

BEFORE THE
SNOHOMISH COUNTY HEARING EXAMINER

DECISION of the DEPUTY HEARING EXAMINER

In the Matter of the Application of)
WASHINGTON QUARTER MIDGET ASSOC.) **FILE NO. 04 121467**
Conditional Use Permit (CUP) for the construction of)
A Quarter Midget Track at the Evergreen Fairgrounds)

DATE OF DECISION: September 28, 2005

DECISION (SUMMARY): The conditional use permit to construct a race track at the Evergreen Fairgrounds in Monroe is **CONDITIONALLY APPROVED with preconditions.**

BASIC INFORMATION

LOCATION: The subject property is located at 14001 179th SE (Monroe Fairgrounds), approximately one-quarter mile northwest of the SR-2/179th Avenue SE intersection in the northwest portion of the west overflow parking area at the Evergreen State Fairgrounds.

ACREAGE: 8 acres

ZONING: General Commercial (GC)

COMPREHENSIVE PLAN DESIGNATION:

General Policy Plan Designation:	Other Uses
Pre-GMA Subarea Plan:	Sky Valley
Subarea Plan Designation:	Fairgrounds

UTILITIES:

Water/Sewer: City of Monroe

SCHOOL DISTRICT: N/A

FIRE DISTRICT: No. 3

SELECTED AGENCY RECOMMENDATIONS:

Department of:

Planning and Development Services: Approval subject to and conditions

INTRODUCTION

The applicant filed the Master Application on April 21, 2005. (Exhibit 1)

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 20, 21 and 22)

An Environmental Noise Impact Projection Report was received on July 21, 2005. (Exhibit 18) No appeal was filed.

The Examiner held an open record hearing on September 20, 2005, the 81st day of the 120-day decision making period. Witnesses were sworn, testimony was presented, and exhibits were entered at the hearing.

PUBLIC HEARING

The public hearing commenced on September 20, 2005 at 11:18 a.m.

1. The Examiner indicated that he has read the PDS staff report, reviewed the file and viewed the area and therefore has a general idea of the particular request involved.
2. The applicant, the Washington Quarter Midget Association (hereinafter WQMA) filed an application for a zoning conditional use permit in order to construct a race track and associated facilities in the northeast portion of the west overflow parking area at the Evergreen Fairgrounds in Monroe. The applicant was represented by Kent Smutny of TSA Architects, who is the chair of its committee to build the subject track. The applicant's consultant is Lee A. Michaelis, AICP, of ALPHA SUBDIVISION PRO'S INC. Snohomish County was represented by Paul Lichter of the Department of Planning & Development Services. No member of the public appeared by letter or by attendance at the hearing. The applicant concurred fully with the staff report and recommendations to the Hearing Examiner.

The hearing concluded at 11:29 a.m.

NOTE: The above information summarizes the information submitted to the Examiner at the hearing. However, an electronic recording of this hearing is available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS OF FACT

Based on all of the evidence of record, the following findings of fact are entered.

1. The master list of exhibits and witnesses which is a part of this file and which exhibits were considered by the Examiner, is hereby made a part of this file, as if set forth in full herein.
2. The PDS staff report has correctly analyzed the nature of the application, the issues of concern, the application's consistency with adopted codes and policies and land use regulations, and the State Environmental Policy Act (SEPA) evaluation with its recommendation and conditions. This report is hereby adopted by the Examiner as if set forth in full herein.
3. The applicant, the Washington Quarter Midget Association (WQMA) filed an application for a zoning conditional use permit in order to construct in Phase 1 a banked, asphalt/concrete, oval 1/20th of a mile racetrack and pit area (including a staging area and "hot chute") and scoring tower and, in Phase 2 a concession building, storage space, bleachers, playground, restroom building and associated water and sewer facilities. The schedule for Phase 2 will be based on funding availability. On-site Sanicans will provide adequate sanitation facilities for Phase 1.
4. An environmental noise study was completed for the project and is in the record. (Exhibit 18) The engines are similar to lawn mower engines in noise output and have impacts at the property line less than ambient noise from nearby Highway 2. No residential uses are near enough to the subject site to be adversely impacted by the engine noise or lighting for night races. Surrounding properties to the east and north are zoned R-9,600 and those to the west and south are within the City limits of Monroe.
5. The subject site is zoned General Commercial and is primarily developed with an airport and fairgrounds. The subject site is on Snohomish County Parks and Recreation Department property and the proposed use is pursuant to a County Council motion of September 29, 2004 authorizing the County Executive to sign a Pre-Development Agreement with applicant WQMA.
6. The request will not generate impacts to the County's park system or the school system.
7. The DPW reviewed the request with regard to traffic mitigation and road design standards. This review covered Title 13 SCC and Chapter 30.66B SCC (Title 26B SCC) as to road system capacity, concurrency, inadequate road conditions, frontage improvements, access and circulation, and dedication/deeding of right-of-way, state highway impacts, impacts on other streets and roads, and Transportation Demand Management. As a result of this review, the DPW has determined that the development is concurrent and has no objection to the requests subject to various conditions.
8. The PDS Engineering Division has reviewed the concept of the proposed grading and drainage and recommends approval of the project subject to conditions, which would be imposed during full detailed drainage plan review pursuant to Chapter 30.63A SCC (Title 24 SCC).
9. There are no critical areas within 100-feet of any proposed development and therefore this project is not subject to the requirements of Chapter 30.62 SCC.

10. The subject property is designated General Commercial (GC) which allows the proposed use. A CUP may be granted in this type of zone if the requirements for a CUP are met.
11. The request meets the requirements for the issuance of a CUP under Chapter 30.42C SCC, in particular the decision criteria therein for a CUP as set forth in SCC 30.42C.100.

A review of these CUP standards with the request indicates that the standards are met and no adverse affects will be made to the area as a result of allowing a quarter midget racing track as proposed.

12. The request is consistent with Section 30.70.100 SCC (Section 32.50.100 SCC), which requires, pursuant to RCW 36.70B.040, that all project permit applications be consistent with the GMACP, and GMA-based county codes.
13. Any finding of fact in this decision which should be deemed a conclusion is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Examiner having fully reviewed the PDS staff report, hereby adopts said staff report as properly setting forth the issues, the land use requests, consistency with the existing regulations, policies, principles, conditions and their effect upon the request. It is therefore hereby adopted by the Examiner as a conclusion as if set forth in full herein, in order to avoid needless repetition. There are no changes to the recommendations of the staff report.
2. The Department of Public Works recommends that the request be approved as to traffic use subject to certain conditions.
3. The request is consistent with the GMACP; GMA-based County codes; and the type and character of land use permitted on the site and the permitted density with the applicable design and development standards.
4. The request for a conditional use permit should be approved subject to compliance by the applicant with the following conditions:

CONDITIONS:

- A. The revised site plan received by the Department of Planning and Development Services on July 21, 2005, (Exhibit 17A) shall be the conditional use permit's official site plan for purposes of future site development. Revision of official development plans is regulated by SCC 30.42C.110.
- B. Prior to the issuance of any development/construction permits, WQMA shall apply to the Washington State Department of Transportation for an access permit, as there is a change in use for the existing access to SR-2.
- C. Washington Quarter Midget Association shall install four (4) portable toilets with hand washing facilities prior to any public use of the facility. Two of these shall be ADA accessible.

- D. The recipient of any conditional use permit shall file a land use permit binder on a form provided by the department (Planning and Development Services) with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The binder shall serve both as acknowledgement of and agreement to abide by the terms and conditions of the conditional use permit and as a notice to prospective purchasers of the existence of the permit. (SCC 30.42C.200)

Nothing in this permit/approval excuses the applicant, owner, lessee, agent, successor or assigns from compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project.

5. Any conclusion in this report and decision which should be deemed a finding of fact is hereby adopted as such.

DECISION

Based on the findings of fact and conclusions of law entered above, the decision of the Hearing Examiner on the application is as follows:

The request for a conditional use permit for the construction of a quarter midget track at the Evergreen Fairgrounds is hereby **CONDITIONALLY APPROVED**, **SUBJECT TO COMPLIANCE** by the applicant, with the **CONDITIONS** set forth in Conclusion 4, above.

Decision issued this 28th day of September, 2005.

Ed Good, Deputy Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

The decision of the Hearing Examiner is final and conclusive with right of appeal to the County Council. However, reconsideration by the Examiner may also be sought by one or more parties of record. The following paragraphs summarize the reconsideration and appeal processes. For more information about reconsideration and appeal procedures, please see Chapter 30.72 SCC and the respective Examiner and Council Rules of Procedure.

Reconsideration

Any party of record may request reconsideration by the Examiner. A petition for reconsideration must be filed in writing with the Office of the Hearing Examiner, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **OCTOBER 10, 2005**. There is no fee for filing a petition for reconsideration. **“The petitioner for reconsideration shall mail or otherwise provide a copy of the petition for reconsideration to all parties of record on the date of filing.” [SCC 30.72.065]**

A petition for reconsideration does not have to be in a special form but must: contain the name, mailing address and daytime telephone number of the petitioner, together with the signature of the petitioner or of the petitioner’s attorney, if any; identify the specific findings, conclusions, actions and/or conditions for which reconsideration is requested; state the relief requested; and, where applicable, identify the specific nature of any newly discovered evidence and/or changes proposed by the applicant.

The grounds for seeking reconsideration are limited to the following:

- (a) The Hearing Examiner exceeded the Hearing Examiner’s jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching the Hearing Examiner’s decision;
- (c) The Hearing Examiner committed an error of law;
- (d) The Hearing Examiner’s findings, conclusions and/or conditions are not supported by the record;
- (e) New evidence which could not reasonably have been produced and which is material to the decision is discovered; or
- (f) The applicant proposed changes to the application in response to deficiencies identified in the decision.

Petitions for reconsideration will be processed and considered by the Hearing Examiner pursuant to the provisions of SCC 30.72.065. Please include the County file number in any correspondence regarding this case.

Appeal

An appeal to the County Council may be filed by any aggrieved party of record. Where the reconsideration process of SCC 30.72.065 has been invoked, no appeal may be filed until the reconsideration petition has been disposed of by the hearing examiner. An aggrieved party need not file a petition for reconsideration but may file an appeal directly to the County Council. If a petition for reconsideration is filed, issues subsequently raised by that party on appeal to the County Council shall be limited to those issues raised in the petition for reconsideration. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 2nd Floor, County Administration-East Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **OCTOBER 12, 2004** and shall be accompanied by a filing fee in the amount of five hundred dollars (\$500.00); PROVIDED, that the filing fee shall not be charged to a department of the County or to other than the first appellant; and PROVIDED FURTHER, that the filing fee shall be refunded in any case where an appeal is dismissed without hearing because of untimely filing, lack of standing, lack of jurisdiction or other procedural defect. [SCC 30.72.070]

An appeal must contain the following items in order to be complete: a detailed statement of the grounds for appeal; a detailed statement of the facts upon which the appeal is based, including citations to specific Hearing Examiner findings, conclusions, exhibits or oral testimony; written arguments in support of the appeal; the name, mailing address and daytime telephone number of each appellant, together with the signature of at least one of the appellants or of the attorney for the appellant(s), if any; the name, mailing address, daytime telephone number and signature of the appellant's agent or representative, if any; and the required filing fee.

The grounds for filing an appeal shall be limited to the following:

- (a) The decision exceeded the Hearing Examiner's jurisdiction;
- (b) The Hearing Examiner failed to follow the applicable procedure in reaching his decision;
- (c) The Hearing Examiner committed an error of law; or
- (d) The Hearing Examiner's findings, conclusions and/or conditions are not supported by substantial evidence in the record. [SCC 30.72.080]

Appeals will be processed and considered by the County Council pursuant to the provisions of Chapter 30.72 SCC. Please include the County file number in any correspondence regarding the case.

The Land Use Permit Binder, which must be executed and recorded as required by SCC 30.42C.200, will be provided by the department. The Binder should **not** be recorded until all reconsideration and/or appeal proceedings have been concluded and the permit has become effective.

Staff Distribution:

Department of Planning and Development Services: Paul Lichter

<p>The following statement is provided pursuant to RCW 36.70B.130: "Affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation." A copy of this Decision is being provided to the Snohomish County Assessor as required by RCW 36.70B.130.</p>
