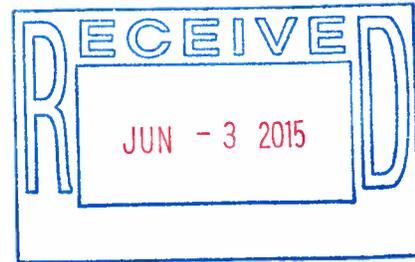


June 3, 2015

Jolene and Dave Moorehouse
11022-197th Avenue East
Bonney Lake, WA 98391

**RE: Site Plan Application File # SP 2014-02
Arcadia Arts**



Dear Mr. and Mrs. Moorehouse:

Transmitted herewith is the Report and Decision of the City of Buckley Hearing Examiner regarding your request for the above-entitled matter.

Very truly yours,

STEPHEN K. CAUSSEUX, JR.
Hearing Examiner

SKC/jjp
cc: Parties of Record

OFFICE OF THE HEARING EXAMINER

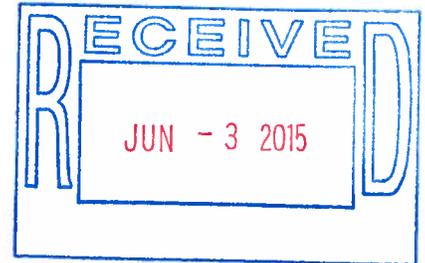
CITY OF BUCKLEY

REPORT AND DECISION

CASE NO.: Site Plan Application File # SP 2014-02
Arcadia Arts

**APPLICANTS/
OWNERS:** Jolene and Dave Moorehouse
11022-197th Avenue East
Bonney Lake, WA 98391

PLANNER: Kathy Thompson



SUMMARY OF REQUEST:

Site plan approval and variance to allow a commercial development of storage, office, retail, and restaurant uses. The development will include four buildings on a .843 acre parcel as follows. The southwest half of the property will provide 4,980 square feet of office space and storage for Steelhead Communications in one building. The northeast half of the property will include three different businesses totaling 4,388 square feet in three buildings. The variance would reduce landscaping requirements on both the east and west sides of the parcel from ten feet to a range of between seven feet and zero. The reductions will allow the buildings, driveway, and adequate parking areas. The site is located at 321 SR 410, within the SE ¼ or the SE ¼ of Section 3, Township 19, Range 5 East, Willamette Meridian, within the City of Buckley.

SUMMARY OF DECISION: Request granted, subject to conditions.

DATE OF DECISION: June 3, 2015

PUBLIC HEARING:

After reviewing the Planning Department Staff Report and examining available information on file with the application, the Examiner conducted a public hearing on the request as follows:

The hearing was opened on May 18, 2015, at 3:00 p.m.

Parties wishing to testify were sworn in by the Examiner.

The following exhibits were submitted and made a part of the record as follows:

- EXHIBIT "1" - Planning Department Staff Report with Attachments**
 - "1.1" - 2014 Aerial from County View GIS**
 - "1.2" - Preapplication Request**
 - "1.3" - Cover Letter Requesting Consolidated Review**
 - "1.4" - Applications for Variance and Site Plan Review**
 - "1.5" - Drawings**
 - "1.6" - SEPA Checklist-See 1.17**
 - "1.7" - More Detailed Variance Request**
 - "1.8" - Letter of Complete Application**
 - "1.9" - Notice of Application**
 - "1.10" - Comment, City Engineer**
 - "1.11" - Comment, Sandy Williams, Concerning View**
 - "1.12" - Modified Site Plan**
 - "1.13" - Comment, Health Department**
 - "1.14" - Modified Site Plan**
 - "1.15" - Modified Site Plan**
 - "1.16" - Comment, City Engineer**
 - "1.17" - SEPA Checklist Reviewed**
 - "1.18" - SEPA Mitigated Determination of Nonsignificance**
 - "1.19" - SEPA Comment from WSDOE**
 - "1.20" - Notice of Public Hearing**
- EXHIBIT "2" - Power Point**

KATHY THOMPSON appeared, presented the City Staff Report, and testified that the site is located north of a business center to include the Buckley Plaza. Abutting uses include two houses to the west and SR-410 to the east. The City has not adopted a view protection ordinance. Access to the site from the north is from unopened Wheeler Avenue, which intersection with SR-410 currently operates at LOS E. The additional traffic generated by the development will not lessen the operation of the intersection. Furthermore, customers can also exit to the south onto Jefferson Avenue that also intersects SR-410 that operates at LOS C. The City's adopted LOS is D. The applicant proposes to divide development of the parcel into north and south halves. The south half will consist of one building that will house office and storage space for Steelhead Communications, a telecommunications company with offices in Alaska, Oregon, and Montana. This building must meet all City design standards. The parcel will utilize an underground storm drainage system that Public Works has tentatively approved. Improvements on the north half will consist of three buildings, a two story building at the north end, and two, one story buildings to the south thereof. Between the two, one story buildings the applicant will provide a rabbit hutch. The City environmental official reviewed the matter pursuant to SEPA and issued a threshold DNS. The City received no appeals. The applicant requests a variance from the landscape width requirements from a total of ten to 20 feet on the west to eight feet. Staff supports the request as such landscaping

width is sufficient for a commercial building. Design review will require landscaping. Staff recommends approval. The height limit of the applicable CC zone classification is 35 feet.

JEREMY METZLER, Baseline Engineering, appeared and testified that they will provide the civil engineering designs. He thanked Ms. Thompson for her assistance in processing the application. The parcel actually consists of two sites in one: a light industrial and office use on the south and a mixed retail use on the north. Rights-of-way surround the parcel. Wheeler Avenue is unimproved along the north property line as the City has not completed that road section.

JOLENE MOOREHOUSE, applicant, appeared and testified that she has lived in Buckley all of her life as did her dad who was a logger. She grew up here. They moved their business, Steelhead Communications, to the Buckley Business Park. They found that the old Buckley Nursery location was a perfect spot for their project. They will utilize the south portion for the corporate offices of Steelhead that is a low key business. Building Number One at the northern corner will house The Blue Rooster restaurant that will have a carry-out feature and an outdoor patio. They also propose to provide live music in the summer. They will have a rabbit hutch in the center of the area, and customers of the café can watch the rabbits. They will use local workers to construct the building and furniture to include a logger who will build tables. The restaurant will serve breakfast and lunch and possibly dinner in the future. The retail use will consist of a home and garden store that will sell plants and garden items. She proposes art and rock painting in the landscaping area and will invite local artists to show their work. They propose thick landscaping and more garden type plants. They also propose holiday events. They will provide wood siding on the buildings that will resemble barns. They will likewise provide artistic pathways. Concerning height, the interior ceiling will measure nine feet due to the weight of the green roof materials. The two story building will extend about 25 feet above grade.

MR. METZLER reappeared and testified that because of the Steelhead business, the southern portion of the site will not be open 24/7. They want to provide a fence with a gate between the two types of uses. Therefore, access to the retail will occur from the north and to the Steelhead business from the south. The sidewalk along SR-410 will need to meander around a utility pole as it is too expensive to move. They will also provide a bike rack. He then discussed several conditions of approval with staff and generally reached a mutual understanding. Additional discussions occurred regarding the ability of commercial customers to utilize the south access.

No one spoke further in this matter and the Hearing Examiner took the matter under advisement. The hearing was concluded at 3:33 p.m.

NOTE: A complete record of this hearing is available in the office of the City of Buckley Planning Department.

FINDINGS, CONCLUSIONS, AND DECISION:

FINDINGS:

1. The Hearing Examiner has admitted documentary evidence into the record, viewed the property, heard testimony, and taken this matter under advisement.
2. The proposal is not exempt from environmental review because the applicant proposes 9,368 square feet of buildings. Following review pursuant to the State Environmental Policy Act (SEPA), the responsible official issued a threshold Determination of Nonsignificance (DNS) on February 25, 2015. No appeals were filed.
3. The City provided proper public notice.
4. The applicants, Jolene and Dave Moorehouse, have a possessory ownership interest in a generally rectangular, .843 acre parcel of property abutting the west side of SR-410, the south side of the unopened Wheeler Street right-of-way, and the north side of Jefferson Avenue within the City of Buckley. The parcel previously supported the Buckley Nursery and is located at 321 SR-410.
5. The applicants request site plan approval and a variance from the landscape standards set forth in the Buckley Municipal Code (BMC) to allow improvement of the site with various uses. On the southern half of the site the applicants propose to locate the home offices of Steelhead Communications in one building that will include both offices and equipment storage. The site plan shows a general office section of 2,160 square feet and a storage area of 2,820 square feet. Twelve parking spaces are shown between Jefferson Avenue and the building.
6. The site plan shows the north side of the parcel improved with three buildings that will house three different businesses. The Blue Rooster, a mixed retail and take-out food business, will occupy 1,188 square feet. The business will provide a few tables for wine tasting and an outdoor patio area for holiday events. A 1,050 square foot restaurant, the New Leaf Café and Deli, will serve soups, sandwiches, and desserts. A retail area of 2,100 square feet will support a home and garden business that will include a farmer's market, business office, and storage area. The northern building will consist of two stories and the two southern buildings one story.
7. The parcel is located within the Community Commercial (CC) zone classification of the BMC. Said classification requires no structural setbacks from external property lines and authorizes 100 percent lot coverage. However, the landscape code set forth in Chapter 19.29 BMC requires solid buffers, barrier buffers, and visual relief buffers for the project. The solid buffers measure between zero and five feet in width; barrier buffers between ten and 20 feet in width; and visual relief buffers ten

feet in width. The length of the parcel varies between 306 feet along the east property line and 387 feet along SR-410. However, the parcel has a depth of only 105 linear feet. The required landscape buffers together with necessary parking and driveway would allow an eight foot wide footprint for a commercial building. Landscape buffers would also consume approximately 27 percent of the gross area of the lot. The applicants have therefore requested a variance to landscaping standards so that the proposed development as described above may occur. The applicants propose a reduction in the landscape screen width to between two and 3.5 feet along the west property line that abuts an undeveloped, 16 foot wide alley. The applicants also propose a reduction in landscape screen width along SR-410 to seven feet on the south and zero feet on the north.

8. Prior to obtaining a variance the applicants must show that the request satisfies the criteria set forth in BMC 19.40.030. Findings on each criteria are hereby made as follows:
 - A. Unusual conditions apply to the subject property that justify the variance to include its shape. The parcel abuts SR-410 for 387 linear feet but measures only 105 feet in depth. Requirements for parking spaces, sidewalks, driveways, the stormwater system, and landscape buffering leave a relatively small area for improvements. To make any reasonable use of the property the applicants must obtain a variance.
 - B. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone. The CC zone does not require a structural setback, and the applicants have proposed landscaping in the maximum amount possible. Furthermore, the parcel is abutted on all four sides by roads or alleys and therefore does not abut other residential or commercial parcels.
 - C. Granting the variance will not detrimentally impact the public health, safety, comfort, convenience, and general welfare, nor will it affect the established character of the surrounding neighborhood. Granting the variance will not injure property or improvements in the vicinity. The site plan shows the buildings placed adjacent to SR-410 and as far away from single-family homes to the west as possible. Furthermore, an unopened, 16 foot wide alley separates the parcel from residential uses. A comment letter expresses concern regarding the potential loss of a view of Mount Rainier due to the approximately 25 foot tall, two story building. However, the CC zone classification authorizes structures as high as 35 feet above grade. Furthermore, the City has not adopted a view protection ordinance, and it is reasonable to assume that a parcel of property zoned commercial and abutting SR-410 will eventually develop with a commercial use.

- D. Literal interpretation and strict application of BMC provisions and the requirements of Title 19 could cause undue and unnecessary hardship based upon the width of the parcel and the ability to improve the parcel with a reasonable commercial use and required accessory structures.
 - E. Granting the variance is consistent with the spirit and purpose of the zoning code, adopted land use policies, and the Comprehensive Plan that contemplate a commercial use of the site. Reducing the landscape buffer should not adversely impact the aesthetic character and appeal of the community.
9. Chapter 19.33 BMC sets forth the criteria for site plan review approval. Section 19.33.010 BMC sets forth the purpose of site plan review, which is to ensure that development meets the goals and provisions of the Comprehensive Plan, applicable design standards, Public Works' standards, and applicable City ordinances. Furthermore, site plan review addresses all aspects of site design to include building and open space layout, parks and trails, parking lot design, vehicular and pedestrian access, and access to the public trail system. Section 19.33.020 BMC requires site plan review approval for a new use established on a lot, for the issuance of a building permit, or for a new commercial or light industrial building.
10. Section 19.33.060 BMC sets forth the required findings for site plan review. Criteria A requires the applicant to show that the project is consistent with the Buckley Comprehensive Plan. Pages 15-21 of the Staff Report set forth applicable goals and policies of the City's Comprehensive Plan as well as a discussion thereof. The Examiner hereby adopts by this reference as if set forth in full all discussions of the Comprehensive Plan policies as set forth therein. Section 19.33.060(1)(b) BMC requires the applicant to show that the project meets the requirements and intent of the BMC. Once again, the City Staff Report sets forth applicable criteria of the BMC as well as a discussion thereof. The Examiner hereby incorporates by this reference as if set forth in full staff's discussion of BMC requirements and the intent of the BMC.

CONCLUSIONS:

- 1. The Hearing Examiner has the jurisdiction to consider and decide the issues presented by this request.
- 2. The applicant has shown that the request for a landscape variance and site plan review approval satisfies all criteria set forth in the BMC and the Comprehensive Plan and therefore should be approved subject to the following conditions:

1. General.
 1. Design.
 - a. Prior to construction permit issuance, approval shall be gained from the Design Review Committee in accordance with BMC 19.51.
 - b. The elevation exhibit should identify the total height of all proposed structures. Per BMC 19.20.010(2), the maximum height for commercial structures shall be 35 feet.
 - c. The proposed building on the south shall contain a 4-foot modulation.
 2. Landscape.
 - a. Landscaping shall be placed on the property in accordance with BMC 19.29 and the Guidelines for Redevelopment adopted under BMC 19.20.50.060. A landscape plan meeting the requirements of BMC 19.29 shall be submitted prior to issuance of construction permits.
 - b. Landscaping may be reduced as shown on the April 2, 2015, site plan.
 - c. Parking lot landscaping shall meet or exceed the requirements of 19.29. 060(4).
 - d. The underground storm system shall be relocated to eliminate landscaping limitations.
 - e. Shrubs or trees used in any landscaping or screening shall be maintained in a healthy growing condition. Dead or dying shrubs or trees shall be replaced as soon as possible and the planting area shall be maintained reasonably free of weeds and trash.
 3. Parking.
 - a. A bike rack shall be supplied in a protected area for use by customers and employees.
 - b. One handicapped space shall be added in accordance with BMC 19.28.040 (2.f).
 - c. The parking areas shall illuminate the paved area, and shall be designed to reflect away from motorists and residential uses. The lighting plan shall be submitted for review and approval with the LDA.
 - d. Safety barriers, bumpers or curbing and directional markers shall be provided to assure pedestrian and vehicular safety, efficient use, protect landscaping, and to prevent encroachment into adjoining public or private property. Instead of separate bumpers, however, the paved area for the walkway or the curb protecting the landscape may be expanded into the parking stalls 1.5 feet to accommodate the average car's overhang.

4. Access.
 - a. Turning movement exhibits shall be provided to allow the City to determine the feasibility of the site layout. The exhibits shall demonstrate that the City Fire Department's large apparatus can navigate the site, which includes in and out of the site accesses and accessibility to fire appurtenances.
 - b. The sidewalk shall be straightened along SR 410; provided, however, that the applicant shall work with staff in an effort to allow the sidewalk to meander sufficiently to avoid the need for relocation of said pole.
 - c. Connection to the Jefferson Avenue sidewalk shall be in accordance with Development Guidelines and Public Works Standards.
 5. Health.
 - a. Before construction begins, facility plans are required to be turned into the Tacoma-Pierce County Health Department Food and Community Safety Program for review and approval of construction or changes to any retail food service establishment, school kitchen, water recreational facility or camp. Please call 253.798.6460 for applications and information.
 6. Environmental review.
 - a. A geotechnical report with recommendations for the proposed redevelopment should be provided. The report should include evaluation in support of the proposed stormwater system under the pavement and a pavement section design recommendation.
2. Streets.
 1. Roadway frontage improvements are required and shall consist of those specified in the most recently adopted version of the City Buckley Development Guidelines and Public Works Standards
 2. Traffic.
 - a. A Traffic Control Plan shall be submitted to the City for review and approval prior to initiation of the work.
 - b. Per City Street Standards 4.05.b, all commercial development which generates more than 25 peak hour trips/day or will result in more than eight (8) parking stalls may be required to submit a formal Traffic Study. A trip generation report shall be prepared in accordance with the Institute of Transportation Engineers' Trip Generation Manual and submitted for City review. Based on the proposed development, it appears a formal Traffic Study will be required.

3. General.
 - a. Sight distance triangles should be demonstrated at the proposed driveway approaches in accordance with City Standard Section 4.12 and the Sight Obstruction Detail (Drawing No. ST-6).
 - b. Curb ramps, in accordance with City Street Standards, shall be provided on both sides of Jefferson Avenue at the Jefferson Avenue/SR 410 intersection.
 - c. A survey shall be submitted to show lot configuration and ownerships.

3. Utilities.
 1. Water.
 - a. In order to provide water service for the proposed development, a looped water system will be required. The existing 8-inch water mains on Jefferson Avenue and 3rd Street shall be connected via an 8-inch water main with the water service connections to serve the site made off of the new looped 8-inch water main. It appears the water main alignment could be along 3rd Street, Wheeler Avenue, and the unimproved alley, to Jefferson Avenue.
 - b. Per City Water Standards, fire hydrants are required every 300 feet in commercial areas. A minimum of 1 onsite fire hydrant will be required. Spacing and locations shall be provided as determined by the City Fire Department.
 - c. Separate water connections will be required for domestic, fire, and irrigation. All services shall include backflow prevention devices located outside of any proposed buildings. Meter sizing calculations will be required for domestic and fire water services.
 2. Sewer.
 - a. The Plans shall demonstrate compliance with the City Sanitary Sewer Standards Section 6.
 - b. The existing sewer lines and the proposed point(s) of connection shall be shown.
 - c. The point of connection for the proposed development should be made at the existing sanitary sewer manhole on Wheeler Avenue/3rd Avenue.
 3. Storm Water.
 - a. The proposed redevelopment of approximately 0.84 acres is subject to the Stormwater Management minimum requirements of BMC 14.30. The Applicant shall submit documents demonstrating compliance with the Minimum Requirements of BMC 14.30.051, which includes a Stormwater Site Plan

prepared in accordance with BMC 14.30.052 and the 2005 Department of Ecology Stormwater Management Manual for Western Washington.

- b. A Temporary Erosion and Sediment Control (TESC) Plan shall be prepared for the project.
- c. The applicants stormwater facilities shall comply with the 2005 DOE Stormwater Manual to include setbacks and vegetative buffers. The applicant may work with City staff to ensure methods of compliance with setback requirements.
- d. The proposed access road within the unimproved Wheeler Avenue right-of-way, from the project parcel to 3rd Street, shall be provided with drainage improvements which are sufficient to preclude free flow of surface runoff onto adjacent properties.

5. Gas.

- a. The point of connections for the proposed buildings should be made from the existing gas main on Wheeler Avenue/3rd Avenue. Gas service connections are currently provided to service the existing buildings to be demolished. Puget Sound Energy is the current natural gas provider for the City.

4. Permitting.

1. Civil Permit.

- a. No construction may occur before a construction permit is approved by the city engineer, however a demolition permit may be executed with the building official.
- b. Before construction activity begins, applicant and contractors are required to attend a pre-construction meeting with appropriate city staff.

2. Land Disturbing Activities Permit (LDA) and right-of-way use permits.

- a. A City right-of-way permit, including applicable bonding requirements, will be required for any proposed construction within the existing SR 410 right-of-way.
 - i. A performance guarantee shall be submitted in the amount of 150% of the cost of the improvements for all work conducted within the city right-of-way and within city easements.
 - ii. A maintenance guarantee/bond in the amount of 25% of the cost of the improvements for all work conducted within the city right-of-way and all improvements and infrastructure constructed and or/installed on-site at the time of completion and release of performance bonding. The maintenance guarantee shall be in place for a period of two years from the date of final acceptance by the city.

- b. A LDA permit may be required for any soil disturbance, in accordance with BMC 16.01.
 - 3. Other.
 - a. Any proposed signs shall comply with BMC 19.30 Sign Code. The proposed location should be shown and labeled on the Plans and a detail demonstrating compliance should be provided. Any proposed signs shall be situated in a manner so as not to adversely affect safety or corner vision. The site triangles should take in account the sign location.
 - b. The Applicant shall comply with the requirements of the Washington State Department of Ecology National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges associated with construction activity.
 - c. Future development of the property, including construction of buildings or structures, will require the installation of utilities for service to the property and extension to property boundaries, in accordance with city codes, regulations, guidelines and standards. Specific requirements for all utilities will be determined following application to the City for further development of the property.
- 5. The decision set forth herein is based upon representations made and exhibits, including plans and proposals submitted at the hearing conducted by the hearing examiner. Any substantial change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to the approval of the hearing examiner and may require further and additional hearings.
- 6. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the applicant represents that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the applicant agrees to promptly bring such development or activities into compliance.

DECISION:

The request for a variance to City landscaping standards to allow reduction of the landscape buffer widths to zero and for site plan review approval to allow the proposed improvements on a site located at 321 SR-410, Buckley, is hereby granted subject to the conditions contained in the conclusions above.

ORDERED this 3rd day of June, 2015.

STEPHEN K. CAUSSEAU, JR.
Hearing Examiner

TRANSMITTED this 3rd day of June, 2015, to the following:

APPLICANTS/ Jolene and Dave Moorehouse
OWNERS: 11022-197th Avenue East
Bonney Lake, WA 98391

OTHERS:

Chuck Helmer
513 Mountain Creek Road East
Buckley, WA 98321

David Moorehouse
28120 State Route 410 East, Suite A-3
Buckley, WA 98321

Jeremy Metzler
1910-64th Avenue West
Fircrest, WA 98466

Sherri Gormley
P.O. Box 8023
Bonney Lake, WA 98391

Mark and Sandy Williams
209 Wheeler Avenue
Buckley, WA 98321

CITY OF BUCKLEY

**CASE NO.: Site Plan Application File # SP 2014-02
Arcadia Arts**

APPEAL OF EXAMINER'S DECISION:

The final decision by the Examiner may be appealed in accordance with Chapter 20.01.260 of the Buckley Municipal Code.