

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

In the Matter of the Application of)	
)	
Faith Food Bank)	REVIII 22-003, REVII 22-036
)	
For a Temporary Shelter Use permit)	Faith Family Village Pallet
with modifications to use-specific)	Housing Project
standards (Review III and Review II))	
)	FINDINGS, CONCLUSIONS AND
on property located at 6708 Cady Road,)	DECISIONS
<u>Everett, Washington</u>)	

SUMMARY OF DECISIONS

The request for a Review III and Review II temporary shelter use permit with modifications to use-specific standards for a religious organization to develop and operate up to eight Pallet shelters and two portable bathroom facilities with showers at 6708 Cady Road is **GRANTED** subject to conditions.

SUMMARY OF RECORD

Request:

PFW Architecture, LLC, on behalf of Faith Food Bank (Applicant), submitted an application seeking approval of a Review III and Review II temporary shelter use permit with modifications to use-specific standards to develop and operate up to eight 100 square-foot Pallet shelters and two portable bathroom facilities with showers. The proposal would provide for 90-day stays allowing families with children under the age of 18. The subject property is located at 6708 Cady Road.

Hearing Date:

The Everett Hearing Examiner conducted a virtual open record public hearing on the request on August 18, 2022. The record was held open until August 22, 2022 to receive post-hearing public comment from members who may have experienced technology or access difficulties that prevented their joining the virtual hearing, with time scheduled for responses from the parties. One post-hearing comment was submitted, and the record closed on August 24, 2022. No in-person site visit was conducted, but the undersigned viewed the subject property on Google Maps.

Testimony:

During the open record hearing, the following individuals presented testimony under oath:

- Roxana Boroujerdi, Executive Director of Faith Food Bank
- James E. Dean, Exec Director of Interfaith Family Shelter
- Holly Sullivan, President of Faith Lutheran Church Congregation

Dennis Osborn, City of Everett Planner
Juanita Clifford, Neighbor
Cynthia Derksen, Neighbor
Thad Newport, City of Everett Associate Engineer
Michael Brick, City of Everett Associate Engineer

Exhibits:

At the virtual open record hearing, the following exhibits were admitted in the record:

1. Staff report, dated August 11, 2022
2. Notice of Application and Public Hearing
3. Affidavit of Posting, issued July 13, 2022
4. Affidavit of Published Hearing, issued July 13, 2022
5. Determination of Non-Significance, dated July 28, 2022
6. SEPA Checklist
 - A. Signature page of SEPA checklist, dated April 29, 2022
7. Land Use Permit Application, dated April 28, 2022
8. Revised Site Plan
9. Management Plan
10. Application Narrative
11. Agreement between Faith Lutheran Church and Faith Food Bank, dated April 24, 2022
12. Public Comment:
 - a. Cynthia Derksen, July 27, 2022
 - b. Rev. Carol A. Jensen, July 27, 2022
 - c. Rev. Shelley M. Bryan Wee, Bishop, July 27, 2022
 - d. presentjc@comcast.net, July 25, 2022
 - e. Deborah Squires, July 25, 2022
 - f. Juanita Clifford, July 25, 2022
 - g. Lindsay Crow, Rodland Toyota, July 25, 2022
 - h. Maureen Malley, July 25, 2022
 - i. Janet Bacon, July 25, 2022
 - j. Bob Wall, July 25, 2022
 - k. Carol Hage Wall, July 25, 2022
 - l. Laura Wilson, July 25, 2022
 - m. Pastor David Parks, July 25, 2022
 - n. Friedrich Stegmann, July 23, 2022
 - o. Ric and Cheryl Creeden, July 23, 2022
 - p. Dianissa Boigues, July 21, 2022 with attached letters
 - q. Pam Gonzalez, July 20, 2022
 - r. Joni Powers, July 18, 2022

- s. John Barrett, July 18, 2022
- t. Patrice Wilkins, July 17, 2022
- u. Dawn Myers, July 16, 2022
- v. Margaret Carmen, July 15, 2022
- w. Sherrie Fletcher, July 15, 2022
- x. Sarah Stahl, July 15, 2022
- y. Sopars, July 15, 2022
- z. Patricia Qualls, July 15, 2022
- aa. David and Sandra Richards, July 14, 2022
- bb. Mary Escobar Wahl, BS, MPH, July 14, 2022
- cc. Samara Cogan, June 21, 2022
- dd. “A concerned resident on the 400 block of Tamarack,” May 26, 2022

13. Transportation Plan

14. Post-hearing comment from Patricia Qualls, August 20, 2022¹

After considering the testimony and exhibits submitted, the Hearing Examiner enters the following findings and conclusions.

FINDINGS

1. PFW Architecture LLC, on behalf of Faith Food Bank (Applicant), submitted an application seeking approval of a Review III and Review II temporary shelter use permit with modifications to use-specific standards to develop and operate up to eight 100 square-foot Pallet shelters and two restrooms with showers. The subject property is located at 6708 Cady Road in Everett and is owned by Chapel in the Firs, Faith Lutheran Church, South Everett, Washington, a Washington nonprofit corporation and a religious organization. *Exhibits 1, 7, 8, and 11; Google Maps site view.*
2. The 1.7-acre subject property is developed with a church, church office, food storage building, and 40 off-street parking spaces; it is fully fenced with chain link fencing fitted with privacy slats. For seven years, Faith Food Bank has operated a food bank program in a structure located on the property owned by Faith Lutheran Church. The subject property abuts Cady Road to the east and Madison Street to the south. Adjoining parcels to the west and north are residential lots developed with single-family residential uses and a few home occupations and neighborhood business. Madison Morgan Park is one block to the west. *Exhibits 1 and 9; Google Maps site view.*
3. The subject property is zoned R2, Single Family Detached Medium Density. The property is designated Single Family by the Everett Comprehensive Plan land use map. *Exhibit 1.* Pursuant to Everett Municipal Code (EMC) 19.05.080 Table 5-1, group housing the form of temporary shelters accommodating 12 or more persons may be operated in the R-2 zone by a religious organization that may host people experiencing homelessness on property owned or controlled by the religious organization whether within buildings or elsewhere on the property outside of buildings, subject to the

¹ Per the Hearing Clerk, there was no response to the post-hearing comment from either Staff or Applicant.

conditions set forth in EMC 19.08.200 and any conditions of an administrative use permit, which is issued through the Review II (REV II) process. *EMC 19.05.080 Table 5-1*. Because the Applicant has requested modifications to three use-specific standards, the instant proposal is reviewed as a Review III (REV III) process, which requires a public hearing and decision by the City's hearing examiner. *EMC 15.02.140.D.1*.

4. Faith Family Village would be sited within a six-foot tall fence surrounding the proposed structures in the northwest portion of the site, west of the Faith Food Bank building. Individual shelters and programmed use areas within the village would be located a minimum of 44 feet from the church property boundaries. The proposal is for eight 100-square foot Pallet shelters that would provide sleeping facilities for up to four family members in each shelter for up to 90 days per family while connecting the families with services to facilitate moving into more permanent housing. The shelters would be placed on a graveled area laid over existing lawn; one of the shelters would be accessible by wheelchair. The request is for a maximum of 32 individuals to reside in the shelters, which are proposed to be in place for an introductory period of one year, with two possible one-year extensions. Two existing structures on site would serve Faith Family Village: a small office building that would be used for private meetings with residents and staff and a food preparation area with a microwave and refrigerator available to shelter residents; and a former daycare classroom would be renovated to include two toilet stalls, two showers, a large sink with vanity, a washer /dryer space, and lockers for each family to store their bathroom supplies. The subject property has existing water, sewer, and electrical service, each of which is available for use by the village. Two additional portable bathroom stalls would be placed within the village, one of which would be accessible for persons with disabilities. When the food bank is open on-site, additional bathroom facilities would be available to shelter residents in that building. Each Pallet shelter would be provided with a parking stall. *Exhibits 8, 9, and 10; Testimony of Roxana Boroujerdi and James Dean*.
5. The Faith Family Village within the church property would have a single-point access with a keyless code at the entrance, and each shelter would have its own code for entry. Each shelter would contain four fold-down beds, two chairs, built-in shelving units in the walls, windows for cross ventilation, underground power, light, heating, cooling, a portable fire extinguisher, and a lock box in which residents can store nonperishable, shelf stable food donated by the food bank. Families cannot cook in the shelters, but they would have access to the food preparation area in the nearby building with controlled access exclusively for residents.² Each Pallet shelter would have a locking entry door, and a spare key would be kept by staff for each unit. Residents would not be allowed to have guests in the village. Individual Pallet shelters are built such that the door can be broken down by emergency personnel if access is needed. The village would be camera-monitored with a proprietary security system so activity within the village can be seen from any smart phone and can be recorded for playback if needed. Motion detector lights would be installed for lighting and security at night. All residents would be required to

² The application materials said that a washer/dryer area would be provided in the restroom building and that vouchers to an off-site laundry would be provided. *Exhibits 1 and 9*. It wasn't clarified in the record whether one or both are true.

be inside the fenced secure area between the hours of 10:00 pm to 6:30 am unless they are working and/or have approval by Staff. *Exhibits 1 and 9; Testimony of James Dean and Roxana Boroujerdi.*

6. The proposed use meets the Unified Development Code use definition of group housing, temporary shelter: “*Group housing, temporary shelter*” means a shelter providing temporary housing accommodations (ninety days or less) that includes a sponsor and managing agency, the primary purpose of which is to provide temporary shelter for people experiencing homelessness in general or for specific populations of the homeless, or temporary shelter for people experiencing domestic violence. In addition to shelters that provide shelter for up to ninety days, temporary shelters may also include temporary building encampments, temporary safe parking areas, temporary outdoor encampments, or vehicle resident safe parking for the homeless, and temporary tiny house encampments. *EMC 19.04.050*. This type of temporary outdoor structure encampment is further regulated by use-specific development standards established in *EMC 19.08.200*. For this land use, the term “temporary” specifically means not affixed to land permanently and not connected to underground utilities. *EMC 19.08.200*.
7. Faith Food Bank would be the managing agency. Fook Bank personnel staffing the Village would include a Project Director and an Operations Manager; one of these staff members would be on site six days per week, three to five hours per day. Faith Food Bank would sign a Memorandum of Understanding retaining the services of Interfaith Family Shelter to provide subject matter expertise and trained staffing to perform the role of Resident Skills Coordinator, who would do the following: onboard new residents; create an action plan with each family of steps to take to achieve the goal of permanent housing; coordinating the care teams supporting resident needs; preparation and submission of resident case management reports; and carry out all corrective action practices under Interfaith supervision. The Resident Skills Manager would meet with each family of once per week and would be on site five days per week, at least four hours per day, and would meet with the Faith Food Bank Project Director at least once per week. *Exhibits 1 and 9; Testimony of Roxana Boroujerdi and James Dean.*
8. Resident referrals to Faith Family Village would be handled by Interfaith’s Resident Skills Coordinator and would come from several different sources, including schools, faith groups, Everett City Police Department’s Community Outreach and Enforcement Team (COET), 211, and Coordinated Entry. The Interfaith Family Shelter intake line would be used to collect information about eligible families. Admission would be prioritized by length of homelessness, medical conditions, special needs, and family makeup. Submitting that homeless children repeat grades and experience bullying at a disproportionate rate, the Applicant indicated that the project’s highest priority is to get families with the most needs housed in the program first and also to serve first families whose most recent zip code is within the Everett City limits. Priority would also be given to ensure that families representing the BIPOC community have access to intake and shelter. The project is intended to serve children 18 years who are accompanied by adults (including siblings over age 18) who can provide proof of legal guardianship of the children; this includes male and/or female adults with dependent minors, or a pregnant

family member. To qualify for admission, the family must be homeless, either living in a car, tent, encampment, or frequently sleeping in different homes on the floor, with no permanent residence. Registered sex offenders and those with criminal history involving violence or crimes against children would not be eligible. The Village would follow the low barrier housing model that seeks to reduce harm to those who may be experiencing mental health issues, substance use disorders, and other behavioral issues that create high barriers to obtaining permanent housing. The admission process would include the following:

- A face-to-face interview with Interfaith Staff to determine eligibility re: homelessness;
- Interfaith would obtain current identification for each adult;
- Parents would be required to sign an agreement to work with Interfaith Resident Skills Coordinator biweekly and follow the code of conduct;
- Interfaith would conduct a background check to determine registered sex offender / criminal history status;
- Interfaith would verify proof of relationship to children; each parent must be blood related to at least one child in the family unit.

Each new resident would have an “orientation” by the Interfaith Resident Skills Coordinator to the family's new unit, community safety expectations, services provided by Faith Food Bank, and would be set up with an appointment for services orientation. During their first formal meeting, residents would be able to outline how they want to partner with services to pursue homeless recovery, including addressing children's school, health, and other needs. Parents would be expected to obtain any required documents or licenses, and to complete applications for benefits for which they may be eligible (including but not limited to SSI, SSDI, Medicare, Food Benefits, etc.). Referrals to chemical dependency treatment and/or mental health services for all family members would be made as appropriate, and residents would be assisted in establishing primary care physician relationships. *Exhibits 1 and 9; James Dean Testimony.*

9. Pursuant to EMC 19.08.200.B(2), temporary encampments may be approved for a period not to exceed four consecutive months, or six months during any calendar year provided that a separation of ninety days between subsequent or established encampments at a particular site is required, and each temporary use permit is required to specify a date by which the use will terminate. The instant proposal requests permission to exceed these maximums by allowing continuous operation of the Pallet shelter village for one year with the possibility of continuing the operation for a maximum of up to three years if funding is available and the program is a success. This proposal requires hearing examiner approval of a modification from standards pursuant to EMC 19.08.200.B(15). *Exhibits 1, 9, and 10; Testimony of Roxana Boroujerdi and James Dean.*
10. Pursuant to EMC 19.08.200.B(3), the use must operate in accordance with an encampment management responsibility plan prepared by the managing agency and sponsor. The Applicant submitted such a plan (Exhibit 9), but Planning Staff noted that it

needs some additional modifications to meet all code requirements and recommended a condition of approval to address these required changes. *Exhibits 1 and 9.*

11. Pursuant to EMC 19.08.200.B(7), sight-obscuring fencing is required around the perimeter of the temporary encampment. As noted in the application materials, there is an existing chain link fence along the north, south, and west boundaries of the church property. Planning Staff submitted that there are areas where landscaping is missing/sparse and does not provide sight obscuring protection to the extent required by code. To address these areas, the Applicant stated they would add privacy slats to the chain link fencing or install a new six-foot tall wood fence to ensure screening meets code. EMC 19.08.200.B(8) requires lighting to be directed downward and not to glare off site. This would be ensured through the permit inspection process prior to commencement of operations. *Exhibits 1 and 9; Dennis Osborn Testimony.*
12. Pursuant to EMC 19.08.0220.B(9), the following three requirements apply to temporary encampment housing uses:
 - a. No children under eighteen are allowed in the temporary encampment. If a child under the age of eighteen attempts to stay at the temporary encampment, the managing agency shall immediately contact Child Protective Services.
 - b. The maximum number of residents within a temporary encampment is one hundred.
 - c. All temporary encampment residents must sign an agreement to abide by the code of conduct and acknowledge that failure to do so shall result in the noncompliant resident's immediate and permanent expulsion from the temporary encampment by the managing agency.

The instant proposal is expressly for the purpose of providing shelter and supportive services to homeless families with children under 18. The Applicant submitted, and Planning Staff agreed, that housing homeless children with their parent(s) would promote family stability. Because children would be on site, security measures would be heightened with the use of coded gates and individual shelters and video camera monitoring. All residents would be required to sign an agreement to abide by the facility's rules and the code of conduct before they arrive. Children's medical and educational needs are proposed to be addressed through on-site service coordination and support. The proposal to allow children under 18 to stay with parent(s) and/or legal guardian(s) on site requires Hearing Examiner approval of a modification from this standard. *Exhibits 1, 9, and 10; Testimony of Roxana Boroujerdi and James Dean.*

13. EMC 19.08.200.B(10) requires a minimum of five parking stalls for the temporary encampment use. Planning Staff noted that places of worship require one off-street parking space per five seats in the main worship area. The Applicant indicated that the church contains twelve pews/benches that can each seat four to five people, or a maximum of 60 seats, which requires 12 parking stalls. There are approximately 40 off-street parking spaces on site, which is more than adequate to meet the use-specific code required five spaces together with the spaces required for church us. Another provision, which differs from the requirement stated in Table 34-1 at EMC 19.34.020, requires one

space per four bedrooms plus one space per every two employees on shift, and a minimum two spaces for temporary shelters. Eight “bedrooms” require two stalls, plus one stall for two staff, resulting in three parking spaces being required under this provision. Under either standard, there is adequate parking on site to serve the proposed use and the church. The Applicant proposes to set aside eight stalls specifically for the Village. Staff noted that dedicated bicycle parking is not required when five or fewer parking spaces are required by a given use; however, there is adequate room for bicycle parking on site. *Exhibits 1, 8, and 9*. The proposed use does not include proposed “safe parking” as contemplated in EMC 19.09.200.B(4).

14. Pursuant to EMC 19.08.200.B(11), the following transit/transportation requirements apply:
 - a. A transportation plan is required which shall include provision for transit services.
 - b. The temporary encampment shall be located within one-half mile of transit service.

An Applicant representative submitted that approximately 60% of homeless families have vehicles, and a corresponding percentage of potential shelter residents are expected to be parking on site. *James Dean Testimony*. Having reviewed the application materials, City Transportation Staff determined that the adjacent street network could accommodate the increase in traffic from eight individual shelters plus staff. Transportation Staff concurred with Planning that the proposed eight off-street parking stalls would be adequate for the use. The City’s Traffic Engineer also determined that the multimodal transportation network in the vicinity is adequate to handle the modest increase in demand the project would generate. Staff noted that Everett Transit serves the area with a transit stop at Madison and Evergreen, approximately three blocks away, and another stop at the intersection of Pecks and Beverly about one-half mile away. Transportation Staff also determined that there are adequate pedestrian facilities in place to connect the village to transit and other services in the vicinity and that paratransit service to the site is available to qualified residents. Finally, there is adequate room on-site for bicycle parking. Staff noted that the City is currently in the process of evaluating the Madison Street bicycle route to determine whether changes are needed to improve its function, which if implemented could improve bicycle access to this site. Public Works Traffic Section Staff determined a formal transportation plan is not warranted because the project is both temporary and limited to a maximum of eight families; however, being excused from the preparation of a formal transportation plan requires Hearing Examiner approval of a modification. *Exhibits 1, 9, and 13; Testimony of Dennis Osborn and Michael Brick*.

15. Temporary group housing facilities are required to comply with a code of conduct, the specific requirements of which are detailed in EMC 19.08.200.B(12) (in the conclusions section of this document) and which include but are not limited to prohibition on drinking and drug, use, trespassing on private property, litter, and noise in the neighborhood. The Applicants affirmatively indicated that no drug or alcohol use would be allowed on site. Planning Staff noted that the submitted management plan does not address all items listed in the provision and a revised code of conduct consistent with these provisions must be

submitted, which Staff recommended be addressed by a condition of approval. EMC 19.08.200.B(13) requires the use to be made available for inspections. At subsection B(14), additional use-specific provisions establish/assign duties to the management agency, addressing such things as compliance with state law and municipal code, appointing a 24/7 point of contact for the City, notification of Everett Police Department (EPD) if someone is denied entry or is exited from the facility due to sex offender status/criminal history, cooperation with Code Enforcement and other City departments, coordination with other service providers, and other items. Regarding maintenance of the units, the Applicant submitted that each unit would be inspected at least every 90 days, or when a family's residency ends, through which inspection the Operations Manager would ensure that each Pallet shelter is thoroughly cleaned, all smoke detectors would be tested for operability, batteries changed, and emergency contact information would be re-posted as necessary. Again, the submitted materials do not fully address these requirements. Planning Staff recommended a condition of approval through which an amended management plan would be submitted and required to obtain Planning Staff approval prior to certificate of occupancy issuance. *Exhibits 1 and 9.*

16. Addressing the temporary use permit criteria at EMC 19.05.068.D, the Applicant submitted that the proposed temporary use is essentially residential in nature and would not be materially detrimental to the public welfare, but rather would be a beneficial public resource providing stable housing and supportive services for families experiencing homelessness. The location of the proposed village is vacant open space on church property, and the extent of improvements is limited to creating a gravel surface on which to locate the 10 small temporary structures. The church property perimeter surrounding the village area either has or would be provided with a six-foot tall sight-obscuring fence. Planning Staff submitted that temporary housing for up to 32 individuals including families with children in the R-2 zone would result in minimal impacts compared to the potential maximum density of permanent development of one unit per 3,750 square feet. Staff noted that the code of conduct would require quiet hours from 9:00 pm to 7:00 am, which would help minimize noise, and that the gravel under the individual shelters would be placed on a lawn, so dust is not expected to be an issue. Both Staff and the Applicant submitted that required compliance with the code of conduct and supervision by the sponsoring agency would minimize any potential impacts. *Exhibit 1, 9, and 10; Testimony of James Dean and Dennis Osborn.*
17. City of Everett review departments submitted detailed comments that would address potential impacts to neighboring properties and compliance with applicable regulations. Public Works comments noted that the following would be required prior to commencement of the use: construction permits, inspections, and approvals; Public Works permits; utility permits and connection fees; plans prepared by a licensed surveyor; implementation of temporary erosion and sedimentation control; reseeding any exposed ground within 30 days of the completion of construction; public streets to be kept clear of dirt and debris, and dust suppression; stormwater management in compliance with code; payment of stormwater fees based on square footage of new impervious surface area, as applicable; payment of transportation mitigation fees if determined to be applicable; installation of a Knox Box for emergency access; prohibition

against open flame and flammable liquids within individual shelters; provision of an approved portable fire extinguisher for each unit; and emptying/inspecting Pallet shelters at least every 90 days. *Exhibit 1; Thad Newport Testimony.*

18. The Applicant and its partner agency undertook a community outreach program prior to application that included multiple neighborhood meetings with notice to property owners within 500 feet of the church, for the purpose of explaining the proposal. Mailings followed by meetings occurred in October 2021, December 2021, and March 2022, and meetings were advertised on Facebook and among the neighborhood group and church congregation as well. Mailings and meetings began in October 2021 informing them of the project and the meeting. The Applicant plans to form a Neighborhood Advisory Committee, which would include a member from Interfaith, one member from Faith Family Village, a City of Everett representative, a member from Faith Lutheran Church, and three community members. The committee would work on issues that arise in the community, with quarterly meetings. Two weeks prior to commencement of operations, the Applicant would mail an introduction letter to owners of property within 500 feet of the church, informing them of the opening date and a contact number for the onsite management staff that would be answered 24/7; the contact number would also be made available to the City and the village residents. *Exhibit 9; Testimony of Roxana Boroujerdi and James Dean.*
19. The City of Everett Community, Planning & Economic Development Department assumed the role of lead agency for conducting the environmental review of this proposal pursuant to the requirements of the State Environmental Policy Act (SEPA). A SEPA determination of non-significance (DNS) was issued July 28, 2022, and the project's environmental checklist and were not challenged prior to hearing. *Exhibits 1, 5, 6, and 6A.*
20. Notice of application, open record virtual public hearing, and SEPA DNS in the instant proposal was issued July 13, 2022, including by mail to all owners of property within 500 feet of the subject site's boundaries, posting near the site, and publication in the Everett Herald. The notice advertised a pre-hearing comment period through July 27, 2022. *Exhibits 1, 2, 3, and 4.*
21. Thirty members of the public submitted written comments prior to hearing. Several nearby neighbors expressed concern regarding the following: safety; the potential for increased crime; drug use; clutter; RVs on site; decrease in property values; concern that a 100 square foot shelter could house up to four individuals; whether there would be safe evacuation procedures in place; how the families would be managed; covid protocols; and whether adequate personal hygiene amenities were proposed. Neighbors submitted the opinion that the proposal does not meet the standards in EMC 19.08.200 and argued it would impact the residential character of the neighborhood. Some contended that alternative housing, such as low occupancy hotels/apartments or use of an abandoned Sears building, would be better suited for shelter for families. They requested a seven-foot privacy fence, landscaping, and relocation of the play equipment on site; they also requested to be able to review quarterly status reports. *Exhibits 12a, 12d, 12f, 12n, 12o,*

12p, 12s, and 12dd; Testimony of Juanita Clifford and Cynthia Derksen. Over 20 members submitted comments supporting the proposal. These members included several clergy, community action group volunteer members, and neighbors. Exhibits 12 and 14; Holly Sullivan Testimony.

22. Having heard all testimony and considered all comment on the application, Planning Staff recommended approval of the Review II temporary shelter use and the associated requests for modification from use-specific standards subject to the conditions recommended in the staff report. *Dennis Osborn Testimony; Exhibit 1.* Applicant representatives waived objection to the recommended conditions. *Testimony of James Dean and Roxana Boroujerdi.*

CONCLUSIONS

Jurisdiction:

Pursuant to EMC 15.02.080, the Everett Hearing Examiner has jurisdictional authority to hear and decide requests for REV III use permits. Pursuant to 19.08.200.B(15)(b), requests for modifications to temporary encampment use standards are reviewed the REV III process by the City's hearing examiner.

Criteria and Standards for Review:

Pursuant to EMC 19.05.068.D approval of a temporary use permit is subject to compliance with the following general evaluation criteria:

1. The proposed temporary use will not be materially detrimental to the public welfare, or injurious to the property or improvements in the immediate vicinity.
2. The proposed temporary use is compatible in terms of location, access, traffic, noise, nuisance, dust control and hours of operation with existing land uses in the immediate vicinity.
3. The proposed temporary use is not otherwise allowable in the zone in which it is proposed.

Pursuant to EMC 15.02.140.D, the following additional requirements must be satisfied in reviewing applications requesting modification of standards for temporary outdoor encampment.

1. The applicant may apply for a temporary use permit that applies standards that differ from those in Section 19.08.200(B) only where, in addition to satisfying the requirements in Section 19.05.068, the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe temporary outdoor encampment, safe parking areas or tiny home communities under the specific circumstances of the application. Such requests shall be reviewed by the city's hearing examiner at a public hearing. The hearing examiner shall make a decision regarding the issuance of a temporary use permit and modification of standards. The notice of the time and place of the public hearing shall be provided to the applicant and to any person who, prior to the rendering of the decision on the permit, made a written request for notice or submitted substantial comments on the application for the permit. The public hearing procedures shall be as specified in Section 15.02.200.

2. The hearing examiner shall issue findings within ten business days of the conclusion of the hearing. Within three business days of rendering the written decision, copies shall be mailed to the applicant and all who have requested notice by signing a register provided at the hearing. The hearing examiner's decision shall constitute the city's final decision. Any appeal of the city's final decision may only be made to Snohomish County superior court in accordance with Chapter 36.70 RCW.
3. In considering whether the modification should be granted, the city shall first consider the effects on the health and safety of residents and the community. The burden of proof shall be on applicant.

Applicable Use-Specific Criteria/Standards:

Pursuant to EMC 19.08.200.B, the following use-specific standards apply to temporary encampment uses.

1. *Applicability.* These standards apply to any temporary outdoor encampment, safe parking area or tiny home community, hereinafter referred to as "temporary encampments," meeting the frequency and duration standard in subsection (B)(2) of this section.
2. *Frequency and Duration.* Temporary outdoor encampments may be approved for a period not to exceed four consecutive months or six months during any calendar year; provided however, that a separation of ninety days between subsequent or established outdoor encampments at a particular site is required. The temporary use permit shall specify a date by which the use shall be terminated.
3. *Encampment Management Responsibility Plan.* Prior to or upon filing their land use application, the managing agency and sponsor shall prepare an encampment management responsibility plan, which shall be included with their permit application.
4. *Safe Parking for Religious Organization.* Pursuant to RCW 35.21.915, a regional organization may host safe parking efforts at its on-site parking lot without limitations on any other congregationally sponsored uses and the parking available to support such uses during the hosting, except for limitations as follows:
 - a. No less than one space may be devoted to safe parking per ten on-site parking spaces;
 - b. Restroom access must be provided either within the buildings on the property or through use of portable facilities, with the provision for proper disposal of waste if recreational vehicles are hosted; and
 - c. Religious organizations providing spaces for safe parking must continue to abide by any existing on-site parking minimum requirement so that the provision of safe parking spaces does not reduce the total number of available parking spaces below the minimum number of spaces required by Chapter 19.34 EMC.
- ...
6. *Setbacks.*
 - a. The temporary encampment shall be located a minimum of forty feet from the property line of abutting properties containing residential uses; any tent, canopy or membrane structure, as defined in the International Fire Code, must be located at least

- twenty feet away from any building, parked vehicle, internal combustion engines or other tent, canopy or membrane structure.
- b. The temporary encampment shall be located a minimum of forty feet from the property line of abutting properties in commercial or industrial zones, unless the planning director determines that there is sufficient vegetation, topographic variation, or other site conditions that would justify a lesser setback.
7. *Fencing.* Sight-obscuring fencing is required around the perimeter of the temporary encampment unless the planning director determines that there is sufficient vegetation, topographic variation, or other site condition such that fencing would not be needed.
 8. *Lighting.* Exterior lighting must be directed downward and contained within the temporary encampment.
 9. *Residents.*
 - a. No children under eighteen are allowed in the temporary encampment. If a child under the age of eighteen attempts to stay at the temporary encampment, the managing agency shall immediately contact Child Protective Services.
 - b. The maximum number of residents within a temporary encampment is one hundred.
 - c. All temporary encampment residents must sign an agreement to abide by the code of conduct and acknowledge that failure to do so shall result in the noncompliant resident's immediate and permanent expulsion from the temporary encampment by the managing agency.
 10. *Off-street Parking.* Parking for five vehicles shall be provided.
 11. *Transit Services.*
 - a. A transportation plan is required which shall include provision for transit services.
 - b. The temporary encampment shall be located within one-half mile of transit service.
 12. *Code of Conduct.* A code of conduct is required to be enforced by the managing agency. The code shall contain the following as a minimum:
 - a. No drugs or alcohol are permitted.
 - b. No weapons are permitted.
 - c. No violence is permitted.
 - d. No open flames are permitted.
 - e. No trespassing into private property in the host neighborhood is permitted.
 - f. No loitering in the host neighborhood is permitted.
 - g. Disturbing neighbors is not permitted.
 - h. No verbal abuse, intimidating remarks, yelling or degrading remarks against member(s) of the host or host neighborhood are permitted.
 - i. No verbal abuse, intimidating remarks, yelling or degrading remarks between members of the temporary encampment or managing agency are permitted.

- j. No littering on the encampment site or in the host neighborhood is permitted; a weekly trash patrol in the host neighborhood shall be required.
- k. Quiet hours shall be observed daily from nine p.m. to seven a.m.

13. *Inspections.*

- a. The managing agency shall permit inspections of the temporary encampment by the Snohomish health district without prior notice and implement all directives of the health district within the time period specified by the health district.
- b. The managing agency shall permit access, without prior notice, to the temporary encampment site at all times for the Everett police department and Snohomish County sheriff.
- c. If the city fire marshal finds that fire-related concerns associated with an indoor overnight shelter pose an imminent danger to persons within the shelter, the city may take action to limit the availability to host indoor overnight shelter for religious organizations or any other entity. In addition, the city may require an organization to enter into a memorandum of understanding for fire safety that includes inspections, an outline for appropriate emergency procedures, a determination of the most viable means to evacuate occupants from inside a site with appropriate illuminated exit signage, panic bar exit doors, and a completed fire water agreement indicating: (1) posted safe means of egress; (2) operable smoke detectors, carbon monoxide detectors as necessary, and fire extinguishers; (3) a plan for monitors who spend the night awake and are familiar with emergency protocols, who have suitable communication devices, and who know how to contact the fire department.

14. *Managing Agency Responsibilities.*

- a. The managing agency and temporary encampment residents shall ensure compliance with Washington State statutes and the Everett Municipal Code concerning, but not limited to, drinking water connections, solid waste disposal, human waste, electrical systems, and fire-resistant materials.
- b. The managing agency shall appoint a member to serve as a point of contact for the Everett police department. At least one member must be on duty at all times. The names of the on-duty members shall be posted daily.
- c. The managing agency shall take all reasonable and legal steps to obtain verifiable identification from prospective encampment residents and use the identification to obtain sex offender and warrant checks from the appropriate agency. The managing agency will not be conducting the sex offender and warrant checks but will submit to the appropriate agency the verified identification information obtained through such steps. All of the Everett police department's requirements with respect to identified sex offenders or prospective residents with warrants shall be met.
- d. The managing agency shall immediately contact the Everett police department if someone is rejected or ejected from the temporary encampment where the reason for rejection or ejection is an active warrant or a match on a sex offender check, or if, in the opinion of the on-duty member or on-duty security staff, the rejected/ejected person is a potential threat to the community.

- e. The managing agency shall permit inspections of the temporary encampment by the city's code compliance officers, building inspector, permit services manager, fire marshal or their designee without prior notice. The managing agency shall implement all directives resulting from such inspections within forty-eight hours of notice.
 - f. Consistent with the Everett building code, the managing agency may not allow in the encampment, without first obtaining a building permit, any structure, other than tents, canopies or other membrane structures, that is greater than one hundred twenty square feet or provides shelter for more than nine persons.
 - g. The managing agency and temporary encampment residents shall cooperate with other providers of shelters and services for homeless persons within the city and shall make inquiry with these providers regarding the availability of existing resources.
15. *Additional Requirements for Applications Requesting Modification of Standards.*
- a. The applicant may request in their application for standards that differ from those in this section only where the applicant submits a description of the standard to be modified and demonstrates how the modification would result in a safe temporary encampment under the specific circumstances of the application.
 - b. Requests shall be reviewed by the city's hearing examiner at a public hearing. The hearing examiner shall make a decision regarding the issuance of a temporary use permit and modification of standards. The notice of the time and place of the public hearing shall be provided to the applicant and to any person who, prior to the rendering of the decision on the permit, made a written request for notice or submitted substantial comments on the application for the permit. The public hearing procedures shall be as specified in EMC Title 15.
 - c. In considering whether the modification should be granted, the city shall first consider the effects on the health and safety of residents and the community. The burden of proof shall be on applicant.

Conclusions Based on Findings:

Temporary Use Criteria per EMC 19.05.068.C

1. Based on the record submitted, approval of the proposed temporary use would not be materially detrimental to the public welfare, or injurious to the property or improvements in the immediate vicinity. The project would support eight families experiencing homelessness at a time in a safe, secure program designed around connecting them with all available services available to help them transition into more permanent housing. The proposal was reviewed by City Police and Fire Staff, who indicated support subject to conditions intended to ensure compliance with applicable environmental and life safety concerns, as well as to ensure compliance with all City regulations. Approval would reduce health and safety impacts to the unhoused by offering a safer place to stay while they connect with necessary services to support their transition away from homelessness. As a residential use with ample security features and a 24/7 point of contact for any issues that arise, the proposed temporary use would not result in detriment to the community. If more impacts than are anticipated arise and cannot be mitigated, the

request for renewal after one year would be denied by City Planning Staff. *Findings 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 14, 15, 16, 17, 19, 21, and 22.*

2. The proposed site is well situated for the project. As a family-oriented temporary residential use proposed in a large open space on a church property, adjacent to a food bank and near to transit lines, and as conditioned to require quiet hours, prohibit guests in the facility, and to transition families out after a maximum 90-day stay (among other limitations), the proposed use would fit in with the residential uses in the surrounding neighborhood. Experienced management agency staff would be on site to connect families with supportive services. The site connects to the public road network on two streets capable of accommodating the modest increase in traffic that would result. Ample off-street parking is available. The temporary shelters would be placed on a lawn and no dust is anticipated. Families would be required to agree to and abide by a code of conduct that would require quiet hours. A locking enclosure would protect residents within the village area, and video surveillance would be available to management agency staff, residents, and any other appropriate entities to promote safety for residents. Guests would not be allowed, and residents would only be allowed to exit/enter the site after curfew with advance approval and based on work or similar requirements. *Findings 2, 3, 4, 7, 8, 11, 15, 17, 19, 21, and 22.*
3. Because of the requested modifications to temporary shelter use-specific standards, the project exceeds the scope of temporary shelters allowed in the zone and requires REV III review. *Findings 3, 8, 9, 12, and 14.*

Criteria for Approval of Modifications to Use-Specific Standards per EMC 15.02.140.D:

4. Notice of the time and place of the August 18, 2022 virtual public hearing was duly provided consistent with the requirements of EMC 15.02.200. In addition, there was extensive pre-hearing outreach to the community. *Findings 18 and 20.*
5. Based on the record submitted, the Applicant has succeeded in meeting its burden of showing that the proposal would have overall positive effects on the health and safety of residents and the community. In providing safe, secure shelter for families with children younger than 18 years of age who otherwise have to housing, in a location with restrooms, food and preparation facilities, laundry, and other supportive services available on site, the project would significantly improve the safety and most likely positively affect the personal health of individuals invited to reside in the Pallet shelters. *Findings 6, 7, 8, 9, 10, 11, 12, 17, 19, 21, and 22.*
6. The requested three modifications to temporary use-specific standards are approved. Allowing a longer duration and frequency than 90 days without requiring intervening placement at other locations makes the fullest use of the opportunity presented by the Church and Faith Food Bank and their investment in site improvements and operational capacity. A duration of up to one year is granted, with two possible one-year extensions pending Director as stated in the conditions below. Based on the express aim of serving unhoused families with school aged children, and on the experience of the partner agency in serving families in a congregate setting, the request to allow minors under 18

accompanied by at least one parent and/or legal guardian is approved. The security measures proposed, and the code of conduct/management plan required to be amended through conditions of approval, are expected to be adequate to ensure the safety of children served on-site. The presence of accompanied children would not increase potential impacts to surrounding residential properties beyond those expected from a temporary housing use for adults only. The maximum three-year duration of the use, the minimal infrastructure requirements, the limit of eight families, the adequacy of sidewalks, streets, and bike lanes in the vicinity, and the ample on-site parking make modification from the requirement to develop a transportation management plan appropriate. No transportation management plan shall be required for this low traffic-impact project. Should the City receive complaints about traffic or parking impacts, the Director can administratively require the provision of a transportation management plan and/or impose additional requirements or restrictions on the use at annual renewal, or can decline to renew the temporary use. *Findings 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 21, and 22.*

7. As conditioned, all other use-specific standards would be satisfied. *Findings 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 21, and 22.*

DECISIONS

Based on the foregoing findings and conclusions, the requested Review III and Review II temporary shelter use permit with modifications to use-specific standards for a religious organization to develop and operate up to eight Pallet shelters and two portable bathroom facilities with showers at 6708 Cady Road is **GRANTED** subject to the following conditions applicable to Applicant and/or agents.

1. Provide six-foot tall, sight-obscuring wood fencing or evergreen trees and shrubs or a combination where vegetation is minimal to screen the shelters along the north, west, and south lot lines prior to occupancy of the shelters. A fence and/or landscape plan must be submitted to the Planning Department for approval prior to installation.
2. Provide a revised Management Plan that addresses all of the requirements above.
3. Provide an irrevocable, signed and notarized statement granting the City permission to summarily abate the temporary use and all physical evidence of that use if it is not removed by the Applicant within the period specified as part of the permit, and agreeing to reimburse the City for any expenses incurred by the City in abating the temporary use.
4. The maximum length of operation of this facility is limited to one year provided that the Planning Director may authorize an extension of one year at a time, not to exceed a maximum of three years.

Decided September 12, 2022.

Sharon A. Rice

City of Everett Hearing Examiner

“Appeals of Hearing Examiner Decisions. Pursuant to City of Everett Municipal Code Title 15.24.320.C, the decision of the examiner on Review Process IIIA applications, including SEPA determinations, shall be final. Appeals of the examiner’s decisions shall be to Snohomish County superior court in accordance with RCW Chapter 36.70C and filed within twenty-one days of issuance of the decision; provided however, that appeals of the examiner’s decision on shoreline substantial development permits or revisions shall be to the Shorelines Hearings Board as set forth in RCW 90.58.180 and Chapter 461-08 WAC, the rules of practice and procedure of the Shorelines Hearings Board.”