

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 15, 2018, 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 to amend a Conditional Use Permit to eliminate Condition of Approval #4 requiring intersection improvements on US Hwy 97. The applicant is proposing to reduce the venue occupancy from 200 to 150 and has submitted a revised traffic analysis.
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, and 71100000200.
6. The Comprehensive Plan Designation is Rural Resource 5.
7. The zoning district is Rural Resource 5 (RR-5).
8. Comments from reviewing agencies have been considered and addressed where appropriate.
9. Written comment was received during the comment period from the following:
 - 9.1 Joe Miller.
 - 9.2 Angie Ronning, 22 Orchard Pl.
 - 9.3 Jana Ivory, 24 Orchard Pl.

- 9.4 Teresa Jensen.
 - 9.5 James and Margaret Rice, 256 Vineyard Dr.
 - 9.6 Julie Bodmer, 214 Vineyard Dr.
 - 9.7 Debbie Scott.
-
- 10. Douglas County issued a Determination of Nonsignificance on February 6, 2017 pursuant to WAC 197-11-355 (Optional DNS).
 - 11. WSDOT is the agency with expertise over matters relating to transportation impacts to SR 97.
 - 12. Condition #4 of the hearing examiner's decision dated February 23rd 2017 requiring improvements to the intersection of Sandy Shores Dr. and SR 97 is based on WSDOT's recommendation. The department's recommendation was made based on review of a traffic impact analysis submitted with the original application materials that the project created impacts that necessitated improvements to the intersection.
 - 13. A new traffic impact analysis from Transportation Engineering Northwest, dated December 1, 2017 which analyzes impacts based on the reduced venue occupancy. The analysis based on the proposed new occupancy determined that turn lane improvements at Sandy Shores Dr. and SR 97 are no longer warranted or recommended.
 - 14. WSDOT has reviewed this analysis and accepts the conclusions that no improvement measures are warranted at this time.
 - 15. Surrounding property owners were given the opportunity to comment on the proposals, can request a copy of the decision, and can appeal the decision subject to the requirements outlined in DCC Title 14.
 - 16. Proper legal requirements were met and surrounding property owners were given the opportunity to comment on the proposal at a public hearing.
 - 17. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
 - 18. An open record public hearing after due legal notice was held on February 15, 2018.
 - 19. The entire Planning Staff file was admitted into the record at the public hearing.
 - 20. The Douglas County Department of Land Services recommended approval of the requested permit, subject to the recommended conditions of approval.
 - 21. Appearing and testifying on behalf of the applicant was Attorney, Tom O'Connell. Mr. O'Connell stated that the original conditional use permit was not contested and this amendment is simply to reduce the size of each event. Mr. O'Connell, on questioning by the Hearing Examiner, indicated that the applicant would agree to a condition requiring an annual report to be submitted to the County regarding the applicant's compliance with the 150 person per event limit and 75 guest vehicles per event.
 - 22. The following members of the public testified at the hearing:
 - 22.1 Marge Bearman. Ms. Bearman lives in the vicinity. She objects to businesses being operated in the neighborhood in which she lives. She believes a turn lane on the highway is needed.

- 22.2 Dave Nichols. Mr. Nichols testified as to his opinion that 75 cars will not have any less impact than 100 cars attending the event. His primary concern was still related to all of the guest's vehicles leaving the event facility at the same time.
- 22.3 Joe Miller. Mr. Miller testified that the residential neighborhood had agreed to pay a portion of the highway improvements. He believes a turn lane on the highway is necessary. He also questioned how the number of vehicles and/or guests at each event would be monitored.
23. Supplemental materials were submitted by Staff at the hearing. This comprised of Exhibit 1 which were letters submitted by the applicant in support of their application.
24. 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.
25. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by Conditions of Approval.
26. 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.
27. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
28. 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.
29. The pedestrian and vehicular traffic associated with the conditional use will not be hazardous to existing and anticipated traffic in the neighborhood.
30. Land uses, activities, and structures that are allowed by this conditional use permit will comply with the required performance standards specified.
31. 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 Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
11. As conditioned, the development will not adversely affect the general public, health, safety and general welfare.
12. 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 APPROVAL


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. Conditions 1 thru 3 and 5 thru 21 from the conditional use permit approval, dated February 23, 2017 are still effective and valid and shall continue to apply to this permit.
3. The following are the revisions to the Conditions of Approval.
 1. Delete Condition of Approval #4.
 2. A new Condition of Approval to read as follows:

The parking area shall be reconstructed (reduced) to 75 parking stalls. Guests shall not exceed 150 per event.
 3. By November 1 of each year the applicant shall submit to the County a certification, sworn under oath and under the penalty of perjury that for each event that calendar year guests did not exceed 150 and guest vehicles did not exceed 75.

Dated this 22nd day of February, 2018.

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.