

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION in the matter of the application of Dr. Larry Campbell for a conditional use permit.**

**Exhibit L**  
to the Hearing Examiner  
Staff Report

**HEARING DATE:** April 6, 2016

**DECISION DATE** April 15,2016

**RE:** CUP-2016-030 – Conditional Use Permit – Dr. Larry Campbell

**APPLICATION DATE:** March 16, 2016

**DECISION SUMMARY:** Approved with Conditions

**PROPERTY OWNER:** Larry and Celia Campbell  
27847 Burmaster Road  
Sedro-Woolley, WA 98284

**PROJECT PROPONENT:** Dr. Larry Campbell  
27847 Burmaster Road  
Sedro-Woolley, WA 98284

**DESCRIPTION OF PROPOSAL:** Application for a conditional use permit to allow construction of a mini-storage business.

<b>Site Address:</b>	1342 E. Moore St.	<b>Parcel ID Nos.:</b>	P39548 and P39549
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**FINDINGS OF FACT**

**Introduction.** This matter came on for hearing before the Sedro-Woolley hearing examiner on April 6, 2016, on the application of Dr. Larry Campbell, for a conditional use permit to allow the construction of a mini-storage facility.

**Testimony.** In addition to the presentation by staff and the applicant at the public hearing, testimony was received from Joel Chandler; Yvonne Garrity; and Carl Lundstrom.

**Written Comments.** In addition to testimony received at the public hearing, written comments were received by email from Jessie Tierny; Nathan Malcomb; and Julia Jones Anderson and Jane Jones Thompson.<sup>1</sup>

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<sup>1</sup> The Anderson and Thompson comment was received by email on March 28, 2016 from Steve and Julie Anderson.

**Exhibits.** All exhibits submitted were admitted without objection. The Sedro-Woolley municipal code, comprehensive plan, zoning map, and the exhibits identified in Exhibit “A” were considered by the hearing examiner.

The hearing examiner makes the following Findings of Fact based upon consideration of the exhibits admitted herein, evidence presented at the public hearing, and written comments received by the City. To the extent that any finding of fact is more properly characterized as a conclusion of law, or vice versa, the hearing examiner adopts it as such:

1. CUP Application. On February 18, 2016, Dr. Larry Campbell (the “Applicant”), owner of parcels P39548 and P39549, submitted a CUP application with a proposed site layout to construct a mini-storage facility at 1342 E. Moore Street in Sedro-Woolley. The proposed facility will be constructed on the northerly portions of both parcels (hereinafter, the “Project Site”). The Project Site is depicted in the attached Exhibit “A.”
2. Project Location. The planned mini-storage facility is proposed to be located behind (northerly) of a proposed commercial and/or retail development. Permit applications for the retail component have not yet been received by the City, are not part of the CUP application, and are not reviewed herein.
3. Property. There is currently a single family house situated on parcel P39549, a 0.5 acre parcel. Parcel P39548 is approximately 3.4 acres and is vacant. The property line between parcels P39549 and P39548 may be eliminated or relocated pursuant to a boundary line adjustment or other procedure.
4. Description of Proposal. The proposal includes approximately 211 storage units in nine separate structures that range from 3,900 square feet to 6,800 square feet. The total amount of storage units is approximately 43,000 square feet. An office and possibly an on-site caretaker residence are associated with the mini-storage business proposal. The overall area dedicated to the ministorage use (the Project Site) will be approximately 2.5 acres of the roughly 3.9 acre property. Structures will be single-story.
5. Zoning – Project Site and Adjoining Property to East. Both parcels P39548 and P39549 are currently zoned Mixed Commercial (MC). The adjoining properties to the east and southwest are also zoned MC. Setbacks to other properties zoned MC are 10 feet pursuant to 17.20.020(A)(3)) SWMC.
6. Zoning – Adjoining Property to West. Five adjacent properties to the west are zoned Residential 7, and are developed with single family homes. Side setbacks to properties zoned R-7 are a minimum of thirty-five feet, and in accordance with SWMC § 17.20.020(A)(1), may be reduced to twenty feet if building step-backs as required by the design standards and guidelines are incorporated into the site design pursuant to Chapter 15.44 SWMC.
7. Zoning – Adjoining Property to North. The property to the north is currently zoned R-7. Rear setbacks to the R-7 zone are to be a minimum of twenty feet. Currently

there is a pending city-sponsored proposal to rezone the property north of the project to MC. City Staff state in the April 6, 2016 Staff Report that the proposed 10 foot setback from the rear of the property is acceptable presuming the property to the north (P39374) is zoned MC in the future (as proposed by the City under the different proposal).

8. The nearest properties to the south are across the State Route 20 right-of-way, the former Burlington Northern right-of-way (now a trail) and the Polte Road right-of-way. The total distance across those rights-of-way is 280 feet.
9. Neighboring Use. The properties adjacent to the Project Site along Moore Street are both commercial enterprises.
10. Traffic Impacts. Per the City Schedule of Transportation Impact Fees, mini-storage facilities generate less traffic than many retail/commercial uses. The proposed mini-storage business will have less traffic impacts than most uses allowed outright in the MC zone.
11. Landscaping. Pursuant to 17.50.040(C), 15% of the gross site area of projects in the MC zone must be landscaped. Public comment received by the hearing examiner at hearing made clear that the commenters viewed a sight obstruction fence and landscaping as being desirable to block views of the facility. The commentators differed in their views as to whether it would be best to build a fence close to the proposed mini-storage units, with landscaping immediately adjacent to the backyards of the adjoining residential homes, or whether it would be best to construct a fence near the property line with landscaping installed behind the fence.
12. Environmental Review. The proposed project is subject to review pursuant to Chapter 2.88 SWMC. As such, the project must meet the requirements of the Sedro-Woolley Design Standards and Guidelines manual, pursuant to 15.44.02 SWMC.
13. Notice of Application. On March 24, 2016 a “Notice of Application and Public Hearing” (Exhibit B) was mailed to property owners and residents within 500 feet of the subject property. On March 25, 2016, said notices were also posted on site.
14. Publication. On March 25, 2016 the Notice of Application and Public Hearing was published in the Skagit Valley Herald. The hearing date was scheduled for April 6, 2016 at 10AM.
15. Staff Recommendation. Sedro-Woolley staff recommends that the proposal be approved, with an increase in square footage from 43,000 to 45,000, including an office and residential caretaker’s unit, subject to certain conditions as set forth in the staff report.

Based upon the foregoing Findings of Fact, the hearing examiner makes the following,

## **CONCLUSIONS OF LAW**

1. Chapter 2.90 SWMC and Title 17 SWMC apply to this project. Conditional uses are processed as a Type III permit and require a public hearing in front of the hearing examiner. In accordance with SWMC § 17.56.030 (E), the hearing examiner is delegated authority to approve conditional use permits, provided that if the hearing examiner considers a development to be major, the hearing examiner may instead make a recommendation to the Sedro-Woolley City Council. The hearing examiner does not consider the proposal to be a major development.
2. Public notice requirements as set forth in SWMC § 2.90.075 have been satisfied.
3. Mini-storage facilities may be permitted as a conditional use in the MC zone in accordance with SWMC § 17.20.010(B). A CUP must be obtained per the process established in Chapter 2.90 SWMC and the criteria set forth in Title 17 SWMC.
4. Pursuant to SWMC § 17.56.060, a conditional use may be permitted if the proposal:
  - A. Conforms to the Comprehensive Plan;
  - B. Is compatible with the surrounding area, that is, causes no unreasonable adverse impacts; and
  - C. Is well planned in all respects so as to be an asset to the community.

### **Conformance with the Comprehensive Plan**

5. Sedro-Woolley Comprehensive Plan Policy LU1.5 provides that commercial and industrial land uses should be buffered when they abut residential development. The Project Site contains adequate space for a landscape buffer.
6. Sedro-Woolley Comprehensive Plan Policy LU3.2 provides that transportation and sanitary sewer services are to be established as “urban” services, requiring concurrency under the Growth Management Act (GMA). Sedro-Woolley Comprehensive Plan Policy LU3.3 provides that developments that cannot be serviced by city transportation and sewer services are to be disapproved. Adequate utility and transportation services exist to meet the demands of the proposed project.
7. Sedro-Woolley Comprehensive Plan Policy LU5.1 provides that commercial development should be focused in the central business district, and strip commercial development should be discouraged. Written comment was received making the point that expansion beyond the downtown hub would constitute “sprawl,” when there is vacant land available.

The term “strip commercial development” is not defined by the Sedro-Woolley municipal code, or by the comprehensive plan. Within the planning profession, “strip

development” is viewed as a linear pattern of retail businesses along arterial roadways characterized by parking lots, big signs, and dependence on automobiles for access and circulation. This definition, in the context of the comprehensive plan, is applicable. The proposed project consists of a mini-storage facility, and does not fall within this definition.

To the extent that the project will be constructed out of the downtown hub, the hearing examiner finds that both state law and Sedro-Woolley’s comprehensive plan do not provide for sequential development in which lands closest to the city center are developed first, before lands further away from the city center. To the contrary, Sedro-Woolley Comprehensive Plan Policy LU5.7 provides that the rights of property owners to freely use and develop private property consistent with city regulations are to be encouraged. This policy is consistent with state law.

8. Sedro-Woolley Comprehensive Plan Policy LU5.2 provides that growth pressures which could have a negative impact on community values should be resisted. Community values are addressed in the Vision Statement section of the Sedro-Woolley Comprehensive Plan, wherein the Plan states that,

The town’s scale promotes a “homey” feeling. Residents feel important as a part of their community rather than alienated as they might in a big city. Residents are involved in the community and strive to maintain a safe, healthy, enjoyable, and economically viable community.

The scale of the project is modest. There is nothing in the record to suggest that the proposed project will have an adverse impact on these community values.

9. Sedro-Woolley Comprehensive Plan Policy LU5.3 provides that developments that further the community character of Sedro-Woolley are to be supported. The proposed project allows the creation of a small business that provides a service needed by residents. Compliance with the City’s development regulations, including the zoning code, ensures development that will advance the City’s character.
10. Sedro-Woolley Comprehensive Plan Policy LU5.5 provides that incompatible uses within residential areas should be prohibited. The intent of the MC zone is to “encourage a compatible mix of commercial and residential development.” SWMC § 17.20.005. The proposed project does not emit noxious odors, or create significant noise. In accordance with the City Schedule of Transportation Impact Fees, mini-storage facilities generate less traffic than Business and Commercial uses that are allowed outright in the Mixed Commercial zone. Testimony at the public hearing was largely favorable, with comments focused primarily on the need for a landscaping buffer between the proposed mini-storage facility and neighboring residential land uses. With a landscaping buffer that complies with the City’s landscaping requirements, the proposed mini-storage facility is compatible<sup>2</sup> with existing residential uses.

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<sup>2</sup> Revised to correct scrivener’s error

11. Sedro-Woolley Comprehensive Plan Policy LU5.6 provides that the community's planning programs should reflect basic community values. For the same reasons as set forth in paragraph 9 above, the Hearing examiner concludes that community values will not be impacted by the proposed project.
12. Sedro-Woolley Comprehensive Plan Policy LU5.7 provides that the rights of property owners to freely use and develop private property consistent with city regulations are to be encouraged. As conditioned, the proposed project will comply with city development regulations.
13. Sedro-Woolley Comprehensive Plan Policy LU5.8 provides that high standards of appearance in all residential areas and in other high visibility areas are to be encouraged. Compliance with the City's development regulations will ensure a high standard of appearance. Because the planned mini-storage facility is proposed to be located to the rear of a retail development, aesthetic concerns about the development being located along Highway 20 will be mitigated, and any aesthetic concerns resulting from the proximity of the proposal to neighboring residential areas will be addressed through project landscaping and project conditions in the form of a sight-obscuring fence.
14. Sedro-Woolley Comprehensive Plan Goal LU 14 provides that, in order to preserve Sedro-Woolley's existing agricultural lands and heritage, it is the goal of the City to "Recognize and promote the benefits of agricultural land which include maintaining open spaces, establishing rural character, preserving view corridors, enhancing wildlife habitat, and providing employment for the residents of Skagit County."

Written comment was received by the City that the proposal would obstruct the view of Cokedale Hill, and in particular, would obstruct views from the Cascade Trail. The Project's single-story construction will limit view obstruction, while allowing competing goals of the Comprehensive Plan to be accomplished.

15. Sedro-Woolley Comprehensive Plan Goal E1 establishes the goal of developing a sound fiscal base. The development of the project at the rear of the property, away from Highway 20, will not result in the loss of retail land along the State Route 20 frontage. The proposed project will establish a local business, which creates local jobs and tax revenues. The proposed project advances the goal of developing a sound fiscal base.
16. The hearing examiner concludes that the proposed project complies with the Sedro-Woolley Comprehensive Plan in all respects.

#### **Compatibility with the Surrounding Area.**

17. The intent of the MC zone is to encourage a compatible mix of commercial and residential development. 17.20.005 SWMC. Chapter 17.20 SWMC establishes goals of managing traffic impacts; encouraging non-motorized trips; and reducing stormwater runoff. Commercial development should be scaled down when adjacent to residential areas to improve compatibility between uses. 17.20.005 SWMC.

18. Written comment was received by the City, observing that the adjoin residential community on Carter Street currently abuts a rural field (where the mini-storage facility is proposed.) The written comment goes on to state that the proposed development will sandwich residents between two asphalt roadways, and will have an adverse aesthetic impact when the facility is viewed from the backyards of residents.

Any aesthetic concerns resulting from the proximity of the proposal to neighboring residential areas will be addressed through project landscaping and a sight-obscuring fence.

19. Written comment was also received, expressing concern with light pollution resulting from security lighting. This concern may be addressed through a condition that requires exterior lighting to be shielded such that light will not spill onto neighboring properties.

20. The hearing examiner concludes that the proposed mini-storage business is compatible with the surrounding area.

**Project is Well-Planned.**

21. The Sedro-Woolley Municipal Code does not identify criteria to be utilized to assess whether a project is “well planned . . . so as to be an asset to the community.”

22. In the parlance of urban planning, good design results in projects that are aesthetically appealing, enhance public safety and security, minimize future blight, and minimize adverse impacts on communities such as traffic congestion, air, water, noise and light pollution. The proposed project is not anticipated to result in air, noise, or light pollution. Water quality will be preserved through the applicant’s compliance with the City’s water quality standards. Environmental impacts will be minimized or eliminated by the applicant’s compliance with construction standards, and development regulations.

23. At the conditional use permit stage of a proposed project, the applicant must demonstrate that it is able to comply with all applicable development regulations. The hearing examiner concludes that the applicant has met his burden of proof, and that compliance with the City’s development regulations is feasible.

24. Concern was expressed at hearing over stormwater, and in particular additional stormwater being directed onto adjoining property. The applicant’s compliance with the City’s stormwater regulations, and in particular the City’s NPDES municipal stormwater permit will ensure that this concern is addressed. The site plan submitted by the applicant, while conceptual in nature, demonstrates the applicant’s ability to comply with the City’s regulations.

**DECISION**

Based on the above Findings of Fact and Conclusions of Law, the Hearing examiner **APPROVES** Conditional Use Permit # CUP 2016-030 to allow a mini-storage facility of not more than 45,000 square feet and an associated caretaker’s residence at 1342 E. Moore St. subject to the following **conditions**:

1. No outside storage shall be allowed at the mini-storage facility.
2. The Applicant shall comply with the hours of construction as set forth in SWMC § 9.46.020 (currently construction limited to 7:00 a.m. to 9:00 p.m. Monday - Friday, and 8:00 a.m. – 9:00 p.m. weekends);
3. The Applicant shall obtain permits for the construction of and site development for the proposed facility from the City.
4. Exterior lighting shall be shielded from shining onto adjacent residential properties.
5. A six-foot high sight-obscuring fence shall be installed such that the fence obstructs the view of the storage units from the adjoining improved residential properties, provided that such fence shall not be required for any adjoining residential property that is not improved as of the date of this decision. A landscaping area no less than seven (7) feet in width that is situated between the sight-obstruction fence described herein and the property boundary shall be incorporated into the project design.
6. The Applicant shall comply with Sedro-Woolley's design review standards.
7. The frontage along Moore Street shall remain available for future retail/commercial development as proposed by the site plan.
8. The Applicant shall comply with applicable regulations administered by the Northwest Clean Air Agency during construction activities;
9. Any water discharged to the City's stormwater system as a result of this project shall comply with applicable City regulations and conditions of the City's Public Works Department. The applicant shall obtain and comply with a NPDES stormwater permit from the state Department of Ecology, as may be required by that agency;
10. The applicant shall provide a temporary erosion and sedimentation control plan, for approval by the City Engineer;
11. All construction traffic shall utilize temporary construction access, as approved by the Public Works Department;
12. This conditional use permit shall become void in the event substantial progress toward the construction of improvements or actual use has not commenced within the time limitations as set forth in SWMC § 17.56.050.
13. The Project shall comply with all applicable state, federal, and local regulations, including but not limited to the following:
  - A. Chapter 13.36 SWMC – Stormwater Management Standards;
  - B. Chapter 13.40 SWMC – Stormwater Facilities Maintenance;

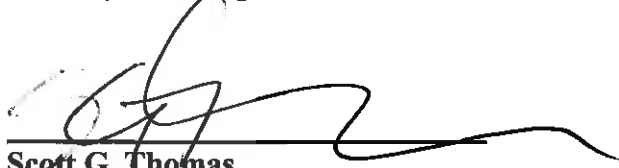


- C. Chapter 15.40 SWMC – Public Works Construction Standards;
- D. Title 17 SWMC – Zoning;
- E. Sedro-Woolley Public Works Design Standards; and
- F. Sedro-Woolley Comprehensive Plan.

The Project has been reviewed and approved under the assumption that the property to the north (P39374) will be rezoned to a Mixed Commercial use. In the event the City's Proposal to rezone the northerly parcel is unsuccessful, then in that event the Project must comply with the MC zone's setback limitations to adjoining residential properties.

### **APPEAL**

**Petitions for review of the Hearing Examiner's decision should be filed with the Sedro-Woolley Planning Director, in accordance with the provisions of 2.90.090 SWMC.**



**Scott G. Thomas,  
Hearing Examiner**