

DOUGLAS COUNTY

DEPARTMENT OF HEARING EXAMINER

140 19th Street NW
East Wenatchee, WAS 98802-4109

BEFORE THE DOUGLAS COUNTY HEARING EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
CUP-16-02)	DECISION AND
Rocky Pond)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on February 16, 2017, 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 David Dufenhorst, 18725 164th Ave NE, Woodinville, WA.
2. The property owners are: Double D Vineyard LLC, 18725 164th Ave NE, Woodinville WA and KRR Twin W LLC, 10707 NE 59th St, Kirkland, WA 98033.
3. The property owners signed the application.
4. General Description: An application for a Conditional Use Permit to construct a private airstrip and an event venue. The event venue will include an outdoor amphitheater, 4,000 sq ft building designed to accommodate 200 people and proposed to be in use 8-10 times per year.
5. The subject property is located at the intersection of Sandy Shores Dr. and US Hwy 97 between the highway and the Columbia River. The property is further described as being located in Sections 7 and 12, Township 26 N, Range 21 E.W.M., Douglas County WA. The Douglas County Assessors Numbers are 26211210031, 26211210039, 26211210023, 26211210035, 26211210027, 26211210047, 26211210046, 65600000200, 70100000300, 78110000200, 82700000200, 71100000200
6. The Comprehensive Plan Designation is Rural Resource 5.
7. The zoning district is Rural Resource 5 (RR-5).
8. The applicant has submitted a Storm Drainage Report dated received February 3, 2017 from Pacific Engineering.

9. Comments from reviewing agencies have been considered and addressed where appropriate.
10. Douglas County issued a Determination of Nonsignificance on February 6, 2017 pursuant to WAC 197-11-355 (Optional DNS).
11. The applicant has provided a traffic impact analysis from Transportation Engineering Northwest dated November 23, 2016 regarding the impacts of the project on the transportation system. The analysis has identified project impacts that will necessitate improvements to the intersection of SR 97 and Sandy Shores Dr.
12. The applicant has entered into a Memorandum of Understanding with the Washington State Department of Transportation regarding the required improvements to the intersection of US 97 and Sandy Shores Dr.
13. Wheelchair/handicap access through the venue must be approved via a building permit. This permit must be completed prior to use of the venue.
14. Surrounding property owners were given the opportunity to comment on the proposals. They can also request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
15. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
16. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
17. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
18. The entire Planning Staff file was admitted into the record at the public hearing.
19. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
20. An open record public hearing after due legal notice was held on February 16, 2017.
21. Appearing and testifying on behalf of the applicant were Martin Davy and Kevin Sweepe. Both Mr. Davy and Mr. Sweepe testified that they were agents authorized to appear and speak on behalf of the property owner. Mr. Davy testified that all of the proposed conditions of approval were acceptable and that they had entered into the agreement with the Department of Transportation.

Mr. Sweepe testified that there would be no hangers at this time. There may be outbuildings related to farm equipment. He testified that on the venue there will be a kitchen but it will be

for final preparation of catered food and not for preparation of food on site. There would be no restaurant on site. There would be no overnight lodging on the site.

22. No member of the public appeared at the hearing.
23. 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.
24. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
25. 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.
26. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
27. 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.
28. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
29. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified.
30. 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 meets the goals, policies and implementation recommendations as set forth in the Douglas County Countywide Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public use and interests will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Title 18 "Zoning" and Title 19 "Environment" and Title 20 "Development Standards" of the Douglas County Code.

6. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Douglas County Code and Comprehensive Plan.
7. As conditioned, the proposal does conform to the standards specified in Douglas County Code.
8. As conditioned, the use will comply with all required performance standards as specified in Douglas County Code.
9. 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.
10. As conditioned, this proposal does comply with Comprehensive Plan, the zoning code and other land use regulations, and SEPA.
11. 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-16-02 is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF

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 September 2, 2016, December 19, 2016, December 23, 2016 and February 3, 2017 except as amended by the conditions herein.
3. The applicant is responsible for compliance with all applicable local, state and federal rules and regulations.
4. The applicant shall construct (design, right-of-way acquisition, construction) the improvements to US 97 identified in the traffic analysis from Transportation Engineering Northwest dated November 23, 2016 to WSDOT design and construction standards. Construction shall be complete no later than 2 years from the date of approval of this CUP.
5. Provisions shall be made for refuse disposal by a licensed commercial hauler.
6. All outdoor trash, garbage and refuse storage areas shall be screened from all sides from public view and be designed of such materials which are compatible with the overall architectural theme of the associated structure or use.

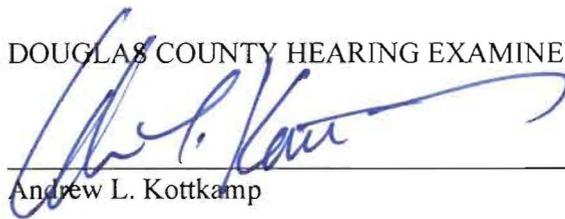
7. Uses and activities shall not exceed the maximum environmental noise level established by DCC Chapter 8.04 or WAC 173-60, as administered by the Douglas County Sheriff.
8. Prior to use of the venue, a building permit must be applied for and completed to verify adequate life safety, handicap access provisions etc.
9. Stormwater runoff associated with road construction shall be addressed in accordance with Douglas County Code 20.34 and 20.36. In addition the applicant is responsible for compliance with applicable state stormwater regulations, including but not limited to the Ecology General Construction Stormwater Permit. Proximity to the Columbia River and area of disturbance indicate that the Construction Stormwater Permit will be required. Applicant is responsible for contacting the Department of Ecology with regards to determining specific applicability of the permit.
10. The private road must be established by tract or easement providing legal access to each lot, dwelling unit and/or business and sufficient to accommodate the required improvements and include provisions for future use by adjacent property owners when applicable. Prior to issuing BPC occupancy or within 30 days of completion of road construction.
11. The private road shall be accessible at all times for emergency vehicle use.
12. The private road shall be designed by a licensed professional engineer for an average daily traffic count based upon the traffic generation associated with the projected use. This shall be completed prior to BPC issuance and/or prior to beginning grading/road construction. Design documents shall be reviewed and accepted by the Douglas County Fire Marshal.
13. The private road shall be maintained in accordance with the minimum applicable standard by a capable and legally responsible owner, homeowners association or legal entity made up of all benefitted property owners. A written road maintenance agreement addressing the rights and responsibilities of all benefitted property owners shall be approved prior to building permit issuance or within 30 days of completion of road construction. Said road maintenance agreement shall be recorded with the county and shall become a covenant with the affected properties.
14. The private road shall be clearly signed as a private road.
15. The private road shall be designed and constructed in accordance with Chapter 5 and Appendix D of the International Fire Code published by the International Code Council (ICC)
16. Prior to issuing BPC Occupancy or within 30 days of completion of road construction the engineer of record shall provide certification that the private road has been designed and constructed in accordance with standards for emergency service as specified by the fire marshal.
17. Within 15 days of completion of construction of the road and/or stormwater facilities, the Engineer of Record shall provide as-builts and written certification that the stormwater facility

has been constructed in accordance with the conditions of approval, Douglas County Code and Stormwater Management Manual for Eastern Washington.

18. Within 30 days of completion of construction of the road and/or stormwater facilities, easements for facilities/conveyances located on adjoining parcels shall be recorded and submitted to the County for incorporation into the required stormwater operation and maintenance agreement.
19. Within 30 days of completion of construction of the road and/or stormwater facilities. The stormwater facilities shall be owned and maintained by the property owner. A maintenance and operation agreement shall be established for the stormwater drainage system. The agreement shall specify the property owner as having the responsibility for the long-term maintenance of the stormwater drainage system. 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 also state that the property owner shall be responsible for the long-term operation, maintenance, repair and replacement of the stormwater facility. Restrictions on future use and grading allowed within these areas must be clearly noted within the operation and maintenance agreement for stormwater facilities.
20. All applications associated with this permit shall conform to Douglas County Code 15.36 – Grading and Excavation Standards, including conformance with Douglas County Code 20.34 and 20.36. Conformance with these standards is the responsibility of the property owners.
21. Prior to any on-site grading commencing, appropriate measures to prevent sediment from leaving the site shall be implemented and maintained until such time as all on-site soils are stabilized (final stabilization). Final site stabilization shall be completed within 30 days of completion of construction of the road and/or stormwater facilities. Temporary stabilization shall remain in place until final stabilization is established.

Dated this 23rd day of February, 2017.

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.