



## Notice of Hearing Examiner Decision

02/26/2018

To: Interested Parties and Parties of Record

RE: Project Name: Miracle Ranch Horse Pasture & Arena Project - CUP  
Applicant: Crista Ministries  
19303 Fremont Ave  
Seattle, WA  
Application: Conditional Use Permit  
Permit Number: 17-04633

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-%2006-23-09.pdf](http://www.kitsapgov.com/dcd/lu_env/he/HE%20Rules%20for%20Kitsap%20County%20-%2006-23-09.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](mailto:Help@Kitsap1.com) or (360) 337-5777.

CC: Owner/Applicant: Crista Ministries, [kroquet@crista.net](mailto:kroquet@crista.net)  
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Health District  
Public Works  
Parks  
Navy  
DSE  
South Kitsap Fire District  
Puget Sound Energy  
Water Purveyor  
Point No Point Treaty Council  
Squaxin Island Tribe  
Puyallup Tribe  
WA State Dept. of Fish & Wildlife  
WA State Dept. of Ecology-SEPA  
WA State Dept. of Ecology-Wetland Review  
WA State Dept. of Transportation

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

**In the Matter of Request for Conditional Use Permit  
File No. 17 04633**

**February 20, 2018**

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**1. FINDINGS OF FACT**

**1.1 Proposal.** The Applicant requests a Conditional Use Permit ("CUP") for a 30-acre expansion to the existing 56-acre Miracle Ranch private recreational facility. The expansion includes the below facilities.

- Outdoor Horse Riding Area (the Meadow);
- Riding Arena (20,000 square feet);
- Arena Observation Building (3,777 square feet);
- Grand Hall (2,400 square feet);
- Bunkhouse with 40 beds (6,241 square feet); and,
- Single-Family Residence for Staff/Caretakers (950 square feet; connected to the Bunkhouse, but with a private entrance).

Access is from Sidney Road SW. Horseshoe Avenue SW provides secondary access, but will be gated and used for fire emergency and other limited access. Miracle Ranch plans to expand its horse therapy program, and per the submitted Farm Plan, will periodically board up to about 12 horses. The Applicant/property owner, Applicant's representative, and site location are:

**Applicant/Property Owner:** Crista Ministries, 19303 Fremont Avenue, Seattle, WA 98133-3898.

**Applicant's Representative:** Matt King, AIA, Blue Architecture, 247 4<sup>th</sup> Street, Bremerton, WA 98337.

**Site Location:** The site is at 15999 Sidney Road SW, Port Orchard, WA 98366 (Assessor Nos. 102201-4-002-2007, 102201-4-007-2002, 102201-4-008-2001).

**1.2 Administrative Record.** Prior to the hearing, the Hearing Examiner reviewed Exhibits 1-30, which included the Staff Report. At the hearing, the Department of Community Development ("DCD") proposed adding additional exhibits, including a power point and Fire Marshal comment, as Exhibits 31 and 32, respectively. The Examiner admitted all exhibits.

DCD later received a comment from Mr. McKee,<sup>1</sup> who testified at the hearing. While the record was closed when the comment was received, the Examiner does have authority to re-open the hearing to admit it.<sup>2</sup> The comment could be used to assist in further considering noise issues, including artificial amplification. However, the concern was addressed in some detail at the hearing. As such, the Examiner finds it is not necessary to re-open the record to allow other parties an opportunity to review the document and respond. While the exhibit is not admitted, for reference purposes, it is marked as Exhibit 33.

**1.3 SEPA.** DCD issued a Determination of Nonsignificance with these comments, conditions and mitigation:

Comments

The SEPA comment period previously occurred with the Notice of Application dated 12/20/2017. The proposal will result in moderate adverse impacts from site development activity with increased traffic to and from the site, additional noise and light, and increased impermeable surfaces.

Conditions and Project Mitigation

The proposal was reviewed for consistency with KCC Title 17 Zoning, KCC Title 19 Critical Areas Ordinance, and KCC Title 12 Storm Water Drainage.

1. The proposal will be conditioned to be consistent with KCC Section 19.200 for the Category IV wetland.
2. Traffic and storm drainage impacts will be mitigated by conditions from Kitsap County Development Services, dated January 8, 2018.<sup>3</sup>

The SEPA Checklist noted, "[a] natural buffer, that cannot be encroached upon because of the dispersion method of stormwater treatment, is a permanent screen between the subject site and neighboring properties. A jurisdictional 100 foot buffer is required around the recently acquired 30 acres."<sup>4</sup> The 100-foot perimeter buffer is also pictured on the Farm Conservation Plan map.<sup>5</sup> No SEPA appeal was filed.

**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 and for the hearing.<sup>6</sup> No concerns on notice were identified.

**1.5 Hearing.** The Hearing Examiner considered the proposal at an open record public hearing on February 8, 2018. DCD, through Mr. Smith, summarized the proposal and relevant code requirements. As DCD found the proposal consistent with requirements, it recommended approval subject to 36 conditions.

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<sup>1</sup> The document was electronically transmitted February 16, but as County offices were closed at the time of transmittal, actual receipt was February 20.

<sup>2</sup> HE Rule 1.8.3.

<sup>3</sup> See Exhibit 22.

<sup>4</sup> Exhibit 4, pp. 12 and 14.

<sup>5</sup> Exhibit 8, p. titled "Planned Map."

<sup>6</sup> See Exhibits 18, 23, and 29.

**1.5.1 Applicant Testimony.** The Applicant provided testimony through Mr. Roquet, who oversees facilities and construction for Crista Ministries. Miracle Ranch is one of two camps the Applicant operates in Kitsap County. The original property was purchased in 1960, and can accommodate 300 campers. In summer, the camp is at capacity. During off-season (Sept-May), uses are more concentrated on Thursday-Sunday. Besides horseback riding, two other activities occur during the week: a home-school coop and horse therapy program. The horse therapy program has grown, and is what is driving the expansion. The horse therapy program serves the disabled and requires a quieter and more controlled environment.

Mr. Olson, with N.L. Olson and Associates, Inc., the project engineer, requested revisions to proposed Conditions 12 and 14. Condition 12 describes the secondary access road as 20 feet, but the Applicant is proposing 12. On Condition 14, the Applicant is proposing fire flow requirements at 1,000 gallons per minute for one hour, rather than 1,500. DCD and the Fire Marshal reviewed the revisions, and did not raise concerns, as DCD confirmed in hearing testimony.<sup>7</sup>

**1.5.2 Public Testimony.** Several citizens testified, raising concerns over the secondary access, noise (in particular, concerns over artificially amplified noise), water consumption, and drainage. Below is only a summary; the verbatim comments are in the recording.

Mr. Hine raised questions on traffic, drainage, and noise. He lives off of Horseshoe Avenue. That area receives limited traffic (*e.g.*, garbage truck; people lost). While he does not object to the secondary access gate, he wanted to clarify use. In an Applicant briefing earlier in the year, it was his understanding it would be not only for emergency, but also for hay hauling and other trips the Applicant does not wish to run through the main camp. On noise, Mr. Hine stated that while the Applicant has made improvements, and has been responsive when concerns are raised, occasionally bullhorn use can be an issue. Mr. Hine wants to make sure the expansion does not increase noise issues, and that the Applicant continues to respond to these concerns. Mr. Hine also raised concerns about right of way and berm location, and would prefer that both be moved back and another location be found. He is concerned due to the proximity of his home and wants to make sure no drainage enters his property.

Mr. McKee addressed noise. He lives straight across the Lake and when the Applicant uses amplified sound, the noise transmits across the water. He wanted to know if there will be an amplified sound system, concerts, and an attendant increase in noise. With the hard wired amplified system, there have been speeches, rallies, concerts, and during summer months this has been an issue which he would like to see minimized. His primary concern is with artificially amplified sound.<sup>8</sup>

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<sup>7</sup> See also Exhibit 32.

<sup>8</sup> Mr. McKee submitted a written comment after the hearing elaborating on this concern. Exhibit 33. The Examiner reviewed the comment only to confirm that it did not raise an issue requiring a re-opening of the record. As the issue was addressed at the hearing, the Examiner determined the record did not need to be reopened.

Ms. Wolanzyk requested clarification on the secondary access road. She was concerned about the traffic off of Horseshoe Avenue, and the number of trips anticipated with construction, hay deliveries, etc.

Mr. Lehman, the President of the Horse Lake Community Association, raised questions about water consumption. As the lake is spring fed, and so vulnerable to consumptive uses, he wanted to confirm where water will come from as 4,700 gallons per minute is a lot of water.

**1.5.3 Applicant Responses to Public Testimony.** Mr. Roquet addressed public comment. He explained that fire department requirements cannot be met with the well, so the Applicant is spending about a quarter million dollars to bring in a mainline to serve fire needs. The well will be used for domestic water, but it will not be used for the fire system.

The secondary access road will be gated and locked, but will have a Knox box, so emergency responders can open the gate. There will be some construction access, such as when a group is present and it makes more sense to bring the truck in through the back way. The Applicant understands the secondary access is a neighborhood concern, so will be sensitive to that, but needs to be able to use it for both emergency, and when it makes sense given other usage of the facility.

The Applicant spoke to the noise concerns. The Applicant previously installed a sound system in the arena with speakers inadvertently directed to exacerbate noise issues. The Applicant redirected the speakers, which has helped tremendously at that venue. The property is also used as a waterfront activity center, which does generate noise. Waterfront bullhorn use can create noise issues. The Applicant also noted that waterfront activities are only during day, not at night, and the facility under review is not intended to be a concert area. The expansion provides for an enclosed, controlled arena, as it is a managed environment for disabled guests. The Applicant acknowledged noise is an issue which needs to be better managed, and committed to a continuing dialogue with neighbors to resolve it.

Mr. Olson provided stormwater management details. The reason the secondary access road was pushed south is because it is not just a road, but also a low impact development storm system. The Applicant needed an area of vegetation between the road and where water is caught (ditch with infiltration and conveyance capacity). The way the system will be constructed, the ditch is located away from the neighbor, and so water is also flowing away. As for the ditch running along the property boundary, that is for overflow and conveyance. The Applicant committed to moving this ditch and the berm to the east and will contain water overflow on the site. The Applicant will not be sending water down Horseshoe, which would be an issue for the neighbors. In summary, the Applicant testified that all stormwater will be contained within right of way infiltration facilities, and/or infiltrate on the Applicant's property.

**1.5.4 Final Clarifications.** Mr. Lehman asked if water run-off is being directed away from the Lake. The Applicant confirmed that low impact development techniques are being used to keep water on site, and runoff will not flow into the Lake.

Ms. Wolanzyk requested further clarification on construction equipment/trucks on Horseshoe. Mr. Roquet stated he could not provide an exact answer. However, the secondary access route is not the main construction entrance, but is an option on days when needed to access the site. For context, if developed with residential uses, the property would have six five-acre parcels. On the secondary access, that would mean four trips per day, or 170 trips per week. The Applicant plans about five or six trips per week. The Applicant emphasized that it wants to be a good neighbor, and intends the main entry to be the primary entry.

DCD addressed revised conditions. Horseshoe Avenue is a local access road, so cannot have heavy use. On noise, the County's Noise Code, Chapter 10, imposes various limitations. It includes a time frame for certain types of sound and property line decibel thresholds.<sup>9</sup> It appears the Applicant is sensitive to the concerns raised, but citizens can contact DCD staff about the noise code if questions arise on how it is applied.

**1.6 Agency Comment.** The proposal was circulated within the County, including to the Kitsap Public Health District. There were no agency objections to approval, as long as requirements are met.

**1.7 Written Public Comment.** DCD received written comment from adjacent neighbors. Mr. Lehman expressed concerns about the possible effects of horse feces entering the groundwater and leaching into Horseshoe Lake; noise and light associated with events in the horse riding facility, including music concerts; and safety issues related to additional traffic on Sidney Road SW.<sup>10</sup> Mr. and Ms. McKee were concerned about potential impacts to the view across the Lake from their property; potential pollution in Horseshoe Lake; and the possibility of excessive noise from the ranch activities.<sup>11</sup> Mr. Wolanzyk requested clarification on the secondary access off Horseshoe Avenue and whether a Knox lock will control public access.<sup>12</sup>

**1.8 Zoning/Plan Designations and Surrounding Land Uses.** The Comprehensive Plan and zoning designations are both Rural Residential (RR).<sup>13</sup> The immediate surrounding properties, which are also zoned RR, are similar or smaller in size and include single-family homes and out buildings.

**1.9 Site Physical Characteristics.** The Miracle Ranch campus is east of the Horse Lake community and the Horseshoe Lake Golf Course. The Pierce County boundary is to the immediate south. The project expansion site is approximately 30 acres, consisting of two additional parcels. The site topography is rolling hills with north and south aligned ravines. The property slopes to the northwest and southwest with most slopes less than 10%.

The northern two properties were logged five to eight years ago. Vegetation includes scrub brush and stumps, with some deciduous trees. One contains an existing pasture, fencing,

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<sup>9</sup> The Applicant must comply with Title 10, as CUP issuance is conditioned on compliance with local code requirements.

<sup>10</sup> See Exhibit 19.

<sup>11</sup> See Exhibit 20.

<sup>12</sup> See Exhibit 17.

<sup>13</sup> See Exhibit 24.

gravel roads, an arena, and pole barn. The southernmost property contains the main facility, trees, surface vegetation and passive amenities such as walking and riding paths. An existing Category IV wetland is within the proposed pasture near the middle of the site.<sup>14</sup> The Soil Survey of Kitsap County identifies the native soil as Indianola loamy sand, 0 to 15%. The soils are well drained and have a hydric soil classification.

### **1.10 Utility and Public Services.**

- **Water:** Washington Water Service
- **Power:** Puget Sound Energy
- **Sewer:** Onsite Sewage Disposal
- **Police:** Kitsap County Sheriff
- **Fire:** South Kitsap Fire and Rescue
- **Schools:** South Kitsap School District

**1.11 Access and Transportation.** Access is from Sidney Road SW, a Rural - Major Collector. A new gated emergency vehicle road from Horseshoe Avenue SW will provide limited secondary access (construction; deliveries). The internal gravel road will loop down toward the new buildings to connect to the existing camp road system.

A traffic impact analysis evaluated traffic impacts.<sup>15</sup> It concluded the project would produce 2.8 new PM peak-hour trips, which will require payment of a traffic impact fee.<sup>16</sup> To accommodate parking needs, the project will add 16 new parking stalls.<sup>17</sup>

Kitsap County Public Works and Development Services and Engineering reviewed the project's transportation impacts and are satisfied that, with conditions, County Code compliance is achieved.<sup>18</sup>

**1.12 Critical Areas.** The site includes an isolated .46-acre Category IV wetland. A 40-foot buffer and 15-foot building setback line apply.<sup>19</sup>

**1.13 Stormwater.** The Applicant is relying on full dispersion of storm drainage from roof drains and impervious surfaces to trenches in the retained natural vegetation areas on the site's perimeter. Further details on drainage design were provided at the hearing and in the drainage analysis.<sup>20</sup> DCD evaluated the proposal and has concluded it meets County requirements.

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<sup>14</sup> See Exhibit 15.

<sup>15</sup> Exhibit 5.

<sup>16</sup> Exhibit 5 (Traffic Impact Analysis), p. 6.

<sup>17</sup> Exhibit 4 (SEPA Checklist), p. 17; *see also* Exhibit 5 (Parking Analysis).

<sup>18</sup> Exhibit 21; Exhibit 30 (Staff Report), p. 6.

<sup>19</sup> Exhibit 15 (Wetland Delineation); KCC 19.200.220(B); *see also* Exhibit 16 (Storm Drainage Analysis), p. 2.

<sup>20</sup> Exhibit 16.

#### 1.14 Design Standards - KCC 17.420.030.

- **Landscaping, Screening, and Setbacks.** Landscaping, screening, and setbacks may be adjusted to minimize conflicts and improve compatibility.<sup>21</sup> The Applicant has proposed increases in landscaping and buffering. The increases address stormwater management, but also provide design mitigation.
- **Height.** The riding arena, the arena observation building, the Grand Hall, and Bunkhouse will not exceed 35 feet in height.
- **Landscaping.** The KCC requires 15% of the site to be landscaped.<sup>22</sup> The Applicant is proposing to maintain a pasture area in the center of the property and a 100-foot perimeter buffer around the equine area, which will screen the use from adjacent single-family uses. Significant natural vegetation will be retained, far exceeding the 15% requirement. The Applicant submitted a landscape plan for new plantings around the off-street parking and along the front of the arena and Bunkhouse.
- **Exterior Lighting.** "[A]rtificial outdoor lighting shall be arranged so that light is directed away from adjoining properties and so that no more than one foot candle of illumination leaves the property boundaries."<sup>23</sup> For the project, if lights are mounted on buildings, cutoff shields should be installed to prevent glare or spillover. Otherwise, DCD recommended downcast lighting to reduce glare, improve rural compatibility, and promote a dark sky.
- **Screening of Equipment, Storage and Refuse Areas.**<sup>24</sup> Roof mounted HVAC equipment must not be visible from abutting lots or roadways.<sup>25</sup> Due to the distance from County roads, this is not an issue. However, staff will review HVAC equipment location when architectural elevations are submitted at the building permit stage. Service areas, outdoor storage areas, and intrusive features are to be located away from neighboring properties.<sup>26</sup> As activities will be outside and within the arena, any intrusive features will be screened around the perimeter from the neighbors. The project must comply with all County solid waste standards for recycle/waste collection enclosures, per the Engineering conditions.<sup>27</sup> The County will review for solid waste facilities in the Site Development Activity Permit and prior to Building Permit issuance. The Applicant must coordinate with Waste Management for truck accessibility.

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<sup>21</sup> KCC 17.420.030(B)(2).

<sup>22</sup> KCC Ch. 17.500.

<sup>23</sup> KCC 17.420.030(C).

<sup>24</sup> KCC 17.420.030(D).

<sup>25</sup> KCC 17.420.030(D)(1).

<sup>26</sup> KCC 17.420.030(D)(2).

<sup>27</sup> KCC 17.420.030(D)(3) and (G).

- **Access and Circulation.** Safe pedestrian access and handicap access is required on-site from public rights-of-way to minimize pedestrian and vehicle conflicts.<sup>28</sup> The Applicant is proposing to maintain pedestrian access through the site by a connecting trail. The expansion will be accessory to the primary camp use and existing Sidney Road SW access. Development is limited to one ingress/egress per 300 lineal feet along a public arterial.<sup>29</sup> The Applicant will continue to use the existing driveway approach on Sidney Road SW. The project is consistent with the requirement.
- **Off-Street Parking and Loading.** The Applicant must provide adequate off-street parking consistent with KCC Ch. 17.490.<sup>30</sup> Sixty off-street parking spaces serve the camp. Sixteen additional off-street parking spaces will be added. There is adequate off-street parking to accommodate horse therapy participants. The new parking allows parking adjacent to the arena facility, which will not have seats. The conference room will seat 20 people. However, the 20 people will be campers and not keep a vehicle during their stay, and neither will the 40 people occupying the Bunkhouse.

**1.15 KCC 17.410.050 - Footnote 12 - Building Activities.** Building activities cannot create materially detrimental light and traffic noises, and access must meet requirements and not create traffic congestion. All buildings and activities will meet the minimum 50-foot setbacks from the property line. And, adjacent residences are over 100 feet from the equine operation. Given the separation, it is not anticipated that the equine expansion and new building construction will create excessive noise or traffic congestion affecting existing and future property owners.

**1.16 KCC 17.410.050 - Footnote 15 - Animal Density Thresholds.** The Applicant's Farm Management Plan was reviewed by the Kitsap County Conservation District. The District is an advisory agency which assists land managers to decide on best management practices for their livestock. The Farm Plan makes recommendations on animal density, rotation of animals for water quality purposes, and critical areas protection.

## 2. CONCLUSIONS OF LAW

**2.1 Hearing Examiner Review Authority.** The Hearing Examiner has review authority for this Conditional Use Permit application.<sup>31</sup> The Hearing Examiner may approve, approve with conditions, or deny a Conditional Use Permit. The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision.<sup>32</sup>

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

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<sup>28</sup> KCC 17.420.030(E) (1).

<sup>29</sup> KCC 17.420.030(E)(2)

<sup>30</sup> KCC 17.420.030(F).

<sup>31</sup> See KCC Sections 17.410.010(C) and 21.04.100.

<sup>32</sup> See KCC 17.550.030(A).

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.<sup>33</sup>

**Comprehensive Plan.** The Rural Residential designation promotes low density residential development and activities consistent with the rural character. The proposal does not require urban infrastructure and supports rural, equestrian based recreational activities. Critical areas are protected and the proposal does not conflict with agricultural, forest, and mineral resource uses. The proposal achieves Comprehensive Plan consistency.<sup>34</sup>

**Code Compliance.** The proposal is conditioned to ensure compliance with Title 17 and other applicable code requirements. No applicable code provision was identified which would not be complied with. As detailed in the findings above, County code provisions addressing landscaping, setbacks, critical areas, lighting, stormwater management, and other requirements will be complied with. The County's design requirements, outlined at KCC 17.420.030, have all been adequately addressed as detailed above, in the Staff Report, and at the hearing, as have KCC 17.410.050 Footnotes 12 and 15. On Footnote 12, the project's significant buffering, approach to access, and landscaping, and site lay out address neighborhood compatibility concerns. On Footnote 15, the operation is being designed consistent with the Farm Management Plan's outlined best management practices. The project is consistent with Title 17.

**Material Detriment.** Identified impacts have been addressed and an approach to mitigation outlined. At the hearing, citizens raised concerns about noise (artificially amplified noise in particular), stormwater drainage, water usage, Lake impacts, and traffic (particularly regarding the secondary access route). Earlier comment also addressed aesthetic impacts, impacts to Horseshoe Lake, and light impacts. County Code requirements address noise, stormwater drainage, traffic (including requirements for the secondary access route), and landscaping. With the 100 feet of perimeter buffering from equine activities, as shown in the Farm Management Plan and discussed in the drainage analysis, this helps with stormwater infiltration and minimizes pollution. This design also mitigates aesthetic impacts and provides noise attenuation. Landscaping provides added mitigation.

As the use is distinctive from the surrounding rural residences, ongoing cooperation between the Applicant and neighbors is important to avoid materially detrimental impacts. The Applicant has a history of being amenable to such cooperation, although artificially amplified

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<sup>33</sup> See KCC 17.550.030(A).

<sup>34</sup> See e.g., Land Use Policies 50, 51, and 54 identifying local planning goals and policies applicable here. Exhibit 30 (Staff Report), p. 4 provides further detail.

noise continues to be an issue. If the Applicant cooperates with the neighbors to address this issue and fully complies with the County's noise control requirements, when coupled with the 36 conditions and various County Code requirements, the uses should be able to cooperatively co-exist. A sentence has been added to Condition 2 to ensure the project is built out consistent with the clarifications the Applicant provided at the hearing in response to neighbor comment.<sup>35</sup> Based on the evidence, the conditions imposed, and the County's regulatory structure, it is reasonable to conclude the proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity. To help ensure this basic structure works as intended, the Applicant should continue to cooperate with the neighbors to address concerns as they arise. If there are challenges or questions in addressing issues, DCD is also a neighbor resource.

**Compatibility.** As addressed in the paragraph above, although the parties will need to continue to coordinate with each other, it is reasonable to conclude that the proposal, as designed and with mitigation, is compatible with surrounding existing and planned uses. Noise, stormwater, and traffic impacts are mitigated through the conditions below and County Code requirements. Along with landscaping, significant buffering from surrounding uses is in place. PM peak hour trips are limited and use of the secondary access has been circumscribed. The equestrian based recreational use is the type of use expected within a rural area. Conditions are imposed to ensure all code requirements are met and impacts are adequately addressed. The basic 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 expanded equestrian based recreational facility meets the County's CUP criteria.

## DECISION

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested CUP, provided the following 36 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. The scope of use includes the Applicant's clarifications on the proposal at the hearing in response to questions raised by the public, and the Applicant's commitment to addressing noise compatibility concerns, particularly from artificially amplified sources. 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. Existing native vegetation shall be retained on the site except for areas to be

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<sup>35</sup> As detailed in the findings, in response to neighbor hearing comments, the Applicant clarified the project's approach to stormwater management, water usage, noise, buffering, secondary access, and other issues.

cleared for the construction of the facility expansion and associated infrastructure, as depicted on the proposed site plan (Exhibit 8).

4. 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. 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. 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.

## **Environmental**

10. The recommendations of the Wetland Delineation Report (BGE Environmental, 10/27/17) shall be applied. This includes maintaining a 40-foot buffer and 15-foot building setback from the wetland, as identified on the site plans.

11. The Miracle Ranch Farm Plan (Kitsap Conservation District, Nov. 2017) shall be

adhered to for the protection and enhancement of wetland functions and values (KCC 19.200.225(B)).

## **Fire**

12. A 12-foot unobstructed secondary, emergency access road is required. IFC 503 Amended by Kitsap County.

13. Fire apparatus access roads are required and must be maintained. Any proposed revision to these roads must be submitted to, reviewed by, and approved by the Kitsap County Fire Marshal's Office. IFC 503 Amended by Kitsap County. Access roads shall comply with the following:

- a) Unobstructed width of 20 feet and height of 13 feet 6 inches.
- b) Shall be designed and maintained to support a 60,000-pound fire apparatus and be provided with an all-weather driving surface.
- c) Dead end access roads exceeding 150 feet in length shall be provided with an approved turnaround.
- d) Inside turning radius shall be a minimum of 35 feet (commercial).
- e) Access roads shall extend to within 150 feet of all portions of the exterior walls of the first story of the structure as measured by an approved route around the exterior of the structure or facility.
- f) Road shall not be more than 12% grade.

14. Fire flow in the amount of 4,750 gpm @ 20 psi for a minimum of four hours is required for the project. This is based on square footage proposed and type V-B construction. A reduction in required fire flow of up to 75% as approved for commercial buildings is allowed when the building is provided with an approved automatic fire sprinkler system. The resulting fire flow shall not be less than 1,000 gpm for one hour. Any changes to the structure will require a recalculation of fire flow. IFC 507.3 Amended by Kitsap County.

## **Development Services and Engineering**

### **General**

15. 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.

### **Stormwater**

16. The information provided demonstrates this proposal is a Large Project as defined in KCC Title 12, and as such will require a Site Development Activity Permit (SDAP) from Development Services and Engineering.

17. 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, November 6, 2017. 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.

18. Any project that includes off-site improvements that create additional impervious surface such as lane widening, sidewalk or shoulder installation or intersection channelization shall provide stormwater mitigation in accordance with KCC Title 12 effective at the time the CUP application was deemed complete, November 6, 2017.

19. The project proponent shall be responsible for installing any necessary off-site downstream drainage improvements, i.e. ditch with infiltration element. Procurement of any permits or easements necessary to install off-site improvements shall be the responsibility of the project proponent.

20. 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](mailto:joshklimek@ecy.wa.gov). This permit is required prior to issuance of the SDAP.

21. 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.

22. The design of the infiltration facilities will be in accordance with Section 7.3.4 of the Kitsap County Stormwater Design Manual.

23. The infiltration facilities shall remain off line 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.

24. 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.

25. 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.

26. If the project proposal is modified from that shown on the submitted site plan dated November 6, 2017, Development Services and Engineering will require additional review and potentially new conditions.

### **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. 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 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.

29. Property owners adjoining unopened County rights-of-way may have underlying rights to existing timber and vegetation lying within said unopened right-of-way. Any such rights must be preserved pursuant to County Resolution No. 210-1976. Prior to construction plan acceptance, said property owners must be properly notified of the proposed construction within the unopened right-of-way, and allowed a 15-day time period to respond with requests regarding the disposition of said timber and vegetation.

30. The Applicant shall provide a Permit to Use/Improve County Right-of-Way for construction of the east-west leg of Horseshoe Avenue SW. The Permit to Use/Improve County Right-of-Way can be obtained from the Kitsap County Public Works Department and shall be submitted with the required SDAP.

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 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. The need for and scope of bonding will be determined at that time.

### **Solid Waste**

33. 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 its requirements for this project have been met.

34. 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 six-yard dumpster.

35. 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.

36. 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.

THIS DECISION is entered this 20<sup>th</sup> day of February, 2018.



Kitsap County Hearing Examiner  
Susan Elizabeth Drummond