

GRANT COUNTY
LAND USE HEARING EXAMINER

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
P 17-0269)	DECISION AND
Big Bend Community College)	CONDITIONS OF APPROVAL

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on September 13, 2017, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. Big Bend Community College is seeking a variance to the 35 foot building height requirement found in Grant County Code 23.12, Table 1, to allow the construction of a new Professional Technical Education Center for Big Bend Community College. The applicant is asking for a structure height allowance of 50 feet.
2. The applicant is Big Bend Community College, Robert Uhrich, RGU Architecture, PO Box 820, Asotin, WA 99402.
3. The project site is Big Bend Community College campus adjacent to Grant County International Airport, located at 7662 Chanute Street NE, Moses Lake, WA. The site is in the North Half of Section 32, Township 20 North, Range 28 East, W.M., Grant County, WA. Parcel #17-1036-000.
4. The zoning for the subject property is Public Facility.
5. The zoning for neighboring parcels is: To the north, Urban Commercial 2/Grant County International Airport; to the south, Urban Light Industrial/ Urban Residential 4; to the east, Urban Commercial 2/Public Facility; and to the west, Urban Light Industrial/Public Facility.
6. The Comprehensive Plan designation for the subject property is Public Facility.
7. The property was reviewed for Critical Areas and was found not to be located within 300 ft. of any Critical Areas as defined by Grant County Code.

8. A Public Notice containing information on this project was published in the Columbia Basin Herald on August 8, 2017, was mailed to property owners within 300 feet of the subject properties, and was posted on site, by staff, where visible to the Public.
9. The following agencies and County departments provided comments:
 - 9.1 Grant County Building Official/Fire Marshal responded on 8/9/17;
 - 9.2 Grant County Health District responded on 8/9/17;
 - 9.3 Grant County Public Works Department responded on 8/14/17;
 - 9.4 Grant County Assessor's Office responded on 8/9/17.
10. The following agencies were notified but did not respond:
 - 10.1 Grant County Fire District #5;
 - 10.2 Grant County P.U.D.;
 - 10.3 Grant County Emergency Management;
 - 10.4 Grant County Noxious Weed Control Board;
 - 10.5 Grant County Treasurer's Office;
 - 10.6 U.S. Bureau of Reclamation;
 - 10.7 City of Moses Lake;
 - 10.8 Grant County International Airport;
 - 10.9 Grant County Auditor;
 - 10.10 Federal Aviation Administration;
 - 10.11 Grant County Noxious Weed Control Board;
 - 10.12 Grant County Sheriff's Office.
11. The application was determined to be technically complete on August 2, 2017.
12. This proposal was processed as a Type III Quasi Judicial Decision, in accordance with Chapter 25.04 "Permit Application and Review Procedures" and Chapter 25.08 "Conditional Uses and Variances" of the Grant County Unified Development Code.
13. This proposal was reviewed for compliance with Chapter 24.08 "Critical Areas and Cultural Resources" of Grant County Unified Development Code. No critical areas were found to be located within 300ft of the project site.
14. The proposal is located within the Moses Lake Urban Growth Area.
15. No agency submitted comments that would prohibit the proposed development.
16. Planning Staff did not receive any public comments regarding this proposal.
17. The proposal is located in the Public Facility zone.

18. Grant County Code 23.12, Table 1 requires a 35 foot building height in the Public Facility zone.
19. The applicant has provided a letter from the Port of Moses Lake supporting the College and the proposed Professional Technical Education Center. The proposed structure will not interfere with Port activities. This letter can be found with the application materials in Attachment A.
20. The Port stated that Big Bend Community College would be required to file a 7460 with the FAA prior to construction. A copy of that completed form was included with the application materials.
21. Based on the above review, comments, and analysis, the Hearing Examiner believes that the proposal as requested does conform to the criteria for approval for a variance as specified in GCC § 25.08.060(b). Staff also recommended approval of the proposed variance. The approval criteria have been outlined below:
 - 21.1 Special conditions and circumstances do exist that are peculiar to the land such that literal interpretation and application of the provisions of GCC Titles 22, 23, and 24 would deprive the applicant of the rights commonly enjoyed by other properties in the same district under the terms of GCC Titles 22, 23, and 24.
 - 21.1.1 The proposed Professional Technical Education Center (PTEC) will be 50' tall. The special request is needed to provide quality training in to our Technical Education Programs. If not granted, we would potentially be deprived of rights commonly enjoyed by other properties in the same district.
 - 21.1.2 Special conditions and circumstances do exist. The applicant has specified in the applications materials that in order to provide adequate facilities for technical education instruction, a 50 foot building height is required. The building height requirement throughout Grant County is 35 feet, thus necessitating a variance.
 - 21.2 Allowing the variance will be in harmony with the intent and spirit of GCC Titles 22, 23, and 24 because:
 - 21.2.1 The proposed facility will be in harmony with the intent and spirit of GCC Titles 22, 23, and 24. The height will be 50' tall with no existing surrounding structures within 50'. Environmental standards will not be compromised for this project.
 - 21.2.2 The granting of the proposed variance will be in harmony with the 3 intent and spirit of GCC Titles 22, 23, and 24. The proposed variance

would allow Big Bend Community College to continue to develop the educational facilities that the Public Facility zone allows, as is the intent of Grant County Code.

- 21.3 A variance is necessary for the preservation and enjoyment of a property right possessed by other property in the same vicinity or district, but which is denied to the property in questions because of special circumstances on that property because:
- 21.3.1 A variance is necessary for the preservation of BBCC's student education. This proposed facility will assist BBCC in strengthening its overall mission.
- 21.3.2 A Variance is needed for the applicant to enjoy the property rights that would otherwise be denied without the variance. The applicant, Big Bend Community College, is proposing to construct a new technical education building in order to continue to provide educational opportunities for the surrounding communities. In order for this building to house the necessary technical classrooms the building needs to be 50 feet in height.
- 21.4 The special conditions and circumstances are specifically related to the property and are the result of unique conditions such as specifically irregular lot shape, size, or natural feature, and the application of GCC Titles 22, 23, and 24, and not, for example, from deed restrictions or the applicant's own actions because:
- 21.4.1 The special conditions are limited to the proposed structure height. There are no conflicts pertaining to deed restrictions or restrictions caused by our own actions.
- 21.4.2 Special conditions, do exist. In order to house the necessary educational facilities a 50 foot building height is necessary. The variance is necessary as GCC 23.12, Table 1 allows a max building height. This variance is not necessitated because of any action on the part of the applicant or from any deed restrictions.
- 21.5 The granting of the variance requested will not confer on the person seeking the variance any special privilege that is denied by this Chapter to other lands, structure, or buildings under similar circumstances because:
- 21.1.1 The height variance will not grant any special privileges to the proposed land that would be denied elsewhere under similar circumstances.

21.1.2 Approval of this variance would not grant the applicant any special privileges that would be denied to any other property owner under similar circumstances.

21.6 The variance requested is the minimum necessary to afford relief because:

21.6.1 The total height required for adequate instruction is 50'. This is the minimum necessary to afford relief.

21.6.2 The variance requested is the minimum necessary to afford relief. The applicant has demonstrated in the application materials that the minimum height needed for the necessary technical instruction facilities is 50 feet.

21.7 The requested variance will not create significant impacts to critical areas and will not be materially detrimental to the public welfare, injurious to the right of other property owners in the vicinity, or contrary to the public interest because:

21.7.1 The proposed facility is located on the north edge of campus and will not create a significant impact to critical areas, it will not be materially detrimental to the public welfare.

21.7.2 Approval of this variance will not have a negative effect on Critical Areas. No critical areas were found to be present on the parcel. The variance if approved would not be detrimental to public welfare, injurious to the right of adjacent property owners and would not be contrary to the public interest. The variance would benefit the public interest as it would allow Big Bend Community College to provide additional facilities to provide education to surrounding area. The Port of Moses Lake has provided a letter stating their support for the project and that the proposed building will not be detrimental to ongoing Port operations.

21.8 The Variance will not permit a use prohibited by GCC Title 23 in the district in which the subject property is located because:

21.8.1 The proposed facility will merely allow adequate height for instruction. All zoning regulations in GCC 23 will be followed and will not be compromised.

21.8.2 The variance will not allow a use prohibited by GCC Title 23. Approval of the variance would facilitate construction of a new education building on the Big Bend Community College Campus which is an allowed use in the Public Facility zone.

22. A Public Notice containing information on this project was published in the Columbia Basin Herald on August 8, 2017, was mailed to property owners within 300 feet of the subject properties, and was posted on site, by staff, where visible to the Public.
23. Public and agency comments that were received were considered by the Hearing Examiner in rendering this Decision and forming Conditions of Approval.
24. The Grant County Planning Department recommended approval of the requested permit, subject to the recommended conditions of approval.
25. An open record public hearing after due legal notice was held on September 13, 2017.
26. The entire Planning Staff file was admitted into the record at the public hearing.
27. Appearing and testifying on behalf of the applicant was Elliot Black. Mr. Black testified that the applicant concurred with the staff report findings and conclusions. The applicant had no objection to any of the proposed Conditions of Approval.
28. No member of the public appeared at the hearing.
29. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
3. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.
4. As conditioned, the proposal does conform to the standards specified in Grant County Code Section 23.12.
5. As conditioned, the use will comply with all required performance standards as specified in Grant County Code 23.08.
6. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan.
7. As conditioned, this proposal does comply with Comprehensive Plan the zoning code and other land use regulations, and SEPA.

8. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. DECISION

Based on the above Findings of Fact and Conclusions of Law, Conditional Use Permit Application P17-0269 Big Bend Community College is hereby **APPROVED** subject to the following Conditions of Approval.

IV. CONDITIONS OF APPROVAL

All Conditions of Approval shall apply to the applicant, and the applicant's heirs, successors in interest and assigns.

1. All conditions imposed herein shall be binding on the "Applicant," which terms shall include the owner or owners of the property, heirs, assigns and successors.
2. The Applicant shall obtain all permits required by all federal, state and local agencies with jurisdiction.
3. The Applicant shall comply with all federal, state and local laws and regulations.
4. Construction shall proceed substantially as shown on the application materials on file with Grant County, except as modified by conditions below.
5. A County Road Approach Permit shall be obtained prior to issuance of a Building Permit.

Dated this 15th day of September, 2017.

GRANT COUNTY HEARING EXAMINER



Andrew L. Kottkamp

Anyone aggrieved by this decision has twenty-one (21) days from the issuance of this decision, to file an appeal with Grant County Superior Court, as provided for under the Judicial Review of Land Use Decisions, RCW 36.70C.040(3). The date of issuance is defined by RCW 36.70C.040 (4)(a) as "(t)hree days after a written decision is mailed by the local jurisdiction or, if not mailed, the date on which the local jurisdiction provides notice that a written decision is publicly available" or if this section does not apply, then

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pursuant to RCW 36.70C.040(3) (c) "...the date the decision is entered into the public record." Anyone considering an appeal of this decision should seek legal advice.