

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Washington State Department of Social & Health Services
Juvenile Rehabilitation Administration
c/o Patty Omdal, Regional Administrator
20816 44th Ave. West, Ste 240
Lynnwood, WA 98036-7744

Project Contact: Miller Hayashi Architects
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Seattle, WA 98103

Request/File No: Special Use Permit, PL11-0354

Location: North Cascades Gateway Center Campus at 24942 and 24980
Thompson Drive, within a portion of Sec 7, T35N, R5E, W.M.
(Parcel #P38607)

Land Use Designation: Urban Reserve Public Open Space (URP-OS)
(Within Sedro Woolley Urban Growth Area)

Summary of Proposal: To convert two existing, 1,800-square-foot, 2-story cottages into a residential facility to house 16 juvenile offenders under the direction of the Juvenile Rehabilitation Administration with two to four staff members on site 24 hours a day, seven days a week.

SEPA Compliance: Determination of Non-Significance (DNS) issued on May 10, 2012. No appeals.

Public Hearing: July 11, 2012. Public testimony was in opposition. Planning and Development Services (PDS) recommended denial.

Decision: Denial

Reconsideration/Appeal: A Request for Reconsideration may be filed with PDS within 10 days of this decision. The decision may be appealed to the Board of County Commissioners by filing an appeal with PDS within 14 days of the date of decision or decision on reconsideration, if applicable.

Online Text: The entire decision can be viewed at:
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. The Juvenile Rehabilitation Administration (JRA) of the Washington Department of Social and Health Services seeks a Special Use Permit to use two existing cottages on the North Cascades Gateway Center Campus as residential facilities to house juvenile offenders in a transition program aimed at reintegrating them into society after incarceration.

2. The cottages consist of two 1,800-square-foot, two-story structures located at 24942 and 24980 Thompson Drive, within a portion of Sec. 7, T35N, R5E, W.M. (Parcel #P38607).

3. The site is northeast of the City of Sedro-Woolley, within the Sedro-Woolley Urban Growth Area. The zoning on the state-owned campus is Urban Reserve Public Open Space (URP-OS).

4. The access into the site is from Fruitdale Road onto Northern State road. The cottages in question are in the southern portion of the campus to the south of Thompson Drive. The surrounding area includes a residential neighborhood to the southwest within incorporated Sedro-Woolley. The proposed facility is more than 1/4 mile from the nearest adjacent private property.

5. Rural Reserve (RRv) zoning is located to the northwest and northeast of the site. Public Open Space of Regional/Statewide Importance (ORSI) is located immediately to the north. Agricultural Natural Resource Land (Ag-NRL) is located to the south.

6. The proposal is to accommodate 16 juvenile offenders who have been sentenced by a county Juvenile Court. The residents would come from throughout the State. The 16 young people would be divided between the two houses.

7. The campus contains a number of existing structures and currently provides residential facilities for the Cascade Job Corps. The campus also houses Pioneer Center North, a lockdown drug and alcohol facility with chain link fence and barbed wire around its perimeter.

8. The JRA program would seek to enroll the juvenile offenders with the Job Corps or, failing that, seek to place for them in the local schools. To the extent involved, the local schools would be within the Sedro-Woolley School District. At the existing Sunrise facility in Ephrata, all 15 of the youth in the JRA program are enrolled in Job Corps.

9. Under the State's system, the proposed facility is termed a "community facility" -- a group care operation offering youth a chance to practice skills under supervision with the support of counselors in a minimum security, but highly structured setting. Individualized care is provided within a small group treatment model. The applicant states that the persons selected for this program present a minimum security risk and are working toward community reintegration.

10. The two cottages involved, called West Cottage and East Cottage, were built in 1946. West Cottage was converted to use as an Adult Family Home in the spring of 2011 by Sunrise

Services, an organization that provides service to developmentally disabled adults. Minimal improvements will be required to convert the dwellings to the proposed use. The principal new feature will be a video surveillance system. All normal utilities are available to the site.

11. The proposal is to have a minimum of two and a maximum of four staff members on site 24 hours a day, seven days a week. Based on the record at the eight other such JRA facilities in the state, the incidence of walk-offs would likely be low and the risk of violence to members of the community would be small.

12. However, the youth involved in the program would be convicted felons still serving sentences for crimes committed. If for some reason any one of them were to create problems that render him unfit for the JRA residential program, he could be sent back to penal incarceration.

13. The application was reviewed under the State Environmental Policy Act (SEPA) and a Determination of Non-Significance (DNS) was issued on May 10, 2012. The DNS was not appealed. No environmental issues were raised. Existing infrastructure would provide adequate public facilities.

14. The application and the hearing in this matter were given notice as required by law. Nineteen comment letters were received. All of the public comment was negative. This included communications from the Sedro Woolley Schools Superintendent, the Sedro Woolley mayor, and the Juvenile Court Director,

15. At the hearing, public testimony was received from six citizens. All opposed the application. In addition to the mayor and schools superintendent, testifiers included the Sedro-Woolley City Attorney and the Sedro-Woolley Chief of Police.

16. In addition to concerns for public safety, the opponents made the following assertions:

- (1) The City has a different vision for use of the site, seeing it ultimately as a center for job-creating technology which will add to the tax base.
- (2) There is no guarantee that all of the youth participating would be admitted to the Job Corps. Those not admitted would become a burden for the school district.
- (3) The school district is already overburdened and the addition of more special needs students would require extra expense. The State does not propose to pay these extra costs.
- (4) The JRA has downplayed the dangers to the community. For participants who walk off, arrest warrants will be issued, impacting County and municipal police.
- (5) The residential population of the nearest neighborhood is elderly and vulnerable.

17. The Staff Report concluded that the use in question should not be categorized as a "group care facility" as urged by the applicant. Staff determined that the proposed use is more appropriately characterized as a "state or regional correctional facility" because the residents

would be youth offenders committed to JRA custody while serving court-determined minimum and maximum sentences.

17. The applicants here did not request a code interpretation from the County's Administrative Official.

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

CONCLUSIONS OF LAW

1. The determination of this matter is an exercise in labeling. A "group care facility" can be allowed in the URP-OS zone as a Hearing Examiner special use. SCC 14.16.450(4)9(d). A "state or regional correctional facility" can only be approved through an Unclassified Use Permit under SCC 14.16.600(2)(a).

2. If the "state regional correctional facility" label is accepted, the code provides for its approval only in certain identified zones and the URP-OS zone is not one of them. SCC 14.16.600(2)(a).

3. The Staff takes the position that since "state or regional correctional facility" is a specifically listed use for specified zones under the Unclassified Use category, it cannot be allowed in another zone where it is not listed. The Hearing Examiner concurs. Under 14.16.020(3) "in no instance shall a use specifically identified in any zoning district be allowed in another zoning district where that use is not specifically listed."

4. While the proposed use is superficially consistent with the "group care facility" definition in SCC 14.04.020, the definition is general in nature, and does not include any reference to correctional aims or connection to the state penal system. Although JRA is not formally a part of the States' Department of Corrections, the proposed facility would functionally be a part of the corrections system. Accordingly, the Examiner concurs with the Staff's selection of "state or regional correctional facility" as the appropriate label here.

5. The applicant urges that because the facility is not a large, high impact project such as a prison or hospital, it does not fit within the types of uses included under the Unclassified Use Permit category. However, the list is not necessarily limited to large facilities. For example, "in-patient substance abuse and mental health facilities" are listed without reference to size.

6. Moreover, the facility would house offenders from throughout the state and would be operated by the State itself. The Examiner concludes that as a matter of plain meaning, it is a "state or regional correctional facility."

7. Accordingly, the facility cannot be approved in the location proposed because it is not consistent with the Skagit County Code.

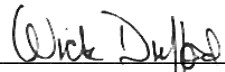
8. Because this decision is based on inconsistency with the zoning code, the Examiner does not reach the merits of whether it would otherwise meet the specific criteria for Special Use Permit approval.

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

DECISION

The application of the Washington Department of Social and Health Services for a Special Use Permit is denied.

DONE, this 26th day of July, 2012.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on July 26, 2012.

See Notice of Decision, Page 1, for Reconsideration and Appeal information.