



Notice of Hearing Examiner Decision

03/16/2018

To: Interested Parties and Parties of Record

RE: Project Name: Camp Bow Wow
Applicant: SPOT RUN, LLC.
Attn: Robin Ellis
10962 Oliana Drive West
Boise, ID
Application: Conditional Use Permit
Permit Number: 17-03777

Enclosed is the Decision issued by the Kitsap County Hearing Examiner for the above project.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:
http://www.kitsapgov.com/dcd/lu_env/he/HE%20Rules%20for%20Kitsap%20County%20-%20206-23-09.pdf

The Decision of the Hearing Examiner is final, unless appealed, as provided under Washington law.

Please note affected property owners may request a change in valuation for property tax purposes, notwithstanding any program of revaluation. Please contact the Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable due to the issued Decision.

The complete case file is available for review at the Department of Community Development, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to 1:00 PM, except holidays. If you wish to view the case file or have other questions, please contact Help@Kitsap1.com or (360) 337-5777.

CC: Owner: Clear Creek Property Group LLC, entkessler@gmail.com
Applicant: Spot Run, LLC Attn: Robin Ellis, 35schatzie@gmail.com
Authorized Representative: WM Palmer Consultants, wpconslts@telebyte.net
Adjacent Property Owners within 800' radius
Health District
Public Works
Parks
Navy
DSE

Kitsap Transit
Central Kitsap Fire District
Central Kitsap School District
Puget Sound Energy
Water Purveyor: Silverdale Water District
Point No Point Treaty Council
Suquamish Tribe
WA Dept of Fish & Wildlife
WA State Dept of Ecology-SEPA
WA State Dept of Transportation
Interested Parties: Ken Malmborg, phxdevinc@gmail.com

**KITSAP COUNTY HEARING EXAMINER
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

Conditional Use Permit File No. 17 03777

March 13, 2018

1. FINDINGS OF FACT

1.1 Proposal. The Applicant requests a Conditional Use Permit ("CUP") to operate a dog day-care facility, with overnight boarding, training and grooming. The day-care's primary hours of operation are 7:00 AM to 7:00 PM Monday through Friday, and 8:00 AM to 6:00 PM on Saturday and Sunday. Overnight boarding may occur 24 hours per day, 7 days per week.

Up to 125 dogs per day may be in day care, with up to 62 boarded overnight. Dog grooming will be provided through four groomers, grooming 20-25 dogs per day. Dog training will also occur during normal business hours, with up to two classes and five private training sessions daily. Also planned are ancillary pet product retail sales, and occasional special events during or outside of regular business hours.

The 5.98-acre parcel is developed with multiple buildings. Camp Bow Wow will occupy Building 6, a single-story, 6,120-square foot building. There are three dog play areas within the building, and a 1,100 square foot outdoor, fenced play area, which will be separated into three areas, so dogs can be grouped by size. During normal business hours, 10-14 employees will be on site. Electronic monitoring will occur after hours. The Applicant, project representative, property owner, and site location are:

Applicant: Robin Ellis, Spot Run, LLC, 10962 Oliana Drive West, Boise, ID 83709.

Project Representative: William M. Palmer, W.M. Palmer Consultants, P. O. Box 6, Port Orchard, WA 98366.

Property Owner: David Kessler, Clear Creek Property Group LLC, P. O. Box 697, Tracyton, WA 98383.

Site Location: 11662 Clear Creek Road NW, Silverdale, WA 98383 (Assessor No. 092501-3-041-2002).

1.2 Administrative Record. Prior to the hearing, the Hearing Examiner reviewed Exhibits 1-31, which included the Staff Report. At the hearing, the Department of Community Development ("DCD") proposed adding a power point staff presentation as Exhibit 32. The Examiner admitted all exhibits.

1.3 SEPA. A Mitigated Determination of Nonsignificance was issued and no appeal was filed. The following SEPA mitigation is included in this decision.

The proposal will be conditioned for Stormwater Control per Kitsap County Code Title 12 and the recommendations of the April 2016 Soundview Consultants LLC Buffer Restoration, Enhancement Plan and Habitat Management Plan and Technical Memorandum dated November 10, 2017.¹

1.4 Notice. Under Kitsap County Code ("KCC") Title 21, Land Use and Development Procedures, DCD gave the required public notice for the CUP, including for the application itself and for the hearing.² No concerns on notice were raised.

1.5 Hearing. The Hearing Examiner considered the proposal at an open record public hearing on March 8, 2018. DCD, through Ms. Sands, summarized the proposal and relevant code requirements. As DCD found the proposal consistent with requirements, it recommended approval. The Applicant also provided sworn testimony through Mr. Palmer and Ms. Ellis. The Applicant concurred with DCD's presentation, raising no concerns with the proposed conditions. Mr. Malmborg, as the project's general contractor, is part of the Applicant team, but provided testimony from his perspective as a local resident. He focused on project benefits to the community, including the employment it will provide. No other member of the public testified.

1.6 Agency Comment and Recommendation. The proposal was circulated within the County, and comment was received regarding regulatory compliance. There were no objections to approval, as long as code requirements and conditions are complied with.

1.7 Written Public Comment. No public comments were received.

1.8 Zoning/Plan Designations. The Comprehensive Plan designation is Urban High Intensity Commercial³ and the zoning designation is Commercial.⁴ In the Commercial zone, building setbacks range from 10-20 feet, with a 35 foot height limit, and an 85% impervious surface coverage limit. There are a variety of land uses and zones in the general area, including a mix of commercial and industrial uses, agricultural uses, residential uses, and recreational opportunities. Zoning immediately surrounding the site and to the north and south is Commercial. There is limited Business Center zoning to the west and south. Further west is Rural Residential. Zoning to the east of State Route 3 is Parks.

1.9 Site Physical Characteristics. The property is 5.98 acres, but Camp Bow Wow is on only the portion previously developed with the Clear Creek Nursery. Camp Bow Wow will occupy Building 6 and a small area around the building. The parcel is developed with various existing buildings, identified as Buildings 2-6, and future buildings are planned for construction. Buildings 7 and 8 will house other businesses and tenants.⁵ Two businesses, an auto repair and a flooring business, occupy Building 2. Building 3 (1,435 square feet, with plans to expand to

¹ See Exhibit 17.

² Exhibit 31 (Certificate of Public Notice, attached to Staff Report); *see also* Exhibit 7.

³ See Exhibit 21.

⁴ See Exhibit 22.

⁵ See Exhibit 13.

4,942 square feet), Building 4 (2,700 square feet), and Building 5 (2,700 square feet), are unoccupied. The former uses in these three buildings were, respectively, a pottery shed, garage, and residence. Towards the east, on an adjacent parcel, is Building 1.

Clear Creek, a Type F stream, and its associated flood zone run along the southern boundary. The site slopes from the west downward to the east, with moderate to steep slopes on the west. Category II Critical Aquifer Recharge Areas are along the west half, a relatively small area on the northeast, and a small area on the site's southeast corner.

There is a mix of trees and shrubs within the stream buffer area along the south and west property lines. There are typical trees and shrubs associated with commercial development along the north property line adjacent to the access drive, along the northeast property line, and around existing buildings on the property.

1.10 Utility and Public Services.

- **Water:** Silverdale Water District
- **Power:** Puget Sound Energy
- **Sewer:** Onsite septic system
- **Police:** Kitsap County Sheriff
- **Fire:** Fire Protection District No. 1. Fire flow is required.
- **Schools:** Central Kitsap School District No. 401

1.11 Sewage Disposal. The Health District requires solid dog waste to be bagged and put in the trash. Residual dog waste hosed down from the facility is the only waste to be disposed of in the onsite holding tank. Human waste will be disposed through the community septic system. Outdoor play areas will be surfaced with an "astro turf" type carpet, K9 grass designed for dogs by Forever lawn, laid over pea gravel; or, Perfect Turf, laid over a 3" gravel bed and a 2" perforation grid. The turf will be cleaned by vacuum and bagged consistent with Health District requirements. Indoor areas will be cleaned in the same way.

1.12 Stormwater. Impervious surfaces were evaluated under SDAP 16-05423 and DCD determined that the proposal is consistent with that review. Adding the 1,100 square foot outdoor play area does not trigger a new stormwater threshold.

1.13 Solid Waste. The project will have trash receptacles commensurate with the use and 150 square feet of exterior recyclable materials storage area. Receptacles will be screened on at least three sides. The Applicant will document compliance with the solid waste provider's requirements before the commercial building permit is approved.

1.14 Access. Access to the site is via Clear Creek Road, a paved county road classified as an urban minor arterial. There is no direct access to the site from State Highway 3. Traffic generation is estimated at 64 average daily trips.

1.15 Parking. Up to 125 dogs at a time could utilize day care services, but drop offs will occur quickly. Visits for training or grooming services could take longer, and 10-14

employees will be on site during standard business hours. The parking code does not specifically identify this use. The most closely related use is retail store generating relatively little automobile traffic, which requires one parking space per 400 square feet.⁶ That would require 15.3 spaces (6,120 /400). With 17 spaces (11 in front of Building 6 and an additional 6 share spaces nearby), DCD determined this would suffice.

1.16 Landscaping. 15% of the site must be landscaped.⁷ The landscape plan submitted with SDAP 16-05423 complied. DCD found the CUP's landscape plan also complies. With the CUP, some existing vegetated areas have been changed to hydroseed due to the need to grade the site west of Building 6 and adding the outdoor play area. The outdoor play area will be fenced with eight foot white solid fencing. The exterior fencing will have no openings, but there may be slats and gates on the interior fencing separating the play areas. A portion of the play area extends into the stream buffer and the exterior area around the fence will be replanted as buffer mitigation, as addressed in the paragraph below.

1.17 Critical Areas. Clear Creek is near the south property line. A Fish and Wildlife Habitat Assessment Report, Buffer Reduction Plan, FEMA Floodplain ESA Analysis and Habitat Management Plan was reviewed with SDAP 16-05423. The Report did not address the 400 square feet of the dog exercise area within the buffer. To mitigate new impacts, Pacific wax myrtle plantings are proposed. A revised mitigation plan showing the added buffer plantings will be submitted with the commercial building permit for the project. The plantings will extend around the outdoor play area fence to the east and west. The solid fence will be sufficient to contain the dogs, and be no less than eight feet tall. Building 6 and the play area are both located outside the Creek's associated AE flood zone.

1.18 Signage. No specific signage has been proposed, but any such signage will comply with KCC Ch. 17.510, as in effect when a complete sign permit application is accepted.

1.19 Design Standards. The project is within the Waaga Way Town Center, and Silverdale Downtown Design Standards, Chapter 10 apply. Basic site development and design criteria were evaluated under Site Development Activity Permit 16-05423 and Commercial Building Permit 17-02918 Creekside Business Park - Building #6 Shell Only. With the CUP, DCD requested additional information to confirm continued compliance. The Design Standards require buildings to "integrate awnings, overhangs or other rain protection features when abutting pedestrian amenities."⁸ The Applicant is adding a rain protection feature over the entrance door. Based on this, and its overall review, DCD determined the proposal complies with the Design Standards.

1.20 Setbacks. Animal feeding areas and structures must be outside of yard setbacks and setback at least fifty feet from residences on adjacent properties.⁹ Setbacks exceed the required 20 feet on the front and the required 10 feet on the two sides and rear. The play area is

⁶ KCC 17.490.030.

⁷ KCC 17.500.025.

⁸ Design Standard 10.5.2(H), at Exhibit 30, p. 6 of Att. A.

⁹ KCC 17.410.050, Footnote 1, and KCC 17.410.060(B)(2)(c). The code limits in subsections (a) and (b) on household pets do not apply to this commercial use.

set back at least 35 feet from the front boundary line, the side yard setbacks are 350 and 180 feet, and the rear yard setback is 130 feet.

2. CONCLUSIONS OF LAW

2.1 Hearing Examiner Review Authority.

The Hearing Examiner has review authority for this Conditional Use Permit application.¹⁰ In the Commercial zone, kennels or pet day-cares require a CUP.¹¹ Dog training is accessory to the primary pet day-care use and pet grooming is a permitted use. The Hearing Examiner may approve, approve with conditions, or deny a CUP. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision.¹²

2.2 Conditional Use Permit Requirements.

A CUP must comply with the following:

1. The proposal is consistent with the Comprehensive Plan;
2. The proposal complies with applicable requirements of this title [Title 17];
3. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity; and
4. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.¹³

The proposal is consistent with the Comprehensive Plan. Plan policies support development of a range of commercial uses to support economic development and diversification of the Silverdale economic base, as long as such uses are supported by adequate infrastructure.¹⁴ The use is consistent with these policies as it will bring employment to the area and has adequate transportation and other infrastructure to support it.

The proposal is conditioned to ensure compliance with Title 17 and other applicable code requirements. As the findings detail, landscaping, critical areas, stormwater, building design, parking, and setback requirements are all met. Consistent with DCD hearing testimony and the Staff Report, no code requirement was identified which would not be met.

¹⁰ See KCC Sections 17.410.010(C), 17.550.020(A), and 21.04.100.

¹¹ See KCC 17.410.040(B), and FN 1. Kennels are Use No. 262.

¹² See KCC 17.550.030(A).

¹³ See KCC 17.550.030(A).

¹⁴ The Staff Report (Exhibit 31) reviews numerous policies from the Economic Development element and also from the Silverdale Subarea Plan.

With impacts addressed through mitigation and/or code requirements, the project will not be materially detrimental to existing or future uses or property in the immediate vicinity. Stormwater, transportation infrastructure, including parking, and waste concerns, are addressed by code and through mitigation. Setbacks exceed code requirements, and this, coupled with the required landscaping and fencing, help address aesthetic and noise impacts. The site chosen is zoned for commercial use and the surrounding buildings are occupied by or planned for occupation with an assortment of commercial businesses. The project is unlikely to impair these more intensive uses.

The proposal is compatible with surrounding existing and planned uses. As addressed above, noise, waste management (odor), and traffic impacts are addressed through the code and with mitigation. Conditions are imposed to ensure all code requirements are met, and impacts are adequately addressed. As a result, the use is consistent with the existing character, appearance, quality of development, and physical characteristics of the property and immediate vicinity. As conditioned and proposed, the dog day-care, boarding, training and grooming facility meets all CUP criteria.

DECISION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested CUP, provided these 32 conditions are adhered to.

Development Services and Engineering.

Planning/Zoning.

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. A new commercial building permit shall be required for the tenant to finish the interior and occupy the building.
3. The commercial building permit shall show a rain protection feature over the entry doorway at the north end.
4. A building permit shall be obtained for the 8-foot outdoor play area fence.
5. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.
6. The project shall comply with KCC Chapter 7.08 Licenses and Licensing Requirements.
7. No outside storage is allowed.
8. Camp Bow Wow activities shall be limited to Building 6 and the fenced outdoor

play area.

9. All special event activities shall take place within Building 6 and the fenced outdoor play area.

10. Landscaping shall be installed and maintained in conformance with the requirements of KCC 17.500. Landscaping shall be installed and inspected prior to requesting a final inspection, or guaranteed by means of an assignment of funds or bonded in the amount of 150 percent of the cost of installation.

11. Artificial outdoor lighting shall be arranged so that the lighting is fully recessed or fully shielded from side view and directed downward and away from surrounding properties. No more than one foot-candle of illumination shall leave the property boundary. Lighting shall be the minimum necessary for safety purposes and be compatible with the surrounding properties. Light standards (poles) shall not exceed 20 feet in height.

12. Any and all signage design and location (including exempt signs) shall comply with KCC 17.510, and be reviewed and approved by DCD prior to installation. Signage may require a separate permit.

13. The recipient of any conditional use permit shall file a Notice of Land Use Binder 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 Notice of Land Use Binder shall serve both as an acknowledgment 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. The Binder shall be prepared and recorded by the Department at the Applicant's expense.

14. The uses of the subject property are limited to the uses proposed by the Applicant and any other uses will be subject to further review pursuant to the requirements of the KCC. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not be, and is not to be, construed as approval for more extensive or other utilization of the subject property.

15. The decision set forth herein is based upon representations made and exhibits contained in the project application #17 03777 Camp Bow Wow CUP. Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.

16. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the Applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the

approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the Applicant agrees to promptly bring such development or activities into compliance.

17. This CUP approval shall automatically become void if no development permit application is accepted as complete by DCD within four years of the Notice of Decision date or the resolution of any appeals.

18. Any violation of the conditions of approval shall be grounds to initiate revocation of this CUP.

Engineering.

19. Construction of the proposed building shall conform to the conditions of Site Development Activity Permit #16-05423 and any addendums thereto.

20. If the project proposal is modified from that shown on the submitted site plan dated December 27, 2017, Development Services and Engineering will require additional review and potentially new conditions.

21. The Applicant shall submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the KCC. The KCPW 1601 form reserves road capacity for the project and is the mechanism to obtain the Concurrency Certificate.

22. Any work within the County right-of-way shall require a Public Works permit and possibly a maintenance or performance bond. This application to perform work in the right-of-way shall be submitted as part of the SDAP process (or building permit if no SDAP is required). The need for and scope of bonding will be determined at that time.

23. The solid waste service provider, Waste Management (360) 674-3166 shall be contacted for information on implementing the service provider's solid waste/recycling storage requirements for the proposed activity. Indicate method of waste disposal on the final plans. Documentation shall be provided by the solid waste/recycling service provider that its requirements for this project have been met. The required information shall be submitted with the commercial building permit application.

24. The building permit application submittal shall show solid waste dumpster location, method for securing the enclosure gates in an open position and pad sizes on the civil plans submitted for approval. Details of the enclosure, including interior dimensions, building materials and lighting must be included with the civil plans prior to final approval. These details may be architectural drawings attached to the civil plans. Provided area must accommodate a minimum 6-yard dumpster.

25. The building permit application submittal shall show at least 150 square feet of exterior recyclable materials storage space for the project. Describe collection containers and

show their locations, method for securing the enclosure gates in an open position and pad dimensions on the civil plans submitted for approval. Details of the enclosure, including interior dimensions, building materials and lighting must be included with the civil plans prior to final approval. These details may be architectural drawings attached to the civil plans. The required information shall be submitted with the commercial building permit application.

Environmental Review.

26. Permit approval is subject to Chapter 19.150.170 of KCC, which states that critical area ordinance (CAO) buffers shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Refuse, including dog waste, shall not be placed in buffers.

27. The project shall follow recommendations of Soundview Consultants LLC's Buffer Restoration and Enhancement Plan and Habitat Management Plan dated April 2016, Technical Memorandum dated November 10, 2017 and their email dated February 23, 2018.

28. A revised mitigation plan showing the additional buffer plantings adjacent to the outdoor play area fence shall be submitted with the commercial building permit for Camp Bow Wow. The plantings shall be Pacific wax myrtle, *Myrica californica*. The plantings shall extend around the entire proposed outdoor play area fence.

29. No uses that are identified as "activities with potential to groundwater" at KCC 19.600.620 shall occur without amending this CUP.

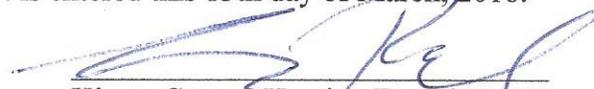
Kitsap Public Health District.

30. All solid dog waste shall be bagged and disposed of in the trash.

31. Residual dog waste that is hosed down during facility cleaning shall be the only waste to be disposed of in the onsite holding tank.

32. Natural waste generated by humans in the facility's toilets shall be the only wastes disposed of in the community septic system.

THIS DECISION is entered this 13th day of March, 2018.



Kitsap County Hearing Examiner
Susan Elizabeth Drummond