



Kitsap County Hearing Examiner

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

Stephen K. Causseaux, Jr.

PORT ORCHARD WASHINGTON 98366-4682
(360) 337-7181 FAX (360) 337-4925
kashcraf@co.kitsap.wa.us

OFFICE OF THE HEARING EXAMINER

KITSAP COUNTY

REPORT AND DECISION

CASE NO.: 080724-061
KINGSTON GREENS
CONDITIONAL USE PERMIT

**APPLICANT/
OWNER:** Phillip Hoffman
8641 Farwell Road SW
Seattle, WA 98126

ENGINEER: Pat Fuhrer, P.E.
Map LTD
P.O. Box 720
Silverdale, WA 98383

SUMMARY OF REQUEST:

The applicant is requesting a conditional use permit to allow construction of a private recreational facility for miniature golf.

PROJECT LOCATION:

26909 St. Hwy 104
Kingston, WA 98346
North Kitsap County
Commissioner District No. 1.

SUMMARY OF DECISION:

Request granted, subject to conditions.

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 **July 24, 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	Spare Room Mini Storage Staff Report	9/27/95	N/A
1A	Site Plan	1/23/97	1/24/97
2	Site Plan	No Date	12/14/06
3	Pre-Application Meeting Request	No Date	12/14/06
4	Pre-Application Conference Confirmation Letter	3/7/07	N/A
5	KC Assessor's Map	No Date	No Rec'd Date
6	KC Assessor's Property Report	2/6/07	N/A
7	GIS Critical Areas Topo Map	2/6/07	N/A
8	GIS Building Limitations Map	2/6/07	N/A
9	GIS Aerial Map	2/6/07	N/A
10	GIS Comprehensive Plan Map	2/6/07	N/A
11	Letter from Nancy Hanson	2/20/07	N/A
12	Letter from Pat Fuhrer MAP Ltd.	2/26/07	3/6/07
13	Pre-Application Meeting Checklist	3/27/07	N/A
14	Inactive Letter	9/7/07	N/A
15	E-mail from Robbyn Myers	No Date	N/A
16	KCPW Application for Concurrency Test	10/25/07	11/13/07
17	Conditional Use Permit Application	11/2/07	11/13/07
18	Letter from Mark Morgan KCPUD#1	11/2/07	11/13/07
19	Drainage Report MAP Ltd	11/5/07	11/13/07
20	Land Use Application Counter Complete Submittal Checklist	11/13/07	N/A
21	Environmental (SEPA) Checklist	10/25/07	11/13/07

ITEM NO.	DOC. TYPE/SUBJECT	DATED	DATE REC'D.
22	Design Rules/Construction Plan	No Date	No Rec'd Date
23	Project Narrative	11/5/07	11/13/07
24	Revised Site Plan	8/8/07	11/13/07
25	Notice of Incomplete Application	12/24/07	N/A
26	Revised Site Plan	12/28/07	12/31/07
27	Notice of Complete Application	1/24/08	N/A
28	Notice of Application	2/13/08	N/A
29	Affidavit of Mailing – NOA	2/14/08	N/A
30	Letter from Jefery & Jennifer Miller	2/25/08	2/27/08
31	Letter from Phil Hoffman with attachments	3/13/08	No Rec'd Date
32	Technical Review Meeting Attendance Sheet	3/19/08	N/A
33	Revised Site Plan	3/20/08	4/15/08
34	Memo from Shawn Alire	7/1/08	N/A
35	Letter from Jonathan Pavy	7/2/08	N/A
36	Letter from Phillip & Carol Hoffman	7/2/08	7/2/08
37	GIS Critical Aquifer Recharge Areas	7/3/08	N/A
38	Mitigated Determination of Non-Significance	7/3/08	N/A
39	Notice of Public Hearing	7/8/08	N/A
40	Affidavit of Mailing – NPH	7/8/08	N/A
41	Affidavit of Posting	7/9/08	N/A
42	Staff Report	7/17/08	N/A
43	Power Point Presentation	7/24/08	7/24/08
44	Owner's Presentation with attachments	7/24/08	7/24/08

JONATHAN PAVY, assistant planner, appeared, presented the Department of Community Development Staff Report, and introduced Exhibits “1” through “43” which included his PowerPoint presentation. The site is located northwest of the intersection of SR-104 and SR-307. The overall site contains 5.15 acres and is improved with a mini-storage, RV parking area, and a caretaker/office building. The north 1.14 acres of the site is shown in gray and is presently the site of the septic drainfield and storm drainage facility. The golf course will be located on 1.01 acres of this area. The comprehensive plan designates the area as Rural Industrial (RI) and the zoning map shows it zoned Industrial. The classification provides no minimum lot size, but does require setbacks of 20 foot front yard and zero side and rear. However, the code also requires a 50 foot wide setback from residentially zoned property. A miniature golf course is allowed as a conditional use in the Industrial zone. Rural Residential parcels are to the south and west and RI parcels to the

north and east. The entire site is located within a Category 1 recharge area. He referred to the Miller letter in Exhibit "36" and explained that the applicant will extend the cyclone fence along the west property line by 250 feet to cover the golf course. The fence will then measure 600 feet in length. The applicant will replant a ten foot wide section along the property line to provide more screening. The site plan shows a 25 foot wide, vegetated buffer along the west property line. A path to the clubhouse extends from the parking area and the golf course will contain vegetation throughout.

SHAWN ALIRE, development engineer, appeared and testified that the project meets all road and stormwater requirements. The applicant will utilize pervious asphalt and concrete and will have an underground stormwater system to convey water to the retention pond. The pond can accommodate additional flow from the golf course. Patrons will access the site from SR-104 at an existing major access approach.

PHILLIP HOFFMAN, applicant and owner, appeared and testified that he has a six foot fence along the property line and the neighbor has a four foot fence. He has experienced foot traffic crossing the fence and has found stored vehicles missing fuel. He will either raise the fence or install barbed wire at the top. The fence runs north 200 feet from the south property line and he will extend it 400 feet to the golf course to protect the west boundary. The septic system is located in the northwest corner and the Health District must approve it. He presented the architectural drawings of the golf course. The kiosk will contain the pro shop and the walkway extends from the center of the 19 stall parking area. The walkway will have no steps and the golf course will be fully ADA compliant. Even though the site contains 50,000 square feet, they will disturb only 4,500 square feet and will then use pervious concrete. They will utilize a sandy area for the on-site septic system and have extended a boring 12 feet down and encountered only sand. Drainage has never been a problem. They do not plan to light the golf course as they will not open it during evening hours. They will manage the golf course the same as the mini storage. He referred to the Surface Water Management letter and the maintenance of the stormwater system. They have never had a problem and will not need to perform additional work on the retention pond.

No one spoke further in this matter and so the Examiner took the request under advisement.

NOTE: A complete record of this hearing is available in the office of Kitsap County Department of Community Development.

FINDINGS, CONCLUSIONS AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, previously viewed the property, heard testimony, and taken this matter under advisement.

2. Appropriate notice was provided pursuant to the Kitsap County Code.
3. Pursuant to WAC 197-11-355, a Mitigated Determination of Nonsignificance was signed by the Responsible Official on July 3, 2008.
4. The applicant has a possessory ownership interest in a rectangular, 5.15 acre parcel of property located northwest of the intersection of SR-104 and SR-307 (Bond Road NE) in the Kingston area of unincorporated Kitsap County. The parcel is a portion of a Rural Industrial area located to the north, south, and west of said intersection. Parcels abutting the industrial area are improved with residential uses and located in the either the Rural Residential, Rural Wooded, or Rural Protection zone classification.
5. The applicant's parcel abuts parcels within the Rural Residential (RR) zone classification along the west and south property line and parcels within the Industrial zone along the north and east property lines. The southern 3.69 acres of the site are improved with mini-storage warehouse buildings, a recreational vehicle (RV) parking (storage) area, and a caretaker/office building. The northern 1.46 acres of the site remain unimproved and currently serves as the location for the on-site septic disposal system and storm drainage facility. The applicant requests a conditional use permit to allow improvement of 1.01 acres of the northern 1.46 acres into a miniature golf private recreational facility.
6. The site plan shows access provided from the parcel's existing access onto SR-104 approximately 1,400 feet northwest of the intersection with SR-307. The parking area is located along the east side of the golf course and provides 19 parking spaces. A trail extends from the center of the parking area to a kiosk in the southcentral portion of the golf course where players will obtain golf balls and putters and pay for rounds of golf. A 25 foot wide, vegetative buffer extends along the west side of the golf course, and vegetative buffers of various widths extend along the north side of the course. The applicant will also install significant vegetation within the course itself. An underground system will convey stormwater runoff to the existing stormwater retention pond in the northern portion of the site. The Health District will approve the on-site septic disposal system. Due to the sandy soils the applicant anticipates no problems with either the septic system or stormwater retention pond.
7. The Kitsap County Comprehensive Plan designates the parcel as Rural Industrial and intends that such areas provide sites for activities which require processing, fabrication, storage, and wholesale trade. Rural Industrial areas are generally located near major transportation corridors to include highways. The proposed use of a miniature golf course is less intense than many uses contemplated by the comprehensive plan.

8. The site is located within the Industrial zone classification of the Kitsap County Code (KCC). Section 17.381.040.C KCC authorizes “recreational facilities, private” subject to a conditional use permit in the Industrial zone classification. Section 17.382.080 KCC requires a front yard setback of 20 feet and zero setbacks from the side and rear yard. However, Footnote 27 requires a 50 foot wide, landscaped setback for improvements on an Industrial zoned parcel which abut a residential parcel. However, the footnote also authorizes the Director to reduce the setback “based upon a site-specific determination, berming and landscaping or other screen” which effectively screens and buffers the residential zone. In such cases the Director may reduce the minimum setback to 25 feet. In the present case the Director has approved the applicant’s 25 foot wide screen along the west property line which abuts residential parcels.
9. A letter from a neighbor whose property abuts the applicant’s parcel for 18 linear feet at the southwest corner expressed concerns regarding increased lighting and noise. The neighbor also alleged that the applicant had not installed a 25 foot wide, natural vegetative buffer along the west side of the mini storage facility and that the site plan does not mention a fence separating the new project from adjacent parcels. The applicant testified that he will extend the present six foot high, cyclone fence 400 additional feet to the north. Such extension will encompass the golf course facility. He may also add barbed wire to the top because of fuel theft from RVs parked on the site. The proposed hours of operation show that the golf course will not operate during the hours of darkness, and the applicant confirmed that he will not install lighting. The application does not include large events or music events utilizing outdoor sound systems. Furthermore, the Millers’ parcel is located approximately 400 feet to the southwest of the proposed golf course.
10. Prior to obtaining approval of a conditional use permit the applicant must show that the request satisfies the criteria set forth in KCC 17.421.030(A). Findings on each criteria are hereby made as follows:
 - A. As previously found, the proposal is consistent with the Kitsap County Comprehensive Plan which designates the site as Rural Industrial.
 - B. The proposal complies with all requirements of Title 17 KCC as found above.
 - C. The proposed golf course will not materially, detrimentally impact uses or property in the immediate vicinity. The applicant proposes to utilize the site only during daylight hours and will not light the park for night usage. The Director has approved a substantial landscaping plan for the west property line which abuts a residentially zoned parcel. The project will utilize an existing major access from SR-104 which presently provides access for the industrial park. The only above-ground structure proposed is the kiosk which will serve as the pro shop.

- D. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure that it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity. The project will have safe access and 19 parking spaces. Access to the pro shop and the entire golf course is in compliance with the ADA accessibility guidelines. The project will have no outdoor service or storage areas and will comply with all County solid waste standards. All signage must meet the requirements of KCC 17.445, and the site will exceed the landscaping standards set forth in KCC 17.385.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction to consider and decide the issues presented by this request.
2. The applicant has shown that the request for a conditional use permit satisfies the criteria set forth in Section 17.421.030 and therefore should be approved subject to the following conditions:
 1. A Final Landscape Plan will be required to be submitted consistent with KCC 17.385 Landscaping, during civil site plan review which depicts natural vegetation, planting plan and irrigation plan.
 2. All required landscaping shall be installed (or bonded for a period not to exceed six {6} months in an amount determined by the Director – approximately 150% of the estimated cost as determined by a professional landscape company) prior to any final Certificate of Occupancy permit.
 3. The hours of operation shall be adjusted as the seasons change and limited to:
 - 10:00 AM to 4:00 PM in the fall,
 - 10:00 AM to 6:00 PM in the spring, and
 - 9:00 AM to 9:00 PM in the summer.
 4. Pursuant to KCC 17.455.110 Obnoxious Things, the project shall not produce excessive amounts of noise, smoke dirt, dust, odor, vibration and glare impacting adjacent residential property owners or the traveling public. Lighting is to be directed away from adjoining properties. Not more than one (1) foot candle of illumination may leave the property boundaries
 5. Access to the mini-golf course shall be IAW ADA Accessibility Guidelines section A15.5 Miniature Golf. Where possible, providing access to all holes on

- a miniature golf course is recommended. If a course is designed with the minimum 50 percent accessible holes, designers or operators are encouraged to select holes which provide for an equivalent experience to the maximum extent possible. Accessible holes are required to be consecutive with one break permitted, if the last hole on the course is in the sequence.
6. Land use approval is limited to the uses proposed by the applicant. Any modifications or expansion of the project will be subject to further review pursuant to the requirements of the appropriate sections of the Kitsap County Code.
 7. Water lines and fire hydrants must be shown on SDAP plans
 8. 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.
 9. The information provided demonstrates this proposal is a *Major Development* as defined in **Kitsap County Code Title 12**, and as such will require a Site Development Activity Permit (**SDAP**) from Development Engineering.
 10. Stormwater quantity control, quality treatment, and erosion and sedimentation control shall be designed in accordance with **Kitsap County Code Title 12** or as amended at the time of SDAP application. 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.
 11. Should the proponent propose phasing of the project, a phasing plan shall be submitted to Development Engineering for review and approval. The phasing plan shall, as a minimum, address the following items:
 - Time tables indicating the anticipated time between initial site grubbing/grading activity and the completion of construction, including site stabilization of that specific phase.
 - The extent of drainage improvements to be installed during the various phases.
 12. The site plan indicates that greater than 1 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 Charles Gilman at (360) 407-7451, email chgi461@ecy.wa.gov. This permit is required prior to issuance of the SDAP.

13. This project will add additional impervious area to an existing stormwater management facility. Prior to permit approval this additional area must be evaluated for any impact to that system. This evaluation will be performed by a licensed Civil Engineer.
14. Before SDAP acceptance, the applicant shall submit a set of drawings to the Washington State Department of Transportation for review. The applicant shall notify Development Engineering in writing when the plans have been submitted to WSDOT. Development Engineering shall coordinate with WSDOT to determine if WSDOT has any comments to the submittal.
15. Final plan approval will require documentation of WSDOT approval for impacts to and any required mitigation on State Highway 104. WSDOT point of contact is Dale Severson at (360) 357-2736:

Washington State Department of Transportation
Development Review Attn: Dale Severson
PO Box 47440
Olympia, WA 98504-7440

16. 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.
17. Provide documentation that the existing stormwater management facility has been adequately maintained.
18. Kitsap County will not be responsible for any damage to any private roads, tracts, and/or easement areas that may occur during routine maintenance activities and that in Kitsap County's judgment occur, in whole or in part, because of any construction materials or techniques, or any maintenance materials or techniques. This includes, but is not limited to, damage to pavement or vegetated areas caused by maintenance trucks.
19. At Building Permit application, submit (KCPW Form 1601) for issuance of a Concurrency Certificate, as required by KCC Section 20.04.030 Transportation Concurrency.
20. All rights of access for adjoining properties currently in existence shall be preserved (and documented on the face of the final plat). Any amendment to the existing easement rights of adjoining property owners shall be properly

executed and recorded prior to **SDAP or final plat acceptance.**

21. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
22. 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 precedent 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.

DECISION:

The request for a conditional use permit to allow construction of a miniature golf course on a 1.01 acre parcel located at 26909 SR-104, Kingston, is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 7th day of August, 2008.

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this _____ day of August, 2008, to the following:

**APPLICANT/
OWNER:**

Phillip Hoffman
8641 Farwell Road SW
Seattle, WA 98126

ENGINEER:

Pat Fuhrer, P.E.
Map LTD
P.O. Box 720
Silverdale, WA 98383

OTHERS:

Jefery & Jennifer Miller
26158 Calvary Lane NE
Kingston, WA 98346

Kitsap County Board of Commissioners
Kitsap County Department of Community Development
Kitsap County Department of Public Works
Kitsap County Prosecutor – Civil Division
Kitsap County Department of Parks and Recreation
Bremerton-Kitsap County Health Department
The Sun Newspaper

Pursuant to Kitsap County Code Section 21.04.120 and the Land Use Hearing Examiner Rules of Procedure, an OBJECTION to the Examiner's Decision may be filed, in this matter, in writing, with the Clerk of the Board of County Commissioners, on or before _____, 2008. Prior to the filing of an Objection, the objector shall pay the sum of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) to the Department of Community Development.