gaude’s noise objections are two fold. Her objection to food bank noise is beyond the scope of this proceeding and will not be addressed. [Modified from 2008CUP0003, Conclusion of Law 2]

Operation of the church must meet adopted noise regulations. Lynnwood’s noise regulations are set forth in Chapter 10.12 LMC, Noise. The church, like every other activity within the City, must meet

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those regulations. Compliance with those regulations is an enforcement issue, not a CUP permit condition issue. [Modified from 2008CUP0003, Conclusion of Law 2]

As a practical matter, if the church were to have rock music performed in the new sanctuary with the northeastern outside door opened, that open door would be somewhat farther from the Campus/Kingsbury West common property line than the current sanctuary. Since noise levels decay by the square of the distance, the noise levels at the property line should be slightly lower with the new sanctuary than with the present building, even if no other changes were made. [Modified from 2008CUP0003, Conclusion of Law 2]

While the Examiner may have some sympathy for Gedeon-Gaude's sleep problems, land use regulations cannot be imposed solely to satisfy one individual. Zoning regulations are imposed on land without regard to individual preferences of current neighbors. If a neighbor moves, the land use regulations do not change. If they were to change with changes in neighborhood tenancy, one can easily see where they would become unmanageable, chaotic, and indefensible. According to her testimony, Gedeon-Gaude moved into Kingsbury West about five years ago. SCFC (and its predecessor, Church of the Nazarene) have been a fixture on the Campus parcels for over 40 years. Gedeon-Gaude's noise objections do not prove incompatibility between SCFC and the neighboring properties. [Modified from 2008CUP0003, Conclusion of Law 2]

3. Kingsbury West argued before the City Council at the time of the 2005 PUD and PDR appeal hearing that the buffer along the east side of the site should be wider. The City Council approved the PUD as submitted and denied the PDR appeal. The church has been operating at this location for more than 40 years without any apparent serious deleterious affect on the neighborhood. The design of the eastern part of the site was approved by the Council in 2005. The current project does not propose to alter or affect that part of the property in any way. The size of the proposed church building is about half the size of the building approved in 2005 and well less than half the size of of the building approved in 2008. Perhaps of even greater importance, the new building will be about 25 feet farther from the east and west property lines than would have been the building approved in 2008. No basis exists in the record to require additional buffering beyond that existing/proposed. [Modified from 2008CUP0003, Conclusion of Law 4; all references to 2008 exhibits omitted to avoid confusion]
4. The request complies with CUP criterion LMC 21.24.100(A). SCFC's proposal, conditioned as recommended by DCD and as augmented based on Conclusion of Law 8, below, will not be injurious to the neighborhood or detrimental to the public welfare. The building is half the size as was approved by the City Council in 2005. Conditions to mitigate potential impacts will be imposed. PDR procedures and requirements simply are not legally applicable. [Modified from 2008CUP0003, Conclusion of Law 5]
5. The request complies with CUP criterion LMC 21.24.100(B). The "general purpose of the zoning code" is to

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avoid[] or abat[e] public nuisances. [The zoning code] also intends to promote the protection and promotion of the quality of the natural environment and the health, safety, morals, and other aspects of the general welfare of present and future inhabitants of the city of Lynnwood in accordance with the comprehensive plan and state law, judicial decisions, and Central Puget Sound Growth Management Hearings Board decisions regarding land use regulations. To these ends, it is the intent of these regulations to implement the city of Lynnwood comprehensive plan and the future land use plan map.

[LMC 21.04.015] The proposed new sanctuary meets or exceeds all applicable standards of the zoning code.

6. The request complies with CUP criterion LMC 21.24.150. The new sanctuary will replace the existing sanctuary (with the existing sanctuary becoming a supportive fellowship hall). The use of the property will not change from that which has existed for over 40 years. The new, larger sanctuary will allow more activities to be conducted indoors.
7. The proposal passes the “consistency” test: A place of worship is permitted as a Conditional Use in the RS-8 zone; density is not applicable as this is not a residential use; and adequate utilities are available to serve the new sanctuary.
8. The recommended conditions of approval as set forth in Exhibit 16 are reasonable, supported by the evidence, and capable of accomplishment with the following changes:
  - A. The recommended conditions do not specify an approved plan. They should as a Conditional Use review considers a specific proposal for a specific site to determine compatibility. In this case, since the code does not require PDR, the approved plans need to include not only site and elevation plans (Exhibit 4), but also landscaping plans (Exhibit 5). A new condition will be added.

This new condition will also make clear that the CUP applies to all four of the Campus parcels: Parcels 1 and 2 because that is where the construction will occur and because 70% of the required on-site parking is located on Parcel 1; Parcel 3 because one of the two ingress/egress drives and 30% of the required on-site parking are located on Parcel 3; and Parcel 4 because the second ingress/egress drive is located on Parcel 4.

- B. Recommended Condition 6. The citation to “LMC 21.60.400.h” as one of the bases for requiring sprinklers within the new sanctuary is incorrect for two reasons. First, if the citation were valid in the first place (which it is not), it is in an incorrect form: The subsection should be a capitol letter (“H”), not a lower case letter (“h”) and it should be set apart by parentheses, not by a period.

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But, more importantly, Chapter 21.60 LMC contains regulations for the City Center (CC) zone. The SCFC Campus is zoned RS-8, not CC. CC zone regulations have no applicability to property zoned RS-8. The citation will be deleted.

The citation to “LMC 9.18.020.b” is appropriate, but is in an incorrect form. Its form will be corrected.

C. A few minor, non-substantive structure, grammar, and/or punctuation revisions to Recommended Conditions 6 and 10 will improve parallel construction, clarity, and flow within the conditions. Such changes will be made.

9. Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such.

### DECISION

Based upon the preceding Findings of Fact and Conclusions of Law, the testimony and evidence submitted at the open record hearing, and the Examiner’s site view, the Examiner **GRANTS** the requested Conditional Use Permit to remodel an existing church building and construct a new auditorium **SUBJECT TO THE ATTACHED CONDITIONS**.

Decision issued November 29, 2021.

*/s/ John E. Galt*

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John E. Galt  
Hearing Examiner

### HEARING PARTICIPANTS <sup>6</sup>

Steven Brent Hudson  
Robert Gregg  
Ruthann Gedeon-Gaude

Stephen A. Hammer  
Brian Lee

### NOTICE of RIGHT of RECONSIDERATION

This Decision is final subject to the right of any party of record to file with the Lynnwood Development and Business Services Department a written request for reconsideration within seven calendar days following the

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<sup>6</sup> The official Parties of Record register is maintained by the City’s Hearing Clerk.

HEARING EXAMINER DECISION

RE: CUP-009736-2021 (Silver Creek Family Church Remodel and Addition)

November 29, 2021

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issuance of this Decision in accordance with the procedures of LMC 1.35.168. Any request shall specify the error of law or fact, procedural error, or new evidence which could not have been reasonably available at the time of the hearing conducted by the Examiner which forms the basis of the request. See LMC 1.35.168 for additional information and requirements regarding reconsideration.

**NOTICE of RIGHT of APPEAL**

This Decision is final subject to the right of a party of record (See LMC 1.35.148.) with standing, as provided in RCW 36.70C.060, to file a land use petition in Superior Court in accordance with the procedures of LMC 1.35.175 and the Land Use Petition Act [Chapter 36.70C RCW]. See LMC 1.35.175 for additional information and requirements regarding judicial appeals.

The following statement is provided pursuant to RCW 36.70B.130: “Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.”

**CONDITIONS OF APPROVAL**  
**CUP-009736-2021**  
**SILVER CREEK FAMILY CHURCH ADDITION/REMODEL**

This Conditional Use Permit is subject to compliance with all applicable provisions, requirements, and standards of the Lynnwood Municipal Code, standards adopted pursuant thereto, and the following special conditions:

1. Exhibits 4 and 5 are the approved Conditional Use Permit site plans and landscape plans for the authorized remodel/addition. This Conditional Use Permit applies to all four parcels comprising the SCFC Campus. Revisions to approved plans are regulated by LMC 1.35.180.
2. A lot combination (merger) or boundary line adjustment will be required as the proposed auditorium location straddles the property line between two separate parcels.
3. An approved Spill Prevention Control and Countermeasures plan (SPCC) and Stormwater Pollution and Prevention Plan (SWPPP) will be required with civil submittals.
4. If the project start date is after January 1, 2022, design stormwater improvements to 2019 DOE Stormwater Manual.
5. Fire lanes will be required – minimum 20 foot width. Buildings greater than 30’ height require a 26’ fire lane. A 13’ - 6” vertical clearance is also required. Fire lanes must be striped and marked (SCF Fire Apparatus Access Road Standard, LMC 9.06, IFC Section 502, IFC Appendix D).
6. Fire alarms will be required for both existing and new structure (LMC 9.20, SFC Fire Alarm Standard).
7. Fire sprinkler system required for new structure (LMC 9.18.020(B)). A fire sprinkler system may also be required for the existing structure pursuant to conditions in LMC 9.18.020.
8. All park impact fees shall be paid prior issuance of Building Permit.
9. All traffic impact and concurrency fees shall be paid prior to issuance of Building Permit.
10. Sewer connection charges shall be assessed to the Developer at the current rates at issue of Building Permit.
11. All electric utilities shall be installed underground. Existing PUD facilities may need relocation or modification at the developer’s expense.