

September 17, 2019

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

King County Courthouse  
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**REPORT AND DECISION ON MOTION FOR RECONSIDERATION**

SUBJECT: Department of Local Services file no. **TEMP170012**

**EVERGREEN MEADOW WEDDINGS VENUE**

Temporary Use Permit Appeal  
SEPA Appeal

Location: [REDACTED] Snoqualmie

Applicant: Katrina Allen  
*represented by* **Allan Bakalian**  
Bakalian & Associates  
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Redmond, WA 98052  
Telephone: (425) 985-6527  
Email: [allan@bakalianlaw.com](mailto:allan@bakalianlaw.com)

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* **Tim Wellborn**  
PO Box 339  
Snoqualmie, WA 98065  
Telephone: (425) 495-2910  
Email: [timjw2@centurytel.net](mailto:timjw2@centurytel.net)

King County: Department of Local Services  
*represented by* **Nancy Hopkins Goree**  
Department of Local Services  
35030 SE Douglas Street Suite 210  
Snoqualmie, WA 98065  
Telephone: (206) 477-0331  
Email: [nancy.hopkins@kingcounty.gov](mailto:nancy.hopkins@kingcounty.gov)

DECISION:

Grant in part, deny in part

FINDINGS:

1. Any Finding of Fact which is more appropriately considered a Conclusion of Law is hereby adopted as a Conclusion of Law.
2. After hearing the witnesses' testimony and observing their demeanor, studying the exhibits admitted into evidence, and considering the parties' arguments and the relevant law, we make the following findings and conclusions.

Background:

3. In a July 30, 2018 Report and Decision (Remand Order), the Examiner denied Appellants' appeal of the Determination of Non-Significance and remanded the temporary use permit (TUP) to the Department of Local Services, Permitting Division (DLSP) to require and review three items and render a revised decision on the TUP. The three items included 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 drain field. As explained in Findings 10-12 of the August 2, 2019 Report and Decision Following Remand (Remand Decision), DLSP has since determined that the required setback from the wellhead is 25 feet.
4. DLSP issued its Revised TUP Report and Decision (DLSP Revised TUP Decision) on April 26, 2019. Exhibit D8. DLSP revised three conditions and added two new conditions.
5. The Examiner re-opened the hearing on July 9, 2019, limiting the scope of the reopened hearing to the remand issues, new and revised TUP Conditions, and Appellants' contention that the Applicant proposed "site development" beyond that included in the original TUP application. Remand Decision, Finding 5.
6. Following the July 9, 2019 reopened hearing, the Examiner issued the Remand Decision approving the revised TUP subject to 33 Conditions (Revised TUP).
7. As explained in Remand Decision Finding 31, a topic of considerable debate in the original hearing was whether the proposed use qualified as a temporary use. Appellants contended that walkways, which the Applicant's father, Russell Zwick, had installed throughout the property without permits, would be used for wedding events. One of these walkways terminates in a T-shaped pad designated "ceremony" on the not-to-scale site plan provided at the original hearing. Exhibit A8. Appellants also contended the various structures would be used for wedding events.
  - A. With regard to the structures, the Examiner found that original TUP Condition 26 (Revised TUP Condition 29) prohibits their use for wedding events.
  - B. With regard to the walkways, the Examiner explained why the Remand Order did not impose limits on the use of the walkways: the Applicant represented at the

original hearing that, to comply with the then-assumed 100-foot wellhead setback, it was unlikely that the walkways would serve areas of the property on which weddings would take place. In other words, if the walkways and T-shaped pad would not be used for wedding events, it was unnecessary for the Examiner to address them in the TUP conditions.

8. As required by the Remand Order, the Applicant provided to-scale site plans showing that all the walkways and the T-shaped pad are outside of the required 25-foot wellhead radius. Based on this site plan and testimony, the Examiner found Applicant’s contention that her father constructed the T-shaped area as a seating area “to get away from the noise and messes of her businesses” not to be credible. In every version of a site plan contained in the record, the T-shaped pad is designated as “ceremony” or “ceremony area.” It is not designated as an outdoor seating area, wildlife viewing area, or the like. The Examiner concluded that the primary purpose of the T-shaped pad is for the wedding party and officiant. Therefore, what is now Condition 29 was revised to prohibit use of the T-shaped pad for wedding events.
9. Revised TUP Condition 23 (Condition 20 of the original TUP) provided that no permanent site improvements may be constructed to support the seasonal wedding venue. Ms. Allen did not contest to this condition.

#### Reconsideration Request

10. On August 12, 2019, the Hearing Examiner's office received a telephone message from Katrina Allen asking how she may seek clarification of the Remand Decision. The Hearing Examiner advised the parties that Rule XVI.A of the Hearing Examiner's Rules of Procedure and Mediation provides for a request for reconsideration if timely filed before the expiration of the time for appealing the Hearing Examiner's decision. The Hearing Examiner will treat a written motion for clarification by any party filed in a timely manner as a motion for reconsideration pursuant to Rule XVI.A. (Emphasis in original).
11. Rule XVI.A provides, in pertinent part:
  1. Upon a timely request or *sua sponte*, an examiner may reconsider a determination based on the existing evidential record. A request for reconsideration is not timely if filed after the period for appealing the examiner determination expires.
  - \*\*\*
  3. The examiner may grant the motion [for reconsideration] if the movant shows that the examiner’s determination was based in whole or in part on erroneous information or failed to comply with existing laws, regulations, or adopted policies, or shows that a procedural error prevented consideration of directly affected persons’ interests. (Emphasis added).

12. Ms. Allen timely filed a Motion for Reconsideration of that portion of TUP Condition 29 which provides that the T-shaped pad may not be used for wedding events. Appellant Tim Welborn filed a timely response. DLSP did not respond.
13. Ms. Allen’s Motion for Reconsideration included a declaration from Russell Zwick. Mr. Welborn’s response included facts not in the record as well as a photograph. As the emphasized portion of Rule XVI.A makes clear, the Examiner considers a motion for reconsideration based on the existing evidential record. Consequently, she did not consider Mr. Zwick’s declaration, those portions of the Motion for Reconsideration discussing the declaration, Mr. Welborn’s description of facts not included in the record, or Mr. Welborn’s photograph.
14. Ms. Allen filed a reply. The Examiner’s order did not provide for a reply. Therefore, she did not consider the Reply.

#### Revised TUP Condition 29

15. Ms. Allen seeks reconsideration of that portion of TUP Condition 29 which provides that the T-shaped pad may not be used for wedding events. Ms. Allen contends that the use of the T-shaped pad was not identified in the May 20, 2019 Pre-Hearing Order and that it does not violate Revised TUP Conditions 23 or 29.<sup>1</sup>
16. Although the Motion for Consideration references Revised TUP Condition 20 in the heading for Section V.1.B, it does not further address it. This argument is, therefore, deemed abandoned.
17. Ms. Allen asserts that the T-shaped pad “has always been outside ... the wellhead setback.” Motion for Reconsideration at 3:20-22 and 5:1-2. Her contention is not supported by the record or her own testimony. It was Ms. Allen herself who advised the Examiner that, based on the assumed 100-foot wellhead setback, it was unlikely that the walkways would serve areas of the property on which weddings would take place. The areas of the property on which weddings would take place obviously include the ceremony area. Thus, the Examiner concluded that the area shown on the original site plan as “ceremony” would be relocated.
18. The to-scale site plan required by the Remand Order demonstrates that Ms. Allen was mistaken. The T-shaped (labeled “ceremony area”) is outside of both the originally assumed 100-foot wellhead radius and the revised 25-foot radius. Exhibit D8A. The documentary evidence and credible testimony persuaded the Examiner that this permanent site improvement was constructed to support the seasonal wedding venue in violation of original TUP Condition 20 (Revised TUP Condition 23).
19. Ms. Allen also contends that use of the T-shaped pad for wedding events is consistent with Condition 28 in the DLSP Revised TUP Decision (Revised TUP Condition 29)

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<sup>1</sup> The heading for Section V.1.B of the Motion for Reconsideration references Revised TUP Conditions 20, 22 and 29. However, the text that follows this heading addresses Revised TUP Conditions 23 and 29 (Conditions 22 and 28 of the DLSP Revised TUP Decision). Therefore, those are the Conditions the Examiner addresses in this Decision Upon Reconsideration.

because it is not a structure as defined by KCC 21A.06.1255. As concluded below, Ms. Allen is correct, the T-shaped pad is not a structure.

20. However, it is a permanent site improvement constructed to support the seasonal wedding venue. Its use for seasonal wedding events would violate Revised TUP Condition 23. The Examiner has corrected Revised TUP 29 accordingly.
21. Ms. Allen suggests that the prohibition on use of the T-shaped pad for wedding events would require the removal of the pad. The Remand Order does not require removal. It simply prohibits use of the pad for wedding events.

#### CONCLUSION:

1. Any Conclusion of Law which is more appropriately considered a Finding of Fact is hereby adopted as a Finding of Fact.
2. The T-shaped Pad is not a structure, but is a permanent site improvement constructed to support the seasonal wedding venue. The fact that it may from time to time be used by the property owners for other purposes does not alter this conclusion.

#### DECISION:

The Motion for Reconsideration is granted in part and denied in part. Revised TUP Condition 29 is revised as follows:

29. The existing residence, ~~and~~ accessory structures, ~~and T-shaped pad~~ are not to be used for wedding events. Only the proposed tents and outdoor areas identified on the site plan (excluding the T-shaped pad designated ceremony area) are allowed for wedding events.

ORDERED September 17, 2019.

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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, JULY 12, 2018, AND JULY 9, 2019,  
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 Gregory Heath, Nancy Hopkins Goree, and Russell Zwick.

**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
<i>Exhibit no. A5</i>	<i>Not admitted: Declaration of Carol Wright, dated June 11, 2018</i>
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
<i>Exhibit no. A19</i>	<i>Not admitted: Photographs of ponds</i>

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

**The following exhibits were offered and entered into the record on July 9, 2019:**Applicant-Offered Exhibits:

- Exhibit no. E6 Water Well Report, dated February 26, 2007

Department-Offered Exhibits:

- Exhibit no. D8 Revised staff report (Revised Temporary Use Permit Report and Decision) to the Hearing Examiner for file no. TEMP170012
- A. Revised site plan (reduced)
  - B. Revised appeal parties
  - C. Original site plan and vicinity map (reduced)
  - D. Map
  - E. Map
  - F. Sight distance analysis by Heath & Associates Inc, dated January 21, 2019
  - G. Sight distance analysis by Heath & Associates Inc, dated November 14, 2018
  - H. Applicant response to Examiner, received March 12, 2019
  - I. Department response to sight distance analysis, dated February 27, 2019
  - J. Photographs of road
- Exhibit no. D9 Map

Exhibit no. D10      Public Health Letter, dated June 25, 2019

**The following exhibits were offered and entered into the record on July 19, 2019:**

Applicant-Offered Exhibit:

Exhibit no. E7      E-mail, Large Events Parking, received July 16, 2019

Department-Offered Exhibit:

Exhibit no. D11      Additional Conditions, received July 19, 2019

September 17, 2019

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**CERTIFICATE OF SERVICE**

SUBJECT:      Department of Local Services file no. **TEMP170012**

**EVERGREEN MEADOW WEDDINGS VENUE  
TEMPORARY Use Permit Appeal  
SEPA Appeal**

I, Jessica Oscoy, 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.

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 September 17, 2019.



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Jessica Oscoy  
Legislative Secretary



**Allen, Katrina**

Hardcopy

**Andy Leiper, Marie/Michael**

Hardcopy

**Bakalian, Allan**

Bakalian & Associates

Hardcopy

**Bricklin, David**

Bricklin and Newman

Hardcopy

**Chan, Jim**

Department of Local Services

**Curran, Bonnie-Thomas**

Hardcopy

**Dills, Jennifer/Peter**

Hardcopy

**Dwight, Jennifer**

Hardcopy

**Dwogjt, Brett/Jennifer**

Hardcopy

**Eichelsdoerfer, Robert**

Department of Local Services

**Fix, Tom and Carol**

Hardcopy

**Hamerly, Maury**

Hardcopy

**Hamerly, Rick and Shawn**

Hardcopy

**Heath, Gregory**

Heath & Associates Inc

Hardcopy

**Hopkins Goree, Nancy**

Department of Local Services

**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 Local Services

**Pamela Scott, Bill Ranko**

Hardcopy

**Peterson, Ty**

Department of Local Services

**Possert, DustingMichelle**

Hardcopy

**Riley, Paul/Keomany**

Hardcopy

**Roe, Matt**

A3 Acoustics LLP

Hardcopy

**Sawin, Holly**

Department of Local Services

**Sidles, Alex**

Bricklin and Newman

Hardcopy

**Somers, Scott**

King County Sheriff Precinct 2

Hardcopy

**Tilghman, Ross**

Tilghman Group

Hardcopy

**Tracy, Jake**

Department of Local Services

**Uno, Alison Jane**

Hardcopy

**Welborn, Tim and Pam**

Hardcopy

**Wright, Carol**

Hardcopy

**Zwick, Russell**

Hardcopy