ISLAND COUNTY HEARING EXAMINER

RE: Appeal ) File No. APP 364/08
Appellant: APP 364/08 SAPP ) FINDINGS OF FACT
) CONCLUSIONS OF LAW
) AND DECISION

SUMMARY OF APPEAL AND DECISION

APPEAL: The appellant, Charles Sapp, has appealed a decision by Island County Planning & Community Development approving Site Plan Review SPR 192/08 on December 12, 2008. The decision by Planning granted a Site Plan Approval which would allow a seventeen thousand square foot personal storage facility in a five structure clustered development on a 16.16 acre parcel located north of Coupeville along SR 20. The timely appeal was filed on December 26, 2008 and comprehensive statement outlining the grounds for the appeal was filed in a timely manner on January 10, 2009.

DECISION: The Island County Hearing Examiner upholds the decision of Planning & Community Development to approve SPR 192/08 subject to nine conditions.

FINDINGS OF FACT

INTRODUCTION

The following Findings of Fact and Conclusions of Law are based upon consideration of the exhibits admitted herein and evidence presented at the public hearing on March 5, 2009.

I.

PRELIMINARY INFORMATION

Appellant: Charles T. Sapp

Property Location: East side of SR 20 north of Penn Cove and south of Oak Harbor.
R13220-334-2900

Publication: February 18, 2009

Mailing of Notice to Appellant: January 14, 2009
Mailing of Staff Report: February 23, 2009

Date of Appeal: December 26, 2008

Date of Comprehensive Statement: January 10, 2009

Hearing Date: March 5, 2009

Exhibit Log:

1. Appeal Response
2. Staff Report for SPR 192/08, dated 12/12/08
3. Land Development Permit Application, received 6/16/08
4. Site Plan Review Application, received 6/16/08
5. Environmental Checklist, received 6/16/08
6. Color Picture 1 of 2, looking east from SR 20, received 6/16/08
7. Color Picture 2 of 2, looking north from SR 20, received 6/16/08
8. Ariel photo 1 of 2, south ½, received 6/16/08
9. Ariel photo 2 of 2, north ½, received 6/16/08
10. Letter from Curtis Pierce, received 6/16/08
11. Exhibit A, legal description, received 6/16/08
12. Site Registration, received 6/16/08
13. Certificate of Transportation Concurrency, received 6/16/08
14. Access Connection Permit, received 6/16/08
15. Wetland Determination Report, received 6/16/08
16. Drainage Report, received 6/16/08
17. Site Data Request for Comment, dated 6/27/08
18. Letter from Aneta Hupfauer, Land Use Coordinator, to Jeff Tate, dated 7/17/08
19. Email from John Tellesbo, WSDOT, to John Bertrand dated 9/29/08
20. Letter from John Tellesbo, WSDOT, to Curtis Pierce, received 9/29/08
21. Certificate of Transportation Concurrency, received 10/6/08
22. Letter from Jeff Tate to John Bertrand, dated 10/15/08
23. Letter with reviews from Public Health, Public Works and Bldg depts. From Jeff Tate to Curtis Pierce, dated 10/16/08
24. Letter from John Bertrand to Jeff Tate, dated 10/23/08
25. Drawing submitted, received 10/28/08
26. Letter from Aneta Hupfauer to Jeff Tate, dated 11/10/08
27. Letter of Approval of Site Plan Review from Jeff Tate, dated 12/12/08
28. Applicant Acknowledgment Form signed, received 12/16/08
29. Public Comment letter from Cassandra Godden, received 7/23/08
30. Public Comment letter from Drewerina A. Nydam, received 7/23/08
31. Public Comment letter from James R. Eelkema, received 7/23/08
32. Public Comment letter from Robert and Eleanor Leach, received 7/23/08
33. Public Comment letter from Susanna S. Sapp, Joann B. Sapp & Chuck T. Sapp, received 7/23/08
34. Public Comment letter from Leslie Hassler, received 7/23/08
35. Public Comment letter from Dustin Conklin, received 7/23/08
36. Public Comment letter from Nathan Goodin, received 7/23/08
37. Public Comment letter from Alicia Silves, received 7/23/08
38. Public Comment letter from Carolyn Goodin, received 7/23/08
39. Public Comment letter from Robert Goodin, received 7/23/08
40. Public Comment letter from Anna M. Eelkema, received 7/23/08
41. Letter of Complete Application from Andreana Richardson to Civil-Landengr, LLC, dated 6/27/08
42. Affidavit of Posting the Public Notice Sign, received 7/8/08
43. Notice of Application with SEPA, dated 7/9/08
44. Letter with 2 Enclosures from Paula Bradshaw to Curtis Pierce, dated 12/26/08
45. Letter from Charles T. Sapp to Michael Bobbink, dated 1/10/09
46. Letter from Paula Bradshaw to Charles T. Sapp, dated 1/14/09
47. Affidavit of Mailing, dated 1/15/09
48. 24x36 Site Plan Cover Sheet 1 of 4, approved 12/12/08
49. 24x36 Grading & Erosion Control Plan, sheet 2 of 4, approved 12/12/08
50. 24x36 Drainage Plan, sheet 3 of 4, approved 12/12/08
51. 24x36 Site Geometry Plan, sheet 4 of 4, approved 12/12/08
52. 24x36 Site Geometry Plan with additional landscape emphasis, sheet 4 of 4, approved 12/12/08
53. 24x36 & 8-1/2 Site Plan with Lighting Plan & Proposed Light Fixture, approved 12/12/08
54. Letter to the Board of Island County Commissioners from Charles Sapp, cc: Michael Bobbink, Hearing Examiner, received 2/10/09
55. Letter from Paula Bradshaw to Charles Sapp, dated 2/23/09
56. Affidavit of Mailing, dated 2/23/09

HEARING TESTIMONY

Chuck Sapp
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Carol Croft
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Pat Kelly
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II.

The current proposal for a seventeen thousand square foot, five building personal storage facility was approved by Island County Planning & Community Development on December 12, 2008. The decision approving the proposed facility is Exhibit No. 2 in the Hearing Examiner file. In the decision (Exhibit 2) Planning set forth a series of factual findings in pages one through five of the Planning Departments’ Decision (titled as a Staff Report). The Hearing Examiner has carefully reviewed staff’s findings as set forth in Exhibit No. 2 and concludes that the findings are supported by the record as a whole and should be adopted by the Hearing Examiner as Findings of Fact herein. The Findings of Fact set forth by staff in the decision issued December 12, 2008, Exhibit No. 2 in the Hearing Examiner file, a copy of which is attached hereto and incorporated herein by this reference, are hereby adopted as Findings of Fact by the Hearing Examiner.

III.

In compliance with the requirements of the Island County Code the appellant filed a statement of the grounds of appeal on January 12, 2009. This statement, dated January 10, 2009 was the only written statement outlining the issues the appellant wished to raise in regards to the Planning Department approval. The Planning Department responded to Mr. Sapp’s grounds for appealing in a Staff Report marked as Exhibit No. 1 in the Hearing Examiner file. Both the original decision granting Site Plan Approval and the Staff Response to Mr. Sapp’s appeal were prepared by Jeff Tate, who was at that time the Director of Island County Planning & Community Development. The facts set forth on page one and two of staff’s response, Exhibit No. 1 are supported by the record as a whole and are hereby adopted as Findings of Fact herein. Exhibit No. 1 is attached hereto and incorporated herein by this reference.

IV.

Concerns were raised at the hearing by the appellant and by members of the community who testified regarding the safety of the access point to the facility from SR 20. Anecdotal evidence was given by the opponents of the proposal indicating that they felt location of the access off of
SR 20 was dangerous and that approval of this proposal would result in accidents. The applicant has received an Access Permit from the Washington State Department of Transportation. WDOT applies standards relating to sight distance when reviewing Access Permits and concluded that the proposed access point was safe. No factual evidence was submitted by the appellant or concerned citizens to support a conclusion that the sight distance was inadequate. The Hearing Examiner concludes that the sight distance for the access point is adequate and that the access is located in a manner such as to not impose a danger.

V.

Concerns were raised by the appellant regarding notice. The facts regarding notice are set forth in Exhibits No. 1 and 2. The record supports a finding that timely notices were given in the manner required by the applicable Island County Ordinance.

VI.

Concerns were raised about the potential for criminal activity. The suggestion is that personal storage facilities are somehow a magnet for increased criminal activity. Personal storage facilities can be a place where stolen property or other contraband is stored. It can also be a location where criminal elements commit theft. No specific factual evidence was introduced which would indicate a special criminal problem relating to storage facilities as compared to other kinds of structures such as residential, warehousing, retail, etc. Staff’s response to concerns about criminal activity was to indicate that this was not one of the criteria applicable to this proposal under existing Island County ordinances. The Island County Board of Commissioners has allowed Personal Storage facilities in the Rural zone subject to Site Plan and Conditional Use Approval and there is no evidence suggesting that this location would result in extraordinary risks of criminal activity affecting the area in which it will be located.

VII.

Concern was raised about the potential for overnight parking of trailers and/or automobile repair. None of these uses were part of the application and therefore staff’s approval did not approve any outdoor storage or the operation of commercial businesses within the storage facility. In order to make this more explicit staff recommended an additional condition, set forth in the Staff Response to the appeal, Exhibit No. 1, on page four. The applicant did not object to this condition. The Hearing Examiner will include the condition limiting all storage to indoor storage and prohibiting other types of uses within the facility other than indoor storage without a formal amendment to the Site Plan Approval or submission of a new Site Plan Review Application.

VIII.

The main issue raised by this appeal is the compatibility of the proposed storage facility with the existing character of the neighborhood and with the preservation of rural character. The issue of compatibility with existing and anticipated future uses is a mixed question of fact and law. The nature of the proposed use, including building size and design, remaining open space, and the
character of the immediately surrounding community are factual matters which have been dealt with in the Planning Department decision approving the proposed facilities subject to conditions. As indicated above the Hearing Examiner concludes that the factual determinations made by the Planning Department were accurate. The issue remains as to whether or not the facility as proposed, designed, and conditioned meets the criteria for compatibility.

Any Conclusion of Law which is deemed a Finding of Fact is hereby adopted as such. Based on the foregoing Findings of Fact, now are entered the following:

CONCLUSIONS OF LAW

I.

The appellant suggests that the project should not be approved because the property is not zoned for business of this type. In this the appellant is in error. Personal storage facilities are specifically allowed in the Rural zone under the applicable ordinances, as a Conditional Use. In order for a personal storage facility to be approved it must be consistent with the criteria for Site Plan Review, with the Island County Comprehensive Plan, and with the specific development standards applicable to locating personal storage facilities in the Rural zone.

A different personal storage facility on this site was denied by the Planning Department and the denial was upheld by the Hearing Examiner. As pointed out in the Staff Report prepared by the Planning Director, the current proposal has been greatly modified from the proposal that was denied. In the Staff Report and Decision the Planning Director carefully reviewed all of the applicable criteria and concluded that, subject to conditions of approval, the current proposal met all of the requirements for the approval of a personal storage facility at this location. The Hearing Examiner has carefully reviewed staff’s Findings and Conclusions and fully concurs in the Staff Decision granting approval. The Hearing Examiner hereby adopts staff’s Conclusions of Law as set forth in the Staff Decision on pages five and six.

Numerous low impact commercial uses are allowed within the Rural zone. As designed and conditioned this storage facility will be attractive and will not have significant adverse impacts, either aesthetically or otherwise, on existing development within or the character of this area.

In general in should be noted that the Island County Comprehensive Plan and Zoning ordinance favors clustering of development in rural areas in order to maintain open space. This proposal clusters the development in five attractive buildings ranging from twenty-eight hundred square feet to thirty-nine hundred square feet. Specific landscaping is required to help maintain the visual rural character of the area. The area itself consists of a mixture of open fields, agricultural buildings, and rural to suburban density residential development. A large majority of this rural site will be maintained as open field.

The development does not result in a high traffic level. The parcel could be subdivided into three five-acre plus parcels, each developed with a single family residence and rural outbuildings.
Spreading the development over the entire parcel instead of clustering it at one end of the property would actually have more negative impact on the rural nature of this portion of Island County than does the proposed personal storage facility.

II.

The Hearing Examiner concurs in the Planning Director’s conclusion that the proposed facility as conditioned meets all of the requirements for approval set forth in Island County ordinances and is consistent with the Island County Comprehensive Plan. The Hearing Examiner believes that work done by staff in this matter was exemplary and that the Hearing Examiner cannot improve either on the design of the proposal, the conditions to which it should be subjected, or the explanation as to why this facility has met the requirements for approval.

The Hearing Examiner should deny the appeal and uphold the Planning Department’s decision to approve the facility subject to nine conditions as set forth in the Planning Director’s decision, dated December 12, 2008, with the exception of an addition of a proposed condition number ten as set forth in the Planning Department’s response to appeal, Exhibit No. 1, page four.

Any Finding of Fact deemed to be a Conclusion of Law is hereby adopted as such. Based on the foregoing Findings of Fact and Conclusions of Law, now is entered the following:

DECISION

The Island County Hearing Examiner upholds the Planning Director’s decision approving SPR 192/08, to allow construction of seventeen thousand square feet of personal storage facility within five buildings located on the north end of the subject parcel, subject to the following ten conditions.

1. General Conditions
   a. Maximum square footage of the personal storage facility shall be 17,000 square feet.
   b. Maximum height of any structure shall be 35 feet.
   c. All structures shall adhere to the minimum side yard and street setback requirements set forth in ICC 17.03.180.S.
   d. Maximum impervious surface of the site shall not exceed 10% of the total site. The site plan review drawing states that the total area of impervious surface is 24,000 square feet (17,000 square feet of personal storage; 5,000 square feet of asphalt; 2,000 square foot single family residence).
   e. A minimum open space ratio of 50% shall be maintained.
   f. Occupancy of the buildings shall not be granted until it has been demonstrated that all of the site plan review conditions have been met.
2. **Signs.** Freestanding signs, or signs that are affixed to a structure, shall be constructed only after Island County Building has approved a building permit for the sign. Signage shall be unlit and shall not exceed 9 square feet in size. The color scheme of the sign shall be of a dark colored background with lettering being a light color. The background color shall be the same color as that of one of the storage buildings. The sign shall be made of wood materials or materials that resemble wood.

3. **Lights.** Specific information shall be provided with each building permit application that details the exterior light fixture. Light fixtures shall be cut off and shielded so that the lighting element is not visible from adjacent properties or public roads. Lighting of signs and or other portions of the property are not permitted without additional review, however, exterior lighting of the future single family residence is allowed but is limited to 60 watt bulbs or equivalent.

4. **Landscaping.** The landscaping plan that is approved with this site plan review application is conceptual in nature. The portion that is approved with this site plan is the general location of where landscaping work should occur, the random nature of the type and spacing of plantings, and the avoidance of unnatural tree lines. Variety shall be provided in the height or age of a given species of tree that is planted. For example, all of the Western Red Cedars that are planted should not be the same height or age, rather there should be a variety of heights and ages. Variety means that there are at least three different heights or ages for each type of vegetation. Landscaping shall be installed and inspected prior to final occupancy of any of the buildings. Prior to installing the landscaping, an on-site consultation shall be set up between the applicant and staff to identify the specific locations for landscaping installation.

5. **Design.** Building permit applications are required prior to the construction of the barn structures. Color and materials will be reviewed again during building permit review. The structures that are depicted in the drawings are approved in concept. It is recognized that when an architect or engineer begins to assemble structural plans that the buildings may change slightly. The building designs submitted with the building permit applications shall be substantially similar in size, shape, footprint, mass, color and height as those that are approved as part of the conceptual drawings.

6. **Single Family Residence.** A building permit application is required prior to construction of the single family residence. This will also require approval of water and sewer from Island County Health. A building permit application for the single family residence shall be submitted within 24 months of the date of this approval.

7. **Health.** The applicant shall adhere to the conditions outlined in the memo from Aneta Hupfauer dated November 10, 2008 to Jeff Tate and the approved Solid Waste Management Plan.

8. **Public Works.** The applicant shall adhere to the conditions outlined in the memo from John Bertrand dated October 23, 2008 to Jeff Tate.

9. **Building.** The applicant shall adhere to the conditions outlined in the memo from Tamra Patterson dated July 9, 2008 to Jeff Tate.

10. **Uses.** This site plan approval is limited to indoor storage of personal goods. Outdoor storage is strictly prohibited and other types of land uses are not allowed without amendment to this
site plan approval or submittal of a new site plan review application. Space within the
individual units is limited to dry storage. Units may not be used to operate other business
ventures by the owner, manager or tenants of said units.

Entered this 16th day of March, 2009, pursuant to authority granted under the laws of the State of
Washington and Island County.

________________________________
MICHAEL BOBBINK
Island County Hearing Examiner

APPEAL PROCESS:

APP (Administrative Decision)

Appeal Process: This land use decision is a final determination which may be appealed by filing
a land use petition in Island County Superior Court within twenty-one (21) days of its issuance.
Specific requirements for the petitions contents, time and service of process, and payment of the
cost of the transcription of the record of the hearing may be found in Chapter 70C of Title 36
RCW.
STAFF REPORT
SITE PLAN REVIEW – TYPE II
SPR 192/08

PROPOSAL
Development of a 17,000 square foot personal storage facility on a 16.16 acre parcel zoned Rural. The personal storage facility will be located in five separate structures that are located on the north end of the subject property and will be accessed from State Route 20. The application also proposes future construction of a new single family residence.

FINDINGS
Planning and Community Development has considered said application and found that:

1. Project and Parcel History: This Site Plan Review application was submitted on June 20, 2008 and determined to be complete by Island County on June 27, 2008. The review of the application followed the Type II Decision Process as required by Chapter 16.19 ICC. The comment period for the proposal ended on July 23, 2008. 12 public comment letters were received.

   a. The applicant previously submitted a Site Plan Review application for a 68,000 square foot personal storage facility under SPR 477/06. Staff issued a denial of SPR 477/06 which was subsequently appealed by the applicant. The Hearing Examiner upheld staff’s denial of the application. The basis for the decision to deny the previous proposal was due to the adverse impact on the rural character of the community and the impacts on the adjacent properties. The previous proposal requested 68,000 square feet of personal storage that covered the majority of the property and a landscaping that would have created a wall like feature in an area that is primarily a pastured setting.

   b. The applicant submitted a revised application (SPR 192/08) on June 20, 2008 which substantially reduced the scope of the project, clustered the structures, and modified the appearance of the structures to more closely resemble agricultural buildings.
2. **Zoning and Land Use Standards**: Chapter 17.03 ICC establishes the zoning and land use standards that govern the uses that may be permitted on a given parcel. Chapter 16.15 ICC establishes the procedural requirements for processing Site Plan Review applications.
   a. The subject parcel is zoned Rural. ICC 17.03.060.B lists personal storage facilities as a use that may be conditionally permitted.
   b. ICC 17.03.040 defines personal storage as structures containing separate self-service storage spaces that are leased or rented as individual units.
   c. ICC 17.03.180.C establishes the standards for personal storage facilities in the Rural zone.
      i. In order to site a personal storage facility the Rural zoned parcel must be a minimum of 5 acres in size. The subject parcel is 16.16 acres in size.
      ii. The facility must take primary access from a local arterial, county collector or state highway. The proposed facility will take access from SR 20.
      iii. The total square footage of the facility is limited to 17,000 square feet for parcels larger than 5 acres or 24,000 square feet if the parcel is larger than 10 acres. Total square footage of the proposed facility is 17,000 square feet.
      iv. A personal storage facility shall comply with the non-residential design, landscape, signage, site coverage, lighting, open space, screening, and buffering standards. The analysis section of this staff report describes how the proposal compares to each of these standards.

3. **Site Description**
   a. **Location**: The property is located on the east side of SR 20 north of Penn Cove and South of Oak Harbor. The parcel is located in the NE 1/4 of Section 20, Township 32 North, Range 1 East, W.M., Whidbey Island, Washington.
   b. **Access**: The proposed development will be accessed from SR 20.
   c. **Site Size and Condition**: The subject property is approximately 16.16 acres in size. It is relatively flat and primarily vegetated with grasses and other herbs except for the northern extent of the property which contains a stand of coniferous trees and some bushes.
   d. **Natural Features**: There are no known endangered species on the subject site. There is a small Category A wetland located on the southern portion of the property. According to the USDA Soil Survey for Island County - 1958, the predominant soil type found on the parcel is Casey loam (Ce) with 0-5% slopes and Norma silt loam (Nc) with 0-2% slopes. The FEMA flood zone designation is X.
   e. **Archaeological Sites**: According to the maps provided by the State Office of Archaeology and Historic Preservation, the project is not located on or near an archaeological site.
   f. **Historic Districts**: The site is not within a Historic District.
   g. **Surrounding Properties**: The subject parcel is not located within 500 feet of **Rural Agriculture (RA), Commercial Agriculture (CA), or Rural Forest (RF)** zoned property.
ANALYSIS

1. The proposed personal storage facility may be permitted in the Rural zone provided that it meets all applicable regulations and standards for conditional uses. As proposed, the facility meets the numerical standards for lot size, square footage, building height, setback and site coverage ratios.

2. The applicant has submitted conceptual drawings that depict architectural style, color, roof line, and exterior materials. The structures are intended to appear agricultural in nature. Three different building styles and sizes have been proposed. Building #1 is 2,800 square feet of which 2 are proposed. Building #2 is 3,900 square feet of which 2 are proposed. Building #3 is 3,600 square feet of which 1 is proposed. Each type of building is intended to resemble a different type of barn that are depicted in different colors. The color scheme for the buildings is red and neutrals with a wood appearance. The architectural styles, materials and colors are consistent with other types of agricultural structures in Island County and can therefore fit into the rural landscape.

3. Clustering. The five personal storage buildings are clustered on the northern end of the parcel. The clustered nature of the buildings is intended to resemble a traditional agricultural cluster of barns that is common on farmsteads. The clustering of the buildings on one end of the parcel also leaves the remaining portion of the property undisturbed and in its current pastured landscape and maintains the continuity of the landscape to the east and south.

4. Massing. The cluster has been placed on the north edge of the property to take advantage of the existing tree line located immediately adjacent to the proposed buildings. By placing the cluster adjacent to the tree line, building mass and size are reduced. When viewing the cluster from the south, southwest and southeast, or when approaching the cluster from the south while travelling along the highway, the much taller tree line behind the cluster has the effect of making the buildings seem smaller than if they were out in the middle of a field.

5. Screening. There are several screening and visual buffering techniques that have been incorporated into the project. First, the tree line and curvature of SR 20 help provide screening from the properties to the north, northeast and northwest, as well as for highway traffic that is travelling from the north to the south. Second, units #1, #2, and #3 have been placed in locations that screen the majority of units #4 and #5. Third, the future single family residence will help break up the view into the facility. Fourth, sporadic plantings of native trees and shrubs on the east and south sides of the cluster will help soften the appearance of the facility. Landscaping will not create any continuous tree lines that do not already exist on the property, nor will it substantially impact the views looking across the property from north to south. Enhanced landscaping is intended to appear natural by utilizing a variety of native species that are different ages and height so as to ensure a natural appearance.

6. Design. All three structures are intended to resemble barns that looks like a traditional agricultural cluster of buildings. The cluster will consist of five barns plus a single family residence. The five barns will consist of three unique designs. Each of the three designs provides a different roof line, footprint and different heights. The purpose of having different roof lines, footprints, and heights is to accentuate the agricultural cluster effect and to avoid
the repetition normally associated with personal storage facilities. Further variety will be provided through different color schemes on each of the buildings.

7. Layout. The buildings have been purposefully laid out and designed so as to eliminate the repetitive pattern that is customarily associated with personal storage. Instead of having several buildings that are exactly the same footprint and that are lined up parallel with each other, there are three different footprints for the five buildings. Additionally, the buildings are offset from each other so that there is no repetition. As has been indicated under the section describing screening techniques, units #1 and #2 have been purposefully shifted to the north and west sides of the property. The single family residence and units #3, #4 and #5 have been placed on the eastern and southern peripheries of the cluster in a manner that helps hide units #1 and #2. Each of the buildings have been offset from each other so that it reduces the view corridors that are created when building lines are parallel to each other.

8. Signage. The applicant has provided a conceptual drawing of a sign that would advertise the personal storage facility. No lighting is proposed for the sign which will be reflected in a condition. The applicant has provided dimensions of the sign which do not meet the standards for the Rural zone. Pursuant to ICC 17.03.R.2.g.i signs in the Rural zone may not exceed 9 square feet in size. The proposed sign is depicted as 48 square feet. The shape of the sign and the information contained on the sign meet the minimum standard for signs, however, a condition must be established that limits the size of the sign to 9 square feet. The color scheme shown is a brown background with red letters. The color scheme should match the buildings. Since a dark color is required for the background it would make sense to have the background of the sign be the same red that is used as the color for one of the structures. The lettering could then be the same color as one of the neutrals that are used on the other structures. Additionally, the sign should have a border color that matches the lettering.

The materials for the sign are not depicted in the drawing. It is assumed that the sign will be constructed of wood or a material that resembles wood.

A building permit will be required for the sign, therefore, the color, design, size and materials used can be evaluated through the building permit process. Conditions should be established that make it clear that these issues need to be addressed when the owner submits the building permit application.

9. Lighting. The lighting plan shows that there would be four exterior lights affixed to each building. No additional lights are proposed for the access, sign, parking areas, driveways, or other areas of the property. The lights that are affixed to the individual structures must meet the lighting standards of Island County Code which means that they are to be cut off and shielded in a manner that will not allow light to spray onto other properties or roads. The sample light fixture that has been submitted with the application is a compliant light fixture, however, individual light fixtures must be submitted with the building permit applications for the barn structures. Conditions need to be established that reflect these requirements.

10. Fencing. Fencing is proposed around the perimeter of the cluster. The proposed fencing is black vinyl coated chain link. The black vinyl coating applied to chain link fencing helps soften the visual impact that a fence can have. When viewing a black or brown fence from a
distance the fence tends to blend in to the colors that are behind the fence. In this particular instance, black vinyl coated fencing is preferred over cedar fencing because of the amount of fencing that is needed to secure the entire cluster. A wooden fence would be much more visually obtrusive due to the solid nature of the fence. Additionally, because the barn structures have been designed to be typical of a rural or agricultural setting it is not the intent to have the fence screen the buildings. Furthermore, the proposed landscaping enhancements will occur outside of the fencing which will mean that less fencing will be visible.

11. Single Family Residence. The future single family residence will provide some visual screening of the facility as described above. The addition of a single family residence adjacent to the cluster will help make the whole facility look more like a farmstead than a personal storage facility. It may also provide for a caretakers residence that may be used in the future. A building permit and associated health approvals will be required for any future residential structures.

CONCLUSIONS

1. The zoning standards of Chapter 17.03 ICC state that personal storage facilities may be granted approval in the Rural zoning designation. The subject parcel is zoned Rural, therefore a personal storage facility may be permitted provided that it meets all other applicable regulations.

2. The land use standards of Chapter 17.03 ICC require that personal storage facilities located in the Rural zone be placed on lots no less than five acres in size. The subject parcel is 16.16 acres and therefore meets the minimum lot size requirements.

3. The land use standards of Chapter 17.03 ICC require that personal storage facilities be no larger than 17,000 square feet on parcels that are 5 acres in size or larger and therefore meets the square footage standards (in fact, the facility could be as large as 24,000 square feet).

4. The land use standards of Chapter 17.03 ICC require that personal storage facilities gain access from a local arterial, county collector or state highway. The proposed facility will gain access from SR 20 and therefore meets the access requirements. Additionally, the applicant has been provided with an approved Washington State Department of Transportation access permit.

5. The land use standards of ICC 17.03.180.P establish the requirements for non-residential design, landscape and screening. The clustering concept and building design are agricultural in appearance and therefore meet the design standards. It is staff’s conclusion that the agricultural nature of the structures eliminates the need to completely screen the facility, rather there are techniques that need to be incorporated to help soften its appearance and reduce the massing and scale of the complex. The proposal takes advantage of the natural tree line and curvature of the road to help screen the facility from the north. The building orientation and layout on the east and south helps screen a significant portion of the remaining development. The single family residence provides additional screening potential. Landscaping on the east and south sides of the cluster provide additional softening of the visual impact.
6. The land use standards of ICC 17.03.180.R establish the requirements for signage and lighting. The proposed unlit sign is larger than what may be permitted in the Rural zone. Additionally, the color scheme needs to be modified, and the materials need to be disclosed. The shape and style of the sign is consistent with the signage requirements. Because a building permit will be required prior to construction of the sign, the dimension, color scheme, and materials can be evaluated at the time of the building permit application submittal. Conditions in this staff report should be established that address the requirements for size, color, and materials as an advanced notice that a building permit application is required.

7. The land use standards of ICC 17.03.180.S establish the requirements for setbacks and site coverage ratios. The site coverage standards require that a minimum of 50% of the site remain in open space. The site is 16.16 acres which means that at least 8.08 acres remain in open space. In excess of 13 acres are proposed to remain in open space. The site coverage standards require that no more than 10% of the site be covered with impervious surface. Approximately 3.41% of the site is proposed to be covered with impervious surface. The street setback in the Rural zone is 30 feet while the side yard setback is 10 feet. The proposed facility is located in excess of 100 feet from the street and in excess of 50 feet from the property lines. The proposed facility meets all of the setback and site coverage ratio standards.

8. The applicant has been provided with an approved Certificate of Transportation Concurrency from Island County Public Works on September 29, 2008.

9. The proposal has been reviewed by the Island County Public Works Department for consistency with Title 11 of the Island County Code. On October 23, 2008 Public Works determined that the proposal, subject to conditions, meets the standards of Title 11.

10. The proposal has been reviewed by the Island County Health Department for consistency with septic, water and aquifer recharge requirements. On November 10, 2008 Health determined that the proposal, subject to conditions, meets the standards for septic, water and aquifer recharge.

**DECISION**

Following review of the Site Plan Review application for conformity with the Island County Site Plan Review Ordinance, the Island County Zoning Ordinance, and other applicable ordinances, laws and policies, application number SPR 192/08 is hereby granted approval subject to the following conditions:

1. **General Conditions**
   
   a. Maximum square footage of the personal storage facility shall be 17,000 square feet.
   
   b. Maximum height of any structure shall be 35 feet.
   
   c. All structures shall adhere to the minimum side yard and street setback requirements set forth in ICC 17.03.180.S.
d. Maximum impervious surface of the site shall not exceed 10% of the total site. The site plan review drawing states that the total area of impervious surface is 24,000 square feet (17,000 square feet of personal storage; 5,000 square feet of asphalt; 2,000 square foot single family residence).

e. A minimum open space ratio of 50% shall be maintained.

f. Occupancy of the buildings shall not be granted until it has been demonstrated that all of the site plan review conditions have been met.

2. **Signs.** Freestanding signs, or signs that are affixed to a structure, shall be constructed only after Island County Building has approved a building permit for the sign. Signage shall be unlit and shall not exceed 9 square feet in size. The color scheme of the sign shall be of a dark colored background with lettering being a light color. The background color shall be the same color as that of one of the storage buildings. The sign shall be made of wood materials or materials that resemble wood.

3. **Lights.** Specific information shall be provided with each building permit application that details the exterior light fixture. Light fixtures shall be cut off and shielded so that the lighting element is not visible from adjacent properties or public roads. Lighting of signs and or other portions of the property are not permitted without additional review, however, exterior lighting of the future single family residence is allowed but is limited to 60 watt bulbs or equivalent.

4. **Landscaping.** The landscaping plan that is approved with this site plan review application is conceptual in nature. The portion that is approved with this site plan is the general location of where landscaping work should occur, the random nature of the type and spacing of plantings, and the avoidance of unnatural tree lines. Variety shall be provided in the height or age of a given species of tree that is planted. For example, all of the Western Red Cedars that are planted should not be the same height or age, rather there should be a variety of heights and ages. Variety means that there are at least three different heights or ages for each type of vegetation. Landscaping shall be installed and inspected prior to final occupancy of any of the buildings. Prior to installing the landscaping, an on-site consultation shall be set up between the applicant and staff to identify the specific locations for landscaping installation.

5. **Design.** Building permit applications are required prior to the construction of the barn structures. Color and materials will be reviewed again during building permit review. The structures that are depicted in the drawings are approved in concept. It is recognized that when an architect or engineer begins to assemble structural plans that the buildings may change slightly. The building designs submitted with the building permit applications shall be substantially similar in size, shape, footprint, mass, color and height as those that are approved as part of the conceptual drawings.

6. **Single Family Residence.** A building permit application is required prior to construction of the single family residence. This will also require approval of water and sewer from Island County Health. A building permit application for the single family residence shall be submitted within 24 months of the date of this approval.
7. **Health.** The applicant shall adhere to the conditions outlined in the memo from Aneta Hufpauer dated November 10, 2008 to Jeff Tate and the approved Solid Waste Management Plan.

8. **Public Works.** The applicant shall adhere to the conditions outlined in the memo from John Bertrand dated October 23, 2008 to Jeff Tate.

9. **Building.** The applicant shall adhere to the conditions outlined in the memo from Tamra Patterson dated July 9, 2008 to Jeff Tate.

SIGNED THIS _______ DAY OF __________________, 2008.

___________________________________________

Jeff Tate, Director

**APPEALS**

Pursuant to Subsection ICC 16.19.190.B, administrative decisions of the Director on Type II applications shall be final and conclusive unless within fourteen (14) days following mailing of the Director’s decision, a written statement of appeal, accompanied by a fee, is filed with the Hearing Examiner by the Applicant, a Department of the County, or any Aggrieved Person. A more comprehensive statement setting forth in detail alleged errors and/or the basis for appeal must be submitted by the appealing Person or Department within thirty (30) days following mailing of the Director’s decision, or the appeal is not properly filed and will be dismissed without Hearing.
APPLICANT ACKNOWLEDGMENT

I, the applicant, hereby acknowledge that I have read the administrative site plan review and I understand and agree to abide by the conditions set forth herein.

Authorized Signature ___________________________________________ date

Curtis Pierce

Enclosures:
- Letter dated November 10, 2008 from Island County Health
- Letter dated October 23, 2008 from Island County Public Works
- Letter dated July 9, 2008 from Island County Building
- Approved Site Plan
APPEAL (APP) 364/08
Charles Sapp
Appeal of Site Plan Review (SPR) 192/08 – Curtis Pierce

I. General Information

Summary: Island County Planning and Community Development issued approval of SPR 192/08 on December 12, 2008. SPR 192/08 granted site plan approval of a 17,000 square foot personal storage facility located on a 16.16 acre Rural zoned parcel. The personal storage facility consists of 5 separate barn-like structures on a parcel located north of Coupeville along SR 20. The Island County Hearing Examiner’s office received a timely appeal by Charles Sapp on December 26, 2008. A comprehensive statement of appeal was filed on January 10, 2009.

Applicant: Curtis Pierce, 2495 Sunlight Beach Rd., Clinton, WA. 98236

Appellant: Charles Sapp, 1095 Bridle Trail Lane, Oak Harbor, WA. 98277

Parcel Information: Parcel #R13220-334-2900; Zoned Rural; 16.16 acres.

Site Location: The property is located on the east side of SR 20 north of Penn Cove and south of Oak Harbor. The parcel is located in the NE ¼ of Section 20, Township 32 North, Range 1 East, W.M., Whidbey Island, Washington.

Hearing date: March 5, 2009

Report Prepared by: Jeff Tate, Director

February 23, 2009
II. Relevant Background Information

1. The applicant had previously been denied site plan approval under application SPR 477/06. The previous proposal sought approval to construct 68,000 square feet of personal storage on the same parcel. Planning and Community Development denied the application request because of a variety of impacts that could not be adequately mitigated. The applicant appealed the Department’s administrative decision to the Hearing Examiner (APP 350/07) who upheld the Department’s decision.

2. In response to the Hearing Examiner’s decision the applicant redesigned the proposal and reduced the size of the project by 51,000 square feet (a 75% reduction in size). Site Plan Review (SPR) 192/08 was submitted on June 16, 2008. Through this site plan review, the applicant proposed to construct five mini storage buildings that total 17,000 square feet on a Rural zoned parcel that is 16.16 acres in size.

III. Findings of Fact

1. SPR 192/08 was submitted on June 16, 2008. Planning and Community Development determined that the application was complete on June 27, 2008.

2. Pursuant to ICC 17.03.060.B.1.m personal storage facility is listed as a Type II Conditional Use. The process for Type II applications is established in Chapter 16.19 ICC.

3. SPR 192/08 was published in the July 9, 2008 Whidbey News Times. A project description was provided and a two week public comment period established. The two week public comment period ended on July 23, 2008.

4. A yellow public notice sign was posted on the property prior to July 9, 2008. The sign includes information pertaining to the project description and announced the two week public comment period that ended on July 23, 2008. The sign was posted in the same location as the sign for SPR 477/06.

5. The staff report for SPR 192/08 describes the process for review of the proposal. On December 12, 2008 staff issued a written decision that grants approval for the construction of 5 barn like structures that, in aggregate, total 17,000 square feet of personal storage.

6. A written statement of appeal was filed with the Hearing Examiner’s office on December 26, 2008. A comprehensive statement of appeal was filed with the Hearing Examiner’s office on January 10, 2009.

IV. Response to Appeal

1. The appellant has outlined 7 concerns that form the basis for his appeal. Those concerns are as follows:
   a. The property is not zoned for business of this type.
   b. The proposal is out of character in this rural area.
   c. Adjacent properties will be devalued due to loss of ambience of country atmosphere.
   d. There is potential for drag and gang activity.
   e. There is no provision for limiting the parking of trailers or repairing autos.
   f. Did the Department of Transportation consider the potential for collisions.

2. The property is not zoned for business of this type. ICC 17.03.060 establishes the list of uses that are permitted or conditionally permitted in the Rural Zone. While the Rural Zone is intended to be predominantly low density residential it does allow for a range of non-residential uses that may be permitted provided other specified criteria can be met. ICC 17.03.060.B.1.m states that personal storage facilities may be permitted subject to adherence to other land development standards. ICC 17.03.040 defines personal storage as “structures containing separate self-service storage spaces that are leased or rented as
individual units.” ICC 17.03.180.C sets forth the development standards for personal storage facilities. After careful review of these standards Planning and Community Development has determined that the proposal meets all applicable code standards and is therefore an allowed use on the subject parcel.

3. **The proposal is out of character in this rural area.** The proposal was dramatically downsized and is therefore no longer out of character with the rural community. The proposed barn-like structures that are clustered on one portion of the property is a common appearance in the rural area. In fact, most modern day barns are quite a bit larger than the proposed buildings. The largest barn is 3,900 square feet in size, yet the County’s SEPA ordinance exempts barns of up to 15,000 square feet in the Rural Zone (30,000 square feet in the Commercial Agriculture and Rural Agriculture zones) from environmental review. Design, color, height, setbacks, line of site, landscaping, building footprint, and building placement have all been designed to create the appearance of a farm cluster rather than the traditional mini storage complex that is common in other rural areas outside of Island County or that are found in industrial areas.

4. **Adjacent properties will be devalued due to loss of ambience of country atmosphere.** Different personal storage facilities have had different impacts on property value. Traditional mini storage has the potential to impact property values when not properly mitigated. Other personal storage facilities in the rural parts of Island County have had minimal impact on property value. Provided that the facility appears agricultural in nature, and because the traffic volume for mini storage is so minimal, personal storage facilities can fit into the rural landscape without any impact on nearby property values. No information has been provided that substantiates this statement which makes it nothing more than speculative.

5. **There is potential for drug and gang activity.** The land use regulations are limited in their scope and do not include standards that are specifically intended to address this type of concern. Nonetheless, the proposal does include fencing that will be located around the perimeter of the personal storage facility along with safety lighting. As is the case with any land use activity, it is difficult to ensure that all activities within the confines of the development are legal activities. However, the County Sheriff responds to any suspicious activities that are reported.

6. **There is no provision for limiting the parking of trailers or repairing autos.** Outdoor storage and auto repair are not permitted in conjunction with this approval. Additionally, outdoor storage is only permitted in the Rural Center, Rural Village and Rural Service zoning designations. Auto repair is only permitted as a home industry and after site plan approval. Unless a site plan review application is applied for and approved, auto repair is not permitted. Planning and Community Development does not usually list prohibited uses within site plan approvals. Site plan approvals generally focus on the uses that are permitted through the application process. However, it may be appropriate to clarify that these types of uses are not permitted in order to avoid confusion in the future.

7. **Did the Department of Transportation consider the potential for collisions?** The Department of Transportation granted approval of a WSDOT access permit. The County relies upon WSDOT, who has jurisdiction of the ingress/egress approvals on State Highways, to review and locate access points that are designed to serve pending land use proposals. WSDOT was aware of the proposed personal storage facility during their review phase and approved the ingress/egress location.

**VII. Recommendation**

Island County Planning and Community Development recommends that the Hearing Examiner deny the appeals submitted by Charles Sapp and uphold the County’s site plan review approval subject to inclusion of a new condition #10 which would read as follows:

10. **Uses.** This site plan approval is limited to indoor storage of personal goods. Outdoor storage is strictly prohibited and other types of land uses are not allowed without amendment to this site plan approval or submittal of a new site plan review application. Space within the individual units is limited to dry storage. Units may not be used to operate other business ventures by the owner, manager or tenants of said units.