

Lindsey Ozbolt

From: Traci Shallbetter [traci@shallbetterlaw.com]
Sent: Friday, April 12, 2013 7:43 AM
To: Lindsey Ozbolt
Cc: tckchristman@fairpoint.net
Subject: Steigleder CU-13-00002

Follow Up Flag: Follow up
Flag Status: Completed

Lindsey,

After having reviewed the comments, we feel that all are innocuous/ungrounded and anticipate that County Staff will be able to adequately respond and issue its SEPA determination based on the facts of which Staff is already aware, without significant comment from us. If Staff feels that any of the comments have raised questions, concerns, or conditions that were not contemplated in the preapplication meeting that Staff had with the Christmans, please let us know so that we can address.

It would appear that there are really only four independent comment letters raising concerns (given that two of the letters were simply copied and signed, verbatim, by various individuals). As to the concerns raised in those letters:

1. SEPA. The Christmans filled out the SEPA checklist in good faith, to the best of their actual knowledge. Obviously, the County or others may have additional information or perspective. It is true that a pond exists in the vicinity of the Steigler property; however, it is not part of the actual site proposed for the fruit stand and will not be accessible to any patrons or impacts of the fruit stand. Additionally, ground disturbance may occur at the entrance to the Christman property, insofar as required for an apron or as similarly required by the County. The Christmans are under the impression that the dirt road accessing their house/the fruit stand will remain as a dirt road, and that there is no justification for requiring asphalt.
2. FIRE/LIFE SAFETY. The Christmans understand the fire marshall recommendations and are prepared to comply with those as conditions of approval. Of course, all health and safety standards of the Kittitas County Code and applicable law will be followed. The proposed use is not of such nature as is likely to create significant new impacts to fire or safety. The number of patrons served will be de minimus, with virtually all of them people who would already be in the area to visit the Thorp Antique Mall, the Arco gas station, or en route to a primary destination along the way.
3. NATURE OF USE AS APPROPRIATE FOR CUP. Suggestion is made that the fruit stand use is not within the uses that can be authorized by a CUP. It seems the plain language or the code and common sense would indicate otherwise (see additional explanation in our application). Furthermore, I am under the impression that the BOCC formally determined that such use can be authorized through CUP procedures (but is not permitted outright). It would seem the issue is moot and the BOCC (as well as Staff through their administrative interpretation) has already deemed the fruit stand use as within the CUP uses.
4. ADA RESTROOM. The Christmans have proposed/anticipate a requirement to provide an ADA-approved port-a-potty equipped with proper hand sanitizer and maintained in accordance with applicable standards.
5. SANITATION. The Christmans will comply with all applicable health and safety standards applicable to a fruit stand. They will have hand sanitizer available in the store.
6. OWNERSHIP. The owner of the property at issue is Steigleder; however, the Christmans currently lease (and anticipate purchasing) the subject property out of which they intend to operate the fruit stand.

7. **PARKING.** Parking exists for up to 10 cars. The Christmans operated the fruit stand in the present location (in good faith and with knowledge of the County) for a period last year. During such period, the Christmans do not believe they ever had more than 8 cars in the lot at one time, and generally it was just one or two cars. Parking is well within what is appropriate for a small mom and pop fruit stand.
8. **TRAFFIC, NOISE, GLARE.** The project will not generate significant traffic or impact to noise or light given that, among other things: (a) this project is the equivalent of a small fruit stand operating alongside the road for passerbys who already would be in the area—either en route to their homes, to the Thorp Antique Mall or gas station, or to another primary destination. The project is not likely to generate any NEW OR ADDITIONAL traffic beyond what currently exists. Not only is there no net impact, but there is no ADDITIONAL impact—much less any likely significant impact that would merit something like a traffic study.

Unlike the Thorp Antique Mall, the Gibson Fruit Stand will be of minimal square footage, only expected to and capable of serving a small number of patrons at a given time. The offerings of the store are limited and relatively small based on the sheer size of the area of the residence out of which the fruit stand will operate.

The traffic numbers and mitigation that the Rowleys/Thorp Antique Mall speak of in their comment letter pertained to the ARCO gas station—not to the impacts of the Thorp Antique Mall. It does not appear that any evidence exists (nor any studies were required) of the Thorp Antique Mall with respect to the amount of new traffic (above baseline predating use or expansion of the Thorp Antique Mall) that the Thorp Antique Mall would generate. Obviously, a nationally franchised commercial gas and service station/minimart off of the freeway is likely to generate significant new traffic—perhaps meriting further analysis of traffic impacts and/or mitigation. By stark contrast, the Gibsons are seeking permission to operate a fruit stand—selling fresh grown fruits, vegetables, flowers and the like—out of their garage.

9. **SIGNAGE.** The Christmans will comply with all applicable provisions of the County code pertaining to signage and no grounds exist for additional regulation unique to the Christmans.

We can be available for a hearing examiner hearing on May 2nd, if that is the date that works best for the County. Obviously, the Christmans would like to be able to be up and running this season.

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From: Lindsey Ozbolt [<mailto:lindsey.ozbolt@co.kittitas.wa.us>]
Sent: Wednesday, April 10, 2013 10:43 AM
To: 'Traci Shallbetter'
Cc: tckchristman@fairpoint.net
Subject: RE: Steigleder CUP Transmittal of Comments CU-13-00002

Hello Traci.

Yes, we can allow for 14 days for applicant response to comments. However, that would push back the Hearing Examiner hearing date until the last meeting in May (5/23 - Thursday before Memorial Day weekend) or first meeting

date in June (6/13). Just as a reminder, your comment responses can be addressed during your testimony the night of the hearing.

Please let me know what your client prefers. Right now my goal is to hold the public hearing on May 2nd. This is not a normal night for the HE, but he is willing to be available for this date since he is not available on his regular night of May 9th.

Sincerely,

Lindsey Ozbolt
Staff Planner

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From: Traci Shallbetter [<mailto:traci@shallbetterlaw.com>]
Sent: Wednesday, April 10, 2013 10:07 AM
To: Lindsey Ozbolt
Cc: tckchristman@fairpoint.net
Subject: RE: Steigleder CUP Transmittal of Comments CU-13-00002

Thanks, Lindsey. Will the County provide the Christmans with 14 days or so to submit a response to the comments to the County?

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From: Lindsey Ozbolt [<mailto:lindsey.ozbolt@co.kittitas.wa.us>]
Sent: Wednesday, April 10, 2013 9:35 AM
To: 'traci@shallbetterlaw.com'
Cc: 'tckchristman@fairpoint.net'
Subject: Steigleder CUP Transmittal of Comments CU-13-00002

Good morning:

The comment period ended for the Steigleder Conditional Use Permit CU-13-00002 at 5:00 pm on April 9th. I have attached to this email a copy of the Transmittal letter. The comment document is too large to email however they are available on the County's website at: <http://www.co.kittitas.wa.us/cds/current/conditional-use.asp>.

Please review these comments and let me know if you have any questions. I have placed a copy of the letter and comments in the mail to Mr. & Mrs. Christman.

The next step is for CDS to work on issuing the SEPA threshold determination and schedule the hearing before the Hearing Examiner.

Sincerely,

Lindsey Ozbolt
Staff Planner

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