

Douglas County Hearing Examiner

Andrew L. Kottkamp, Hearing Examiner

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
Bauers Landing Water Tank)	DECISION AND
CUP-10-01)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on April 15, 2010, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. The applicant is Bauers Landing Lodge Association, 5728 140th St SW, Edmonds WA.
2. General Description: An application for a Conditional Use Permit for the installation of a new 139,000 gallon domestic water system tank.
3. The property is located on the south side of Weimer Rd. The property is further described as being located within Section 15, Township 26 N., Range 21 East, W.M., in Douglas County, Washington. The Douglas County Assessor Number for the subject property is 45600700000.
4. The Comprehensive Plan Designation is Rural Recreation.
5. The subject property is located in the R-REC zoning district.
6. Comments from reviewing agencies have been considered and addressed where appropriate.
7. Douglas County Transportation and Land Services issued a Determination of Non-significance on March 10, 2010 in accordance with WAC 197-11-355.

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8. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
9. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
10. Chelan PUD has indicated that a 115 kV Transmission line is located on the property and may be impacted by the construction of the new tank.
11. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
12. This Application was found to be Technically Complete as required by law.
13. The entire Planning Staff file was admitted into the record at the public hearing.
14. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
15. Public hearing after due legal notice was held on April 15, 2010. Appearing and testifying on behalf of the applicant was Thom Kutrich. Mr. Kutrich testified that he was an agent authorized to appear and speak on behalf of the applicant. Mr. Kutrich testified that all of the proposed conditions of approval were acceptable to the applicant. He did request that the conditions requiring the landscaped plan and weed control be allowed to be combined into the same document.
16. Staff did not object with combining these two reports in the same document.
17. No member of the public testified at the hearing.
18. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
19. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
20. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
21. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.

22. The location, size, and height of buildings, structures, walls and fences, and screening vegetation for the proposed use will not unreasonably interfere with allowable development or use of neighboring properties.
23. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
24. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified.
25. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
3. As conditioned, the development meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan.
4. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
5. Public use and interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 “Zoning” and Title 19 “Environment” of the Douglas County Code.
7. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
8. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
9. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.

10. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Douglas County Code or the Comprehensive Plan.
11. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
12. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Application CUP-10-01, Bauers Landing Water Tank, is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials of file dated February 1, 2010 except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
4. Prior to issuance of the building permit for the tank, a landscaping plan meeting the requirements of DCC 20.40 must be approved by the County.
5. A site weed control plan shall be submitted with the building permit application.
6. The landscaping plan and the site weed control plan may be submitted in the same document.
7. Concurrent with the building permit application submittal, the applicant will submit documentation from the Chelan County PUD that the tank location, elevation and construction meets the National Electrical Safety Code requirements in relation to the PUD's 115kV Transmission line.

8. All grading and excavation shall conform to the recently adopted “Grading and Excavation code, Ordinance TLS 09-01-04B”.
9. All new or revised driveways or accesses onto a County Road (including temporary or construction accesses) require an approved access permit as per the procedures in DCC 12.24, *Approaches to County Roads*.
10. The applicant shall be responsible for preventing mud, dirt and debris from leaving the site, including stormwater runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties.
11. Erosion control measures shall be designed in accordance with the Stormwater Management Manual for Eastern Washington (SWMMEW). Best Management Practices shall be employed to prevent runoff from flowing over the site slopes. Disturbed areas shall be re-vegetated and maintained throughout construction. Final grading shall incorporate permanent erosion control measures which routes stormwater runoff away from site slopes and directs the collected water to appropriate discharge locations.
12. Individual/common plan of development for this proposal exceeds 1 acre of disturbed ground. This meets the threshold used by the Washington State Department of Ecology in administering their General Permit to Discharge Storm Water Associated with Construction Activity. If required the permit shall be obtained prior to beginning ground-breaking activities.
13. Appropriate measures to prevent sediment from leaving the site shall be maintained until such time as all on-site soils are stabilized. Prior to any on-site grading taking place, a temporary erosion/sedimentation control plan (SWPPP – Stormwater Pollution Prevention Plan), showing the location and control measures intended to minimize the effects of erosion and siltation due to construction operations shall be submitted and accepted by the County. This plan shall be maintained on-site at all times and modified as necessary to address erosion issues as they arise. Additional erosion controls shall be implemented as necessary to prevent sediment from leaving the site.
14. One access point for construction activities shall be approved. A Stormwater Pollution Prevention Plan (SWPPP) shall be submitted and accepted prior to on-site grading taking place. A stabilized construction access for the site shall be shown on the Stormwater Pollution Prevention Plan (SWPPP).

Dated this 16th day of April, 2010.

DOUGLAS COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Any aggrieved party or agency of record may request a reconsideration of this Hearing Examiner's decision. Motions for reconsideration must be filed with the Department within ten (10) days from the date of issuance as defined by RCW 36.70C.040(4)(a). Unless otherwise provided, the filing of a motion for reconsideration shall not stop or alter the running of the period provided to appeal the Hearing Examiners decision to Superior Court. Motions for reconsideration are governed by Douglas County Code 2.13.150.

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Douglas County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available" or if this section does not apply, then pursuant to RCW 36.70C.040(3) (c) "...the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.