

July 30, 2018

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

REPORT AND DECISION

SUBJECT: Department of Permitting and Environmental Review file no. **TEMP170012**

EVERGREEN MEADOW WEDDINGS VENUE

Temporary Use Permit Appeal
SEPA Appeal

Location: 5510 396th Drive SE, Snoqualmie

Appellants: Tim and Pam Welborn; Andy, Marie, and Michael Leiper; Brett and Jennifer Dwogjt; Tom and Carol Fix; Rick and Shawn Hammerly; Roman and Jana Legat; Tim and Gail McCullough; Mark and Terri Mills; Pamela Scott and Bill Ranko; Dusting and Michelle Possert; and Debbie Koop
represented by **Alex Sidles**
1424 Fourth Avenue Suite 500
Seattle, WA 98101
Telephone: (206) 264-8600
Email: sidles@bnd-law.com

Applicant: Katrina Allen
represented by **Allan Bakalian**
4020 Lake Washington Boulevard NE Suite 100
Kirkland, WA 98033
Telephone: (425) 822-1511
Email: allan@bakalianlaw.com

King County: Department of Permitting and Environmental Review
represented by **Ty Peterson**
35030 SE Douglas Street Suite 210
Snoqualmie, WA 98065
Telephone: (206) 477-0449
Email: ty.peterson@kingcounty.gov

SUMMARY OF RECOMMENDATIONS/DECISION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal, but modify conditions
Examiner's Decision:	Deny SEPA appeal and remand temporary use permit

EXAMINER PROCEEDINGS:

Hearing Opened:	June 26, 2018
Hearing Closed:	July 12, 2018, to be re-opened

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner's Office.

After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, the Examiner hereby makes the following findings, conclusions, and decision.

FINDINGS:

1. Katrina Allen (Applicant) applied for a Temporary Use Permit (TUP) to hold 60 outdoor wedding events for up to 150 guests with on-site parking for 70 vehicles on Fridays, Saturdays, and Sundays from May through September on a property her parents own in the Snoqualmie Valley (Property). Two tents were proposed: one 40 x 60 for receptions and one 15 x 20 for caterers. Ex. D6 at 88. Louder dancing music was proposed from 8:30 p.m. to 10:00 p.m. Ex. D6 at 88. The Property, the address of which is 5510 396th Drive SE, is comprised of two parcels totaling approximately 12 acres. Ms. Allen has named her planned business Evergreen Meadow Weddings. Ex. D2 at 2 and Ex. D6 at 88-89.
2. The Department of Permitting and Environmental Review (DPER) issued a Determination of Non-Significance (DNS) pursuant to the State Environmental Policy Act (SEPA), Ex. D3, and a TUP, Ex. D2, on February 23, 2018. The TUP is subject to 28 conditions, many of which significantly reduced the scope of the Applicant's proposal, including: limiting events to 30 days per year, only, with at least one non-event weekend per month (TUP conditions 1-3), limitations on louder dance music to 6:30 p.m. to 8:30 p.m. (TUP Condition 5), and conditions addressing ingress/egress and parking (TUP Conditions 13-15). In doing so, DPER attempted to balance the interests of the Applicant and the neighbors. Testimony of Ty Peterson.
3. Tim and Pam Welborn, Andy, Marie, and Michael Leiper, Brett and Jennifer Dwogjt, Tom and Carol Fix, Rick and Shawn Hammerly, Roman and Jana Legat, Tim and Gail McCullough, Mark and Terri Mills, Pamela Scott and Bill Ranko, Dusting and Michelle Possert, and Debbie Koop (Appellants) timely filed a joint appeal of the TUP and DNS. Ex. D4. In their appeal, Appellants characterize the proposed use as a nonconforming use which is incompatible with their surrounding properties and uses in terms of noise, parking, traffic, construction, set up and removal of equipment, and potential alcohol consumption. They further contend that previous, unpermitted construction as well as

planned aspects of the weddings venue are located within or proposed to be located within the 100 foot required setback from the Property's well; that the proposed use exceeds 60 days because tents and sanitation units will be on-site for more 60 days; and that the dancing music permitted by the TUP will introduce constant, amplified noise with rhythmic base undertones that will constitute a public disturbance noise pursuant to KCC 12.86.410. Ex. D4.

Procedural Issues

4. On June 21, 2018, the Applicant filed a Motion in Limine to Exclude Evidence and Testimony relating to property values, parking, wellhead protection, fires, structures, and surface water features. Appellants filed their opposition and supporting affidavits on June 25, 2018. At the hearing in this matter, the Examiner denied the motion with regard to parking and wellhead protection and allowed testimony and evidence on property values and surface water features only to the extent relevant to whether the use is a temporary use and the impact of parking on soil compression, respectively. The Examiner granted the motion with regard to fires and structures.

Approval Criteria

5. The County may grant a TUP only if the applicant demonstrates that:
 - A. The proposed temporary use will not be materially detrimental to the public welfare;
 - B. The proposed temporary use is compatible with existing land uses in the immediate vicinity in terms of noise and hours of operation;
 - C. The proposed temporary use, if located in a resource zone, will not be materially detrimental to the use of the land for resource purposes and will provide adequate off-site parking if necessary to protect against soil compaction;
 - D. Adequate public off-street parking and traffic control for the exclusive use of the proposed temporary use can be provided in a safe manner; and
 - E. The proposed temporary use is not otherwise permitted in the zone in which it is proposed.

KCC 21A.44.020 (Emphasis added).

6. In reviewing the application, DPER advised the Applicant that, because a TUP is a discretionary land use action designed to allow on a limited scale a use otherwise not permitted by the zone, it is important to mitigate impacts to the surrounding properties and neighborhoods. Ex. D6 at 294. Therefore, DPER directed the Applicant to prepare a level one traffic impact analysis (TIA), calculate entering sight distance (ESD) as the ESD for any existing and/or proposed driveway appeared problematic, and provide a site plan that accurately depicts the location of existing and proposed driveways. Ex. D6 at 294-295. DPER also advised the Applicant that, based on the findings of the TIA, it might require an off-duty uniformed police officer familiar with traffic control to be utilized for directing traffic in and out of the driveways. DPER also asked the Applicant to provide a written response addressing comments received. Ex. D6 at 295.

Temporary Use vs. Nonconforming Use

7. KCC 21A.32.100.A requires a temporary use permit for a use not otherwise permitted in the zone that can be made compatible for a period of up to 60 days a year.¹ In contrast, a nonconforming use is a use established in conformance with King County’s rules and regulations and other applicable local and state rules and regulations in effect at the time the use was established that no longer conforms to King County’s rules and regulations or other applicable local and state rules and regulations due to changes in the rules and regulations or their application to the property. KCC 21A.06.800.
8. The proposed wedding events are a temporary use, not a nonconforming use.

Temporary Use vs. Permanent Use

9. A temporary use may not exceed a total of 60 days in any 365 day period. The 60 day requirement applies only to the days that the event or events actually take place. KCC 21A.32.110.B. The events themselves will be limited to 60 days. However, the tents and sanitation units may remain on the property from May to October. Appellants contend that these components transform the use into a permanent use.
10. TUP Condition 20 prohibits the construction of permanent site improvements to support the seasonal wedding venue.
11. The Applicant’s father installed walkways throughout the Property without permits. The walkways primarily connect various structures on the Property. Ex. A9. DPER has an open investigation on the walkways. That investigation and the potential Code violation is not part of the matter before the Examiner.
12. Appellants contend that the Applicant will use the walkways for wedding events. The Applicant responds that their primary intended use is for her father, who has difficulty walking on the uneven ground, and, that based on revisions to the planned wedding venue layout to comply with TUP Condition 18, it is unlikely that the walkways would serve the areas of Property on which weddings will take place.
13. Appellants contend that bridal parties are likely to use various structures on the Property. However, TUP Condition 26 prohibits their use for wedding events. Only the proposed tents and outdoor areas identified on the site plan are allowed for wedding events. DPER reminded the Applicant that the TUP does not allow any use of structures or the construction of parking areas or other facilities. Ex. D6 at 342.
14. KCC 21A.32.120 and TUP Condition 2 allow annual renewal of the TUP. In order to renew the TUP, DPER must determine that the temporary use is being conducted in compliance with the conditions of the TUP. KCC 21A.32.120.D.2.

¹ As cited above, KCC 21A.44.020.B clarifies that compatibility focuses on compatibility with existing land uses in the immediate vicinity in terms of noise and hours of operation.

Noise Code/Public Disturbance Noise

15. To mitigate the potential for noise impacts on neighbors, TUP Condition 5 limits louder, dancing music to 2 hours per event (6:30 p.m. to 8:30 p.m.); Condition 7 requires that no sound exceed 49 dB(A) at any property line at any time during the events; Condition 9 requires floating walls covered in soundproof material to be in place around speakers and the dance floor when music is being played; Conditions 8 and 10 require the Applicant to moderate sound levels throughout each event and keep a sound log to demonstrate compliance with this condition.
16. KCC 12.86.110 and KCC 12.86.120 limit the maximum permissible sound levels from a rural sending source to a rural receiving source to 49 db(A) from 7:00 a.m. to 10:00 p.m. and 39 db(A) from 10:00 p.m. to 7:00 a.m. Noise is measured at the property line using a Type 1 or Type 2 sound level meter. KCC 12.86.110.A.
17. The Applicant's expert, Matt Roe of A3 Acoustics, and the Appellants' expert, Adam Jenkins of The Greenbusch Group (Greenbusch), concurred that it is likely that the Applicant will be able to satisfy the 49 db(A) standard at the property lines, although neither determined what steps would be required to achieve compliance.
18. Appellants, nevertheless, contend that noise impacts will be significant. Both experts reference the EPA Region X noise program guidelines which consider a 0-5 db(A) increase a slight impact, a 5-10 db(A) increase a significant impact, and an increase of more than 10 db(A) a very serious impact. Ex. E4 at 4; Ex. A4 at 3.
19. A3 Acoustics conducted preliminary acoustic review of the proposed wedding venue assuming that the 49 dB(A) noise limit will be met at the eastern boundary of the Property. Testimony of Matt Roe. Based on this assumption, it projects that noise levels at the three closest residences will be 41 db(A). Ex. E4, Table 2. Appellants did not challenge that projection.
20. A3 Acoustics reports that typical measured ambient noise levels in the similar rural areas in the northwest are 35-40 db(A). Ex. E4, Table 2.
21. Greenbusch measured sound levels near the Property's eastern boundary between 8:00 p.m. and 10:00 p.m. on Friday through Sunday using a Type 1 sound level meter, yielding results of 37-41 db(A). Ex. A4 at 3.
22. Noise studies typically have a 2-3 dB(A) reproducibility error. Testimony of Adam Jenkins. Thus, Greenbusch's measurements of ambient sound levels during the time dance music may be played at the wedding venue yields results that are within the range of reproducibility error of those reported by A3 Acoustics as typical ambient noise levels in similar rural areas in the northwest.
23. Using Greenbusch's measurements of ambient noise near the eastern Property boundary and A3 Acoustics' projection of noise levels of 41 db(A), it is reasonable to expect that the noise levels at the three nearest residences will be 0-4 db(A) higher than ambient. Under the EPA Region X noise program guidelines, this increase is considered a slight impact at the three closest residences.

24. Appellants contend that the mitigation measures required by DPER will have negligible effect at receiving property boundaries. Ex. A4 at 1-2. At the hearing in this matter, Mr. Jenkins testified that best management practices may reduce sound by a few decibels. The Examiner finds Mr. Jenkins’s testimony with regard to the effectiveness of various mitigation measures to be credible. However, the Examiner does not find that the reduction of a few decibels in the context of a rural area is negligible. Further, as found above, the parties’ experts agreed that it is possible to satisfy the 49 db(A) maximum sound limit at the property lines and Appellants did not contest A3 Acoustic’s conclusion that, if the noise level at the eastern property line is 49 db(A), the noise level at the three nearest residences would be 41 db(A), a slight impact under the EPA Region X noise guidelines.
25. Ambient noise during the permitted times of wedding events includes the sound of the gunfire from a nearby outdoor gun range which can be heard throughout the neighborhood and heavy truck traffic on the Weyerhaeuser mainline road which often occurs on Saturdays. Ex. D1 at 4; Ex. D4 at 2; Ex. D6 at 264. The gun range operates until 9:00 p.m., seven days a week. Ex. D1 at 4. Several residents testified that they could hear the gun range, including the Katrina Allen, Tim Welborn, and Shawn Hammerly.
26. A number of other noise generating uses that Appellants cite in their appeal statement, such as motorcycle and ATV riding, portable sawmill operations, lawn and brush mowing, parties and barbecues, etc. also typically occur during the permitted hours of the wedding events. Mr. Welborn also testified that he can hear lawnmowing and firewood cutting.
27. Based on Findings 15-26, the Examiner finds that the wedding events will not result in a significant adverse noise impact on nearby residents.
28. KCC 12.86.410.A makes it unlawful for any person to cause or to allow to originate from property a sound that is a public disturbance noise. A public nuisance noise means “any sound that unreasonably disturbs or interferes with the peace, comfort, or repose of a person or persons. The hour of the day at which the sound occurs may be a factor in determining reasonableness.” *Id.* (Emphasis added). Sounds that are public disturbance noises may include frequent, repetitive or continuous sound, including but not limited to impulsive or amplified sound such as emanates from an audio device, where the sound is plainly audible or can be felt at 50 feet or more from the source of the sound... when the sound is received in a residential or rural district.” *Id.* (Emphasis added). Plainly audible means “any sound that can be detected by unaided hearing faculties of a normal acuity, including, but not limited to, being able to detect the rhythmic bass component of music coming from a sound amplifier regardless of whether the title, specific words, or artists performing the song can be identified.” *Id.*
29. While DPER does not enforce the public nuisance noise regulations, in its experience, the kinds of wedding events authorized by the TUP have not caused public disturbance noises. The exceptions have been when the event included live bands or fireworks, neither of which is permitted by the TUP. Testimony of Ty Peterson.

30. The King County Sheriff enforces the public nuisance noise regulations. It is for that reason that TUP Condition 12 requires that the Applicant provide DPER and the King County Sheriff with an event list for each season. Testimony of Ty Peterson.
31. The experts agreed that noise is very subjective.
32. Mr. Jenkins, Appellants' expert witness, opined that music suitable as dancing music will have a rhythmic bass component and that, if the rhythmic bass component can be detected by unaided hearing faculties of a normal acuity at the boundaries of the Property, the sound is, by definition, a public nuisance noise.

Parking/Proximity to Wellhead and Drainfield

33. The record contains a site plan, Ex. A8, which is not to scale or dimensioned indicating very approximately the locations of the components of the wedding venue, including: a one-lane driveway labeled "proposed driveway for ingress and egress"; two areas for parking in grassy areas adjacent to 396th Drive SE, on either side of a driveway; a tent; a prep tent; a "porta potty;" and an area for the ceremonies. The TUP indicates that the parking area will be lined to indicate driving aisles and parking spaces. Ex. D1 at 2, Existing Conditions.
34. The parking areas, porta potty, and tents surround the point labeled "wellhead" on the site plan.
35. TUP Condition 18 prohibits any event activities or parking within 100 feet of the existing well or over existing septic drainfield on the Property.
36. Rick Hammerly was born on and grew up on the Property. Testimony of Rick Hammerly. He testified that the location of the wellhead shown on the site plan (Ex. A8) is incorrect and marked up that exhibit to show the correct location of the wellhead and drainfield. The wellhead is northwest of the tents between the tents and the ceremony area. The drainfield is between the existing house, the porta potty, and an existing shed.
37. At the hearing in this matter, the Applicant conceded that many components of the wedding venue, including the tents, porta potty, parking, and perhaps the ceremony area will need to be relocated to comply with TUP Condition 18. *See also*, Ex. A10, Appellant's drawing (to scale) of the proposed parking areas indicating that much of the parking is within 100 feet of the wellhead. The Examiner notes that the wellhead location used by Appellants in this exhibit is the one shown on the site plan, not the corrected location provided by Mr. Hammerly.
38. At the conclusion of testimony in this matter, DPER recommended the following additional condition:

Applicant shall provide DPER a scaled site-plan showing compliance with conditions of the TUP prior to seasonal operation and with subsequent renewal requests.

Ex. D7.

Traffic

39. The parties' experts (Mr. Heath of Heath & Associates for the Applicant and Ross Tilghman of Tilghman Group for Appellants) have differing opinions on the majority of parameters Mr. Heath used in preparation of the Applicant's TIA, including, traffic distribution, the number of people per car and the resulting number of vehicles for a 150-person event, background traffic, and satisfaction of the minimum required ESD. The TIA is Ex. E3; Mr. Tilghman's critique of the TIA is Ex. A2.
- A. Mr. Heath assumed that approximately 90% of traffic would come from/depart to the northwest. Ex. E3 at 9. Mr. Tilghman, based on results from mapping applications such as Google Maps or Apple Maps, concluded that the primary route of travel would be from/to the south. Ex. A2 at 2.
 - B. Based on his experience with other wedding venues, Mr. Heath assumes 2.5 persons per vehicle and 60 vehicles. Ex. E3, Table 1; testimony of Gregory Heath. Mr. Heath used the vehicle occupancy for purposes of calculating vehicular trips, not adequacy of parking. Testimony of Gregory Heath. Based on inquiries with operators of other wedding venues, Mr. Tilghman assumes 2.0-2.2 persons per vehicle and 68-75 vehicles for 150 person event. Ex. A2 at 2.
 - C. Mr. Heath took traffic counts on a Saturday in November, 2017, from 12:00 p.m. to 6:00 p.m. and used 4:00 p.m. to 6:00 p.m. as the Saturday peak hour. Ex. E3 at 6, 9. He increased the recorded November volumes to account for the fact that the wedding events would occur in the summer. Testimony of Gregory Heath. Mr. Tilghman took counts on Saturday through Sunday, June 2-3 2018, counting 407 vehicles on June 2 and 267 on June 3 with 49 vehicles in the Saturday peak hour of 12:00 p.m. to 3:00 p.m.. Ex. A2 at 3.
 - D. 396th Drive SE is a low volume road. Testimony of Robert Eichlesdoerfer. While the experts would use different assumptions in analyzing traffic impacts, given the low volume of traffic on 396th Drive SE and the low peak hour volumes, the different assumptions do not yield significantly different results or a significant adverse transportation impact.
40. As to queuing on 396th Drive SE, the TIA indicates that there will be no queuing problems. In the 95th percentile, 0.2 vehicles would queue to make a southbound left turn into the driveway designated on the site plan for use by the wedding events. However, this analysis is based on the assumption that the designated driveway provides two-way travel. This assumption is inconsistent with the current configuration of the driveway, which allows travel in one direction only, and with TUP Condition 20, which does not permit the driveway to be enlarged to provide two-way travel.
41. ESD is more problematic. The Applicant's TIA indicates that, based on preliminary review conducted in November, 2017, ESD can be met both to the northwest and to the south. Ex. E3 at 10. However, at the hearing in this matter, Mr. Heath testified that ESD is not sufficient to the south, conceded that vegetation would need to be cleared to accomplish the required ESD. He also discussed ways of revising the project to achieve

the required ESD, including relocating the driveway, a revision which would require revising TUP Condition 13. Mr. Tilghman measured ESD to the northwest and south on in June, 2018, finding deficiencies in both directions: 44 feet to the south and 100 feet to the northwest. Ex. A2 at 2-3.

42. Mr. Heath took his ESD measurements to the northwest within 10-15 feet of the driveway designated as the driveway allowed for events. Testimony of Gregory Heath. In contrast, Mr. Tilghman took his from the centerline of the driveway.
43. Mr. Heath characterized ESD as a “wish list.” Mr. Eichelsdoerfer disagreed, as does the Examiner. Adequate ESD is required to provide a safe driveway even on a low volume road.
44. At the conclusion of the testimony, DPER recommended the following an additional condition:

The Applicant shall remove and/or trim vegetation within the ROW in order to satisfy the required Entering Sight Distance (ESD) standard. This is performed under the supervision of the Applicant’s traffic engineer and follow-up report submitted to DPER prior to seasonal events and throughout the TUP time period as needed. Otherwise, provide alternate access that meets the ESD standards and approval from King County.

Ex. D7.

Alcohol Consumption

45. Alcohol is allowed to be served only by licensed professionals who have undergone Mandatory Alcohol Server Training by the Liquor and Cannabis Board. No adult event participant is to be served more than two regular servings of alcohol. All vendors and participants must sign use contracts acknowledging the alcohol policy. TUP Conditions 24 and 16.

Other Issues

46. Appellants contend that tents and sanitation units will be directly visible to the traveling public on 396th Drive SE and SE 53rd Way. Ex. D2 at 4, discussion of Conclusion No. 17. However, they presented no evidence to support their contention.
47. Any Conclusion of Law which is more properly a Finding of Fact is hereby adopted as a Finding of Fact.

CONCLUSIONS:

1. Any Finding of Fact which is more properly a Conclusion of Law is hereby adopted as a Conclusion of Law.

Jurisdiction

2. The Examiner has jurisdiction over the appeals of the DNS and TUP. The Examiner does not have jurisdiction over alleged code violations in this matter.

Burden/Standard of Proof

3. Appellants bear the burden of proof. Hearing Examiner Rules of Procedure and Mediation (HER) XV.E.1. With regard to the temporary use permit, the standard of proof is a preponderance of the evidence. HER XV.F.1. With regard to the SEPA threshold determination, the standard of proof is clearly erroneous based on the record as a whole. HER XV.F.2. The Examiner must grant substantial weight to the threshold determination of the responsible official. HER XV.F.3; KCC 20.44.120.A.3; RCW 43.21C.075(3)(d).

Temporary vs. Permanent Use

4. The proposed use is not a nonconforming use as Appellants contend, but a temporary use.
5. The 60 day limitation on temporary uses applies only to the days that the event or events actually take place. KCC 21A.32.110.B. The fact that tents and portable toilets may remain on the property from May to October does not violate KCC 21A.32.110.B or transform the use into a permanent use.
6. The Examiner cannot presume that the Applicant will violate the terms of the TUP by using the existing residence or accessory structures, nor have Appellants provided citation to the Code or relevant caselaw that would allow such a presumption.
7. Future renewals of the TUP, if it is ultimately approved, provide the opportunity to assess compliance with the TUP conditions.
8. Appellants have not shown by a preponderance of the evidence that the proposed use is not a temporary use.

Noise

9. It is appropriate to refer to the EPA Region X noise program guidelines in evaluating Appellants' appeal of the DNS and determining whether noise that will be generated by the wedding venue constitutes a significant adverse impact under SEPA.
10. In the rural area with larger parcels, it is appropriate to measure the noise at the closest residences rather than the property line when applying EPA Region X noise program guidelines to determine whether there is a significant adverse noise impact.
11. Appellants have not demonstrated, based on the record as a whole, that the wedding venue will cause significant adverse noise impacts.
12. Appellants' interpretation of a public nuisance noise would transform the playing of any music with a rhythmic bass component that is plainly audible 50 feet from the source of the sound into a public nuisance noise. This is not a reasonable construction of the public

nuisance noise regulation, which requires that sound unreasonably disturb or interfere with the peace, comfort or repose of a person or persons and takes into consideration in determining reasonableness the hour of the day at which the sound occurs. Audibility alone does not constitute a public nuisance noise. If that were the case, many common events, including family gatherings, birthday parties, and barbecues at which many kinds of music are played would constitute a public nuisance noise.

13. Dance music played from 6:30 p.m. to 8:30 p.m. on late spring and summer evenings, hours when the sun has not yet set in the northwest, and which is plainly audible at a nearby residents at a sound level of 41 db(A) does not *per se* constitute a public nuisance noise.

Parking

14. The Applicant has not demonstrated that adequate public off-street parking can be provided in a safe manner as required by KCC 21A.44.020.D.
15. Nor has DPER approved parking for the proposed temporary use as required by KCC 21A.32.130. Rather, it has assumed that, given the size of the Property, it will possible it to find a location to park 70 somewhere. This standard must be satisfied prior to the approval of the TUP.

Entering Sight Distance

16. The record before the Examiner on ESD does not allow her to conclude that the TUP satisfies KCC 21A.44.020.A (the proposed temporary use will not be materially detrimental to the public welfare) or KCC 21A.44.020.D (adequate public off-street parking and traffic control... can be provided in a safe manner).

DNS

17. Appellants have not demonstrated, based on the record as a whole, that the DNS is clearly erroneous.

DECISION:

1. The appeal of the DNS is **DENIED**.
2. Pursuant to HER XV.C, TEMP17-0012 is **REMANDED** for DPER to require and review the following, and render a revised decision on the TUP:
 - A. A site plan drawn to scale demonstrating that all wedding venue components, including tents, ceremony area, sanitation, parking and circulation can be accommodated outside of the 100 foot setback from the wellhead and will not be placed over the septic drainfield.
 - B. A transportation analysis demonstrating that Entering Sight Distance is met in both directions for the driveway to be used for wedding events.

- C. A queuing analysis for an access which satisfies that Entering Suit sight Distance. The analysis must be based on accurate the dimensions of the access (one-way vs. two-way travel).
3. The Examiner retains jurisdiction over the TUP and appeal and will reopen the hearing following receipt of DPER’s revised decision.

ORDERED July 30, 2018.

Alison Moss
Hearing Examiner pro tem

NOTICE OF RIGHT TO APPEAL

King County Code 20.22.040 directs the Examiner to make the County’s final decision for this type of case. This decision shall be final and conclusive unless proceedings for review of the decision are timely and properly commenced in superior court. Appeals are governed by the Land Use Petition Act, Chapter 36.70C RCW.

MINUTES OF THE JUNE 26, JUNE 28, AND JULY 12, 2018, HEARINGS IN THE APPEAL OF EVERGREEN MEADOW WEDDINGS VENUE, DEPARTMENT OF PERMITTING AND ENVIRONMENTAL REVIEW FILE NO. TEMP170012

Alison Moss was the Hearing Examiner in this matter. Participating in the hearing were Andy and Marie Leiper, Shawn and Rick Hammerly, Roman Legat, Gail McCullough, Tim Welborn, Alex Sidles, Katrina Allen, Allan Bakalian, Ty Peterson, Robert Eichelsdoerfer, Liway His, Ross Tilghman, Adam Jenkins, Carol Wright, Matt Roe, and Gregary Heath.

The following exhibits were offered and entered into the record on June 26, 2018:

Appellants’-Offered Exhibits:

Exhibit no. A1	Resume of Ross Tilghman
Exhibit no. A2	Comments on transportation impacts by Tilghman Group, dated June 12, 2018
Exhibit no. A3	Resume of Adam Jenkins
<i>Exhibit no. A6</i>	<i>Not admitted: Declaration of Joel Ramos, dated June 6, 2018</i>
Exhibit no. A7	Photograph of subject property
Exhibit no. A8	Site plan by Heath & Associates, received December 19, 2017
Exhibit no. A9	Aerial photograph of subject property
Exhibit no. A10	Drawings of parking lot, dated June 11, 2018
<i>Exhibit no. A11</i>	<i>Not admitted: Video of vehicle speeding</i>
Exhibit no. A12	Aerial photographs of neighborhood parcels
Exhibit no. A13	Emails with code enforcement complaint of subject property

- Exhibit no. A16 Temporary use permit no. TEMP170012 report and decision, dated February 23, 2018
- Exhibit no. A18 Revised traffic impact analysis by Heath & Associates, dated November 14, 2017

The following exhibits were offered and entered into the record on June 28, 2018:

Appellants’-Offered Exhibits:

- Exhibit no. A4 Noise review by The Greenbusch Group Inc, dated June 11, 2018
- Exhibit no. A5 Not admitted: Declaration of Carol Wright, dated June 11, 2018*
- Exhibit no. A8-a Site plan by Heath & Associates, received December 19, 2017
- Exhibit no. A8-b Site plan, received December 18, 2017
- Exhibit no. A8-c Marked site plan, received December 18, 2017
- Exhibit no. A19 Not admitted: Photographs of ponds*

Applicant-Offered Exhibits:

- Exhibit no. E3 Traffic impact analysis by Heath & Associates, dated November 14, 2017
- a. Resume of Gregory Heath
- Exhibit no. E4 Acoustic impact discussion by A3 Acoustics, dated June 13, 2018

The following exhibits were offered and entered into the record on July 12, 2018:

Appellants’-Offered Exhibits:

- Exhibit no. A14 Photographs of Evergreen Meadows Wedding and Event Venue, dated January 19, 2018, January 12, 2018, March 14, 2018, and March 13, 2018
- Exhibit no. A15 Not admitted: Evergreen Meadows Venue FAQs*
- Exhibit no. A17 Determination of non-significance, dated February 23, 2018, and application materials

Applicant-Offered Exhibits:

- Exhibit no. E1 Not admitted: Aerial photograph of neighborhood parcels*
- Exhibit no. E2 Not admitted: Photographs of site*
- Exhibit no. E5 Not admitted: Email from Greg Heath with additional traffic comments, dated July 11, 2018*

Department-Offered Exhibits:

- Exhibit no. D1 Department of Permitting and Environmental Review staff report to the Hearing Examiner for file no. TEMP170012
- Exhibit no. D2 Temporary use permit no. TEMP170012 report and decision, dated February 23, 2018
- Exhibit no. D3 Determination of non-significance, dated February 23, 2018
- Exhibit no. D4 Notice and statement of appeal, received March 16, 2018
- Exhibit no. D5 Traffic impact analysis by Heath & Associates Inc, dated November 14, 2017
- Exhibit no. D6 DPER file no. TEMP170012
- Exhibit no. D7 Amended DPER staff recommendations

AM/ed

July 30, 2018

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

CERTIFICATE OF SERVICE

SUBJECT: Department of Permitting and Environmental Review file no. **TEMP170012**

EVERGREEN MEADOW WEDDINGS VENUE

Temporary Use Permit Appeal
SEPA Appeal

I, Elizabeth Dop, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND DECISION** to those listed on the attached page as follows:

- EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.
- caused to be placed with the United States Postal Service, with sufficient postage, as **FIRST CLASS MAIL** in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED July 30, 2018.



Elizabeth Dop
Legislative Secretary

Allen, Katrina

Hardcopy

Andy Leiper, Marie-Michael

Hardcopy

Bakalian, Allan

Bakalian & Associates

Hardcopy

Bricklin, David

Bricklin & Newman

Hardcopy

Chan, Jim

Department of Permitting and Environmental Review

Curran, Bonnie and Mike

Hardcopy

Dills, Jennifer-Peter

Hardcopy

Dwight, Jennifer

Hardcopy

Dwogjt, Brett-Jennifer

Hardcopy

Eichelsdoerfer, Robert

Department of Transportation

Fix, Tom and Carol

Hardcopy

Hamerly, Maury

Hardcopy

Hamerly, Rick and Shawn

Hardcopy

Heath, Gregory

Heath & Associates Inc

Hardcopy

Hopkins, Nancy

Department of Permitting and Environmental Review

Hsi, Liway

Claremont Forest LLC

Hardcopy

Husemann, Kevin

Hardcopy

Jenkins, Adam

The Greenbusch Group Inc

Hardcopy

Klint, Warren

Hardcopy

Koop, Debbie

Hardcopy

Legat, Roman and Jana

Hardcopy

McCullough, Tim and Gail

Hardcopy

Mills, Mark and Terri

Hardcopy

Ossewaarde, Mark

Department of Permitting and Environmental Review

Pamela Scott, Bill Ranko

Hardcopy

Peterson, Ty

Department of Permitting and Environmental Review

Possert, DustingMichelle

Hardcopy

Riley, Paul-Keomany

Hardcopy

Roe, Matt

A3 Acoustics LLP

Hardcopy

Sawin, Holly

Department of Permitting and Environmental Review

Sidles, Alex

Bricklin & Newman

Hardcopy

Somers, Scott

King County Sheriff Precinct 2

Hardcopy

Tilghman, Ross

Tilghman Group

Hardcopy

Tracy, Jake

Department of Permitting and Environmental Review

Uno, Alison Jane

Hardcopy

Welborn, Tim and Pam

Hardcopy

Wright, Carol

Hardcopy