



Kitsap County Hearing Examiner

COUNTY COURTHOUSE, 614 DIVISION STREET MS-36
http://www.kitsapgov.com

Terry McCarthy, Deputy

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NOTICE OF HEARING EXAMINER DECISION

November 6, 2008

To: Interested Parties and Parties of Record

RE: Project Name: **Buddy's Buddies**
Applicant: **Sheri Stewart & Steven Tyner**
3525 Arvick Road SE
Port Orchard, WA 98366
South Kitsap County, Commissioner District #2
Application: **Conditional Use Permit**
Case Number: **080612-046 (032302-2-007-2003) LIS#08 51731**

Enclosed is the Decision issued by the Kitsap County Hearing Examiner in the above-referenced matter.

THE DECISION OF THE HEARING EXAMINER IS FINAL, UNLESS APPEALED TO THE KITSAP COUNTY BOARD OF COMMISSIONERS, AS PROVIDED BY SECTION 120 OF THE KITSAP COUNTY LAND USE AND DEVELOPMENT PROCEDURES. **ANY APPEAL MUST BE FILED ON OR BEFORE THE CLOSE OF BUSINESS ON NOVEMBER 21, 2008. PLEASE NOTE: THE COURTHOUSE WILL BE CLOSED ON NOVEMBER 11, 2008.**

Pursuant to the Kitsap County Land Use and Development Procedures, (KCC 21.04.120) an appeal may be filed objecting to the Hearing Examiner's Decision. An appeal must be made in writing, and filed with both the Department of Community Development (DCD) and the Board of County Commissioners (BCC) offices. At the time of filing the appeal, the appellant shall pay the sum of **five hundred dollars (\$500.00)**. This fee is non-refundable and subject to change. Make check payable to Kitsap County Department of Community Development (DCD).

The written appeal shall be made on or attached to an appeal form provided by DCD, and shall contain the following information.

1. The project name, project applicant, application type, and case number designated by the County;
2. The name, address, and signature of each appellant. If multiple parties file a single appeal, the appeal document shall designate, in writing, one party as the contract representative for all contact with the DCD Director and BCC. All contact between the County and the appellants regarding the appeal

**NOTICE OF HEARING EXAMINER DECISION – BUDDY’S BUDDIES –
CONDITIONAL USE PERMIT**

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including notices, shall be through this contact representative; and

3. A written statement of the specific aspects(s) of the Decision and/or SEPA determination being appealed, the reasons why each is in error as a matter of fact or law, and the evidence relied upon to prove the error.

The complete case file will be available for review at the Department of Community Development, Monday through Friday, except holidays, 8:15 a.m. to 4:00 p.m.

If you have questions, please contact me at (360) 337-4487. If you have procedural questions regarding the appeal hearing before the Board of County Commissioners, please contact the Clerk of the Board at (360) 337-7146.

Sincerely,



Karen Ashcraft
Clerk of the Examiner

Enclosure

RECEIVED

NOV - 5 2008

KITSAP COUNTY DEPT OF
COMMUNITY DEVELOPMENT

Terrence F. McCarthy



Kitsap County Hearing Examiner

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OFFICE OF THE HEARING EXAMINER

KITSAP COUNTY

REPORT AND DECISION

CASE NO.: 080612-046
BUDDY'S BUDDIES
CONDITIONAL USE PERMIT

**APPLICANT/
OWNER:** Sheri Stewart
Steven Tyner
3525 Arvick Road, SE
Port Orchard, WA 98366

SUMMARY OF REQUEST:

The applicants are requesting approval of a Conditional Use Permit to establish a dog daycare facility in a Rural Residential (RR) zone. The proposal is intended to have two employees providing services for 20-30 dogs on a daily basis from Monday to Friday.

PROJECT LOCATION:

3525 Arvick Road SE
Port Orchard, WA 98366

SUMMARY OF DECISION:

Request granted, subject to a limitation of the number of animals on site based upon the size of the site and the provision of acoustic insulation and compliance with conditions herein.

PUBLIC HEARING:

After reviewing Department of Community Development Staff Report and examining available information on file with the application, the Examiner conducted a public

hearing on the request as follows:

The hearing was conducted in the chambers of the Kitsap County Board of Commissioners on June 26, 2008.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
1	Site Plan	2/4/88	2/25/08
2	KC Section Map	12/26/07	N/A
3	Site Plan	N/A	1/23/08
4	Pre-Application Meeting Request	N/A	1/23/08
5	Pre-Application Conference Letter	1/24/08	N/A
6	KC Assessors Documents	1/24/08	N/A
7	Critical Areas Map	1/24/08	N/A
8	Critical Areas Map	1/24/08	N/A
9	Building Limitations Map	1/24/08	N/A
10	Zoning Map	1/24/08	N/A
11	Code Enforcement Site Photos	1/25/08	N/A
12	Letter from Steve Mount-CE	1/31/08	N/A
13	Checklist from Health Department	1/31/08	2/25/08
14	Email from Jackie Blackwood-KCFMO	2/4/08	N/A
15	Pre application Summary Letter	2/7/08	N/A
16	Binding Certificate from Manchester Water District	2/15/08	N/A
17	Environmental SEPA Checklist	2/20/08	2/25/08
18	Floor Plan	2/20/08	2/25/08
19	Vicinity Map	2/20/08	2/25/08
20	Application for Concurrency	2/21/08	2/25/08
21	Conditional Use Permit Application	2/22/08	2/25/08
22	Business pamphlet for "Buddy's Buddies	2/25/08	2/25/08
23	Written Proposal for Buddy's Buddies	2/25/08	N/A
24	Environmental Review Checklist	3/25/08	N/A
25	Notice of Complete Application	4/2/08	N/A
26	Notice of Application	4/9/08	N/A
27	Letter from Nathan Holburn~KCHD	4/10/08	N/A

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
28	Affidavit of Mailing	4/10/08	N/A
29	Letter from Rod Priest	4/18/08	4/24/08
30	DE Memo from Shawn Alire	4/21/08	N/A
31	DE Memo from Shawn Alire	4/23/08	N/A
32	Letter from William & Judith Keneipp	4/23/08	4/25/08
33	Letter from Harry Densmore	4/29/08	5/1/08
34	Letter from Derral & Marilyn Gold	5/6/08	5/7/08
35	Letter from Leah & Christopher Nitz	5/12/08	5/14/08
36	Letter from Ken & Judi Edwards	5/13/08	5/21/08
37	Mitigated Determination of Non-Significance	5/19/08	N/A
38	Letter from Cliff DeLong	No Date	5/22/08
39	Notice of Public Hearing	5/27/08	N/A
40	Affidavit of Mailing – NPH	5/27/08	N/A
41	Letter from Amy Deck	5/28/08	5/28/08
42	Letter from David Koren	5/9/08	6/3/08
43	Mitigated Determination of Non-Significance	5/19/08	N/A
44	Affidavit of Mailing – MDNS	5/23/08	N/A
45	Affidavit of Posting	5/28/08	N/A
46	Staff Report	6/4/08	N/A
47	Letter from Jeff & Nichole Tellinghusen	6/12/08	6/12/08
48	Statement from Darrel Gold with attachments	6/5/08	6/12/08
49	Power Point Presentation	6/12/08	6/12/08
50	Letter from Terrence F McCarthy, Deputy Hearing Examiner	6/20/08	6/24/08
51	Fax from Terrence F McCarthy	7/3/08	7/3/08
52	Letter from Jonathan Pavy	7/7/08	7/7/08
53	Affidavit of Mailing – Memo	7/7/08	N/A
54	Letter from Terrence F. McCarthy	7/11/08	7/11/08
55	Letter from Arvick Road Neighbors	7/29/08	7/30/08
56	Letter from Terrence F McCarthy	8/20/08	8/20/08
57	Letter from Jonathan Pavy	8/21/08	8/21/08
58	Letter from Jonathan Pavy	8/27/08	N/A
59	Letter from Terrence F McCarthy	8/28/08	9/2/08
60	Letter from Arvick Road Neighbors	9/12/08	9/15/08
61	Letter from Dennis Oost	10/14/08	N/A

Appearing was JONATHAN PAVY, who summarized the Staff Report which, with its attachments of one through 46, was admitted into evidence. Exhibit 47, which is a letter from a neighbor, was also admitted into evidence. The site is located in Port Orchard, South Kitsap County, and is a square shaped parcel containing an accessory dwelling unit above a single car garage, a metal building, which was formerly a church, and a single-family residence. The applicant wishes to establish a doggy daycare in the metal building formerly used as a church. The driveway has a steep slope down into the site. The site is well landscaped and is zoned rural residential. The applicant anticipates having two employees with 20 to 30 dogs being maintained Monday through Friday. There will be two fenced in play areas, one at either end of the metal building, which was formerly used as a church. They do not anticipate having any more than three to four dogs at a time in either one of the play areas. The timid dogs will be on one side and the more aggressive on the other side of the facility. There have been several public comments about the site, mainly opposed because of increased traffic, increased noise, increased odor, animal waste and the potential of threatening children if the dogs got loose. The applicant will furnish approximately eight vehicle parking spaces. The ADU is unpermitted, as is the elevated walkway. The metal building was connected to the drain field for the house and there were undocumented modifications to the metal building. Since the applicants have purchased the property, they have gone about trying to bring all of the structures within the provisions of the county code and have re-designated the accessory dwelling unit as a guesthouse. Staff has found the project to be consistent with the provisions of the Kitsap County Code and recommends approval of the same. Thereafter there was a colloquy between the Hearing Examiner and Staff. The ADU is too close to the property line to be permitted and, therefore, the applicant is changing it to a guesthouse, as opposed to an ADU. There will be no kitchen facilities available in the ADU. The Hearing Examiner indicated that he would be leaving the record open for additional information concerning the primary uses on the site and staff indicated they would be submitting an additional memorandum.

Appearing was SHERI STEWART, owner. When she determined that she wanted to open a doggy daycare in Kitsap County, she checked with Staff and found out she had to locate it in a Rural Residential Zone (RR). The site is exactly one acre in size. The area above the garage will be turned into a recreation and craft room for playing cards and doing crafts. She had not read the Staff Report. The examiner indicated he would leave the record open for her to review the Staff Report and let him know if she objected to any of the recommended conditions.

Appearing was STEVE TYNER, co-applicant, who wanted to confirm the fact that when they were looking for a place to locate a doggy daycare, they did check with staff who indicated that doggy daycares had to be located in the RR. They are just trying to be good neighbors. They are trying to bring this site into compliance with all of the provisions of the code.

Appearing was DARYL GOLD, who submitted Exhibit #48, which is a letter addressed to Stephen Causseaux, dated June 5, 2008. The neighbors could find no definition of a dog daycare facility nor any standards for review. They feel the code does not contain any

standards for operation of a business. They did find a definition of a minor home business. This facility is definitely not a minor home business. The applicants are currently not living there. The home is 1800 square feet. The metal shop is 2500 square feet, which takes it outside the definition of a minor home business. On page four of the Staff Report, staff talks about the natural buffer on three sides of the site, but this natural buffer, which staff talks about, is not on the applicant's property, but on the neighbor's property. It seems strange for the staff to be referring to something that is on property not before the examiner. They asked for a fair review and for the examiner to deny the request.

Appearing was LEAH NITZ, who lives close to the proposed facility. She explained that the church which previously occupied the metal building had no sign and had very few attendees. The dogs that the applicants are proposing to house number more than the churchgoers. The pastor of the church was prosecuted for child molestation. The neighborhood has been through a lot. This is an extremely residential neighborhood and there are no other commercial facilities in the area. They are concerned not only about safety, but also the sounds. When one dog starts barking, it seems to encourage the other dogs in the neighborhood to bark. They bought the house immediately next door to the site as a rental and they are concerned about being able to keep it rented.

Appearing was AMY DECK. She lives directly behind the proposed doggy daycare. The forest between her home and the site seems to increase the volume of what is going on on that site. When it was occupied by the church, they could hear conversation of the various people and they could hear the music coming from the area. There is a long, narrow driveway into this site and the proposed facility is just not appropriate in this residential area. This is really a one acre residential area. Then children play in the forest, which they own, which is located between their house and the site. It is not much of a forest and does not assist in buffering noise, but seems to actually increase the volume. Placing a dog daycare in their area might be, according to the rule of law, but not the rule of common sense. It will infringe upon the peaceful occupation of their homes. The neighbors do not want this in the area and it is unfortunate, but the applicants, even though we do not know them, will face resistance from the neighbors in the area.

Appearing was JEFF TELLINGHUSEN. He and his wife own two lots in the area. Their site looks down upon the site in question. They hear everything that takes place on the site: car doors closing, cars arriving, everything. They are concerned about property values. They believe property values will go down because of this commercial operation and the noise and the traffic being brought into this purely residential area. They are concerned about noise pollution. 30 dogs barking in his backyard would just be intolerable. They chose this area because it is a quiet, peaceful area. This noise will be extremely disturbing to him when he is trying to work. He does work at home. He is 100% against the granting of this permit.

Appearing was DAVID KOREN. He owns property adjacent to the site, is a telecommuter, and his wife works nights. This facility will definitely interfere with their quiet style of living.