

REPORT and DECISION of the SNOHOMISH COUNTY HEARING EXAMINER

DATE OF DECISION: August 18, 2005

PROJECT NAME: Rhodes River Ranch

APPLICANT/
LANDOWNER: Jean Rhodes

FILE NO.: 05 118000

TYPE OF REQUEST: Conditional Use Permit for a 52,500 square foot Equestrian Center.

DECISION (SUMMARY): Approved subject to Conditions

BASIC INFORMATION

GENERAL LOCATION: The property is located at 22016 Entsminger Road, Arlington, Washington.

ACREAGE: 80.2 acres

ZONING: Rural-5 Acre/Agricultural-10 Acre (R-5/A-10)

COMPREHENSIVE PLAN DESIGNATION:
General Policy Plan Designation: A-10 (1 du/10 ac)

UTILITIES:
Water: Domestic water service
Sewage: None

SCHOOL DISTRICT: Arlington No. 16

FIRE DISTRICT: No. 25

SELECTED AGENCY RECOMMENDATIONS:

Department of:
Planning and Development Services: Approval subject to conditions
Public Works: Approval subject to conditions

INTRODUCTION

The applicant filed the Master Application on April 14, 2005. (Exhibit 1)

The Hearing Examiner (Examiner) made a site familiarization visit on July 21, 2005 in the afternoon.

The Department of Planning and Development Services (PDS) gave proper public notice of the open record hearing as required by the county code. (Exhibits 12, 13 and 14)

A SEPA determination was made on June 14, 2005. (Exhibit 11) No appeal was filed.

The Examiner held an open record hearing on August 4, 2005, the 55th 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 August 4, 2005 at 1:00 p.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. Mr. Gary Parkinson, applicant's representative, appeared and stated they were here to bring the request into compliance. He stated that he agreed with the PDS staff report conditions except he was concerned with the widening of the road which will affect five power poles, as shown in Condition C.
3. Ms. Roxanne Justice of PDS appeared and stated this is a request for a Conditional Use Permit (CUP).
4. Ms. Jean Rhodes, the applicant, appeared and stated that this is a breeding and training center for quarter horses and other horses.
5. No one appeared in opposition to the request.
6. All parties agreed to a change in the language of Condition C.

The hearing concluded at 1:24 p.m.

NOTE: The above information reflects the information submitted to the Examiner summarizing the statements that were made at the hearing. However, for a full and complete record, verbatim audio tapes of the hearing are available in the Office of the Hearing Examiner.

FINDINGS, CONCLUSIONS AND DECISION

FINDINGS:

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. No letters were received in opposition to the request nor did anyone appear in opposition.
4. The request is for a Conditional Use Permit (CUP) to allow the use of a 52,500 square foot equestrian center. The request provides adequate vehicle parking and an additional parking area for 34 trailers. The equestrian facility will host equestrian events, recreational riding, horse training and rider safety training classes available to the public. The property currently houses several barns, a manager's house, vet building and approximately 64 acres of pasture. The existing structures on the site include a maintenance building, feed and silage storage building, garage and caretaker's quarters. The proposed facility itself would include office space, stalls, kitchen area, dining/lounge area and a mezzanine.
5. The surrounding areas are zoned R-5 and A-10.
6. The request will not generate impacts to the County's park system or the school system.
7. The GPP Future Land Use map designation is AG/RF. The subject property is zoned AG10/R-5. The proposed use is allowed as a conditional use in the A-10/R-5 zone. The existing regulation in regard to Conditional Use permit is found in SCC 30.42C.100, Conditional and Special Use Permits – Conditions for Granting. This project is submitted under SCC 30.42C and has been found to be in compliance with SCC 30.42.C.100.
8. 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 30.42.100. of allowing an equestrian center. These standards and the analysis are found on Pages 3 and 4 of the staff report (Exhibit 24) have been properly analyzed.

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 52,500 square foot equestrian center.
9. 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).
10. 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.
11. The County staff has analyzed the affect of the proposed use under SCC 30.42C.100 and this analysis found on Pages 5-7 of the of the staff report (Exhibit 24) is correct.
12. The Department of Public Works indicates that the proposal "does not generate more than three peak hour trips nor will it create more than three peak hour trips. Concurrency was granted and frontage improvements required which include 16 feet of pavement on the development's side of the right-of-way centerline. These improvements include a 9-foot travel lane and a 7-foot paved shoulder.

13. Any Finding of Fact in this Report and Decision, which should be deemed a Conclusion, is hereby adopted as such.

CONCLUSIONS:

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. One minor change has been made to Condition C.
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 for an equestrian center is a reasonable and natural use of the property in this area. The aerial photograph (Exhibit 8) clearly shows the property in its present location and its use. The applicant has developed the area in a very attractive manner and in such a way as fit the location and should be complicated on the way it has been done.
5. The request should be approved subject to compliance by the applicant with the following Conditions:

CONDITIONS:

- A. The site plan marked Exhibit 5A shall be the official approved development plan for this project. Any discrepancy between the content of the official approved development plan and the performance standards of the SCC shall be resolved in favor of the standards contained with the SCC. Revision of the official approved development plan is regulated by SCC 30.42C.100.
- B. A land use permit binder shall be recorded with the Snohomish County Auditor's Office.
- C. Approval of the frontage improvement plan consisting of pavement widening a total of 16 feet from right-of-way centerline or a deviation is granted by the Department of Public Works for an alternative proposal.

PRIOR TO THE FINAL OF THE BUILDING PERMIT/OR ACTIVATION OF THE FACILITY:

- D. Department of Public Works approval of the required and constructed frontage improvements.
- E. The landscaping and parking area shall be installed prior to final grading and construction permits.

- F. 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 the permit/approval shall excuse the applicant, owner, lessee, agent, successor or assigns from full compliance with any other federal, state or local statutes, ordinances or regulations applicable to this project. In particular, no clearing, grading, filling, construction or other physical alteration of the site may be undertaken prior to the issuance of the necessary permits for such activities.

6. Any Conclusion in this Report and Decision, which should be deemed a Finding of Fact, is hereby adopted as such.

DECISION:

The request for a Conditional Use Permit for a equestrian center to allow equestrian events such as recreational riding, horse training and rider safety training classes is hereby APPROVED, SUBJECT TO COMPLIANCE by the applicant, with the CONDITIONS set forth in Conclusion 5, above.

Decision issued this 18th day of August, 2005.

Robert J. Backstein, Hearing Examiner

EXPLANATION OF RECONSIDERATION AND APPEAL PROCEDURES

This 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 Examiner's action on reconsideration would be subject to appeal to the Council.) 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, 2802 Wetmore Avenue, 2nd Floor, Everett, Washington, (Mailing Address: M/S #405, 3000 Rockefeller Avenue, Everett WA 98201) on or before **AUGUST 29, 2005, 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 Examiner exceeded his jurisdiction;
- (b) the Examiner failed to follow the applicable procedure in reaching his decision;
- (c) the Examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of Snohomish County Code, or other county or state law or regulation;
- (d) the Examiner’s findings, conclusions and/or conditions are not supported by the record;
- (e) newly discovered evidence alleged to be material to the Examiner’s decision which could not reasonably have been produced at the Examiner’s hearing; and/or
- (f) changes to the application proposed by the applicant 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. Appeals shall be addressed to the Snohomish County Council but shall be filed in writing with the Department of Planning and Development Services, 5th Floor, County Administration Building, 3000 Rockefeller Avenue, Everett, Washington (Mailing address: M/S #604, 3000 Rockefeller Avenue, Everett, WA 98201) on or before **SEPTEMBER 1, 2005** 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 and PROVIDED FURTHER that the filing fee shall be refunded in any case where an appeal is dismissed in whole without hearing under SCC 30.72.075.

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 are limited to the following:

- (a) the Examiner exceeded his jurisdiction;
- (b) the Examiner failed to follow the applicable procedure in reaching his decision;
- (c) the Examiner committed an error of law or misinterpreted the applicable comprehensive plan, provisions of Snohomish County Code, or other county or state law or regulation; and/or
- (d) the Examiner's findings, conclusions and/or conditions are not supported by the record.

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 this 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: Roxanne Justice
Department of Public Works: Andrew Smith

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.
