

Douglas County Hearing Examiner

Andrew L. Kottkamp, Hearing Examiner

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
RO-01-01A)	DECISION AND
Highland RO Amendment)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on February 18, 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 Prime Properties LLC, PO Box 119, Wenatchee WA.
2. General Description: An application submitted by Prime Properties LLC for an amendment to recreational overlay permit RO-01-01 (Highlander Golf Course). The application proposes to expand the area of the permit by 4.56 acres in order to facilitate the relocation of a portion of Hole #17.
3. The property is located in the North Half of Section 20, Township 22 North, Range 21 East, W.M., Douglas County. The Douglas County Tax Parcel Number for the subject property is 22212020001.
4. The Comprehensive Plan Designation is Rural Resource 5 acres.
5. The subject property is located in the Rural Resource 5 acres (RR-5) zoning district.
6. A recreational overlay was approved on the surrounding property (Highlander Golf Course) by the Douglas County Hearing Examiner on May 11, 2001.
7. DCC 18.46.020 and .030 authorize the expansion of an existing recreational overlay subject to the provisions of the quasi-judicial review and conditional use permit processes.

RO-01-01A
 Highlander RO Amendment
 Page 1 of 6

8. The project is consistent with the provisions of DCC Chapter 18.46 Recreational Overlay.
9. The project is consistent with DCC 18.80.030 Evaluation Criteria and DCC 18.80.315 Recreational Facilities.
10. Comments from reviewing agencies have been considered and addressed where appropriate.
11. Douglas County issued a Determination of Nonsignificance on February 8, 2010 pursuant to WAC 197-11-355 (Optional DNS).
12. Public notice of application for this proposal and notice of the public hearing was provided in conformance with Title 14 Douglas County Code.
13. Surrounding property owners were given the opportunity to comment on the proposal, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
14. Soil mapping from the USDA Natural Resource & Conservation Service indicate the presence of steep and severe building soils on a portion of the subject property. A Geotechnical Report, from J.B. Hamilton Consulting LLC, dated April 10, 2008 was submitted by the applicant.
15. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
16. The entire Planning Staff file was admitted into the record at the public hearing.
17. The Douglas County Department of Land Services recommended approval of this amendment to recreational overlay, subject to the recommended conditions of approval.
18. Public hearing after due legal notice was held on February 18, 2010. Appearing and testifying on behalf of the applicant was Gary Bates. Mr. Bates testified that he was an agent authorized to appear and speak on behalf of the applicant. Mr. Bates indicated that the applicant agreed to all of the proposed conditions of approval. Further, Mr. Bates offered testimony as to the garbage controls of the applicant. He also indicated that the applicant would not have any objection to the placement of "Private Property – No Trespassing" signs in conspicuous locations on the border between the applicant and Mr. Kinzel's property.

19. Testifying from the public was Jeff Kinzel of Dryden, Washington. Mr. Kinzel owns property adjacent to the subject property. Mr. Kinzel testified as to issues surrounding his ability to obtain water for any future development of his property. He further testified as to the debris that finds its way onto his property including golf clubs, golf carts and numerous golf balls. He testified that garbage blowing onto his property has not been that bad as of recent. He was concerned about trespassers on his property and liability concerns related to those trespassers.
20. 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.
21. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
22. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
23. 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 project meets the goals and policies as set forth in the Douglas County Countywide Comprehensive Plan.
4. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
5. Public use and interests will be served by approval of this proposal.
6. As conditioned, the proposal is consistent with Title 18 “Zoning”, Title 19 “Environment”, and Title 20 “Development Standards”, 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 RO-01-01A, Highlander RO Amendment, 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.

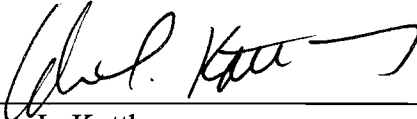
1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The project shall proceed in substantial conformance with the plans and application materials of file dated May 13, 2009 and October 26, 2009 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. The construction shall proceed in conformance with the Geologic Hazard Assessment from J.B. Hamilton Consulting LLC, dated April 10, 2008.
5. All proposed grading and excavation shall conform to the recently adopted "Grading and Excavation Code, Ordinance No TLS 09-01-04B."
6. 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.

7. Upon further development or redevelopment of the site, a stormwater drainage plan designed by a professional engineer licensed in the State of Washington shall be submitted to and approved by Douglas County prior to construction. If the existing stormwater system is proposed to be modified, a full report accounting for the entire area served by the existing system, plus any new development, shall be submitted.
8. The entire site shall be designed to retain all runoff from a 2-inch storm event in a 90-minute period utilizing a Type II SCS rainfall distribution in accordance with DCC 20.34 *Stormwater Drainage*, together with applicable local, state and federal regulations at the time of drainage plan submittal. The plan shall take proposed site grading into consideration and its effect on adjacent properties and shall accommodate off-site runoff. Measures to address stormwater infiltration during frozen soil conditions shall be included. The stormwater plan must have supporting calculations and final “as built” drawings to be delivered to Douglas County upon completion. Any modifications to the system during construction shall be analyzed by the engineer and the results provided to the County to demonstrate the constructed stormwater facilities meet the conditions of approval.
9. Design and construction of the stormwater facilities for the site and adjacent roadways shall conform to the requirements contained in the Douglas County Road Standards including, but not limited to, Section 12.52.050 *Stormwater Management* and the Stormwater Management Manual for Eastern Washington (SWMMEW).
10. Upon further development or redevelopment of the site, an operation and maintenance agreement must be recorded regarding the private stormwater facilities. Douglas County shall have the right to periodically inspect these facilities to verify design capacity and operation. A perpetual access easement shall be granted to the County and/or other governmental agencies having jurisdiction regarding stormwater facilities. The agreement shall specify the golf course management as having responsibility for the long-term maintenance of the private stormwater drainage system within the development. The operation and maintenance document shall be prepared in accordance with recommendation contained in any applicable geotechnical studies for the site.
11. The SPD permit shall remain valid after five years after the notice of action was issued, provided that physical improvements consistent with the permit have been commenced within three years of the date of the notice of action.
12. The applicant shall install and maintain signs readings, in substance, “Private Property – No Trespassing” to be located in conspicuous locations between the applicant’s property and that property currently owned by Jeff Kinzel. The number of said signs and the placements of said signs shall be sufficient to provide adequate

notice to the guests, employees and all other users of the applicant's property as to the location of Mr. Kinzel's property line and that anybody going onto his property is a trespasser.

Dated this 23rd day of February, 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.