

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Upper Skagit Indian Tribe
c/o Jennifer Washington, Tribal Chairperson
15944 Community Plaza Way
Sedro Woolley, WA 98284
- Contact:** Rollin Harper
Sehome Planning and Development Services
103 East Holly Street #206
Bellingham, WA 98225
- Request:** Special Use Permit, PL18-0041
- Location:** 33425 Hamilton Cemetery Road, Sedro Woolley, within a portion of Sec. 10, T35N, R6E, W.M. Parcel # P40955
- Land Use Designation:** Rural Reserve (RRv)
- Summary of Proposal:** To build and operate a tribal cemetery on approximately 5.1 acres of an 18.6-acre parcel that is owned by the tribe. Five to seven burials are expected to occur at the site annually.
- SEPA Compliance:** Mitigated Determination of Non-Significance (MDNS) issued January 11, 2018. No comments or appeals.
- Public Hearing:** April 25, 2018. Testimony by Planning and Development Services (PDS) staff, Applicant's agent, Applicant's project manager, and one member of the public.
- Decision/Date:** The application is approved, subject to conditions. May 7, 2018
- Reconsideration/Appeal:** Reconsideration may be request by filing with PDS within 10 days of this decision. Appeal is to the Board of County Commissioners by filing with PDS within 14 days of this decision or decision on reconsideration if applicable.
- Online Text:** The entire decision can be viewed at:
www.skagitcounty.net/hearingexaminer

FINDINGS OF FACT

1. The Upper Skagit Tribe seeks a Special Use Permit to build and operate a tribal cemetery.
2. The location is on approximately 5.1 acres of an 18.6-acre site located at 33425 Hamilton Cemetery Road, within a portion of Sec. 10, T35N, R6E, W.M. The zoning is Rural Reserve (RRv). The Parcel Number is P40955.
3. The subject 18.6-acre site is approximately 637 feet wide and 1260 feet long. Most of it is in secondary growth timber. The topography slopes slightly uphill from south to north. Removal of timber was authorized through a Forest Practice Conversion (Application #PL17-0627).
4. The surrounding lands are primarily managed forest lands and single-family residential uses. The forested lands to the north are designated Secondary Forest – Natural Resource Lands (SF-NRL) and Industrial Forest – Natural Resource Lands (IF-NRL). To the west, south and east are single family residences and undeveloped parcels on properties zoned RRv.
5. The tribe currently uses an existing cemetery approximately three-quarters of a mile east of the project site. This existing cemetery is almost at capacity. Other cemeteries in the vicinity are the Lyman cemetery and the Hamilton cemetery.
6. Five to seven burials annually are anticipated to occur at the new tribal cemetery. The new cemetery is expected to have enough capacity to serve the tribe for generations to come.
7. The new cemetery will generally be available for informal visits during daylight hours. Such visits are likely to be infrequent. Formal burials will be scheduled between 8 a.m., and 6 p.m. It is anticipated that around 20 cars will access the cemetery during burials. The cemetery will largely be screened from adjacent properties by vegetation.
8. Construction of the cemetery will occur after clearing and grading of the site. The project will include: (a) a primary and secondary internal gravel road totaling approximately 57,080 square feet; (b) stormwater infiltration/dispersion areas; (c) two access aprons on Hamilton Cemetery Road; (d) a small columbarium approximately 300 square feet in size for the interment of ashes; (e) approximately 20 primary parking spaces and 10 overflow parking spaces, including three ADA parking spaces; (f) four outdoor lights.
9. At the south end of the property near the road is a small clearing containing a 200-square-foot shed, a well, and an asphalt driveway. The shed will be used for storage of maintenance equipment and supplies for the cemetery. Maintenance will be limited to trimming vegetation and maintaining gravesites. No employees will work at the site on a full-time basis. The asphalt driveway will be removed to accommodate access to the cemetery and the internal road system.

10. A threshold determination under the State Environmental Policy Act (SEPA) was entered with the review of the Forest Practice Conversion application. A Mitigated Determination of Non-Significance (MDNS) was issued January 11, 2018. No comments or appeals were received. The following conditions were included in the MDNS.

a) Skidder, tractor, cat and/or shovel yarding shall be prohibited at times of high soil moisture. Skidding shall stop if soil rutting exceeds 10 inches in depth.

b) The public right-of-way shall be kept clean. Tracking or mud and debris off site shall not be allowed.

c) Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the initiation of the project pursuant to Skagit County Code (SCC) 14.32 Drainage Ordinance. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measures shall remain in place until completion of the project.

d) The project shall comply with noise, vibration, and light/glare limitations as per SCC 14.16.840.

e) The project is limited to those activities described in the SEPA checklist and supporting documents. Significant deviation from the proposal may require additional review and approval by Skagit County Planning and Development Services.

f) The applicant shall comply with the provisions of Washington State Administrative Code (WAC) 173-200 & 173-201A as required to prevent surface water quality and groundwater impacts. Best management practices shall be utilized to prevent interference and/or degradation of water quality.

g) Should any human remains, archaeological, historic or cultural materials be discovered during construction, work in the affected area shall cease immediately and the area shall be secured. Within 24 hours of the discovery or as soon thereafter as possible, the developer shall notify the Skagit County Sheriff's office, Skagit County Planning and Development Services, the Washington State Department of Archaeology and Historic Preservation and affected tribes. If following consultation with the above parties it is determined that an archaeological and cultural resource assessment is required, the project developer shall retain the services of a professional archaeologist to prepare an assessment. Project work in the affected area shall only continue when in conformance with applicable state and federal laws.

11. The proposal will be supported by adequate public facilities. Electricity is available at the site. Water can be obtained from the existing well. The property is within a fire district. Septic infrastructure is not proposed. The cemetery will provide adequate access and parking.

12. It is anticipated that clearing and grading will get underway in the spring or summer of 2018 and that the columbarium, roads and parking lots will be finished in the fall of 2018.

13. At the hearing, a neighboring owner expressed concern about the possible effects of the cemetery use on nearby domestic wells. The cemetery property is owned by the tribe but it is not an Indian allotment or on reservation land. It is subject to all generally applicable health regulations, including requirements for the protection of nearby wells. The project manager testified that all relevant State and County regulations relating to potential water quality impacts will be met.

14. The Staff Report analyzes the application in light of the general criteria for special use approval and concludes that, as conditioned, the project will meet the criteria. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

15. The proposed use will maintain the character, landscape and lifestyle of the rural area.

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

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over this proceeding. SCC 14.06.050(1)(b)(ii).

2. Cemeteries require a Special Use Permit within the Rural Reserve (RRv) zone. SCC 14.16.320(4)(e).

3. The requirements of SEPA have been met.

4. As conditioned, the proposed cemetery is consistent with the criteria for approval of a Special Use Permit. SCC 14.16.900(1)(b)(v).

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

CONDITIONS

1. The project shall be constructed as described in the application materials, except as the same may be modified by these conditions.

2. The applicant shall comply with the conditions of the MDNS issued January 11, 2018. (See Finding 10 above.)

3. The applicant shall obtain all required permits and abide by the conditions of same.

4. Further review will be needed by Planning and Development Services if any major change occurs in the intensity of the use outlined in the application.

5. Planning and Development Services shall be notified within 30 days after any change in ownership of the property through submission of a letter to the Planning Director referencing the permit number (PL18-0041).

6. The applicant shall comply with all relevant State and County regulations, including but not limited to:

- (a) Chapters 14.24 SCC (critical areas) and 14.16 SCC (zoning).
- (b) SCC 14.16.840 (performance standards – noise, vibration, light).
- (c) Chapter 173-60 WAC (noise)
- (d) Chapters 173-200 and 173-201A (surface and ground water quality)
- (e) Chapter 14.32 SCC (stormwater management)

7. The project shall comply with Fire Marshal requirements.

8. A building permit and other associated development permits will be required.

9. Parking is to include one ADA van spot and two standard ADA parking spots.

10. There are no guarantees of water rights on the property, as it is outside of the Upper Skagit Reservation. APH327, replacing old sand point in 2007, has a historic trend of decreasing water volume use. Owner's water use on site declined after removal of house. Water use on property is limited to historic volume from previous years as no full year round residential use is documented from owners.

11. The applicant shall maintain the installed "non-potable" signs on the existing hose bib and well.

12. Special attention shall be given to compliance with County stormwater management regulations as they relate to increased runoff resulting from additional impervious surfaces.

13. A commercial access permit will be required for the new connection points to the County road.

14. A utility permit will be required for working on utilities within the County right-of-way.

15. If applicable, landscaping, parking and signs shall be provided in accordance with SCC 14.16.800, 14.16.820 and 14.16.830.

16. Per SCC 14.16.900, the proposal shall be commenced within two years of permit approval.

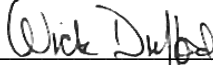
17. Approval shall not become final until all planning review fees have been paid.

18. Failure to comply with any permit conditions may result in permit revocation. SCC 14.16.900(1)(b)(iii).

ORDER

The requested Special Use Permit (PL18-0041) is approved, subject to the conditions set forth above.

SO ORDERED, this 7th, day of May, 2018.



Wick Dufford, Hearing Examiner

Transmitted to Applicant, Applicant's consultant, and County Staff, May 7th, 2018

See Notice of Decision, page 1, for appeal information.