

NOTICE OF DECISION

BEFORE THE SKAGIT COUNTY HEARING EXAMINER

Applicant: Skagit County Cemetery District #6
Alice Hanson, Commissioner
Windermere Real Estate
1030 E. College Way
Mount Vernon, WA 98273

Request/File No: Special Use Permit, PL12-0012

Location: 23622 Old Day Creek Road, Clear Lake, located within North Park to Clear Lake Lots 1 & 10 Block 4 & a tract in Gov't Lot 6; and 23603 Lake Drive, Clear Lake, located within North Park to Clear Lake Lot 9 Block 4, all within a portion of the SW1/4NE1/4 Sec. 1, T34N, R4E, W.M. (Parcel Nos. P74985, 23288)

Land Use Designation: Rural Village Residential

Summary of Proposal: To provide recognition of pre-existing nonconforming Clear Lake Cemetery and to add approximately .38 acres to the cemetery to allow for 277 additional plots.

SEPA Compliance: Determination of Non-Significance (DNS), issued March 8, 2012. No appeals.

Public Hearing: May 23, 2012. No public testimony. Planning and Development Services (PDS) recommended approval.

Decision/Date: Approval, subject to conditions, May 30, 2012.

Reconsideration/Appeal: A Request for Reconsideration may be filed with PDS within 10 days of this decision. The decision may be appealed to the Board of County Commissioners by filing an appeal with PDS within 14 days of the date of decision or decision on reconsideration, if applicable.

Online Text: The entire decision can be viewed at:
[www.skagitcounty.net/hearing examiner](http://www.skagitcounty.net/hearing_examiner)

FINDINGS OF FACT

1. Skagit County Cemetery District #6 (applicant) seeks a Special Use Permit to recognize the existing Clear Lake Cemetery and to allow for an addition thereto.

2. The property is located at 23622 Old Day Creek Road, Clear Lake, and at 23603 Lake Drive, Clear Lake. It encompasses North Park to Clear Lake Lots 1 & 10 & a tract within Gov't Lot 6, and North Park to Clear Lake Lot 9 Block 4; all within a portion of the SW1/4NE1/4 Sec 1, T34N, R4E, W.M. The parcel numbers are P74985 and P23288.

3. The subject property is within Flood Hazard Zone C, per FIRM Map 530151 0275C, dated January 3, 1985.

4. The Comprehensive Plan designation for the property is Rural Village. The zoning district is Rural Village Residential. Cemeteries are allowed in this district by Hearing Examiner Special Use.

5. The existing cemetery comprises about 1.5 acres at the southeast corner of the intersection of Old Day Creek Road and North Front Street in Clear Lake. It lies in an east/west configuration, with a "blocked L" shape. The property measures approximately 213 feet (west line) by 396 feet (north line) by 135 feet (east line) by 370 feet (irregular south line). There is a U-shaped access road off of Day Creek Road.

6. The proposed expansion of the cemetery is located south of the existing cemetery in the northeast corner of the intersection of North Front Street and Lake Drive. It is basically rectangular in shape, lying in an east/west configuration, and measuring approximately 66 feet (west line) by 252 feet (north line) by 66 feet (east line) by 244 feet (south line). The area is roughly .38 acre with space for approximately 277 additional plots. Currently a manufactured home and barn are located on the property. A septic system and PUD water lines have also been installed. With approval of this permit request, the home, barn, septic system and water lines will be removed.

7. The present cemetery is a nonconforming use which has been in existence since 1912 and is part of a 1916 plat. The granting of the requested permit will legitimize the cemetery as an approved Special Use.

8. Currently there are less than ten sites left in the original cemetery. More area is needed to provide space for additional plots. The expansion request provides an occasion for bringing the entire cemetery into land use compliance.

9. The existing cemetery is landscaped by evergreen trees located throughout the plots and a row of trees running the length of the west property line. The adjoining new property will need to add landscaping along the west and south property lines. PDS has specified Type III landscaping for these borders.

10. The proposal was reviewed under the State Environmental Policy Act (SEPA). An environmental checklist was submitted. A Determination of Non-Significance (DNS) was issued on March 18, 2012. There were no appeals.

11. The application was routed to the various County Departments for review and comment. There were no objections. A limited hydrogeo report was submitted. A current letter of water availability was received from the Public Utility District. No critical areas were identified.

12. Public notice of the application and of the hearing was provided as required by law. No comments were received. There was no public testimony at the hearing.

13. The Staff reviewed the application in light of the criteria for Special Use Permit approval and determined that, as conditioned, the project will be consistent with the criteria. The Hearing Examiner concurs in this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

14. The Staff testimony was that there have been no complaints from neighbors about this use in 100 years. The Examiner takes notice that, over the same time, there have been no complaints by the permanent occupants.

15. Any conclusion herein which may be deemed a finding is hereby adopted as such.

CONCLUSIONS OF LAW

1. The Hearing Examiner has jurisdiction over the subject matter of this proceeding. SCC 14.06.050(1)(b)(ii).

2. The requirements of SEPA have been met.

3. As conditioned, the permit will be consistent with the special use requirements of SCC 14.16.900(1). The compatibility of this use with the surrounding uses has been amply demonstrated over its long existence.

4. As a result of this decision, the cemetery will become a permitted use and will no longer be regarded as nonconforming.

5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

CONDITIONS

1. The use shall be operated and expanded as described in the application materials, except as the same may be changed by these conditions.

2. The applicant shall obtain all applicable permits and abide by the conditions of same.

3. The septic tank on the new portion of the cemetery shall be decommissioned and removed in an approved manner. The applicant shall notify the Health Department after the tank is removed.

4. Within 60 days of the date of this decision, Type III landscaping shall be installed along the west and south borders of the new cemetery area or bonding shall be obtained. If the bonding option is chosen, the required landscaping shall be planted within nine months of the date of this decision.

5. Maintenance for all landscaping and screening shall be provided by the owner of the landscaped property. All screening and landscaping areas shall be kept free of weeds and trash. Failure to maintain landscaped areas shall be an offense, subject to enforcement and penalty pursuant to Chapter 14.44 SCC.

6. PSD shall be notified by letter of any change in ownership of the parcels concerned within 30 days of such change. The letter shall reference PL12-0012.

7. The applicant shall comply with the annual certification process, acknowledging in writing compliance with the original permit approval, including any conditions.

8. All planning related fees shall be paid within 30 days of receipt of the invoice.

9. Failure to comply with any permit conditions may result in permit revocation.

DECISION

The requested Special Use Permit (PL 12-0012) is approved, subject to the conditions set forth above.

DONE, this 30th day of May, 2012.



Wick Dufford, Hearing Examiner

Transmitted to Applicant on May 30, 2012.

See Notice of Decision, Page 1, for Reconsideration and Appeal information.