

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, AND
CUP-2018-07)	DECISION AND
Lisa Bee's)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on *, 2019, 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 Lisa Stanton, 13023 US 2, East Wenatchee, WA 98802.
2. The property owners are Jeff & Kristine Boullioun, 1836 Hwy 7, Oroville, WA 98844.
3. The two subject properties total approximately 20.39 acres in size.
4. The properties are described as being located within Section 11, Township 23N, Range 220E, W.M.
5. The Assessor's parcel numbers are 78000001901 and 78000001902.
6. The parcel is accessed by vehicles from US 2. Access via the Rocky Reach Trail is not determined by this Conditional Use Permit.
7. The subject property is zoned Commercial Agriculture AC 5.
8. The Douglas County Comprehensive Plan designation is Commercial Agriculture AC 5.
9. Douglas County Code Title 18.80 establishes minimum review criteria for Conditional Use Permits.
10. Pursuant to Douglas County Code 18.34.040, those uses designated in the conditional use permit matrix as conditional uses and approved pursuant to Douglas County Code Chapter 18.80; provided, that the development standards of this chapter are met.
11. Pursuant to Douglas County Code 18.80.320 Conditional use permit matrix, "Reception hall/center, wedding chapel" is a listed Conditional Use for the Commercial Agriculture AC 5 district.

12. Pursuant to Douglas County Code 14.98.654, "Reception Hall" means a structure and grounds operated by a private entity for the social or recreational gathering of people.
13. The applicant and property owner has applied for a Conditional Use Permit to locate an event venue (per Douglas County Code Section 18.34.040 Conditional uses – "Reception hall/center") at 13023 US 2 – Baker Flats.
14. On October 17, 2018, the applicant submitted the Conditional Use Permit application.
15. A Landscape Plan prepared by Chuck Strawn Landscape Design, was received on December 13, 2018.
16. A Parking / Site Plan was received on October 17, 2108.
17. A traffic impact study, prepared by Transportation Engineers Northwest was received December 11, 2017.
18. On November 1, 2018, the Letter of Completeness was issued.
19. On November 5, 2018, the Notice of Application was issued.
20. The public and agency comment period started on November 7, 2018 and concluded on November 21, 2018.
21. Comments from reviewing agencies have been considered and addressed where appropriate.
 - 21.1 Specifically, the Washington State Department of Ecology has conducted an on-site soils investigation and water review; Chelan Douglas Health District evaluated the waste water disposal capacity for Lisa Bee's Reception Hall; Washington State Department of Transportation has evaluated the traffic impact study; and Fire District has indicated review.
22. Douglas County issued a Determination of Non-significance on December 26, 2018 in accordance with WAC 197-11-355 (Optional DNS).
23. Surrounding property owners were given the opportunity to comment on the proposal, and can request a copy of the decision, and can appeal the decision subject to the requirements outlined in Douglas County Code Title 14.
24. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
25. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
26. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
27. An open record public hearing after due legal notice was held on January 17, 2019.
28. The entire Planning Staff file was admitted into the record at the public hearing.
29. Appearing and testifying on behalf of the applicant was Lisa Stanton. Ms. Stanton testified that she was the Applicant and one of the property owners of the subject property. Ms. Stanton testified that they would like the opportunity to increase attendance for outdoor events up to one hundred fifty people without having to amend this Conditional Use Permit. They also asked

that indoor events be allowed to continue until 10:00 p.m. She also indicated that they would like to have more than fifty attendees for “indoor” events because they can open up their patio and some of the indoor attendees can actually be outside.

The Hearing Examiner did express concern with turning indoor events into outdoor events, and the problem that it would cause for enforcement of the Conditions of Approval. Accordingly, in the Conditions set forth below, the Hearing Examiner has set a maximum of fifty attendees for events that are held exclusively indoors and a maximum of one hundred twenty five attendees for any events which utilize any outdoor area of the Applicant’s property. All of these outdoor events would have to comply with all other Conditions related to outdoor events that are set forth below.

30. No member of the public testified at the hearing.
31. 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.
32. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.
33. 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.
34. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
35. 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.
36. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
37. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified.
38. 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 Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. As conditioned, the proposal is consistent with Douglas County Code Chapter 18.80 conditional use permits general evaluation criteria.
5. Public interests will be served by approval of this proposal.

6. As conditioned, the proposal is consistent with Title 18, Title 14, Title 19 and Title and the Douglas County Comprehensive Plan.
7. 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-2018-07 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. The project shall proceed in substantial conformance with the plans and application materials on file submitted on October 17, 2018, December 11, 2018 and December 13, 2018 except as amended by the conditions herein.
2. The owners/operators shall be responsible to obtain and comply with any applicable federal, state, and local laws, and must obtain all necessary permits and approvals prior to operation.
3. This Conditional Use Permit is for a "reception hall/center" as defined by Douglas County Code 14.98.654. At no time does any portion or part of the application materials, support information, and/or submitted plans allow the permitted activity and/or use beyond that of a reception hall/center.
4. The total number of people allowed for any event utilizing any outdoor area of the site shall not exceed 125 people for the entire property(s) excepting the following:
 - 4.1 The applicant shall provide the Washington State Department of Transportation actual and verifiable traffic counts after the business is in operation to verify their assumed trip distribution and assignment values and, if necessary, the applicant shall adjust the max attendance values appropriately to continue to avoid the need for a left turn lane based on the traffic impact study. The Applicant shall provide copies of the actual and verifiable traffic counts to Douglas County.
 - 4.2 Any increase in attendees above fifty for "indoor" events and one hundred twenty five for "outdoor" events shall require and amendment of this Conditional Use Permit.
5. The development shall comply with the dimensional standards of the Commercial Agriculture AC 5 zoning district, as amended.
6. Prior to operations and as applicable, the applicant shall obtain all appropriate permits and/or approvals from the Washington State Department of Ecology, Douglas County PUD, and Chelan-Douglas Health District.
7. Adequate provisions, verified in writing by the Chelan-Douglas Health District, shall be made for sanitary sewer, domestic water for public use, irrigation water for landscape maintenance, and/or other health and safety related concerns deemed necessary.

8. The applicant shall be responsible for obtaining all appropriate permits and/or approvals from the Washington State Department of Transportation.
 - 8.1 The applicant shall provide the Washington State Department of Transportation actual traffic counts after the business is in operation (on a date determined by the Washington State Department of Transportation on or before the end of 2020) to verify their assumed trip distribution and assignment values and, if necessary, the applicant shall adjust the max attendance values appropriately to continue to avoid the need for a left turn lane based on the traffic impact study.
 - 8.2 Any complaints regarding amounts of traffic, traffic safety, or related vehicular activity surrounding or a part of access via US 2 shall be addressed by the Washington State Department of Transportation.
 - 8.3 Complaints alleging exceedance of the traffic impact study on file with Douglas County shall be directed to and evaluated by the Washington State Department of Transportation.
 - 8.4 Traffic generation beyond the traffic impact study shall be grounds for a new traffic impact study, US 2 improvements, and/or suspension / revocation of this Conditional Use Permit.
 - 8.5 The use of gates or other access control at the US 2 entrance shall be regulated solely by the Washington State Department of Transportation.
 - 8.6 Specific design requirements for access width and type of surface shall be determined by the Washington State Department of Transportation.
9. Landscaping shall be installed and completed by May 31, 2019; and the applicant shall provide Douglas County written verification from the landscape designer certifying completion in compliance with the approved landscape plans prior to operations. Landscaping shall meet the minimum provision as set forth in Douglas County Code Chapter 20.40, the approved landscape plan dated December 13, 2018, and maintained throughout the life of the project.
10. Any outdoor lighting shall be directed towards the site and/or shielded in accordance with Douglas County Code Chapter 18.16.
11. Provisions shall be made for fire and life safety. All activity shall meet the minimum provisions for fire protection pursuant to International Fire Code and as approved by the fire marshal. Prior to operation, the applicant shall coordinate with the fire marshal, and obtain approval for fire protection devices and equipment to be available during the use.
12. An analysis shall be conducted by the applicant for emergency assistance which may include fire, law enforcement and medical services. The analysis shall include conformation that the minimum local and state codes and regulations have been met.
 - 12.1 Prior to operations, the applicant shall provide written verification of the emergency assistance plan approval by the Douglas County Fire Marshal.
 - 12.2 The emergency assistance plan shall be available to all employees and attendees of an event.
 - 12.3 The owner, manager and/or operator of an event shall be responsible for implementation of the emergency assistance plan.

13. 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.
14. Adequate off-street parking shall be provided for the expected average use and off-street accommodations shall be made for expected peak use. The number of parking spaces required shall be based on the level of public demand and the number of public seating areas proposed. Parking and loading standards shall be in compliance with the minimum standards set forth in Douglas County Code Chapter 20.42. For a grange, community hall, reception hall, wedding chapel, the Douglas County Code requires 1 space for each 75 sf. of gross floor area.
15. Provisions shall be made for refuse disposal by a licensed commercial hauler approved by the Douglas County department of solid waste or successor agency. 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.
16. Development and operation of the conditional use permit shall not disseminate dust, smoke, fumes, or obnoxious odors nor degrade air quality.
17. All signs placed and/or displayed in conjunction with the proposed use shall meet the minimum provisions of Douglas County Code Chapter 20.44.
18. Uses and activities shall not exceed the maximum environmental noise level established by Douglas County Code Chapter 8.04 or WAC 173-60 as administered by the Douglas County Sheriff.
19. Hours of operations shall not exceed 9:00 p.m., except that events held exclusively indoors may end no later than 10 p.m.
20. Prior to construction, the applicant shall obtain a Douglas County Building Permit for the proposed 10'x20' stage, or platform regardless of whether there is, or is not, a roof or cover.
21. The existing building maximum occupancy shall not be exceeded.
22. This Conditional Use Permit shall not be deemed to grant, endorse for otherwise imply that access to the reception hall or property may be allowed via the rocky reach trail. Any such access must be coordinated with, and the applicant must obtain approval from, the administrator of the trail. Douglas County shall not be obligated to address complaints or require compliance with any access requirements promulgated via the rocky reach trail.
23. In the event cultural sites or isolated finds are identified during operations, work in the immediate vicinity shall be halted until the site or find can be evaluated by a qualified archaeologist and applicable state and tribal entities can be consulted.
24. Yard, setback and height regulations for the conditional use permit are the same as those in the zoning district in which the project is proposed.
25. Failure to comply with all Conditions of Approval may result in the revocation of this Conditional Use Permit.

Dated this 23rd day of January, 2019.

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.