

**SHORELINES HEARING BOARD
REGULAR MEETING – MAY 5, 2011 – 8:49 P.M.
PLANNING ANNEX – 1002 DUDLEY AVENUE
PROSSER, WA 99350**

Chairman Chigbrow opened the public portion of the hearing.

Roll Call:

Present:
Brent Chigbrow
Robert Page
Glenn Bestebreuer
Herb Everett
Dean Burows

Staff: Clark A. Posey – Senior Planner – Current
Carel Hiatt – Recorder

NOTE: The Board of Adjustment minutes are a summary of the testimony presented at the hearing, not a verbatim transcript.

NOTE: All persons present that wished to testify on any actions presented to the Shorelines Hearing Board tonight had been sworn in.

MOTION: Mr. Burows moved that the minutes of the March 3, 2011 Shorelines Hearing Board be approved as written, seconded by Mr. Page. Motion carried.

UNFINISHED BUSINESS:

SHORELINES/CUP 10-01/EA 10-27 - The applicant has filed applications for the operation of a wedding/reception/event facility on a five acre parcel with parking for up to 300 vehicles which required review under the Benton County Shoreline Management Master Plan. Applications have been filed for a Shoreline Substantial Development Permit and Shoreline Conditional Use Permit in accordance with the Benton County Shoreline Management Master Plan Phase II, Section 8.16. The site is located at 113618 N. Harrington Road, West Richland along the southern boundary of the Yakima River in the South Half of the Northeast Quarter of the Southeast Quarter of Section 4, Township 10 North, Range 27 East, W.M. The Shoreline Management Plan designation is Rural Environment. Applicant: Matt Baker -- 113618 N Harrington Road - West Richland, WA 99353.

Mr. Posey summarized said action for the Shorelines Hearing Board and clarification received from the Prosecuting Attorney's Office of Benton County regarding "If the shorelines/conditional use permit were to be approved for the commercial use of the gazebo for the event facility would this be disallowed seeing as the special use permit for the event center was denied."

The Chairman stated that testimony would be limited to the clarification from the Prosecuting Attorney for Benton County.

APPLICANT TESTIMONY:

MATT BAKER – 113618 N HARRINGTON ROAD – WEST RICHLAND, WA 99353 stated that there would not be any cars or vehicles within 200 feet of the river.

JOHN ZIOBRO – ATTORNEY REPRESENTING THE APPLICANT – 1333 COLUMBIA PARK TRAIL – STE 110 – RICHLAND, WA 99352 stated we have an accessory structure that is governed by Benton County Code 3.26.060. We have an engineer who states that it is compliant for its location. I think the question is does the wedding business become a magic wand that somehow makes this an impermissible use because the structure to him was clearly authorized. What we want to do and what I wanted Mr. Baker to do is make clear that he can park his vehicles over 200 feet from the shoreline. He would agree to a condition that would allow him to do that. Currently, we do not have parking within 200 feet. We have a gazebo, tables, chairs within 200 feet and the question becomes what is the impact on the shoreline. What are talking about is it setting up tables, chairs, people congregating within the 200 feet, people walking down to the water or is it the landscaping along the shoreline that is somehow causing the problem. These are things that are properly before the Board based on the fact that we are talking about a commercial use on a facility that is otherwise appropriate for the area. The applicant is willing to work with the County. If there are standards for preserving natural vegetation or wildlife habitat within some defined area along the shore, we have no problem with that. The Board does have pictures showing a lawn that the applicant mows near the shoreline. No evidence presented that shows that the weddings themselves will cause any harm to the shoreline. It is people taking up space in an area between the gazebo and the river. We are willing to work on any mitigation measures that the Board deems appropriate. I have just summarized the codes that I feel are relevant as testimony was presented with regards to the existing structure. If the Board reviews the Benton County Code and the Shoreline Management Act that as long as the building has an engineering authorization for hydraulics in the event of a flood and is not an enclosed building; but accessory structure it is authorized within the area. It is also worth summarizing the goals of the Shorelines Management Act to preserve the natural character of the shoreline, protect resources and ecology of the shoreline, increase public access to the publicly owned areas (which is not relevant to this proceeding) and to increase recreational opportunities to the public in the shoreline. Again, this is private property and the Shoreline Management Act specifically does not prohibit development of the state shoreline, but instead calls for coordinated planning recognizing and protecting private property rights consistent with public interest. The main focus needs to be on what does a wedding business do to impact the shoreline.

Mr. Bestebreuer asked Mr. Ziobro if he had any comment on the last paragraph of BOAH 3.1.

Mr. Ziobro replied he had no comment. The Board could make it a condition.

OPPONENT TESTIMONY:

CHARLIE BOWERS – 6725 W CLEARWATER AVENUE – KENNEWICK, WA 99336 – (Attorney for Opponent Property Owners) addressed the last paragraph on BOAH 3.1. He did not see a need to grant a shoreline permit if it could not actually be used. If the conditional use permit is later determined by a court to be granted, then there could be a motion for reconsideration brought to the Shorelines Hearing Board to consider. However, at this time one of the conditions would have to be that the special use permit be approved, which has been denied. As to some of the other items that were mentioned tonight, it is a gazebo, it is a commercial operation and it is located within 200 feet of the shoreline, tables, chairs, people, children playing by the shore, landscaping to the shoreline, and prior violations brought to the Board's attention; but the key is there is a condition that could not be met, so it should be denied.

APPLICANT REBUTTAL:

JOHN ZIOBRO – 1333 COLUMBIA PARK TRAIL – STE 110 – RICHLAND, WA 99352 – stated that there is no reconsideration procedure in the Board's code. If there were an appeal of the conditional use permit and this were remanded back then the condition that the Board bases the denial on would be eliminated. Now, we need a decision. Otherwise this whole process has been rendered meaningless and would have to be conducted again before the Board with testimony. The economical thing for the Board to do would be to make the findings and conclusions, make the conditions of approval or denial.

Hearing closed.

Mr. Page: The special use permit was denied, so the gazebo could not be used commercially; but for private use would be acceptable. The applicant does not need a shoreline permit for private use of the gazebo. If the applicant appeals the Board of Adjustment's denial of the special use permit and the decision was overturned; then the applicant would need to return to the Shorelines Hearing Board for approval of the gazebo to be used as a commercial use in conjunction with the special use permit. He felt that the applicant was not in any violation of the shoreline.

Mr. Bestebreur stated that the original contour of the shoreline would need to be restored upon completion of the wetland riparian areas; if this action were to be approved.

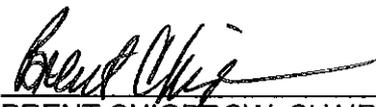
Mr. Burows noted that prior testimony presented was that the shoreline area had been disturbed.

The Board discussed the shoreline being disturbed without obtaining the necessary permits, bringing in fill and destroying the natural vegetation.

Discussed Condition No. 2, which states, "The original contour of the landscape should be restored upon completion of construction. In the wetland and riparian areas only native soils should be used to backfill and level the disturbed area." The Board felt that this would be a very difficult condition to satisfy.

MOTION: Mr. Bestebreur made a motion and seconded by Mr. Burows that the Shorelines Hearing Board, pursuant to the aforementioned controlling factors, finds that the application of Matt/Whitney Baker for a Shorelines Substantial Conditional Use – SCUP 10-01 should be **denied** based on the decisions and findings made by the Shorelines Hearing Board and that the Chairman, in conjunction with the Secretary of the Shorelines Hearing Board, prepare and adopt written findings and conclusions that articulate and are consistent with the findings, conclusions and decisions made by the Shorelines Hearing Board tonight. Motion carried.

The Chairman adjourned the Shorelines Hearing Board at 9:27 p.m.



BRENT CHIGBROW, CHAIRMAN
SHORELINES HEARING BOARD

RECORDER: CAREL HIATT