

**BEFORE THE SKAGIT COUNTY HEARING EXAMINER**

**FINDINGS, CONCLUSIONS AND DECISION**

**Applicant:** Robert Wiggins  
19027 Milltown Road  
Mount Vernon, WA 98273

**File No:** PL06-0334

**Request:** Special Use Permit

**Location:** South of Conway at 19027 Milltown Road, within  
a portion of Sec. 32, T33N, R4E, W.M.

**Land Use Designation:** Rural Reserve

**Summary of Proposal:** To operate an outdoor paintball course on a portion  
of approximately 12 acres. Activities will be  
primarily limited to weekends.

**Public Hearing:** After reviewing the report of Planning and  
Development Services, the Hearing Examiner  
conducted a public hearing on January 24, 2007.

**Decision:** The application is approved, subject to conditions.

## **FINDINGS OF FACT**

1. Robert Wiggins (applicant) seeks a Special Use Permit to operate a paintball course on a portion of a 12-acre parcel he owns south of Conway.
2. The property is at 19027 Milltown Road, east of Pioneer Highway (SR 530), within a portion of Sec. 32, T32N, R4E., W.M. The parcel lies on the north side of the road. The zoning is Rural Reserve.
3. The southern portion of the site contains a single-family home and associated accessory structures. The game area is on undeveloped open acreage in the northwest portion of the property. The property is in general flat with a slight slope to the north. There is a ravine with a stream in the extreme northeast corner outside the game area.
4. The game area is clearly marked with twine and orange ribbons on the twine. Also there are property line and field boundary signs. Heavy woods and brush exist along the game area perimeters near property lines.
5. The game area is accessed by a driveway from Milltown Road which leads to a parking area about midway into the lot. There is gravel parking space for 20 cars. The driveway is in good condition with good sight distance in both directions at the level access point from the road.
6. The site is about  $\frac{3}{4}$  of a mile west of the I-5 freeway. The average number of cars per day is about 10. Traffic impacts are likely to be minimal.
7. Surrounding land uses are rural and residential in nature. There are residences on adjacent property to the west. The two nearest owners have written letters in support of the paintball facility, provided that efforts are made to reduce or eliminate paint balls on their property and that foul language and other noise is kept to a minimum.
8. There is an existing mature vegetative buffer at least 50 feet wide on the west that separates the proposed use from the nearest homes. The applicant is in the process of adding to this buffer through planting of Leyland Cypress trees. Significant portions of the open area of the playing field are in canary grass.
9. The applicant has arranged for the paintball game operations to be run by Cedar Graham of CDR Sports, an experienced operator. Games begin and end with a signal bell. All games are supervised by referees who not only enforce game rules, but also enforce general behavior requirements – for example: no shooting outside of designated areas, no profanity.
10. A break area is provided next to the parking. Sanikans are provided and there is a designated hand wash station. Bottled water, soft drinks and snacks are

available. Recycling containers for cans and cardboard will be provided. Pizza is delivered in heated containers at 1:00 p.m. on game days. Servers are required to have current food handlers licenses. Alcohol and loud music are not allowed.

11. The proposed days and hours are Saturday and Sunday from 10:00 a.m. to 4:00 p.m., year around. On occasion, there will be a private party during the week – roughly twice every four months. There will be no night games.

12. The structures involved for the games are simple and temporary – mainly barriers made from recycled plywood, pallets and other wooden materials. The structures, in the main, are no more than seven feet tall. The tallest structure is a tower that is about eleven feet tall. There are hog fuel mounds and dirt mounds to climb and hide behind. Separating the viewing and game areas is 200 feet of paintball resistant netting.

13. The project site is not within a designated flood hazard area. Critical area review by the County determined that there are no critical areas within 200 feet of the proposal. Environmental review of the project resulted in a Mitigated Determination of Non-Significance (MDNS) under the State Environmental Policy Act (SEPA), issued on August 17, 2006. The MDNS was not appealed. The following conditions were imposed:

- a. The applicant shall comply with Northwest Air Pollution Authority requirements.
- b. The applicant shall comply with the provisions of Chapter 14.32 of the Skagit County Code, the Skagit County Drainage Ordinance and Chapter 14.26, Public Works Standards.
- c. The applicant shall comply with SCC 14.16.840, the Performance Standards, and WAC 173-60 for noise and light conditions.
- d. The applicant shall comply with Fire Code Standards.
- e. An engineered soils compaction report shall be required for all structures placed on fill material.
- f. The applicant shall comply with all relevant provisions of 14.24 (Skagit County Critical Areas Ordinance).

14. Comments by County Departments are included as conditions of approval.

15. There was no public testimony at the hearing.

16. The criteria for Special Use Permit approval are set forth at SCC 14.16.900(2)(b)(v), as follows:

- (a) The proposed use will be compatible with existing and planned land use and comply with the Comprehensive Plan.
- (b) The proposed use complies with the Skagit County Code.

(c) The proposed use will not create undue noise, odor, heat, vibration, air and water pollution impacts on surrounding, existing, or potential dwelling units, based on the performance standards of SCC 14.16.840.

(d) The proposed use will not generate intrusions on privacy of surrounding uses.

(e) Potential effects regarding the general public health, safety, and general welfare.

(f) For special uses in ... Natural Resource Lands ..., the impacts on long-term natural resource management and production will be minimized.

(g) The proposed use is not in conflict with the health and safety of the community.

(h) The proposed use will be supported by adequate public facilities and services and will not adversely affect public services to the surrounding areas, or conditions can be established to mitigate adverse impacts on such facilities.

17. The Staff Report analyzes the proposal against these criteria and determines that, as conditioned, the proposal will be consistent with them. The Examiner concurs with this analysis and adopts the same. The Staff Report is incorporated herein as though fully set forth.

18. The application contains significant information about the popularity of paintball and the generally benign nature of the equipment used to play it. In particular, it is noted that paintballs themselves are bio-degradable and designed to break on impact. The effective range of the guns is 50 to 100 feet.

19. The subject site appears sufficiently remote and separated from significant residential development as to present little potential for disruption of nearby property uses.

20. Any conclusion herein which may be deemed a finding is hereby adopted as such.

### **CONCLUSIONS OF LAW**

1. The Hearing Examiner has jurisdiction over the persons and subject matter of this application. SCC 14.06.050(1)(b)(ii).

2. The requirements of SEPA have been met.
3. In the Rural Reserve district, “outdoor recreation facilities” are allowed by Hearing Examiner Special Use Permit. SCC 14.16.320(4)(y). The proposed paintball operation meets the definition of “outdoor recreation facility.” See SCC 14.04.020.
4. As conditioned, the proposed paintball operation will be consistent with the criteria for approval of a Special Use Permit. SCC 14.16.900(2)(b)(v).
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

### **CONDITIONS**

1. The paintball operation shall be conducted substantially as described in the application materials, except as the same may be modified by these conditions.
2. The applicant shall obtain all other necessary permits and approvals.
3. The applicant shall comply with the conditions set forth in the MDNS, issued on August 17, 2006. (See Finding 13 above,)
4. The applicant shall comply with all relevant provision of the Skagit County Code.
5. The hours of operation shall be limited to Saturday and Sunday, between the hours of 10:00 a.m. and 4:00 p.m. Up to two weekday events may be held per month, limited to the same hours. Night time events are prohibited.
6. The applicant shall provide room for a minimum of 20 parking spaces without blocking emergency vehicle access to the property.
7. Any future changes in use or building permits shall comply with the Fire Code. The Skagit County Fire Marshal’s Office shall conduct a routine Fire Safety Inspection of the operation, as a commercial business, annually or as close to annually as time and staffing allows.
8. The applicant shall comply with state regulations for water quality and for maximum noise. See Chapters 173-60 WAC, 173-201A WAC and 173-200 WAC.
9. The on-site water supply shall not be used for public consumption. To discourage the public from drinking from the on-site water source, hose-bibs and faucets available to the public shall have signs stating “Not for human consumption” or equivalent wording.

10. If drinking water is needed, commercially bottled water may be provided or sold. An approved public water source shall be required in the event that the operation changes to include additional food handling or preparation.

11. Chemical toilets, equipped with a hand-washing station, may be used, provided they are adequate in number and maintained by a licensed company, so as not to create a nuisance or public health hazard.

12. The applicant shall continue to maintain and develop the buffer of vegetation to provide adequate screening of activities on-site from neighboring properties.

13. The activity approved hereby is limited to outdoor games only.

14. Games shall be adequately supervised. Every effort shall be made to prevent shooting that might result in paintballs landing off-site. Every effort shall be made to prevent excessive shouting, and in particular, the use of profane language.

15. No illuminated signs shall be allowed on the property. Any proposal for signs shall be reviewed for compliance with SCC 14.15.820.

16. The applicant shall comply with any additional requirements imposed by the Fire Marshall, following on-site inspections or in the course of future building permit approvals.

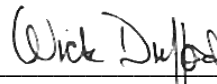
17. The permit shall be void if the project is not started within two years of the date of approval, and if abandoned for a period of one year.

18. Planning and Development Service shall be notified within 30 days after any change in ownership of the parcel through a letter to the Planning Director referencing PL06-0334.

19. Failure to carry out any of these conditions may result in revocation of the permit.

### **DECISION**

The proposed Special Use Permit is approved, subject to the conditions set forth above.



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Wick Dufford, Hearing Examiner

Date of Action: February 20, 2007

Date Transmitted to Applicant: February 20, 2007

### **RECONSIDERATION/APPEAL**

As provided in SCC 14.06.180, a request for reconsideration may be filed with Planning and Development Services within 10 days after the date of this decision. As provided in SCC 14.06.120(9), the decision may be appealed to the Board of County Commissioners by filing a written Notice of Appeal with Planning and Development Services within 14 days after the date of the decision, or decision on reconsideration, if applicable.