
CITY OF WOODINVILLE STAFF REPORT
Application for Temporary Use Permit
for SHARE/WHEEL, sponsored by the Northshore United Church of Christ
Temporary Use Permit Number TUP2004-073

To: Mark Hurdelbrink, Hearing Examiner

From: Ray Sturtz, Planning Director

Date: September 30, 2004

Subject: Staff Report and Recommendation for a Temporary Use Permit (TUP) to locate Tent City 4 on City of Woodinville property at 17834 – 134th Avenue NE for a period of time not to exceed sixty days or for a total stay of One Hundred (100) days.

I. INTRODUCTION

Mr. Scott Morrow of SHARE/WHEEL applied for a Temporary Use Permit (TUP) on August 12, 2004, (Exhibit 2) to permit Tent City 4 to locate on City owned property located at 17834 – 134th

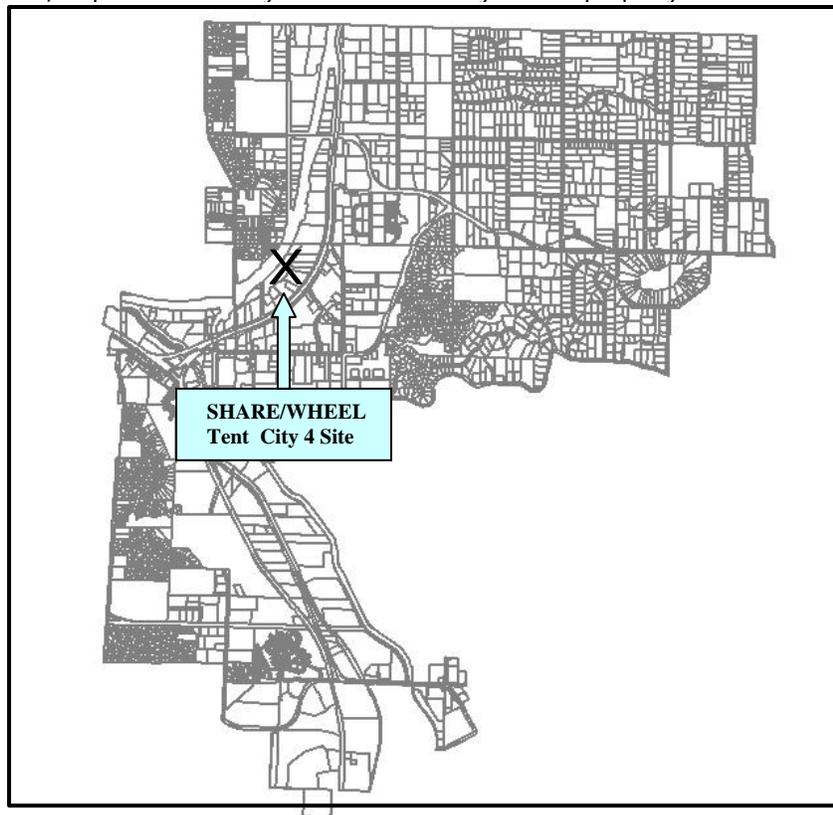


Figure 1. General Location of Tent City 4

Avenue NE. Tent City 4 is sponsored by Northshore United Church of Christ, Mr. Dennis W. Lone, Moderator, representing the Church. Tent City 4 moved from St. Brendan Catholic Church in Bothell, Washington, to the vacant City property on August 14, 2004, under a City Council Emergency Ordinance, Ordinance No. 369 (Exhibit 24). This ordinance provides the location for Tent City 4 upon City park property for a period not to exceed forty days, during which time SHARE/WHEEL is to apply for a Temporary Use Permit (Exhibit 2).

The City had originally scheduled a public hearing for September 9, 2004 regarding the TUP application submitted by SHARE/WHEEL and NUCC, and the parties had executed an Agreement anticipating that a final decision on said application would be rendered on or before September 20, 2004. The City was forced to postpone the September 9 hearing in order to accommodate an appeal of the SEPA determination of non-significance issued for the TUP application.

On September 20, the City Council adopted Ord. No. 372 which amends Ord. 369 and authorizes the City Manager to make changes to the Temporary Property Use Agreement (dated August 26, 2004) as necessary including the ability to extend the authorized use of City-owned park land for Tent City4. The Temporary Property Use Agreement is now amended to allow SHARE/WHEEL to temporarily site a homeless encampment on the City's property (1) for a period extending to and terminating on November 1, 2004, or (2) until a final decision issued by the Hearing Examiner granting or denying the TUP, whichever occurs first.

SHARE/WHEEL, the organizations responsible for Tent City 4 (TC4) provides temporary housing for up to 100 persons out of the 8,000 +/- homeless persons in King County. The "Tent City" provides a safe housing alternative to individuals who would otherwise have to sleep outside and be subject to the risk and danger of theft, and even personal attack. Here, they have a safe place to sleep and store their belongings while away at work or on appointments. Residents of TC4 must abide by a Code of Conduct (Exhibit 22) to reside in TC4. Persons not agreeing, or persons who violate the "Code" must leave TC4.

The Northshore United Church of Christ is the sponsor of TC4, and is providing food and other conveniences to assist in the daily life of TC4 residents for the duration of their stay.

II. APPLICATION INFORMATION

Property Owner

City of Woodinville
17301 – 133rd Avenue NE
Woodinville, WA 98072
425-489-2700

Project Organizer

Seattle Housing and Resource Effort (SHARE)
Women's Housing, Equality and Enhancement League
(WHEEL)
P.O. Box 2548
Seattle, WA 98111
(206)448-7889

Project Sponsor	Northshore United Church of Christ Dennis Lone, Moderator Amy Spencer, Clerk Paul Forman, Minister 18900 – 168 th Avenue NE Woodinville, WA 98072 (425) 483-6557
Project	Temporary location of Tent City 4, housing up to 100 persons in tents for a period not to exceed one hundred (100) days.
Location:	17834 – 134 th Avenue NE Woodinville, WA 98072
Parcel Number	9517100250
Proposal Description	<p>The Applicant proposes to locate temporary housing, using tents, on the grounds of a City of Woodinville park located at the northeast end of 134th Street, and south of and paralleling SR-522 (Exhibit 9). The facility will house up to 100 persons. Five (5) sanitary (Porta-potties) facilities along with a portable shower with sinks mounted on the outside of the shower enclosure have been located on-site along the west side (134th Avenue NE) of the park site (Exhibit 14). A dumpster and office tent is also located along the west side of the park site.</p> <p>The City Public Works Department installed a temporary grey water line that empties into a sewer manhole. This is used to handle grey water from the shower and sinks mounted on the outside wall of the shower enclosure. A water line was installed at the blow off valve for the nearest hydrant, which runs to the spigot at TC4 entrance and is directed to the shower and sinks. Sleeping facilities, tents, are lined along either side of two eight foot wide gravel walkways paralleling SR-522 that were installed by the City Public Works Department. Ongoing contact has been established by the Public Works Department to monitor water runoff. Tents are provided by SHARE/WHEEL as they become available or are needed. A tent will also be provided for persons arriving late at night so as to insure everyone a covered place to sleep.</p> <p>SHARE/WHEEL requires all persons residing in their tent cities to read and agree to follow the organizations Code of Conduct (Exhibit 22) and to submit to warrant checks and sex offender checks. On site security, self policing is provided by residents. SHARE/WHEEL will screen all residents prior to allowing them to</p>

enter TC4. All residents must agree to the SHARE/WHEEL Code of Conduct. Any persons who show up as having an outstanding warrant as well as persons who appear on the King County Sexual Offenders list will be reported to the City Police Department if they are deemed to be a threat to the community, as will the names of persons who have been ejected from the encampment.

The City of Woodinville Police Department will not provide a continuous presence on the site as was done in the City of Bothell, but will include periodic visits to the site as a part of the normal patrols. In addition, Code Enforcement inspections are conducted on a regular basis. (Exhibit 37)

III. BACKGROUND and ANALYSIS:

On August 2, 2004, the Northshore United Church of Christ, in conjunction with SHARE/WHEEL applied for a Temporary Use Permit to allow the encampment of Tent City 4 to locate on the Church property at 18900 – 168th Avenue NE for a period not to exceed 90 days. Tent City 4 was required to move from site at St. Brendan Catholic Church in Bothell, at the end of their 90 day Special Conditional Use permit on August 14, 2004. SHARE/WHEEL policy is to stay only for 90 days at any one site.

Northshore United Church of Christ held two public meetings to share their vision with the community and to engender comments from the neighborhood. The site had limited transit service and was remote from commercial, health and employment services. Because of the adverse comments from their neighbors, it was determined that a more manageable location, one closer to an employment area, commercial center, and transportation hub might better suit the encampment. The City of Woodinville offered a site more in keeping with these criteria.

On August 10, 2004, the City Council for the City of Woodinville adopted Emergency Ordinance 369 (Exhibit 24) allowing Tent City 4 to locate on a parcel of park property owned by the City of Woodinville, located at the north end of, and lying to the east of 134th Avenue NE between SR-522, and the buffer for Little Bear Creek. The Ordinance required the City, SHARE/WHEEL and Northshore United Church of Christ to enter into an agreement that defines the terms and conditions of the use of City property. The Emergency Ordinance accepted the SHARE/WHEEL Code of Conduct (Exhibit 22) as the conditions controlling conduct of the site and authorized City staff to prepare the site for the

encampment. In accordance with Ord. No. 372, the order was to be in effect for a period of 40 days, during which time SHARE/WHEEL is to apply for a new Temporary Use Permit (Exhibit 2). The Ordinance also required SHARE/WHEEL to actively pursue a future location for the next Tent City site to prevent the need for future emergency measures. The Ordinance became effective the next day, August 10, 2004. The order has been extended by agreement that is still in effect.

On August 12, 2004, the Northshore United Church of Christ and SHARE/WHEEL submitted a letter to the Planning Director (Exhibit 21) withdrawing their application for Temporary Use Permit (TUP2004-066) to locate on the Northshore United Church of Christ site. On the same date, SHARE/WHEEL, with sponsorship by the Northshore United Church of Christ submitted an application for a new Temporary Use Permit and a SEPA application to locate Tent City 4 on the City site (Exhibits 10 – 14).

The City park site was prepared for occupancy by City staff and Tent City 4 moved from St. Brendan in Bothell to the Woodinville site on Saturday, August 14, 2004. Facilities provided by the City are included in comments in "Project Description". All official requirements for TUP2004-072 (Exhibits 16 – 20) and SEP2004-073 (Exhibit 6) have been met, including all notifications, postings and mailings, which were accomplished by August 16, 2004.

On August 23, 2004, the City Council adopted Emergency Ordinance No. 370 (Exhibit 26) and Emergency Ordinance No. 371 (Exhibit 27) to amend and clarify Emergency Ordinance No. 369. Ord. No. 372 enacted an interim zoning ordinance or development regulation revising the City's temporary use permitting regulations to exempt any use of City-owned property that is authorized by a valid written agreement.

On August 26, 2004, the City of Woodinville entered into an agreement (Exhibit 25) with SHARE/WHEEL for the purposes of the establishment, operation and termination of stay for Tent City 4.

On September 20, 2004, the City Council adopted Emergency Ordinance No. 372 (Exhibit 35) to allow the City Manager to sign addenda amending the site use agreement including extending the stay on the property through the Temporary Use Permit period.

IV. LAND USE DESIGNATION:

Comprehensive Plan The site is designated Public Park/Open Space on the City Future Land Use Map. Adjacent areas to the north, across SR-522 are designated Moderate Density Residential (5 – 8 dwelling units per acre), and property directly to the east, west and to the south is designated Auto/General Commercial.

Zoning The site is zoned P, Public Park/Open Space. Properties to the north, across SR-522 are zoned R-6 Residential (Six dwelling units per acre) and property to the east, west and to the south is zoned GB, General Business.

Existing Land Use (See Exhibit 12)

On-Site	Vacant
North of Site	SR-522 and Single Family Residential
South of Site	Woodinville Business Park
West of Site	Automobile Storage
East of Site	Vacant

V. COMPREHENSIVE PLAN

The Temporary Use Permit proposal, with conditions, complies with the following applicable Comprehensive Plan Goals and Policies. The following goal is stated with the appropriate Policies that apply to this development.

Goal H-3: To provide housing opportunities in Woodinville for people with special needs.

Policy H-3.2 Support the development of emergency, transitional, and permanent supportive housing with appropriate on-site services for persons with special needs throughout the City and region.

Policy H-3.3 Support development of special needs housing that serves local residents and is located in Woodinville and/or elsewhere on the Eastside.

VI. ZONING REGULATIONS

Woodinville Municipal Code (WMC) Chapter 21, Zoning Code

21.32.100(1) Temporary use Permits – uses requiring permits. Uses not otherwise permitted in the zone that can be made compatible for periods of limited duration and/or frequency

21.32.110 (1) The following uses shall be exempt from requirements for a temporary use permit when located in the CBD, GB, NB, TB, O or I zones when the use does not exceed a total of 14 days each calendar year:
(a) Amusement rides, carnivals, or circuses;
(b) Community festivals;
(c) Parking lot sales; and
(d) Fireworks stands, subject to the provisions of Chapter 8.03 WMC.
(2) Any use not exceeding a cumulative total of two days each calendar year shall be exempt from requirements for a temporary use permit.
(3) Any community event held in a public park and not exceeding a period of seven days shall be exempt from requirements for a temporary use permit. (Ord. 295 § 6, 2001; Ord. 175 § 1, 1997)

NOTE: Ord. No. 370 enacted an interim amendment to this provision.

21.32.120 Unless specified elsewhere in this chapter, temporary use permits shall be limited in duration and frequency.
(2) The temporary use shall not exceed a total of sixty (60) days, provided that this requirement applies only to the days that the event(s) actually takes place;
(3) The temporary use permit shall specify a date upon which the use shall be terminated and removed

21.42.050 **Planning Director review - Notice requirements and comment period.**
(1) The Department shall provide published, posted and mailed notice pursuant to WMC 17.11.040 for all applications subject to Planning Director review.
(2) Written comments and materials regarding applications subject to Planning Director review procedures shall be submitted within fifteen (15) days of the date of published notice or the posting date, which ever is later.

21.42.060 **Planning Director review - Decision or public hearing required.** Following the comment period provided in WMC 21.42.050, the Planning Director shall:
(1) Review the information in the record and render a decision pursuant to WMC 21.42.080; or
(2) Forward the application to the Hearing Examiner for public hearing, if:
(a) Adverse comments are received from at least five (5) persons or agencies during the comment period which are relevant to the decision criteria of WMC 21.44 or state specific reasons why a hearing should be held; or



- (b) The Planning Director determines that a hearing is necessary to address issues of vague, conflicting or inadequate information, or issues of public significance.

21.42.070 Planning Director review - Additional requirements prior to hearing. When a hearing before the Hearing Examiner is deemed necessary by the Planning Director:

- (1) Application processing shall not proceed until the supplemental permit review fees set forth in the fee schedule adopted by the City Council are received; and
- (2) The application shall be deemed withdrawn if the supplemental fees are not received within thirty (30) days of applicant notification by the Department.

21.44.030 Temporary use permit. A temporary use permit shall be granted by the Planning Director, only if the applicant demonstrates that:

- (1) The proposed temporary use will not be materially detrimental to the public welfare;
- (2) The proposed temporary use is compatible with existing land use in the immediate vicinity in terms of noise and hours of operation;
- (3) Adequate public off-street parking and traffic control for the exclusive use of the proposed temporary use can be provided in a safe manner; and
- (4) The proposed temporary use is not otherwise permitted in the zone in which it is proposed.

VII. PERMIT PROCESSING REGULATIONS

Woodinville Municipal Code 17.07 through 17.17 regulates Permit and Application Processing. The Applicant, SHARE/WHEEL and Northshore United Church of Christ, submitted an application packet on August 12, 2004 (Exhibit 2) for a Temporary Use Permit to locate Tent City 4, a facility to temporarily house up to 100 persons for a period not to exceed one hundred (100) days upon City of Woodinville property (Exhibit 9) located at 17834 – 134th Avenue NE.

The application was determined complete on August 12, 2004 (Exhibit 5).

The Application is considered to be a Type I Permit Application (WMC17.07.030) subject to review by the Planning Director and referral to the City Hearing Examiner [WMC 21.42.060(2) (b)] if of public significance. Type I Permit Applications (WMC 17.07.30) acted upon by the Hearing Examiner or Planning Director are appealed directly to Superior Court [WMC 17.17.060 (1)].

The Planning Director has reviewed and forwarded the application to the Hearing Examiner in accordance with WMC 21.42.060 (2).

A Notice of Application (Exhibit 17), SEPA Determination of Non-Significance (Exhibit 6) and Notice of Public Hearing (Exhibit 17) was published (Exhibit 15) and posted (Exhibit 16) on August 16, 2004, with a public comment period ending at 5:00 p.m. on August 31, 2004. This has been appealed (See Section X SEPA Appeal).

The application for a Temporary Use Permit has met all of the noticing and deadlines for posting as required in WMC 17.07 through 17.17.

VIII. ENVIRONMENTAL INFORMATION:

State Environmental Policy Act

1. The Planning Director, the designated SEPA Official, determined that the proposal will have no probable significant impact to the environment and issued SEP2004-073, a Determination of Non-Significance (Exhibit 6), which was published on August 16, 2004 (Exhibit 20).
2. Notice of the SEPA determination was mailed to property owners within 500 feet of the site on or before August 16, 2004 (Exhibit 20).
3. A 14-day public comment and appeal period on SEPA ended on Tuesday, August 31, 2004 at 5:00 pm. .
4. On August 31, 2004, an appeal (Exhibit 34) was filed with the Planning Director.

Sensitive Areas

The property contains a Class II stream and wetlands, the stream, Little Bear Creek, being a salmonoid stream requiring a 100-foot buffer area. The site of the encampment (Tent City 4) as proposed, will be in accordance with Ordinance WMC 21.24

The folio maps do not indicate sensitive or natural hazards in the following categories:

- Erosion Hazards
- Seismic Hazards
- Steep Slopes

IX. TEMPORARY USE PERMIT/GRANTING CRITERIA

WMC 21.44.030 A temporary use permit may be granted by the Planning Director if the applicant demonstrates that:

- (1) **The proposed temporary use will not be materially detrimental to the public welfare;**

RESPONSE:

The health, safety and general welfare of both the residents of the City of Woodinville and the residents of Tent City 4 will not be impacted by the proposed location. Its current 40+ day use has not resulted in any detriment to the public health. The initial site, the Northshore United Church of Christ at 18900 – 168th Avenue NE created concerns among the areas residents. Concerns expressed were for the welfare and safety of their children and the children at the three proximity schools. Concern was also expressed about the ability of the site to house TC4. Comments expressed concerned the confined size of the site and the general separation of the proposed facilities between the wooded areas of the

site and the small amount of open space plus the poor transit service, distance to the transit center, distance to labor opportunities, and distance from health and other services.

The City site upon which Tent City has located resolves those issues. The nearest residential property, Wedgewood Commons, is located over 300 feet away across a fenced, limited access freeway, SR-522. Access to the site is restricted to the roadway for 134th Avenue by a fenced parking and storage area on the west and by Little Bear Creek and the associated wetlands to the east and south. As noted above, SR-522 eliminates access from the north. Consequently, there should be little concern that residents of TC4 will access the site through other adjacent properties, residential or commercial.

The welfare of the residents of TC4 is controlled by the same factors as noted above. Persons can only gain access to TC4 via 134th Avenue NE. The office and registration area is located adjacent to the street and the street itself is barricaded. Toilets, shower and common area for the residents are located in the same area as the office/check-in tent (Exhibit 14). In addition, all residents must pledge to follow the Code of Conduct established by SHARE/WHEEL (Exhibit 22). In general, the site is nearly ideal in that it is located close to the downtown commercial area for convenience of shopping, close to employment opportunities and to the City transportation hub. The operations of TC4 are also controlled by a Temporary Property Use Agreement (Exhibit 25).

Exhibit 23 contains public comments regarding TC4 being established on City property.

- (2) **The proposed temporary use is compatible with the existing land use in the immediate vicinity in terms of noise and hours of operation;**

RESPONSE:

Tent City 4 is buffered from adjacent land uses by Little Bear Creek and associated wetlands and buffer area. Property to the west is a fenced storage area and is limited in noise and hours of operation. Property south of the Tent City 4 site is general commercial and limited to normal general commercial hours. The uses in that general commercial area are not high traffic generators consequently not as apt to have or attract a great deal of pedestrian oriented retail shopping. The width of the buffer for the sensitive area separates the encampment from the adjacent site. The applicant placed a temporary fence on the upland side of the buffer as delineated by a wetlands biologist and marked by the City. The Code of Conduct established by SHARE/WHEEL for residents of Tent City 4 includes "No loitering or disturbing neighbors" (Exhibit 22 & 25). This along with the above noted buffers will provide a quiet more self-contained residential atmosphere for TC4.

The major source of noise to the Tent City would be from SR-522, however peak traffic on this road would correspond to the times when TC4 is most active, going to and coming back from work opportunities. While there will still be traffic on the roadway during the more quiet hours in the evening and night, the site is located some 18 to 20 feet below the roadway which provides a partial buffer to traffic noise. In addition, there is a line of trees at the base of the roadway between the site and SR-522 which will also act to soften traffic noise.

- (3) Adequate public off-street parking and traffic control for the exclusive use of the proposed temporary use can be provided in a safe manner, and

RESPONSE:

The site can contain a number of vehicles in addition to parking on 134th Avenue NE. SHARE/WHEEL limits the number of vehicles permitted on site to five (5) vehicles. Because site access is restricted it will be easy for SHARE/WHEEL to monitor and control the number of on-site vehicle parking spaces (Exhibit14).

- (4) The proposed temporary use is not otherwise permitted in the zone in which it is proposed.

RESPONSE:

Woodinville Municipal Code (WMC) 21.08.030A states that Temporary Shelter is only permitted in two zones; the Central Business District (CBD) as an accessory use to an institutional, religious or non-profit community facility, or in the Public Institutional zone as an accessory use to an institution, school, or public agency. The code considers temporary housing as accessory to existing structures, such as emergency housing in school auditoriums or gymnasiums or as temporary overnight housing for personnel brought in when storms hit the area and electrical and phone lines are down, or for visiting school athletic teams, housed within existing public structures. It is meant to provide temporary housing within a structure as opposed to outside a structure such as TC4. The park site while owned by the City of Woodinville is vacant. It is to be a future park site included within what will eventually be the Little Bear Creek trail system, running from the Rotary Community Park area to the Sammamish River trail. In either case, as a trail or as vacant land, there are no public structures such as a school nor are there any plans for structures on this site to which temporary housing could be consider accessory. Finally, this use is proposed as a principal use of the site in absent any other physical use of the site. Temporary housing is not permitted as a principal use in the P/I zone. .

The temporary use as proposed for Tent City 4 would not be a permitted use or an accessory use in this zone

Ord. No. 370 enacted an interim amendment to WMC 21.32.110 revising the City's temporary use permitting regulations to exempt any use of city-owned property that is authorized by a valid written agreement with the City. This amendment enables the City to retain contractual control over a proposed use of city property in lieu of regulatory requirements.

X. SEPA APPEAL

On August 31, 2004, an appeal to the SEPA determination for Tent City 4 (Exhibits 6, 7 & 8) was filed by one Michael W. Gendler of GENDLER & MANN, LLP for their client, Woodinville Business Center #1 pursuant to WMC 14.04.260. The appeal asks the DNS issued under SEP2004-073 be reversed based upon the following points. The issues of appeal are listed below with the City's response.

1. **There was no actual consideration of environmental impacts by the City.**
Response: A SEPA Checklist was completed and filed (Exhibit 8). Staff field inspections by the City SEPA official & a wetlands specialist have been conducted. Additionally, wetland delineations were completed by a wetland consultant. SEPA notice comments were also solicited. Results of the field inspection have been implemented on the site.
2. **The City has recognized that homeless encampments have substantial impacts on the surrounding communities.**
Response: Social, economic and political impacts possibly. According to information obtained from other jurisdictions, here were no environmental impacts noted by any "host" city.
3. **This proposal is for the use of public lands. The City did not consider alternatives to the proposal.**
Response: The original application was for a church site in an R-1 residential neighborhood. Other City properties (parks & city civic campus sites) were considered. Alternatives are not a requirement of a DNS or MDNS process.
4. **The use of park land for a homeless encampment sets a precedent for the use.**
Response: The "Park land" is an undeveloped, vacant piece of City property designated for a future park. All aspects of Tent City 4 will be removed from the site within 90 – 100 days of the date of occupancy, August 14, 2004. This temporary use will not impact or hinder future use of the site. The location of a Temporary Use is set by the conditions established under WMC 21.44.030, not by the ownership of the site.
5. **The use of park land for a homeless encampment sets a precedent for the use and misuse of park land.**
Response: See the response to Number 4. Actions of the City do not set a precedent or requirement for others. The property is an undeveloped parcel of land the future development of which may preclude this use in the future.
6. **Tent City 4 will have a significant adverse impact on Little Bear Creek.**
Response: There is no evidence of such an impact. Bio-filter fencing is in place on the site of TC4. The temporary fencing was put up by TC4 to define the buffer, to protect the wetlands and creek from past grading on site. Because there is no significant construction associated with Tent City 4, there isn't any means which will create any impact
7. **Tent City 4 will have a significant adverse impact on anadromous fish.**
Response: Tents have been placed and people will be living outside of the 100 foot stream buffer, beyond the bio-filter fencing, and will not have any impact on fish or on the creek. Because there is no significant construction associated with Tent City 4, there isn't any means which will create any impact. TC4 residents have been advised to remain outside the 100' sensitive area buffer and are aware of fish habitat through training in the Salmon Watcher Program. Residents are aware that if found in the sensitive buffer area, they may be barred from the encampment.

8. **Tent City 4 will have a significant adverse impact on endangered species.**
Response: *There is no evidence now or in the past that would indicate Tent City 4 would have any impact on endangered species. As noted in Number 7 above, the location of Tent City 4 falls outside of the required buffer setback, the same as is required of all new construction along Little Bear Creek. TC4 would have no more and most likely less impact, due to the short duration of stay, than any permitted permanent use.*
9. **The proposal lacks adequate measures to protect critical areas and their buffers. The impacts of the proposal on critical areas and their buffers will be significant and adverse.**
Response: *A bio-filter fence is in place and the site is outside the buffer area. Grey water from showers is tight-lined to a sanitary sewer manhole and human waste is contained in an enclosed portable environment and serviced on a regularly scheduled basis.*
10. **The proposal requires significant modifications to park land which is a significant adverse impact.**
Response: *There is no significant modification to the vacant, undeveloped parcel that will have any impact on the land or future park use. If the TUP is approved, the Tent City 4 facilities will be removed after 100 days or by November 22, 2004.*
11. **Significant harm to the environment already has occurred in the implementation of Tent City 4, in advance of any environmental review and City authorizations.**
Response: *There has been no significant harm to the environment. This has been substantiated by field inspections with qualified inspectors and by wetland delineations.*
12. **The City did not require a siltation fence or other necessary measures to protect Little Bear Creek from erosion and siltation in conjunction with the work done to establish Tent City 4, all done in advance of SEPA review.**
Response: *A siltation (bio-filtration) fence was already in place on the Tent City site when work began. It was not in place for 134th Avenue NE. Work performed on 134th Avenue NE right-of-way was done by the City, installing temporary water and sewer lines, a minor alteration, which is exempt from SEPA under WAC 197-11e-800(3). At that time, it was determined that rutting of the road had made the center of the road lower than the edges by 4 to 6 inches or greater. City staff determined that work could safely take place in the center of the roadway without the possibility of any dirt leaking into the creek. Coincidentally, the roadway was later graveled by King County as a part of their normal annual maintenance program (Exhibit 38). The request to King County from the City to gravel this road section occurred prior to Tent City 4. The depositing of gravel for the road is exempt from SEPA under WMC14.04.100 (5) and WAC197-11-800(1)(b)(iv) as is minor road construction (WAC197-800(2)(c).*
13. **The City purports to be concerned about the water quality of Little Bear Creek and about the anadronous and endangered fish which use Little Bear Creek. The City has lost its credibility regarding these concerns by participating actively in the establishment of Tent City 4 without the measures necessary and appropriate for protection of the creek against the impacts of erosion and siltation. The City's plans for the Little Bear Creek corridor rely upon the cooperation, good will, and**

contribution of property owners, businesses, and citizens of Woodinville. The City's ability to rely on the cooperation of others, and on the willingness of others to compromise in any way the full exercise of their property rights, has suffered major and substantial harm as a result of the City's actions in establishing Tent City 4. This harm is a significant adverse impact of their proposal.

Response: Water quality has not been impacted by Tent City 4 as per inspection. The City has followed the same regulations that are required of any property owner adjacent to Little Bear Creek.

14. The proposal will adversely affect the City's ability to protect Little bear Creek and to implement the Little Bear Creek master plan.

Response: The City has performed fish barrier removal projects, stream study and habitat restoration projects plus purchased habitat and open space along the Little Bear Creek corridor from such owners as the property ownership group of WBC #1. Tent City 4 activities and associated facilities will be completely removed from the site after 100 days. There will be no long term impacts of any kind that will preclude the implementation of the Little Bear Creek Master Plan.

15. The proposal is inconsistent with the City's development and use regulations and with its comprehensive plan.

Response: The proposal is consistent with the development and use regulations (See Comprehensive Plan Goals and Temporary Use Regulations) (See Sections V and IX).

16. The City has violated WMC 14.04.260(8), by allowing construction, demolition, grading or other direct modification of the physical environment before exploration of the appeal period and before completion of the review process at the Hearing Examiner level.

Response: Work to prepare the site was done under an Emergency Ordinance and measures were in place and taken to protect the environment. Dead and dying tree(s) were removed from the right-of-way as they were determined to be hazardous trees that endangered the people residing in Tent City 4.

17. The proposal has had and will have a significant adverse impact on adjacent and nearby properties, including property owned by appellant WBC #1. The impacts upon WBC #1 and its tenants are significant and adverse.

Response: There is no evidence of any significant adverse impacts. The Tent City 4 site is separated both visually and physically from WBC #1. Code Enforcement inspections have revealed no code violations. Multiple City contacts with local businesses, including WBC 1 tenants, has not revealed negative impacts or concerns.

18. The aesthetic impacts of the proposal are significant and adverse.

Response: Tent City 4 is located at the north end of 134th Avenue NE. The site is separated physically and visually from WBC #1 by Little Bear Creek and the associated wetlands, trees and vegetative cover (See Number 17 above). Tent City 4 has been limited to five vehicles which cannot generate traffic of any significance to impact Little Bear Creek Parkway or WBC #1. A barricade has been place across the north end of 134th Avenue NE to insure no more than the limited number of vehicles can access the

site. The periodic gravel street maintenance was performed in August to provide dust control.

19. The water quality impacts of the proposal are significant and adverse.
Response: See the response to Numbers 1, 6, 7, 11 & 13.

20. The land use impacts associated with allowing homeless encampments in city parks and in allowing establishment of such uses in advance of environmental review are significant and adverse.
Response: No significant environmental impacts have occurred due to this action.

21. The City's abuse of its authority to enact emergency ordinances is a significant adverse impact of this proposal.
Response: The City has the legal authority to enact emergency ordinances pursuant to RCW 35A.13.190. The City's enactment of emergency ordinances is exempt from SEPA compliance pursuant to WAC 197-11-880. This authority was affirmed in two separate legal proceedings of WBC #1 against the City. The legality of the City's legislative process is not within the jurisdiction of this administrative proceeding, and is thus beyond the scope of the Hearing Examiners review authority as defined by state law, local ordinance and the City's contractual relationship with the Examiner.

22. The proposal will cause human waste, sewage, gray water, soap and other contaminants to enter Bear Creek. This is a significant adverse impact.
Response: The gray water is tight-lined to a sanitary sewer manhole. Portable toilets are provided on site and are appropriately and routinely serviced.

23. The proposal will have significant adverse impact with respect to public safety. The City has failed to consider the history of success and failure of similar land uses, including the history of lawlessness and violence associated with Tent City 4 in Bothell as confirmed by the City of Bothell's records of arrests and police incidents involving Tent City 4.
Response: This is not a subject of environmental review.

24. The establishment of a tent city for more than 90 days sets a precedent for long-term use which is a significant adverse impact. The proposal would encourage time sprawl.
Response: There is no evidence that "time sprawl" will occur. The agreement (Exhibit 25), Emergency Ordinance Number 369 and the length of time a permitted Temporary Uses may occur [WMC 21.32.120(2)] or the number of times a temporary use may occur [WMC 21.32.120(4)] all limit the time period for Tent City 4.

25. The City has denied due process by refusing to make available for public review in a timely manner the application materials and public records which have been requested for the purpose of enabling this appellant to become fully informed regarding this proposal. The City has misrepresented that the application materials

are “available” for public review. To the contrary, the City refused to allow appellant’s representatives to review the application file and refused to provide a copy of the application until threatened with litigation, and has continued to refuse to provide other public records pertaining to this application.

Response: This is not a subject of environmental review.

26. **The City should withdraw the DNS and issue a DS.**

Response: There is no evidence that would suggest a probable significant environmental impact would occur. The City has not found it necessary to make a Determination of Significance for any other site along Little Bear Creek including the SEPA determination for WBC# 1, let alone for a temporary 90 - 100 day use not involving permanent structures.

XI. FINDINGS

1. The applicant, SHARE/WHEEL and its sponsor the Northshore United Church of Christ has requested approval of a Temporary Use Permit to locate a temporary housing project, Tent City 4, for up to 100 persons on land owned by the City of Woodinville. The application was submitted on August 12, 2004 and a notice of complete application issued on the same date, August 12, 2004. The property is located at 17834 134th Avenue NE.
2. The subject property is owned by the City of Woodinville and is zoned Public Park/Open Space which precludes residential use as principal use and permits temporary housing only as an accessory use to public buildings.
3. The City of Woodinville Comprehensive Plan for the property is Public Parks Some of the Comprehensive Plan goals and policies applicable to the proposal including Goal H-3: To provide housing opportunities in Woodinville for people with special needs. Policy H-3.2. Support the development of emergency, transitional, and permanent supportive housing with appropriate on-site services for persons with special needs throughout the City and region. Policy H-3.3: Support development of special needs housing that serves local residents and is located in Woodinville and/or elsewhere on the Eastside.
4. Surrounding properties to the north, south and east are zoned General Business. Property to the north, across SR-522 is zoned R-6.
5. The subject property contains critical areas in Little Bear Creek, a salmonoid bearing stream and its associated wetlands, which require a 100 foot buffer area. The buffer has been marked with a fence to keep unauthorized persons from accessing the wetlands and creek.
6. Access to the temporary housing site will be from 134th Avenue NE at approximately NE 181st Street. The access road terminates at the site just south of SR-522 and is a controlled, access road with limited access from the north, east and west.
7. The subject use meets the requirements of WMC 21.44.030, Temporary Use Permit. The City Public Works Department tied a temporary water line to the site from the closest hydrant and installed a gray water line from the shower to an adjacent sanitary sewer

- manhole. They have additionally installed two gravel paths for the placement of tents.
8. The wetlands buffer area has been delineated by the Parks Department and all surface site runoff will be monitored by the Public Works Department. Erosion control methods include bio-filtration fencing located between the site of the encampment and the adjacent sensitive areas. Additional control methods will be employed as needed.
 9. The City Police Department will commit the necessary resources to monitor TC4 activities. Duty officers or police command visit the site several time a day. SHARE/WHEEL will screen all residents prior to allowing them to enter TC4. The exception being for an overnight stay. All residents must agree to the SHARE/WHEEL Code of Conduct. Any persons who show up as having an outstanding arrest warrant as well as persons who appear on the King County Sexual Offenders list will be reported to the City Police Department.
 10. Occupancy of the site began on August 14, 2004 under authorization of Emergency Ordinance 369 (Exhibit 24) granting use of the site for forty (40) days (and extended by Ordinance 372) subject to the applicant (a) applying for a Temporary Use Permit, (b) enforcing the SHARE/WHEEL Code of Conduct, (c) the Temporary Property Use Agreement (Exhibit 25) and (d) actively pursuing their next location. Application for a Temporary Use Permit occurred August 12, 2004 (Exhibit 2) which permits an additional sixty (60) days occupancy. SHARE/WHEEL Permit Narrative (Exhibit 4) states that the Tent City will remain on site for not more than 100 days or no later than November 22, 2004. There are no park or traffic mitigation fees required for this occupancy due to the temporary nature of the use of the site.
 11. All required noticing has occurred. The Temporary Use Permit Notice of Application and Notice of Public Hearing were advertised in the Woodinville Weekly (Exhibit 15) and the site was posted (Exhibit 16) on August 16, 2004. Notices to property owners within 500 feet were mailed on or before August 16, 2004. All SEPA legal notification was also made on or before August 16, 2004 (Exhibit 20).
 12. On August 31, 2004, an appeal to the SEPA DNS determination was filed by one Michael W. Gendler, of Gendler & Mann, LLP on behalf of their client, Woodinville Business Center #1. The appeal states the DNS should be reversed (See Section X. SEPA Appeal). The appeal is to be consolidated into one with the hearing for the Temporary Use Permit (WMC14.04.260(3)(4)).

XII. CONCLUSIONS

A. Conclusions based upon City Code

1. The proposal conforms to the goal and policies set forth in the City of Woodinville comprehensive plan.
2. The proposal conforms to the provisions and decision criteria as set forth in WMC Title 21,

Zoning Code.

3. The proposal conforms to the requirements set forth in WMC 17.09 and 17.11.
4. The proposed Temporary Use Permit will be adequately served with City approved municipal water and sanitary sewer and other utilities appropriate to the nature of the permit.
5. The Temporary Use Permit application is require to locate uses not otherwise permitted in a particular zone [WMC 21.44.030(4)] or in this case to permit temporary housing on a City of Woodinville park site as a principal or an accessory use (WMC 221.08.030A).
6. The layout of the site takes into account topography (Exhibit 10) and wetland buffer on the site in order that tents and accompanying administrative and sanitation facilities may be reasonably sited, and that the least disruption of the site, topography, trees and vegetation will result on the site.
7. Tent City 4 is established as a rotating temporary tent city providing housing for homeless persons, with intent of staying no more than 90 days at each encampment.
8. Identified hazards and limitations to the temporary use of the site have been considered in the site layout.

Conclusions Based on Findings:

1. The Applicant requested approval of a Temporary Use Permit to locate Tent City 4 on 21/2 acres of a 6.49 acre vacant park parcel owned by the City of Woodinville. The application was determined to be complete on August 12, 2004. The subject property is located at 17834 – 134th Avenue NE in Woodinville, Washington and is identified as parcel number 9517100250. *Findings of Fact No 1.*
2. With conditions of approval, the proposal is consistent with the Comprehensive Plan. The natural character of the area is protected by the isolation of the site. The permit includes a grey water sewer line and a municipal water connection to provide potable water to the site and to remove water from the shower area. *Findings of Fact Nos. 3, 7.*
3. With conditions, the proposal is consistent with identified zoning standards, Zoning of the property and criteria for Temporary Use Permits. *Findings of Fact Nos. 2, 4, 5, & 7.*
4. With conditions, the proposal is consistent with the requirements set forth in WMC Chapter 17.07, 17.09 and 17.11. The Applicant submitted all required elements on August 12, through 14, 2004. *Findings of Fact Nos. 1, 2, 5, 6, 7.*
5. Tent City 4 is sponsored by the Northshore United Church of Christ who as a part of the sponsorship provides food and other necessities to residents of TC4 as well as assisted in the application process. *Findings of Fact No. 1.*

6. The layout of the site takes into account site topography and vegetation, and provides for the least disruption of the site, topography, trees and vegetation. *Findings of Fact Nos.5, 7, 9.*
7. The SEPA determination for the Temporary Use Permit was appealed by Woodinville Business Center #1. The Hearing Examiner will hold a hearing on the appeal

XIII. STAFF RECOMMENDATION

The applicant has submitted all information required by code for issuance of a Temporary Use Permit. The information submitted has been reviewed by Staff and found to be reasonably assumptive and technically accurate and that the application appears to have met the requirements of the City code.

Staff recommendation to the Hearing Examiner therefore is for approval of the requested Temporary Use Permit TUP2004-072 for SHARE/WHEEL and sponsoring Northshore United Church of Christ, and to allow for the temporary housing of Tent City 4 until not later than November 22, 2004 (not to exceed 60 days from the date of Hearing Examiners decision), subject to the following Conditions:

A. Public Health Issues:

1. That SHARE/WHEEL and the sponsors of Tent City 4 shall notify and work with the Seattle/King County Health District on the following items:
 - a. Verification on the number of temporary toilet facilities including facilities for the handicap.
 - b. Verification on the adequacy of the washing facility and shower adjacent to the 134th Avenue ROW.
2. Location of and availability of facilities for Tent City 4 residents for:
 - a. bathing/showering
 - b. laundry, both for residents and for items provided by SHARE/WHEEL (blankets, etc).
 - c. location of any dining facilities on site
3. The maximum number of residents at Tent City4 is 100 persons.

B. Transportation:

1. All vehicles associated with Tent City 4 shall be parked on that portion of the public right-of-way north of the road closure and abutting the park property and shall not exceed more than five vehicles.
3. Vehicles associated with Tent City 4 shall not be parked on neighboring streets or properties.
4. Bus passes shall be issued daily to occupants of Tent City 4.

C. Fire Protection:

1. Fire extinguishers in the number and type as established by the Woodinville Fire and Life Safety District shall be located in and around the encampment.

2. Any electrical extensions shall meet fire/building code
3. The City Fire Marshal or his designated representative shall inspect the encampment to insure fire safety conditions and issues have been satisfied.
4. Because of the potential flammable nature of tents, designated safe areas within the encampment for smoking shall be established.
5. Open flames shall not be permitted on site.

D. Police Protection:

1. The SHARE/WHEEL and the Northshore United Church of Christ shall be responsible for protection and policing of residents within the encampment. This may be provided either internally or may be contracted.
2. Screening shall be provided by SHARE/WHEEL of all residents of TC4 and the names of sex offenders and felons with outstanding warrants as well as persons ejected, if determined to be a threat to the community, from TC4 shall be reported to the City Police Department.
3. The City Police Department shall provide a presence by periodic patrols of the encampment.
4. Fire Marshal, Police, code enforcement and public works personnel may make periodic inspections of TC4 site to insure all safety measures possible are being taken.

E. Code Enforcement

1. The City Code Enforcement Officer will be responsible for responding to public complaints.
2. The City Code Enforcement Officer will also be responsible for coordinating with SHARE/WHEEL in resolving any violations of the Temporary Use Permit.

F. Site Design:

1. Tents for residents shall be located either side of the 8 foot gravel pathways installed by the Public Works Department.
2. That the fabric bio-filtration fence placed along the 100 foot wetlands/stream buffer shall remain.

G. Code of Conduct:

1. All residents of TC4 shall agree to abide by the Code of Conduct as established by SHARE/WHEEL.
2. Anyone violating the Code is held accountable by the TC4 Executive Committee.

H. Temporary Property Use Agreement:

1. The Agreement between the City of Woodinville, the Directors of Tent City 4, SHARE/WHEEL, and its sponsor, the Northshore United Church of Christ shall remain in effect, and
2. All conditions and requirements of the agreement between the City of Woodinville, SHARE/WHEEL and the Northshore United Church of Christ shall apply to the Temporary Use Permit.

3. The City Code Enforcement Officer will continue to conduct regular on site inspections and serve as the single-point of contact to resolve issues with SHARE/WHEEL.

XIV. EXHIBITS

- Exhibit 1. Staff Report
- Exhibit 2. Application for a Temporary Use Permit (TUP2004-072)
- Exhibit 3. Temporary Use Permit Checklist
- Exhibit 4. SHARE/WHEEL Narrative for Tent City 4
- Exhibit 5. Letter of Complete Application dated August 12, 2004
- Exhibit 6. SEPA Determination of Non-significance (DNS) SEP2004-073
- Exhibit 7. SEPA Checklist
- Exhibit 8. Environmental Checklist for SEP2004-073
- Exhibit 9. Vicinity Map
- Exhibit 10. Topography Map of Tent City 4
- Exhibit 11. Aerial Photo of Tent City 4 Site
- Exhibit 12. Aerial Photo of Tent City 4 Vicinity
- Exhibit 13. Aerial Photo with Contour Overlay of Tent City 4 Site
- Exhibit 14. Tent City 4 Site Plan
- Exhibit 15. Notice of Application and Public Hearing
- Exhibit 16. Affidavit of Posting of Site
- Exhibit 17. Published Notice of Application and Public Hearing
- Exhibit 18. List of Property Owners within 500 feet. of Site
- Exhibit 19. Map of Property Owners within 500 feet of Site
- Exhibit 20. Signed Control Notice for TUP2004-072
- Exhibit 21. Letter Withdrawing Tent City 4 Application TUP2004-066.
- Exhibit 22. SHARE/WHEEL Tent City 4 Code of Conduct
- Exhibit 23. Letters Received from the Public as of the Application Date (August 12, 2004)
 - A. Bret & Julia Stewart (17718 NE 204th Street, Woodinville)
 - B. Larry Draglend (206-412-3758)
 - C. Lynne Gibson, (P.O. Box 1841, Woodinville)
 - D. J.B. Pratt (jb_pratt@hotmail.com) (3)
 - E. Scott St.Clair (3)
 - F. Ron Swicord (7)
 - G. Kevin H. Devin (2)
 - H. Kevin Kelly (Binder) (2)
 - I. Katherine M. Hansen
 - J. Rosemary Zeuschel
 - K. Jack Vermeulen (3)
 - L. Michael Stickney
 - M. Susan Boundy-Sanders
 - N. Joe Woodinville (2)
 - O. Nolan Worley
 - P. Debbie Metsker
 - Q. Joseph R. Siebert

- R. Mark & Terry Mackaman
 - S. Nora Strothman
 - T. Kris Meilahn
 - U. Taya Faltys Vercelli
 - V. MsRhonda140@aol.com (2)
 - W. Judy Schnebele
 - X, westfamily@comcast.net
 - Y. Dollie Kusters (2)
 - Z. Filiberto Selvas Pation
 - AA. Mick Webster
 - BB. Nancy Dick
 - CC. Dave & Donna Larson
 - DD. Patricia Lou Payne (2)
 - EE. Val Mikesell (3)
 - FF. Dorli T. Rainey
 - GG. Mary fempleman@comcast.net
 - HH. wayne[wayne@aaapooltables.com]
 - II. Cindi Stinson
 - JJ. Virginia Stevens, M.D.
 - KK. Nancy Pope
 - LL. Linda King
 - MM. Brenda L. Helverson (2)
 - NN. Penny Kjelgaard
 - OO. Patty Evans
 - PP. Daryl W. Heinzerling (2)
 - QQ. Maureen McCurdy (4)
 - RR. Dennis Dearing
 - SS. Greg Taylor
- Exhibit 24. City of Woodinville Emergency Ordinance No.369
- Exhibit 25. Temporary Property Use Agreement
- Exhibit 26. Ordinance Number 370
- Exhibit 27. Ordinance Number 371
- Exhibit 28. SEPA Determination SEP2004-075
- Exhibit 29. SEPA Determination SEP2004-076
- Exhibit 30. SEPA Determination SEP2004-077
- Exhibit 31. Environmental Checklist SEA2004-075
- Exhibit 32. Environmental Checklist SEA2004-076
- Exhibit 33. Environmental Checklist SEA2004-077
- Exhibit 34. Appeal to SEP2004-073 dated August 31, 2004
- Exhibit 35. Ordinance 372
- Exhibit 36. Addendum 1 to Temporary Use Agreement
- Exhibit 37. Code Enforcement Inspection Reports, 8/20/04 to 9/22/04
- Exhibit 38. Interlocal Agreement between the City of Woodinville & King County for road maintenance services, including August 2004 work schedule