



Notice of Hearing Examiner Decision

09/08/2020

To: Interested Parties and Parties of Record

RE: Project Name: Camp Union Saloon
 Applicant: Elizabeth Thoma
 801 Lost Hwy W
 Seabeck, WA 98380
 Application: Conditional Use Permit (CUP)
 Permit Number: 19-05612

The Kitsap County Hearing Examiner has **APPROVED** the land use application for **Permit #19-05612: Camp Union Saloon, Conditional Use Permit (CUP), subject to the conditions outlined in this Notice and included Decision.**

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS TIMELY APPEALED, AS PROVIDED UNDER WASHINGTON LAW.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner Rules of Procedure found at:

<https://spf.kitsapgov.com/dcd/HEDocs/HE-Rules-for-Kitsap-County.pdf>

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: Applicant/Owner: Elizabeth Thoma, 801 Lost Hwy W, Seabeck, WA 98380-9602
Project Representative: Susan Venard @ Map-Limited, suev@map-limited.com
Authorized Agent: Jeff Coombe, jeff@jcmpm.com
Engineer: Mark Eisses Map LTD, marke@map-limited.com
Health District
Public Works
Parks
Navy
DSE

Kitsap Transit
Central Kitsap Fire District
Central Kitsap School District
Puget Sound Energy
Water Purveyor – KPUD N1
Point No Point Treaty Council
Suquamish Tribe
Port Gamble S'Klallam Tribe
WA Dept of Fish & Wildlife
WA State Dept of Ecology-SEPA
WA State Dept of Ecology-Wetland Review
Interested Parties: None

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

**Conditional Use Permit
Camp Union Saloon, File No. 19-05612**

September 3, 2020

1. FINDINGS OF FACT

1.1 Proposal. The Applicant requests a Conditional Use Permit ("CUP") to relocate the Camp Union Saloon, including 1,000 square feet of retail space, to a new 4,920 square foot building on a vacant 1.78 acre parcel. The use originally opened in 1981 to serve the local community and summer travelers. To avoid a rent increase, the use is being moved to the adjacent lot.

Applicant/Property Owner. Elizabeth Thoma, 801 Lost Highway West, Seabeck, WA 98380-9602.

Location. 1400 Block NW Holly Road, Seabeck, WA 98380. Assessor Parcel No. 052401-3-017-1009.

1.2 Hearing. An open record public hearing was held August 13, 2020. Due to COVID-19 restrictions, the hearing was conducted remotely, with the Examiner, Kitsap County Department of Community Development ("DCD"), and Applicant calling in. Access information was provided to the public to allow citizens to join via either a video link or telephone call-in. There were no reported technical difficulties during the call or afterwards. However, in case any citizens who wished to comment had difficulty calling in, the record was kept open for a week, through August 20.¹ No citizen comment was received following the hearing. At the hearing, DCD, through Mr. Smith, described the project. DCD found it consistent with requirements, and recommended approval with conditions. The Applicant, through Mr. Coombe, confirmed there were no concerns with DCD's proposed conditions. No member of the public indicated a wish to speak.

1.3 Administrative Record. The Hearing Examiner admitted Exhibits 1-27, which included the Staff Report, application materials, documentation of agency consultation, public notice documents, and a DCD Power Point presentation. After the hearing, the Applicant provided details on use history, which the Examiner admitted as Exhibit 28.

1.4 Notice. Hearing and application notice was provided consistent with KCC requirements.²

¹ Temporary Emergency Rule to Address COVID-19 Situation (April 1, 2020).

² Exhibits 15, 22 and 23; KCC 21.04.080, .210.

1.5 SEPA. DCD issued an unappealed Determination of Non-Significance, with conditions requiring compliance with Title 12 to address stormwater control, Title 17 to address zoning, and Title 19 to address critical areas.³

1.6 Agency Comment. The proposal was circulated within the County. As long as requirements are met, there were no agency objections to approval.

1.7 Zoning/Plan Designations and Surrounding Land Uses. The Comprehensive Plan and zoning designations are Rural Commercial (RCO).⁴ Surrounding properties are zoned Rural Residential, Rural Protection, and Rural Commercial, and are developed with single family homes, a convenience store, and gas station.

1.8 Site Physical Characteristics. The site is vegetated with evergreen and deciduous trees and underbrush, with trails across the site. There is a small gravel road within a 40-foot easement along the west property line for vehicle access to an adjacent residential property to the north of the site. A gravel area and driveway extend into the site from the abutting commercial development to the east that contains the existing Camp Union, convenience store, and gas station. The site slopes generally downward toward the southeast corner with slopes ranging from 5% to 15% with a few isolated areas of slightly steeper grades.

1.9 Utility and Public Services.

- **Water:** Kitsap PUD #1
- **Power:** Puget Sound Energy
- **Sewer:** On-site septic
- **Police:** Kitsap County Sheriff
- **Fire:** Central Kitsap Fire and Rescue
- **Schools:** Central Kitsap School District #403

1.10 Access, Traffic and Roads. Access to the site is from NW Holly Road near the center of the property, classified as a Rural Minor Arterial. The road segment fronting the project consists of a 60 foot right-of-way with two 11-12 foot travel lanes and two 3-5 foot gravel shoulders. There is an existing private access road in an easement along the west side of the site which will remain unchanged. Kitsap County Non-Motorized Bike Route #38 is along the property frontage on NW Holly Road. Based on business history, the Camp Union Saloon has the majority of its customers (up to 40) from 5:00 to 9:00 PM. Local road capacity is adequate for the estimated 35 average daily trips, including 18 peak hour trips (4-6 PM).

1.11 Off-Street Parking. There will be 56 off-street parking spaces, including two ADA accessible spaces and two compact spaces, which exceed code requirements.⁵ The project must have approximately 1,400 square feet of parking area landscaping.⁶

³ Exhibit 18; Exhibit 26 (Staff Report), pp. 1-2.

⁴ Exhibit 25; Exhibit 26 (Staff Report), p. 3.

⁵ KCC 17.490.030; Exhibit 6; Exhibit 26 (Staff Report), p. 8.

⁶ KCC 17.490.040(B); Exhibit 26 (Staff Report), p. 8.

1.12 Environmental. The property is in a Critical Aquifer Recharge Area and proximate to a mapped Moderate Seismic Hazard area. The project use does not require a hydrogeologic report. The Applicant will address the seismic hazard area through building permit review.

1.13 Hours. Operating hours will be 10:00 AM to midnight Monday through Wednesday, 10:00 AM to 2:00 AM Thursday and Friday, 8:00 AM to 2:00 AM Saturday, and 8:00 AM to midnight Sunday.

1.14 Lighting. Consistent with KCC 17.105.110, outdoor lighting will be arranged so light is directed away from adjoining properties and no more than one foot-candle of illumination can leave the property boundaries. The project will be conditioned to reduce glare and reviewed through the Building Permit for consistency with lighting standards. Some glare on adjacent properties is unavoidable such as vehicle egress at the driveway approach on NW Holly Road.

1.15 Signage. The proposal includes small wall building signs for the saloon and retail space, which will be shut off at closing time. The Applicant may apply for a monument sign through a separate sign permit application, and will comply with size and glare requirements.⁷

1.16 Screening of Equipment, Storage, and Refuse Areas. All roof-mounted air conditioning or heating equipment, vents, ducts, or other equipment shall not be visible from the abutting lot, or any public street or right-of-way as feasible. Elevations indicate the HVAC system is screened and not visible from the roadway or abutting properties. Visibility requirements will be verified at Building Permit review.

1.17 Landscaping. The site plan and landscaping plans⁸ include landscaping around the building, within the off-street parking area, and along the road frontage. Natural vegetation is proposed to remain along the perimeter with the setbacks along the north and sides, and the 40-foot private road easement within Gillard Lane. Overall, 60% of the property will have landscaping and native vegetation, which exceeds the code requirement of 15%.⁹ There will be a six-foot solid wood panel fence along the north property line to provide screening.

1.18 Frontage Improvements. Except for construction of a commercial road approach, no frontage improvements will be required.

1.19 Fire Safety. Water is available from Kitsap PUD #1, and fireflow is not required based on occupancy, construction type, and building size.

1.20 Solid Waste. The proposal includes a solid waste enclosure with adequate screening vegetation and fencing.

⁷ KCC 17.510; 17.105.110; Exhibit 26 (Staff Report), p. 8.

⁸ Exhibits 9 and 19.

⁹ KCC 17.500; Exhibit 26 (Staff Report), pp. 8-9.

1.21 Water/Sewer. The Applicant received a letter of water availability from Kitsap PUD.¹⁰ The project will be served by an on-site septic system approved by Kitsap Public Health District, with the drainfield proposed near the northeast corner of the site.¹¹

1.22 Conditions/Staff Report. DCD's proposed conditions should be incorporated without substantive revision, and except as the Decision revises it, the Staff Report is incorporated.

2. CONCLUSIONS OF LAW

2.1 Hearing Examiner Review Authority. The Hearing Examiner has review authority for this CUP application.¹² The Hearing Examiner may approve, approve with conditions, or deny a CUP.¹³ The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision.

2.2 Conditional Use Permit Requirements. A CUP must comply with:

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.¹⁴

The project with conditions is consistent with the Comprehensive Plan goals and policies. The project will serve a limited service area, primarily the immediate rural neighborhood. The proposal is conditioned to ensure compliance with Title 17 and other applicable code requirements. No code provision was identified which would not be complied with. County code provisions addressing landscaping, critical areas, lighting, stormwater management, and other requirements have been or will be complied with. The project has been conditioned to ensure compatibility with surrounding uses and avoid material detriment. The Applicant has demonstrated consistency with the CUP criteria. The proposal should be approved.

¹⁰ Exhibit 2.

¹¹ Exhibit 3.

¹² KCC Sections 17.550.020 and 21.04.100.

¹³ KCC 17.550.030(A).

¹⁴ KCC 17.550.030(A).

DECISION

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

Planning/Zoning

1. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.
2. 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.
3. Landscaping and fencing 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.
4. 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.
5. The recipient of any CUP 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 an agreement to abide by the terms and conditions of the CUP 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.
6. 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.
7. The decision set forth herein is based upon representations made and exhibits contained in the project application (19-05612). 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.
8. 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.

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

Development Engineering

10. Construction plans and profiles for all roads, storm drainage facilities and appurtenances prepared by the developer's engineer shall be submitted to Kitsap County for review and acceptance. No construction shall be started prior to said plan acceptance.

11. The information provided demonstrates this proposal is a Large Project as defined in KCC Title 12, and as such will require a Full Drainage Review Site Development Activity Permit (SDAP) from Development Services and Engineering, demonstrating a design that meets Minimum Requirements 1-9, as outlined in the Kitsap County Stormwater Design Manual.

12. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with KCC Title 12 effective at the time the CUP application was deemed complete, December 19, 2019. The submittal documents shall be prepared by a civil engineer licensed in the State of Washington. The fees and submittal requirements shall be in accordance with Kitsap County Ordinances in effect at the time of SDAP application.

13. The site plan indicates that greater than one acre will be disturbed during construction. This threshold requires a National Pollutant Discharge Elimination System (NPDES) Stormwater Construction permit from the State Department of Ecology. More information about this permit can be found at: <http://www.ecy.wa.gov/programs/wq/stormwater/construction/> or by calling Josh Klimek at 360-407-7451, email joshklimek@ecy.wa.gov. This permit is required prior to issuance of the SDAP.

14. The Washington State Department of Ecology (Ecology) may require registration of the infiltration trench as an Underground Injection Control (UIC) well in accordance with the Underground Injection Control Program (Chapter 173-218 WAC). The Applicant shall contact Ecology to determine if the facility is regulated under the UIC program.

15. The Site Development Activity Permit application materials shall include results of subsurface investigation and infiltration testing, using the methods outlined in Vol. II, Chapter 5, Table 5.3 of the Kitsap County Stormwater Design Manual, to demonstrate feasibility of infiltration and permeable pavement.

16. During the construction of the proposed permeable pavement infiltration facilities, the Project Engineer shall provide an inspection to verify that the facilities are installed in

accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Development Services and Engineering.

17. The design of the infiltration facilities will be in accordance with Vol. II, Chapter 5 of the Kitsap County Stormwater Design Manual.

18. The infiltration facilities shall remain offline until the drainage areas are stabilized, and the water quality treatment facility is adequately established. Temporary erosion and sedimentation ponds shall not be located over infiltration facilities.

19. During the construction of the proposed infiltration facilities, the Project Engineer shall provide an inspection to verify that the facilities are installed in accordance with the design documents and that actual soil conditions encountered meet the design assumptions. The Project Engineer shall submit the inspection report properly stamped and sealed with a professional engineer's stamp to Development Services and Engineering.

20. The owner shall be responsible for maintenance of the storm drainage facilities for this development following construction. Before issuance of Occupancy Permits for this development, the person or persons holding title to the subject property for which the storm drainage facilities were required shall record a Declaration of Covenant that guarantees the County that the system will be properly maintained. Wording must be included in the covenant that will allow the County to inspect the system and perform the necessary maintenance in the event the system is not performing properly. This would be done only after notifying the owner and giving him a reasonable time to do the necessary work. Should County forces be required to do the work, the owner will be billed the maximum amount allowed by law.

21. Soil amendment is required over all disturbed areas that are not covered by hard surface.

22. If the project proposal is modified from that shown on the submitted site plan accepted for review December 19, 2019, Development Services and Engineering will require additional review and potentially new conditions.

23. [Reserved]

Environmental

24. There are mapped Moderate Seismic Hazards in the vicinity to the south across NW Holly Road approximately 85' away. Per KCC 19.400.435.B.2, "Development activities or actions requiring a project permit within a seismic hazard area shall be in accordance with Chapter 14.04, the Kitsap County Building and Fire Code."

Critical Aquifer Recharge Area

25. This project is subject to the conditions of Title 19.600.615 Development Standards.
26. A. Category I Critical Aquifer Recharge Areas.
 1. Land uses identified in Table 19.600.620 are prohibited in Category I Critical Aquifer Recharge Areas, unless a waiver is granted by the department; and
 2. Requests for waivers for activities listed in Table 19.600.620 shall include a hydrogeological report (See Chapter 19.700, Special Reports) that includes a detailed risk-benefit analysis that considers credible, worst-case scenarios. The hydrogeological report shall evaluate potential impacts of a proposed land use or activity on both groundwater and surface water quality and quantity. The waiver will be evaluated and treated as a special use review and be reviewed by the department, the health district, affected tribes, and the affected water purveyors.

Traffic and Roads

27. 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.
28. All rights of access for adjoining properties currently in existence shall be preserved. Any amendment to the existing easement rights of adjoining property owners shall be properly executed and recorded prior to SDAP acceptance.
29. Sidewalk ramps shall conform to the current requirements of the Americans with Disabilities Act per WSDOT standard plans at the time of construction.
30. The property owners shall be responsible for maintenance of all landscaping within the existing and proposed right-of-way including any structures other than roadway, storm drainage facilities, and traffic signage. Maintenance shall include, but not be limited to, mowing of lawn areas. A note to this effect shall appear on the face of the final plat map and the accepted construction plans. In addition, Development Services and Engineering reserves the right to require that covenants be recorded to address special maintenance requirements depending on final design.
31. The Applicant shall submit plans for construction of the road approach between the edge of existing pavement and the right-of-way line at all intersections with county rights-of-way. Approaches shall be designed in accordance with the Kitsap County Road Standards as established in Chapter 11.22 of the KCC. Existing approaches may need to be improved to meet current standards.

32. Any required sidewalk shall be constructed prior to roadway paving. This note shall appear on the face of the final construction drawings.

33. At the time of submittal of the Site Development Activity Permit, the Applicant shall apply for a Right-of-Way Permit through the Department of Public Works for any and all work performed in the county Right of Way associated with this project. You may apply online at <https://co-kitsap-wa.smartgovcommunity.com> or contact Kitsap County Public Works, Right of Way Division at rowpermits@co.kitsap.wa.us with any questions.

Fire Safety

34. This permit shall comply with all Kitsap County Fire Safety regulations and conditions of approval.

Solid Waste

35. Prior to SDAP approval, Waste Management (360) 674-3166 shall be contacted for information on implementing the solid waste/recycling storage requirements influenced by the service provider (e.g. dumpster size and location) for the project. Pay particular attention to the access requirements of collection trucks. Documentation shall be provided from the solid waste/recycling service provider that their requirements for this project have been met.

36. The SDAP 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.

37. The SDAP 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.

38. If using a compactor, liquid wastes generated as a result of compaction must not discharge into the stormwater system per BKCBH Ordinance No. 1996-11, Section IV.2.a.

Kitsap Public Health District

39. This permit shall comply with all Kitsap Public Health District regulations and conditions of approval.

Absent a timely appeal or grant of reconsideration, this Decision is final.¹⁵

DECISION entered September 3, 2020.



Kitsap County Hearing Examiner
Susan Elizabeth Drummond

¹⁵ Ch. 36.70C RCW (providing requirements for appeal within 21-days to superior court); HE Rule 2.12.1.