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Skagit County Auditor

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AFTER RECORDING RETURN TO:
SKAGIT COUNTY HEARING EXAMINER
302 SOUTH FIRST STREET
MOUNT VERNON, WA 98273

DOCUMENT TITLE: ORDER DENYING MOTION FOR RECONSIDERATION SPU 92 018

HEARING OFFICER: SKAGIT COUNTY HEARING EXAMINER

APPLICANT: CHUCKANUT CREST GOLF COURSE

PETITIONER: HABITAT WATCH, INC.

ASSESSOR PARCEL NO: P48273, P48280, P50342, P50343, P50368, P50370, P50389,
P50390, P50407, P504105

ABBREVIATED LEGAL DESCRIPTION: The proposed project is located at within Section 25, Township 36 North, Range 3 East, W.M., and Section 30 and 31, Township 36 North, Range 4 East, W.M., all situate in Skagit County, Washington.

BEFORE THE SKAGIT COUNTY HEARING EXAMNER

In the Matter of the	)	
Review of an Application for a	)	SPU92-018
Special Use Permit for the	)	
CHUCKANUT CREST GOLF	)	ORDER DENYING MOTION
COURSE	)	FOR RECONSIDERATION
	)	
HABITAT WATCH, INC.	)	
	)	
Petitioner.	)	

On September 30, 2002, the Hearing Examiner issued an Order denying a Petition for Revocation of Special Use Permit SPU92-018,

By a document dated October 2, 2002, Habitat Watch, Inc., the petitioner, requested reconsideration of the denial. The Motion for Reconsideration contained extensive argument and included eight (8) attachments.

By a document dated October 7, 2002, the Upper Skagit Indian Tribe, the permittee, filed written argument in opposition. This submission included a number of documents in two (2) numbered attachments.

The County regulation on requesting reconsideration contemplates that argument may be entertained in connection with such requests. The Examiner therefore admits the documents submitted by the parties after the hearing and, by this reference, includes them in the record of these permit review proceedings.

DISCUSSION

1. The permit extensions are a part of the content of the permit. In the Examiner's view, the validity of any of the extensions could only be attacked by appeal. The permit review provided for in SCC 14.16.900(2)(b)(iii) relates to compliance with provisions that are contained in the permit, not with how those provisions got there or whether they should have been included. To raise the procedural validity of the adoption of the extensions in a Petition for Permit Revocation is a collateral attack on the contents of the permit.

2. Under all the facts, the Examiner is convinced that a reasonable period for appeal has passed. No appeal of the extensions has ever been filed.

3. The letter of July 16, 2002, from the Planning and Permit Center to counsel for Habitat Watch, Inc., was interpreted by the Examiner to be an acknowledgment of receipt of the Petition for Revocation and a statement of the County's position that the filing was not considered an appeal for the purposes of the stay provisions of SCC 14.06.230. The Petition did not itself purport to be an appeal. It was specifically submitted "pursuant to SCC 14.16.900(2)(b)(iii)." Though in retrospect, it appears that the Permit Center's letter



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was ambiguously worded, the Examiner did not and does not interpret it as a statement by Staff that no appeal was then possible. Even had this been the intended meaning, appeals within the County system are to quasi-judicial decision makers. They are the ones who decide whether or not an appeal can be entertained, not the members of the Permit Center Staff.

4. After reviewing the Motion for Reconsideration and the permittee's response, the Examiner concludes that no material legal error has occurred and no material factual issue has been overlooked that would change the previous decision. See SCC 14.06.180.

ORDER

The Motion for Reconsideration is denied. Under SCC 14.06.120(9), an appeal may be made to the Board of County Commissioners by filing a written Notice of Appeal with the Planning and Permit Center within 14 days after the date of this decision on reconsideration.

Wick Dufford

Wick Dufford, Hearing Examiner

Date of Action: October 8, 2002

Copies Transmitted to Parties: October 8, 2002

