

Office of the
HEARING EXAMINER
County Building, Everett, WA 98201

DECISION of the HEARING EXAMINER

PART I: SUMMARY INFORMATION

APPLICANT: LAKE CONNOR PARK (A PRIVATE CAMPING CLUB)

FILE NO.: ZA 8307157

TYPE OF REQUEST: Concurrent conditional use permit modifications and zoning code variance.

NATURE OF REQUEST: Several permit modifications and one zoning code variance have been requested.

SUMMARY OF REQUEST:

Location: The subject property is located west of Russell Road and south of 28th Street NE, east of the City of Lake Stevens.

Sections 3, 4, 9, 10, 15 and 16, Township 29N, Range 6E, W.M.

Planning Area: Snohomish/Lake Stevens

SEPA COMPLIANCE: Declaration of nonsignificance issued by the lead department.

PROCEDURAL BACKGROUND:

1. The Examiner viewed the subject property and its surroundings on October 31, 1983.
2. The Examiner held a public hearing on the subject application on November 1, 1983.

SELECTED AGENCY RECOMMENDATIONS (ABBREVIATED):

Department of:

Community Services:	No comment received
Planning and Community Development:	
Development Division:	See Findings
Planning Division:	See Findings
Public Works:	No significant impact upon county transportation system
Snohomish Health District:	See Findings

HEARING EXAMINER DECISION (SUMMARY):

Modifications approved in part; variance denied; permit conditions restated with clarifications

PART II: FINDINGS OF FACT

The Examiner, having viewed the property, weighed the evidence presented and heard the testimony of the parties, makes the following Findings of Fact:

Introduction

1. Lake Connor Park (hereinafter referred to as "LCP") is a recreational vehicle (RV) campground containing 1,597 campsites on 365 acres of land. The original permit for the development of the first phase of LCP was issued by the then Zoning Adjustor on June 9, 1972 under CU 40-72 (Exhibit 1). Said permit authorized the development of LCP subject to a series of 15 stipulated conditions. During 1973 a series of three addenda to the initial Written Order were issued by the Zoning Adjustor (Exhibits 2-4) which essentially had the effect of authorizing the development of Phase 2 of LCP. On September 14, 1976 the Zoning Adjustor issued Addendum No. 4 (Exhibit 5) which authorized the development of Phase 3 of LCP. On December 15, 1977 the Zoning Adjustor issued Addendum No. 5 (Exhibit 6). Addendum No. 5 apparently resulted from a review/enforcement hearing. In Addendum No. 5, the Zoning Adjustor included a recital (the "whereas" clauses in a legal document are known as "recitals") describing certain limitations regarding usage of individual campsites. Addendum No. 5 concluded

that no action was necessary by the Zoning Adjustor regarding the LCP project. No subsequent addenda have been issued.

2. The LCP Community Club, by and through its original developer who now serves as its president, submitted the instant modification and zoning code variance requests as a result of a privately initiated petition for review (Exhibit 7). (It should be noted for the record that the petitioner did not appear during the Examiner's hearing and that, therefore, the hearing was exclusively devoted to the modification and variance requests as submitted by LCP.) The several documents which the LCP has submitted to outline their requests (Exhibits 12, 14-16, 28 and 29) indicate that seven permit modifications and one zoning code variance are being sought:
 - A. A revised entry design for the main entry off 28th Street NE is proposed.
 - B. Approval is sought for several community buildings which were constructed without any prior approval.
 - C. Approval is sought for a potential maintenance shed and recreational pavillion.
 - D. Larger decks, gazebos and storage sheds are requested to be allowed for construction on each campsite.
 - E. The most northeasterly 43 acres of the LCP site, lying east of Russell Road, is requested to be deleted from the permit.
 - F. LCP desires to be able to display four RVs on the site on behalf of retailers.
 - G. LCP wishes permission for up to 26 of the campsites to be occupied as permanent residences.
 - H. A zoning code variance is sought to allow RV units to be left on assigned campsites year-round.

In addition to the above specific requests, the applicant also asks the Examiner to approve Exhibit 12A as the as-built drawing for Phase 3 in order that a requirement imposed by the Zoning Adjustor on the original Written Order might be fulfilled (Exhibit 1, Condition 8 and Exhibit 12B).

3. "Before any variance may be granted, it shall be shown that:
 - (1) There are special circumstances applicable to the subject property or to the intended use, such as shape, topography, location or surroundings, that do not apply generally to the other property or class of use in the same vicinity and zone;
 - (2) Such variance is necessary for the preservation and enjoyment of a substantial property right or use possessed by other property in the same vicinity and zone but which because of special circumstances is denied to the property in question;
 - (3) The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located;
 - (4) The granting of such variance will not adversely affect the comprehensive plan." [Section 18.88.020 SCC]
4. The instant decision will be divided into sections based upon the specific requests; each section will be lettered in accordance with the above listing of requests.

Request A

5. LCP first requests that a revised configuration for the main entry roadway be approved by the county (Exhibit 15). The revised configuration would allow for the gated access control structure to be located closer to 28th Street NE without causing vehicular backup onto the public roadway. Presumably the applicant is requesting this change to improve site security.
6. The Planning Division (PD) of the Department of Planning and Community Development, the Community Development Division (CDD) of the Department of Planning and Community Development and the Department of Public Works (DPW) have no objection to this request (Exhibits 22 and 24).

Request B

7. The applicant next requests that five structures which have been constructed by the camping club without county approval be allowed to remain in their present locations. The structures include (see Exhibits 12A and C) a dirt-floored, single story, 20'x60' five bay machinery shed; a single story, 8'x10' guard shack; a 14'x70' mobile home/office structure with an associated 10'x30' deck; a 1,000 gallon propane tank utilized in conjunction with the swimming pool heating system; and an unstated number of individual campsite decks which exceed 100 square feet in size. Further, the applicant wishes authorization to make minor improvements to said structures.
8. The original permit and all addenda thereto make reference to approved site plans. Neither the machinery shed, the guard shack, the mobile home/office nor the propane tank were shown on any of the site plans approved by the Zoning Adjustor. The original permit does not provide any guidance with respect to the size and allowability of structures on individual campsites. Addendum No. 5 (Exhibit 6) contains a recital stating that "in clarification of those items discussed that will be required upon change of ownership to the Lake Connor Park organization, the following will generally apply:
 - "1. There will be no permanent structures allowed.
 - "2. Only one unit per lot will be allowed.
 - "3. Any structures will have to be under 100 square feet.
 - "4. The length of unit will have to comply with the Zoning Code definition of travel trailer.
 - "5. The occupancy of each unit will have to comply with the requirement within the Code.
 - "6. There will be no permanent commercialization allowed within the park."
9. The PD has no objection to the existing machinery shed, guard shack, mobile home/office and propane tank. However, the PD recommends that individual campsite decks be limited to a maximum of 120 square feet, noting that such a limit would be consistent with decking limits in other camp club developments in Snohomish County (Exhibit 22).
10. The CDD indicates that all allowed structures must comply with the Uniform Building Code (UBC) and indicates that it does "not want to be required to issue permits to individual members on individual lots." (Exhibit 24)
11. The Examiner takes official notice that the UBC does not require a building permit for single story accessory structures having a total roof area of 120 square feet or less (See UBC Section 301.B). At the time the original permit and Addendum No. 5 were issued, the UBC exemption limit was 100 square feet.

Request C

12. The third request seeks approval for the construction of an open air pavillion having a diameter up to 75 feet and provided with electricity (Exhibit 12A, Item E). The pavillion would be located between the existing playfield and Lake Connor near the center of the campground. LCP also desires approval for a maintenance shed of unknown dimensions to be located somewhere near the point where the entry road (Lake Drive) crosses the low, wetland area to enter Phase 3 (in

other words, somewhere near campsite no. 10 in Phase 1). The applicant stated that said facility would be a partly enclosed building having possible dimensions of 24'x60'. No precise location nor size is known.

13. The PD has no objection to the future open air pavillion (Exhibit 22). The PD's recommendation does not mention the maintenance shed since it was added by the applicant to its request subsequent to the preparation of the PD's report.

Request D

14. The applicant next requests that individual campsites be allowed to have decks covering up to 240 square feet of area, one gazebo and one storage building, each of which would have an upper size limitation of 120 square feet. The applicant also asks that storage buildings be allowed to be wired for electricity. The applicant indicates that RVs are substantially larger than they were at the time the permit was originally approved and that larger decks are thus necessary in order to bridge the distance between the "front door" and the "back door" of many RVs.
15. The PD recommends that individual campsite decks be limited to a maximum of 120 square feet (Exhibit 22); the CDD indicates that it does not wish to have to issue building permits for structures on individual campsites (Exhibit 24).
16. The only permit condition/clause pertaining to this request is that quoted in Finding 8, above.

Request E

17. LCP wishes to sell the northeasterly 43 acres of the campground property which lies easterly of Russell Road. Said area was originally included in the permit in order to provide recreational access to the Pilchuck River which bisects said tract (See Exhibit 12A). No development of any type relating to the campground has occurred within said tract. LCP has access to and frontage upon the Pilchuck River at the south end of the facility. A substantial difference in elevation exists between the property on the east side of Russell Road and the property on the west side. Said elevation difference occurs as a sharp, cliff-like, wooded slope. All campsites and other camping club development are located on the higher elevations to the west.
18. The PD recommends that only that portion lying east of the Pilchuck River be allowed to be separated from the campground property. The PD feels that the river access should be maintained (Exhibit 22).

Request F

19. The applicant next asks that RV dealers be allowed to place up to a total of four RV units on unoccupied campsites as "model units" for prospective purchasers. The applicant indicates that said "model units" would not be occupied either by members of the camping club or by non-members. The applicant believes that its members would benefit by being able to see new type RV units in a camping setting.
20. The PD recommends that this request be completely rejected, arguing that such an activity would constitute retail commercial display/sales which would be incompatible with the zoning of the subject property (Exhibit 22).

Request G

21. The applicant next asks that up to 26 of the campsites be given permanent residency status. The applicant indicates that there are approximately 34 of the campsites which are presently occupied on essentially a full-time basis. The exact number and location of the permanent residents apparently changes from time to time as people's living situations change. The applicant indicates that since there are 26 toilet/shower structures on the campground, an upper limit for permanent residency of one campsite per toilet/shower building would be appropriate. The applicant indicates that the permanent residents would help improve park

security, would be able to assist with park maintenance and would be able to assist emergency vehicles find particular campsites on the property. The existing distribution of permanent residents is not closely related to the location of toilet/shower facilities (See Exhibit 12A; the campsites colored green are those which were occupied on a permanent basis as of the date of the preparation of said Exhibit). The applicant confirmed the Examiner's observation that the current pattern of permanent residency is somewhat different from that portrayed on said Exhibit). The applicant indicated that those permanent residents in excess of 26 would be eliminated through a process of attrition which would take an estimated one year's time.

22. The original permit (Exhibit 1) does not authorize any permanent residency. Addendum No. 5 indicates that occupancy of each unit "will have to comply with the requirement within the [zoning] Code." (Exhibit 6)
23. The Snohomish Health District (SHD) strongly opposes any permanent residency of the nature proposed (Exhibit 26). The SHD indicates that "the public water system and onsite sewage disposal system requirements were all reduced to meet the developers specific recreational intent." The SHD argues that the sewage disposal facilities were never designed or intended for permanent residency and that they should not be so used. The SHD also believes that such a request would be the first step towards establishing a broader scale permanent residency within the campground. The SHD does indicate, however, that if the on-site water and sewage disposal systems were upgraded to meet current status, permanent residency could be considered.
24. The PD takes the "position that camping clubs (such as Lake Connor Park) were not designed nor intended for full-time residency." (Exhibit 22)

Request H

25. The applicant requests a zoning code variance in order to allow RV units to remain on their assigned campsites for a full year, during which occupancy could occur for up to 270 days with the remaining 95 (or 96 during leap years) days being utilized solely for on-site RV storage. The applicant argues that the energy cost of hauling RVs to and from LCP is excessive, that once RVs were taken to their owner's permanent residences they would be parked on the street and thus would be eyesores, that many RVs have had extensive improvements built around them which make it difficult to move them and "that the people want to develop roots." (Exhibit 28).
26. The county zoning code does not define the term "recreational vehicle" but does use a term entitled "travel trailer" which "means a vehicle with or without motive power primarily designed as temporary living quarters for recreational, camping or travel use, and in which the plumbing, heating and electrical systems contained therein may be operated without connection to outside utilities, being of such size or weight as not to require a special highway movement permit. The term shall include recreational vehicles, motor homes and truck campers." [SCC 18.08.625]
27. A "travel trailer court" is "land under single ownership or control designed and improved to accommodate the temporary parking of two (2) or more travel trailers, as defined. The term shall include campgrounds when designed to accommodate travel trailers, but does not include land zoned and used for the display or sale of travel trailers. For the purposes of this definition, temporary parking shall mean placement of a travel trailer on a single site for one hundred eighty (180) days or less in any twelve (12) month period." [SCC 18.08.628, emphasis added].
28. The PD recommends denial of the requested variance and argues that the applicant has not met the requirements which are necessary for the issuance of a variance (Exhibit 22). As indicated above, the SHD objects to any action which would increase the permanency of stay at LCP (Exhibit 26).

Phase 3 Approval

29. Finally, the applicant asks that Exhibit 12A be given formal approval as the "as built" plan for Phase 3 in conformance with Condition 8 of the original permit (See Exhibit 1).
30. No testimony or evidence was entered into the record by the general public in opposition to any aspect of the instant requests.

PART III: CONCLUSIONS

Introduction

1. The environmental evaluation and threshold determination made by the lead department constitutes, based upon the evidence in the record before the Examiner, adequate compliance with the State Environmental Policy Act. All evidence of environmental impact relating to the proposed action and reasonable alternatives to the proposed action have been considered by the Examiner. The determination that an Environmental Impact Statement does not need to be prepared does not mean that there are no adverse environmental impacts. The county has authority under the police power to mitigate identified impacts as deemed necessary to protect public health, safety and welfare.
2. Strictly speaking, recitals are not a regulatory portion of a legal document. Therefore, from a very strict constructionist perspective, the only permit which contains terms and conditions which must be followed by LCP is the original 1972 conditional use permit (Exhibit 1). However, it appears fairly obvious that LCP has historically construed the contents of Recital No. 4 of Addendum No. 5 (Exhibit 6; See also Finding 8, above) as a part of the permit conditions with which they must comply. Therefore, the Examiner will presume that said recital is a part of the terms and conditions of the instant permit. (See the discussion under Request D, below, for an analysis of the effect of not making such a presumption.) Therefore, any activities or construction which has occurred or is occurring within the boundaries of LCP which was not or is not in conformance with the original permit and Addendum No. 5 would have been and is a clear violation of the terms of the permit and thus a violation of the county zoning code.
3. This Examiner has always felt that whenever significant changes were to be made in the terms and conditions of a permit the best interest of all parties is served by restating all of the terms and conditions, incorporating the changes therein and providing that the restated conditions supercede all previous conditions. Thus, the applicant and the county end up with one complete document setting forth all terms and conditions applicable to that project. The Examiner concludes that that practice would be appropriate in the instant case.
4. This Examiner normally includes a rather standard clause on all conditional use permits which allows the PD to make minor revisions to the approved plans without the necessity of convening a new hearing before the Examiner. There is no such condition in any of the Zoning Adjustor's Orders pertaining to LCP. The Examiner concludes that the addition of such a condition, although not specifically requested by the applicant in this case, would be appropriate and is directly related to the type of revisions sought herein. Therefore, the standard minor revision clause will be added during the restatement of conditions.

Request A

5. The revised access configuration should prove to be equally as safe as, if not safer than, that which is presently in use. Since the revised configuration would also provide LCP with enhanced vehicular security, the revision shall be approved. The diagram contained in Exhibit 15 shall be made a part of the approved site plan.

Request B

6. The new buildings which have been constructed by the applicant are generally in keeping with the character of LCP and are consistent with its current use. Therefore the existing buildings will be allowed to remain. The testimony in the record is not completely clear as to whether or not any building permits were obtained for such structures. The Examiner obviously has no authority, nor would it be in the public interest even if such authority did exist, to waive the necessity of obtaining building permits where ever required. Therefore, the applicant must obtain building permits for any of the affected structures for which such permits are required by the UBC. Minor revisions to any of said buildings can be made in keeping with Conclusion 4, above.

Request C

7. The applicant's information regarding the proposed pavillion provides enough data upon which to decide that the structure would be in keeping with the general use of LCP and would serve the members of the camping club. Therefore, the open air pavillion will be approved as a part of the official site plan (The general location of said facility has been indicated on Exhibit 12A by the applicant.). However, the proposed maintenance shed would seem to be a very last minute addition for which very little forethought was given. The Examiner notes that the proposed location is indicated on the site plan as a wetland area. Further, the Examiner's site inspection would seem to indicate that the area is indeed at least a wet soils area if not a true wetland. In view of the uncertainties with respect to the size and nature of the proposed maintenance structure and the potential environmental problems associated with the possible site, the Examiner declines to approve said structure at this time. At such time as the applicant is able to prepare more detailed plans and information regarding the structure and its location, the Examiner would be prepared to consider further modification to the approved site plan. Since the maintenance structure is not portrayed on Exhibit 12A, no special action need be taken in the Disposition of the instant case: approval of Exhibit 12A as the official site plan will automatically incorporate the pavillion while leaving out the maintenance shed.

Request D

8. The Examiner has already concluded that the contents of Recital No. 4 in Addendum No. 5 (See Exhibit 6 or Finding 8, above) should be presumed to be conditions of the permit. If this were not to be done, then the only terms and conditions would be those imposed on the original permit (Exhibit 1) which did not authorize any structures to be constructed on any of the campsites. Thus, the Examiner's reading of the permits in this issue is an extremely liberal one which provides a substantial benefit of the doubt to the applicant.
9. It would appear to this Examiner that the Zoning Adjustor's purpose in establishing an upper size limit for accessory structures was to eliminate the necessity of issuing building permits for small structures within the campground. Further, the Zoning Adjustor presumably was attempting to preserve the legal integrity of a camping club, i.e.: that the individual members do not own their sites but rather have a right to occupy a site which is to be assigned by the governing Board of Directors. Were the Zoning Adjustor to have allowed accessory structures of an unlimited size, the concept of impermanence in the use of the individual campsites by an individual member would have been severely compromised if not totally obscured. Finally, if a great number of large structures were to be erected within the campground, the rustic character of the facility would be totally lost. The Examiner thus concludes that the concept of limiting the size of structures is most appropriate and should be continued. The Examiner also concludes that establishing the size limitation at the building permit threshold size is appropriate. Since that threshold size has been increased from 100 square feet of total roof area to 120 square feet of total roof area since Addendum No. 5 was issued, the terms and conditions of the permit should be changed to reflect the change in the building code.
10. The concept of building two separate decks, each of which would be under 120 square feet in area, and then bolting them together to create one deck of up to

240 square feet is purely and simply a subterfuge to get around the 120 square foot size limitation. It is not in the public interest to approve or condone such a subterfuge in any way, shape or form. Therefore, having concluded for the reasons stated above that allowable accessory buildings should not exceed 120 square feet in total area, the Examiner must conclude that the idea of bolting together several units into one large unit is unacceptable.

11. The question of the size and number of individual campsite accessory structures has recently been dealt with by this Examiner in the case of Gold Bar Nature Trails (hereinafter referred to as "GBNT"). (See CU 116-77, Hearing Examiner decision dated October 21, 1983.) This Examiner believes quite strongly that there should be some equity in the terms and conditions under which the several existing camping clubs are allowed to operate within Snohomish County. Therefore, the Examiner will allow accessory structures on the individual campsites at LCP subject to the identical terms and conditions as established in the October 21, 1983 Order for GBNT.

Request E

12. The request to delete the 43 acres in the northeast portion of the site lying east of Russell Road (not to include the small triangular area near the south end of the site on the east side of Russell Road) is reasonable and will be approved. The simple fact of the matter is that the steep cliff-like slope on the west side of Russell Road effectively separates the vast majority of the LCP property from the property on the east side of the public road. Furthermore, even if a reasonable means of access were to be found from the developed portion of LCP over the slope to the 43 acre site, a substantial traffic hazard would be created by pedestrian traffic crossing Russell Road. The Examiner thus concludes that the potential benefit of increased waterfront access for the camp club members is more than offset by the physical impediments and safety hazards inherent in trying to develop and utilize such access. Therefore, the Examiner will allow the requested elimination from the conditional use permit.
13. The county zoning code now requires that the recipient of any conditional use permit or zoning code variance file a Land Use Permit Binder (LUPB) prior to said permit or variance becoming effective [SCC 18.88.210]. The LUPB is designed to be a formal recognition by the permittee that it has read the terms and conditions of the permit and is willing to abide by them and also serves as a notice to any prospective purchaser that there is a special development permit applicable to the subject property. (The Examiner also notes that for many of the latter years of the county Zoning Adjustor system, the Zoning Adjustor employed a similar document which was then termed an "Owner's Special Use Binder". No such binder was required for LCP.) In view of the fact that this decision will be eliminating certain properties from the control of the instant conditional use permit and since no such binder has been previously recorded, recordation of such a binder with the new legal description will be required.

Request F

14. The concept of displaying RVs on the subject property as a sales tool is totally contrary to the recreational concept of a campground and would be a gross exaggeration of the distinction between commercial zoning and recreational zoning. Thus, the request for commercial display of four units will be denied in its entirety.

Request G

15. There are two other relatively similar private camping clubs within Snohomish County. GBNT has already been mentioned. GBNT is located off the Reiter Road east of Gold Bar and contains approximately 1,200 campsites on 273 acres. The permits issued by the Zoning Adjustor for GBNT allowed up to eight permanent residents to serve as caretaker/security personnel subject to the approval of the SHD and certain locational limitations. GBNT was thus allowed one permanent resident per 150 campsites or one permanent resident per 34 acres. In fact, GBNT now has only three permanent residents: one per 400 campsites or one per 91 acres. The second comparable private camping club facility is known as

Pillaguamish Nature Trails (hereinafter referred to as "PNT") which was approved under conditional use permits CU 53-71 and CU 20-74. PNT authorizes only one permanent resident, that to be its caretaker/manager. PNT contains 325 campsites on 93 acres located on the south side of the Mt. Loop Highway, several miles east of Granite Falls. PNT thus allows one permanent resident per 325 campsites or one resident per 93 acres.

16. The LCP request for 26 permanent residents equates to one per 61 campsites or one per 12 acres, based on a net size of 322 acres after subtraction of the 43 acre parcel east of Russell Road. If the GBNT authorized ratios were utilized, LCP would be entitled to between 9.4 and 10.6 permanent residents. If, on the other hand, the GBNT actual usage ratios were utilized, LCP would be entitled to only between 3.5 and 4.0 permanent residents. The PNT ratios would yield between 3.4 and 4.9 permanent residents.
17. A private camping club is quite simply not a permanent residential development. Its road systems are substantially below any acceptable standard for permanent dwellings and, according to the SHD, its water and sewage disposal systems are similarly substantially under normal standards. This Examiner shares the strong concern of the PD and the SHD that the large number of permanent residents requested by LCP is not appropriate for a facility designed for seasonal and occasional camping. The applicant has shown no real justification for the need for 26 caretaker families within LCP. Frankly, as the Examiner said to the GBNT during its public hearing this fall, it would perhaps be even difficult to justify eight caretakers for such a facility. Nevertheless, since a precedent has been set by the county in the GBNT case the Examiner is willing to follow that precedent and is thus willing to allow up to 10 permanent residents within LCP. However, each such permanent residence must be specifically identified as to its location, must be inspected by the SHD and found to have an adequate water supply and on-site sewage disposal system for a permanent residence and must be utilized by a person or persons serving either in a paid or volunteer capacity as caretakers/security personnel for LCP. The 10 permanent residences cannot be given to families who wish to live at LCP simply as an expedient place of residence.
18. Attrition is not an adequate way to eliminate a substantial violation of county code. (It must be remembered that none of the existing permanent residents were authorized by any of the permits which have ever been issued by the county for LCP. All are clearly illegal.) The Examiner believes that any permanent residents who do not meet the criteria that will be set out herein should cease such permanent residency within one year.

Request H

19. The applicant has failed to meet either variance criterion 1 or 2. Therefore, the zoning code variance for length of RV stay will be denied. Essentially, the applicant believes that the county's concept of regulating RVs is wrong. The applicant certainly has a right to such a belief but such a belief does not constitute unusual hardship which would warrant the issuance of a variance. The arguments put forth by the applicant are in no way unique to it but, rather, could presumably be made by every person in Snohomish County who owns an RV and has use of a campsite. If the county believes that the applicant's philosophy of RV utilization is more appropriate than that contained within the existing zoning code, then the zoning code restrictions should be amended. Unless and until such time as the county's code restrictions are changed this Examiner will implement them as written except where compelling evidence of a special hardship is present. No such evidence is present in the instant case.

Phase 3 Approval

20. Since the Examiner will be approving Exhibit 12A as the official site plan, the requirement of the original permit for approval of the Phase 3 "as-built" will be met.

Summary

21. The Examiner has thus concluded that Requests A, B, E and the Phase 3 approval should be approved subject to certain terms and conditions; that Requests C, D and G should be approved in part subject to certain terms and conditions; and that Requests F and H should be denied in their entirety.
22. In addition to restating the applicable terms and conditions from the original 1972 permit, the substantive content of the fourth recital of the No. 5 Addendum needs to be incorporated into permit condition language. Furthermore, just as there are some of the terms and conditions from the original permit which are no longer relevant, so too there are certain conditions which are inherently understood to imply but which have apparently never been set forth in writing. Thus, the restatement of conditions in the Disposition, below, will attempt to both consolidate and fill in the gaps where appropriate. With the exception of those conditions which are to be imposed as a result of the modifications requested herein by the applicant, the restatement and clarification of conditions is not intended to change the facility's manner of operation or to impose substantially different conditions than those originally imposed by the county.
23. The Examiner intends, and has no knowledge or belief to the contrary, that the requirements, limitations and conditions imposed on the instant approval are only such as are lawful and within the authority of the Examiner to impose pursuant to Title 18 SCC.

PART IV: DISPOSITION

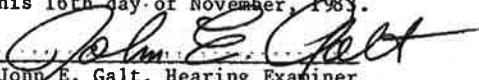
The Examiner hereby:

- A. APPROVES removal from the jurisdiction of the instant permit of that part of the property in the northeast corner of the site lying easterly of Russell Road, being composed of approximately 43 acres.
- B. DENIES the requested ZONING CODE VARIANCE regarding length of RV stay within the campground.
- C. RESTATES the TERMS and CONDITIONS applicable to the Lake Connor Park Camping Club (reference county file no. CU 40-72). Said terms and conditions shall supercede in all respects the terms and conditions of any previous conditional use permit Order, Addendum or Disposition pertaining to Lake Connor Park:
 - i. This permit shall not become effective unless the Land Use Permit Binder, enclosed herewith, is recorded with the Snohomish County Auditor and a copy of said recorded document is submitted to the Department of Planning and Community Development for inclusion within the case record within 45 days of the date of the instant decision. Failure to meet this condition shall automatically nullify this permit.
 - ii. Exhibit 12A as modified by Exhibit 15, shall be the official site plan.
 - iii. The Director of Planning and Community Development or his designee may authorize minor modifications to the approved plans so long as such modifications do not affect the impact of the development on surrounding properties or upon public right-of-way. Any such modification shall be appropriately documented in writing and included with the appropriate case record.
 - iv. These terms and conditions shall not be superceded by By-laws that may be in conflict herewith.
 - v. The subject property shall remain as one entity; no ownership or leasehold shall pass to any individual.
 - vi. There shall be no development within 200 feet of the Pilchuck River.

- vii. Access shall be provided through whatever means, including crash gates, to the water in the swimming pool and lake for fire fighting purposes.
 - viii. The public right of use of Lake Connor shall be protected and neither denied nor restricted.
 - ix. Entrance signage shall be limited to the present size and location.
 - x. All roads and turnarounds shall be open at all times for traversing of emergency vehicles.
 - xi. Outdoor fire pits and fireplaces shall be approved and regulated for fire safety by the Board of Directors.
 - xii. No commercialization, such as groceries, goods stands, display of unsold RVs, etc. shall be allowed. The Board of Directors may authorize special concession stands on a limited basis to operate for not more than three days per occasion.
 - xiii. There shall be only one camping unit per site.
 - xiv. Only one of each of the following may be allowed on each campsite:
 - (a) one enclosed structure (storage only) is permitted and shall not exceed 120 square feet in total roof area, shall not be over 12 feet in total height and shall maintain a six foot separation from all other units.
 - (b) decking over 12 inches above ground is permitted not to exceed 120 square feet and not to exceed 36 inches in height at any point; provided that open railings may be erected around said decks above the 36 inch height limit.
 - (c) decks, whether or not limited in size by sub-condition (b), above, may have a roof erected over all or a portion of such deck provided that the roof shall not exceed 120 square feet in total roof area nor be over 12 feet in total height.
 - (d) one gazebo is permitted on each site which shall not exceed 120 square feet in total roof area nor be over 12 feet in total height.
 - (e) the Board of Directors may authorize the construction of a raised deck having a floor level equal to that of the RV with which said deck is to be associated, having a length not to exceed that of the associated RV and a width of not more than eight feet whenever a campsite is occupied by one or more persons who are wheelchair-bound. The necessary approach ramp for said deck shall not be included in the size limitation. Said deck may be covered to the same extent allowed in sub-condition (b), above.
- The above structures shall contain no plumbing or sleeping facilities and shall be the responsibility of the Board of Directors, not the county, for safe construction.
- xv. There shall be no permanent structures other than what is now approved by as-built plans or as may be allowed by the operation of Condition iii., above.
 - xvi. Only 10 permanent living units shall be allowed each of which must:
 - (a) be located on a permanent use site which has been designated for such purpose by the Board of Directors and approved for such purpose by the Snohomish Health District. All Health District requirements for permanent residency shall apply to the extent required by said District.

- (b) must be occupied by one or more persons who are working for the permittee either in a paid or volunteer capacity as caretaker/security personnel.
- xvii. Length of stay and length of occupancy of any travel trailer/RV unit shall be in conformance with current county code requirements.
- xviii. Any campsites which are presently occupied contrary to conditions xvi. and/or xvii., above, shall be brought into conformance with said conditions within one year.
- xix. All travel trailers/RVs shall at all times be licensed by the State of Washington to travel on state highways.
- xx. The use of the campsites shall be limited to vehicles capable of being towed on state highways which shall not exceed the licensing limitation requirements as imposed by the State of Washington.
- xxi. All RV units shall be contained within the size of the designated campsite area.
- xxii. The campground shall be operated in conformance with the Washington Camp Club Act of 1972.
- xxiii. This permit is valid only so long as all other applicable conditions of all other applicable agencies are complied with.

Decision issued this 16th day of November, 1983.


 John E. Galt, Hearing Examiner

*** NOTICE to PARTIES of RECORD ***

The above decision of the Hearing Examiner is final unless appealed to the County Council. Any appeal must be filed in writing with the Department of Planning and Community Development, 4th floor, County Administration Building, Everett, Washington 98201, no later than 5:00 p.m. on November 28, 1983, must contain a brief statement of the reason why error is assigned to the Examiner's decision and must be accompanied by a fee of \$50.00: Provided, that the fee will not be charged to a department of the county or to other than the first appellant. Please use the county file number on all future correspondence with the county regarding this case.

Mailed on November 16, 1983, to:

APPLICANT:

Lake Connor Park (A private camping club)

OTHER PARTIES OF RECORD:

Henry R. Posey	John K. Peterson
May H. Wendl	Donna Sabine
Lanita Pascoe	Kathleen L. Nelson

OTHER PARTIES:

Planning Division	Community Development Division
Department of Public Works	Snohomish Health District