

WHATCOM COUNTY HEARING EXAMINER

RE: Zoning Conditional Use Permit)	CUP2012-0015
Application for)	
)	FINDINGS OF FACT,
Girl Scouts of Western Washington)	CONCLUSIONS OF LAW,
)	AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The Applicant is requesting a Zoning Conditional Use Permit to authorize a year round Girl Scout Camp on an approximately 100 acre parcel located at 9010 Heady Road. The proposal requests overnight camping with planned recreational and educational activities for up to 30 participants during weekends throughout the year; a one week long (seven day) community camp event with approximately 70 attendees; a weekend regional camp event that is proposed to be held every other year with up to 300 participants; and occasional day use for picnicking, hiking and nature exploration. The proposal also includes improved access, parking areas, developed tent sites, walking trails, picnic tables and benches, and fire rings. The site will be served with electricity, telephone service, and portable toilets.

Decision: The requested Zoning Conditional Use Permit is approved, subject to conditions.

FINDINGS OF FACT

INTRODUCTION

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

I.

Applicant: Girl Scouts of Western Washington

Property Address: 9010 Heady Road
Sumas, Washington 98295

Legal Description: The Southeast Quarter of the Southeast Quarter, the Southwest Quarter of the Southeast Quarter, the South 10 acres of the Northwest Quarter of the Southeast Quarter, and the South 10 acres of the Northeast Quarter of the Southeast Quarter, Section 10, Township 40 North, Range 5 East, W.M., less roads. Situate in Whatcom County, WA.

Assessor's Parcel Number: 400510 397080 0000

Zoning: Rural District (R10A)

Comprehensive Plan: Rural

Subarea: Foothills Subarea

Total Parcel Acreage: 99.25 acres

Roads: Public – County Road

Water Supply: Bottled Water

Sewage Disposal: Portable Toilets

Fire Protection: Whatcom County Fire District No. 14

Law Enforcement: Whatcom County Sheriff's Office

Public Schools: Whatcom County School District No. 507 (Mt. Baker)

Topography: Parcel slopes inward from all directions toward a pond on the site.

Vegetation: A primarily vegetated parcel with a mixed conifer forest standing at parcel perimeter surrounding grassy meadows that encircle the on-site pond.

Adjacent Land Uses:

North: R5A Commercial Forestry Uses

East: RF Commercial Forestry Uses

South: RF Forest – Non-Commercial

West: RF Forestry – Single Family

Easements: None

Authorizing Codes, Policies, Plans, and Programs

Revised Code of Washington (RCW) Chapter 36.70

Revised Code of Washington (RCW) Chapter 36.70A

Revised Code of Washington (RCW) Chapter 58.17

Whatcom County Comprehensive Plan

Whatcom County Code, Title 2, Chapter 2.33 – Permit Review Procedures

Whatcom County Code, Title 20 – Official Whatcom County Zoning Ordinance

Whatcom County Code, Title 14 – Use of Natural Resources

Whatcom County Code Chapter 12.08 – Development Standards

Whatcom County Code Chapter 15 – Building Code/Fire Code
State Environmental Policy Act (SEPA) – Washington Administrative Code Chapter 197-11, Whatcom
County Environmental Policy Administration Chapter 16.08
Whatcom County Code Chapter 16.16 – Critical Areas
Whatcom County Code, Title 17 – Flood Damage Prevention Code
Whatcom County Code, Title 23 – Shoreline Management Program
Whatcom County Code Title 24 – Health Regulations

Legal Notices: Posted – December 6, 2012
 Mailed – December 3, 2012
 Published – December 6, 2012

Hearing Date: December 19, 2012

Parties of Record:

Pete Iversen
33300 NE 32nd St.
Carnation, WA 98014

Erin Osborn
Planning and Development Services

Mary White
Division of Engineering

Exhibits:

- 1 Land Use Application with attachments
 - 1-1 Agent Authorization
 - 1-2 Fee Responsibility
 - 1-3 Letter, September 21, 2012 re: Agent Authorization
 - 1-4 Application Narrative
 - 1-5 Water and Sewage Disposal Plan
 - 1-6 Neighboring Property Address Labels
 - 1-7 Customer Receipt
 - 1-8 Determination of Completeness, October 10, 2012
 - 1-9 Revocable Encroachment Permit Application
 - 1-10 Preliminary Stormwater Proposal
 - 1-11 Preliminary Traffic and Concurrency Info
 - 1-12 Land Disturbance and Clearing Application Info
 - 1-13 Statutory Warranty Deed
 - 1-14 Hearing Examiner Checklist #1, sent October 15, 2012
 - 1-15 Email correspondence re: Scheduling and posting

- 2 Revised Staff Report, dated December 19, 2012
- 3 SEPA Determination and Checklist
- 4 Vicinity Map
- 5 Zoning Map
- 6 Aerial Maps
- 7 Jr. Skills Weekend Leaders Packet
- 8 Campground and Tent Site Diagram
- 9 Large Site Plan Diagram
- 10 Certificate of Mailing Notice of Public Hearing, December 3, 2012
- 11 Legal Notice of Public Hearing, December 6, 2012
- 12 Certificate of Posting, Notice of Public Hearing, December 6, 2012
- 13 Certificate of Mailing, Notice of Application, October 22, 2012
- 14 Memorandum, Dec 17, 2012 from Mary White re: traffic concurrency exemption and revised Conditions of Approval
- 15 Memorandum, Dec 19, 2012 from Erin Osborn re: Addendum to Dec 17, 2012 Staff Report
- 16 Attachment A to Exhibit 15 re: Alternative Language re: TRC Discussion on Landscaping & Condition IX (A) 14
- 17 Bellingham Herald Tear-Sheet, October 22, 2012, Notice of Application
- 18 Notice of Application & Optional DNS Distribution List, PDS Comment Form Letter
- 19 PDS Form Memo to Tech Committee, October 22, 2012
- 20 Tech Committee Comments, including
Mary White, Engineering, October 31, 2012
Will Anderson, Fire Marshal, October 22, 2012
Lyn Morgan-Hill, Critical Areas, November 6, 2012
Charles Sullivan, Environmental Health, November 7, 2012

Curtis Metz, Plans Examiner, October 24, 2012

- 21 Site Photos
- 22 SEPA DNS, November 9, 2012, with attached Checklist
- 23 Comment Letters from Judy Kinna and Bill and Teresa Hansen

II.

The Land Use Services Division of Whatcom County Planning and Development Services recommended approval of the requested Zoning Conditional Use Permit, subject to conditions. The Findings of Fact and Conclusions of Law of the Technical Committee are set forth in a Revised Staff Report, dated December 19, 2012, Exhibit #2 in the Hearing Examiner's file, and are incorporated herein by this reference.

The Applicant indicated there were no factual inaccuracies in the Staff Report. The Applicant and Staff agreed to revised changes in the Staff Report, including modifying Condition No. 14, in Staff's Recommended Conditions of Approval. The Hearing Examiner concurs with the revisions, modifying Condition No. 14, and adopts the Revised Staff Report as though full set forth herein. There was no public comment on this matter at the public hearing.

III.

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

CONCLUSIONS OF LAW

I.

The proposed construction of the Girl Scouts of Western Washington Sumas Camp Site can be approved if it is consistent with the Zoning Conditional Use Criteria of WCC 20.84.220 (1 through 9). Subject to the Conditions of Approval attached to the granting of this permit, the proposal is consistent with the Conditional Use Criteria. A Zoning Conditional Use Permit should be granted, subject to conditions.

II.

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

DECISION

A Zoning Conditional Use Permit is hereby granted to the Girl Scouts of Western Washington for the proposed construction of "Sumas Camp Site," a tent-camping campground to be located on Assessor's Parcel No. 400510 397080, 9010 Heady Road, Sumas, Washington, subject to the following conditions:

Planning Division

1. The use and location on the site shall not be modified or changed in any way without further approval of the Whatcom County Hearing Examiner.
2. Pursuant to WCC 20.84.210, Conditional Use Permits shall be nontransferable unless said transfer is further approved by the Hearing Examiner.
3. A maximum of fifteen (15) weekend overnight camp events are permitted per year, not to exceed 30 participants, not including associated camp personnel.
4. One (1) Mix-It-Up regional overnight camp event may be held every other year, not to exceed 300 girl scouts, not including camp support personnel.
5. A maximum of one (1) week-long Community Camp Event (featuring group overnight camping) is permitted per year, not to exceed 70 participants, not including associated camp personnel.
6. In addition to overnight camping, occasional day use is also permitted for Girl Scout picnicking, hiking, nature exploration, and other planned recreational activities during daylight hours, throughout the year.
7. Approved Hours for Girl Scout Camp Events are:
24 hours per day during scheduled overnight camping events. Day camp use shall be limited to daylight hours. Routine grounds and equipment maintenance, or camp preparations may be conducted at any time of day throughout the year as required.
8. Pursuant to WCC 20.80.500, the Applicant shall establish adequate parking and shall submit an approved parking plan prior to the first camp event held. A minimum of 70 regular parking spaces shall be provided, and additional parking shall be installed in accordance with federal and state regulations for ADA accessibility, as required. In the event there is a conflict between the state and the federal regulation(s), the state regulation(s) shall apply. The approved parking plan shall identify the general location of all parking spaces, and the direction of traffic flow on the site. This Parking Plan shall be prepared in conjunction with Public Works – Engineering Services and Fire Marshal Office requirements found in Section IX (A&D) (respectively) of this report to ensure accessibility for emergency vehicles.
9. The Applicant shall install a solar powered motion activated light at a point near the emergency telephone which is close to the parking area, for purposes of safety; such lighting should be set on the least sensitive setting to prevent unintentional illumination.
10. Parked vehicles shall be situated on the lot to prevent sun from reflecting glare visible to neighboring properties.

11. At such time that permanent facilities for containing trash or garbage are required, they may be approved, subject to conformance with WCC 20.80.355 - Trash and storage areas – Screening and placement.
12. All sound or noise shall comply with Washington Administrative Code (WAC) Maximum Environmental Noise Levels, WAC 173-60-040 for Class A EDNA - Residential Receiving Properties.
13. One non-illuminated sign, visible from the road and not exceeding 64 square feet is permitted. A building permit will be required prior to installation of a sign.
14. Except as required for dedication of rights-of-way, as required by Whatcom County Public Works, Division of Engineering, (Condition No. 3), the existing forest that is located along the east, west, and southern property boundaries of the subject parcel shall be maintained as measured 100 feet from any point along said east west and southern property boundaries toward the middle of the subject parcel, so as to act as a buffer between adjacent uses. In addition, within five years after conditional use permit approval, the Applicant shall plant a 1,380 foot row of 300 conifers, approximately 12 feet apart in a staggered pattern within a 35-40 feet swath along the northern property line. More specifically, these new trees shall be planted in an area on the northern property line that currently lacks vegetation other than grass or shrubs as shown on the site plan of record, and aerial photographs of record. A deed restriction in the form of a Covenant and Agreement shall be granted to Whatcom County for the duration of conditional use permit approval that pertains to preservation of the existing and newly planted forest buffers, as discussed above. Said Covenant & Agreement shall be made on forms prepared by Whatcom County, and shall include an attached site plan depicting the extent of the protected forest; said Covenant & Agreement shall then be recorded by the Applicant on title of the subject property at the Whatcom County Auditor's office within two years of the date of conditional use permit approval.
15. Pursuant to WCC, Title 14, the owners of the property upon which this conditional use permit approval is granted shall sign a statement of acknowledgment containing a disclosure that pertains to the use of natural resources in Whatcom County. This disclosure shall be made on forms provided by Whatcom County, which shall then be recorded on title of the subject properties in the Whatcom County Auditor's office.

Public Works – Division of Engineering

1. All development shall comply with Whatcom County Development Standards (WCDS).
2. An approved turnaround is required at the site in addition to the parking area.
3. Heady Road Rights-of- Way is currently 40 feet wide. Right-of-way dedication of an additional 10 feet wide is required for a distance of 20 feet in length from the northern

property line. If the site is further developed, an additional 10' width of rights-of-way will be required along the property line.

4. A revocable encroachment permit will be required for any work within the Heady Road rights-of-way.

Whatcom County PDS – Natural Resources – Environmental Permitting

1. Land disturbing activities in excess of 50 cubic yards will require a Land Disturbance Permit.

Whatcom County PDS – Building Services – Chief Plans Examiner

1. No building permit is required until permanent structures are proposed.
2. The proposal shall meet the barrier-free, handicap accessible requirements of the International Building Code, Chapters 10 & 11; IBC Appendix E; ICC/ANSI A117.1-03; (or current adopted editions at the time of application) applicable sections of the Washington State Amendments, per WAC 51-50.
3. Accessibility design details shall be indicated on the plan drawings and submitted with the building permit.

Whatcom County PDS – Fire Marshal's Office

The Applicant shall comply with the following conditions of the Fire Marshal unless modified by the Fire Marshal's office, or appealed to the appropriate agency:

1. Any tent over 400 sq. feet will require a separate fire permit from the Fire Marshal's Office.
2. Any tent used for cooking shall be at least 20 feet from any other tents.
3. Access road shall be within 150 feet of main camping site to allow Fire Department access in an emergency.
4. Fire pits shall be no larger than 3 feet in diameter, constructed with at least 16 inch high sidewalls made from rocks or concrete blocks.
5. Fire pits shall be 50 feet from all tents.
6. Fire inspection is required prior to occupancy.

Whatcom County Environmental Health

Sewage: The applicant has proposed to use portable toilets. No septic permit is required.

Water: If water is proposed to be provided on site, then public water is required. The applicant is not proposing to provide water.

Camp: The applicant may be required to have a camp permit from Whatcom County Health Department (WCHD). Contact Laurette Rasmussen at 360-676-6724 ext. 50848.

The Applicant shall complete construction or, if no construction is contemplated as a part of this permit, shall demonstrate compliance with all of the conditions of this permit within 24 (twenty-four) months of the date of the issuance of this decision. Failure to complete construction or demonstrate compliance shall result in the expiration of this permit. Substantial progress toward completion may satisfy the terms of this condition if approved by Whatcom County Planning & Development Services and the Hearing Examiner. The applicant or permit holder may apply for an extension for a term of up to one year upon a showing that substantial progress has been made toward completion or compliance. An extension shall be granted if the Hearing Examiner finds that the applicant or permit holder will suffer a substantial hardship if the extension is denied. The Hearing Examiner may grant an extension for any other good cause shown, in his discretion, but extraordinary circumstances must be shown to obtain an extension of more than one year. The Hearing Examiner shall obtain the comments of Whatcom County Planning & Development Services before granting any extension.

NOTICE

This approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for its revocation. Complaints regarding a violation of the conditions of this permit should be filed with Whatcom County Planning and Development Services. The Hearing Examiner may not take any action to revoke this approval without further public hearing.

Violations of this title shall constitute Class I civil infractions pursuant to RCW 7.80.120. The maximum penalty and the default amount for such violations shall be consistent with Chapter 7.80.RCW.

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

This action of the Hearing Examiner is final. The following review procedure is available from this decision and may be taken by the applicant, any party of record, or any County department.

Appeal to County Council. Within ten business days of the date of the decision a written

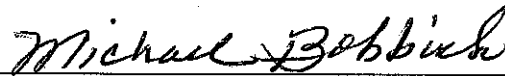
notice of appeal may be filed with, and all required filing fees paid to, the Whatcom County Council, Courthouse - 1st Floor, 311 Grand Avenue, Bellingham, WA 98225. The appeal notice must state either:

- 1) The specific error of law which is alleged, or
- 2) How the decision is clearly erroneous on the entire record.

More detailed information about appeal procedures is contained in the Official Zoning Ordinance at Section 20.92.600-.830. A copy of this document is available for review at the County Council Office.

After an appeal has been filed and the Council office has received the hearing record and transcript of the public hearing, the parties will be notified of the time and date to file written arguments.

DATED this 4th day of January 2013.



Michael Bobbink, Hearing Examiner