

ISLAND COUNTY HEARING EXAMINER

RE: SITE PLAN REVIEW)	File No. SPR 326/14
)	
Applicants: North Goldie, L.L.C.)	FINDINGS OF FACT
)	CONCLUSIONS OF LAW
)	AND DECISION

SUMMARY OF APPLICATION AND DECISION

APPLICATION: North Goldie, L.L.C. seeks Site Plan Review for a Type III Site Plan Review Approval in order to establish a marijuana processing/retail shop by changing the use of a fully developed, seven unit, 52,058 square foot building complex in the Oak Harbor Industrial Park. The proposed use would be a total of 41,646 square feet of marijuana production and 10,412 square feet of marijuana processing. The site is located in the Oak Harbor UGA, in Accident Potential Zone (APZ) II and AICUZ Noise Zone.

DECISION: The Hearing Examiner for Island County grants approval of the requested SPR 326/14, subject to Conditions of Approval.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing on April 15, 2016.

I.

PRELIMINARY INFORMATION

Applicant: North Goldie, L.L.C.

Property Location: 3143-3171 North Goldie Road
Oak Harbor, WA 98249

Applicable Ordinances: Land Use Review Ordinance Chapter 16.19 ICC; Site Plan Review Ordinance Chapter 16.15 ICC; Oak Harbor – Industrial Chapter 17.03.082 ICC; Non-Residential Design & Landscaping Guidelines Chapter 17.03.180.P ICC; Parking, Access, and Circulation Chapter 17.03.180.Q ICC; Signage & Outdoor Lighting Chapter 17.03.180.R ICC; Site Coverage & Setbacks Chapter 17.03.180.S ICC; Recreational Marijuana Producer, Processor and Retailer Chapter 17.03.180.BB ICC.

SEPA DNS issued November 5, 2014, by Island County SEPA Official.

Date Application Received: October 17, 2014

Date Application Determined to be Complete: October 17, 2014

Hearing Date: April 15, 2016

Parties of Record for SPR 326/14 North Goldie LLC

Michael Haun
Precision Tire Factory & Auto Center
3151 North Goldie Road
Oak Harbor, WA 98277

And for clarification:

Scott Hensrude – **Owner**
2627 Eastlake Ave
Seattle, WA 98102

Francine Shaw – **Agent**
Law Offices of Stephanie Johnson O'Day
P.O. Box 2112
Friday Harbor, WA 98250

Wes Strietzel – **Agent**
3143 North Goldie Road
Oak Harbor, WA 98277

Exhibit Log

Tab 1

1. Staff Report

Tab 2 – Site Data

2. Request for Comments, dated 10/30/14
3. ESRI GIS Map, undated

Tab 3 – Applications

4. Application cover letter from Francine Shaw for Stephanie Johnson O'Day to Jason Johnson, received 10/17/14
5. Application for a Type III Decision, received 10/17/14
6. Application for Site Plan Review, received 10/17/14
 - a. Field Indicators Worksheet
 - b. ESRI GIS Parcel Map
 - c. ESRI Parcel Vicinity Map
 - d. Island County Assessor's Map
 - e. Landscaping Plan, includes Site Plan with landscape notations includes existing landscaping photograph
 - f. SEPA Environmental Checklist
 - g. Permit to Construct a Sewage Disposal System, dated 6/18/93, received 10/17/14
7. Site Plan with corrected building numbers, received 12/3/14
8. Lighting Plan, includes Site Plan with lighting notations, detailed descriptions of lighting being used, and photographs of light fixtures, received 1/8/16

Tab 4 – Notices

9. Affidavit of Posting the Public Notice Sign, received 6/12/14
10. Liquor Control Board Notice, received 10/7/14
11. Notice of Community Meeting, including mailing labels for neighbors within 300 ft., received 10/17/14
12. Affidavit of Posting the Public Notice Sign, includes Notice of Application with SEPA, received 11/5/14
13. Notice of Marijuana License Application, received 10/5/15
 - 13.1 Hearing Notice letters to applicant, agents and Parties of Record, dated 3/10/16

Tab 5 – Agency Comments

14. Letter from Cac Kamak, Oak Harbor Senior Planner to Jason Johnson; includes copy of Oak Harbor Municipal Code, received 11/14/14
15. Public Works review from Bill Poss to Jason Johnson, dated 11/17/14
16. Public Health review from Aneta Hupfauer to Jason Johnson, dated 12/17/14
17. Plans Examiner / Building Inspector review from Tamra Patterson to Jason Johnson, dated 12/19/14
18. Memorandum from Jason Johnson to Wes Strietzel, dated 12/17/15
19. Memorandum from Cindy White to Dave Wechner, dated 5/18/15
20. Letter of verification of fire inspection from Michael Brown to Hiller West, received 2/5/16

Tab 6 – Public Comments

21. Letter from Michael Haun, Precision Tire Factory & Auto Center, received 11/18/14

Tab 7

22. Full size Site Map

Additional Exhibits

23. Staff Report Letters to Applicants and Parties of Record, dated 3/30/16

24. Affidavit of Publication – Public Hearing, Published Stanwood Camano News, 4/2/16
25. Affidavit of Publication – Public Hearing, Published Whidbey News Times & South Whidbey Record, 4/2/16

Submitted at Hearing

26. Memo from Bill Poss to Hiller West, dated 1/20/16

HEARING TESTIMONY

Hiller West
Island County Community Development Director
PO Box 5000
Coupeville, WA 98239

Bill Poss
Island County Public Works Development Coordinator
PO Box 5000
Coupeville, WA 98239

Wes Strietzel
Agent for Applicant
3143 North Goldie Rd.
Oak Harbor, WA 98277

Michael Haun
Precision Tire Factory
3151 North Goldie Rd.
Oak Harbor, WA 98277

II.

The Island County Planning and Community Development Department has recommended approval of the requested Site Plan Review, SPR 326/14, subject to conditions. The Findings of Fact and Conclusions of Law of the Associate Planner are set forth in a Staff Report, Exhibit #1, a copy of which is attached hereto and incorporated herein by this reference.

The Applicant indicated there were no factual inaccuracies in the Staff Report. The Applicant indicated no objection to the Conditions of Approval requested by Staff.

Island County received public comment during the public comment period from Michael Haun, dated November 18, 2014 [Exhibit No. 21 in the Hearing Examiner's file]. These concerns have all been addressed by Staff in the Staff Report and the recommended Conditions of Approval.

III.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following:

CONCLUSIONS OF LAW

I.

The Application is a Type III Site Plan Review. Appropriate notices have been given and a public hearing has been held on the requested Site Plan Review for a Type III Phased Development for the proposed marijuana production and processing complex, converting existing buildings 1,2,4,6, and 7 into marijuana production and processing as Phase One upon immediate approval of the land use and building permits; Phase Two will consist of the conversion of existing buildings 3 and 5 into marijuana production within five years of the Site Plan Review Approval.

A marijuana processor license allows the licensee to process, package, and label usable marijuana and marijuana-infused products for sale at wholesale to marijuana retailers. Recreational Marijuana licensing was approved by Washington State Voters as Initiative 502 in 2012, and is allowed in the State of Washington per 314-55 WAC.

II.

Other County Agencies with jurisdiction evaluated the proposal and have indicated no objection to approval, subject to conditions.

III.

The proposal, as conditioned by Staff, is consistent with the Site Plan Review Criteria of ICC 16.15, and with the specific Development Standards for Non-Residential Industries in the Oak Harbor UGA, in Accident Potential Zone (APZ) II and AICUZ Noise Zone set forth in ICC 17.03.180.P, Q, R, S, BB. Planning and Community Development Staff concluded that, subject to conditions, the application was consistent with these applicable criteria.

IV.

The Island County Hearing Examiner should approve SPR 326/14 and grant Site Plan Approval for the proposed marijuana production and processing complex, to be established in two phases.

V.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

DECISION

A Type III Site Plan Review Approval, SPR 326/14, is hereby granted to North Goldie, L.L.C., granting the phased development of a marijuana processing and retail business in seven existing buildings, located in the Oak Harbor Industrial Park, addressed as 3143-3171 North Goldie Road, Oak Harbor, Washington, subject to the following Conditions of Approval:

1. The work authorized by this Decision shall be limited to the development as described herein, as shown on the Plot Plan received 10/17/2014. This Decision shall not be construed to authorize work, development, construction, or other site modifications in excess of that which is specifically authorized by this Decision.
2. The Applicant must adhere to the conditions, recommendations, and requirements noted in the memo dated December 19, 2014 from Tamra Patterson, Island County Plans Examiner/Building [Exh #17 in the Hearing Examiner's file].

3. The Applicant must adhere to the conditions, recommendations, and requirements noted in the memo dated December 17, 2014 from Aneta Hupfauer, Island County Public Health [Exh #16 in the Hearing Examiner's file].
4. The Applicant must adhere to the conditions, recommendations, and requirements noted in the memo dated November 17, 2014 from Bill Poss, Island County Public Works [Exh #15 in the Hearing Examiner's file].
5. Prior to Building Permit issuance, all outstanding fees, including Health Department fees, shall be paid in full.
6. A detailed site plan, showing all office space within the buildings, and including an estimate of the number of employees serving the facility, shall be included with building permit(s) for the site. The site plan shall illustrate all striped parking spaces within the site. Final parking requirements shall be determined by the Planning Director based on the detailed site plan. Parking shall be contained on-site and provided in conformance with applicable Code, with this decision, and with the Conditions of this Approval.
7. Light fixtures, including temporary lights, must incorporate hooding, shielding or other effective technologies to ensure that direct rays of light are not visible from the perimeter of the site.
8. All signage requires a Building Permit, subject to the requirements of ICC 17.03.180.R, or applicable Code as hereafter amended.
9. Conformance with requirements of WAC 314-55 and the Applicant's State Marijuana License, as issued by Liquor Control Board, which are applicable or relevant to the Applicant's Site Plan are incorporated into this Decision and the Approved Site Plan. Violation of these requirements may lead to enforcement action by the County and/or Liquor Control Board.
10. Outdoor sales of marijuana are prohibited.
11. Full conformance with all aspects of Chapter 314-55 WAC is a requirement of this Approval. Violation of any part of Chapter 314-55 WAC will constitute a Violation of the Conditions of Approval of this Permit and will be subject to enforcement action by Island County.
12. All security requirements of WAC 314-55 applicable to marijuana producers and/or processors shall be required prior to Final Occupancy, and these security systems shall be maintained in good working order at all times.
13. Law enforcement access to this approved Use, without notice or cause, shall not be limited in any way.

14. The facility and all structures will be required to comply with the AICUZ noise reduction standards in ICC 14.08B. These standards require certain noise reduction measures within structures as well as disclosure of aircraft noise.
15. Prior to starting any work or construction activities, the Applicant shall obtain all required building permits and approvals.
16. This project is required to comply with Washington State and Island County water quality standards, Washington State laws and regulations protecting archaeological sites and resources and all other pertinent State laws, rules, regulations, codes, and ordinances.
17. The Applicant is advised that, per ICC 16.15.160, **Site Plan Approvals do expire**. Any Building Permits obtained pursuant to this Site Plan Approval must be utilized within five (5) years after the effective date of this Site Plan Approval. If the permit or permits are not used or construction work is not initiated within this time and carried on diligently in accordance with the conditions imposed by the County pursuant to Site Plan Approval, the Site Plan shall become null and void and any approval, permit, or conditions granted thereby shall be deemed to have lapsed.

Entered this 27th day of April 2016, pursuant to authority granted under the Laws of the State of Washington and Island County.



MICHAEL BOBBINK
Island County Hearing Examiner

APPEAL PROCESS:

Decisions of the Examiner on Type III applications shall be final and conclusive unless within fourteen (14) days following mailing of such decision a written statement of appeal is filed with the board by the Applicants, a Department of the County, or Party of Record, who is also an Aggrieved Person. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee pursuant to the fee schedule adopted by the Board; provided that such appeal fee shall not be charged to a Department of the County or to other than the first appellant. The appeal of a Type III decision shall be a Closed Record Appeal.