

## NOTICE OF DECISION

### BEFORE THE SKAGIT COUNTY HEARING EXAMINER

- Applicant:** Lookout Arts Quarry, Inc.  
246 Old Highway 99 North  
Bellingham, WA 98229
- Representative:** Islando Boccock  
2623 Peabody Street  
Bellingham, WA 98225
- Request:** Special Use Permit, PL14-0051
- Location:** 246 Old Highway 99 North, within a portion of the SW1/4NW1/4 Sec. 6, T36N, R4E, W.M. Assessor's No. P47517, P47518, P48946 (one lot of record).
- Land Use Designation:** Rural Reserve (RRv)
- Summary of Proposal:** To build and operate facilities for temporary events and camping within an old rock quarry. Stages and pavilions will accommodate events with up to 1000 attendees. Private campgrounds will contain rustic cabins and tent sites (40), RV spaces (12), unimproved camp sites (440), shared kitchen facilities, bathrooms, and showers. Space will be provided for event and overnight parking.
- SEPA Compliance:** Mitigated Determination of Non-Significance (MDNS) issued April 9, 2015.
- Public Hearing:** March 23, 2016. Testimony by Staff and Applicant. Fourteen (14) members of the public testified.
- Decision/Date:** The application is approved, subject to conditions. April 20, 2016.
- Reconsideration/Appeal:** Reconsideration may be requested by filing with PDS within 10 days of this decision. Appeal is to the Board of County Commissioners by filing within 14 days of this decision or decision on reconsideration, if applicable.
- Online Text:** The entire decision can be viewed at:  
[www.skagitcounty.net/hearing](http://www.skagitcounty.net/hearing) examiner

## **FINDINGS OF FACT**

1. Lookout Arts Quarry, Inc. (applicant) seeks a Special Use Permit to construct and operate a private campground and a special events facility in an abandoned rock quarry.
2. The site is at 246 Old Highway 99 North, within a portion of SW1/4NW1/4 Sec. 6, T36N, R4E, W.M. It comprises roughly 50 acres within the old Whatcom/Skagit rock quarry just south of the Whatcom County line, seven tenths of a mile south of the Nulle Road interchange on I-5.
3. The site is one lot of record consisting of parcels P47517, P47518 and P48946. The zoning is Rural Reserve (RRv).
4. The applicant asks approval to stage up to 24 temporary events per year. These will be artistic and cultural events involving music, visual, and performing arts and educational workshops covering a variety of topics such as culinary arts, healing, movement, and literary arts.
5. The campground component will include rustic cabins, tenting sites, RV spaces, campground facilities and communal spaces for campground visitor use. Planned are 40 improved permanent campsites and 440 unimproved campsites. The latter will be used seasonally during temporary events on site.
6. The site will also serve as an environmental education site for campers and the public, involving solar/wind power systems, rainwater catchment systems, vegetable garden, orchards, native plant gardens, recycled arts installations and nature trails.
7. The 50-acre site is in a rural location. Surrounding uses on the north and west are designated Rural Reserve. Agriculture-Natural-Resources land lies to the south. Rural Resource-Natural Resource land is to the east. The surrounding lands are parcels of 10-20 acres, containing single-family residences, forested areas and areas in agricultural production. Directly west of I-5 are smaller 5-to-20-acre Rural Reserve parcels, mainly occupied by single-family residences. The project site is about .2 miles from Squires Lake Park and approximately one mile from Lake Samish. The closest I-5 access is less than a mile to the north.
8. The overall project is to be built in three phases with a projected timeline totaling six years.
9. P47517 contains the approximately 3-acre quarry site within the northeastern portion of the site. Access roads, ponds and a parking area were constructed in connection with the quarry use and logging. P48946 is largely covered with trees and shrubs. It contains a partially built single-family residence (BP10-0416) a greenhouse, shop building and smaller outbuildings. P47518 is heavily forested and contains no permitted structures.
10. Topographically the property is low-lying and flat along the east, rises about 350 feet above the quarry towards the west, and then drops down into Friday Creek along the western

property line. Two Category II wetlands have been identified on the site, lying north and south to the existing development area. The Kinder Morgan Pipeline runs through the western half of the project site.

11. The wetlands were identified in a Wetland Site Assessment Report prepared by Earth Systems Science, Inc. All wetlands and their buffers have been placed within a Protected Critical Area (PCA) easement, recorded with the County Auditor. Fencing or thick vegetation will be installed between the wetlands and adjacent areas.

12. Friday Creek is large enough to be included within shoreline jurisdiction, but none of the development on site will be within a designated shoreline.

13. All existing structures are located within existing developed areas or areas that were previously logged. The proposed development will require only minor additional clearing and excavation. All sites for the project will be located outside of wetlands and their buffers; no sites will be on or near geologic hazard areas, unless adequate surveys are made to insure safety.

14. Two septic systems will serve the property. Already approved under SW12-101 is a four bedroom septic system for the residence being built and a proposed Accessory Dwelling Unit to be constructed later. A separate system with a 60 occupant capacity, approved under SW14-0130, will accommodate proposed campground areas. The shower/bathroom and kitchen facilities for the campground will be hooked up to this system. During temporary events, chemical toilets will be set up.

15. Potable water for the project will be provided by a Group A transient non-community well and a 35,000 gallon water storage tank to be filled when needed. The system is designed to accommodate water use for the proposed campground, up to three full-time residences and limited use during temporary events. The well will be limited to groundwater withdrawals of 5,000 gallons per day. A water meter and shutoff valve will ensure that the daily maximum is not exceeded. The well is south of campground area #4, approximately five feet from the south line of P48948. The applicants must obtain a Group A well permit from the State Department of Health before operation of the campground. A rainwater catchment system may be installed on site at a later date, subject to approval.

16. The developed campground facilities will use the installed bathroom, shower and kitchen facilities. The 40 improved campsites in the center and south portion of the site may be occupied at any time of year, but no campsite shall be occupied for more than 180 days a year. Stays at these developed sites will be 1 to 2 nights, or longer visits by artists and Lookout Arts Quarry shareholders/members. A campground facilitator will be onsite all year to oversee campground use.

17. The space available for up to 440 unimproved campsites will be used primarily during the temporary events held on site. About 20 of these sites will be located in the center of the site and approximately 420 will be located in the southern portion of the site. Each campsite will be approximately 15' x 15' in size. The idea is to accommodate low-impact tent camping. These sites will have access to hand wash stations and portable or composting toilets.

18. Two kitchen facilities are planned. One will be located in the northern portion of the site near the improved campground area. The second kitchen will be located in the southern portion of the site near the unimproved campsite area. The kitchens will be designed to meet County Health Department commercial standards. Each will have hot and cold potable water. Refrigerators will not be provided.

19. Three bathroom/toilet facilities will be placed on site, each located close to a campsite area. The bathroom structures will feature dry composting or flush toilets, depending on the availability provided in the approved water system plan. Chemical toilets will be provided until the permanent bathrooms are constructed. Rainwater catchment systems may be developed within the project timeline for toilets and sinks.

20. Two shower buildings will be installed, each no larger than 900 square feet. One, located central to the developed campground, will be limited to shower stalls, sinks and a changing area. The other, located close to the quarry, will focus on recreational and therapeutic bathing activities, such as soaking tubs, and a sauna, along with showers and a changing area. Propane or wood boilers will heat potable water for showers.

21. Designated parking areas with adequate capacity for the numbers expected will be located within close proximity to each campground area. A large area with over 200 spaces will be available for the unimproved campsites. This area will also include overnight event parking.

22. Garbage generated at the improved campsites will be deposited in easily-accessed designated garbage and recycling stations. These stations will be checked and collected daily, removed from the site on a weekly basis and ultimately taken to a designated waste management facility.

23. Twelve RV parking spaces have been incorporated into the southern portion of the site. Each RV shall be self-contained and all sewage shall be emptied at a designated sewage disposal site. Any RV on-site for more than 30 days shall be subject to the same aesthetic and functional approval as any other campsite development. There is an understood need for RV's during development of permanent structures. Thereafter, the Lookout Arts Quarry (LAQ) may impose rules limiting further RV use of site.

24. LAQ will have two fulltime employees. One position will be campsite facilitator who will occupy a centrally located cabin, ensuring that campers' needs are met and that camp rules are enforced. The facilitator's cabin (occupying no more than 900 square feet) will have potable water, flush or composting toilet and electricity. The second employee will occupy a maintenance position. This will be someone accessible on an on-call basis when site repairs are needed. Temporary employees may be brought in as necessary to help manage on-site events

25. Permission is sought for temporary events on the site to take place seasonally between May 1 and November 1. The temporary events will take place both outdoors and in covered pavilions to be constructed. Events will generally run from one to three days. Depending on the event size, set up may start two or three days ahead of an event and clean up

may take one or two days after an event. The events will be held in the center of the project site within an existing developed area and lawn.

26. Events hosted by the LAQ will be run by third-party organizations. Such third parties will be expected to follow strict LAQ rules including a “leave no trace or make it better” policy. LAQ will give priority to organizations that share their goals of promoting community, education, and the environment. At least three events per year will focus on sustainable technologies, permaculture practices, waste reduction practices and other environmental educational classes or workshops.

27. By code, the staging of temporary events is restricted to 24 calendar days per year. To reduce environmental wear and tear, the size of events will be varied throughout the season and limited as follows: 8 days with 600 to 1000 attendees, 8 days with 200 to 600 attendees, and 8 days with 200 or less attendees. These attendance numbers include event staff, volunteers and performers.

28. The following facilities will be constructed to accommodate temporary events:

Covered Pavilion: A structure no larger than 6,000 square feet to serve as an open-air covered space where people can gather during rainy days. The space may also include areas to store event equipment and maintenance tools. The covered pavilion will be located in a central location on site. While not yet fully designed, it is currently planned to give form to concepts from 18<sup>th</sup> century Amish or European timber frame designs. The pavilion will require an approved building permit and must meet International Building Code requirements.

Enclosed Pavilion: A structure no larger than 3,500 square feet to provide a gathering place sheltered from the elements. This pavilion will be situated east of the existing large pond on site. Again this pavilion has not been fully designed, but the concept is for it to be either fully or partially enclosed, possibly with use of a geodesic timber frame. Also contemplated are an open floor plan and the use of a permeable living roof and skylights. A bathroom will either be incorporated into the pavilion design or located in a separate structure nearby.

Covered Performance Stage: A 1,200 square foot simple platform performance stage will be located about 120 feet south of the main road into the site. The pavilions and covered performance site will require approved building permits and must meet International Building Code Requirement.

29. The staging of temporary events will involve the following:

Bathrooms: Portable chemical toilets will be used for on-site events, the number to be placed depending on the size of the event and anticipated crowd. During events, the permanent bathroom facilities that serve the improved campground areas will be locked or allowed very limited use in light of limits of the septic system.

Kitchen/Food Vendors: The kitchen located in the northerly portion of the site will be used during events by caterers and food vendors. The facilities must meet State and County health standards and must possess the proper operating permits from health authorities.

Solid Waste Disposal: The stagers of events will be responsible for managing solid waste generated, per contract with LAQ. Garbage, recycling and composting receptacles will be placed throughout the grounds. An on-site area for toxic material will be designated. The stagers will be tasked with removing event-related waste from the site. If this responsibility is not carried out, the LAQ staff will remove the material at the cost of the event stager.

Drinking Water for Events: Bottled water, available for purchase on site, will be used primarily. A water filling station may be provided if approved by the Department of Health in the connection with approving the Group A water system. Potable water may also be delivered to the site and stored for use at events if the Group A system is not approved prior to the first events or if necessary to keep well withdrawals within limits for the approved system. Water conservation practices will be employed for water consumption.

Parking: 206 parking spots for daytime event parking will be located in the northeast corner of the project site (near the residence), and a total of 279 parking spaces will be available for over-night event parking. This overnight parking will be available to attendees who choose to camp in the unimproved campsite area. The most frequently used parking areas will be maintained with clean gravel. Less used parking areas will be maintained in pasture grass. Grass parking areas will be mowed before scheduled events. Parking space at the site is thought to be adequate, so it should not be necessary for attendees to use the public right-of-way outside of the grounds.

30. The project is to be built in three phases. Full completion is expected in no more than six years. Features of each phase are as follows:

a) Phase 1: (first year) Wetland fencing and buffer enhancement, water system installation, road improvements, fire flow system installation, establishment of northern campground and parking areas, building permits for north bathroom and kitchen buildings.

b) Phase 2: (within three years) Establishment of southern campground, utilities to southern campground; building permits for southern campground bathroom and kitchen, building permits for temporary event structures.

c) Phase 3 (within six years) Construction or building permits for all structures, water catchment system installation, other alternative energy systems (solar/wind), all campsites and related facilities established.

31. The application for the project was initially submitted on April 14, 2014 and deemed incomplete. After further submissions were received, the County determined the application to be complete on March 3, 2015. Notice of the application was published, posted and mailed as required by law.

32. Environmental review was conducted pursuant to the State Environmental Policy Act (SEPA). A Mitigated Determination on Non-Significance (MDNS) was issued April 7, 2015. No MDNS appeals were filed.

33. The conditions of the MDNS are as follows:

- 1) Applicant shall comply with WAC 173-60 and SCC 14.16.840 for noise, vibration and light conditions. Ventilation shall not be addressed by open doors or windows.
- 2) Applicant shall comply with Water Quality WAC's for surface and ground water quality (WACs 173-201A and 173-200).
- 3) The applicant shall comply with SCC 14.16.840 Performance Standards.
- 4) Temporary erosion/sedimentation control measures, as approved by the Skagit County Department of Public Works, shall be in place prior to the placement of any material. The applicant shall maintain all temporary erosion/sedimentation control measures in accordance with the Skagit County Drainage/Erosion/Sedimentation Control Ordinance. Said measure shall remain in place until completion of the project.
- 5) The development will be required to meet the fire flow requirements for new Campgrounds. The fire flow system shall be approved by the Skagit County Fire Marshal.
- 6) The applicant shall comply with Northwest Air Pollution Authority requirements.
- 7) Prior to start of operations, a public water system design approved by the State Department of Health and Skagit County Public Health and Community Services is required.
- 8) Onsite septic designs submitted and must be approved prior to the public hearing.
- 9) The applicant shall meet all state and local permit requirements for all food and camping facilities.
- 10) Parking for the attendees shall be provided on site or another approved location outside of the road right-of-way and within 200 feet of the subject property.
- 11) During events solid waste shall be placed in receptacles on the premises to be disposed of on a weekly schedule either picked up by Waste Management, Inc., another solid waste handler, or taken to a solid waste transfer station.
- 12) All surrounding properties including road right-of-way must be maintained in regard to litter.

34. The project was reviewed for compliance with the Critical Areas Ordinance. The plan is to avoid disturbing identified wetlands and their buffers. These areas have been placed within a recorded Protective Critical Area (PCA) easement (AF#201506120134). To protect these areas, permanent barriers (fences or thick vegetation) will be installed between proposed parking areas and the wetland/buffer areas. Portions of the quarry are designated as geohazard areas. No development is planned for such areas. Were such development to be proposed, a geohazard report would be required and separate approval would be needed.

35. The entire perimeter of the project site is heavily forested, as is much of the interior. No additional perimeter landscaping is being required. However, the applicants have said that they will be adding landscaping to interior areas over the six-year project time frame, including fruit trees, raised garden beds and planting of native species. Also additional vegetation will be planted as part of the approved wetland buffer enhancement plan.

36. The proposal was routed to County departments. The project site is within the boundaries of Rural Fire Protection District # 14. District and department comments are addressed in conditions of approval.

37. Many letters were received from persons who support the idea of this performance center and camping facility. However, a number of public concerns were expressed, in writing and again in oral testimony at the hearing. The areas of primary concern are (1) noise, (2) garbage and (3) traffic.

38. Noise. The major concern relating to impacts of the temporary events is noise. The ability of the quarry to contain noise was, of course, a major factor in its selection as the site for the performance facility. Prior to this permitting effort, events have been held at the site. To test the noise dampening effects of the locale, Skagit County staff required LAQ to hire a qualified acoustic consultant to perform a noise study at an event.

39. The tested event was a daytime vaudeville type performance involving use of a loudspeaker system which amplified music and speech. The music ran the full range of audio frequencies and volume was set at a level twice as loud as what are expected to be typical program audio levels. SSA Acoustics, LLP, conducted the study and reported that sound system noise was not perceptible above ambient noise at any of the property lines and did not contribute to the existing off-site ambient noise environment. There is an existing noise problem at the west property line caused by traffic on I-5. Along that corridor, speaker noise was not perceptible above ambient noise.

40. However, the results of the noise test appeared at odds with the negative experience of some neighbors. Under the circumstances, the County Staff decided that steps should be taken to insure adequate noise control during events in which third parties use their own perhaps more powerful equipment during evening hours. Therefore, a condition was recommended calling for an LAQ staff member to monitor and record event noise levels with a portable meter. The County may request copies of the noise log at any time. In addition, property owners within 300 feet are to be provided with a phone number for reaching LAQ staff to register noise complaints. As pointed out by the applicant, LAQ may require that the noise level be lowered during a performance.

41. Garbage. The applicant has committed to thoroughly clean up after events. Insofar as littering off-site is concerned, the applicant shall be accountable to keep their property boundaries that are in view of the public litter free. A condition of approval addresses boundary litter control.



42. Traffic. Public Works determined that existing site access is sufficient for the proposed uses. A Fill and Grade permit will be required for improvements to the existing driveway and road, and a drainage report must be submitted with the fill and grade application.

43. Increased traffic will be anticipated along Old Highway 99 during temporary events. Public Works determined that due to the project site's close proximity to I-5 and the limited number of homes in the vicinity, traffic should not be a burden or safety issue for nearby residents.

44. The applicant has proposed traffic reduction incentives in the form of discounts and prizes to encourage carpooling and alternative transportation, including use of a rideshare network. Vehicles may be charged for parking as a further incentive for alternative transportation. Large events will include parking attendants and flaggers at the entrance and inside the property.

45. The process of evaluation for the LAQ application has involved thorough evaluation by the County Staff, a public hearing, and consideration by the Hearing Examiner. Under the Land Use Code, temporary events and developed campgrounds are allowed as Special Uses in Rural Reserve zones.

46. The applicable Special Use approval criteria require compatibility of the proposal with existing land uses. Discrete limitations are imposed on temporary events. As noted, such events may occur on no more than 24 calendar days per year. In addition, parking is to be fully-contained on the subject property; and activities are not to create "a detrimental level" of noise impacts on the surrounding area.

47. The County Staff reviewed the application for compliance with the general criteria for Special Uses and with the additional criteria for approval of temporary events. The Staff concluded that the proposal, as conditioned, is consistent with the approval requirements of the County Code. The Hearing Examiner concurs with this analysis and adopts the same. The Staff Report is by this reference incorporated herein as though fully set forth.

48. The idea here is that the quarry walls will, in effect, dampen offsite sound, so that noise is not a significant problem. Apparently it will take some tinkering with the system to insure that this is the case. Nevertheless, the applicant appears willing to make efforts to insure that his use is compatible with the surroundings, and the Examiner has determined that he should be given the chance to do so. Conditions have been added that specifically call for addressing noise in individual cases, if it is causing a problem.

49. 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. In the Rural Reserve zone, the proposed campground requires a Hearing Examiner Special Use Permit. SCC 14.16.320(4)(d), The temporary events approval also requires a Special Use Permit (SCC 14.16.320(3)(l) and, in this case, consideration of same is consolidated for hearing with the campground application. SCC 14.06.060.
4. As conditioned, the proposed campground and temporary events facility of LAQ is consistent with the general Special Use Criteria and with the specific criteria for Temporary Events. SCC 14.16.900(2)(h).
5. Any finding herein which may be deemed a conclusion is hereby adopted as such.

## **CONDITIONS**

1. The proposed LAQ campground and temporary events facility shall be constructed and operated as described in the application, as modified by the conditions herein.
2. The applicant shall obtain any other applicable permits and abide by the conditions of same.
3. The applicant shall comply with all conditions of the MDNS issued April 7, 2015. (See Finding #33 above.)
4. The applicant shall obtain building permits for all unpermitted structures on site (existing performance stage, shop, storage containers) and all future structures proposed.
5. The development shall meet applicable fire flow requirements for new campgrounds. The fire flow system shall be approved by the Skagit County Fire Marshal with the submittal of building permit applications.
6. Prior to any scheduled Temporary Event on site, the applicant shall schedule a Fire Marshal site inspection.
7. Temporary Events shall be held on no more than 24 days per calendar year.
8. Parking for all events shall be fully contained on the subject property and shall not include the use of any public road right-of-way.

9. All lighting shall be directed away from neighboring residences.
10. Prior to operation of the improved campground, the applicant shall obtain permit approval for the Group A well from the Department of Health. The installation of a water meter and shutoff valve shall be required to ensure that no more than 5,000 gallons of water per day is withdrawn from the well.
11. The applicant shall comply with all applicable State and County regulations, including but not limited to Chapters 173-200 and 201A WAC (surface and ground water quality), and Chapter 173-60 and SCC 14.16.840 (noise, vibration and light).
12. To insure applicant accountability for noise levels produced during events, a designated LAQ staff member shall be present on site during all times of each event and keep a recorded log of noise readings taken at various times during the event. Skagit County may request copies of the noise log at any time.
13. Applicant shall provide existing property owners within 300 feet of the project site a 24-hour contact phone number for an LAQ staff member which neighboring owners may call to report noise complaints during temporary events held on site. LAQ staff shall take appropriate steps to respond to complaints.
14. Failure to comply with applicable noise standards may result in County enforcement action. This could result in the imposition of more restrictive limitations on operations.
15. A Fill and Grade permit shall be obtained for any improvements to the existing driveway/road system within the project site. When such permit is sought, the applicant shall submit an engineered drainage report (stormwater management plan).
16. The applicant shall provide traffic flaggers and parking attendants at the entrance to the site and at approved parking locations to assist in directing traffic and parking vehicles during temporary events.
17. During events solid waste shall be placed in receptacles on the premises and then disposed of on at least a weekly schedule. The receptacles shall be picked up by Waste Management or another solid waste handler or taken to a solid waste transfer station.
18. The applicant shall maintain litter control on their property boundaries, including litter in the right-of-way.
19. Because no RV sewage dump station will be provided on site, the location of the nearest recreational vehicle dump station shall be conspicuously posted at the entrance to the RV camping area.
20. Food vendors on site shall have obtained required permits from the Skagit County Health Department.

21. The Kinder Morgan pipeline boundaries shall be marked on site if construction is to take place within 100 feet of the pipeline.

22. In the development of the site, the maximum lot coverage of impervious surface is limited to 35%.

23. Campsites (including tent camping, rustic cabins and RVs) may be occupied on site for no more than 180 days during any twelve-month period, unless otherwise officially approved.

24. The applicant shall comply with SCC 14.16.870, Notification of Development Activities on or Adjacent to Designated Resource Lands.

25. Maintenance of landscaping and screening areas shall be provided by the owner of the landscaped property. All screening and landscaping shall be kept free of weeds and trash. Failure to maintain landscaping areas is an offense to the Uniform Development Code pursuant to Chapter 14.44 SCC.

26. The Special Use Permit shall be void if work is not started within two (2) years of the date of this decision or if the use is abandoned for a period of one (1) year.

27. The applicant shall follow the proposed phasing plan to the best of its ability. The project shall be completed within six years.

28. Planning and Development Services (PDS) shall be notified within 30 days after any change in ownership of the property by submitting a letter to the Planning Director referencing PL 14-0051.

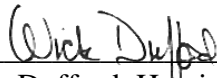
29. All planning related fees, including recording of the decision, shall be paid within 30 days of receipt of the invoice.

30. Failure to comply with any condition may result in permit revocation.

## DECISION

The requested Special Use Permit (PL14-0051) is approved, subject to the conditions set forth above.

**DONE**, this 20<sup>th</sup> day of April, 2016.

  
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Wick Dufford, Hearing Examiner

Transmitted to Applicant: April 20, 2016.

See Notice of Decision, page 1, for appeal information.