

**BEFORE THE HEARING EXAMINER
FOR THURSTON COUNTY**

In the Matter of the Application of)	No. SUPT 970240
)	
Liberty 1 Resources, LLC)	
)	DECISION ON REQUEST FOR
For Approval of a Special Use Permit)	RECONSIDERATION
_____)	

SUMMARY OF DECISION

The Motion for Reconsideration of the Hearing Examiner decision is **DENIED**. All issues raised in the Motion were properly addressed at the open public hearing on September 5, 2000. The decision was based on the record as required by *TCC 2.06.05* and was not arbitrary and capricious.

BACKGROUND

Liberty 1 Resources requested a Special Use Permit (SUP) to operate a recycling facility for concrete, asphalt, and roofing material, and, for top soil mixing on a 2.5 acre portion of a five (5) acre site south of 93rd Avenue Southwest and east of Kimmie Street Southwest, Thurston County. Pursuant to the requirements of Thurston County, notice was properly given to all property owners within 300 feet of the project site and was published in the Olympian at least ten (10) days prior to the open public hearing on September 5, 2000. Based on the record developed at the hearing, the SUP was granted, with conditions, on September 13, 2000.

A Motion for Reconsideration of the Hearing Examiner decision was filed by Michael Grenko. A summary of contentions made by Mr. Grenko are: notice regarding the proposal was improper because it did not reach property owners outside a 300-foot radius of the site; the light industrial (LI) zone consideration was improper for the area; well-water contamination was not sufficiently addressed and/or considered; noise impacts on neighboring properties were insufficiently addressed; and, traffic considerations were insufficiently addressed.

DECISION ON RECONSIDERATION

1. Under Chapter 2.06.050 of the Thurston County Code, the Hearing Examiner is required to base all decisions on the record. The decision on the Liberty 1 Resources SUP was based strictly on the record. The record was sufficient and contained substantial evidence to support the decision. The decision was not arbitrary and capricious.
2. Because a Hearing Examiner decision must be made based on the record. All materials submitted by Mr. Grenko with the Motion for Reconsideration of the Hearing Examiner are not part of the open record hearing and will not be considered.
3. Specific allegations made by Mr. Grenko:
 - a. Notice
Mr. Grenko argues notice was improperly served regarding the SUP because it did not reach property owners outside a 300-foot radius of the project site. The notice that was given was that required by the Thurston County Code. *See Finding of Fact No. 12; TCC 20.60.020(2)(d) and (3)(c)*. The Hearing Examiner has no authority to require notice to exceed that required by the Code.
 - b. The Light Industrial (LI) Zone Consideration
Mr. Grenko argues the LI classification was considered improperly. The property for the site is zoned LI, as are the adjoining properties. The Hearing Examiner considered the SUP in light of that zoning classification. *See Finding of Fact No. 2*.
 - c. Well Water
Mr. Grenko argues the SUP was granted without adequate consideration of how the project would affect well water for the surrounding area. Under requirements set by the State Environmental Policy Act (SEPA), it was determined the project would not have a probable significant adverse impact upon the environment. *See Finding of Fact Nos. 10 and 11*.
 - d. Noise
Mr. Grenko argues the Hearing Examiner failed to consider noise impacts on neighboring properties. The Hearing Examiner received testimony at the public hearing regarding the impact noise and dust would have on the Sweetwater Subdivision. The concerns were appropriately addressed in the conditions for approval placed on the SUP. *See Finding of Fact Nos. 7 and 8; Conditions of Approval F and J*. (It should be noted that Condition J was added by the Hearing Examiner.)
 - e. Emissions
Mr. Grenko argues the impact of emissions from the site were overlooked. The Hearing Examiner may only impose those requirements that are set out in the Olympia Air Standards Act. The site was found to comply with these standards under the conditions of approval. *See Condition of Approval E*.

f. Traffic

The Thurston County Department of Transportation submitted additional traffic comments with Mr. Grenko's comments. The Department specified that Liberty 1 will not generate enough PM peak hour traffic, which is why additional studies were not required prior to SUP approval. The site complies with the standards set up by the Department; the Hearing Examiner has no duty to inquire beyond those standards. *See Finding of Fact No. 4.*

In conclusion, the concerns raised by Mr. Grenko were adequately addressed at the public hearing and will not be re-addressed with this Appeal.

Decided this 6th day of October 2000.

James Driscoll
Hearing Examiner for Thurston County

K:\zoning.lu\DECISION\SUP\970240-2.doc