

**BEFORE THE HEARING EXAMINER
FOR SKAMANIA COUNTY**

In the Matter of the Application of)	NO. CUP-18-02
)	
Beth and Randy Blaisdell)	
)	Gorge Inspired Events
)	
)	
For a Conditional Use Permit)	FINDINGS, CONCLUSIONS, AND
)	DECISION
_____)	

SUMMARY OF DECISION

The request for a conditional use permit to operate a private event center at 701 Maple Way, Stevenson, Washington is **DENIED**.

SUMMARY OF RECORD

Request

Beth and Randy Blaisdell (Applicants) requested a conditional use permit (CUP) to operate a private event center for events of up to 30 guests at 701 Maple Way, Stevenson, Washington.

Hearing Date

The Skamania County Hearing Examiner held an open record hearing on the request on June 18, 2018. The record was held open until June 25, 2018 to allow County staff to submit revised recommended conditions of approval and for the Applicant to submit a response.

Testimony

The following individuals presented testimony under oath at the open record hearing:

- Andrew Lembrick, Planner, Skamania County
- Alan Peters, Planning Director, Skamania County
- Randy Blaisdell, Applicant
- Rudd Turner
- Karen Peringer
- Randy Peringer
- Steven Rasmussen
- Michele Turner
- Sally Skaar
- Laurie Sassmann
- Barbara Selstad

Exhibits

The following exhibits were admitted in the record:

Exhibit 1: Staff Report dated June 7, 2018, with the following attachments:

- A. Project Application Packet
 - a. Vicinity Map
 - b. Project Plan (annotated aerial photo)
 - c. Application packet, including application form, Applicant narrative, well water sampling results
- B. Public Hearing Notice
 - a. Vicinity Map
 - b. Notice of public hearing to adjacent property owners and parties of interest
 - c. Corrected notice of hearing
 - d. Public comment from Randall and Karen Peringer, dated May 26, 2018, with response from Applicants and reply from the Peringers, with attachments:
 - 1. Draft brochure for Gorge Inspired Events
 - 2. Maple Way Water System well output record
 - e. Certificate of mailing
- C. Water Well Users Agreement (AFN #2011177904)

Exhibit 2: Letter from Doug and Debi Zabel, dated June 13, 2018

Exhibit 3: Applicant's Responses to Staff Report Recommendations for Conditional Use dated June 17, 2018, with proposed parking plan and wetland restoration proposal

Exhibit 4: Letter from Jon Paul Anderson, dated June 18, 2018

Exhibit 5: Email from Tim Elsea, P.E. (undated) re: Zabel comments

Exhibit 6: Rudd Turner comments, submitted June 18, 2018

Exhibit 7: Karen Peringer document submitted at hearing, including April 15, 2018 email and four annotated photographs

Exhibit 8: Memorandum from Andrew Lembrick dated June 19, 2018 with revised recommended conditions

Exhibit 9: Applicant's responses to revised recommendations for conditional use dated June 20, 2018, with cover letter dated June 21, 2018

Upon consideration of the testimony and exhibits admitted, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. The Applicants requested a conditional use permit (CUP) to operate a private event center for events of up to 30 guests at 701 Maple Way, Stevenson, Washington.¹ *Exhibits 1 and 1.A.*
2. The application was submitted and determined to be complete on March 26, 2018. *Exhibit 1, page 2 and Exhibit 1.A.*
3. The subject property is 2.19 acres in area (1.65 acres net of road right-of-way) and is developed with a single-family residence and permit-exempt accessory structures, including a 12- by 12-foot pavilion built to be used in conjunction with events. No new structures are proposed. *Exhibit 1.*
4. The Comprehensive Plan designation of the subject property is Rural II. *Andrew Lembrick Testimony.* The Comprehensive Plan describes the Rural II designation as follows:

The Rural II land use area is intended to provide for rural living without significant encroachment upon lands used for agriculture and timber. This land use area is the middle developmental range level suggested by this plan. The lower density will help to protect agricultural and timber lands from dense residential type development, and should maintain the rural character of this designation. ...

Rural II areas are considered suitable for more widely dispersed residential uses compatible with natural land limitations and resource potentials. This land use category would provide for rural living without significantly encroaching upon agricultural and timberlands.

Skamania County Comprehensive Plan, pages 24-25.

5. The subject property is zoned Residential 2 (R-2), a zone that “is intended to provide a transition zone of medium density residential development which will maintain a rural character of the areas in the rural I and rural II land use areas of the county comprehensive plan A.” *Skamania County Code (SCC) 21.32.010.* Uses allowed outright in the R-2 zone include single-family dwellings, agriculture, forestry, public facilities and utilities, professional services, cottage occupations, light home industries, residential care facilities, family day care homes, safe homes, accessory equipment structures, communication facilities attached to BPA towers, and religious facilities. *SCC 21.32.020.* The Community Development Department consider an event center such as

¹ The legal description of the subject property is a portion of the northwest quarter of Section 36, Township 3 North, Range 7 East, Willamette Meridian; also known as Tax parcel number 03-07-36-2-0-0402-00. *Exhibit 1.*

the one proposed to be a recreational use. Recreation facilities are allowed in the R-2 zone subject to CUP approval . *SCC 21.32.031; Exhibit 1*. The minimum lot area in the R-2 zone is two acres. *SCC 21.32.050*.

6. Surrounding parcels are developed with residential uses. Within a 500-foot radius of the subject property, the average lot size is approximately three acres. The residence on the parcel to the west of the subject property is located approximately 65 feet from the shared property line. The existing patio/entertainment area on the subject property extends to this shared property line, meaning the use is proposed to occur immediately adjacent to the property line and proposed activities would be setback 65 feet from the neighbors' residence. The deck on the residence to the west is approximately ten feet higher in elevation than and overlooks the event space. The next closest residence is the one located approximately 200 feet to the east, which is on the parcel abutting the subject property to the east. *Exhibits 1, 1.B.d, and 7*.
7. The Applicants propose to host up to four events per month during the months of May through October (24 events per year), with events occurring outdoors in an approximate 0.8-acre patio/yard area in the southern portion of the property. The maximum event size would be 30 guests not including any event staff or contractors, such as caterers, wedding officiants, music providers, and similar event vendors. The Applicants anticipated that staff associated with events such as weddings would not exceed six people, and agreed to a condition limiting the number to six. The hours of operation (as recommended by the County and agreed to by the Applicant) would be from 10:00 am to 10:30 pm, with events ending no later than 10:00 pm. The County noise ordinance limits sounds at shared property boundaries to 55 dBA between 7:00 am and 10:00 pm, reducing to 45 dBA after 10:00 pm. Compliance with these sound limits is proposed to be verified through use of a decibel meter.² Portable toilets would be provided during events, although the Applicants propose to have one restroom inside the residence available for event use. The Applicants propose to use six-foot fence panels and natural vegetation to screen the portable toilets as much as possible. *Randy Blaisdell Testimony; Exhibits 1, 8, and 9*.
8. The on-site septic system has not been evaluated for capacity for additional usage beyond that of a three bedroom residence. Planning Staff submitted that normal residential use of a septic system includes hosting occasional parties of the size proposed. However, Staff recommended a condition of approval requiring the Applicants to obtain verification from the Skamania County Environmental Health Department that the septic system is adequate for the existing residential and “limited accessory” uses, and that the Applicant restrict use of the residence’s restroom to any limits prescribed by Environmental Health, with usage “generally ... limited to residents, event staff and any persons requiring special accommodation.” *Exhibit 8; Alan Peters Testimony*.

² Enforcement of County noise standards would be complaint-driven. Per the County’s recommendation, the Applicants would be required to record noise levels and present the records to the County on request. *Exhibit 8; Alan Peters Testimony*.

9. Potable water is provided to the subject property, and to the other three lots within the Van Pelt Short Plat, by the Group B Maple Way Water System. The subject property has a one-quarter interest in the water system, entitling the Applicants to use an approximate quantity of 300 gallons per day. One of the restrictive covenants of the well water users agreement prohibits any lot owner from placing roads, driveways, structures, and other enumerated items within 100 feet of the water system's wellhead. *Exhibit 1.C.*
10. Primary access to the site is from Maple Way, via the residential driveway. The Applicants constructed a secondary access drive from Maple Way to the rear of the subject property along the west side of the residence. Initially, the Applicants indicated in the CUP proposal that this second driveway would serve as an emergency access; however, this driveway encroaches into the 100-foot wellhead protection radius for the Maple Way Water System and into the 25-foot buffer of a Class V stream that crosses the northwest corner of the subject property. The secondary driveway was constructed without permits. Planning Staff recommended as a condition of approval that the Applicants be required to remove the road or submit and obtain approval of a critical areas variance application. The Applicants agreed to remove the road. At the hearing, they submitted a restoration planting plan that called for removal of the driveway surface and planting native plants. *Exhibits 1, 1.A.c, 1.B.d, 3, 8, and 9.* No alternate emergency access was identified.
11. Based on water usage records submitted by a neighbor also on the Maple Way Water System, the Applicants' average water usage during the past year has exceeded the approximate 9,000 gallons per month specified in the well water users agreement and has exceeded the average amounts used by the other well users. In September 2017 (the highest usage recorded), the Applicants' usage was 26,964 gallons. The Applicants propose to mitigate potential impacts from the event center on the community well by using bottled water during events. No provision for potable water use other than drinking water, such as water used in site preparation, catering, or clean up, was described in the materials. The County did not recommend any conditions of approval relating to water usage; it submitted that it does not have jurisdiction over disputes relating to the private system. *Exhibits 1.B.d and 8; Alan Peters Testimony.*
12. Event guest and staff parking would be on site in the driveway, which provides approximately 7,800 square feet of area. The Applicants propose to use valet parking to prevent parking within the right-of-way or on adjacent parcels. The County submitted that, based on guidance from the Institute of Transportation Engineers parking standards, 22 parking spaces would be required for 30 guests plus event staff, including one ADA accessible parking space. The Applicants submitted that 22 spaces could be accommodated in the area; however, they intend to limit the number of spaces to 17 to allow for vehicle maneuvering and emergency access. The Applicants submitted a parking plan depicting 17 parking spaces within the driveway, with 15 of the spaces arranged in three rows of five, with no maneuvering space between them.³ County Staff

³ The parking plan is not superimposed on, or in any way related to, the site plan. It is simply a drawing of the dimensions the Applicants propose to use in the driveway depicting parking spaces next to each other without

is satisfied that the recommended 22 parking spaces could be accommodated within the proposed parking area. It isn't clear in the record where the additional five parking spaces would be located. *Exhibits 1, 3, 8, and 9; Andrew Lembrick Testimony.*

13. The Applicants submitted that the sound system for the event center would be operated from inside the house, with one speaker placed outside within the event space located in such a way that a wood pile would act as a sound barrier to the west. Small musical ensembles hired by event planners would be placed in the same location. The subject residence would serve as a sound barrier for properties to the east. No use of public address systems or amplified music, aside from the one speaker, is proposed. *Randy Blaisdell Testimony.*
14. Notice of the open record hearing was mailed to property owners within 500 feet and interested parties and posted on the Community Development Department website on May 21, 2018, and published in *Skamania County Pioneer* on May 30, 2018.⁴ *Exhibits 1 and 1.B.* Notice of the proposal was circulated to the following agencies: County Fire Marshal; Building Division; Environmental Health Division; Engineering; Commissioners; Assessor; Skamania County PUD #1; Washington State Department of Fish and Wildlife; Cowlitz Indian Tribe; Nez Perce Tribe; Confederated Tribes and Bands of the Yakima Nation; Confederated Tribes of the Warm Springs Reservation; and Confederated Tribes of the Umatilla Reservation. *Exhibit 1.*
15. The subject property is located in the service area of Fire District #2 and the Skamania County Sheriff. The Fire District did not submit comments after being sent notice of the application. *Exhibits 1; Andrew Lembrick Testimony.*
16. The County Engineer reviewed the proposal and submitted comments indicating that the proposal would not generate traffic that would affect level of service (intersection delay) at area intersections. In the County Engineer's opinion, East Loop Road and Maple Way are adequate to accommodate the traffic anticipated to result from the proposed use. *Exhibit 5.*
17. In response to notice, the County received comments from the owners of the residence immediately east of the proposed event location, Randall and Karen Peringer, who expressed concern on the following issues: that the proposed activities would occur in such close proximity to their home; how the Applicants could effectively manage event parking; that the Applicants' second driveway in fact violated the restrictive covenants of the group water system and could not be relied on for emergency access; impacts to the water system from event center operations; the size and timing proposed for events; and impacts to their quiet enjoyment and property values. *Exhibit 1.B.d.* Before the hearing, the County received comments from Doug and Debi Zabel, property owners on Maple

depicting the relationship between the parking spaces and the site improvements (driveway, buildings, landscaping) or the right-of-way. *Exhibit 3.*

⁴ A version of the notice published on May 23, 2018 contained an incorrect meeting date, so a corrected notice was published on May 30. *Exhibits 1 and 1.B.*

Way, expressing concerns that the proposal would: increase traffic on Maple Way and Loop road, which are narrow; that people waiting on the road for their cars to be valet parked would block traffic; that noise from events with 30 people would negatively impact the peace and quiet of neighbors; and adversely impact property values for surrounding homes. *Exhibit 2.*

18. At the public hearing, several area residents commented on the quiet, peaceful character of the existing neighborhood and expressed concerns regarding noise, traffic, parking, and property values. At a past event on the subject property, the Applicants had tested sound volumes at the property boundaries and determined that noise levels were within the limits established by the noise ordinance. However, the nearest neighbors to the east indicated that this event had been disruptive for them because they could hear everything clearly, including specific conversations. With respect to traffic and parking, several residents described Maple Way as being narrow and expressed concern that event guests would park on the road despite prohibitions, resulting in unsafe conditions. They reported existing unauthorized parking observed within the hammerhead turnaround at the end of the road. Neighbors expressed the concern that the proposed valet parking system would increase traffic congestion and adversely affect emergency access. The Peringers, who own the nearest house to the east, appeared at hearing to reiterate that events allowed to occur every weekend between May and October within 65 feet from their home would significantly adversely impact their quality of life, the peace and privacy of their residence, and their right of quiet enjoyment. They questioned whether approval would affect their ability to conduct their own potentially noise-generating activities, such as mowing the lawn or entertaining, for six months of the year. *Testimony of Rudd Turner, Karen Peringer, Randall Peringer, Steven Rasmussen, and Michele Turner.*
19. As mitigation for anticipated impacts, the County recommended that the Applicants be required to install additional screening along the west property line. While there is an existing solid fence to the west of improved event area, the County recommended that partial screening in the form of trees or fencing be installed adjacent to the lawn area. The Applicants agreed to plant 16 Leyland cypress trees along the west property line, spaced seven feet apart, to grow into a solid hedge. *Exhibits 8 and 9.* The Applicants indicated that they would irrigate the new plantings from their cistern, which they would have filled by a water truck service. *Randy Blaisdell Testimony.*
20. An existing year-round event center known as Maple Leaf Events was approved at 401 Maple Way, approximately one-quarter mile from the subject property, within the Residential 1 zone. Maple Leaf Events is permitted for events of up to 200 guests without restriction on the number of events per year. It is permitted for hours of operation that go to 11:00 pm. The size of the property at 401 Maple Way is 4.03 acres. Planning Staff submitted that the recommended conditions of approval for the instant case are much more stringent than those applicable to Maple Leaf Events, and that they would ensure that the proposal would result in a less intensive use than occurs at 401 Maple Way. However, as noted by area residents and depicted in aerial mapping, Maple Leaf Events is farther from the closest neighboring residence than the proposed event

center, is screened from the nearest residence by a substantial grove of trees, and has more on-site parking. *Exhibits 1, 7, and 8.*

21. The County recommended that the Applicant be required to provide written notice of each event to the County Community Development Department and to neighbors within a 500-foot radius. The Applicant agreed to this condition. *Exhibits 8 and 9.*

CONCLUSIONS

Jurisdiction:

The Hearing Examiner is granted authority to conduct hearings and decide CUPs pursuant to SCC 21.16.070(A).

Criteria for Review:

Pursuant to SCC 21.16.070(A), the Hearing Examiner shall deny a conditional use if she determines that the use is not compatible with permitted or existing uses in the specific area of the proposed use, and may approve or approve with conditions a conditional use if she determines that the proposed use is compatible with permitted and existing uses in the specific area of the proposed use.

- 1) In determining compatibility, the Hearing Examiner shall consider whether the proposed use shall:
 - a. Be either compatible with other uses in the surrounding area or not more incompatible than are other outright permitted uses in the applicable zoning district;
 - b. Not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with other permitted uses in the applicable zoning district;
 - c. Not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with other permitted uses in the applicable zoning district;
 - d. Be supported by adequate service facilities and not adversely affect public services to the surrounding area;
 - e. Not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district as a result of the location, size, or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in the zoning district; and
 - f. Not be in conflict with the goals and policies expressed in the current version of the County's comprehensive plan.

- 2) [C]onditions imposed on conditional uses shall be based on the health, safety, and general welfare of the public, any environmental standards in force in Skamania County, [and] other applicable provisions set forth in this title... .

Conclusions Based on Findings

1. Based on the testimony and documentary evidence admitted at the hearing, the Hearing Examiner concludes that the proposed event center use is not compatible with permitted and existing uses in the vicinity.
 - A. The proposed use is not compatible with surrounding residential uses, in that the frequency of the events, the noise generated by the events, the parking at each event, and the potential traffic leaving events ending at 10:00 pm once a week between May and October would exceed the impacts expected from normal residential use. The site does not appear to be sufficiently large to provide effective mitigation for the use as designed, for example by providing a larger setback between the use and adjacent properties, a greater depth of vegetative screening, or a larger parking area. Based on the definitions contained in SCC 21.08.010, the allowed uses of cottage occupations and light home industries are intended to permit businesses that principally employ persons who reside on-site. Residential care facilities and family day care home uses don't typically include weekly outdoor events of up to 36 people until 10:00 pm. While argument was made that religious facilities (allowed outright in the zone) might host events similar to those proposed, it isn't the purpose of a religious facility to host outdoor social events once a week. Outdoor events associated with a church would be the exception, not the rule, while the proposed events would all be conducted outdoors virtually at the shared boundary with the nearest residence. While it is theoretically possible that an individual neighboring property owner could host a large party in their yard every weekend and generate similar impacts, no evidence was presented that such usage is characteristic of the area. It is also a fundamentally different impact to have neighbors who are simply inconsiderate regarding the frequency and volume of outdoor parties than it is to have a permitted commercial event center operating next door. Credible evidence was presented that the proposed use would detract from the neighbors' normal use and enjoyment of their properties. The nearby Maple Leaf Events does not constitute a valid comparison for "other uses allowed in the zone", both because it was allowed as a conditional use and also because the Maple Leaf Events facility is on a substantially larger parcel that allows for increased screening from nearest residences. *Findings 3, 5, 6, 7, 10, 12, 13, 17, and 18.*
 - B. Addressing potential impacts to the public health, safety, and welfare: From the record presented it cannot be concluded whether the Applicants can effectively prevent event parking from occurring in the right-of-way, potentially blocking traffic or emergency vehicle access, nor how with valet parking of 17 to 22 cars in the driveway the property would accommodate emergency vehicle/emergency responder access to the event center in the backyard. To the extent that public welfare includes neighbors' rights of quiet enjoyment of the surrounding

residential parcels, as concluded previously the record shows that the proposed use - up to four events with up to 36 people each per month from May to October - would be more incompatible with the surrounding residential uses than the uses that are permitted outright in the zone and would thus impact the public welfare. *Findings 3, 6, 7, 12, 13, 17, and 18.*

- C. Public comment raised the unanswered question of where cars waiting to be valet parked would queue, if not in the right-of-way. Insufficient evidence was presented that adequate parking and vehicle circulation can be accommodated on site, so as to not materially endanger the safety and welfare of the neighborhood. *Findings 6, 7, 1, 12, 17, and 18.*
- D. Insufficient evidence was presented to support a conclusion that the use would be supported by adequate facilities, including sewage disposal and water. Drinking water is not the only water that would be required of the use. The evidence offered shows the Applicants have historically exceeded their allotment under the well waters users agreement even before adding a commercial operation to the site. County reviewing staff accepted the “occasional” use of the on-site septic system by the commercial operation based on a recommendation that the Applicants be required demonstrate the septic system’s capacity prior to commencement of the event center use. It is worth noting that any capacity failure of the septic system could pose a threat to the Group B water system’s well. Although the effective use of portable toilets could conceivably address all guest needs, the record is not clear either how many staff and guests would be allowed to use the indoor plumbing, nor how the requirement for event guests to use the portable toilets instead of the indoor restroom would be enforced. *Findings 3, 7, 8, 9, and 11.*
- E. The record presented failed to establish that the proposed use would be consistent with the intent of the Rural II designation to provide for rural living. *Findings 4, 7, and 12.*

DECISION

Based upon the preceding findings and conclusions, the request for a conditional use permit to operate a private event center at 701 Maple Way, Stevenson, Washington is **DENIED**.

Decided July 9, 2018.

By:



Sharon A. Rice
Skamania County Hearing Examiner

NOTE: Pursuant to Skamania County Code 2.80.140, the action by the Hearing Examiner shall be final and conclusive unless, within the timeframe provided in RCW 36.70C, the Applicant or an adverse party makes application to a court of competent jurisdiction for judicial review of this land use decision.