

Attachment 16: Skalitude PD Modification

On October 14, 2015 notice of application and threshold SEPA determination was published in the Omak Chronicle (Okanogan County's periodical of record) and the Methow Valley news.

13. On October 29, 2015 the SEPA appeal period ended. No appeals were received.¹
14. On November 30, 2015 three notices of public hearing were posted on and near the property.
15. On November 30, 2015 a Staff Report, prepared by the Office of Planning and Development, was transmitted to Okanogan County Hearings Examiner. A copy of that report was also transmitted to the applicant.
16. On December 10, 2015 the Okanogan County Hearings Examiner conducted a public hearing for this project. At this hearing, County staff, the applicant, and the public were given an opportunity to enter testimony and written comments into the record.
17. At the hearing, the applicant testified about the general nature of the application.
18. All testimony was taken under oath.
19. The entire Planning Department File was entered into the record as well as exhibit maps presented at the hearing.
20. In order for the Hearing Examiner to approve the planned development modification, it must be found to be consistent with the Comprehensive Plan for Okanogan County, which was adopted in 2014. The comprehensive plan designation is "Methow Valley More Completely Planned Area".
21. The subject property is currently zoned "Planned Development" by the existing Skalitude PD 2003-1. The application proposes retention of the "Planned Development" zone for the project area. The application proposes expansion and clarification of permitted uses which would guide future use development of the subject property. Adoption of the development agreement would include provisions to repeal the existing contract zone document. The new development agreement would be the single document establishing zone controls upon this property.
22. The Hearing Examiner is vested with the authority to render a final and binding decision in this matter, subject to appeals as provided in the Okanogan County Code. (OCC), provided, however that if the proposal is approved, the Hearing Examiner is advisory to the County Commissioners who must approve any development agreement.
23. The proposal calls for substantial expansion of the existing PD and amending the activities and intensity of activities, and construction of several facilities including zip-lines.
24. Ben Rough represented County Planning at the hearing, and Josh Thompson, P.E., County Engineer, and Verlene Hughes represented Okanogan County Public Works.
25. The Public Works representatives testified that Smith Canyon Rd. and portions of Libby Creek Rd. are classified as "Primitive Roads" pursuant to RCW 36.75.300.

¹ There was testimony at the hearing from some members of the public that they believed that they had appealed the decision, but County staff was of the opinion that they did not actually do so, in compliance with County Code in the manner prescribed therein.

26. At the hearing, the applicant entered into the record a document entitled "Business Projections for Ziplines," which amplified the application description as to the nature of the zip-line element.
27. At the hearing, eleven letters written in opposition to the proposal were submitted and admitted into the official record. Reference is made to the Planning Department file for the specifics of those letters.
28. The applicant was questioned by the Hearing Examiner as to fire evacuation plans, whether or not the zip lines would be open to the general public (as opposed to event participants), the amount of traffic that would be generated at peak hours during event periods, and the domestic water supply, how any of possible conditions of approval might be enforced or the applicant held accountable for compliance.
29. The property is not located within a Fire District. (The application suggested that it is located in F.D. 6, but testimony from County officials disclosed that was not the case)
30. §17.10.06 OCC outlines development standards for Planned Developments
31. §18.05 OCC outlines the requirements for development agreements that must accompany any planned development.
32. At the hearing, by the Mr. Dave Tate, a resident of Smith Canyon, spoke in opposition to the proposal stating that the proposed escape route outlined in the proposal has not been used for 40 years, the roads serving the proposal are inadequate, and the caretakers of the current facilities do a poor job of maintenance.²
33. Kermit Nykreim, a resident of Smith Canyon, testified that he is the nearest neighbor to the proposal and is opposed. He expressed concerns about the plan for dealing with wildfires and suggested the staff of the facility does not have adequate firefighting training.
34. Terry Rabourn, a resident of Smith Canyon testified in opposition to the proposal, expressing concern over the adequacy of the roads serving the project, emergency response capabilities, and the need for additional law enforcement.
35. Carol Alexander, a resident of Smith Canyon testified she was concerned about the grade of the road where Smith Canyon Rd. meets Libby Creek Rd. and the potential for accidents. She testified that she has lived there for 40 years and has been evacuated due to wildfires several times. She also testified that the escape route identified by the applicant is impassable and that the applicants fail to irrigate the field regularly.³ She also felt the proposal would add substantial burdens to emergency service providers.
36. David Gottlieb who resides on Libby Creek Rd. testified in opposition to the project and, among other things, was concerned about an adequate fire response plan and the adequacy of the roads serving the project.
37. Ann Tate, a resident of Smith Canyon, testified in opposition to the proposal. She expressed concerns

² The findings as to testimony by the public are summarized based on notes taken by the Hearing Examiner at the hearing. The exact testimony on record is found on the recording of the hearing.

³ The applicant testified that part of their plan for dealing with wildfires would be to huddle their customers in the middle of the field.

about the current operation, noting that it was not uncommon for event participants to trespass on private properties and that in the past participants have violated County burn bans during dangerous fire conditions.

38. Donna Bresnahan testified in opposition to the proposal, stating she is a 30-year resident of Libby Creek. She expressed concerns over the enforceability of conditions of approval, and suggested the conditions attached to the original approval were not enforced. She also raised concerns about the adequacy of the roads serving the property and inadequate dust control.
39. Chris Frue, a resident of Libby Creek testified in opposition to the project, citing concerns as to road access, and other issues outlined by others.
40. Sylvia Robertson, a resident of Libby Creek testified in opposition to the project, and noted that there is already a "test" zip line on the property.
41. Lee Colbert testified in opposition to the project reading his letter submitted to the County into the record.
42. Ray Robertson, a 32-year resident of Libby Creek testified in opposition to the project, identifying himself as a member of the Methow Valley Citizens' Council.
43. Jenn Tate, a resident of Smith Canyon testified in opposition to the project and displayed digital images of event applicants using flaming ceremonial devices at some of the ongoing events at Skaltitude. She did not know the dates or origin of some of the images, having downloaded them from Internet sources.
44. Lachlyn Tate (Age 8) testified in opposition to the project citing concerns with fire danger, inadequate water supplies and the adequacy of the roads serving the project.
45. No public testimony was received in support of the project.
46. No letters from the public are in the record in support of the project.
47. Multiple letters are in the record from neighboring landowners opposed to the project. Reference is made to the file of record.
48. A petition was submitted to the record in opposition to the proposal citing many of the reasons given at oral testimony. That petition was signed by 24 residents and landowners of properties in the immediate vicinity of the project.⁴
49. At the close of public testimony, the applicant was given an opportunity for rebuttal. Lindsey Swope (the applicant) testified that the pictures shown by Jenn Tate were taken in June of 2008 and it was her belief that no burn ban was in effect at the time. Also, Eddie Cupp, the applicant's representative, testified that they would be willing to develop a fire evacuation plan and acquire easements from the USFS for escape routes to be used during fire events and evacuation situations. He further testified that the applicant was willing to have fire tankers on site, and expected fairly substantial conditions of approval. He was unclear how conditions of approval could be enforced barring complaints.

⁴ These signatures are not discreet landowners' signatures – several family members signed the petition and are presumed to collectively represent one ownership.

CONCLUSIONS

1. The comprehensive plan designation for the subject property is "Methow Valley More Completely Planned Area". The zone designation for the subject property is "Planned Development".
2. The proposal would expand and clarify permitted uses within the existing Skalitude Planned Development which would be consistent with the comprehensive plan and zone designations for this property, provided that the elements necessary for approval the PD amendment could be satisfied.
3. The applicant has not adequately addressed the standards for PD approval as outlined in §17.19.060 OCC. In particular items D, water availability, H, visual impacts, J, County Fiscal Impact, and M, Transportation.
4. With respect to water availability, the applicant suggests that an existing well with fairly low production, without connection to the public power grid, in conjunction with rudimentary water storage facilities will somehow be adequate for concentrations of up to 350 people. The Hearing Examiner finds this unpersuasive without engineering analysis, justification, and appropriate water system approvals.
5. With respect to visual impacts, there is abundant testimony in the record from neighboring property owners that this issue has not been adequately addressed.
6. With respect to County fiscal impacts and transportation, the applicant has provided no analysis that the impact to the County Road system or the need for law enforcement services can be adequately addressed. Based on information in the record, the roads serving this proposal are completely inadequate.⁵ The applicant offered no adequate plans to address these impacts.
7. Citizens in the immediate area are overwhelmingly opposed to the proposal, based on written and oral testimony in the record.
8. The applicant has offered no suitable plan for dealing with a wildfire situation. Okanogan County is experiencing a period of intense wildfire activity and mandatory evacuation orders are often ordered. The road systems are not adequate to handle the evacuation of several hundred people on short notice and would jeopardize the ability of residents of the area to do the same. And based on the testimony of neighboring owners, there is no alternative evacuation route. Huddling people in the middle of a field that may or not be irrigated is wholly unsatisfactory and put large numbers of people in dire jeopardy.
9. The existing PD approval requires a second access for emergency purposes such as wildfire, but testimony in the record indicates that such access is not available or has not been maintained to an extent that provides reliable secondary egress. Furthermore, the applicant has stated that she does not have easements over Forest Service land for that purpose.
10. The applicant has offered a proposed development agreement but failed to address all the items contained with §18.05.020 OCC. The Hearing Examiner cannot recommend approval of such an agreement if those issues are not all satisfactorily addressed.

⁵ The applicant submitted materials suggesting that the average annual daily trip count would likely be in the neighborhood of 109, but failed to address peak hour traffic loading during events. The traffic information was not developed by a qualified traffic engineer.

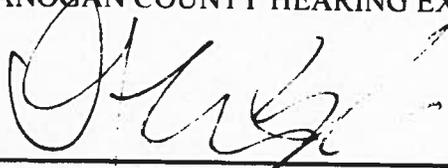
11. A final SEPA Determination of Non-Significance (DNS) was issued by the Okanogan County SEPA responsible official in accordance with OCC 14.04 "Environmental Policy". All comments received during the comment period were evaluated for consideration of the final SEPA determination. The final SEPA determination was not appealed and is final.
12. All procedural application review requirements have been met thus far in accordance with OCC 17.19 "Planned Development".

DECISION

Based upon the information contained in the application materials, and additional information provided at the hearing, PD Modification 2015-4 is **DENIED**, without prejudice.⁶ Since the PD is denied, the a recommendation to the Board of County Commissioners with respect to the development agreement is moot.

Dated this 19th day of December, 2015.

OKANOGAN COUNTY HEARING EXAMINER



DAN BEARDSLEE

⁶ The applicant may reapply, addressing the concerns leading to denial.