

**GRANT COUNTY
LAND USE HEARING EXAMINER**

IN THE MATTER OF)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
P20-0090)	DECISION AND CONDITIONS
Teuber)	OF APPROVAL

THIS MATTER having come on for hearing in front of the Grant County Hearing Examiner on July 8, 2020, the Hearing Examiner having taken evidence hereby submits the following Findings of Fact, Conclusions of Law and, Decision and Conditions of Approval as follows:

I. FINDINGS OF FACT

1. This is an application for the establishment of a helipad in the vicinity of the Gorge Amphitheater for helicopter sightseeing tours. The proposal is to create a 60' x 60' landing area, a 40' x 40' staging area for seasonal sightseeing tours. Passengers will be brought to the site by Live Nation from their parking area. There is no planned area at the site for direct customer use. There are no planned structures relating to the support of the operation and a mobile fuel truck will be on site only during helicopter operations. No customer parking will occur on site.
2. The Applicant is Zachary Teuber, 22161 Rd 1 NW, Quincy, WA 98848. The designated contact is Ryan McDonald, P.O. Box 518, Chelan, WA 98816.
3. The site address of the subject parcel is located at 22161 Rd 1 NW, Quincy, WA in a portion of the Northeast quarter of the Northeast quarter of Section 32, Township 19 North, Range 23 East, W.M., Grant County, WA. Tax Parcel #15-0575-000.
4. The zoning for the property is Agricultural.
5. The zoning for neighboring parcels Agricultural.
6. The Comprehensive Plan designation for the subject property is Agricultural-Irrigated.
7. The project is SEPA exempt.
8. The subject parcel was reviewed for Critical Areas and a Priority Habitat and Species areas was designated within 300 feet of the proposal site. However, that area is currently irrigated by a circle pivot and is being actively farmed.
9. A Public Notice containing information on this project was published in the Columbia Basin Herald on March 30, 2020, was mailed to property owners within 300 feet of the subject property, and was posted on the subject property. Information on this project was also mailed to applicable agencies with jurisdiction for their review and comment.

<i>Agencies Notified</i>	<i>Response Received</i>	<i>Agencies Notified</i>	<i>Response Received</i>
Grant County Fire Marshal	3/26/2020	Grant County Noxious Weed Control Board	none
Grant County Building Official	none	Grant County P.U.D.	none
Grant County Treasurer's Office	none	U.S. Bureau of Reclamation	4/6/2020
Grant County Health District	4/1/2020	Grant County Auditor's Office	none
Grant County Public Works Department	3/26/2020	Grant County Emergency Management	none
Grant County Assessor's Office	3/30/2020	Grant County Fire District 3	none
Grant County Sheriff's Office	none	Quincy Columbia Basin Irrigation & Rehabilitation District	4/14/2020

10. The following is a summary of comments received:

10.1 Grant County Fire Marshal:

10.1.1 All real property development shall comply with all applicable local, state and federal laws.

10.1.2. This project shall specifically comply with the 2015 International Fire Code Chapter 20 Aviation Facilities sections 2003 General Precautions, 2005 Portable Fire Extinguishers, section 2006 Aircraft Fueling.

10.1.3. The access road to the pad will be made of an all-weather surface that will support the weight of fire apparatus and be a minimum of 20' wide.

10.1.4. There is no need for fire flow to be provided.

10.1.5. I have no other adverse comments or concerns.

10.2 Grant County Health District:

9.2.1 No comments.

10.3 Grant County Public Works:

10.3.1. An approach permit shall be obtained.

10.4 Grant County Assessor's Office:

10.4.1 Parcel 15-0575-000 is a 44.90 acre parcel with a single family residence and shop.

10.4.2. There are three owners, Zachary Teuber, Jessica Close and Allan Thomason P.R..

10.4.3. No issues

10.5 United States Bureau of Reclamation:

10.5.1 The Bureau of Reclamation, currently has a surface irrigation facility, the W44C6 Lateral, on and near the proposed project site. The surface lateral is for distribution water for the Columbia Basin Project it directly returns the unused project water back to the Columbia River. The proponent should be aware of several matters that could impact Project objectives.

Construction storm water runoff of any type from a construction site or developed property should not enter any of Reclamation's facilities or lands at any time and must be contained on site. Surface water runoff resulting from construction activities can potentially enter Project facilities and adversely affect water quality. A General Construction Storm Water Permit from the Washington State Department of Ecology will be needed for any construction project one acre or greater in size. Construction should be conducted in a manner that minimized adverse effects to the land, operation, waters, facilities, and resource of the Project. Upon completion of construction activities, no connections to Project facilities will be allowed that would collect or discharge storm water or any other non-agricultural discharges.

The proposed project site is next to the W44C6 Lateral, and the proposed activities have the potential to impact water quality in this facility and the Columbia River. To prevent impacts to water quality in the W44C6 Lateral, Reclamation requests the Helipad and staffing area be located as far from the Federal facility as possible but remain within the boundary of the proposed project site. If water quality impacts occur as a result of the proposed project's activities, further mitigation will be needed to protect the W44C6. Landowners should be aware of existing Reclamation and Quincy-Columbia Basin Irrigation District rights to construct, reconstruct, operate and maintain Project facilities as necessary. Reclamation and QCBID must review and approve any work that will involve these facilities or the existing rights-of-way prior to commencing such work. Structures are prohibited from encroaching upon existing rights-of-way corridors without prior approval from Reclamation and QCBID. This includes, but is not limited to, temporary improvements such as on-site sewage disposal systems, drain fields, domestic wells, paving, fencing, and landscaping. It is important to note that Reclamation's concurrence to this proposal is conditioned upon the assurance that there are no encroachments upon Project facilities or rights-of-way.

Should the proponent develop the property with the intent of installing a well for public or private use, please be advised that such a well providing groundwater to the public will typically have a wellhead protection zone delineated on the development plans. Wellhead protection zones cannot overlap Reclamations rights-of-way or interfere with Project operations, since they would constrain QCBID's ability to apply aquatic and terrestrial herbicides needed to maintain Project facilities. The QCBID must be able to operate and maintain Project facilities in order to accomplish Project objectives.

The agricultural water that support Farm Unit 20 in Block 77 must only be used for agricultural purposes that do not include the production of marijuana. The proposed project may render the proposed land ineligible for the agricultural water entitlement authorized by the Project. The proponent

is advised to initiate discussions regarding the release of the agricultural water entitlement, by contacting the QCBID headquarters in Quincy, Washington. The proponent would be relieved of the future obligation for payment of annual assessments to the QCBID for these acres if determined ineligible.

10.6 Quincy Columbia Basin Irrigation District:

10.6.1 Quincy Columbia Basin Irrigation District requests the helipad move 200 feet away from the irrigation lateral, W44C6, due to the nature of the activities and continued operation of the canal. QCBID needs 24/7 access to the irrigation lateral. A helicopter next to the canal taking off and landing frequently may disrupt this. QCBID may not have time to wait for the activities to stop before repairs could begin. A fence will need to be placed next to the lateral to ensure weeds and other debris do not enter the lateral. Two downstream culverts would be catch points for such debris and would need to be more frequently cleaned because of the proposed activities. QCBID has employees ride the lateral 7 days a week. They would be in close proximity to the helicopter as proposed. For safety, the helipad should be located as far away as possible.

11. Public Comments: No comments were submitted from the public.
12. Staff Comments/Analysis: As mentioned above, this Conditional Use Permit application is for the establishment of a Helipad to be located and operating in the Agricultural Zoning District. Grant County Development Services Staff has reviewed and considered the application materials and the comments received for the proposal. Based on the proposed Conditions of Approval specified below, and the current design of the project, staff recommended approval of subject Conditional Use Permit.
13. The proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan because:
 - 13.1 The proposed use will not be contrary to the intent or purposes and regulations of the Grant County Code or the Comprehensive Plan. Helipads are allowed in the Agricultural Zoning District as a Conditional Use. The project is in the Agricultural Zoning District. The project will be required to comply with all relevant development and performance standards of the Grant County Unified Development Code.
14. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located because:
 - 14.1 The proposal is designated for landing and takeoff of a helicopter and will have no affect on agriculture use of the land. No changes to the land is required
 - 14.2 The proposal is appropriate in design, character and appearance with the goals and policies for the applicable land use designation. The proposed development will be similar in design to the existing uses in the area.
15. The proposed use will not cause significant adverse impacts on the human or natural environments that cannot be mitigated by conditions of approval.

- 15.1 No impact will affect human or natural environment. Water may be used to keep down dust. No other use is needed.
 - 15.2 The proposed use will not cause significant adverse impacts on the human or natural environment. Conditions of Approval have been suggested below that will ensure that the project, if approved, will not negatively impact the environment.
16. The cumulative impact of additional requests for like actions (the total of the conditional uses over time or space) will not produce significant adverse effects to the environment that cannot be mitigated by conditions of approval.
- 16.1 The cumulative impact of additional requests for like actions will not produce significant adverse effects to the environment.
17. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
- 17.1 The irrigation and close building will be used to protect the area. North Wind Aviation will have DOT/FAA mandatory safety equipment available
 - 17.2 This proposal will be served by adequate facilities. Water and sewer are existing at the location within the single family residence. The Grant County Fire Marshal indicated there will not be a requirement for fire flow. Subject to the conditions recommended and included in this staff report adequate provisions should be in place to meet the needs of the proposed action. The property is served by the local Fire District (No.3) and Grant County Sherriff's Office.
18. The location, size, and height of buildings, structures, walls and fences and screening vegetation for the proposed use shall not unreasonably interfere with allowable development or use of neighboring properties.
- 18.1 This project will not unreasonably interfere with development or use of neighboring properties. The project as designed and conditioned will comply with all relevant development standards and will not unreasonably interfere with any neighboring properties.
19. Land uses, activities, and structures that are allowable as conditional uses must also comply with any required performance standards in GCC § 23.08.
- 19.1 No structures will be used. Land use will be minimal by foot traffic.
 - 19.2 The application will be conditioned so as to comply with the relevant performance standards found in 23.08.
20. The proposal does not include any use or activity that would result in the siting of an incompatible use adjacent to an airport or airfield (RCW 36.70).
- 20.1 North Wind Aviation is FAA compliant and does not require use of airfield nor interfere with any airfields.16.2 Granting of the variance requested will not confer on the persons seeking the variance any special privilege..

- 20.2 This proposal is not adjacent to an airport/airfield. The proposal does not include any use or activity that would result in the siting of an incompatible use adjacent to an airport or airfield.
21. The proposal conforms to the standards specified in GCC § 23.12.
 - 21.1 The applicant believe that it does conform the standards specified in GCC § 23.12.
 - 21.2 The project, as conditioned, complies with all applicable development standards found in GCC § 23.12.18.
22. An open record public hearing after due legal notice was held on July 8, 2020.
23. Appearing and testifying at this hearing was Ryan McDonald, the designated contact for the applicant Zachary Teuber. Mr. McDonald testified that the applicant had reviewed the proposed conditions of approval and had no objection to any of them.
24. Appearing and testifying at this hearing from the public was John Fogleson. Mr. Fogleson is the property owner to the north of the subject property. Mr. Fogleson requested that the helipad be moved as far south as possible.
25. The Hearing Examiner has reviewed and considered the application materials and the comments received for the proposal.
26. Any Conclusion of Law that is more correctly a Finding of Fact is incorporated herein as such by this reference.

II. CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this decision.
2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the Grant County Code and Comprehensive Plan.
3. The proposal conforms to the standards specified in Grant County Code § 23.08. and § 23.12.
4. Granting of the proposed variance would be in harmony with the intent and spirit of GCC Title 23.
5. 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 P20-0090 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. The applicant shall comply with all requirements as deemed necessary by the Grant County Planning Division, including but not limited to:
 - 1.1 Any further development, beyond the scope of this project as proposed, may require additional review and/or permitting.
 - 1.2 Pursuant to GCC § 25.08.070(a), development authorized as a Conditional Use shall be completed within five (5) years of the date of approval or the approval shall become null and void. An extension of up to one year may be granted by the Decision Maker if the permittee demonstrates good cause for an extension.
2. The applicant shall comply with all requirements as deemed necessary by the Grant County Public Works Department, including but not limited to:
 - 2.2 An approach permit shall be obtained for County road access.
3. The applicant shall comply with all requirements as deemed necessary by the Grant County Fire Marshal, including but not limited to:
 - 3.1 This project shall specifically comply with the 2015 International Fire Code Chapter 20 Aviation Facilities sections 2003 General Precautions, 2005 Portable Fire Extinguishers, section 2006 Aircraft Fueling.
3. The access road to the pad will be made of an all-weather surface that will support the weight of fire apparatus and be a minimum of 20' wide.
4. The applicant shall comply with all requirements deemed necessary by the Quincy Columbia Basin Irrigation District, including but not limited to:
 - 4.1 The helipad shall be at least 200 feet from the irrigation canal.
 - 4.2 A fence shall be placed next to the lateral to ensure weeds and other debris do not enter the lateral.
5. The applicant shall comply with all requirements deemed necessary by the United States Department of the interior Bureau of Reclamation, including but not limited to:
 - 5.1 Construction shall be conducted in a manner that minimized adverse effects to the land, operation, waters, facilities, and resource of the Project. Upon completion of construction activities, no connections to Project facilities will be allowed that would collect or discharge storm water or any other non-agricultural discharges.
 - 5.2 To prevent impacts to water quality in the W44C6 Lateral, the Helipad and staffing area shall be located as far from the Federal facility as possible but remain within the boundary of the proposed project site. If water quality impacts occur as a result of the proposed project's activities, further mitigation will be required to protect the W44C6.
 - 5.3 Reclamation and QCBID must review and approve any work that will involve these facilities or the existing rights-of-way prior to commencing such work.

- 5.4 Structures are prohibited from encroaching upon existing rights-of-way corridors without prior approval from Reclamation and QCBID. This includes, but is not limited to, temporary improvements such as on-site sewage disposal systems, drain fields, domestic wells, paving, fencing, and landscaping.
6. No customer parking for the helicopter tour business shall be allowed on site or on the roadway. All customers must be transported from the Live Nation concert site to this facility.

Dated this 14 day of July, 2020.

GRANT COUNTY HEARING EXAMINER



Andrew L. Kottkamp

EXCEPT AS PROVIDED BY GRANT COUNTY UNIFORM DEVELOPMENT CODE, SECTION 25.32.150, THE DECISION OF THE HEARING EXAMINER IS FINAL AND CONCLUSIVE UNLESS APPEALED TO THE GRANT COUNTY SUPERIOR COURT WITHIN TWENTY-ONE (21) DAYS AFTER THE ISSUANCE OF THIS DECISION AS PROVIDED BY RCW 36.70C.040 AND GRANT COUNTY UNIFORM DEVELOPMENT CODE, SECTIONS 25.32.160 AND 25.04.430.