

CITY OF OAK HARBOR
HEARING EXAMINER

RE: Conditional Use Permit) CUP-10-01
Application for)
)
City of Oak Harbor) FINDINGS OF FACT,
) CONCLUSIONS OF LAW,
"Scenic Heights Trailhead") AND DECISION

SUMMARY OF APPLICATION AND DECISION

Application: The Applicant requests a Conditional Use Permit to utilize a single-family zoned property as a community trailhead to be operated by the City of Oak Harbor, addressed as 2000 SW Scenic Heights Street, Oak Harbor, Washington.

Decision: The requested Conditional Use Permit is granted, subject to conditions.

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.

I.

Applicant: City of Oak Harbor

Property Owner: City of Oak Harbor

Description of Proposal: The Applicant requests a conditional use permit to utilize a single-family zoned property as a community trailhead to be operated by the City of Oak Harbor that will serve as a public access point for the City's Waterfront Trail which traverses the waterfront along Oak Harbor Bay from Scenic Heights Street to Maylor Point, near the Oak Harbor Marina.

Address of Proposal: 2000 SW Scenic Heights Street
Oak Harbor, WA 98277

Parcel Number: R13210-527-3480

Comprehensive Plan Designation: Low Density Residential

Zoning Designation: R-1, Single-Family Residential

Application Presented for Action: Conditional Use Application, CUP-10-01
Review Process III OHMC 18.20.250(2)(b)

SEPA: Determination of Non-significance, issued March 11, 2008

Legal Notices: Published, May 22, 2010
Mailed, May 20, 2010
Posted, May 21, 2010

Hearing Date: June 18, 2010

Parties of Record:

Hank Nydam, Park Supervisor
City of Oak Harbor

Steve Powers
Director of Development Services

Melissa Sartorius, Associate Planner
City of Oak Harbor

Exhibits:

- 1 Staff Report, with the follow attachments
 - 1-1 Conditional Use Application Form
 - 1-2 Island County Assessor's Map
 - 1-3 Vicinity Map
 - 1-4 Zoning Map
 - 1-5 Aerial Map
 - 1-6 Waterfront Aerial Map
 - 1-7 Public Noticing Documents

Public Testimony

There was no public testimony on this proposal either submitted in writing during the comment period or at the public hearing.

II.

The City of Oak Harbor is seeking approval of a Conditional Use Permit to use a single-family zoned property as a community trailhead that will be operated by the City to serve as a public access point for the City's Waterfront Trail which traverses the waterfront along Oak Harbor Bay from Scenic Heights Street to Maylor Point, near the Oak Harbor Marina.

III.

A complete application was determined to be complete and accepted for processing on May 14, 2010. The Hearing Examiner's review of the record indicates that all required public notices have been given. The public hearing was heard on this matter on June 18, 2010, in the Oak Harbor City Council Chambers. There was no public testimony on this matter at the public hearing.

IV.

Development Services Staff have reviewed the proposed Conditional Use Permit Application for consistency with Conditional Use Criteria in the Staff Report, Exhibit #1 in the Hearing Examiner file. Development Services has concluded that the proposed Conditional Use Permit is consistent with all the Conditional Use Criteria and has recommended the Hearing Examiner approve the requested permit. The reasoning of Staff is set forth in the Staff Report, a copy of which is attached hereto and incorporated herein by this reference.

V.

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.

This Conditional Use Permit is a request to utilize a single-family zoned property to construct a trailhead with associated improvements to serve as a public access point for the City's Waterfront Trail. Development Services Staff have concluded that the proposal, subject to appropriate conditions, will meet all of the Conditional Use Criteria set forth in OHMC 19.67. The Hearing Examiner concurs in this conclusion and should enter a decision granting a Conditional Use Permit, subject to the conditions recommended by Staff.

II.

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

The Hearing Examiner for the City of Oak Harbor hereby approves CUP-10-01, permitting the City of Oak Harbor to utilize a single-family zoned property as a community trailhead to serve as a public access point for the City's Waterfront Trail and to be operated by the City of Oak Harbor, located at 2000 SW Scenic Heights Street, Oak Harbor, Washington, subject to the following conditions:

1. The project shall be in general conformance with the site plan dated May 4, 2010.
2. Construction activity shall be restricted during the months of November to April per the SEPA DNS.
3. Lighting shall be downward-directing and shall eliminate glare and off site lighting. Parking lot lighting (that is separate from street lighting) shall be shielded from shining off site or producing glare and limited to no more than 20-feet tall.
4. The conditional use shall not be transferable to a subsequent user unless specifically authorized by the hearing examiner who finds it appropriate and a permit authorizing the transferability is on record with the Island County Auditor.
5. The conditional use permit must be acted on within one year of the date of granting. Otherwise the conditional use permit shall expire and be null and void.
6. The conditional use permit applies only to the property for which the application is made.

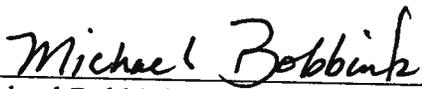
NOTICE

This approval is subject to all of the above-stated conditions. Failure to comply with them may be cause for enforcement action pursuant to OHMC 19.100. Complaints regarding a violation of the conditions of this permit should be filed with the City of Oak Harbor Development Services Department.

NOTICE OF APPEAL PROCEDURES FROM FINAL DECISIONS OF

This decision of the Hearing Examiner for the City of Oak Harbor is final ten days after the issuance of this decision unless it is appealed to the Island County Superior Court within ten days of the issuance of this decision, pursuant to 30.70C R.C.W.

DATED this 25th day of June 2010.



Michael Bobbink, Hearing Examiner