

**DOUGLAS COUNTY**

**DEPARTMENT OF HEARING EXAMINER**

140 19<sup>th</sup> Street NW  
East Wenatchee, WAS 98802-4109

<b>IN THE MATTER OF</b>	)	<b>FINDINGS OF FACT,</b>
CUP-2021-04	)	<b>CONCLUSIONS OF LAW,</b>
LANGLEY	)	<b>DECISION AND</b>
	)	<b>CONDITIONS OF APPROVAL</b>

THIS MATTER having come on for hearing in front of the Douglas County Hearing Examiner on August 19, 2021, 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 property owners and applicants are Mitchell and Megan Langley, P.O. Box 454, Brewster, WA 98812.
2. General Description: This is an application for a Condition Use Permit for the installation of a commercial paint booth.
3. Location: The property is located at 120 Davis Ave, Brewster Washington. The subject property is also described as being located within Section 03, Township 30, Range 25. Douglas County Assessor's Parcel Number: 30253310058.
4. Site Characteristics: The subject property includes one existing single family dwelling and multiple accessory structures.
5. Site Access: The subject property will be accessed via Davis Ave.
6. Zoning: The subject property is located within the Rural Service Center (RSC) zoning district, which allows service centers/ paint booths through a conditional use permit (CUP).
7. The Douglas County Comprehensive Plan designates this property as Rural Service Center and is zoned Rural Service Center (RSC) under Douglas County Code. The following goals and policies set forth in the comprehensive plan are relevant to this development:
  - 7.1 GENERAL LAND USE:
    - 7.1.1 **POLICY G-9:** Rural developments should only occur where adequate access to transportation systems, rural levels of utilities and facilities are available. Appropriate facilities/services may include domestic water, sewage disposal,

fire and police protection, schools, and power, etc. depending on the scale and impact of the development.

7.1.2 POLICY G-11: Establish siting and design criteria to provide buffering or other mechanisms that will protect adjacent land uses from potential conflicts between incompatible uses

7.1.3 POLICY G-15: Encourage the operation of rural commercial businesses, natural resource related industries, recreation and tourism activities, cottage industries, small scale business, and home occupations that are consistent with existing and planned land use patterns and are of an appropriate size and scale to maintain rural character.

7.2 RURAL LANDS:

7.2.1 POLICY R-3: Establish land use designations that represent rural character and that protect the integrity of rural areas.

7.2.2 POLICY R-6: Encourage development in rural areas to be served by rural levels of service.

7.3 RURAL DEVELOPMENT

7.3.1 GOAL: Provide opportunities for continued smaller scale developments outside UGAs that will be compatible with and continue to preserve, maintain and enhance the vital agricultural uses in the County.

7.3.2 POLICY RD-4: Rural developments will not impact existing public facilities/services to the extent that the level of service for that facility is reduced below the adopted threshold and/or an acceptable operation capacity.

7.3.3 POLICY RD-5: The costs associated with implementing a rural development and providing the necessary utilities, facilities and/or services will be borne by the developer.

7.4 RURAL SERVICE CENTER

7.4.1 POLICY RSC-1: Encourage mixed land use patterns that currently exist within the rural service centers by clearly establishing what kinds of uses will be permitted and which will be prohibited.

7.4.2 POLICY RSC-3: Small retail and/or service oriented commercial uses, tourist, agriculturally related commercial uses, recreation, cottage industry, and resource industries will be encouraged within the rural service centers to serve the surrounding residents and the traveling public

7.5 ECONOMIC DEVELOPMENT

7.5.1 POLICY ED-7: Develop and implement land use regulations that are flexible enough to recognize the changing nature of business and industry.

7.5.2 Applicable provisions of DCC 18.80.030 "Evaluation Criteria"

7.5.2.1 The proposed use will be harmonious and in accordance with the general and specific objectives of the comprehensive plan and all subarea plans.

7.5.2.2 The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity of the area.

7.5.2.3 The traffic generated by the proposed use shall be mitigated so as not to burden the traffic circulation system in the vicinity.

- 7.5.2.4 The proposed use will be served adequately by facilities and services such as highways, roads, law enforcement, fire protection, drainage, refuse disposal, domestic water and sanitary sewers, and schools; or that persons or agencies responsible for the establishment of the proposed use will provide adequate services.
- 7.5.2.6 The proposed use will not create excessive additional requirements at public cost for public facilities and services.
- 7.5.2.7 The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or general welfare by reasons of excessive production of traffic, noise, smoke, fumes, vibration, glare, or odors.
- 7.5.2.8 Proposed ingress and egress, driveway widths, parking, and road improvements shall be approved pursuant to DCC Title 20 and to the satisfaction of the county engineer.
- 7.5.2.9 Adequate buffering devices such as fencing, landscaping, or topographic characteristics shall be in place in order to mitigate, and protect adjacent properties from potential adverse impacts of the proposed use, including visual or auditory effects.
- 7.5.2.10 Conditional use permits shall comply with the DCC and all applicable local, state, or federal regulations.
- 7.5.2.11 The hearing examiner is the review authority and may approve, conditionally approve or deny a request for changing the minimum lot size of a conditional use. Any waiver of minimum lot size shall not be construed as an exemption from the requirements of DCC Title 17 and RCW Chapter 58.17.

- 8. Douglas County issued a Determination of Non-Significance on July 26, 2021 in accordance with WAC 197-11-355 (Optional DNS).
- 9. Applicable agencies have been given the opportunity to review this proposal. These agencies have identified mitigation or project design requirements for the project that have been included as conditions of approval where appropriate.

<b>Agency Notified</b>	<b>Response Received</b>	<b>Agency Notified</b>	<b>Response Received</b>
WSDOT	06/18/2021	Douglas County Transportation	06/23/2021
Douglas County Fire Marshal	06/18/2021	Douglas County PUD	7/28/2021
Douglas County Planning	07/20/2021	WA State Dept. of Ecology	06/24/2021
Chelan Douglas Health	07/07/2021	Douglas County Assessor	07/13/2021

District			
Greater Bar Water District	6/21/2021	Douglas County GIS	06/14/2021
Douglas County Treasurer	N/R		

10. No written public comments were received.
11. Comprehensive Plan consistency: The project is located within designated *Rural Service Center* designation and is consistent with Section 4.2 “Rural Service Centers”, section 4.3 “Rural Development”, of the Douglas County Comprehensive Plan. As conditioned, the proposal appears consistent with the requirements of this section.
12. Consistency with DCC 18.32 RSC: The Rural Service Center (RSC) zoning district allows this use via a Conditional Use Permit (CUP). As conditioned, the proposal is consistent with the requirements of the zoning district
13. Douglas County Transportation Department has evaluated the proposal and recommended approval of the project with suggested conditions of approval.
14. Douglas County Land Services: The application materials demonstrate compliance with adopted codes, standards, and specifications applicable to this project. As conditioned, the proposal is consistent with the provisions of Douglas County Code.
15. Initial application materials reviewed by Douglas County Transportation and Land Services include:
  - 15.1 Narrative prepared by the applicant, received June 7, 2021.
  - 15.2 Site plan prepared the applicant, received June 7, 2021.
  - 15.3 Preliminary Landscaping plan prepared by Shady Creek Gardens and Ponds LLC, received June 7, 2021.
  - 15.4 Operation & Maintenance Manual prepared by Mitchell Langley, received June 7, 2021.
  - 15.5 SEPA Checklist prepared by the applicant, received June 7, 2021.
16. After due legal notice an open record public hearing was held via Zoom due to the Covid-19 pandemic on August 19, 2021.
17. The entire Planning Staff file was admitted into the record at the public hearing.
18. Appearing and testifying on behalf of the Applicant was Mitchell Langley. Mr. Langley testified by telephone. Mr. Langley testified that he was the Applicant and property owner. Mr. Langley testified as to his significant experience in both painting and operation and inspection of paint booths. He testified that he intended to use the booth for both personal and commercial purposes. He indicated that there would be no storage of any vehicles outside of the facility He indicated that the commercial work would be by appointment only. At the hearing Mr. Langley reviewed the Conditions of Approval. He ultimately objected to suggested Condition of Approval No. 6, as well as suggested Condition of Approval No. 10.

19. No member of the public testified at this hearing.
20. 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 Comprehensive Plan.
3. As conditioned, this proposal is consistent with applicable federal and state laws and regulations.
4. Public interests will be served by approval of this proposal.
5. As conditioned, the proposal is consistent with Title 18 “Zoning”, Title 19 “Environment”, and Title 20 “Development Standards” of the Douglas County Code.
6. 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, review of all applicable files, including the Planning Department staff file, and after an open record public hearing, the Hearing Examiner has determined that CUP No. 2021-04 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 of file except as amended by the conditions herein.
2. The applicant, and site operators, are responsible for compliance with all applicable local, state and federal rules and regulations and shall acquire all applicable permits including but not limited to:
3. Commercial Building Permit for the paint booth.
4. Confirmation of approval from the Washington State Dept. of Ecology
5. Proposed landscaping shall be consistent with the plans on file and be maintained for the life of the project.

6. A Private Stormwater Operation and Maintenance Covenant shall be executed on standard Douglas County forms. The Site plan and operation and maintenance recommendations are provided to the County. County staff then prepares the agreement for signature and recording by the applicant.
7. The spray booth shall be installed, maintained, and operated in accordance, but not limited to, the following International Fire Code (IFC) Chapters: IFC 24, IFC 50, IFC 51, IFC 57.
8. The termination points for ducts conveying explosive or flammable vapors, fumes, or dusts to the atmosphere must be no less than 30 feet from lot lines; 10 feet from openings to the building; 6 feet from exterior walls and roofs; 30 feet from combustible walls or openings into the building that are in the direction of the exhaust discharge; and 10 feet above adjoining grade.
9. Spray booth to be protected by an approved automatic fire protection system in accordance to IFC Chapter 9.
10. Spraying equipment must be interlocked with the mechanical ventilation and allow for adequate ventilation after use in accordance to Chapter 24.
11. The applicant shall coordinate with the Greater Bar Water District to ensure the spill prevention plan is appropriate for the project.
12. As applicable, the applicant shall conduct a lot consolidation to ensure that all lot lines meet current Douglas County setbacks. The lot lines must be must meet setbacks prior to issuance of the commercial building permit.
13. The Applicant may not store, outside of the indoor painting facility, any vehicles as part of the commercial operation of this facility.

Dated this 23rd day of August, 2021.

DOUGLAS COUNTY HEARING EXAMINER

  
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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,**

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**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.**