

2. Substantial weight is given to the Mitigated Determination of Nonsignificance (MDNS) issued for the proposal by the County Building and Planning Department.
3. Certain environmental impacts associated with the proposal were not adequately considered in the issuance of the MDNS, in a manner that amounted to a prima facie compliance with the procedural requirements of SEPA. Additional mitigation is required, as discussed in the above findings of fact and as set forth in the decision below.
4. Subject to the additional mitigation required by the Hearing Examiner, the proposal will not have probable, significant adverse impacts on the environment, and a modified MDNS is appropriate for the proposal.

III. DECISION

Based on the Findings of Fact and Conclusions of Law stated above, the appeal is hereby approved in part and denied in part. Development of the site is hereby made subject to the following mitigating measures, in addition to the mitigating measures imposed by the Mitigated Determination of Nonsignificance (MDNS):

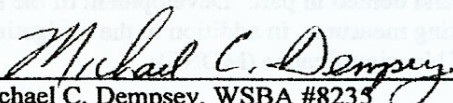
1. Prior to site development, the applicant shall submit a report prepared by a qualified wetland biologist that locates the closest boundary to the site of the forested wetland located southeast of the site, based on a field investigation. This shall be verified with the County Building and Planning Department and the State Department of Ecology. If such boundary is located less than 250 feet from the site, a wetland report shall be prepared that delineates the boundary, and categorizes the wetland. If the buffer determined for the categorized wetland impinges on the site, site development shall comply with the requirements of the County Critical Areas Ordinance for wetland reports and wetland buffers.
2. Prior to site development, the applicant shall submit a report prepared by a qualified wildlife biologist that delineates the bankfull width of the DNR Type F stream designated on the site. The 100-foot buffer for the stream shall be measured from the bankfull width. This does not preclude a retying of the stream in accordance with WAC 222-16-030.
3. The applicant shall submit a habitat management plan prepared by a qualified wildlife biologist for any road improvements that cross the DNR Type F stream or its 100-foot riparian buffer area, prior to the installation of such improvements. Note: Water crossings must be approved by the Washington State Department of Fish and Wildlife under RCW 77.55.021.
4. Prior to issuance of a building permit, the applicant shall submit a traffic impact analysis, prepared by a qualified engineering consultant, for the driveway access and approach proposed along Glenrose Road. This shall include an analysis of sight distance, traffic concurrency, queuing, and pedestrian safety. The analysis shall also recommend measures to reduce collisions between deer and project traffic.

5. Development and use of the site shall comply with the noise disturbance standards set forth in Chapter 6.12 of the Spokane County Code, in addition to complying with the maximum permissible noise levels set forth in WAC 173-60-040.

6. Prior to the use of any sound amplification equipment on the site for the proposed sports fields, the applicant shall submit a sound study to the County Building and Planning Department conducted by a qualified acoustical consultant, and using a sound meter operated in accordance with WAC Chapter 173-58, that evaluates the compliance of the noise generated by such sound equipment with the maximum permissible noise levels set forth in WAC 173-60-040. Mitigating measures shall be required based on the results of such study.

DATED this 8th day of January, 2010

SPOKANE COUNTY HEARING EXAMINER


Michael C. Dempsey, WSBA #8235

NOTICE OF FINAL DECISION AND NOTICE OF APPEAL RIGHTS

Section 1.46.130 of the Spokane County Code, in conjunction with Section 1.46.070 of the Spokane County Code, erroneously provide that the Hearing Examiner's decision on all administrative appeals of State Environmental Policy Act (SEPA) determinations may be appealed by land use petition to Superior Court pursuant to RCW Chapter 36.70C. This procedure does not apply to the Hearing Examiner's decision on the administrative appeal of a Mitigated Determination of Nonsignificance (MDNS), where the underlying action is a ministerial permit decision that does not require a public hearing, and the appeal occurs before a decision is issued on the ministerial permit; as in the current circumstances. See Section 11.10.170 of Spokane County Code, RCW 43.21C.075 and WAC 197-11-680(4).

Under SEPA, the right of judicial review must be of the underlying governmental action together with its accompanying environmental determinations. The County has not issued a decision on the proposed grading permit for the current proposal, or any other permit to which the MDNS may apply.

Where the underlying governmental action by Spokane County has a specific time limit for appeal under statute or County regulations, Spokane County is required to give official notice under WAC 197-11-680(5) of the date and place for commencing a judicial appeal of the procedural or substantive compliance with SEPA and the underlying action. If there is no specific time limit for appealing the underlying action, the notice of action procedures set forth in